UPDATE ON THE LIMITED ENTRY PROGRAM

Situation: On December 15,1999, the National Marine Fisheries Service (NMFS) published final regulations implementing the Coastal Pelagic Species (CPS) fishery management plan (FMP) (Attachment D.1.a.). Among its provisions, the FMP established a limited entry program for coastal pelagic finfish fisheries (northern anchovy, Pacific sardine, Pacific mackerel, and jack mackerel), market squid is not included in the limited entry program.

Starting January 1, 2000, fishers harvesting coastal pelagic finfish south of 39° N latitude (Pt. Arena) must have a limited entry permit on board their vessels. To qualify for a permit, a vessel must have landed at least 100 metric tons of coastal pelagic finfish between January 1, 1993, and November 5, 1997. The permit is issued to the current owner of the qualifying vessel, and can only be transferred once during the year 2000. After 2000, a permit cannot be transferred to another vessel or another person, but lost vessels may be replaced.

Council Action:

1. **If necessary, provide direction to Coastal Pelagic Species Management Team, Coastal Pelagic Species Advisory Subpanel, and Council staff about modifying or revising limited entry qualifying and/or transferability requirements.**

Reference Materials:

1. *Federal Register*, vol. 64, no. 240, pp. 69888-69898, December 15, 1999 (Attachment D.1.a.).
2. NMFS Report on Implementation of the CPS FMP (Attachment D.1.b.).

PFMC
02/23/00

COASTAL PELAGIC SPECIES ADVISORY SUBPANEL COMMENTS ON LIMITED ENTRY PROGRAM

After hearing an update from the National Marine Fisheries Service and a lengthy discussion regarding the limited entry program currently in place as a result of Amendment 8, the Coastal Pelagic Species Advisory Subpanel (CPSAS) has two recommendations for the Council:

1. A majority of the CPSAS urges the Council to amend the provisions of the limited entry plan to allow for the free transferability of permits.

2. The CPSAS urges the Council to consider amending the appeals process to include hardship provisions.

PFMC
03/08/00

F/V MIDNIGHT HOUR
William Hargrave/John Aiello
1041 W. 22nd Street
San Pedro, CA 90731
(310)-832-6832

February 23, 2000

Dear Mr. Lone

I am writting to you today seeking your help in obtaing a coastal pelagic species fishery permit. We recently applied for and were denied said permit, because our boat, the F/V:Midnight Hour, had not landed the prerequisite tonnage for the window period outlined by the management plan that is being formulated. Our story is long but suffice to say that I (along with my partner John Aiello) have owned and operated a commercial purse seine outfit in L.A. Harbor for over 14 years. During the course of time, we have owned,operated and leased several boats, even sustaining the loss of two of them (the F/V Sharkfin and the F/V: Patriot). Prior to opening this business, my commercial fishing career dates back to 1974, when I attended the Harbor Occupation Centers' commercial fishing program. After completing that program, I worked for many years as crew on various vessels. It has taken a long time for us to bring this business to fruition. To be on the verge of potentially losing it now feels like a nightmare.

We have landed the required tonnage mant times over during the course of our fishing careers. At the time of purchase, the Midnight Hour needed many costly repairs and they took over seven months to complete. In total, we have invested over 450,000.00 dollars in the purchase and overhaul of this vessel, fully expecting to continue fishing it as we have always done. This fishery has been and is our only form of livelihood and we have a long and verifiable history in it. To be denied the permission to continue our business as usual, due to an arbitrarily determined window period is unacceptable. Some of the owners/ operators may have not been able to land the required tonnage within the required time period. This is not sufficient reason for excluding commercial fishermen with over twenty of uninterrupted experience. A grandfather clause that includes historical fishermen would be a fair appropriate approach to limited entry.

We will be coming to Sacramento to meet with the Advisory Panel as well as

attending the March 8th committee meeting to plead our case. At that time, we will bring all supporting documents outlining the course of events. We have every faith that after reviewing said documents you will find that we do in fact have a true claim to this fishery.

While we totally support the Fish & Wildlife's efforts to manage the fishery and create a stable and sustainable long term situation, we cannot stand by and allow our livelihood to be taken away from us. We are real people, we have families to support. There is nothing we could do with this boat if we were locked out of our fishery. I am pleading with you for help. I believe that you will find people that have a legitimate claim to this fishery and we are one of them. There needs to be a way of addressing this sistuation.

I sincerely look forward to meeting with you and the other Committee members. I am eager to work with you to find a solution that we all can live with.

Sincerely

William Hargrave

CC: Dr. Doyle Hanan, Chair
California Dept. of Fish & Game
Mr. Sal Tringali, Advisory Subpanel
Ms. Heather Munro, Advisory Subpanel
Mr. Joe Cappuccio, Advisory Subpanel
Ms. Karen Reyna, Advisory Subpanel

PACIFIC FISHERY MANAGEMENT COUNCIL

Seaside Ca. 2-25-00

Dear Mr Jim Lone

I Have Ben A Fisherman in Monterey Cince 1948. after Serving 3 Years in World War 2 in the French Navy My First Boat I Fish Wase The Pacific Star Carring 165 Tones Fish also Whet the Boat LORRAINE. A The Rezo Brother The Santa Anna The Last Baat I Fish Was The Dolores M. Tuna Carrying 165 To -US in 1958 - Was the Last Boat I Fish Because 1959. I Purchasse My own Boat The Fishing Vessel N.Y F&G 4996 Other Sir My Point is tha I Fish Sardines Macrol Anchovies Harring ~~All My~~ for Many Many Year We Started the Harring in Tomales Bay and Then in San Francisco Cince 1973. Mr Tim Lone I Still Fish For Squides I Fish Squide Whet Monterey fish ~~US Fraser~~ US FRIZER Alioty Fish Royal Seafood in Monterey

I Fish 4 Year Wet Royal Seafood
He only Pack squid US Frezer Pack
only Squids I Fish 8 years
I Fish Aliotti Fish 5 years Never
By Sardines spent The las 2 years
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I Have My on Boat, my Boat is To
Small They Say I Carry 18 Tones is
~~A4~~ A 40 Foot Boat and No Refrigeration
I Dont Keep The Fish Cool
Mr. Jim Lone
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Fishing and Give Licence at Thos
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of Sardine OK if you Have 100
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~~or~~ 100 Tone Pacific macro OK,
of if you Have 100 Tones of Spanish
Macros OK What About 100 Tones
OF Harring you Giving licence
For Sardine To ~~Bait~~ Bait Boat

We Catche Anchoves in San Diego CA
For Sports and in Long Beach CA
For Sports Never Catche one Sardine
You Give Him A Licence and
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77 Year old and I Ave 2 Persien
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Dolars I Ame Stell Fishing in
Monterey and in Alask Evry Years

Mr Im Lone . I Believe I Deserve
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one of the Best For Squid . The Best and
no 1 in Brustol Bay Alaska For
Salmone Gilnetta and I will Be The
Best if you Give me A Sardine
Licence Tank you God Bless you
I Will Like to Talk in Sacramento
The 8 of March Tank you Stere Mereno
GOD BLESS you and the Pafic FMC

February 18, 2000

Pacific Fishery Management Council
Mr. Jim Lone
6210 14th Avenue NW, Ste. 302
Seattle, WA 98107-2200

To all members of the Management Council,

I am writing to you today seeking help in obtaining a coastal pelagic species fishery permit. We recently applied and were denied because our vessel had not landed the required tonnage outlined in the window period. We are appealing the denial and will be coming to Sacramento in March to meet with the Advisory Panel and the Management Team personally on March 7 and 8. Our vessel, the *Chikamin* has landed about 1,000,000 lbs. of sardines and mackerel over the last 10 years. Unfortunately, for the window period that was chosen, our vessel had lost a market (the market filed bankruptcy). Because of this unfortunate circumstance we now find ourselves locked out of a fishery in which we have considerable history.

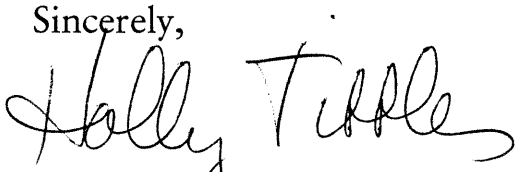
My husband operates the *FV:Chikamin* and has an equity building agreement with the boat owner. He has been a commercial fisherman in California since the age of 14, which is quite a long time now!!! He owned his own vessel for many years until it was lost in rough waters off Cape Mendocino. We have been working very hard to rebuild our life, needless to say the boat loss caused us extreme financial hardships. We have a son, Vincent, aged 17 months. I imagine if we didn't have Vincent, my husband wouldn't go out fishing; it's a hard way to make a living.

In addition to the squid fishery that the *FV:Chikamin* actively participates in, we have worked hard to establish ourselves with a market that could buy sardines from us once again. We have found that opportunity with Monterey Fish Company. After several devastating years due to El Nino, the loss of this potential market is almost unbearable.

I beseech you to establish a hardship clause in the existing plan. I know that the purpose of establishing the plan is to limit the number of boats and create a sustainable fishery. We wholeheartedly agree with the intention of the management plan. It just can not be right to exclude the very people that have been long time participants. I believe that there will be a way to control the number of boats while addressing those true participants that do not fit neatly into the window period you have earmarked to date. I believe that if you look at our history, you will see that we are real people with a real right to partake of this fishery.

I look forward to meeting you all in March. I have every faith that in the final analysis, the management team and the advisory panel will find a way to deal with people like us wisely and fairly. Thanks for your time.

Sincerely,



Holly Tibbles
FV:Chikamin
411 S. Signal Street
Ojai, CA 93023

cc: Coastal Pelagic Species Advisory Subpanel members

Harry D. "Butch" Hofland
Fishing Vessel "Theresa Marie"
PO Box 46 • Bodega CA 94922
(707) 876-3435

March 7, 2000

PACIFIC FISHERIES MANAGEMENT COUNCIL

Re: Coastal Pheligic Species Limited Entry Permit

I am a 54 year old commercial fisherman. I have been fishing commercially in California for 40 years. I have owned and operated a commercial fishing vessel for 38 years. In 1980, I built the fishing vessel "Theresa Marie" which was rigged for CPS, at a substantial cost of approximately $225,000 and for the herring, sardine, anchovy, mackerel and squid fisheries. I have a California permit for all of these species.

In Bodega Bay, there is no market for some of the CPS species. So I have sold live bait, crab bait, dead bait, food-grade fish and squid wherever I could.

In 1995, I moved my fishing operations to San Pedro to stay in business. I found a market for live bait for six months during the summer. The remainder of the year I depended on selling my product to fish markets. This is not an easy task in San Pedro.

During 1996 and 1997, I continued to work hard and find markets to sell my product. I had a fair market during this period and sold 56.1 metric ton of fish. In 1998, I lost my live bait contract, but I sold fish to any market I could and kept my business operations running.

Last year I there was a good market and sold I about 250 tons. Then in January 2000, I was informed that I needed a CPS permit. I applied for this permit and was denied. This terminated five generations of commercial fishing in the Hofland family – the youngest being my 22 year old son and partner, Nick Hofland. Nick is probably the youngest boat owner and operator in the San Pedro Saine Fleet.

With my past experience in this fishery dating back to 1980 and for the future of my son and family, I feel that I should receive a CPS permit. I have much invested in this industry. I do not believe the council has the intention of putting my family out of business.

This plan should not eliminate the people who are and have been fishing for CPS fin fish for a livelihood.

Thank you for your consideration.

Sincerely,

Harry D. "Butch" Hofland

PACIFIC FISHERIES MANAGEMENT COUNCIL February 25, 2000

RE: CPS Limited Entry Appeal

Dear Council Members,

I am fifty years old and have been fishing commercially since l968. I started fishing pacific herring in Humboldt Bay in 1973. There was no market and virtually no market interest. I had to help create a market. In 1984, as salmon fishing began to be restricted, I developed a local market for leopard and sevengill sharks to replace my troll income. In 1993 I invested in two seines, puretic powerblock, brails, boom, and various other equipment to roundhaul anchovies, sardines and smelt in Northern California. Again, there was no market. Again, I had to develop a demand for these fish any way I could. Anyone, including yourselves, would have faced this same marketing problem. In the meantime, I released alive 2 to 3 times more fish than I could market daily. In 1997 and 1998, I sold 30-40 tons of sardines. I could have easily caught 200 or 300 tons of these fish and be paid, after trucking to Southern California, nothing!

Now I find that myself and a very few others have been excluded from the Limited Entry Plan for not killing fish we could not sell.

I testified at the PFMC CPS Hearing in Eureka and asked that individuals with roundhaul landings be granted permits. At this point, I would respectfully request that you grant CPS permits to the 10 or 12 individuals such as myself that had to do live bait, dead bait, and food grade fish deliveries to maintain a presence in this fishery.

Thank you for this consideration.

Sincerely,

Ken Bates
P. O. Box 660
Eureka, CA
95502

Public Comment D.1.

February 16, 2000

United States Department of Commerce
Mr.Svein Fougner
Southwest Region
501 West Ocean Blvd, Suite 4200
Long Beach, CA 90802-4213

Dear Mr. Fougner

I am writing a letter of appeal for the F/V Miss RoseAnn for being declined for a limited entry sardine permit.

I have been fishing in California, especially the Monterey Bay for 40 years and I have been active in the industry for all that time. I've mostly fished Anchovies, Mackerel, Sardines, Pacific Herring and some squid. I don't agree with the window period that has been put in effect for 1993-1997.
In this letter I will explain my case.

In the month of November 1996, I received a one month order to fish for sardines, the second night I set out to see after previous landing 15 tons of sardines my crankshaft snapped in my 671 Jimmy and I was forced to take my engine out and the Miss RoseAnn would be repowering and down for 4-6 weeks. Since the sardines were in demand I was aware of a vessel in the name of The Lucky Marie that was not being fished. I leased the boat with terms and conditions that I use my own net, skiff and crew. I fished The Lucky Marie for the next 4 weeks with crew and equipment.

This The Miss RoseAnn deserves a permit. Its a shame how I have fished for 40 years in these waters and I have been passed over for a sardine permit. If the Miss RoseAnn does not lose the engine the Miss RoseAnn gets a permit and there would be no problem. That why I really need some attention with this matter. This does not just effect me personally it effects my crew of 15 years.

I know your question to me will be why was the Miss RoseAnn so active in the 1980's to early 1990's but not so active between 1993-1997. There are a few reasons. First, the demand wasn't there because of the booming squid industry, therefore the fish buyer would send one or two boats a night at most. Second there was no RSW at the time and quality of fish had to be perfect since only market for them was canned. Things have now changed how sardine's have been used for many different things and market jobs are not to difficult to come by so thats why I need the permit so I could continue fishing like I have for many years.

I have fished for Monterey Fish Company for 40 years and if there's any questions about my story and you need any information regarding that period in November in which my engine broke down and leased the F/V The Lucky Marie you could contact Mr. Sal Tringali at Monterey Fish Company. I hope you will review my situation very closely and seriously.

Thank you in advance.

Sincerely,

Vito Ferrante

cc. Mr. Svein Fougner
United States Department of Commerce

based companies in domestic and export markets.

Executive Order 12866

This rule is not considered by the Department of Justice to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review, because it will have an annual effect on the economy of less than $100 million. Without the increases/decreases, the Service estimates that it will collect $1.3 million in fees for immigration and adjudication services for these four small volume applications in FY 1998. With the fee adjustments, the Service will collect approximately $1.8 million. The implementation of this rule will provide the Service with an additional $.5 million in revenue over the revenue that would be collected under the old fee structure. This revenue increase is a recovery of costs based on workload volumes required to process these applications.

Executive Order 13132

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, the Department of Justice has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988: Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

List of Subjects in 8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Fees, Forms, Freedom of information, Privacy, Reporting and recordkeeping requirements, Surety bonds.

Accordingly, part 103 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. The authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 552, 552(a); 8 U.S.C. 1101, 1103, 1201, 1252 note, 1252b, 1304, 1356; 31 U.S.C. 9701; E.O. 12356, 47 FR 14874, 15557; 3 CFR, 1982 Comp., p.166; 8 CFR part 2.

2. In § 103.7, paragraph (b)(1) is amended by revising the entries for the following forms, to read as follows:

§ 103.7 Fees.

* * * * *

(b) * * *

(1) * * *

* * * * *

Form I–360. For filing a petition for an Amerasian, Widow(er), or Special Immigrant—$110.00, except there is no fee for a petition seeking classification as an Amerasian.

* * * * *

Form N–300. For filing an application for declaration of intention—$50.00.

Form N–336. For filing a request for hearing on a decision in naturalization proceedings under section 336 of the Act—$170.00.

* * * * *

Form N–470. For filing an application for section 316(b) or 317 of the Act benefits—$80.00.

* * * * *

Dated: December 8, 1999.

Janet Reno,

Attorney General.

[FR Doc. 99–32485 Filed 12–14–99; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 660

[Docket No. 990430115–9314–02; I.D. 030299B]

RIN 0648–AL48

Fisheries Off West Coast States and in the Western Pacific; Northern Anchovy/Coastal Pelagic Species Fishery; Amendment 8

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues regulations to implement Amendment 8 to the Northern Anchovy Fishery Management Plan. This rule removes jack mackerel north of 39° N. lat. from the Pacific Coast Groundfish Fishery Management Plan and adds four species to the management unit of the Coastal Pelagic Species (CPS) (formerly the Northern Anchovy Fishery Management Plan (FMP)); defines a new fishery management area and divides it into a limited entry zone and two new subareas; establishes a procedure for setting annual specifications including harvest guidelines and quotas; provides for closure of the directed fishery when the directed portion of a harvest guideline or quota is taken; identifies fishing seasons for Pacific sardine and Pacific mackerel; establishes catch restrictions in the limited entry zone and, when the directed fishery for a CPS is closed, limits harvest of that species to an incidental limit set by the Southwest Regional Administrator, NMFS, (Regional Administrator); implements a limited entry program; authorizes the Regional Administrator to issue exempted fishing permits for the harvest of CPS that otherwise would be prohibited; and establishes a framework process by which management decisions could be made without amending the FMP. No regulations are required at this time to implement the overfishing definitions and designation of essential fish habitat (EFH).

The intent of this action is to implement the provisions of Amendment 8 to the Northern Anchovy Fishery Management Plan, which will prevent overfishing, maximize yield from available resources, and control increasing harvesting capacity off the Pacific coast.

DATES: Effective January 14, 2000, except for § 660.502 and § 660.512 which are effective December 15, 1999, and §§ 660.505(a),(b),(g), and 660.511 which are effective January 1, 2000.

ADDRESSES: Copies of Amendment 8, which includes the final supplemental environmental impact statement (FSEIS)/regulatory impact review may be obtained from Larry Six, Executive Director, Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, Oregon, 97201. Comments regarding the reporting burden estimate or any other aspect of the collection-of-information requirements contained in this rule should be sent to Rodney R. McInnis, Acting Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (ATTN: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: James Morgan, Sustainable Fisheries Division, NMFS, at 562–980–4030.

SUPPLEMENTARY INFORMATION: The Pacific Fishery Management Council (Council) submitted Amendment 8 for Secretarial review by a letter dated December 11, 1998. On March 12, 1999,

a notice of availability of the FSEIS for Amendment 8 was published in the **Federal Register** (64 FR 12279). The proposed rule was published on May 25, 1999 (64 FR 28143). The comment period on the FSEIS ended on May 11, 1999. The comment period on the proposed rule ended on July 9, 1999.

On June 10, 1999, the Secretary of Commerce partially approved Amendment 8. Optimum yield (OY) for squid was disapproved because the amendment did not provide an estimate of maximum sustainable yield (MSY), the theoretical concept on which OY and overfishing are based under the Magnuson-Stevens Act. The bycatch provisions were disapproved because Amendment 8 did not contain a standardized reporting methodology to assess the amount and type of bycatch in the fishery and because there is no explanation of whether additional management measures to minimize bycatch and the mortality of unavoidable bycatch are practicable at this time. The Council has directed its CPS Management Team (Management Team) and its CPS Advisory Subpanel (Advisory Subpanel) to begin working to resolve these two issues. All other elements of Amendment 8 were approved.

The requirements of the Magnuson-Stevens Act, as amended by the Sustainable Fisheries Act, such as defining OY, overfishing, levels at which managed stocks are considered overfished, EFH, and social and economic data on fishing communities were discussed in the preamble to the proposed rule and are not repeated here.

Species in the FMP

Amendment 8 and this final rule place Pacific mackerel (*Scomber japonicus*), Pacific sardine (*Sardinops sagax*), jack mackerel (*Trachurus symmetricus*), and market squid (*Loligo opalescens*) in a management unit with northern anchovy (*Engraulis mordax*). All CPS are harvested by a fleet of vessels using mainly roundhaul nets (e.g., purse seines). Managed species are divided into two categories: ''Actively managed'' and ''monitored''. Actively managed species are subject to annual harvest limits based on current biomass estimates. There are no mandatory harvest limits for monitored species; however, other management measures, such as area closures, could apply to monitored species. Amendment 8 sets the allowable biological catch (ABC) levels for monitored species well below estimates of MSY to obviate the need for detailed resource assessments until the domestic fishery necessitates active management of these species. Initially, Pacific sardine and Pacific mackerel are designated as actively managed species, while jack mackerel, northern anchovy, and market squid are monitored species.

In Amendment 11 to the Pacific Groundfish Fishery Management Plan, jack mackerel was removed from that fishery management plan, effective upon implementation of Amendment 8 to the Northern Anchovy Fishery Management Plan.

Fishery Management Areas and Subareas

The fishery management area is the exclusive economic zone (EEZ) off the coasts of Washington, Oregon, and California between 3 and 200 nautical miles offshore, bounded in the north by the Provisional International Boundary between the United States and Canada, and bounded in the south by the International Boundary between the United States and Mexico. The fishery management area is divided into subareas for the regulation of fishing for CPS, with the following boundaries: The CPS Limited Entry Zone covers that portion of the EEZ between 39°00'00'' N. lat. (off California) and the U.S. Mexico-International Boundary; Subarea A covers that portion of the EEZ between the U.S.-Canada Provisional International Boundary and Pt. Piedras Blancas, California (35°40'00'' N. lat.); Subarea B covers that portion of the EEZ between Pt. Piedras Blancas, California, and the U.S.-Mexico International Boundary.

Limited Entry System

A limited entry system is established in the commercial fishery for CPS finfish (squid is not included) south of 39° N. lat. (Pt. Arena, California). Open access will continue north of 39° N. lat. Historically, 99 percent of the sardine resource has been harvested south of Pt. Arena. When abundance is high, fishermen without limited entry permits who are active in more northern areas can benefit from the high abundance by fishing in the open access fishery. When abundance declines, the resource tends to disappear from the north and moves south.

To qualify for a limited entry permit, a vessel must have landed at least 100 metric tons (mt) of CPS finfish from January 1, 1993, through November 5, 1997. The number of vessels qualified for a limited entry permit is estimated to be 70. These vessels have been responsible for approximately 99 percent of the harvest of CPS finfish during the window period.

The limited entry program takes effect on January 1, 2000; that is, fishermen harvesting CPS finfish south of 39° N. lat. must have a limited entry permit on board their vessels at that time. Applicants for permits should obtain the required forms as soon as possible so that delays in obtaining the required permit can be avoided. The forms can be obtained by writing the Regional Administrator (See **ADDRESSES**), by calling the Sustainable Fisheries Division (See **FOR FURTHER INFORMATION CONTACT**), or by downloading the application from the Southwest Region Web Site at *http://swr.ucsd.edu*. Permits will be issued to the owner of the qualifying vessel and can only be transferred once during the year 2000. This one-time transfer affords the owner of a qualifying vessel the opportunity to upgrade his/her vessel or to replace an aging vessel, and it also allows those who wish to enter the fishery a 1-year opportunity to buy a permit. After the year 2000, a permit cannot be transferred to another person. A permit can only be registered for use with another vessel if the permitted vessel has been lost, stolen, or scrapped, or has been removed from all federally managed fisheries.

Vessels fishing CPS finfish in the limited entry fishery may land no more than 125 mt of CPS from any fishing trip. This limit was designed to curtail increases in harvest capacity.

Many vessels have landed small amounts of CPS for dead bait or for small specialty markets in the past and would not qualify for a limited entry permit. Under the framework provisions of Amendment 8, the Council can recommend that vessels without a permit be allowed to make CPS finfish landings up to a specified amount between 1 and 5 mt under the so-called ''exempted trip limit.'' The final rule initially sets the exempted trip limit at 5 mt. Any change in the exempted trip limit will be implemented through rulemaking. Additionally, all vessels harvesting CPS finfish for live bait are exempt from the limited entry permit provisions.

Framework Process

This rule establishes a framework process to set and adjust fishery specifications and management measures in accordance with procedures and standards described in section 2 of Amendment 8. The framework process consists of two procedural categories: the point-of-concern framework procedure and the socio-economic framework procedure, according to which the Council may recommend and NMFS may approve the establishment and adjustment of management measures. The point-of-concern framework procedure would be

used in response to resource conservation and ecological issues, while the socio-economic framework procedure would be used to address socio-economic issues in the fishery. Under both of these procedures, the Council and NMFS may carry out four types of actions: (1) Automatic actions for non-discretionary actions, which will become effective upon publication of a **Federal Register** notice without prior public notice and opportunity for comment and without a prior Council meeting; (2) notice actions, which will be used for all management actions, except automatic actions, intended to have temporary affect that are either non-discretionary or have probable impacts that were previously analyzed and which will require at least one Council meeting and publication of one **Federal Register** notice; (3) abbreviated rulemakings, which will be used for all discretionary management actions intended to have permanent effect, the impacts of which have not been previously analyzed, and which will require at least one Council meeting and publication of one rule in the **Federal Register**; and (4) full rulemaking actions, which will require at least two Council meetings and publication of proposed and final rules in the **Federal Register** with an opportunity for public comment.

Under the framework system, many different types of actions could be taken to respond quickly to changes in the fishery. For example, actively managed and monitored species could be moved between categories as circumstances require. Other actions include trip frequency limits, area or subarea closures, seasons, size limits, gear limitations, and other appropriate measures. Amendment 8 and this final rule authorize the Council to designate certain management measures as ''routine management measures.'' This designation will enable the Council to modify the measure through the single meeting notice procedure described above.

Harvest Guidelines

The Regional Administrator will calculate the annual harvest guidelines for actively managed CPS based on the estimated biomass, formulas, and the standards set in the FMP. Harvest guidelines for CPS will be calculated using the current biomass estimate multiplied by a fixed harvest rate. The portion of the resource in U.S. waters may change from year to year; the harvest guidelines will be calculated using the best estimate available. The amount of the harvest guideline needed for incidental trip limits when the fishery is nearing closure may vary depending on when the harvest guideline is projected to be achieved, but the sum of the incidental amount and the amount harvested directly must equal the total harvest guideline.

Following the determination of the estimated biomass, the Management Team and Advisory Subpanel will review the biomass estimate and resulting harvest guideline during a public meeting. Public comments and comments of the Advisory Subpanel will be reported to the Council. After hearing public comments, the Council will either adopt the harvest guideline for the upcoming fishing season or recommend a different harvest guideline, accompanied by a justification for the recommendation. Although there is little flexibility in setting harvest guidelines, errors in calculations and in the way the specific factors were used in determining the biomass are elements that could be examined.

The annual process for calculating harvest guidelines will include public review of the estimated biomass and harvest guidelines before the fishing season begins; however, the Regional Administrator may announce the harvest guideline in the **Federal Register** before the process is completed to help fishermen plan their activities and begin harvesting when the fishing season begins.

Fishing Seasons

This rule sets the Pacific sardine season at January 1 to December 31, or until closed, and the Pacific mackerel season at July 1 to June 30, or until closed. At this time, the California Department of Fish and Game is managing these two species. The Council's Management Team and Advisory Subpanel will meet to review the status of these two resources so that NMFS harvest guidelines can be implemented beginning on January 1, 2000.

This rule supercedes the existing harvest limits for northern anchovy, published in the **Federal Register** on September 2, 1999 (64 FR 48113). Those interim final quotas were issued under regulations that were in effect before this final rule was promulgated.

Comments and Responses

Eleven letters on Amendment 8 and the proposed rule were received from the fishing industry. Most did not believe that there was justification for implementing limited entry in the CPS fishery. Comments are grouped together here, followed by NMFS' responses.

Comment 1: Members of the Advisory Subpanel made decisions about limiting the number of vessels to serve their own interests. As a result, the fleet is too small to harvest the resource available.

Response: The Planning Team recommended a fleet smaller than that preferred by the Advisory Subpanel, pointing out that a smaller fleet was capable of harvesting the MSY of all CPS finfish. The Council recommended a larger fleet after hearing testimony from the Planning Team, Advisory Subpanel, and from processors, who believed that the Planning Team's recommendation for a smaller fleet would not provide a sufficient number of vessels in a situation when a processor needed a supply of one species at a time when most vessels might prefer harvesting a higher valued species. The limited entry fleet established by Amendment 8 is expected to meet the needs of the fishing industry and be capable of harvesting all CPS finfish that are likely to be available.

Comment 2: Limiting the number of vessels is unnecessary. The fleet failed to harvest the sardine quota in 1998 and will not harvest the quota in 1999 because the demand for sardine is limited. If limited entry is needed in the future, the framework process could be used to implement it.

Response: Enough capacity is believed to exist to harvest the MSY of all finfish managed by the FMP. If experience shows that there are not enough vessels, the entry of additional vessels could be allowed using the framework process. However, experience in other fisheries shows that allowing a fleet to grow uncontrollably leads to a larger fleet than necessary, and removing excess capacity is often difficult and costly.

Comment 3: Trip limits are inefficient because restricting vessels to a certain tonnage each day increases costs.

Response: The trip limit in the limited entry fishery is a limitation on the number of metric tons per trip (initially set at 125 mt/trip), not per day. No vessel initially permitted in the fishery is expected to be capable of landing 125 metric tons. Therefore, the initial trip limit is not expected to impose inefficiencies on the fishery. As many trips as necessary can be completed to satisfy processors' needs. Trip limits as used in the coastal pelagics fishery are different from those in other fisheries. The trip limit was imposed to avoid rapid expansion of the fleet, not to spread the harvest over the year or to limit the capabilities of the existing fleet.

Comment 4: Amendment 8 does not assess the capacity that U.S. processors can, or the extent that U.S. processors will, process the OY of coastal pelagic species.

Response: The recent increase in abundance of Pacific sardine has been dramatic. In response to the increase, new processing capacity has been added in southern and central California, and there is an active search by processors for additional markets. Processing capacity is expected to rise and fall with available market demand. Nevertheless, a better idea of how much fish will be processed by domestic processors will be gained from experience as processors adapt to market conditions. At this time, there appears to be enough potential processing capacity to satisfy available markets.

Comment 5: The limited entry system allocates fishing privileges unnecessarily and in a manner that is unfair to existing fishermen. A combination of squid and finfish landings as qualifying criteria would be more equitable.

Response: Vessels that primarily land squid qualify for a limited entry permit if at least 100 mt of CPS finfish was landed during the window period (average of 20 mt/year). Using squid as a qualifying species was an option in Amendment 8, but was not adopted because the fleet would have included many vessels that landed no CPS finfish. The result would have been a much larger fleet with vessels that have never landed CPS finfish receiving a permit that applies only to finfish while some vessels that actually targeted CPS finfish would have been eliminated from the fishery.

Comment 6: Amendment 8 does not, as required by Section 303(a)(4)(A) of the Magnuson-Stevens Act, assess and specify the capacity and the extent to which fishing vessels of the United States, on an annual basis will harvest the OY of CPS finfish. Amendment 8 focuses on the number of vessels rather than the capacity of vessels.

The importance of carrying capacity is apparent if one looks at the practices of the Inter-American Tropical Tuna Commission (IATTC), which tracks closely the capacity of individual vessels in the various tuna fleets as well as the harvesting rates of individual vessels.

Response: The harvesting capacity of the fleet was assessed in Amendment 8 by examining a combination of what vessels can physically hold and how many trips they can make during the year. Assuming a modest harvest rate by existing vessels, the MSY of finfish likely to be available could be harvested in a 6-month season. The underlying purpose of determining domestic capacity is to make fishery resources available to U.S. fishermen before making them available to foreign fishermen. The capacity of each individual vessel does not need to be determined to meet the requirements of the Magnuson-Stevens Act.

The IATTC keeps rigorous records of hold capacity of individual vessels. In the tuna fishery, however, a substantial amount of harvested fish is at sea at any particular moment. To determine when quotas will be reached, the IATTC needs to know how much fish individual vessels hold and how much fish a vessel can harvest each day. To manage quotas on coastal pelagic species, all that needs to be known is how much is landed. The IATTC could not manage tuna based only on landings.

Comment 7: Amendment 8 violated procedural safeguards of the Magnuson-Stevens Act with regard to public review and analysis of the provisions that severely curtail the transferability of permits after the year 2000.

Response: Non-transferable permits were an option in Amendment 8 through several drafts of the sections on limited entry and was available for public review and comment. The option was included in the draft amendment dated August 1998, and the option was available for public review and comment at the public hearings chaired by the Council. The provisions have been implemented by notice-and-comment rulemaking under the Administrative Procedure Act.

Comment 8: Amendment 8 shows that the annual number of roundhaul vessels that have landed CPS during 1981–1997 has changed substantially from year to year. Since the vessels are not listed by official number and name, the variation may be due to duplication.

Response: To determine potential fleet size, the Planning Team used data from the Pacific Fishery Information Network. When vessels landed catch at more than one port, the port of landing was taken to be where most of the landings were made. Effort was taken to minimize the possibility of duplication.

Comment 9: Amendment 8 takes an overly optimistic view of the harvesting capacity of the coastal pelagics fleet. Historical records do not show such high harvests. There are no data to support the high harvests needed per vessel to land more than 400,000 mt in a 6-month period.

Response: As stated in comment 6, the estimate of a 6-month season to harvest the MSY of all species likely to be available may be inexact. Nevertheless, the goal of Amendment 8 is not to achieve the number of vessels that will be needed to harvest the full quotas for coastal pelagic species during years of particularly high stock abundance. The goal of limited entry is to ensure that there is no more capital invested in the fishery than necessary. As stated in the amendment, wide variability in the coastal pelagic resources is inevitable. Presently, northern anchovy is at relatively low biomass levels and has a limited market. The sardine resource is increasing, but demand has not increased as rapidly as the resource. The Pacific mackerel quota is larger in 1999 than in recent years, but it is uncertain whether the full market potential will be realized. Amendment 8 concludes that about 70 vessels will be sufficient to meet the varied objectives of the FMP.

In addition to the harvesting that occurs in the limited entry fishery, when one or more resources exhibit large abundance, any vessel may harvest north of 39° N. lat. without a limited entry permit. If OY is not being taken because of overly restrictive management, the Council and NMFS will adjust the system as appropriate.

Comment 10: The Council did not take into account the present participation and importance of the CPS finfish fishery as it affects the commercial fishing community in San Diego County.

Response: Amendment 8 establishes liberal qualifying criteria that will make it unlikely that vessels dependent on CPS finfish will be excluded from the fishery. The Magnuson-Stevens Act requires that each plan or amendment include a fishery impact statement that assesses the effects, if any, of the conservation and management measures on participants in the fisheries and on fishing communities. Although the analysis may not have addressed all of the particular impacts of Amendment 8 on a specific fishing community such as the commercial fishing community in San Diego County, the limited entry scheme, besides preventing overcapitalization, is designed to protect historic participation in the fishery while providing maximum benefits to all users. Provisions for small and incidental harvesters to maintain their catches prevent individuals from being penalized or from being excluded from the fishery. Although CPS finfish are commonly low-valued species, when the abundance of CPS finfish is large and market conditions make harvesting feasible, any harvester that has landed minimal or no CPS finfish may gain benefits from the fishery by participating in the open access fishery north of 39° N. lat.

Comment 11: The provision to allow only 1 year to upgrade a vessel is too restrictive. The restriction on transfers combined with the trip limit is extremely inefficient.

Response: Amendment 8 does not restrict improvements to existing vessels; it strictly limits registering a limited entry permit with an entirely different vessel. This rule does not restrict a fisherman's choice to increase horsepower, install a refrigeration system, enlarge hold capacity, or make any other changes to improve an existing vessel. By implementing a trip limit and regulating transfers to control expansion of the fleet, NMFS avoided a complicated system of regulations governing horsepower, vessel length, and hold capacity. Any potential inefficiencies created by the limited entry program are expected to be outweighed by controlling increases in harvesting capacity.

NMFS Action

The administrative procedures needed to implement a limited entry permit system are being made effective upon the date of publication in the **Federal Register** of the final rule. The effectiveness of the substantive measures of Amendment 8 is being delayed until January 1, 2000.

NOAA codifies its OMB control numbers for information collection at 15 CFR part 902. Part 902 collects and displays the control numbers assigned to information collection requirements of NOAA by OMB pursuant to the Paperwork Reduction Act (PRA). This final rule codifies OMB control number 0648–0204 for § 660.512.

Under NOAA Administrative Order 205–11, dated December 17, 1990, the Under Secretary for Oceans and Atmosphere has delegated to the Assistant Administrator for Fisheries, NOAA, the authority to sign material for publication in the **Federal Register**.

Changes to the Proposed Rule

NMFS has made a number of changes to the proposed rule. In section 660.502, the phrase ''as used in this subpart'' has been removed from the definitions for ''owner'' and ''person.'' Also, a definition of ''prohibited'' ''species'' has been added for clarity. Section 660.505(f) has been revised to indicate that when fishing for CPS, it is unlawful for any individual to fail to return a prohibited species to the sea immediately with a minimum of harm. This section has also been revised to make it consistent with the language in section 660.511(e) regarding the immediate release of prohibited species. Section 660.506 has been revised to indicate that the only gear authorized for use in the reduction fishery for northern anchovy off California is round haul nets that have a minimum wet-stretch mesh size of 10/16 of an inch (1.59 cm) excluding the bag portion of a purse seine. Also, the last sentence that discusses other gear used in the CPS fisheries has been deleted. Section 660.512(b) has been revised to indicate that a limited entry permit for a vessel will be issued only if that vessel landed 100 mt of CPS finfish from January 1, 1993, through November 5, 1999. Section 660.512(c) has been revised to indicate that a vessel owner applying for issuance, renewal, transfer, or registration of a limited entry permit must prove that the qualification requirements are met by submitting the specified documentation. Section 660.512(g) regarding the process for appealing the initial issuance of a permit has been revised to indicate that the Sustainable Fisheries Division issues the permit and not the Regional Administrator.

Classification

The Regional Administrator, Southwest Region, NMFS, determined that Amendment 8 is necessary for the conservation and management of the coastal pelagics fishery and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

The Council prepared an FSEIS for Amendment 8. A notice of availability for Amendment 8 was published on March 26, 1999 (64 FR 14720). Amendment 8 contains a framework management process that makes it possible for the Council to change and modify management procedures in a timely and efficient manner without amending the FMP. The framework management process will allow the Council to act quickly to address resource conservation and ecological issues. A limited entry program will control the expansion of fishing effort. The benefits of limited entry are primarily socioeconomic because limited entry prevents excess invested capital and reduces the likelihood of detrimental environmental effects, as open access fisheries tend to reduce efficiency and increase pressure on fishermen to overharvest fishery resources. Pacific sardine and Pacific mackerel are designated as actively managed, and are subject to species-specific controls. Allowable harvest is based on MSY and the importance of each species as forage for other fish, marine mammals, and birds. This approach is expected to minimize environmental impacts. Northern anchovy, jack mackerel, and market squid are designated as monitored species. No current biomass estimates are determined for these monitored species, although a constant ABC for each species is based on the long-term yield of each species. This approach is expected to minimize environmental impacts. Although Northern anchovy and jack mackerel may be considered underutilized species, increasing the harvest of these species will only occur following additional review. Almost nothing is known about market squid. However, an aggressive research program is underway to define the status of the resource, develop a management program, and minimize any possible environmental impacts resulting from their harvest.

The Assistant Administrator for Fisheries, NOAA, for good cause, finds under 5 U.S.C. 553(d)(3), that a 30-day delay in effectiveness for those provisions of the final rule that authorize processing of applications for limited entry permits would be contrary to the public interest. Making these provisions effective as of the date of publication of this rule will ensure that applicants for limited entry permits have sufficient time to submit their applications and have them reviewed before the requirement to have permits onboard fishing vessels is enforced beginning on January 1, 2000.

This final rule has been determined to be not significant for the purposes of E.O. 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration when this rule was proposed, that it would not have a significant economic impact on a substantial number of small entities. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not prepared.

This final rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The information collection for the limited entry permit application has been approved by OMB, under OMB control number 0648–0204 for Federal fishing permits. The public reporting burden for this requirement is estimated to be 30 minutes for a limited entry permit application, 30 minutes for requesting the transfer of a permit, and 2 hours to prepare a request for the appeal of a decision to deny a permit. The additional permit qualification documentation and burden of proof is estimated to take 1 hour per response. These estimates include the time for reviewing instructions, searching

existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The requirement to affix the official number of the vessel has been approved by OMB under OMB control number 0648–0361. The public reporting burden for this requirement is estimated to be 45 minutes to affix the official number of a vessel to its bow and weather deck. Send comments regarding these burden estimates or any other aspect of the data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and to OMB, Washington, DC 20503 (ATTN: NOAA Desk Officer).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

Informal consultations under the Endangered Species Act were both concluded with NMFS and the U.S. Fish and Wildlife Service on June 10, 1999. As a result of these informal consultations, the Regional Administrator determined that fishing activities conducted under this rule are not likely to adversely affect endangered or threatened species or critical habitat.

A second informal consultation was initiated with the Protected Resources Division, Southwest Region, regarding the effects of Amendment 8 on eight salmon and steelhead evolutionary significant units declared as threatened in March 1999. Included in the consultation were Coastal California Chinook and Central Valley Spring Chinook, which are pending listing as threatened. On September 2, 1999, a determination was received declaring that Amendment 8 would not likely adversely affect these listed species and those pending listing.

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: December 7, 1999.

Penelope D. Dalton,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 15 CFR part 902, and 50 CFR part 660, are amended as follows:

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT; OMB CONTROL NUMBERS

1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

2. In § 902.1, the table in paragraph (b) is amended by removing § 660.505 and its corresponding OMB number–0306 and by adding under 50 CFR the following entries in numerical order:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

CFR part or section wherethe information collection requirement is located	Current OMB control number (all numbers begin with 0648–)
* * * * *	
50 CFR:	
* * * * *	
660.504	–0361
660.512	–0204
* * * * *	

50 CFR CHAPTER VI

PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

§ 660.302 [Amended]

2. In § 660.302, under the definition of ''Groundfish'' and under the term ''Roundfish,'' remove the text ''jack mackerel (north of 39° N. lat.), *Trachurus symmetricus*.''

3. In § 660.337, paragraph (a)(1) is revised to read as follows:

§ 660.337 Limited entry permits—''designated species B'' endorsement.

(a) * * *

(1) *General. Designated species* means Pacific whiting and shortbelly rockfish. Bycatch allowances in fisheries for these species will be established using the procedures specified for incidental allowances in joint venture and foreign fisheries in the PCGFMP.

* * * * *

4. Revise Subpart I to read as follows:

Subpart I-Coastal Pelagics Fisheries

Sec.

Subpart I—Coastal Pelagics Fisheries

§ 660.501 Purpose and scope.

This subpart implements the Fishery Management Plan for Coastal Pelagic Species (FMP). These regulations govern commercial fishing for CPS in the EEZ off the coasts of Washington, Oregon, and California.

§ 660.502 Definitions.

In addition to the definitions in the Magnuson-Stevens Act and in § 600.10 of this chapter, the terms used in this subpart have the following meanings:

Actively managed species (AMS) means those CPS for which the Secretary has determined that harvest guidelines or quotas are needed by Federal management according to the provisions of the FMP.

Advisory Subpanel (AP) means the Coastal Pelagic Species Advisory Subpanel that comprises members of the fishing industry and public appointed by the Council to review proposed actions for managing the coastal pelagic fisheries.

Biomass means the estimated amount, by weight, of a coastal pelagic species population. The term biomass means total biomass (age 1 and above) unless stated otherwise.

Coastal pelagic species (CPS) means northern anchovy (*Engraulis mordax*), Pacific mackerel (*Scomber japonicus*), Pacific sardine (*Sardinops sagax*), jack mackerel (*Trachurus symmetricus*), and market squid (*Loligo opelescens*).

Coastal Pelagic Species Management Team (CPSMT) means the individuals appointed by the Council to review, analyze, and develop management measures for the CPS fishery.

Council means the Pacific Fishery Management Council, including its CPSMT, AP, Scientific and Statistical Committee (SSC), and any other committee established by the Council.

Finfish means northern anchovy, Pacific mackerel, Pacific sardine, and jack mackerel.

Fishery Management Area means the EEZ off the coasts of Washington, Oregon, and California between 3 and 200 nautical miles offshore, bounded in the north by the Provisional International Boundary between the United States and Canada, and bounded in the south by the International Boundary between the United States and Mexico.

Fishing trip means a period of time between landings when fishing is conducted.

Harvest guideline means a specified numerical harvest objective that is not a quota. Attainment of a harvest guideline does not require complete closure of a fishery.

Harvesting vessel means a vessel involved in the attempt or actual catching, taking or harvesting of fish, or any activity that can reasonably be expected to result in the catching, taking or harvesting of fish.

Land or *Landing* means to begin transfer of fish from a fishing vessel. Once transfer begins, all fish onboard the vessel are counted as part of the landing.

Limited entry fishery means the commercial fishery consisting of vessels fishing for CPS in the CPS Management Zone under limited entry permits issued under § 660.512.

Live bait fishery means fishing for CPS for use as live bait in other fisheries.

Monitored species (MS) means those CPS the Secretary has determined not to need management by harvest guidelines or quotas according to the provisions of the FMP.

Nonreduction fishery means fishing for CPS for use as dead bait or for processing for direct human consumption.

Owner, means a person who is identified as the current owner in the Certificate of Documentation (CG-1270) issued by the U.S. Coast Guard for a documented vessel, or in a registration certificate issued by a state or the U.S. Coast Guard for an undocumented vessel.

Person, means any individual, corporation, partnership, association or other entity (whether or not organized or existing under the laws of any state), and any Federal, state, or local government, or any entity of any such government that is eligible to own a documented vessel under the terms of 46 U.S.C. 12102(a).

Processing or *to process* means preparing or packaging coastal pelagic species to render the fish suitable for human consumption, pet food, industrial uses or long-term storage, including, but not limited to, cooking, canning, smoking, salting, drying, filleting, freezing, or rendering into meal or oil, but does not mean heading and gutting unless there is additional preparation.

Prohibited Species means all species of trout and salmon (*Salmonidae*) and Pacific halibut (*Hippoglossus stenolepis*).

Quota means a specified numerical harvest objective for a single species of CPS, the attainment (or expected attainment) of which causes the complete closure of the fishery for that species.

Reduction fishery means fishing for CPS for the purposes of conversion into fish flour, fish meal, fish scrap, fertilizer, fish oil, other fishery products, or byproducts for purposes other than direct human consumption.

Regional Administrator means the Regional Administrator, Southwest Region, NMFS, 501 W. Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213, or a designee.

Reserve means a portion of the harvest guideline or quota set aside at the beginning of the year for specific purposes, such as for individual harvesting groups to ensure equitable distribution of the resource or to allow for uncertainties in preseason estimates of DAP and JVP.

Sustainable Fisheries Division (SFD) means the Assistant Regional Administrator for Sustainable Fisheries, Southwest Region, NMFS, or a designee.

Totally lost means that the vessel being replaced no longer exists *in specie*, or is absolutely and irretrievably sunk or otherwise beyond the possible control of the owner, or the costs of repair (including recovery) would exceed the repaired value of the vessel.

Trip limit means the total allowable amount of a CPS species by weight or by percentage of weight of fish on board the vessel that may be taken and retained, possessed, or landed from a single fishing trip by a vessel that harvests CPS.

§ 660.503 Management subareas.

The fishery management area is divided into subareas for the regulation of fishing for CPS, with the following designations and boundaries:

(a) *CPS Limited Entry Zone* means the EEZ between:

(1) Northern boundary—at 39°00'00'' N. lat. off California; and

(2) Southern boundary—the United States-Mexico International Boundary, which is a line connecting the following coordinates:

32°35'22'' N. lat., 117°27'49'' W. long.
32°37'37'' N. lat., 117°49'31'' W. long.
31°07'58'' N. lat., 118°36'18'' W. long.
30°32'31'' N. lat., 121°51'58'' W. long.

(b) *Subarea A* means the EEZ between:

(1) Northern boundary—the United States-Canada Provisional International Boundary, which is a line connecting the following coordinates:

48°29'37.19'' N. lat. 124°43'33.19'' W. long.
48°30'11'' N. lat. 124°47'13'' W. long.
48°30'22'' N. lat. 124°50'21'' W. long.
48°30'14'' N. lat. 124°54'52'' W. long.
48°29'57'' N. lat. 124°59'14'' W. long.
48°29'44'' N. lat. 125°00'06'' W. long.
48°28'09'' N. lat. 125°05'47'' W. long.
48°27'10'' N. lat. 125°08'25'' W. long.
48°26'47'' N. lat 125°09'12'' W. long.
48°20'16'' N. lat. 125°22'48'' W. long.
48°18'22'' N. lat. 125°29'58'' W. long.
48°11'05'' N. lat. 125°53'48'' W. long.
47°49'15'' N. lat. 126°40'57'' W. long.
47°36'47'' N. lat. 127°11'58'' W. long.
47°22'00'' N. lat. 127°41'23'' W. long.
46°42'05'' N. lat. 128°51'56'' W. long.
46°31'47'' N. lat. 129°07'39'' W. long.; and

(2) Southern boundary—at 35°40'00'' N. lat. (Pt. Piedras Blancas).

(c) *Subarea B* means the EEZ between:

(1) Northern boundary—35°40'00'' N. lat. (Pt. Piedras Blancas); and

(2) Southern boundary—the United States-Mexico International Boundary described in paragraph (a)(2) of this section.

§ 660.504 Vessel identification.

(a) *Official number*. Each fishing vessel subject to this subpart must display its official number on the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck so as to be visible from enforcement vessels and aircraft.

(b) *Numerals*. The official number must be affixed to each vessel subject to this subpart in block Arabic numerals at least 14 inches (35.56 cm) in height. Markings must be legible and of a color that contrasts with the background.

§ 660.505 Prohibitions.

In addition to the general prohibitions specified in § 600.725 of this chapter, it is unlawful for any person to do any of the following:

(a) In the CPS Limited Entry Zone, take and retain, possess or land more than 5 mt of CPS finfish, other than live bait, on a harvesting vessel without a limited entry permit.

(b) In the CPS Limited Entry Zone, take and retain, possess or land more than 125 mt of CPS finfish on a harvesting vessel.

(c) Sell CPS without an applicable commercial state fishery license.

(d) Fish in the reduction fishery for CPS in any closed area specified in § 660.507.

(e) Fish in the reduction fishery for northern anchovy using gear not authorized under § 660.506.

(f) When fishing for CPS, fail to return a prohibited species to the sea immediately with a minimum of injury.

(g) Falsify or fail to affix and maintain vessel markings as required by § 660.504.

(h) Fish for CPS in violation of any terms or conditions attached to an exempted fishing permit issued under § 600.745 of this chapter.

(i) When a directed fishery has been closed, take and retain, possess, or land more than the incidental trip limit announced in the **Federal Register**.

(j) Refuse to submit fishing gear or fish subject to such person's control to inspection by an authorized officer, or to interfere with or prevent, by any means, such an inspection.

(k) Falsify or fail to make and/or file any and all reports of fishing, landing, or any other activity involving CPS, containing all data, and in the exact manner, required by the applicable State law, as specified in § 660.3.

(l) Fail to carry aboard a vessel that vessel's limited entry permit issued under § 660.512 or exempted fishing permit issued under § 660.516.

(m) Make a false statement on an application for issuing, renewing, transferring, or replacing a limited entry permit for the CPS fishery.

§ 660.506 Gear restrictions.

The only fishing gear authorized for use in the reduction fishery for northern anchovy off California are round haul nets that have a minimum wet-stretch mesh size of 10/16 of an inch (1.59 cm) excluding the bag portion of a purse seine. The bag portion must be constructed as a single unit and must not exceed a rectangular area, adjacent to 20 percent of the total corkline of the purse seine. Minimum mesh size requirements are met if a stainless steel wedge can be passed with only thumb pressure through 16 of 20 sets of 2 meshes each of wet mesh. The wedges used to measure trawl mesh size are made of 20 gauge stainless steel and will be no wider than 10/16 of an inch (1.59 cm) less one thickness of the metal at the widest part.

§ 660.507 Closed areas to reduction fishing.

The following areas are closed to reduction fishing:

(a) *Farallon Islands closure* (see Figure 1 to this subpart). The portion of Subarea A bounded by—

(1) A straight line joining Pigeon Point Light (37°10.9' N. lat., 122°23.6' W. long.) and the U.S. navigation light on Southeast Farallon Island (37°42.0' N. lat., 123°00.1' W. long.); and

(2) A straight line joining the U.S. navigation light on Southeast Farallon Island (37°42.0' N. lat., 123°00.1' W. long.) and the U.S. navigation light on Point Reyes (37°59.7' N. lat., 123°01.3' W. long.).

(b) *Subarea B closures.* Those portions of Subarea B described as–

(1) *Oxnard closure* (see Figure 1 to this subpart). The area that extends offshore 4 miles from the mainland shore between lines running 250° true from the steam plant stack at Manadalay Beach (34°12.4' N. lat., 119°15.0' W. long.) and 220° true from the steam plant stack at Ormond Beach (34°07.8' N. lat., 119°10.0' W. long.).

(2) *Santa Monica Bay closure* (see Figure 1 to this subpart). Santa Monica Bay shoreward of that line from Malibu Point (34°01.8' N. lat., 188°40.8' W. long.) to Rocky Point (Palos Verdes Point) (33°46.5' N. lat., 118°25.7' W. long.).

(3) *Los Angeles Harbor closure* (see Figure 1 to this subpart). The area outside Los Angeles Harbor described by a line extending 6 miles 180° true from Point Fermin (33°42.3' N. lat., 118°17.6' W. long.) and then to a point located 3 miles offshore on a line 225° true from Huntington Beach Pier (33°39.2' N. lat., 118°00.3' W. long.).

(4) *Oceanside to San Diego closure* (see Figure 1 to this subpart). The area 6 miles from the mainland shore south of a line running 225° true from the tip of the outer breakwater (33°12.4' N. lat., 117°24.1' W. long.) of Oceanside Harbor to the United States-Mexico International Boundary.

§ 660.508 Annual specifications.

(a) The Regional Administrator will determine the harvest guidelines or quotas for all AMS from the estimated biomass and the formulas in the FMP.

(b) Harvest guidelines or quotas, including any apportionment between the directed fishery and set-aside for incidental harvest, will be published in the **Federal Register** before the beginning of the relevant fishing season.

(c) The announcement of each harvest guideline or quota will contain the following information:

(1) A summary of the status of AMS and MS;

(2) The estimated biomass on which the harvest guideline or quota was determined;

(3) The portion, if appropriate, of the harvest guideline or quota set aside to allow for incidental harvests after closure of the directed fishery;

(4) The estimated level of the incidental trip limit that will be allowed after the directed fishery is closed; and

(5) The allocation, if appropriate, between Subarea A and Subarea B.

(d) Harvest guidelines and quotas will receive a public review according to the following procedure:

(1) A meeting will be held between the Council's CPSMT and AP, where the estimated biomass and the harvest guideline or quota will be reviewed and public comments received. This meeting will be announced in the **Federal Register** before the date of the meeting, if possible.

(2) All materials relating to the biomass and harvest guideline or quota will be forwarded to the Council and its Scientific and Statistical Committee and will be available to the public from the Regional Administrator.

(3) At a regular meeting of the Council, the Council will review the estimated biomass and harvest guideline or quota and offer time for public comment. If the Council requests a revision, justification must be provided.

(4) The Regional Administrator will review the Council's recommendations, justification, and public comments and base his or her final decision on the requirements of the FMP.

§ 660.509 Closure of directed fishery.

When the directed fishery portion of the harvest guideline or quota is estimated to be taken, the Regional Administrator will announce in the **Federal Register** the date of closure of the directed fishery for CPS and the amount of the incidental trip limit that will be allowed.

§ 660.510 Fishing seasons.

All seasons will begin at 0001 hours and terminate at 2400 hours local time. Fishing seasons for the following CPS species are:

(a) *Pacific sardine.* January 1 to December 31, or until closed under § 660.509.

(b) *Pacific mackerel.* July 1 to June 30, or until closed under § 660.509.

§ 660.511 Catch restrictions.

(a) All CPS harvested shoreward of the outer boundary of the EEZ (0–200 nautical miles off shore) will be counted toward the catch limitations specified in this section.

(b) The trip limit for harvesting vessels fishing in the CPS Limited Entry

Zone for CPS other than live bait without a limited entry permit is 5 mt tons of all CPS finfish combined.

(c) The trip limit for vessels with a limited entry permit on a fishing trip in which the vessel fishes or lands fish in the Limited Entry Zone is 125 mt of all CPS finfish combined.

(d) After the directed fishery for a CPS is closed under § 660.509, no person may take and retain, possess or land more of that species than the incidental trip limit set by the Regional Administrator.

(e) While fishing for CPS, all species of trout and salmon (*Salmonidae*) and Pacific halibut (*Hippoglossus stenolepis*) are prohibited species and must be released immediately with a minimum of injury.

§ 660.512 Limited entry fishery.

(a) *General.* (1) This section applies to fishing for or landing CPS finfish in the limited entry fishery in the Limited Entry Zone.

(2) Effective January 1, 2000, the owner of a vessel with more than 5 mt of CPS finfish on board in the CPS Limited Entry Zone, other than live bait, must have a limited entry permit registered for use with that vessel.

(3) Only a person eligible to own a documented vessel under the terms of 46 U.S.C. 12102(a) qualifies to be issued or may hold, by ownership or otherwise, a limited entry permit.

(b) *Initial qualification.* (1) A limited entry permit for a vessel will be issued only if that vessel landed 100 mt of CPS finfish from January 1, 1993, through November 5, 1997.

(2) A limited entry permit will be issued only to the current owner of the vessel, unless:

(i) The previous owner of a vessel qualifying for a permit, by the express terms of a written contract, reserved the right to the limited entry permit, in which case the limited entry permit will be issued to the previous owner based on the catch history of the qualifying vessel, or

(ii) A vessel that would have qualified for a limited entry permit was totally lost prior to issuance of a limited entry permit. In this case, the owner of the vessel at the time it was lost retains the right to a permit for a replacement vessel, unless the owner conveyed the right to another person by the express terms of a written contract. The lost vessel must be replaced within 2 years of the date that the qualifying vessel was lost, and the replaced vessel must be of equal or less net tonnage.

(c) *Documentation and burden of proof.* A vessel owner (or person holding limited entry rights under the express terms of a written contract as specified in paragraph (a)(2)) of this section applying for issuance, renewal, transfer, or registration of a limited entry permit must prove that the qualification requirements are met by submitting the following documentation:

(1) A certified copy of the vessel's documentation as a fishing vessel of the United States (U.S. Coast Guard or state) is the best evidence of vessel ownership;

(2) A certified copy of a state fish landing receipt is the best evidence of a landing of a vessel;

(3) A copy of a written contract reserving or conveying limited entry rights is the best evidence of reserved or acquired rights; and

(4) Other relevant, credible evidence that the applicant may wish to submit or that the SFD may request or require.

(d) *Fees.* The Regional Administrator may charge fees to cover administrative expenses related to issuing limited entry permits, as well as renewing, transferring, and replacing permits. The amount of the fee is calculated in accordance with the procedures of the NOAA Finance Handbook for determining the administrative costs of each special product or service. The fee may not exceed such costs and is specified with each application form. The appropriate fee must accompany each application.

(e) *Initial decisions.* (1) The SFD will make initial decisions regarding issuing, renewing, transferring, and registering limited entry permits.

(2) Adverse decisions shall be in writing and shall state the reasons for the adverse decision.

(3) The SFD may decline to act on an application for issuing, renewing, transferring, or registering a limited entry permit and will notify the applicant, if the permit sanction provisions of the Magnuson-Stevens Act at 16 U.S.C. 1858(a) and implementing regulations at 15 CFR part 904, subpart D, apply.

(f) *Initial issuance.* (1) The SFD will issue limited entry permits.

(2) In order to receive a final decision on a limited entry permit application before January 1, 2000, an applicant must submit the application to the SFD on or before February 14, 2000.

(3) A separate, complete, and accurate application form, accompanied by any required supporting documentation and the appropriate fee, must be submitted for each vessel for which a limited entry permit is sought.

(4) Upon receipt of an incomplete or improperly executed application, the SFD will notify the applicant of the deficiency. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered void.

(5) The SFD may request further documentation before acting on an application.

(6) The SFD will not accept applications for a limited entry permit after July 1, 2000.

(g) *Appeals.* (1) Any applicant for an initial permit may appeal the initial issuance decision to the Regional Administrator. To be considered by the Regional Administrator, such appeal must be in writing and state the reasons for the appeal, and must be submitted within 30 days of the action by the Regional Administrator. The appellant may request an informal hearing on the appeal.

(2) Upon receipt of an appeal authorized by this section, the Regional Administrator will notify the permit applicant, or permit holder as appropriate, and will request such additional information and in such form as will allow action upon the appeal.

(3) Upon receipt of sufficient information, the Regional Administrator will decide the appeal in accordance with the permit eligibility criteria set forth in this section and in the FMP, as appropriate, based upon information relative to the application on file at NMFS and the Council and any additional information submitted to or obtained by the Regional Administrator, the summary record kept of any hearing and the hearing officer's recommended decision, if any, and such other considerations as the Regional Administrator deems appropriate. The Regional Administrator will notify all interested persons of the decision, and the reasons therefor, in writing, normally within 30 days of the receipt of sufficient information, unless additional time is needed for a hearing.

(4) If a hearing is requested or if the Regional Administrator determines that one is appropriate, the Regional Administrator may grant an informal hearing before a hearing officer designated for that purpose after first giving notice of the time, place, and subject matter of the hearing to the applicant. The appellant and, at the discretion of the hearing officer, other interested persons may appear personally or be represented by counsel at the hearing and submit information and present arguments as determined appropriate by the hearing officer. Within 30 days of the last day of the hearing, the hearing officer shall recommend in writing a decision to the Regional Administrator.

(5) The Regional Administrator may adopt the hearing officer's

recommended decision, in whole or in part, or may reject or modify it. In any event, the Regional Administrator will notify interested persons of the decision, and the reason(s) therefore, in writing, within 30 days of receipt of the hearing officer's recommended decision. The Regional Administrator's action shall constitute final action for the agency for the purposes of the APA.

(6) Any time limit prescribed in this section may be extended for a period not to exceed 30 days by the Regional Administrator for good cause, either upon his or her own motion or upon written request from the appellant stating the reason(s) therefore.

§ 660.513 Permit conditions.

(a) A limited entry permit expires on failure to renew the limited entry permit as specified in § 660.515.

(b) A limited entry permit may not be used with a vessel unless it is registered for use with that vessel. Limited entry permits will be registered for use with a particular vessel at the time the permit is issued, renewed, or transferred.

(c) Limited entry permits issued or applied for under this subpart are subject to sanctions pursuant to the Magnuson-Stevens Act, 16 U.S.C. 1858(g), and 15 CFR part 904, subpart D.

§ 660.514 Transferability.

(a) Upon application by the permit holder, the SFD will process applications for transferring limited entry permits according to this section.

(b) Before January 1, 2001, a limited entry permit may be transferred to a different owner and/or for use with a different vessel. The permit may be transferred only once. No transfer is effective until the permit has been reissued and is in the possession of the new permit holder.

(c) After December 31, 2000, a permit may not be registered for use with a vessel other than the vessel for which it was registered on December 31, 2000, except as follows:

(1) The vessel to which the permit was registered on December 31, 2000 (the replaced vessel), is totally lost, stolen, or scrapped, such that it cannot be used in a federally regulated commercial fishery, and

(2) The replacement vessel to which the permit will be registered is of equal or less net tonnage than the replaced vessel, and

(3) The replaced vessel is owned by the permit holder.

(d) After December 31, 2000, a limited entry permit may not be transferred to a different owner.

§ 660.515 Renewal of limited entry permits.

(a) Each limited entry permit must be renewed by January 1 of even numbered years.

(b) The SFD will send notices to renew limited entry permits to the most recent address of the permit holder.

(c) The permit owner must provide SFD with notice of any address change within 15 days of the change.

(d) The permit holder must submit applications for renewal of a permit on forms available from the SFD.

(e) The permit owner is responsible for renewing a limited entry permit.

(f) An expired permit cannot be used to fish for CPS in the limited entry fishery.

§ 660.516 Exempted fishing.

(a) *General.* In the interest of developing an efficient and productive fishery for CPS, the Regional Administrator may issue exempted fishing permits (EFP) for the harvest of CPS that otherwise would be prohibited.

(b) No exempted fishing for CPS may be conducted unless authorized by an EFP issued for the participating vessel in accordance with the criteria and procedures specified in § 600.745 of this chapter.

§ 660.517 Framework for revising regulations.

(a) *General.* NMFS will establish and adjust specifications and management measures in accordance with procedures and standards in Amendment 8 to the FMP.

(b) *Annual actions.* Annual specifications are developed and implemented according to § 660.508.

(c) *Routine management measures.* Consistent with section. 2.1 of Amendment 8 to the FMP, management measures designated as routine may be adjusted during the year after recommendation from the Council, approval by NMFS, and publication in the **Federal Register**.

(d) *Changes to the regulations.* Regulations under this subpart may be promulgated, removed, or revised. Any such action will be made according to the framework measures in section 2 of Amendment 8 to the FMP and will be published in the **Federal Register**.

Figure 1 to Part 660, Subpart I—Existing California Area Closures (hatched areas extend to 3 miles offshore; cross-hatched areas extend beyond 3 miles offshore) and optional Catalina Channel foreign vessel closure (outlined by dashed lines)

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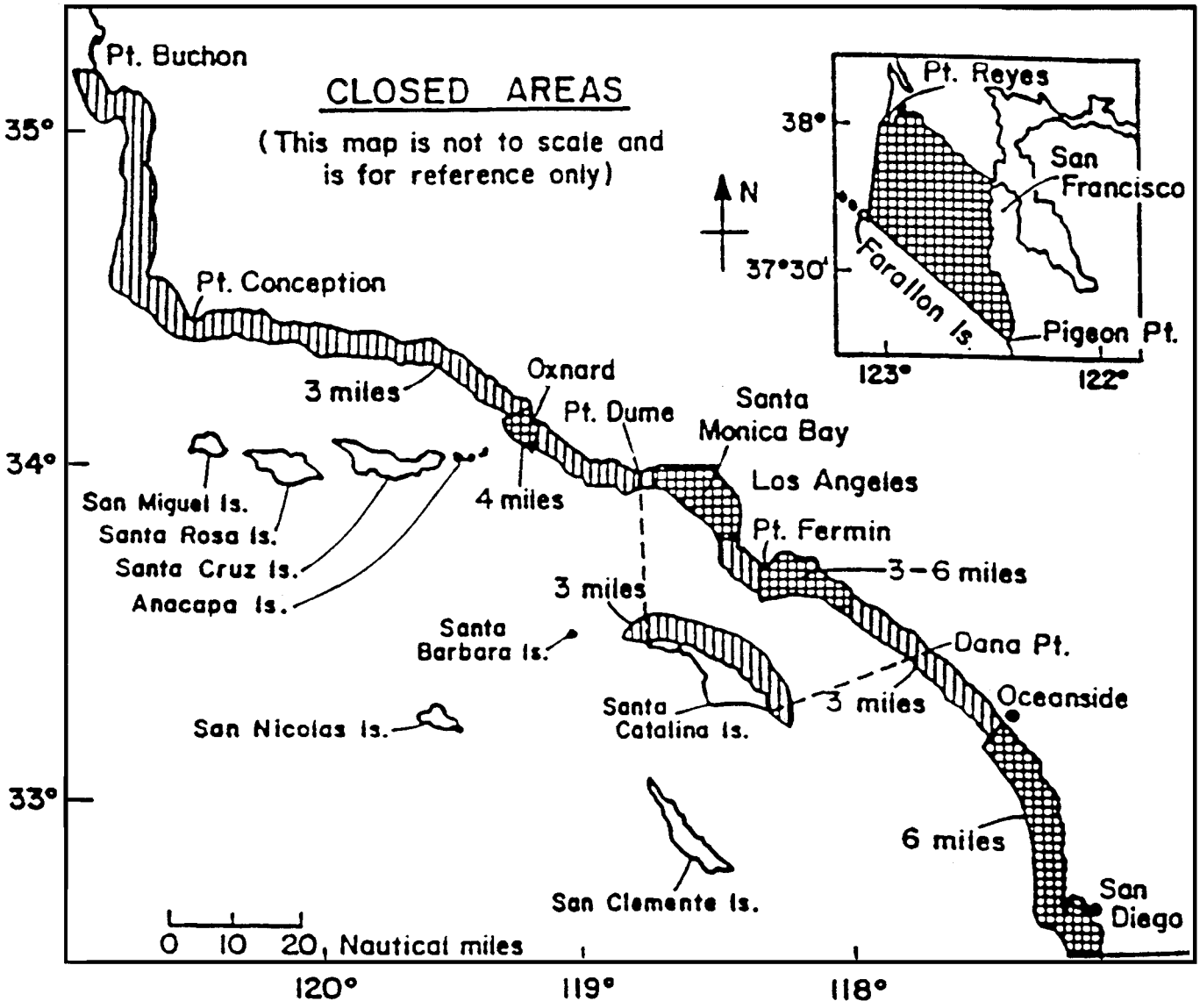

[FR Doc. 99–32320 Filed 12–14–99; 8:45 am]

BILLING CODE 3510–22–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 176

[Docket No. 99F–1423]

Indirect Food Additives: Paper and Paperboard Components

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of 4,5-dichloro-1,2-dithiol-3-one (also known as 4,5-dichloro-3H-1,2-dithiol-3-one) as a slimicide in the manufacture of food-contact paper and paperboard. This action is in response to a petition filed by Yoshitomi Fine Chemicals, Ltd.

DATES: The regulation is effective December 15, 1999. Submit written objections and requests for a hearing by January 14, 2000.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Mark A. Hepp, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3098.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of May 27, 1999 (64 FR 28825), FDA announced that a food additive petition (FAP 9B4654) had been filed by Yoshitomi Fine Chemicals, Ltd., c/o SRS International Corp., suite 1000, 1625 K St. NW., Washington, DC 20006–1604. The petition proposed to amend the food additive regulations in § 176.300 *Slimicides* (21 CFR 176.300) to provide for the safe use of 4,5-dichloro-1,2-dithiol-3-one as a slimicide in the manufacture of food-contact paper and paperboard.

In its evaluation of the safety of this additive, FDA has reviewed the safety of the additive itself and the chemical impurities that may be present in the additive resulting from its manufacturing process. Although the additive itself has not been shown to cause cancer, it has been found to contain minute amounts of 1,2-dichloroethane and tetrachloroethylene, carcinogenic impurities resulting from the manufacture of the additive.

REPORT TO PACIFIC COUNCIL
IMPLEMENTATION OF THE COASTAL PELAGIC SPECIES FISHERY MANAGEMENT PLAN

1. Final Regulations

On December 15, 1999, final regulations implementing the FMP were published in the *Federal Register* (64 FR 69888). Those provisions pertaining to the issue of limited entry permits were effective immediately. Other provisions such as the harvest guidelines were effective on January 1, 2000.

2. Harvest Guidelines

On January 25, 2000, harvest guidelines for Pacific sardine and Pacific mackerel were published in the *Federal Register* (65 FR 3890), effective January 1, 2000. A harvest guideline of 186,791 metric tons (mt) was established for Pacific sardine, based on a biomass estimate of 1,581,346 mt. A harvest guideline of 42,819 mt was established for Pacific mackerel based on a biomass estimate of 239,286 mt. The sardine harvest guideline is in effect until December 31, 2000, or until it is reached and the fishery closed. The harvest guideline for Pacific mackerel is in effect until June 30, 2000, or until it is reached and the fishery closed.

3. Limited Entry Program

- As of February 15, 2000, 84 applications have been received for limited entry permits and for the transfer of permits.
- 59 limited entry permits have been issued.
- 18 Permits have been denied.
- There have been five transfers.
- One permit from a lost vessel remains assigned to a replacement vessel.
- There have been five appeals
  - Three resulted from an error in our query of PacFIN, which misread the data base for a portion of 1997 only. The error was corrected and the three permits were issued. We rechecked the landings of all denied permits and no changes were warranted.
  - Two appeals were based on hardship. There are no hardship provisions in the implementing rules; therefore, the two appeals were denied.
- We have received approximately a dozen complaints from individuals who claimed to have harvested significant amounts of coastal pelagic species before 1993, but have not landed enough coastal pelagic species during the qualifying period to qualify for a permit.
- Makeup of the fleet:
  - Average age of permitted vessel = 32 years
  - Average net tonnage of permitted vessel = 48 mt.

4. Services

A regularly updated list of permitted vessels with their Coast Guard documentation number is available on the Southwest Region Website (swr.ucsd.edu). For those interested in purchasing a

permit, the addresses of the vessel owners may be obtained on the Coast Guard Website (psix.uscg.mil/Default.asp), where public records of all documented vessels are maintained. The application form is also available on the Southwest Region Website, as are the implementing rules and information about the coastal pelagic species fishery. On February 15, 2000, a news release was sent to newspapers along the Pacific coast reminding potential applicants for limited entry permits that no permit applications will be accepted after July 1, 2000.

PACIFIC SARDINE HARVEST GUIDELINE

Situation: On January 25, 2000, the National Marine Fisheries Service (NMFS) published the harvest guideline (HG) for Pacific sardine and Pacific (chub) mackerel for the fishing year beginning January 1, 2000 (Attachment D.2.a.). The HG for Pacific sardine was set at 186,791 mt, based on a biomass estimate of 1,581,346 mt. This HG is allocated for Subarea A (north of 35° 40' N latitude [Pt. Piedras Blancas] to the Canadian border) and for Subarea B (south of 35° 40' N latitude to the Mexican border). Per the fishery management plan, any unused portion of the HG in either area will be reallocated between areas to help ensure that optimum yield will be achieved. The northern allocation is 62,264 mt; the southern allocation is 124,527 mt. The sardine HG is in effect until December 31, 2000, or until it is reached and the fishery closed.

At the September 1999 meeting, the Council adopted an interim schedule for setting the HG for the 2000 Pacific sardine season. Under the interim schedule, the NMFS Southwest Regional Administrator would announce the year 2000 Pacific sardine HG in time for the start of the fishery on January 1, 2000. At its December 1999 meeting, the Coastal Pelagic Species Management Team (CPSMT) reviewed the sardine assessment, and made no changes to the assessment or recommended HG. The Coastal Pelagic Species Advisory Subpanel reviewed the assessment on March 7, 2000, and will present their comments to the Council (Supplemental Attachment D.2.b.). At this meeting, the Council will review the Pacific sardine stock assessment and HG (Attachment D.2.c.), and, if necessary, adjust the HG.

Council Action:

1. If necessary, adjust the final harvest guideline for the 2000 Pacific sardine season.

Reference Materials:

1. *Federal Register*, vol. 65, no.16, pp. 3890-3892, January 25, 2000 (Attachment D.2.a.).
2. Coastal Pelagic Species Advisory Subpanel report (Supplemental Attachment D.2.b.).
2. Stock Assessment of Pacific Sardine for 1999 with Management Recommendations for 2000 – Executive Summary (Attachment D.2.c.).

PFMC
02/23/00

Sea Shepherd Conservation Society

INTERNATIONAL HEADQUARTERS
P.O. Box 2616
Friday Harbor, WA 98250
Tel: (360) 370-5500
Fax:(360) 370-5501

8 March 2000

Sea Shepherd Conservation Society's Comments to Pacific Fishery Management Council meeting to address management of fisheries for salmon, coastal pelagic species management:
- Pacific sardine

My name is Frank Trinkle. I am the Development Director for the Sea Shepherd Conservation Society.

We must question the logic that permits a commercial fishery on the Pacific sardine off the coast of California. We remind the Council of the recent history of the California sardine fishery. Even if the Council is among those who are still in denial regarding overfishing as the cause of the historic decline and fall of the sardine fishery, no one can deny that extended, excessive fishing at the very least exacerbated the role that natural causes played in that decline.

In conducting your deliberations over the present level of harvest, we commend to the Council's attention the conclusions of the 1998 study By Dr. David Pauly of the University of British Columbia and colleagues at the Center for Living Aquatic Resources Management. This study, cited by marine ecologist Dr. Paul K. Dayton of Scripps as producing the "best data set in the world," concluded that as a result of the ongoing trend of fishing to depletion one fishery after another, we are approaching the bottom of the marine food chain.

We also commend to the Council's attention the forage fish regulations for the state of Alaska that came into effect in February 1998, prohibiting at all times any directed fishing for, or the sale, barter, trade, or processing of nine families of forage fish, with a maximum retainable by-catch of 2% of a vessel's groundfish catch. This measure was taken because these fish -- including herring, smelt, capelin, and sand lance -- are considered "primary food resources for other marine animals and they have the potential to be the targets of a commercial fishery."[1]

Fish brokers in California are reporting 250 tons of sardines a day hauled out of the sea off Monterey to feed the fish aquaculture industry in Australia. Seventy years ago, the California legislature was considerably more concerned by non-human consumption of the Pacific sardine than the Council seems to be now. At that time, California passed a law prohibiting the conversion of edible sardines into fish meal. Much ingenuity was expended by industry in finding ways around the human consumption law and protecting the profits of their fish meal reduction operations -- from canneries claiming increasing numbers of sardines unfit for human consumption, to the establishment of sea-going reduction factories beyond the 3-mile limit. Such ingenuity is no longer required; the remnant stocks of California's sardines are going to Australia's fish farms without a murmur of objection. In taking a forage fish out of the ocean and converting it into fish feed, you are potentially jeopardizing wild predator fish to enhance the growth of manufactured fish.

Permitting an ongoing commercial fishery on California's remnant sardine stocks is emblematic of an anti-conservation ethic which is the antithesis of the Alaskan regulation and the fulfillment of the dire model depicted in the Pauly study. In seeking to "confirm or adjust" the 2000 harvest guidelines for the Pacific sardine fishery, which last year reached its highest level in recent history, we see no evidence that the Council has considered whether this fishery should be allowed at all.

[1]New Forage Fish Species Category 2-98, Kent Lind, NMFS-Alaska Region

SALMON ADVISORY SUBPANEL COMMENTS ON PACIFIC SARDINE

The Salmon Advisory Subpanel (SAS) is concerned about the potential for bycatch in the northern sardine experimental fishery; both for adult and juvenile salmon, and for other species such as rockfish.

We are not opposed to this experimental fishery, and we recognize that catches in the year 2000 will be relatively small compared to what the allowable biological catch could be.

We are concerned that as we move forward that we have sufficient facts and bycatch information available to make wise management decisions. In order to secure that information we need both at-sea and dockside monitoring. At-sea monitoring requires on board observers.

We are living in an era of precautionary management. Numerous salmon stocks are at critically low abundance levels. Juvenile salmon and sardines are similar size and may feed on the same things; and, as a result, they may also intermingle. We are not dealing with tens of thousands of salmon, but with thousands, hundreds, and tens of salmon.

The SAS urges you to ultimately adopt a policy that includes observers, both in Washington and Oregon in order to generate the best possible science for future decision making.

PFMC
03/08/00

SCIENTIFIC AND STATISTICAL COMMITTEE REPORT ON PACIFIC SARDINE

Dr. Doyle Hanan briefed the Scientific and Statistical Committee (SSC) on results from the recent Pacific sardine assessment and the harvest guideline recommended by the Coastal Pelagic Species Management Team (CPSMT) for the 2000 season. Dr. Kevin Hill, lead assessment author, was available to answer questions on the assessment.

The full sardine assessment report is currently being drafted and will be incorporated into the annual Coastal Pelagic Species Stock Assessment and Fishery Evaluation document to be prepared for the June 2000 Council meeting. Future sardine assessments will be completed for review by the CPSMT and SSC in mid-October for discussion at the November Council meeting.

The SSC discussed procedural aspects of stock assessment reviews for Pacific sardine and Pacific mackerel. At this stage, it is uncertain how the annual stock assessments should be reviewed, whether by the SSC or by some independent process. The CPSMT should establish a standard process for future years.

The biomass estimate from the CANSAR-TAM stock assessment model uses the best available data from the California fishery and annual NMFS and CalCOFI surveys. The surveys are from a limited area, while biomass needs to be established on coastwide basis. A significant sardine fishery is based in Ensenada, Baja California which rivals the annual California landings. Efforts should be made to exchange data and coordinate management among Mexico, the U.S., and Canada to avoid future overharvest of this transboundary stock.

PFMC
03/08/00

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
Butterfly, Fender's blue.	*Icaricia icarioides fenderi.*	U.S.A. (OR)	NA	E		NA	NA
*	*	*	*	*	*	*	

3. Amend § 17.12(h) by adding the following, in alphabetical order, under FLOWERING PLANTS, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*	*	
Erigeron decumbens var. decumbens.	Willamette daisy	U.S.A. (OR)	Asteraceae	E		NA	NA
*	*	*	*	*	*	*	
Lupinus sulphureus ssp. kincaidii. *Lupinus oreganus var. kincaidii = synonym. Lupinus sulphureus var. kincaidii = synonym.*	Kincaid's lupine	U.S.A. (OR, WA)	Fabaceae	T		NA	NA
*	*	*	*	*	*	*	

Dated: January 5, 2000.

Rowan W. Gould,

Acting Director, Fish and Wildlife Service.

[FR Doc. 00–1561 Filed 1–24–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 991229356–9356–01; 121799F]

RIN 0648–AN36

Fisheries off West Coast States and in the Western Pacific; Coastal Pelagic Species Fisheries; Annual Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final harvest guidelines.

SUMMARY: NMFS announces the annual harvest guidelines for Pacific sardine and Pacific mackerel in the exclusive economic zone (EEZ) off the Pacific coast. The Coastal Pelagic Species Fishery Management Plan (FMP) and its implementing regulations require NMFS to establish annual harvest guidelines for Pacific sardine and Pacific mackerel based on a formulas appearing in the FMP. The intended effect of this action is to establish allowable harvest levels for coastal pelagic species off the Pacific coast.

DATES: Effective January 1, 2000. Comments are invited until February 24, 2000.

ADDRESSES: Submit comments on the annual specifications to Rodney R. McInnis, Acting Regional Administrator, Southwest Region, (Regional Administrator), NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213. The reports *Stock Assessment of Sardine for 1999 with Management Recommendations for 2000* and *Status of the Pacific Mackerel Resource and Fishery in 1999* are available from this same address.

FOR FURTHER INFORMATION CONTACT: James J. Morgan, Southwest Region, NMFS, (562) 980–4030.

SUPPLEMENTARY INFORMATION: The FMP, which was partially approved by the Secretary of Commerce on June 10, 1999, and implemented by publication of a final rule in the **Federal Register** on December 15, 1999 (64 FR 69888), divides managed species into the categories of *actively managed* and *monitored*. Harvest guidelines of actively managed species (Pacific sardine and Pacific mackerel) are based on formulas applied to current biomass estimates. Harvest guidelines for monitored species (jack mackerel, northern anchovy, and market squid), which are underutilized or managed primarily by California, are not based on current biomass estimates. Nonetheless, the FMP includes a constant allowable biological catch (ABC) for each monitored species based on long-term yields. If an ABC for a monitored species is reached, it would be designated an actively managed species; at that time, the Pacific Fishery Management (Council) would review the condition of the resource and recommend necessary management action. Except for northern anchovy, this is the first year of managing coastal pelagic species under this FMP.

At a public meeting each year, the biomass for each actively managed species is presented by the Council's Coastal Pelagic Species Management Team (Team) to the Council's Coastal Pelagic Species Advisory Subpanel (Subpanel). At that time, the biomass,

the harvest guideline, and the status of the fisheries is reviewed. This information is also reviewed by the Council's Scientific and Statistical committee. Following review by the Council and after hearing all public comments, NMFS publishes the annual harvest guidelines in the*Federal Register* before the beginning of the appropriate fishing season. The Pacific sardine season begins on January 1 of each year and ends on December 31. The Pacific mackerel season begins on July 1 of each year and ends on June 30. Normally, the Pacific mackerel harvest guideline would be announced in June; however, the first harvest guidelines for both species will be effective on January 1, 2000, as this will be the first year of managing these species.

The FMP allows the Administrator, Southwest Region, NMFS to announce harvest guidelines before review by the Council if there is insufficient time for review. At its meeting in September 1999, the Council decided to use this procedure during the first year of managing Pacific sardine and Pacific mackerel because the sardine assessment would not be completed by its November 1999 Meeting. The Council plans to complete its review at its March 2000 meeting, when the stock assessment and fishery evaluation report for Pacific sardine will be presented. At the November meeting, the Team presented the Council with the Pacific mackerel assessment to establish a harvest guideline for the season that began on July 1, 1999. The Council adopted the Team's recommendations, including the necessary procedure to subtract the estimated harvest of Pacific mackerel from July 1, 1999, to December 31, 1999, to establish a harvest guideline beginning January 1, 2000, consistent with the beginning of the fishing season.

On December 9, 1999, consistent with the procedures of the FMP, the biomass report and attendant harvest guidelines for Pacific sardine and Pacific mackerel were reviewed at a public meeting of the Team at the NMFS Southwest Fisheries Science Center in La Jolla, California. A public meeting between the Team and the Subpanel was held on December 14, 1999, at the Southwest Region, NMFS, in Long Beach, California. No significant comments regarding the harvest guidelines were received.

The sardine population was estimated using a modified version of the integrated stock assessment model called Catch at Age Analysis of Sardine–Two Area Model (CANSAR–TAM). CANSAR is a forward-casting, age-structured analysis using fishery dependent and fishery independent data to obtain annual estimates of sardine abundance, year-class strength, and age-specific fishing mortality for 1983 through 1999. The modification of CANSAR was developed to account for the expansion of the Pacific sardine stock northward to include waters off the northwest Pacific coast. Documentation of the 1999 estimate is described in the Council report *Stock Assessment of Sardine for 1999 with Management Recommendations for 2000* (see **ADDRESSES**).

The formula in the FMP uses the following factors to determine the harvest guideline for Pacific sardine:

1. *The biomass of age one sardine and above*. For 1999, this estimate is 1,581,346 metric tons (mt).

2. *The cutoff*. This is the biomass level below which no commercial fishery is allowed. The FMP established this level at 150,000 mt.

3. *The portion of the sardine biomass that is in U.S. waters*. For 1999, this estimate is 87 percent, based on the average of larval distribution obtained from scientific cruises and the distribution of the resource obtained from logbooks of fish-spotters.

4. *The harvest fraction*. This is the percentage of the biomass above 150,000 mt that may be harvested. The fraction used varies (5–15 percent) with current ocean temperatures, a higher fraction for warmer ocean temperatures and a lower fraction for cooler temperatures. Warm ocean temperatures favor the production of Pacific sardine. For 1999, the fraction used was 15 percent, based on three seasons of sea surface temperature at Scripps Pier, California.

Based on the estimated biomass of 1,581,346 mt and the formula in the FMP, a harvest guideline of 186,791 mt was calculated for the fishery beginning on January 1, 2000. The harvest guideline is allocated one third for Subarea A, which is north of 35° 40' N. lat. to the Canadian border, and two thirds for Subarea B, which is south of 35° 40' N. lat. to the Mexican border. Any unused resource in either area will be reallocated between areas to help ensure that optimum yield will be achieved. The northern allocation is 62,264 mt; the southern allocation is 124,527 mt.

The size of the Pacific mackerel population was estimated using a modified virtual population analysis stock assessment model, which employs both fishery dependent and fishery independent data to estimate abundance. The model was used to calculate biomass estimates through the end of 1998 and then project an estimate of biomass for July 1, 1999, based on the number of Pacific mackerel estimated to comprise each year class at the beginning of 1999, estimates of fishing mortality during 1998, assumptions of natural and fishing mortality through the first half of 1999, and estimates of age-specific growth. Documentation of the 1999 estimate is described in the Council report *Status of the Pacific Mackerel Resource and Fishery in 1999* (see **ADDRESSES**).

The formula in the FMP uses the following factors to determine the harvest guideline for Pacific mackerel:

1. *The biomass of Pacific mackerel*. For 1999, this estimate is 239,286 mt.

2. *The cutoff*. This is the biomass level below which no commercial fishery is allowed. The FMP established the cutoff level at 18,200 mt.

3. *The portion of the Pacific mackerel biomass that is in U.S. waters*. This estimate is 70 percent, based on the average of larval distribution obtained from scientific cruises and the distribution of the resource obtained from logbooks of fish-spotters.

4. *The harvest fraction*. This is the percentage of the biomass above 18,200 mt that may be harvested. The FMP established the harvest fraction at 30 percent.

Based on the estimated biomass of 239,286 mt and the formula in the FMP, a harvest guideline of 46,428 was calculated for the fishery beginning on July 1, 1999. To determine a harvest guideline for the period beginning January 1, 2000, the estimated harvest of Pacific mackerel between July 1, 1999, through December 31, 1999, was subtracted from the harvest guideline. The amount harvested is 3,609 mt; therefore, the harvest guideline available to the fishery beginning on January 1, 2000, is 42,819 mt.

Classification

This action is authorized by 50 CFR 660.509 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA (AA) finds for good cause under 5 U.S.C. § 553(b)(B) that providing prior notice and an opportunity for public comment on this action is unnecessary because establishing the harvest guidelines is a ministerial act, determined by applying formulas in the FMP. Accordingly, providing prior notice and an opportunity for public comment would serve no useful purpose.

Because this rule merely announces the result of harvest guideline calculations and does not require any participants in the fishery to take action or to come into compliance, the AA finds for good cause under 5 U.S.C. § 553(d)(3) that delaying the effective

date of this rule for 30 days is unnecessary.

Because prior notice and opportunity for public comment are not required for this action by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: January 18, 2000.

Andrew R. Rosenberg,

Deputy Assistant Administrator, National Marine Fisheries Service.

[FR Doc. 00–1700 Filed 1–24–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 000119015–0015–01; I.D. 010500A]

RIN 0648–AM32

Fisheries of the Exclusive Economic Zone Off Alaska; Steller Sea Lion Protection Measures for the Pollock Fisheries Off Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency interim rule; revision to 2000 interim harvest specifications; request for comments.

SUMMARY: NMFS issues an emergency interim rule implementing reasonable and prudent alternatives (RPAs) to avoid the likelihood that the pollock fisheries off Alaska will jeopardize the continued existence of the western population of Steller sea lions or adversely modify its critical habitat. This emergency rule implements three types of management measures for the pollock fisheries of the Bering Sea and Aleutian Islands Management Area (BSAI) and Gulf of Alaska (GOA): Measures to temporally disperse fishing effort; measures to spatially disperse fishing effort; and measures to provide sufficient protection from fisheries competition for prey in waters adjacent to rookeries and important haulouts. These emergency measures are necessary to avoid jeopardy and adverse modification.

DATES: Effective January 20, 2000, through July 19, 2000. Comments must be received by February 24, 2000.

ADDRESSES: Comments may be sent to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK, 99802, Attn: Lori Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. Copies of the Biological Opinion (BiOp) on the pollock fisheries of the BSAI and GOA and the Atka mackerel fishery of the Aleutian Islands subarea, the Revised Final Reasonable and Prudent Alternatives (RFRPAs), and the Environmental Assessment/Regulatory Impact Review (EA/RIR) prepared for the emergency interim rule may be obtained from the same address. The BiOp and the RFRPAs are also available on the Alaska Region home page at *http://www.fakr.noaa.gov.* Comments will not be accepted if submitted via e-mail or Internet.

FOR FURTHER INFORMATION CONTACT: Shane Capron, 907–586–7228 or shane.capron@noaa.gov

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the exclusive economic zone off Alaska under the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMPs). The North Pacific Fishery Management Council (Council) prepared the FMPs under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the FMPs appear at 50 CFR parts 600 and 679.

Background

In 1990, NMFS designated the Steller sea lion as a threatened species under the Endangered Species Act of 1973 (ESA). The designation followed severe declines throughout much of the GOA and Aleutian Islands region. In 1993, NMFS defined critical habitat for the species to include (among other areas), the marine areas within 20 nautical miles (nm) of major rookeries and haulouts of the species west of 144° W long. In 1997, NMFS recognized two separate populations, and reclassified the western population (west of 144° W long.) as endangered.

NMFS first began collecting information on the abundance of Steller sea lions during the 1950s and 1960s. However, the first counts based on reliable data were not available until the late 1970s; these counts reported approximately 109,800 animals. During the 1980s, a precipitous decline of Steller sea lions was observed. By 1996, counts declined to only 22,000 animals, a decline of 80 percent from the late 1970s. Counts of adult and juvenile Steller sea lions have continued to decline over the last few years, but at a lower rate. Due to the small population size, these recent reductions may be a serious obstacle to the recovery of the western population of Steller sea lions.

Multiple factors have contributed to the decline, but considerable evidence indicates that lack of available prey is a serious problem. Foraging studies confirm that Steller sea lions depend on pollock as a major prey source, and that they may be particularly sensitive to any reduced availability of prey during the winter. The significance of pollock in the diet of sea lions may have increased since the 1970s due to shifts in the Bering Sea ecosystem related to atmospheric and oceanographic changes. Pollock are also the target of the largest commercial fisheries in Alaska, fisheries that have grown increasingly concentrated in time and area. This concentration of effort occurs largely in areas designated as Steller sea lion critical habitat and may reduce prey availability during critical times in the life history of sea lions. Additional information on Steller sea lions and the pollock fisheries of the BSAI and GOA is contained in the BiOp and in the EA/RIR prepared for this action (see **ADDRESSES**).

Purpose and Need for Action

In accordance with the requirements of the ESA, the NMFS Office of Protected Resources issued a BiOp dated December 3, 1998, revised December 16, 1998, on the pollock fisheries of the BSAI and GOA and the Atka mackerel fishery of the Aleutian Islands subarea. The BiOp concluded that the BSAI and GOA pollock trawl fisheries, as projected for 1999 through 2002, were likely to jeopardize the endangered western population of Steller sea lions and destroy or adversely modify critical habitat designated for this population. ''To jeopardize'' means ''to engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species'' (50 CFR 402.02). The clause ''adversely modify its critical habitat'' means ''a direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to, alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to

COASTAL PELAGIC SPECIES ADVISORY SUBPANEL COMMENTS ON PACIFIC SARDINE HARVEST GUIDELINE

The Coastal Pelagic Species Advisory Subpanel supports the Coastal Pelagic Species Management Team's recommendation for the Pacific sardine biomass estimate and harvest guideline for 2000.

PFMC
03/08/00

Stock Assessment of Pacific Sardine for 1999 with Management Recommendations for 2000
Executive Summary

Kevin T. Hill, Ph.D.
California Department of Fish and Game

The following summarizes Pacific sardine stock assessment results and harvest recommendations for the Pacific Fishery Management Council's (PFMC) management season beginning January 1, 2000. Stock assessment results will be discussed at the Coastal Pelagic Species Management Team (CPSMT) meeting on December 9, and will be presented to the Coastal Pelagic Species Advisory Subpanel (CPSAS) on December 14. A complete sardine Stock Assessment and Fishery Evaluation (SAFE) document will be prepared prior to the March 2000 Council meeting.

Pacific sardine landings for the directed fisheries off California and Baja California reached the highest in recent history during the 1999 calendar year with a combined total of 115,051 metric tons (mt) harvested (Table 1, Figure 1). California landings for 1999, limited by a State of California management quota, were projected to be approximately 60,315 mt, 47% higher than 1998. The Ensenada, Mexico fishery experienced a 14% increase from the previous year, with final harvest projected to be 54,735 mt. The Ensenada fishery was not limited by a management quota.

For calendar year 1999, the Director of California Department of Fish and Game allocated a sardine quota of 120,474 mt to California's sardine fishery. This quota was based on a July 1, 1998, 'inside area' biomass estimate of 1,073,091 mt (Hill et al., 1999). As of October 31, 1999, the California fishery had landed 47,993 mt, with 72,481 mt of the quota remaining for November and December 1999. Off southern California, market squid availability was high during semester 1, 1999. This availability remains high, and the late-fall squid fishery has resumed. The wetfish fleet, which harvests sardine, continues to concentrate effort on market squid, a more profitable species.

Pacific sardine biomass (age 1+ as of July 1, 1999) was estimated using an integrated stock assessment model called CANSAR-TAM (Catch-at-age ANalysis for SARdine - Two Area Model; Hill et al. 1999), which is based on the original CANSAR model described by Deriso et al. (1996). CANSAR-TAM was developed to account for the expansion of the Pacific sardine stock northward beyond the California bight to include waters off the whole northwest Pacific coast. CANSAR and CANSAR-TAM are age-structured analyses using fishery-dependent and fishery-independent data to obtain annual estimates of sardine abundance, year-class strength, and age-specific fishing mortality for 1983 through the first semester of 1999. Non-linear least-squares criteria are used to find the best fit between model estimates and input data. Biomass estimates were adjusted by the model to better match the fishery-independent (survey) indices of relative abundance, including: aerial spotter sightings (Lo et al., 1992), CalCOFI egg and larval data, spawning area, and spawning biomass estimated using the daily egg production method (DEPM; Lo et al., 1996). The assessment model is based on a semi-annual time increment (Jan-Jun, semester 1, and July-Dec, semester 2) and now includes seventeen years of data. CANSAR-TAM recalculates biomass for all years in the time series. Bootstrap procedures were used to estimate 95% confidence limits and CV's for biomass and recruitment point estimates.

The CalCOFI, spawning area, and DEPM spawning biomass surveys indicate a steady increase in sardine relative abundance over the entire time series, with all three reaching their highest levels in 1999. (Table 2, Figures 3, 4, 6). The CalCOFI proportion positive index had undergone considerable saturation in recent years due to the higher frequency of positive stations as the sardine stock expanded throughout and beyond the Southern California Bight. This problem was addressed in the current assessment by expanding the offshore range of CalCOFI stations included in the index. In addition, the survey was fit with an exponent (β=0.3547) to accommodate the assumption that the index was a non-linear function of sardine egg production.

Unlike the other fishery-independent surveys, the aerial spotter index has displayed a dramatic downward trend since 1995, with 1999 relative abundance values as low as those projected for 1989 (Table 2, Figure 5). Reasons for this downward trend are uncertain, but may be related to the spotter index covering a relatively small portion of the total sardine distribution. Spotter pilot effort tends to be nearshore, southerly, and within the range of the wetfish fleet. Sardine sightings are primarily concentrated in nearshore areas where the majority of spotter and fishing effort occurs. Based on our knowledge of sardine egg distribution in 1996 through 1999, it is highly likely that the area of the stock extends well beyond the area of the spotter survey. We accommodated spotter index saturation in our model by assuming a nonlinear function to sardine biomass, applying an exponent of β=0.4585.

Relative influence of survey data on biomass estimates from CANSAR-TAM can be controlled by specifying weighting factors (λ_r) for each data type. For the 1999 assessment, surveys were differentially weighted based on the relative amount of area 'sampled' by each index. GIS methods were used to estimate total area covered by each of the four indices, with the assumption that DEPM and spawning area indices covered 100% of the total survey area (i.e., λ_r=1.0). Based on this method, the CalCOFI index was down weighted to λ_r=0.7 and the spotter index was down weighted to λ_r=0.15.

Based on CANSAR-TAM, we estimate the July 1,1999 total age 1+ biomass to have been 1,581,346 mt (Table 3, Figure 8). This estimate includes a bias correction based on 2,000 bootstrap runs. This estimate provides an approximation of coast-wide population biomass. Sardine biomass has increased dramatically from 1983 to 1999 (Table 3, Figure 8). Age composition data and model outputs provide preliminary indication of a strong 1998 year class (Table 3), which dominated catch off southern California during semester 2, 1998. The 1998 year class contributed to the increase in total population biomass between 1998 and 1999.

Proposed Harvest Guideline for 2000:

To calculate the proposed harvest guideline for 2000, we used the MSY control rule defined in Amendment 8 of the Coastal Pelagic Species-Fishery Management Plan (Option J; Table 4.2.5-1 in the CPS FMP, PFMC 1998). This formula should theoretically perform well at preventing overfishing and maintaining relatively high and consistent catch levels over the long term. The Amendment 8 harvest formula for sardine is:

$$\mathbf{H_{t+1} = (BIOMASS_t\text{-}CUTOFF) \times FRACTION \times DISTRIBUTION}$$

where H_{t+1} is the total U.S. coast wide harvest guideline, CUTOFF is the lowest level of estimated biomass at which harvest is allowed, FRACTION is an environmentally-dependent fraction of biomass above CUTOFF that can be taken by fisheries, and STOCK DISTRIBUTION is the fraction of total $BIOMASS_t$ in U.S. waters. $BIOMASS_t$ is the estimated biomass of fish age 1+ for the whole stock at the beginning of season t. Resultant values for the 2000 fishery are as follows:

TOTAL BIOMASS	CUTOFF	FRACTION (F_{msy})	U.S. DISTRIBUTION	HARVEST GUIDELINE
1,581,346	150,000	15%	87%	186,791 mt

FRACTION in the MSY control rule for Pacific sardine is a proxy for F_{msy} (i.e., the fishing mortality rate for deterministic equilibrium MSY). FRACTION depends on recent ocean temperatures because F_{msy} and productivity of the sardine stock is higher under ocean conditions associated with warm water temperatures. An estimate of the relationship between F_{msy} for sardine and ocean temperatures (T) is:

$$F_{msy} = 0.248649805\ T^2 - 8.190043975\ T + 67.4558326$$

where T is the average three season sea surface temperature at Scripps Pier, California during the three

preceding seasons. Under Option J (PFMC 1998), F_{msy} varies between 5% and 15%. F_{msy} will be equal to 15% under current oceanic conditions (T_{1999} = 18.04 degrees C; Figure 7).

Literature Cited:

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Hill, K. T., L. D. Jacobson, N. C. H. Lo, M. Yaremko, and M. Dege. 1999. Stock assessment of Pacific sardine (*Sardinops sagax*) for 1998 with management recommendations for 1999. Calif. Dep. Fish Game, Marine Region Admin Rep. 99-4. 94 p.

Lo, N. C. H., L. D. Jacobson and J. L. Squire. 1992. Indices of relative abundance from fish spotter data based on delta-lognormal models. Can. J. Fish. Aquat. Sci. 49:2515-2526.

Lo, N. C. H., Y. A. Green Ruiz, Merecedes J. Cervantes, H. G. Moser, R. J. Lynn. 1996. Egg production and spawning biomass of Pacific sardine *(Sardinops sagax)* in 1994, determined by the daily egg production method. CalCOFI 37:160-174.

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Pacific Sardine Fishery:

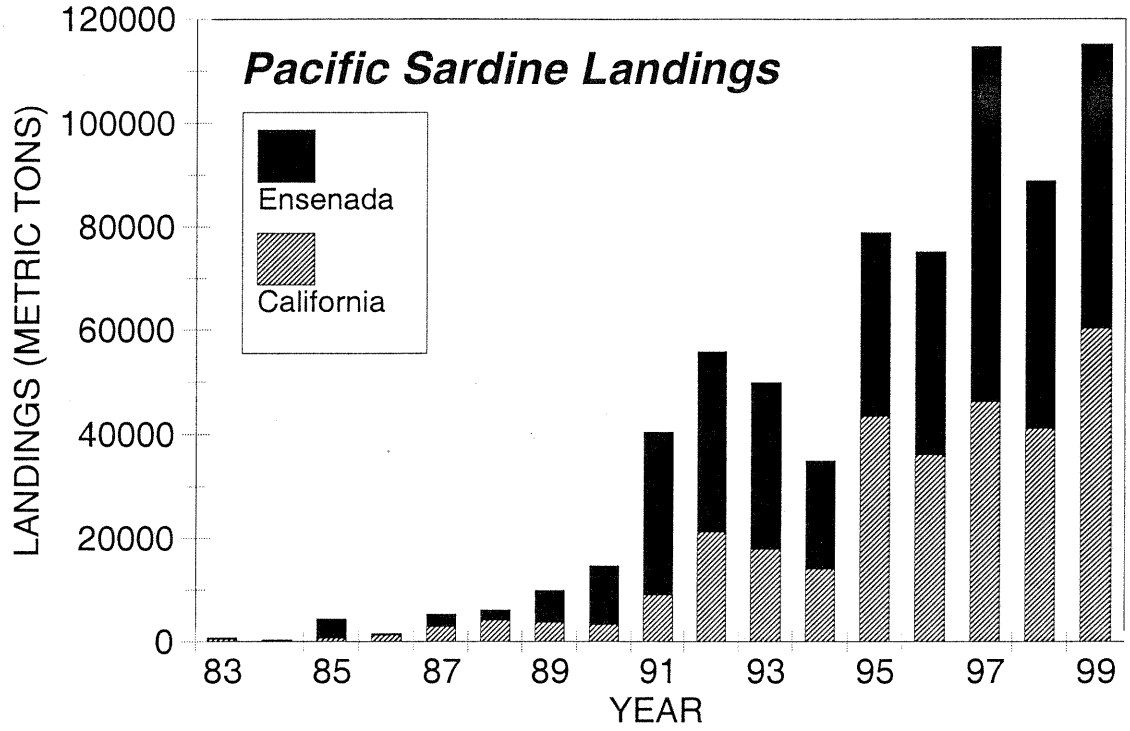

Figure 1. Annual Pacific sardine landings in California and Ensenada.

Table 1. Pacific sardine landings (metric tons) in California and Baja California, 1983-1999.

	CALIFORNIA			ENSENADA			
YEAR	semester 1	semester 2	CA TOTAL	semester 1	semester 2	MX TOTAL	CA-MX TOTAL
83	245	244	489	150	124	274	762
84	188	187	375	0	0	0	375
85	330	335	665	3,174	548	3,722	4,388
86	804	483	1,287	99	143	243	1,529
87	1,625	1,296	2,921	975	1,457	2,432	5,352
88	2,516	1,611	4,128	620	1,415	2,035	6,163
89	2,161	1,561	3,722	461	5,761	6,222	9,945
90	2,272	1,033	3,305	5,900	5,475	11,375	14,681
91	5,680	3,354	9,034	9,271	22,121	31,392	40,426
92	8,021	13,216	21,238	3,327	31,242	34,568	55,806
93	12,953	4,889	17,842	18,649	13,396	32,045	49,887
94	9,040	5,010	14,050	5,712	15,165	20,877	34,927
95	29,565	13,925	43,490	18,225	17,169	35,394	78,884
96	17,896	18,161	36,057	15,666	23,399	39,065	75,121
97	11,865	34,331	46,196	13,499	54,941	68,439	114,636
98	21,841	19,215	41,055	20,239	27,573	47,812	88,868
99	31,745	28,570	60,315	34,760	19,975	54,735	115,051

Pacific Sardine Survey Indices:

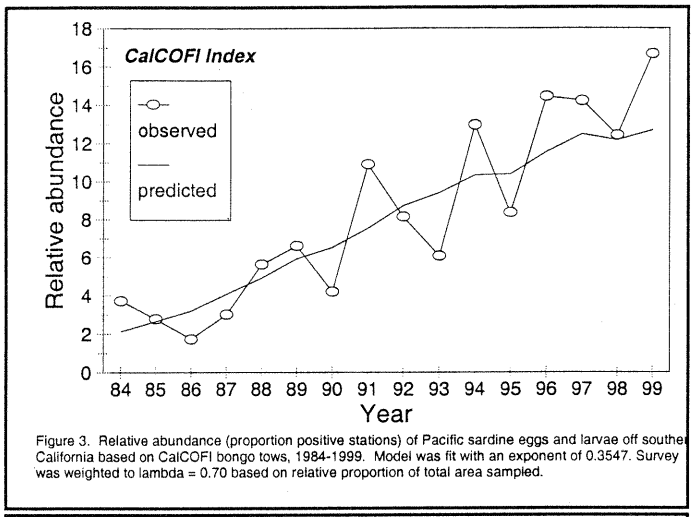

Figure 3. Relative abundance (proportion positive stations) of Pacific sardine eggs and larvae off southern California based on CalCOFI bongo tows, 1984-1999. Model was fit with an exponent of 0.3547. Survey was weighted to lambda = 0.70 based on relative proportion of total area sampled.

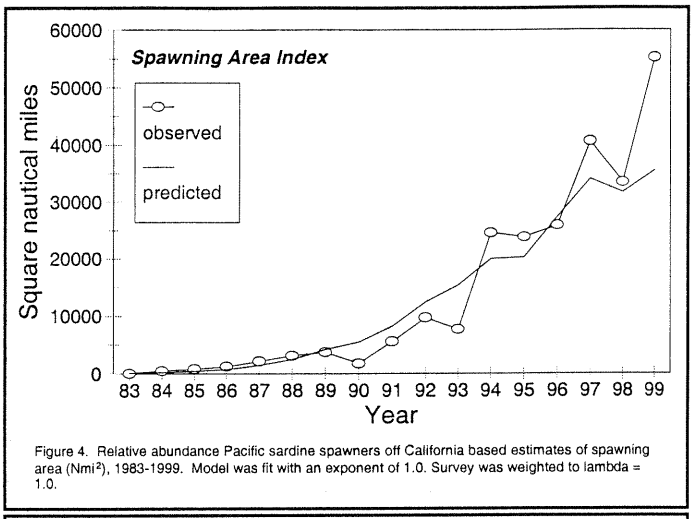

Figure 4. Relative abundance Pacific sardine spawners off California based estimates of spawning area (Nmi^2), 1983-1999. Model was fit with an exponent of 1.0. Survey was weighted to lambda = 1.0.

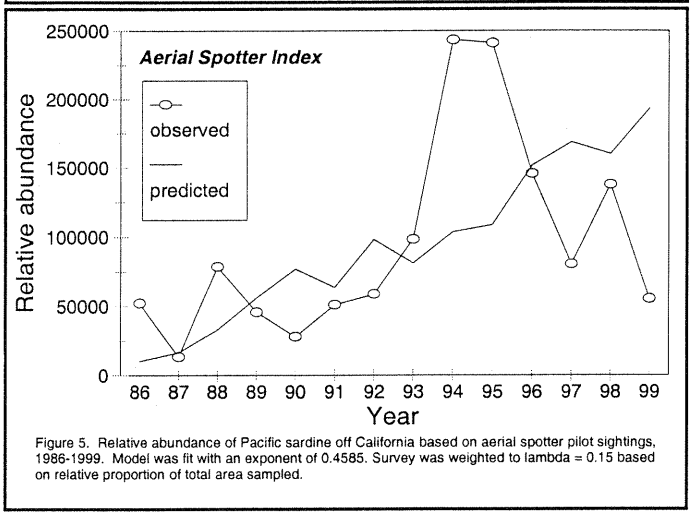

Figure 5. Relative abundance of Pacific sardine off California based on aerial spotter pilot sightings, 1986-1999. Model was fit with an exponent of 0.4585. Survey was weighted to lambda = 0.15 based on relative proportion of total area sampled.

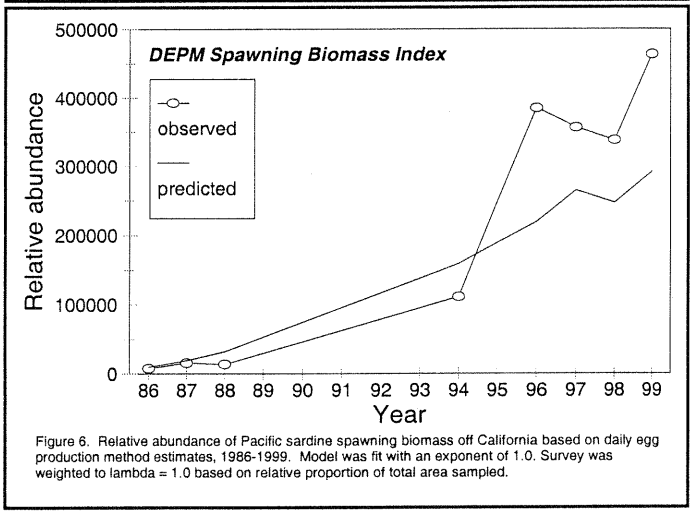

Figure 6. Relative abundance of Pacific sardine spawning biomass off California based on daily egg production method estimates, 1986-1999. Model was fit with an exponent of 1.0. Survey was weighted to lambda = 1.0 based on relative proportion of total area sampled.

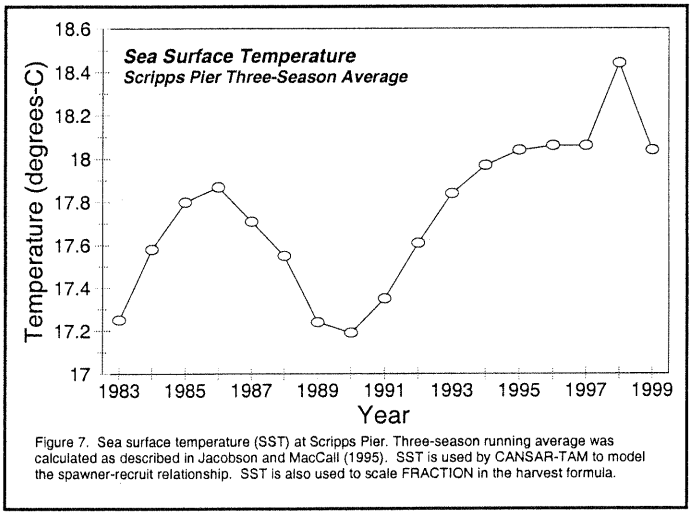

Figure 7. Sea surface temperature (SST) at Scripps Pier. Three-season running average was calculated as described in Jacobson and MacCall (1995). SST is used by CANSAR-TAM to model the spawner-recruit relationship. SST is also used to scale FRACTION in the harvest formula.

Table 2. Pacific sardine survey indices, 1983-1999.

Year	CalCOFI	DEPM	Spawning Area	Spotter	SST
1983	--	--	40	--	17.25
1984	3.727	--	480	--	17.58
1985	2.771	--	760	--	17.8
1986	1.729	7,659	1,260	52,426	17.87
1987	3.008	15,705	2,120	13,490	17.71
1988	5.639	13,526	3,120	78,674	17.55
1989	6.615	--	3,720	45,857	17.24
1990	4.202	--	1,760	28,072	17.19
1991	10.895	--	5,550	51,225	17.35
1992	8.140	--	9,697	58,984	17.61
1993	6.084	--	7,685	98,270	17.84
1994	12.963	111,493	24,539	243,585	17.97
1995	8.367	--	23,816	241,220	18.04
1996	14.453	384,694	25,889	145,772	18.06
1997	14.229	356,300	40,592	80,270	18.06
1998	12.424	337,596	33,447	137,711	18.44
1999	16.667	463,213	55,173	55,437	18.04

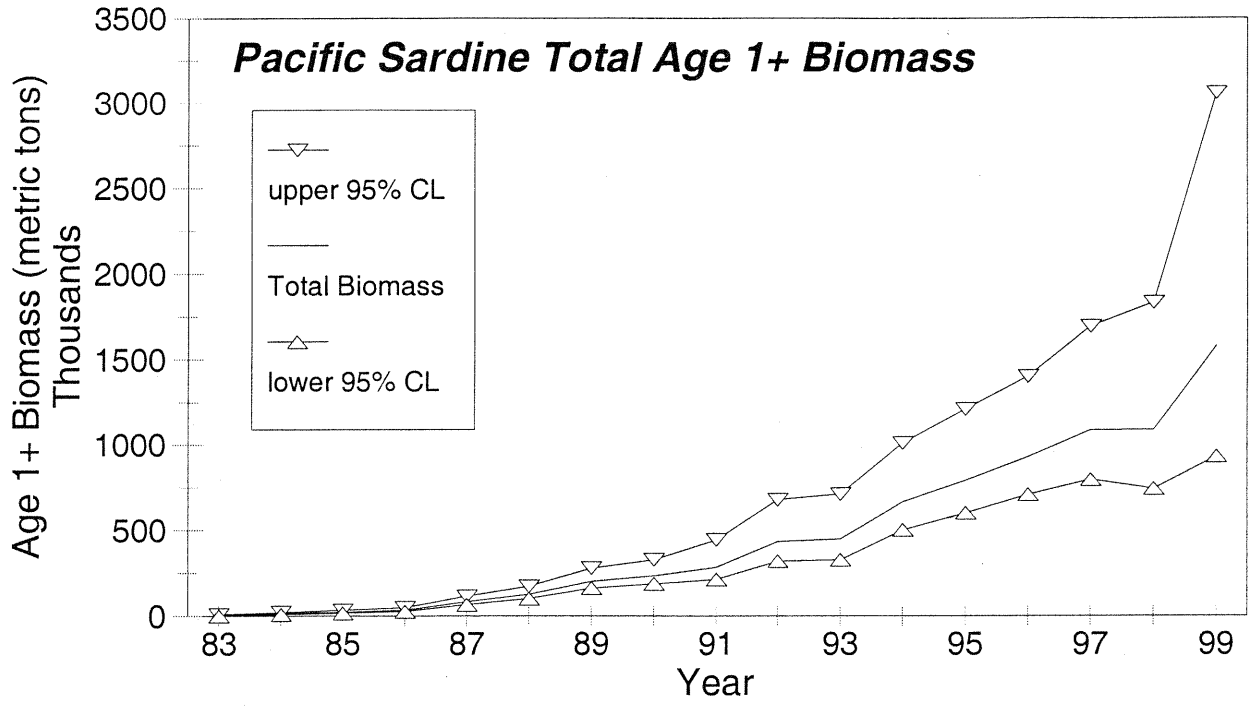

Figure 8. Pacific sardine age 1+ biomass for July 1 of each year, based on CANSAR-TAM.

Pacific Sardine Biomass:

Table 3. Pacific sardine biomass (age 1+, metric tons) and recruitment (age 0) estimated for July 1 of each year estimated by CANSAR-TAM model. Harvest guideline recommendations for 2000 are based on the 'Total' biomass estimate, which theoretically represents the coast-wide stock.

	Age 1+ Biomass (mt)				Age 0 Recruitments ($1x10^3$)		
Year	Inside	**Total**	Lower 95%	Upper 95%	Number	Lower 95%	Upper 95%
83	5,480	**5,480**	3,470	10,396	134,717	89,352	229,798
84	13,597	**13,659**	9,754	22,237	213,707	147,396	347,297
85	21,711	**22,174**	16,809	34,602	216,821	159,990	341,237
86	31,626	**33,130**	26,375	49,177	835,851	618,070	1,238,498
87	77,881	**81,302**	64,847	114,953	851,061	622,096	1,231,753
88	116,013	**125,457**	102,696	171,243	1,518,592	1,115,741	2,312,449
89	181,430	**200,474**	163,224	278,683	1,160,920	842,744	1,840,353
90	198,051	**231,939**	187,548	328,360	4,649,454	3,191,278	7,833,995
91	245,702	**282,620**	213,260	443,835	5,407,115	3,538,532	9,147,414
92	368,123	**434,562**	318,997	678,379	3,891,349	2,535,671	6,797,570
93	345,032	**448,744**	327,303	713,306	8,870,328	6,059,673	14,489,479
94	517,804	**665,697**	501,336	1,013,750	11,433,918	8,076,900	18,422,161
95	583,373	**791,535**	601,469	1,211,808	8,304,507	5,453,404	13,872,792
96	664,949	**931,083**	710,499	1,404,155	10,435,547	6,179,839	18,690,581
97	748,297	**1,087,303**	797,411	1,693,166	10,135,553	5,894,169	18,706,601
98	694,530	**1,090,656**	743,239	1,833,076	23,680,928	13,633,699	48,863,615
99	1,058,807	**1,581,346**	933,155	3,060,895	11,255,893	5,849,691	25,967,093

COASTAL PELAGIC SPECIES PLAN AMENDMENT

Situation: In June 1999, the National Marine Fisheries Service (NMFS) disapproved portions of the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP) (Attachment D.3.a.). The specification of optimum yield for market squid was disapproved, because there was no estimate of maximum sustainable yield (MSY). The bycatch provisions were disapproved, because there was no standardized reporting methodology to assess the amount and type of bycatch, and because there was no explanation of whether additional management measures to minimize bycatch and the mortality of unavoidable bycatch are practicable at this time.

At the September 1999 meeting, after reviewing a preliminary analysis presented by the Coastal Pelagic Species Management Team (CPSMT), the Council directed the CPSMT to:

A) For market squid MSY (1) evaluate thoroughly the MSY alternatives presented in the CPSMT report; and (2) address the recommendations of the Scientific and Statistical Committee, notably use of the default MSY control rule that sets acceptable biological catch (ABC) equal to 25% of the total biomass estimate.

B) For bycatch in CPS fisheries (1) compile information to determine the extent to which bycatch is or may be a problem; (2) further analyze alternatives to reduce bycatch or minimize mortality of unavoidable bycatch (to the extent practicable); and (3) address concerns relative to the potential for bycatch in the emerging sardine fishery off the coast of Washington.

In preparing its analysis of market squid MSY and bycatch in CPS fisheries, the CPSMT was directed to include draft proposed regulations for Council consideration. The Council also noted the "points of concern" framework in the CPS FMP will be used in considering and recommending responses to NMFS relative to the partial disapproval of the CPS FMP.

The CPSMT met on December 9, 1999 and prepared the attached report (Attachment D.3.b.). The Coastal Pelagic Species Advisory Subpanel (CPSAS) met on March 7, 2000 to review the CPSMT's recommendations and will be providing a supplemental report (Supplemental Attachment D.3.c.).

Council Action:

1. **Provide direction to the CPSMT and Council staff for finalizing the plan amendment to the CPS FMP.**

Reference Materials:

1. Letter from NMFS dated June 10, 1999 (Attachment D.3.a.).
2. CPSMT Report (Attachment D.3.b.).
3. CPSAS Report (Supplemental Attachment D.3.c.).

PFMC
02/23/00

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6 March 2000

Jim Lone, Chair
Pacific Fishery Management Council
2130 SW Fifth Avenue, Suite 224
Portland, OR 97201

RE: AGENDA ITEM D3, Coastal Pelagic Species Management Plan Amendment

Dear Mr. Chair and Other Members of the Council:

On behalf of the Center for Marine Conservation (CMC), thank you for this opportunity to comment on the Coastal Pelagic Species (CPS) Plan Amendment. CMC is a non-profit organization with more than 120,000 members who are committed to protecting ocean environments and conserving the abundance and diversity of marine life. As you may know, CMC has played an active role in both California state and federal fisheries management on the West Coast for many years. We believe the CPS Plan Amendment has great potential to promote productive fisheries and ecosystems along the West Coast. However, we recommend the changes below to help ensure that outcome.

The CPS Plan Amendment addresses three sets of options: determination of the maximum sustainable yield (MSY) for market squid; defining the allowable biological catch (ABC) for market squid; and bycatch requirements for all CPS.

MSY for Market Squid

Legal Framework

The maximum sustainable yield (MSY) plays a fundamental role in federal fishery management. MSY defines an upper catch limit that Councils are not allowed to exceed. As you know, the "optimum yield" is that which will: (i) provide the greatest overall benefit to the nation, taking into account the protection of marine ecosystems; (ii) is prescribed by the maximum sustainable yield, as reduced by relevant economic, social or ecological factors; and (iii) in the case of an overfished fishery, provides for rebuilding to a level consistent with producing the maximum sustainable yield. 16 U.S.C. § 1802(28). The terms "overfishing" and "overfished" are defined as a "rate or level of fishing mortality that jeopardizes the capacity of a fishery to produce the maximum sustainable yield on a continuing basis." 16 U.S.C. § 1802(29). The National Standard Guidelines define MSY as the "largest long-term average catch or yield that can be taken from a stock or stock complex under prevailing ecological and environmental conditions." 50 C.F.R. § 600.310(c)(1). These Guidelines further specify that "estimates [of MSY] must be based on the best scientific information available . . . and must incorporate appropriate consideration of risk." 50 C.F.R. § 600.310(c)(2)(ii). The National Marine Fisheries Service further asserts that "the phrase 'on a continuing basis' in the [Magnuson-Stevens Fishery Conservation and Management Act] definition of 'overfishing' indicates that stocks are to be maintained at levels capable of producing MSY (and OY) on a continuing (uninterrupted) basis; thus short-term overfishing that causes populations to decline below these levels is not permissible." 63 Fed. Reg. 24216 (May 1, 1998).

Because of the complex and technical nature of estimating MSY, the National Marine Fisheries Service issued additional technical guidance on this aspect of the Magnuson-Stevens Fishery Conservation and Management Act. In cases such as market squid, where information is limited, this technical guidance paper provides the following advice: "it may be reasonable to use the historical average catch as a proxy for MSY, taking care to select a period when there is no evidence that abundance was declining." V.R. RESTREPO, ET AL., TECHNICAL GUIDANCE ON THE USE OF PRECAUTIONARY APPROACHES TO IMPLEMENTING NATIONAL STANDARD 1 OF THE MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT, NOAA TECHNICAL MEMORANDUM NMFS-F/SPO-31 (1998), PG. 26. Out of context, this statement could be interpreted as suggesting that MSY should be calculated by looking at an average over a time when catches were high while ignoring bad years. Within the context of the rest of the paper, which focuses extensively on the use of precautionary management, it is clear that the statement cautions Councils to avoid estimating MSY based on a history of declining catch levels because the decline could be symptomatic that catch levels exceed MSY.

The Current Options

The CPS Management Team recommended five MSY options for the Council to consider, with a preferred alternative. Their alternatives included:

1. MSY equals 113,320 metric tons (mt). This, the preferred option, is based on landings from the highest annual catch ever recorded in the history of the fishery, from April 1996 through March 1997.
2. MSY equals 85,000 mt. This option represents 75% of the highest annual catch ever recorded. There is no clear rationale as to why 75% was chosen as an option.
3. MSY equals 97,675 mt. This option is based on the average landings from the two highest catch years ever recorded in the history of the fishery, 1995-96 and 1996-97.
4. MSY equals 75,570 mt. This option is based on the average landings from the four highest catch years ever recorded in the history of the fishery, from 1993-94 through 1996-97.
5. MSY equals 450,000 to 570,000 mt. This option is based on the idea that landings have not been constrained by squid productivity and could thus be four to five times higher than the highest catches ever recorded.

CMC Recommended Options

None of these options adequately consider legal requirements or the best available science. The Council has received guidance to base MSY on a long-term average, 50 C.F.R. § 600.310(c)(1), and to avoid using time periods associated with a decline. V.R. RESTREPO, ET AL., TECHNICAL GUIDANCE ON THE USE OF PRECAUTIONARY APPROACHES TO IMPLEMENTING NATIONAL STANDARD 1 OF THE MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT, NOAA TECHNICAL MEMORANDUM NMFS-F/SPO-31 (1998), PG. 26. In fact, the four years represented in these five options directly preceded the two lowest landings in fourteen years. The CPS Management Team argues that high catch levels recorded during 1999-2000 demonstrate that previous catch levels were sustainable, and that the two years of low landings were a result of El Niño oceanic conditions. This may be the case, but does not provide justification for ignoring the two most recent years of landings. El Niño is part of prevailing oceanic conditions, and thus must be addressed in the long-term average used to determine MSY for market squid. CMC recommends that the Council add the two following

options, and select one of the two as the preferred alternative. We believe that these are the only two alternatives that can be justified based on the best available science and the law.

6. MSY equals 53,725 mt. This option is based on the average annual landings over the past six years.
7. MSY equals 12,366.6 mt during El Niño years and 75,570 mt during other years. This option averages landings over the most recent three El Niño years and the most recent four 'other' years. We have the capacity to predict El Niño years ahead of time, and it would be quite feasible for the Council to establish clear criteria for choosing which MSY would be appropriate for the upcoming year.

ABC for Market Squid

Legal Requirements

"Allowable biological catch" (ABC) is defined in the CPS Fishery Management Plan as a prudent harvest level based on an MSY control rule. The Magnuson-Stevens Fishery Conservation and Management Act does not give explicit guidance on the development of control rules beyond its mandate that Councils not jeopardize the capacity of a fishery to produce maximum sustainable yield on a continuing basis. 16 U.S.C. § 1802(29). The National Standard Guidelines provide wide latitude in developing control rules, as long as they are based on the best available scientific information and incorporate appropriate consideration of risk. 50 C.F.R. § 600.310(c)(2)(ii). Risk will be higher for stocks or stock complexes about which we have limited information, such as market squid. This concept is addressed explicitly in the CPS Fishery Management Plan, which states, "MSY control rules for CPS must be explicitly risk-averse," and "[g]reater uncertainty regarding a stocks [sic] status should result in more conservative harvest levels." AMENDMENT 8 TO THE COASTAL PELAGIC SPECIES FISHERY MANAGEMENT PLAN (1998). PG. B-82.

The Plan further states that "[m]any CPS stocks are important as forage (e.g., Pacific sardine and northern anchovy) for a wide range of predators including other fish, birds, and marine mammals. Ecosystem considerations are important elements of the goals and objectives for the CPS FMP. MSY control rules for CPS should, therefore, help reduce the frequency of low biomass conditions and overfished stocks and facilitate recovery of overfished stocks to the extent possible." AMENDMENT 8 TO THE COASTAL PELAGIC SPECIES FISHERY MANAGEMENT PLAN (1998). PG. B-82.

Based on some of this same reasoning, the CPS Fishery Management Plan specifies a default control rule for monitored species (those without a need for quotas or active management) whereby the ABC is set equal to 25% of the MSY.

The Current Options

The CPS Species Management Team recommended three ABC options for the Council to consider, and one preferred alternative. Their alternatives included:

1. ABC equals to MSY. This, the preferred option, was justified primarily by stating that it would be the least likely to trigger overfishing considerations.
2. ABC equals 75% of MSY. This option was only recommended if the Council chose a high value for MSY.

3. ABC equals 25% of MSY. This option was based on the default recommendations in the CPS Fishery Management Plan, but was only recommended if the Council chose an MSY level equal to four or five times the highest landings ever recorded in the fishery.

CMC Recommended Options

MSY should be chosen based on considerations of the best available science and risk-minimization, as it forms the legal and scientific foundation for MSY control rules and other provisions to prevent overfishing. Therefore, we consider it inappropriate to consider options that make the choice of MSY based on the selection of ABC. We recommend that the Council delete the caveats that tie the Council's choice of ABC to specific MSY options from the description of ABC options. Additionally, since option 2 is based on an arbitrary percentage of MSY, we recommend that an additional option be considered to better represent a range of options. CMC urges the Council to consider the four following options:

1. ABC equal to MSY.
2. ABC equal to 75% of MSY.
3. ABC equal to 50% of MSY.
4. ABC equal to 25% of MSY.

We further recommend that the Council adopt option 4 as its preferred alternative. First, there is a great deal of uncertainty, and therefore risk, associated with market squid management. The original market squid provisions to prevent overfishing were disapproved by the Secretary of Commerce because these provisions did not specify an MSY. The Council chose to not specify MSY because of the limited information available about this fishery. Information is still limited as indicated by the Council's inability to make a biological estimate of MSY or the fishing rate or biomass level associated with MSY. Without such basic information, market squid are at risk of overfishing without ample risk-minimization.

Additionally, squid fishing activity typically targets spawning aggregations. Aggregating species face a particularly high danger of overfishing when catch data are the foundation of their management, as is the case here. Because of the aggregating behavior of these species, catch rates can remain high until abundance drops to dangerously low levels.

Moreover, as is true for other CPS, squid are a key component of their ecosystem and are found in the diets of fish, birds, and marine mammals. Because they are a key prey species for fish, including Pacific swordfish, market squid *are* essential fish habitat. See 50 C.F.R. § 600.815(a)(8) (defining EFH to include prey species). By law, the Council is charged to "minimize to the extent practicable adverse impacts on such habitat caused by fishing." 16 U.S.C. § 1853(a)(7). Although the Council does not yet actively manage Pacific swordfish', they are one of several species that will be covered by the Highly Migratory Species Fishery Management Plan being developed by the Council. And, due to the key role squid play in their ecosystem, inadvertent overfishing of them would have significant negative ecological impacts.

Based on uncertainties about the productivity of squid, the fact that fishing activity targets spawning aggregations, and the fundamental role squid play in their ecosystem, CMC recommends that the Council follow their default policy for CPS and select option 4 above.

Bycatch Requirements for All CPS

Legal Requirements

By law, the Council is required to establish a standardized reporting methodology to document bycatch and take steps to minimize bycatch to the extent practicable. 16 U.S.C. § 1853(a)(11).

CMC Recommended Options

CMC supports the options developed by the CPS Management Team with only minor revisions. We recommend that option 1 and 2 be combined to read as follows:

1. Require logbooks for the limited entry fishery, the live bait fishery, and the incidental fishery (those vessels landing less than 5 mt), *and a system to independently validate these data.*

Observer programs could be one type of independent validation but may not be the most cost-effective solution for documenting bycatch, especially for these relatively clean fisheries. Instead, the Council might consider working with a university program (e.g., the Pikitch study of groundfish bycatch), using industry-government cooperative research, or any one of a number of lower-cost alternatives to periodically corroborate results from logbooks.

We also strongly recommend that the Council consider a 7th option to use closed areas as a bycatch-minimization technique. The CPS Management Team report states several times that existing closed areas play an important role at limiting bycatch, particularly closed areas over shallow, rocky-bottom habitat. Since this technique is important for minimizing bycatch in these fisheries, it should be stated in the Plan. This statement need not create additional closed areas if the current system is adequate. At minimum, the existing closed areas should be identified as important to bycatch minimization efforts.

CMC recommends that the Council make these two options preferred alternatives along with option 3 for State monitoring of landings at the dock. In combination, these three provisions will provide real and meaningful bycatch reporting and minimization. If the Council supports option 1 as restated above, option 6 would no longer be necessary. CMC does support the intent of option 6, but we believe that these reporting requirements should not be limited to the northern range of the fishery.

CMC appreciates this opportunity to submit comments on the CPS Plan Amendment. If you have any questions about our recommendations, please call Josh Sladek Nowlis at (415) 391-6204 or Stephanie Mairs at (202) 429-5609.

Sincerely,

Joshua Sladek Nowlis
Senior Scientist, Fish and Ecosystems

Stephanie Mairs
Marine Wildlife Counsel

SCIENTIFIC AND STATISTICAL COMMITTEE COMMENTS ON
STATUS OF PLAN AMENDMENT (SQUID MAXIMUM SUSTAINABLE YIELD AND BYCATCH)

The Scientific and Statistical Committee (SSC) reviewed Attachment D.3.b. "Recommendations of the Coastal Pelagic Species Management Team (CPSMT) on market squid maximum sustainable yield (MSY), market squid acceptable biological catches (ABC), and bycatch provisions for the coastal pelagic species (CPS) fishery management plan (FMP)." This document was prepared in response to NMFS' disapproval of two provisions of *Amendment 8 to the Northern Anchovy Fishery Management Plan* pertaining to optimum yield (OY) specification for squid and bycatch evaluation for all species in the plan.

The document outlines options to address three distinct areas:

1. Squid MSY
2. Squid ABC
3. Bycatch in CPS fisheries.

1. Determination and Designation of Market Squid MSY

The CPSMT report indicates the data are inadequate to estimate MSY, requiring the specification of a proxy for MSY based on landings data. Five options are given.

The SSC observes that setting an MSY for market squid is impractical for a number of reasons. Fishery and biological data are scarce. International markets are important and variable influences on fishing effort, meaning that landings data are not a reliable indicator of stock abundance. The short life of the species combined with its vulnerability to oceanographic variation limits the usefulness of a sustainable yield concept.

However, the Sustainable Fisheries Act requires that OY be set on the basis of an MSY or MSY proxy. The guidance provided by Restreppo et al. in cases of data-poor situations is to calculate an MSY proxy on the basis of average landings during a period in which there is no evidence of declining abundance. This would suggest the adoption of Option 4, which specifies an MSY proxy of 75, 570 mt. The MSY proxy could be larger if there are unfished spawning areas that serve as refugia. The SSC recommends the relative magnitude of these areas be identified, and the MSY figure be expanded accordingly. However, the recommendation to expand MSY is contingent on the identified refugia remaining unfished. It is also important to recognize MSY will need to vary with environmental conditions, and more data will be needed to refine and update the estimate.

2. ABC Definition for Market Squid

As a temporary measure until more squid research is conducted, the SSC supports the CPSMT's recommendation to set ABC equal to MSY. The basis for this recommendation is the presumption that refugia spawning areas exist, and the recognition that further protection is provided by management controls in the fishery.

3. Bycatch Provisions for all CPS

The Sustainable Fisheries Act requires that bycatch be documented and minimized to the extent practicable. The SSC notes the need to document the extent of bycatch in CPS fisheries. For the six options identified by the CPSMT, the SSC supports both Options 3 and 6.

With regard to Option 3, the SSC notes that, because of the way the fishery operates, there is little or no opportunity to sort and discard catch at sea. Therefore, bycatch in the CPS fishery can be documented and monitored through enhancement of existing port sampling programs. Port sampling procedures should also be documented.

With regard to Option 6, the SSC concludes that requiring logbooks and observer coverage is a

particularly good idea, given the potential for salmon interception in CPS fisheries that may develop north of 39° N latitude.

PFMC
03/08/00

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

JUN 10 1999

F/SWR2:JJM

Mr. Jerry Mallet, Chair
Pacific Fishery Management Council
2130 SW Fifth Avenue, Suite 224
Portland, Oregon 97201

Dear Jerry,

I am pleased to inform you that I have approved Amendment 8 to the Northern Anchovy Fishery Management Plan except for the specification of optimum yield (OY) for market squid and the bycatch provisions. The OY specification for squid was disapproved because the amendment does not provide an estimate of maximum sustainable yield (MSY), the theoretical concept on which optimum yield and overfishing is based under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The bycatch provisions were disapproved because Amendment 8 does not contain a standardized reporting methodology to assess the amount and type of bycatch in the fishery and because there is no explanation of whether additional management measures to minimize bycatch and the mortality of unavoidable bycatch are practicable at this time. I have approved all other elements of Amendment 8.

The Magnuson-Stevens Act requires that optimum yield be based on MSY. There may be sufficient protections in the current management of the fishery to prevent overfishing of squid, but MSY needs to be determined to establish a foundation for management. The Council should provide such an estimate accompanied by whatever qualifiers are necessary. Guidance has been furnished in the past, and we can work with the Council to meet the requirements.

I have disapproved the bycatch provisions. Landing records do not indicate a notable bycatch; however, there are no data to show what happens during fishing operations. There is a potential to capture salmon, striped bass, yellowtail and other species prohibited by State and Federal regulations, but there are no provisions to minimize potential bycatch. The two exempted fishing permits recommended by the Council to allow a small anchovy reduction fishery in a closed area off San Francisco may provide important information; however, the Council needs to develop a reporting system to assess the amount and type of bycatch. Only by properly assessing the bycatch in the fishery, can the Council meet its other responsibility to minimize bycatch and to minimize the mortality of unavoidable bycatch.

I have approved the overfishing definitions for the other species. Experience with coastal pelagic stocks around the world indicates that overfished low biomass conditions usually occur when unfavorable environmental conditions and high fishing mortality rates occur at the same time. The measures in Amendment 8 do not depend on whether low biomass is due to excess fishing or unfavorable environmental conditions. Reductions in fishing mortality are required in either case.

I have approved the fishing communities provisions. The harvest strategies, besides protecting the resources and ensuring forage for dependent species, are designed to provide maximum benefit to the Pacific coast. The limited entry scheme, besides preventing overcapitalization, is designed to protect historic participation in the fishery while providing maximum benefits to all users. Nevertheless, a more deliberative search for fishing communities, especially social and cultural aspects that might play a role in fisheries, would help ensure that a complete analysis has been completed. A proposed project to develop profiles of ports along the Pacific coast may help us better define communities and measure impacts. We can work with the Council to obtain better information so that the impacts can be measured more effectively.

I have approved the essential fish habitat provisions. Essential fish habitat (EFH) for coastal pelagics is defined by a temperature range bordered within the geographic area where a coastal pelagic species occurs at any life stage, where a species has occurred historically during periods of similar environmental conditions, or where environmental conditions do not preclude colonization by the species. More is known about the requirements for finfish than squid. Although spawning areas of squid are generally known to be shallow semi-protected near-shore areas with sandy or mud bottoms adjacent to submarine canyons, exactly what squid require for spawning habitat is not known. Accordingly, benthic habitats of spawning squid have not been described and identified by the Council as EFH. The Southwest Region is cooperating with the California Department of Fish and Game in research to determine these requirements. The Council should closely follow the research currently underway so that protection can be provided to squid stocks by amending the fishery management plan to add spawning squid EFH as soon as possible. This would enhance conservation of key habitat that may be adversely affected by human activity.

The Council has prepared an important response to the rapid increase in biomass of Pacific sardine following decades of low abundance. How this resource is managed will have significant effects on other coastal pelagic species, the species that depend on coastal pelagics for forage, and on the economics of fishing. I look forward to working with the Council to implement the provisions of the amendment.

Sincerely,

for D J Lawson

Rodney R. McInnis
Acting Regional Administrator

Recommendations of the Coastal Pelagic Species Management Team (CPSMT) on Market Squid MSY, Market Squid ABC, and Bycatch Provisions for the CPS FMP

CPSMT met at the National Marine Fisheries Service (NMFS) Southwest Fisheries Science Center in La Jolla, California, at 10:00 a.m. on December 9, 1999. These topics were discussed briefly because the team had spent two days on the topics during the August 3-4, 1999 meeting. The team decided to offer a more complete evaluation of the options for MSY and bycatch and to complete the description via email.

I. Determination and designation of market squid MSY

CPSMT reviewed existing data (including fishery and biological) for the California market squid fishery to recommend an MSY value. We determined that there are not adequate data to make a mathematical MSY determination, therefore we looked for guidance from the NMFS publication: Technical Guidelines on the Use of Precautionary Approaches to Implementing National Standard 1 of the Magnuson-Stevens Fishery Conservation and Management Act (Restrepo et. al., 1998). Those guidelines suggest that in data poor situations such as the California market squid fishery, a proxy may be used for MSY and it is reasonable to use recent average catch from a time period when there is no qualitative or quantitative evidence of declining abundance.

We reviewed historic market squid landings and noted that low landing periods seemed to correspond with El Niño events, when abundance and/or availability of squid to the fishery was greatly reduced. Those events are generally followed by periods of apparent increasing abundance/availability and increasing annual landings until the next El Niño. As with many other fisheries, landings of market squid are greatly influenced by conditions in international market and, therefore, availability of substitutes from other squid fisheries. In the four-year time period between the last two El Niño events (1993-94 and 1996-97) there was nearly an unlimited demand for California market squid in the Republic of China, a situation which kindled rapid development of fishing and expansion of processing for export from California. Average annual landings (April through March fishing season) for that four-year period was 75,570 mt and included the highest landings on record with 113,320 mt (1996-97). The expansion ended with the onset of the two-year 1997-99 El Niño event during which market squid abundance/availability dropped to very low levels and landings plummeted.

This fishing season (1999-00) which is the first year following the two-year El Niño event, squid landings already are the third highest on record with the season only 3/4 complete. Additionally, nearly all of this year's landings are from the southern portion of the fishery (Southern California) with almost no landings to the north (Monterey area). This disparity would probably not have been predicted or accounted for given current understanding of market squid abundance nor accounted for in temperature inclusive models which are being considered for harvest guidelines and have been recommended by the Council's Scientific and Statistical Committee.

The ability of the California market squid fishery to support landings of 113,320 mt followed by a strong two-year El Niño and then sustain the relatively high landings this year, suggest that the stock was not being overfished and that the 113,000 level is sustainable. Therefore, following Restrepo et. al. (1998) to select an MSY proxy, the Council could use some treatment of landings from that four-year time period as the MSY proxy. Another important consideration is that this MSY designation can be changed by the Council with relative ease under the framework process when more data are available.

OPTIONS:

1. Assume that 113,320 mt was a sustainable harvest level and select it as the MSY proxy. Given current market conditions, this value is not likely to be exceeded in the near future, it is defensible as discussed above, and it does allow for the State of California to complete its research and plan development (scheduled for completion in 2001) without moving this CPS FMP monitored species into the actively managed category. Setting MSY too low could restrict landings unnecessarily, reducing the exvessel value of the fishery. Setting MSY too low could also effect/restrict testing of

data necessary for development of some harvest models such as a depletion model. This is the CPSMT preferred option.

2. Choose a more precautionary quantity at 75% of the 113,320 mt value and set the MSY proxy at 85,000 mt. This value will be exceeded this season. Even if the Council changes ABC for market squid to be equal to MSY, and the value is exceeded next season, the Council would have to consider the possibility that the stock be considered overfished, which may require moving squid to actively managed.

3. Choose the average of the two highest years in this time period: 97,675 mt. This value is less likely to be exceeded depending on market conditions.

4. Choose the average of the four years in this time period: 75,570 mt. This value has already been exceeded this year.

5. Assume that the squid fishery is totally market driven, that squid stocks are underutilized, and set MSY at a relatively high value such as 4-5 times the highest recorded landings (450,000 mt to 570,000 mt). This would be more in line with current small pelagic biomass and MSY estimates and allow squid to remain a monitored species within the FMP with monitoring of the fishery as likely the only Council activity in the near future.

II. ABC definition for market squid

The CPS FMP defines the default ABC for monitored species as 25% of MSY and defines over fishing as exceeding ABC during any two years. When the FMP was written, we did not foresee this technical definition as a potential problem with market squid because we expected to defer to State management for market squid and 25% of MSY is a reasonable ABC value for other small pelagics (i.e., sardine, mackerel, or anchovy). However, we do not have a biomass estimate for market squid nor an accurate estimate of MSY. We are recommending an MSY value based only on landings which are quite variable and subject to oceanic conditions. Market squid is an invertebrate species that lives less than one year and traditional fisheries models may not apply. The State of California has an extensive research program underway leading to a legislatively mandated management plan for April 1, 2001. We suggest that the Council establish an MSY value and ABC definition based on past landings from the fishery as suggested by the Technical Guidelines. The Team also suggests that the Council should re-evaluate squid management in 2002 when the results of the current California research program are available.

OPTIONS:

1. Set ABC equal to MSY for market squid thus reducing the likelihood that ABC will be exceeded and trigger overfishing considerations. <u>This is the CPSMT preferred option.</u>

2. Set ABC at 75% of MSY and choose one of the higher values when setting MSY.

3. Leave the default ABC at 25% of MSY and set MSY relatively high. . .perhaps four or five times the highest recorded landings (450,000 mt to 570,000 mt). See Option 5 MSY considerations above.

III. CPS FMP bycatch provisions

The Magnuson-Stevens Act includes provisions for national standard guidelines. National Standard 9 specifies for "BYCATCH: Conservation and management measures shall, to the extent practicable:

1) Minimize bycatch; and
2) To the extent bycatch cannot be avoided, minimize the mortality of such bycatch."

Bycatch includes "discard of whole fish at sea or elsewhere...and mortality due to encounter with fishing gear that does not result in capture.**"**

CPS vessels fish mainly with roundhaul gear (purse seine or lampara nets of about ½ mile in total length). They are large encircling type nets which are drawn to the fishing vessel after surrounding a school or part of a fish school with the net. When most of the net is back on board and the fish are crowded near the fishing vessel, pumps are lowered into the water to pump fish and water into the ship's hold. Another more traditional technique is to lift the fish out of the roundhaul net with netted scoops (brail). Roundhaul fishing results in little unintentionally caught fish because the fishermen target a specific fish school, which usually consists of one species of fish. If another species is present in the school, it is nearly the same size and is not sorted at sea. If larger fish are in the net, they can be released alive before pumping or brailing. The load is pumped out of the hold at the landing dock where incidentally caught fish can be observed and sorted. Often these few (see Appendix A) incidental fish are taken home for personal use or processed with the rest of the load.

Approximately 200 vessels participated in the sardine fishery during the 1940s and 1950s. Some present day CPS fishermen are remnants of that sardine fleet. Other remnants of the fleet can be found among fishermen that fish for market squid and land very small amounts of CPS finfish. The roundhaul fleet's CPS finfish landings are sold as relatively high volume/low value products (e.g., mackerel canned for pet food, sardine frozen and shipped to Australia to feed penned tuna, and anchovy reduced to meal and oil). In addition to fishing for CPS finfish, many of these vessels fish for market squid, Pacific bonito, bluefin tuna, and Pacific herring.

There are other vessels that target CPS finfish in small quantities and usually sell their landings to specialty markets for relatively high prices. During the period 1993-1997, these included:

a. Approximately 18 live bait vessels in southern California and two vessels in Oregon and Washington that take about 5,000 mt per year of CPS finfish (mostly anchovy and sardine) for sale to recreational anglers.

b. Roundhaul vessels that take a maximum of 1,000 mt to 3,000 mt per year of anchovy that are sold as dead bait to recreational anglers.

c. Roundhaul and other mostly small vessels that target CPS finfish (particularly mackerel and sardine) for sale in local fresh fish markets or canneries.

Anecdotal information from at-sea CDFG observations and conversations with CPS fishery personnel suggest that bycatch is and has been insignificant within the limited entry area of the CPS FMP (south of 39 degrees north latitude). Some individuals have expressed concern that sportfish and salmon might constitute significant bycatch in this fishery, but there are no data confirming this. Previous and current fishing closures of nearshore areas where bycatch is more likely to occur probably have helped to prevent that bycatch.

Reports of bycatch by California dock samplers confirm small and insignificant landings of bycatch at California CPS off loading sites (see Appendix A). These data are likely representative of actual bycatch because of the methodology used to fish CPS. The CPS are caught by purse seine and pumped from the sea into fish holds aboard the fishing vessel; fishermen don't sort bycatch at sea, they land whatever is caught and pumped into the hold.

The Council issued EFP's for District 10 just outside San Francisco, California and required a 100% industry sponsored observer program, which would have documented any bycatch. But the fishermen did not use the EFP's and they expired. It seems prudent to recommend that any new fisheries established north of the limited entry area implement observer program sponsored by industry or taxes derived from the new fishery. Also the Council may want to recommend or require grates on the hold opening that would prevent large/adult salmon and sportfish from entering the hold. North of the limited entry area, we may need observer programs, grates, logbooks, or other means to enumerate bycatch. The Council may want to provide for cessation of fishing activities when a threshold level of bycatch is reached (e.g., 1-5 fish or some other significant number for small fishes of concern such as smelt or salmon in Washington).

The California Department of Fish and Game Commission has authorized logbooks in the squid fishery. The data to be collected includes bycatch. In Oregon, Pacific sardine is regarded as a developmental fishery. If permits are issued for this fishery, there is an opportunity for the State to require observers.

As stated in the CPS FMP fishery description most bycatch in the coastal pelagics fishery is incidental harvest that is sold; therefore, there is little or no bycatch (discards or at sea dumping of catch) as defined in the Magnuson-Stevens Act. A number of circumstances in the fishery that tend to reduce bycatch are:

- Most of what would be called bycatch under the Magnuson-Stevens Act is caught when roundhaul nets fish in shallow water over rocky bottom; a practice that fishermen try to avoid or, due to area closures, are specifically prohibited from fishing.

- South of Pt. Buchon, California, many areas are closed to roundhaul nets under California law and the CPS FMP, which reduces the chance of bycatch.

- A portion of the sardine caught incidentally by squid or anchovy fishermen can now be sold for reduction thus reducing discard (bycatch).

- ♦ The 5 tons or less allowable landing by vessels without permits under the CPS FMP should reduce discard (bycatch) because those finfish can be landed.

This fishery has traditionally operated off San Francisco, Monterey and in the southern California bight, although the fishery extended to British Columbia during the peak of the sardine fishery early this century. There are currently small fisheries in Oregon waters, off Washington (catch is not landed in Washington). In California where the majority of the CPS fishery operates, the State and the CPS FMP restricts roundhaul fishing and fishing for reduction in many nearshore areas to protect sportfish and reduce the possibility of bycatch (see FIGURE 2.2.2.2-4 in the CPS FMP. Existing California area closures). The CPS FMP also lists applicable State regulations in section 2.2.5.2.

In California, CDFG samples wetfish landings in Monterey and ports to the south; biological samples are taken to monitor the fish stocks; and dock samplers report incidentally caught fish (see attachment A). Because the CPS fishery has not operated on a large scale during recent times north of San Francisco, little is known about incidental catch or bycatch that might occur in this area.

OPTIONS:

1. Require logbooks for the limited entry fishery, the live bait fishery, and the incidental fishery (those vessels landing less than 5 mt). There is currently no mechanism or funding for this option, but it might provide needed information on the occurrence of bycatch.

2. Require industry funded observers for all of the CPS limited entry fishery. Cost is a major consideration regardless of the size of the program.

3. Require State agencies to monitor and record non-CPS landings in the CPS fishery at the docks. Since sorting of the load does not take place at sea (fish pumps), all species caught should still be in the hold upon returning to the docks. If significant quantities of non-CPS species are in the load, then a sample could be taken. Submit annual report to CPSMT/Council. <u>This is a CPSMT preferred option.</u>

4. Require full retention of all species. Would entail significant coordination with State agencies and possibly legislative changes to State laws. For example, CPS fishers would be required to land salmon and report them to state agencies.

5. Require grates to cover openings of holds through which fish are pumped to screen out catch of larger non-CPS species and allow live release before going into the ship's hold.

6. Require logbooks and observers on any CPS fisheries north of the CPS FMP limited entry area (39 degrees north) or possibly north of 36 degrees north latitude. <u>This is strongly supported by CPSMT.</u>

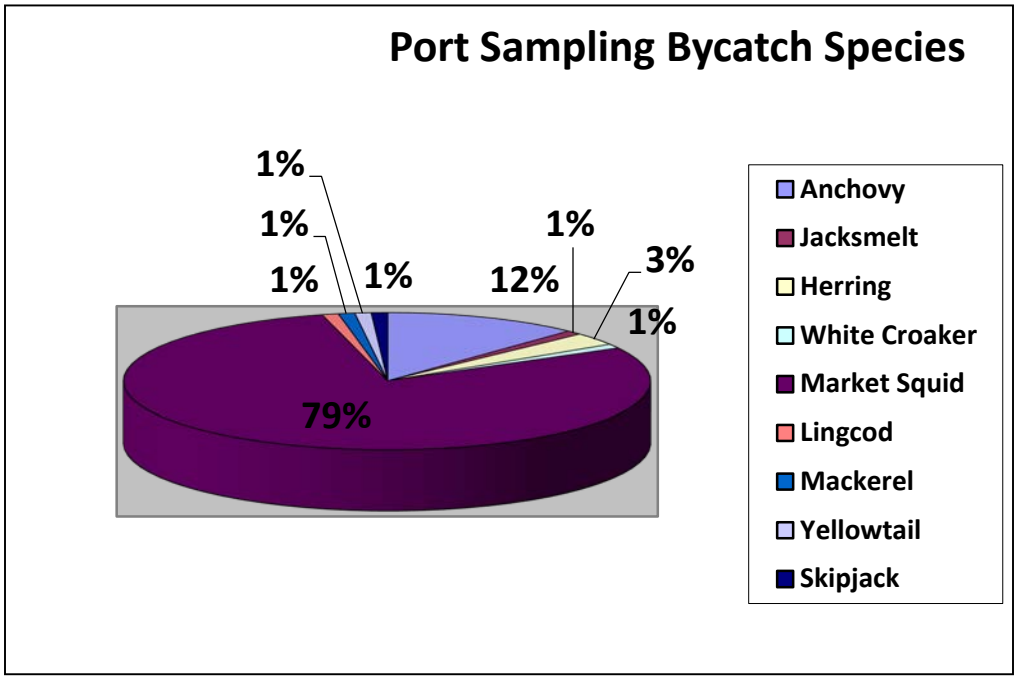
APPENDIX A. SUMMARY OF OBSERVED INCIDENTAL CATCH

Between 1985 and the partial year of 1999 there were 5,306 CDFG port samples taken from the sardine and mackerel landings. From 1992 to 1999 incidental catch was reported on only 179 occasions, representing a 3.4% occurrence in which some incidental catch was reported. The reports of incidental catch were sparse, and prior to 1992, there was none reported.

The incidental catch species reported are primarily those that are marketable, and do not represent the definition of incidental catch by the Magnuson-Stevens Act. The samplers have noted, however, that unless a incidental catch species represents a significant portion of the load, at least a whole percentage point, they are not recorded. The two most prevalent incidental catch (or non-target) species were market squid, at 79%, and northern anchovy, at 12% incidence within samples (not by load composition).

Total Landings Sampled per Year

Year	Sardine	Mackerel	Total
99	61	--	61
98	97	97	194
97	113	116	229
96	96	85	181
95	254	215	469
94	119	167	286
93	85	183	268
92	231	113	344
91	169	42	211
90	99	233	332
89	149	451	600
88	190	385	575
87	128	510	638
86	105	440	545
85	40	333	373
		Total	5306



Incidental catch from Port Sampling Records

Year	Species	Incidence	Totals
99	Anchovy	5	
	Jacksmelt	1	
	Herring	1	
			7
98	Herring	2	
	Anchovy	3	
	White Croaker	1	
	Market Squid	4	
			10
97	Market Squid	44	
	Anchovy	1	
	Herring	1	
			46
96	Market Squid	22	
	White Croaker	1	
	Anchovy	8	
	Lingcod	1	
			32
95	Market Squid	71	
	Jack Mackerel	1	
	Pacific Mackerel	1	
	Yellowtail	1	

	Anchovy	5	
	Herring	1	
			80
94	Herring	1	
			1
93	None reported		
92	Market Squid	1	
	Yellowfin Tuna	1	
	Skipjack Tuna	1	
			3
		Total	179

Incidental catch from Port Sampling Records

Year	Species	Incidence	Totals
99	Anchovy	5	
	Jacksmelt	1	
	Herring	1	
			7
98	Herring	2	
	Anchovy	3	
	White Croaker	1	
	Market Squid	4	
			10
97	Market Squid	44	
	Anchovy	1	
	Herring	1	
			46
96	Market Squid	22	
	White Croaker	1	
	Anchovy	8	
	Lingcod	1	
			32
95	Market Squid	71	
	Jack Mackerel	1	
	Pacific Mackerel	1	
	Yellowtail	1	

	Anchovy	5	
	Herring	1	
			80
94	Herring	1	
			1
93	None reported		
92	Market Squid	1	
	Yellowfin Tuna	1	
	Skipjack Tuna	1	
			3
		Total	179

From 1996 to the partial year 1999, bycatch from the live bait logs was reported with an incidence of 10%. The primary species taken as incidental catch was barracuda. The following tables represent the incidence or occurrence of incidental catch only, not numbers or weights.

Live Bait Logs

Year	Species	Incidence
99	Smelts, true	1
	Barracuda	4
98	Herring	1
	Shiner Surfperch	1
	Barracuda	84
97	Shiner Surfperch	3
	Sea Star	1
	Barracuda	102
96	Barracuda	1
	Total Reports	198

Live Bait Incidental Species	Incidence
Barracuda	191
Shiner Surfperch	4
Herring	1
Smelts, true	1
Sea Star	1
Total	**198**

Live Bait Days Fished

Year	Days
99	187
98	812
97	778
96	131
Total	**1908**

COASTAL PELAGIC SPECIES ADVISORY SUBPANEL COMMENTS ON
STATUS OF PLAN AMENDMENT

1. **Maximum Sustainable Yield (MSY) and Acceptable Biological Catch (ABC) for Squid**

   The Coastal Pelagic Species Advisory Subpanel (CPSAS) is uncomfortable assigning an MSY for squid when the Coastal Pelagic Species Management Team (CPSMT) has previously reported there is inadequate data to determine a mathematical MSY.

   In the absence of adequate data, scientific guidelines allow the Council to set a proxy for MSY. If this is the preferred avenue of the Council, the CPSAS will support Option 1 on page 2 of Attachment D.3.b. However, we would only support this MSY proxy if the ABC level was amended to equal MSY (Option 1 on page 3 of Attachment D.3.b.).

   Furthermore, the CPSAS would like the Council to ask the CPSMT to look at other ways MSY could be computed following the completion of the studies currently being conducted by the California Department of Fish and Game.

2. Coastal Pelagic Species Fishery Management Plan Bycatch Provisions

   The majority of the CPSAS supports both Options 1 and 3 as listed on page 5 of Attachment D.3.b.

PFMC
03/08/00