

UNDERLINE/STRIKETHROUGH OF PUBLIC REVIEW DRAFT OF COASTAL PELAGIC SPECIES
FISHERY MANAGEMENT PLAN

LIST OF ACRONYMS AND ABBREVIATIONS

<u>ABC</u>	<u>Acceptable Biological Catch</u>
<u>ACL</u>	<u>Annual Catch Limit</u>
<u>ACT</u>	<u>Annual Catch Target</u>
<u>AM</u>	<u>Accountability Measure</u>
<u>CalCOFI</u>	<u>California Cooperative Oceanic Fisheries Investigations</u>
<u>CDFG</u>	<u>California Department of Fish and Game</u>
<u>CDFW</u>	<u>California Department of Fish and Wildlife</u>
<u>CFR</u>	<u>Code of Federal Regulations</u>
<u>COP</u>	<u>Council Operating Procedure</u>
<u>CPS</u>	<u>Coastal Pelagic Species</u>
<u>CPSAS</u>	<u>Coastal Pelagic Species Advisory Subpanel</u>
<u>CPSMT</u>	<u>CPS Management Team</u>
<u>CPSPDT</u>	<u>CPS Plan Development Team</u>
<u>DAH</u>	<u>Domestic Annual Harvest</u>
<u>DAP</u>	<u>Domestic Annual Processing</u>
<u>EC</u>	<u>Ecosystem Component</u>
<u>EEZ</u>	<u>Exclusive Economic Zone</u>
<u>EFH</u>	<u>Essential Fish Habitat</u>
<u>EFP</u>	<u>Exempted Fishing Permit</u>
<u>Emsy</u>	<u>Fishing exploitation rate that can produce MSY</u>
<u>ESA</u>	<u>Endangered Species Act</u>
<u>F</u>	<u>Fishing Mortality</u>
<u>FMP</u>	<u>Fishery Management Plan</u>
<u>Fmsy</u>	<u>Fishing mortality rate that results in MSY</u>
<u>GT</u>	<u>Gross Tonnage</u>
<u>H</u>	<u>Harvest Target Level</u>
<u>HG</u>	<u>Harvest Guideline</u>
<u>JVP</u>	<u>Joint Venture Processing</u>
<u>LE</u>	<u>Limited Entry</u>
<u>MAXCAT</u>	<u>Maximum Harvest Level Parameter</u>
<u>MMPA</u>	<u>Marine Mammal Protection Act</u>
<u>MSA</u>	<u>Magnuson Stevens Act</u>
<u>MSST</u>	<u>Minimum Stock Size Threshold</u>
<u>MSY</u>	<u>Maximum Sustainable Yield</u>
<u>NMFS</u>	<u>National Marine Fisheries Service</u>
<u>NOAA</u>	<u>National Oceanic and Atmospheric Administration</u>
<u>NS</u>	<u>National Standards</u>
<u>OFL</u>	<u>Overfishing Limit</u>
<u>OY</u>	<u>Optimum Yield</u>
<u>P*</u>	<u>Probability of Overfishing</u>

SAFE
SBRM
SDC
SSC
TALFF

Stock Assessment and Fishery Evaluation
Standardized Bycatch Reporting Methodology
Status Determination Criteria
Scientific and Statistical Committee
Total Allowable Level of Foreign Fishing

Chapter 1

1 1.0 INTRODUCTION

2 1.1 History of the Fishery Management Plan

3 The [Pacific Fishery Management Council](#) ([hereafter Council](#)) initiated the development of the Fishery
4 Management Plan (FMP) for northern anchovy in January of 1977. A final draft of the plan was approved
5 and submitted to the U.S. Secretary of Commerce (Secretary) in June of 1978. Regulations implementing
6 the FMP for northern anchovy were published in the *Federal Register* on September 13, 1978.

7 The first amendment changed the method of specifying the domestic annual harvest for northern anchovy
8 and added a requirement for an estimate of domestic processing capacity and expected annual level of
9 domestic processing. Approval for this amendment was published in the *Federal Register* on July 18, 1979.

10 The second amendment, which became effective on February 5, 1982, was published in the *Federal*
11 *Register* on January 6, 1982. The purpose of this amendment was to increase the domestic fishing fleet's
12 opportunity to harvest the entire optimum yield (OY) of northern anchovy from the U.S. exclusive
13 economic zone (EEZ).

14 During the spring of 1982, the Council considered a third amendment that divided the quota for northern
15 anchovy into two halves and made release of the second half conditional on the results of a mid-season
16 review of the status of the stock. The methods proposed for the mid-season assessment were considered
17 too complex to implement, and the amendment was not approved.

18 The fourth amendment, which had two parts, was published in the *Federal Register* on August 2, 1983 and
19 became effective on August 13, 1983. The first part abolished the five-inch size limit in the commercial
20 fishery and established a minimum mesh size of 5/8 inch for northern anchovy. The mesh size requirement
21 did not become effective until April 1986 in order to give the fleet additional time to comply without undue
22 economic hardship. The second part established a mid-season quota evaluation that was simpler in design
23 than the method proposed in Amendment 3.

24 The fifth amendment, in 1983, incorporated advances in scientific information concerning the size and
25 potential yield of the central subpopulation of northern anchovy. In addition, the fifth amendment included
26 changes to a variety of other management measures. Two or more alternative actions were considered in
27 each of seven general categories (1) OY and harvest quotas; (2) season closures; (3) area closures; (4) quota
28 allocation between areas; (5) the reduction quota reserve; (6) minimum fish size or mesh size; and (7)
29 foreign fishing and joint venture regulations. The alternatives for the fifth amendment were reviewed by
30 the Council during 1983. -The final rule on the fifth amendment measures was published in the *Federal*
31 *Register* on March 14, 1984.

32 The sixth amendment in 1990 implemented a definition of overfishing for northern anchovy consistent with
33 National Standard 7 of the [Magnuson-Stevens Fishery Conservation and Management Act \(MSA\)](#). The
34 Council began developing the seventh amendment as a new FMP for Coastal Pelagic Species (CPS) in
35 1990. A complete draft was available in November of 1993, but the Council suspended further work,
36 because [the National Marine Fisheries Service \(NMFS\)](#) withdrew support due to budget constraints. In
37 July of 1994, the Council decided to proceed with the plan through the public comment period. NMFS
38 agreed with the decision on the condition that the Council also consider the options of dropping or amending
39 the anchovy FMP. Thus, four principal options were considered for managing CPS (1) drop the anchovy
40 FMP (no Federal or Council involvement in CPS); (2) continue with the existing FMP for anchovy (status
41 quo); (3) amend the FMP for northern anchovy; and (4) implement an FMP for the entire CPS fishery. In
42 March of 1995, after considering all four principal options, the Council decided to proceed with the FMP
43 for CPS. Final action was postponed until June 1995 when the Council adopted a draft plan that had been

44 revised to address comments provided by NMFS and the Scientific and Statistical Committee (SSC).
45 Amendment 7 was submitted to the Secretary, but rejected by NMFS Southwest Region as being
46 inconsistent with National Standard 7 of the MSA. NMFS announced its intention to drop the FMP for
47 northern anchovy (in addition to FMPs for other species) in the *Federal Register* on March 26, 1996, but
48 the action was never completed.

49 Development of [Amendment 8](#) began during a June 23-25, 1997 Council meeting where the Council
50 directed the CPS Plan Development Team (CPSPDT) to amend the FMP for northern anchovy to conform
51 to the recently revised MSA and to expand the scope of the FMP to include the entire CPS fishery.
52 Amendment 8 updates the FMP for northern anchovy to manage the entire CPS fishery along the West
53 Coast of the United States, including Pacific sardine, northern anchovy, Pacific (chub) mackerel, jack
54 mackerel, and market squid. The amendment also changes the name of the plan from the *Northern Anchovy*
55 *Fishery Management Plan* to the *Coastal Pelagic Species Fishery Management Plan*. Stocks and fisheries
56 are described in Appendix A. All options considered by the Council and analysis of those options are in
57 Appendix B. Costs involved in this FMP are estimated in Appendix C. Essential fish habitat (EFH) is
58 described in Appendix D. References are included in Appendix E. Amendment 8 was partially approved
59 by the Secretary on June 10, 1999, and final regulations were published on December 15, 1999 ([64 FR](#)
60 [69888](#)). The FMP was implemented on January 1, 2000.

61 [Amendment 9](#) was originally intended to address the development of maximum sustainable yield (MSY)
62 for market squid as well as bycatch and treaty Indian fishing rights. The Council distributed Amendment
63 9 for public review on July 27, 2000. At its September 2000 meeting, the Council reviewed written
64 comments, received comments from its advisory bodies, and heard public comments, and decided to submit
65 only two provisions for Secretarial review. Based on testimony concerning MSY for squid, the Council
66 decided to include in Amendment 9 only the bycatch provision and a provision providing a framework to
67 ensure that Indian fishing rights are implemented according to treaties between the U.S. and the specific
68 tribes. Since implementation of the FMP, the CPS fishery has expanded to Oregon and Washington. As a
69 result, the FMP must discuss Indian fishing rights in these areas. These rights were not included in the
70 FMP, and the Council decided to address this issue in Amendment 9. The Council decided to conduct
71 further analysis of the squid resource under a separate amendment that addresses OY and MSY for squid.
72 The U.S. Secretary of Commerce approved Amendment 9 on March 22, 2001 ([66 FR 44986](#)).

73 In April 2001, the Council adopted the capacity goal and transferability provisions recommended by the
74 CPS Management Team (CPSMT) for inclusion in [Amendment 10](#). The Council directed the CPSMT to
75 develop an amendment to the CPS FMP that includes the capacity goal, provisions for permit transferability,
76 a process for monitoring fleet capacity relative to the goal, and a framework for modifying transferability
77 provisions as warranted by increases or decreases in fleet capacity. The amendment also addressed
78 determination of OY and MSY for market squid. In June 2002, the Council adopted Amendment 10 to the
79 CPS FMP. Relative to the limited entry (LE) fishery, the amendment established a capacity goal, provided
80 for LE permit transferability to achieve and maintain the capacity goal, and established a process for
81 considering new LE permits. The purpose of this action was to ensure fishing capacity in the CPS LE
82 fishery is in balance with resource availability. Relative to market squid, Amendment 10 established an
83 MSY (or proxy) for market squid to bring the FMP into compliance with the MSA. The purpose of this
84 action was to minimize the likelihood of overfishing the market squid resource. On December 30, 2002,
85 the Secretary approved Amendment 10. On January 27, 2003, NMFS issued the final rule and regulations
86 implementing Amendment 10 ([68 FR 3819](#)).

87 [Amendment 11](#) to the FMP addressed long-term allocation of Pacific sardine. While Amendment 11 was
88 in development, the Council recommended a regulatory amendment that implemented an interim revision
89 to the allocation framework for the 2003 and 2004 seasons. The interim allocation regime was extended to
90 2005. The interim regime (1) changed the [boundary between the northern subarea definition of](#) (“Subarea

91 A”) and the southern subarea (“Subarea B”) ~~by moving the geographic boundary between the two areas~~
92 from 35° 40' N latitude to 39° N latitude, (2) moved the reallocation date for unharvested Pacific sardine to
93 Subarea A and Subarea B from October 1 to September 1, (3) changed the percentage of the unharvested
94 sardine reallocated to Subarea A and Subarea B from 50 percent to both subareas to 20 percent to Subarea
95 A and 80 percent to Subarea B, and (4) reallocated all unharvested sardine that remains on December 1
96 coastwide. At the June 2005 Council meeting the interim allocation framework was replaced by Council
97 final action on Amendment 11 which provided the following allocation formula for the non-tribal share of
98 the Pacific sardine harvest guideline (HG):

- 99 1. A seasonal allocation structure with 35 percent of the HG to be allocated coastwide on
100 January 1.
- 101 2. 40 percent of the HG, plus any portion not harvested from the initial allocation, to be
102 reallocated coastwide on July 1.
- 103 3. On September 15 the remaining 25 percent of the HG, plus any portion not harvested
104 from earlier allocations, to be reallocated coastwide.

105 On June 29, 2006, NMFS issued the final rule to implement Amendment 11 to the CPS FMP (71 FR 36999).

106 In March 2005, the Council took final action on Amendment 12 to the FMP. Amendment 12 added all
107 species of krill (euphausiids) that occur within the West Coast EEZ and placed them in a new management
108 category, “Prohibited Harvest.” Amendment 12 is intended to ensure that, to the extent practicable,
109 fisheries will not develop that could put at risk krill stocks and the other living marine resources that depend
110 on krill. This means that OY for krill is zero, and the target, harvest and transshipment of krill is prohibited.
111 Also, exempted fishing permits (EFPs) will not be issued under the EFP procedures of this FMP to allow
112 individuals to harvest krill as an exception to the prohibition of harvest. These actions are not intended to
113 account for the responses of krill and other resources to changes in environmental conditions. Amendment
114 12 also described EFH for krill. The final rule adopting Amendment 12 was published by NMFS in the
115 Federal Register on July 9, 2009 (74 FR 33372).

116 Amendment 13 was initiated in 2009 to incorporate new National Standard 1 (NS1) guidelines that were
117 developed in response to the Magnuson-Stevens Reauthorization Act of 2006 to end and prevent
118 overfishing. At its June 2010 meeting the Council reviewed a range of alternatives and analyses to
119 implement new provisions of the reauthorized ~~Magnuson-Stevens Fishery Conservation and Management~~
120 ~~Act (MSA)~~ and the NS1 guidelines, and adopted the following as final action modifying the CPS FMP:

- 121 ● All actively managed, monitored species, and prohibited harvest species (krill) in the FMP are to
122 be categorized as “in the fishery.”
- 123 ● Jacksmelt and Pacific herring are to be added to the FMP as ecosystem component (EC) species
124 and monitor incidental catch in CPS fisheries.
- 125 ● Modify the existing harvest control rules for actively managed species to include a buffer or
126 reduction in acceptable biological catch (ABC) relative to overfishing limit (OFL) to account for
127 scientific uncertainty. This buffer will be determined during the annual management cycle through
128 a combination of scientific advice from the SSC and a policy determination of the Council.
- 129 ● Maintain the default harvest control rules for monitored stocks as modified to specify the new
130 management reference points. Annual catch limits (ACLs) would be specified for multiple years
131 until such time as the species becomes actively managed or new scientific information becomes
132 available. The value of 0.25 in the ABC control rule (a 75 percent buffer) will remain in use until
133 recommended for modification by the SSC and approved by the Council.
- 134 ● Add sector-specific ACLs, annual catch targets (ACTs), and accountability measures (AMs), to the
135 CPS FMP management framework for use in the annual harvest and management specification

136 process.

- 137 ● Add language to specify that the Council will include ecological considerations when reviewing
138 and/or adopting status determination criteria (SDCs), ACLTs, and ACTs.
- 139 ● While not a change to the FMP, the Council confirmed that SDC for CPS FMP are to remain as
140 currently specified with the exception of the Northern subpopulation of Northern anchovy (for
141 which no criteria currently exist).

142 The final rule adopting Amendment 13 was published on November 11, 2011 (76 FR 70362).

143 Amendment 14 was developed in order to establish a MSY for the northern subpopulation of northern
144 anchovy. Although two options were considered during the Amendment 13 process, neither was
145 subsequently adopted by the Council. The Council took action in November 2014, approving the MSY,
146 and the Amendment was approved by NMFS on March 23, 2015 (80 FR 17352).

147 Amendment 15 was approved by the Council in 2015 and added a suite of lower trophic level species to
148 the FMP's list of ~~ecosystem component (EC)~~ species. Consistent with the objectives of the Council's FMPs
149 and its Fishery Ecosystem Plan, Amendment 15 prohibits future development of commercial fisheries for
150 the suite of EC species shared between all four FMPs (Shared EC Species) until and unless the Council has
151 had an adequate opportunity to both assess the scientific information relating to any proposed directed
152 fishery and consider potential impacts to existing fisheries, fishing communities, and the greater marine
153 ecosystem. Amendment 15 was published by NMFS on April 4, 2016 (81 FR 19054).

154 Amendment 16 was approved in January 2018 and published in the Federal Register by NMFS on February
155 14, 2018 (83 FR 6472). It allows for minor directed fishing on CPS finfish to continue, when the directed
156 fishery is closed. This sector accounts for a very small portion of the overall catch of any particular CPS
157 stock, and was determined to have not more than a negligible impact on the stock. However, for some
158 small ports and producers, it can be an important source of income, especially when the directed fishery is
159 closed. The amendment includes a maximum of one ton per vessel per day.

160 Amendment 17 addresses fishing on overfished stocks. It removes the pre-specified 15 percent incidental
161 landing limit and the de facto prohibition on directed fishing for live bait fishing when a stock is overfished,
162 and instead requires the Council to take appropriate action to minimize fishing mortality to the extent
163 practicable. The Council may impose incidental landing limits, harvest caps, or other management
164 measures on live bait fishing on overfished stocks. Amendment 17 was approved by the Council in
165 November 2018 and by NMFS in June 2019 (84 FR 40296).

166 In July 2019, NMFS notified the Council that the Pacific sardine biomass estimate had fallen below the
167 50,000 mt minimum stock size threshold (MSST), which is also the overfished threshold, and the Council
168 was obligated to develop a rebuilding plan. Amendment 18 documents the Pacific sardine rebuilding plan,
169 which was approved by the Council in September 2020 and by NMFS in June 2021 (86 FR 33142). ~~In July~~
170 ~~2019, NMFS notified the Council that the Pacific sardine biomass estimate had fallen below the 50,000 mt~~
171 ~~minimum stock size threshold (MSST), which is also the overfished threshold.~~

172 Amendment 19 added descriptions of Standardized Bycatch Reporting Methodology (SBRM), which is a
173 consistent procedure or procedures used to collect, record, and report bycatch data in an FMP managed
174 fishery. This amendment specifically added Section 2.76 to the FMP to describe SBRM for the CPS
175 fisheries and how it meets the purpose of the SBRMs. It was approved by NMFS on July 5, 2022 (87 FR
176 40744).

177 Amendment 20 removes management categories for CPS, specifically the nomenclature of “active” and
 178 “monitored” and describes management for each management unit species or stock individually. It was
 179 intended to improve clarity regarding the management approaches for stocks or species in the CPS FMP,
 180 but not revise the manner in which stocks or species are managed. It was approved by the Council in April
 181 2022 and by NMFS on XX, 2022.

182

183 1.2 Stocks in the Fishery Management Plan

184 1.2.1 Management Unit Species

185 Table 1-1 includes the fishery management unit species which are “in the fishery” and subject to provisions
 186 of the CPS FMP.

187

188 Table 1-1. Stocks managed under this FMP:

Common Name	Scientific Name
Pacific sardine	<i>Sardinops sagax</i>
<u>Northern subpopulation</u>	
Pacific (chub) mackerel	<i>Scomber japonicus</i>
Northern anchovy	<i>Engraulis mordax</i>
Central and northern subpopulations	
Market squid	<i>Doryteuthis opalescens</i>
Jack mackerel	<i>Trachurus symmetricus</i>
Krill or Euphausiids	<i>All Species in West Coast EEZ</i>
Including these eight dominant species.	<i>Euphausia pacifica</i>
First two species are common and are	<i>Thysanoessa spinifera</i>
<u>most likely to be targeted by fishing</u>	<i>Nyctiphanes simplex</i>
	<i>Nematocelis difficilis</i>
	<i>T. gregaria</i>
	<i>E. recurva</i>
	<i>E. gibboides</i>
	<i>E. eximia</i>

189 Stocks may be added or removed from the management unit through the framework process described in Section 2.0.

190 1.2.2 Ecosystem Component Species

191 Table 1-2 EC species under this FMP:

Common Name	Scientific Name
Pacific herring	<i>Clupea pallasii pallasii</i>
Jacksmelt	<i>Atherinopsis californiensis</i>

192

193 Table 1-3 EC species shared between all four of the Council’s FMPs, including the CPS FMP.

Common Name	Scientific Name
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Round herring	<i>Etrumeus teres</i>
Thread herring	<i>Opisthonema libertate</i> , <i>O. medirastre</i>
Mesopelagic fishes	Families: <i>Myctophidae</i> , <i>Bathylagidae</i> , <i>Paralepididae</i> , and <i>Gonostomatidae</i>
Pacific sand lance	<i>Ammodytes hexapterus</i>
Pacific saury	<i>Cololabis saira</i>
Silversides*	<i>Atherinopsidae</i>
Smelts	<i>Osmeridae</i>
Pelagic squids	Families: <i>Cranchiidae</i> , <i>Gonatidae</i> , <i>Histioteuthidae</i> , <i>Octopoteuthidae</i> , <i>Ommastrephidae</i> except Humboldt squid (<i>Dosidicus gigas</i>), <i>Onychoteuthidae</i> , and <i>Thysanoteuthidae</i>

194 *Silversides include jacksmelt, which is also listed in Table 1-2 as an EC species specific to the CPS FMP. Jacksmelt is subject
195 to the same directed fishing prohibition as other Shared EC Species, but it may also be subject to additional management and
196 monitoring requirements that the Council develops for the Table 1-2 EC species particular to this FMP.
197

198 1.3 CPS Management

199 The CPS FMP primarily utilizes two general management approaches for stocks subject to harvest,
200 recognizing stocks may warrant either more or less intensive management, depending on harvest levels,
201 biological, socio-economic factors, or other concerns. The purpose of different management approaches is
202 to use available agency resources in the most efficient and effective manner while satisfying goals and
203 objectives of the FMP. This enables managers and scientists to concentrate efforts on stocks and segments
204 of the CPS fishery that need the greatest attention or where the most significant benefits might be expected.

205 CPS management may be characterized by periodic stock assessments, and/or periodic adjustments of target
206 harvest levels based on MSY control rules or the tracking of trends in landings and qualitative comparison
207 to available abundance data, but without periodic stock assessments, or periodic adjustments to target
208 harvest levels. All species may be subject to management measures such as catch allocation, gear
209 regulations, closed areas, closed seasons, or other forms of management.

210 The CPS FMP includes all species of euphausiids (krill) occurring in the West Coast EEZ as “Prohibited
211 Harvest Species” and as such it is prohibited to fish for, harvest or land krill in any fishery in the West
212 Coast EEZ. The prohibition is intended to ensure that, to the extent practicable, fisheries will not develop
213 that could put at risk krill stocks and the other living marine resources that depend on krill. This means that
214 OY for krill is zero, and the targeting, harvesting, and transshipping of krill is prohibited. Also, EFPs will
215 not be issued under the EFP procedures of this FMP to allow individuals to harvest krill as an exception to
216 the prohibition of harvest. These actions would fully achieve the objectives of the Amendment 12 to the
217 extent practicable, but would not account for environmental conditions and the responses of krill and other
218 resources to changes in environmental conditions. This prohibition recognizes that *de minimis* or trace
219 amounts of krill may be retained by fishermen while targeting other species; such inadvertent action is not
220 intended to be the subject of this prohibition.

221 ~~Status determination criteria~~SDC and management reference points (i.e. ABC and ACLs) must be
222 developed for all fishery management unit species, those species considered “in the fishery.” Market squid
223 are exempt from ACL requirements because their life cycle is less than one year. CPS management may
224 use generic or general definitions of overfishing and overfished for stocks that do not have specific fishing
225 mortality or biomass cutoffs. EFH must be described for all stocks in the management unit.

226 The CPSMT will review all CPS stocks annually and make recommendations to the Council and agencies
227 regarding appropriate management for each stock. Changes to the management for each species, with the
228 exception of krill, can be made annually by the Council based on all available data, including ABC levels
229 and MSY control rules, and the goals and objectives of this FMP. Changes in a management may be

230 accomplished according to any of the four procedures for establishing and adjusting management measures
231 described below in Section 2.0.

232 1.4 Ecosystem Component Species

233 Several criteria should be met for a species to be included in the EC category (~~Section 660.310(d)(5)(i)~~
234 ~~defined at 50 CFR 600.305~~). These are: 1) Be a non-target stock/species; 2) Not be subject to overfishing,
235 approaching overfished, or overfished and not likely to become subject to overfishing or overfished in the
236 absence of conservation and management measures; and, 3) Not generally retained for sale or personal use,
237 although “occasional” retention is not by itself a reason for excluding a species from the EC category.
238 Identifying and including EC species in the CPS FMP is not mandatory but may be done for a variety of
239 purposes: a) Data collection; b) For ecosystem considerations related to specification of OY for the
240 associated fishery; c) As considerations in the development of conservation and management measures for
241 the associated fishery; and/or d) to address other ecosystem issues.

242 A 2010 review of bycatch species in CPS fisheries confirmed that incidental catch and bycatch in CPS
243 fisheries is dominated by other CPS and that bycatch/incidental catch of non-CPS is extremely low.
244 However, two species, jacksmelt and Pacific herring, are infrequently caught with CPS gear and were
245 therefore added to the FMP under Amendment 13 to ensure continued monitoring of incidental catch and
246 bycatch of these species in CPS fisheries through sampling and logbook programs. This information will
247 continue to be reported in the Stock Assessment and Fishery Evaluation (SAFE) report. In keeping with
248 the NS1 guidelines, the Council recommended not developing SDCs or management measures for these
249 stocks.

250 The Council intends to continue and expand its consideration of ecological factors when developing SDCs
251 and management measures for CPS management unit species. These considerations are expected to evolve
252 as improved information and modeling of ecological processes become available. These considerations
253 will likely include predator-prey relationships and the overall status and role of forage species including
254 the two EC species in Table 1-2.

255 1.4.1 Shared Ecosystem Component Species

256 No directed commercial fisheries may begin for any Shared EC Species (Table 1-3) until and unless the
257 Council has had an adequate opportunity to both assess the scientific information relating to any proposed
258 directed fishery and consider potential impacts to existing fisheries, fishing communities, and the greater
259 marine ecosystem.

260

261 1.5 Operational Definitions of Terms

262 Acceptable Biological Catch (ABC) is a harvest specification of a stock or stock complex’s annual catch
263 that accounts for the scientific uncertainty in the estimate of OFL and any other scientific uncertainty,
264 and should be based on the ABC control rule. ABC control rule means a specified approach to setting
265 ABC for a stock or stock complex as a function of the scientific uncertainty in the estimate of OFL and
266 any other scientific uncertainty.

267 Accountability Measures (AMs) are management controls to prevent ACLs from being exceeded and to
268 correct or mitigate overages of the ACL if they occur. There are two categories: inseason AMs and
269 AMs for when the ACL is exceeded.

270 Annual Catch Limit (ACL) is the level of annual catch of a stock or stock complex that serves as the basis

271 for invoking AMs. ACL cannot exceed ABC but may be divided into sector-specific ACLs.

272 Annual Catch Target (ACT) is an optional AM. An amount of annual catch that is the management target
273 of the fishery, and accounts for management uncertainty in controlling catch at or below the ACL.

274 Bycatch is defined in the MSA as “fish which are harvested in a fishery, but not sold or kept for personal
275 use and includes economic discards and regulatory discards.”

276 Biomass means the estimated amount, by weight, of a CPS population. The term biomass means total
277 biomass (age one and above) unless stated otherwise.

278 Capacity goal means 5,650.9 metric tons (mt), which is the goal for the total gross tonnage (GT) of all
279 vessels participating in the LE fishery established by Amendment 10 to the FMP.

280 Coastal Pelagic Species (CPS) means northern anchovy (*Engraulis mordax*), Pacific mackerel (*Scomber*
281 *japonicus*), Pacific sardine (*Sardinops sagax*), jack mackerel (*Trachurus symmetricus*), market squid
282 (*Doryteuthis opalescens*), and all species of the family *Euphausiidae* found in the west coast EEZ.
283 Pacific herring (*Clupea pallasii pallasii*) and jacksnelt (*Atherinopsis californiensis*) are included in the
284 FMP as EC species.

285 CPS Advisory Subpanel (CPSAS) is comprised of members of the fishing industry and public appointed
286 by the Council to review proposed actions for managing the CPS fisheries.

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

289 Comparable capacity means GT as determined by the formula in 46 CFR 69.209(a) for a vessel not designed
290 for sailing plus 10 percent of the vessel’s calculated GT.

291 Council means the Pacific Fishery Management Council, including its CPSMT, CPSAS, SSC, and any
292 other committee established by the Council.

293 Ecosystem Component (EC) species means species not generally targeted or retained for sale, but are
294 infrequently encountered in CPS fisheries. EC species are monitored to ensure that these species are
295 not likely to be subject to overfishing in the absence of CPS management measures.

296 Egg Escapement Approach means a market squid fishery management approach used to evaluate the effects
297 of fishing mortality (F) on the spawning potential of the stock and in particular, to examine the
298 relationship between the population’s reproductive output and candidate proxies for the fishing
299 mortality that results in MSY (F_{MSY}).

300 Finfish means northern anchovy, Pacific (chub) mackerel, Pacific sardine, and jack mackerel.

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

305 Gross tonnage (GT) means GT as determined by the formula in 46 CFR 69.209(a) for a vessel not designed
306 for sailing ($.67 \times \text{length} \times \text{breadth} \times \text{depth}/100$). A vessel’s length, breadth, and depth are those specified
307 on the vessel’s certificate of documentation issued by the U.S. Coast Guard or state.

308 Harvest guideline (HG) means a specified numerical harvest objective that may be specified as an ACT that
309 is not a quota. Attainment of an HG does not require complete closure of a fishery.

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

312 Krill means all species of euphausiids that occur in the EEZ off the west coast.

313 Limited entry (LE) fishery means the fishery comprised of vessels fishing for CPS in the CPS management
314 zone under LE permits issued under this FMP.

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

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

318 Overfishing Limitevel (OFL) means an amount of catch that corresponds to the estimate of fishing mortality
319 on an annual basis, above which overfishing is occurring applied to a stock or stock complex's
320 abundance expressed in terms of numbers or weight of fish.

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

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

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

332 Prohibited Species means species that are subject to fishery controls under state or other Federal regulations
333 and may not be taken, retained, or possessed incidentally by CPS fishery participants.

334 Prohibited Harvest Species is a category for species for which it is prohibited to fish for, harvest, or land in
335 any fishery within the West Coast EEZ. All species of euphausiids (krill) that occur in the West Coast
336 EEZ are Prohibited Harvest Species. This category recognizes that *de minimis* or trace amounts of krill
337 may be retained by fishermen while targeting other species; such inadvertent action is not intended to
338 be the subject of this prohibition.

339 Quota means a specified numerical harvest objective that may be specified as an ACT for a single species
340 or stock of CPS, the attainment (or expected attainment) of which causes the complete closure of the
341 fishery for that species.

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

345 Regional Administrator means the Administrator, Southwest Region, NMFS, or a designee.

346 Reserve means a portion of the HG or quota set aside at the beginning of the year for specific purposes,
347 such as for individual harvesting groups to ensure equitable distribution of the resource.

348 Standard Bycatch Reporting Methodology (SBRM) means a consistent procedure or procedures used to
349 collect, record, and report bycatch data in a fishery managed under an FMP.

350 Sustainable Fisheries Division (SFD) means the Assistant Regional Administrator for Sustainable Fisheries,
351 West CoastSouthwest Region, NMFS, or a designee.

352 Threshold level of egg escapement means a level of reproductive (egg) escapement that is believed to be at
353 or near a minimum level necessary to allow the population to maintain its level of abundance into the
354 future (i.e., allow for "sustainable" reproduction year after year).

355 Totally lost means that the vessel being replaced no longer physically exists ~~in specie~~, or is absolutely and

356 irretrievably sunk or otherwise beyond the possible control of the owner, or the costs of repair
357 (including recovery) would exceed the repaired value of the vessel.

358 1.6 Goals and Objectives

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

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

371

Chapter 2

2.0 FRAMEWORK ESTABLISHING AND IMPLEMENTING MANAGEMENT MEASURES AND ADDITIONAL PROCEDURES

This FMP establishes and implements management measures and additional procedures. It includes framework management, types of actions and procedures, other management measures, scientific research, restrictions on other fisheries, review of state regulations, and the standardized bycatch reporting methodology.

2.1 Framework Management

The two framework approaches described below for the~~to~~ management of CPS allows changes and modifications to management ~~procedures-measures~~ to be made in a timely and efficient manner without need to amend the FMP. The FMP establishes two framework procedures through which the Council is able to recommend establishment and adjustment of management measures. The "point-of-concern" framework allows the Council to develop management measures in response to resource conservation and ecological issues. The socioeconomic framework allows the Council to develop management measures in response to social and economic issues.

~~Management measures may be imposed, adjusted, or removed at any time during the year. Management measures may be imposed for resource conservation, social, or economic reasons consistent with FMP procedures, goals, and objectives.~~

~~Analyses of biological, ecological, social, and economic impacts will be considered when a particular change is proposed. As a result, time required to take action will vary depending on the type of action (see below), its impacts on the fishing industry, resource, and environment, as well as review of these impacts by interested parties. Satisfaction of legal requirements for other applicable laws (e.g., the Administrative Procedure Act, Regulatory Flexibility Act, Executive Order 12866, etc.) for actions taken under this framework requires analysis and public comment before measures may be implemented by the U.S. Secretary of Commerce (Secretary).~~

~~Management measures addressing resource conservation or ecological issues must be based on the point-of-concern framework consistent with procedures and criteria listed in Section 2.1.2.~~

~~Management measures addressing social or economic issues must be based on the socioeconomic framework consistent with procedures and criteria described in Section 2.1.3.~~

2.1.12 Point-of-Concern Framework

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

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

42 found or expected:

43 1. Catch is projected to exceed the current ABC's, HGs, ACLs, ACTs, or the harvest quota.

44 2. Any adverse or significant change in the biological characteristics of a species (age
45 composition, size composition, age at maturity, or recruitment) is discovered.

46 3. An overfishing condition appears to be imminent or likely within two years.

47 4. Any adverse or significant change in ecological factors such as the availability of CPS forage
48 for dependent species or in the status of a dependent species is discovered.

49 5. Developments in a foreign fishery occur that affect the likelihood of overfishing of CPS.

50 6. An error in data or a stock assessment is detected that significantly changes estimates of impacts
51 due to current management.

52 7. Control rule (harvest policy) parameters or approaches require modification.

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

57 Direct allocation of a resource between different segments of a fishery is, in most cases, not the appropriate
58 response to a resource conservation or ecological issue. Council recommendations to directly allocate the
59 resource will be developed according to criteria and processes in the socioeconomic framework described
60 in Section 2.1.23 and Section 2.2.21-4.

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

68 The NMFS Regional Administrator will review the Council's recommendation and supporting information
69 and will follow appropriate implementation processes described in this FMP, following public notice and
70 comment. If the Council contemplates frequent adjustments to the recommended measures, it may classify
71 them as "routine" through the appropriate process described in Section 2.21.1.

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

76 2.1.23 The Socioeconomic Framework

77 Non-biological issues may arise which require the Council to recommend management actions to address
78 certain social or economic conditions in the fishery or to achieve FMP objectives. Resource allocation,

79 fishing seasons, or landing limits based on market quality and timing, safety measures, and prevention of
80 gear conflicts are examples of possible management issues with a social or economic basis. Management
81 actions that are permitted under this framework include all categories of actions authorized under the
82 point-of-concern framework with the addition of direct resource allocation and access-limitation measures.

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

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

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

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

97 If conditions warrant, the Council may designate a management measure developed and recommended to
98 address social and economic issues as a routine management measure, provided that the criteria and
99 procedures in Section 2.24.1 are followed.

100 **2.24 Types of Actions and Procedures**

101 Management measures may be imposed, adjusted, or removed at any time during the year. Management
102 measures may be imposed for resource conservation, social, or economic reasons consistent with FMP
103 procedures, goals, and objectives.

104 Analyses of biological, ecological, social, and economic impacts will be considered when a particular
105 change is proposed. As a result, time required to take action will vary depending on the type of action
106 proposed (see below), its impacts on the fishing industry, resource, and environment, as well as review of
107 these impacts by interested parties. Satisfaction of legal requirements for other applicable laws (e.g., the
108 Administrative Procedure Act, Regulatory Flexibility Act, Executive Order 12866, etc.) for actions taken
109 under this framework requires analysis and public comment before measures may be implemented by the
110 U.S. Secretary of Commerce (Secretary).

111 Management measures addressing resource conservation or ecological issues must be based on the point-
112 of-concern framework consistent with procedures and criteria listed in Section 2.1.12.

113 Management measures addressing social or economic issues must be based on the socioeconomic
114 framework consistent with procedures and criteria described in Section 2.1.23.

115 Under the point-of-concern or the socioeconomic frameworks, there are four different types of management
116 actions, requiring slightly different processes. Management measures may be established, adjusted, or
117 removed using any of these four rulemaking actions:

118 1. **Automatic Actions** may be initiated by the ~~National Marine Fisheries Service (NMFS)~~ Regional
119 Administrator without prior public notice, opportunity to comment, or a Council meeting. These
120 actions are non-discretionary and the impacts must previously have been taken into account. Examples
121 include closure of the directed fishery when the directed portion of the fishery is attained, an inseason
122 release of allocations (all species and fishery segments), release of surplus incidental catch allowance
123 to the directed fishery (if necessary), or closure of the directed fishery when the total HG, ACT, or ACL
124 is attained. The Secretary will publish a single notice in the *Federal Register* making the action
125 effective.

126 2. **"Notice" Actions** require at least one Council meeting and one *Federal Register* notice. These include
127 all management actions other than automatic actions that are either non-discretionary or have probable
128 impacts that have been previously analyzed.

129 Notice actions are intended to have temporary effect and the expectation is that they may need frequent
130 adjustment. They may be recommended at a single Council meeting, although the Council will provide
131 as much advance information to the public as possible concerning the issues it will be considering. The
132 primary examples are management actions defined as routine in Section 2.24.1. Previous analysis must
133 have been specific as to species and gear type before a management measure can be defined as routine
134 and acted upon at a single Council meeting. If recommendations are approved, the Secretary may
135 waive, for good cause, the requirement for prior notice and comment in the *Federal Register* and will
136 publish a single notice in the *Federal Register* making the action effective. This category of actions
137 presumes the Secretary will find that the extensive notice and opportunity for comment along with other
138 information provided by the Council will serve as good cause to waive the need for additional prior
139 notice and comment in the *Federal Register*.

140 3. **Abbreviated Rulemaking Actions** normally require at least two Council meetings and one *Federal*
141 *Register* rule. These include all management actions intended to have permanent effect and be
142 discretionary in nature with impacts that have not been previously analyzed. The Council will develop
143 and analyze the proposed management actions over the span of at least two Council meetings and
144 provide public advance notice and opportunity to comment on proposals and analysis prior to and at
145 the second Council meeting. If the NMFS Regional Administrator approves the Council's
146 recommendation, the Secretary may waive, for good cause, the requirement for prior notice and
147 comment in the *Federal Register* and publish a final rule in the *Federal Register* which will remain in
148 effect until amended. If a management measure is designated as routine by final rule under this
149 procedure, specific adjustments of that measure can subsequently be announced in the *Federal Register*
150 by notice as described in this FMP. The Secretary may waive the opportunity for prior notice and
151 comment in the *Federal Register*.

152 The primary purposes of the previous two categories of notice and abbreviated rulemaking procedures
153 are (1) to accommodate the Council's meeting schedule for developing annual management
154 recommendations; (2) to satisfy the Secretary's responsibilities under the Administrative Procedures
155 Act; and (3) to address the need to implement management measures by a specified date each fishing
156 year.

157 The two-Council meeting process refers to two decision meetings; the first meeting to develop proposed
158 management measures and their alternatives, and the second meeting to make a final recommendation
159 to the Secretary. Identification of issues and the development of proposals normally will begin at a
160 Council meeting prior to the first decision meeting.

161 4. **Full Rulemaking Actions** normally require at least two Council meetings and two *Federal Register*
162 rules notices. These include any highly controversial management measure. The Council will follow

163 the two meeting procedures described for the abbreviated rulemaking category. The Secretary will
164 publish a proposed rule in the *Federal Register* with an appropriate period for public comment followed
165 by publication of a final rule in the *Federal Register*.

166 2.24.1 Routine Management Measures

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

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

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

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

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

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

187 ~~2.1.2 Point of Concern Framework~~

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

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

201 ~~1. Catch is projected to exceed the current ABC's, HGs, ACLs, ACTs, or the harvest quota.~~

202 ~~2.1. Any adverse or significant change in the biological characteristics of a species (age~~
203 ~~composition, size composition, age at maturity, or recruitment) is discovered.~~

204 ~~3.1. An overfishing condition appears to be imminent or likely within two years.~~

205 ~~4.1. Any adverse or significant change in ecological factors such as the availability of CPS forage~~
206 ~~for dependent species or in the status of a dependent species is discovered.~~

207 ~~5.1. Developments in a foreign fishery occur that affect the likelihood of overfishing of CPS.~~

208 ~~6.1. An error in data or a stock assessment is detected that significantly changes estimates of impacts~~
209 ~~due to current management.~~

210 ~~7.1. Control rule (harvest policy) parameters or approaches require modification.~~

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

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

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

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

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

234 ~~2.1.3 The Socioeconomic Framework~~

235 ~~Non-biological issues may arise which require the Council to recommend management actions to address~~
236 ~~certain social or economic conditions in the fishery or to achieve FMP objectives. Resource allocation,~~
237 ~~fishing seasons, or landing limits based on market quality and timing, safety measures, and prevention of~~
238 ~~gear conflicts are examples of possible management issues with a social or economic basis. Actions that~~

239 ~~are permitted under this framework include all categories of actions authorized under the point-of-concern~~
240 ~~framework with the addition of direct resource allocation and access limitation measures.~~

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

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

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

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

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

258 2.2.21.4 *Allocation*

259 In addition to other requirements in this FMP, the Council will consider the following factors when
260 considering direct allocation of the resource:

- 261 1. Present participation in and dependence on the fishery, including alternative fisheries.
- 262 2. Historical fishing practices in, and historical dependence on, the fishery.
- 263 3. Economics of the fishery.
- 264 4. Agreements or negotiated settlements between the affected participants in the fishery.
- 265 5. Potential biological impacts on any species affected by the allocation.
- 266 6. Consistency with the MSA national standards.
- 267 7. Consistency with the goals and objectives of this FMP.

268 Modification of a direct allocation cannot be designated as "routine" unless the specific criteria for the
269 modification has been established in the regulations.

270 2.2.31.5 *Procedures for Specifying OFL, MSY, ABC, and Optimum Yield*

271 As data become available, improve, or are updated, OFL or MSY, ABC control rules, and OY specifications
272 or procedures for setting OFL or MSY, ABC control rules or OY specifications may need to be modified.
273 Changes and additions to these formulas are authorized by the FMP and may be accomplished through the

274 point-of-concern mechanism or the socioeconomic mechanism.

275 **2.2.41.6** *Management Agreements with Other Nations*

276 In the event that a management agreement between the U.S. and a foreign nation concerning CPS occurs,
277 this FMP authorizes changes or modifications to any management measure through Council processes
278 described herein.

279 **2.2.51.7** *Management Measures to Protect Non-coastal Pelagic Species*

280 CPS fishing activities may directly impact certain non-CPS species including birds, marine mammals, and
281 other fishes. This FMP authorizes implementation of measures to control CPS fishing to support
282 conservation objectives identified under overfishing definitions adopted by the Council, the Endangered
283 Species Act (ESA), the Marine Mammal Protection Act (MMPA), or other applicable law, while
284 minimizing disruption of the CPS fishery. Any measures described in this FMP may be employed to control
285 fishing impacts on non-CPS species. However, allocation may not be the primary intention of any such
286 regulation.

287 The process for implementing and adjusting such measures may be initiated at any time under the point of
288 concern or socioeconomic frameworks. In addition, measures to protect non-CPS may be designated as
289 routine as described in Section 2.24.1, which will allow adjustment at a single meeting based on relevant
290 information available at the time if (1) modification is proposed for the same purpose as the original
291 measure, and (2) impacts of the modification are within the scope of the impacts analyzed when the measure
292 was originally classified as routine.

293 Generally, the Council will initiate the process of establishing or adjusting management measures when a
294 non-CPS resource problem is identified, and it has been determined that CPS fishing regulations will reduce
295 the total impact on that species or stock. It is anticipated this will generally occur when a state or Federal
296 resource management agency (such as the U.S. Department of the Interior, NMFS, or a state fishery agency)
297 presents the Council with information substantiating its concern for a particular species. The Council will
298 review the information and refer it to the SSC, CPSMT or other appropriate technical advisory group for
299 evaluation. If the Council determines that management measures may be necessary to address requirements
300 of the ESA, MMPA, international agreements, or other relevant Federal law or policy, it may implement
301 appropriate management measures in accordance with the procedures identified in Section 2.1. The
302 intention of the measures may be to share conservation burdens while minimizing disruption of the CPS
303 fishery, but under no circumstances may the intention be simply to provide more fish to a different user
304 group or to achieve other allocation objectives.

305 **2.32** *Other Management Measures*

306 **2.32.1** *Generic*

307 These management measures apply to all vessels participating in the CPS fishery.

308 **2.32.1.1** *Observers*

309 All fishing vessels operating in this management unit, including catcher/processors, at-sea processors, and
310 vessels that harvest in Washington, Oregon, or California and land catch in another area, may be required
311 to accommodate NMFS certified observers on board to collect scientific data. An observer program will
312 be considered only for circumstances where other data collection methods are deemed insufficient for
313 management of the fishery. Implementation of any observer program will be in accordance with

314 appropriate procedures outlined under this framework.

315 As determined by the NMFS Regional Administrator, there may be a need for observers on at-sea
316 processing vessels to collect data normally collected at shore-based processing plants. Processing vessels
317 must accommodate on-board observers and may be required to provide the NMFS certified observers prior
318 to issuance of any required Federal permits. Observers are required on foreign vessels operating in U.S.
319 waters.

320 **2.32.1.2 Essential Fish Habitat**

321 The MSA requires councils to include descriptions of EFH in all Federal FMPs. In addition, the MSA
322 requires Federal agencies to consult with NMFS on activities that may adversely affect EFH. Appendix D
323 of Amendment 8 to this FMP includes a description of EFH for the CPS included in the plan at that time,
324 fishing effects on EFH, non-fishing effects on EFH, and options to avoid or minimize adverse effects on
325 EFH or promote conservation and enhancement of EFH. This definition was reviewed and reaffirmed by
326 the Council in 2005. Amendment 12 to the CPS FMP defined EFH for prohibited harvest species
327 (Euphausiids).

328 Magnuson-Stevens Act Directives Relating to EFH

329 MSA directives and NMFS guidance on implementation are addressed in greater detail in Appendix D.
330 The MSA defines EFH as “those waters and substrate necessary to fish for spawning, breeding, feeding, or
331 growth to maturity.” To clarify this definition, the following interpretations are made: “waters” include
332 aquatic areas and their associated physical, chemical, and biological properties that are used by fish, and
333 may include areas historically used by fish where appropriate; “substrate” includes sediment, hard bottom,
334 structures underlying the waters, and associated biological communities; “necessary” means the habitat
335 required to support a sustainable fishery and the managed species’ contribution to a healthy ecosystem; and
336 “spawning, breeding, feeding, or growth to maturity” covers the full life cycle of a species. The definition
337 of EFH may include habitat for an individual species or an assemblage of species, whichever is appropriate
338 to the FMP.

339 The MSA requires councils to describe in FMPs any fishing activities that may adversely affect EFH. The
340 MSA also requires FMPs to include management measures that minimize adverse effects on EFH from
341 fishing, to the extent practicable.

342 In addition, the EFH regulations require identification of non-fishing adverse impacts on EFH. The MSA
343 specifies that councils may comment on and make recommendations to the Secretary and any Federal or
344 state agency concerning any activity authorized, funded, or undertaken, or proposed to be authorized,
345 funded or undertaken, by any state or Federal agency that, in the view of the Council, may affect the habitat,
346 including EFH, of a fishery resource under its authority. If the Secretary receives information that an
347 activity of a state or Federal agency would adversely affect EFH, the Secretary shall recommend to such
348 agency measures that can be taken by such agency to conserve such habitat. Nonfishing impacts on EFH
349 and corresponding potential conservation measures are included in Appendix D.

350 Definition of Essential Fish Habitat for CPS

351 The CPS fishery includes four finfish (Pacific sardine, Pacific ~~hub~~-mackerel, northern anchovy, and jack
352 mackerel) the invertebrate, market squid, and all euphausiid (krill) species that occur in the West Coast
353 EEZ. CPS finfish are pelagic (in the water column near the surface and not associated with substrate),
354 because they generally occur or are harvested above the thermocline in the upper mixed layer. For the
355 purposes of EFH, the four CPS finfish are treated as a complex because of similarities in their life histories

356 and similarities in their habitat requirements. Market squid are also treated in this same complex because
357 they are similarly fished above spawning aggregations.

358 The definition of EFH for CPS finfish is based on a thermal range bordered by the geographic area where
359 CPS occur at any life stage, where CPS have occurred historically during periods of similar environmental
360 conditions, or where environmental conditions do not preclude colonization by CPS. The identification of
361 EFH for CPS accommodates the fact that the geographic range of CPS varies widely over time in response
362 to the temperature of the upper mixed layer of the ocean.

363 The east-west geographic boundary of EFH for CPS is defined to be all marine and estuarine waters from
364 the shoreline along the coasts of California, Oregon, and Washington offshore to the limits of the EEZ and
365 above the thermocline where sea surface temperatures range between 10°C to 26°C. The southern boundary
366 is the United States-Mexico maritime boundary. The northern boundary is more dynamic, and is defined
367 as the position of the 10°C isotherm, which varies seasonally and annually. Appendix D provides a more
368 detailed description of this variability.

369 The EFH designation for all species of krill extends the length of the West Coast from the shoreline to the
370 1,000 fm isobath and to a depth of 400 meters. The designation of essential habitat for krill is based on
371 information about EFH for the two principal species, *Euphausia pacifica* and *Thysanoessa spinifera*. It
372 was not possible at the time of Amendment 12 to discern consistent differences in distribution of the various
373 life stages, other than coastwide, the larvae of both species tend to occur closer to shore, often over the
374 shelf. Isobaths (depth contours) are used ~~below~~ as outer boundaries of EFH, but only because they roughly
375 approximate the outer bounds of reported densest concentrations of the populations, and because static
376 boundaries are preferred for the legal definition of EFH. These contours also roughly form the outer
377 boundaries of some of the major upwelling areas (though perhaps not some of the larger offshore jets),
378 within which consistently high concentrations of phytoplankton occur. The boundaries are not meant to
379 imply the strict association of these highly dynamic macroplanktonic species with fixed bottom topography.
380 No habitat areas of particular concern were identified.

381 Management Measures to Minimize Adverse Impacts on EFH from Fishing

382 The Council may use any of the following management measures to minimize adverse effects on EFH from
383 fishing, if there is evidence that a fishing activity is having an identifiable adverse effect on EFH. Currently,
384 there is not evidence that a fishing activity is having an identifiable adverse effect on CPS EFH. Such
385 management measures shall be implemented under the point-of-concern framework as described in Section
386 2.1.12.

- 387 ● Fishing Gear Restrictions
- 388 ● Time/Area Closures
- 389 ● Harvest Limits, or other applicable measures

390 In determining whether it is practicable to minimize an adverse effect from fishing, the Council should
391 consider whether, and to what extent, the fishing activity is adversely impacting EFH, including the fishery;
392 the nature and extent of the adverse effect on EFH; and whether management measures are practicable.
393 This determination should take into consideration the long- and short-term costs and benefits to the fishery
394 and EFH, along with other appropriate factors, consistent with National Standard 7 (conservation and
395 management measures shall, where practicable, minimize costs and avoid unnecessary duplication).

396 **2.32.1.3 Vessel Safety Considerations**

397 The Council will consider and may provide, after consultation with the U.S. Coast Guard and persons
398 utilizing the fishery, temporary adjustments for access to the fishery by vessels otherwise prevented from
399 harvesting because of weather or other ocean conditions affecting the safety of the vessels.

400 **2.32.1.4 Limited Entry**

401 This FMP authorizes changes and modifications to any effort limitation programs established herein and
402 development of additional effort limitation programs. Changes may include, but are not limited to,
403 requirements for obtaining, maintaining, and renewing permits in any effort limitation system.

404 **2.32.2 Domestic Commercial Management Measures**

405 All measures, unless otherwise specified, apply to all domestic vessels.

406 **2.32.2.1 Permits**

407 Federal permits may be required for individuals or vessels that harvest CPS, and for individuals or facilities
408 (including vessels) that process CPS or purchase live CPS. In determining whether to require a harvesting
409 or processing permit, and in establishing the terms and conditions for issuing a permit, the Council may
410 consider any relevant factors including whether a permit:

- 411 1. Will enhance the collection of biological, economic, or social data.
- 412 2. Will provide better enforcement of laws and regulations, including those designed to ensure
413 conservation and management and those designed to protect consumer health and safety.
- 414 3. Will help achieve the goals and objectives of the FMP.
- 415 4. Will help prevent or reduce overcapacity in the fishery.
- 416 5. May be transferred, and under what conditions.

417 Separate permits or endorsements may be required for harvesting and processing, or for vessels or facilities
418 based on size, type of fishing gear used, species harvested or processed, or such other factors that may be
419 appropriate. The permits and endorsements are also subject to sanctions, including revocation, as provided
420 by Section 308 of the MSA.

421 In establishing a permit requirement, the Council will follow the rulemaking procedures as described in
422 Section 2.21.

423 **2.32.2.2 Permit Revocation and Reinstatement**

424 This FMP allows National Oceanic and Atmospheric Administration (NOAA), under procedures of 15 CFR
425 Part 904, to revoke or suspend any Federal LE permit issued under authority of the CPS FMP.

426 **2.32.2.3 Catch Restrictions**

427 This FMP authorizes the commercial and recreational harvest of CPS and provides for limiting the harvest
428 of CPS managed under this plan. Catch restrictions may be modified under the framework provisions.

429 **2.32.2.4 Prohibited Species**

430 This FMP does not authorize the taking, retaining, or possessing of any species by CPS gears, if such taking
431 or possessing is prohibited by other state or Federal regulations. Species identified as prohibited must be
432 returned to the sea as soon as practical with a minimum of injury after allowing for sampling by an observer,
433 if any. Exceptions may be made for recovery of tagged fish.

434 This FMP authorizes the designation of other prohibited species in the future, or the removal of a species
435 from this classification, consistent with other applicable law for that species.

436 **2.32.2.5 Gear Restrictions**

437 This FMP authorizes the use of net gear, hook-and-line, pots (traps), longlines, and any other type of gear
438 as legal gear for the commercial harvest of CPS, unless such gear is specifically prohibited by state law.

439 Implementation and modification of specific management measures regarding gear, such as definitions of
440 legal gear, mesh size restrictions, gear marking, or other gear restrictions are authorized by this FMP. Gear
441 restrictions may be established, modified, or removed under the point-of-concern or socioeconomic
442 frameworks. Any changes in gear regulations should be scheduled to minimize costs to the fishing industry,
443 insofar as this is consistent with achieving the goals of the change.

444 **2.32.2.6 Closed Fishing Areas**

445 Currently, there are certain areas closed to commercial round-haul fishing or fishing for reduction
446 processing. Those areas were originally closed by the State of California to avoid commercial fishing
447 conflicts with sport fisheries and reduce potential impacts on sport fish and salmon. This FMP authorizes
448 the issuance of EFPs in Section 2.32.8 for fishing in closed areas consistent with the goals and objectives
449 of the FMP.

450 Closed areas shall be implemented or changed through the procedures described in Section 2.1 and 2.2.

451 **2.32.2.7 Reporting Requirements**

452 This FMP authorizes domestic annual harvest (DAH) survey, EFP application, and foreign vessel reporting
453 and records keeping requirements. This FMP authorizes other domestic vessel permit applications and
454 reporting requirements in the future.

455 Other Reporting and Record Keeping Requirements

456 Catch, effort, biological, and other data necessary for implementation of this FMP will continue to be
457 collected by the states of Washington, Oregon, and California under existing state data collection
458 provisions. Federal reporting requirements, such as logbooks, will be implemented only when data
459 collection and reporting systems operated by state agencies fail to provide the Secretary with statistical
460 information for adequate management. Any special reporting requirement should be imposed only if it is
461 expected to enhance the Council's and NMFS' ability to manage the CPS fishery more effectively.

462 Conditions may develop in the CPS fishery that make current state reporting requirements insufficient. It
463 is possible that delays in obtaining catch data or missing catch data could affect stock assessments or other
464 management efforts. To address these potential future problems, the FMP authorizes implementation of
465 Federal reporting requirements in addition to those of the various states. The purpose of these measures
466 would be to enhance the Council's ability to manage CPS stocks effectively. Additional reporting

467 requirements would be developed under framework management procedures and announced in the *Federal*
468 *Register*.

469 **2.32.2.8 Vessel Identification**

470 The FMP authorizes vessel identification requirements which may be modified as necessary to facilitate
471 enforcement and vessel recognition.

472 **2.32.3 Domestic Recreational**

473 Measures described in this section apply to domestic recreational fisheries only, although most measures
474 could be used to manage foreign recreational fisheries as well.

475 **2.32.3.1 Permits**

476 Washington, Oregon, and California have state laws concerning recreational licenses and permits. In the
477 event that Federal licenses or permits become necessary, they may be required under this FMP.

478 **2.32.3.2 Catch Restrictions**

479 This FMP authorizes establishment of catch restrictions on the recreational fishery consistent with FMP
480 goals and objectives and national standards established by the MSA.

481 **2.32.3.3 Gear Restrictions**

482 There are no Federal restrictions on legal recreational gear for CPS. Existing state regulations apply in
483 Washington, Oregon, and California. This FMP authorizes Federal recreational regulations for CPS.

484 **2.32.4 Domestic Vessels in a Joint Venture**

485 U.S. vessels operating in joint ventures on the west coast are domestic vessels and traditionally have been
486 treated the same as U.S. vessels delivering to shore facilities. However, conditions in the fishery could
487 warrant separate treatment in the future. Although all U.S. vessels have been subject to the same
488 regulations, joint venture catcher operations may be affected indirectly by restrictions (such as closed areas)
489 placed on the foreign processing vessels that receive U.S. catch at sea.

490 **2.32.5 Foreign Vessels in a Joint Venture or Foreign Fishery**

491 These measures apply to foreign vessels that process fish taken by U.S. catcher-boats under joint venture
492 processing (JVP) or to foreign vessels that operate in a fishery directed at a species for which there is a total
493 allowable level of foreign fishing (TALFF). The CPS FMP provides authority to establish, modify or
494 remove future regulations including, but not limited to, HGs, harvest quotas, seasons, area closures,
495 incidental harvest restrictions, trip and landing limits, and gear restrictions.

496 **2.32.5.1 Permits**

497 All foreign vessels operating in this management area shall have on board a permit issued by the Secretary
498 pursuant to the MSA.

499 **2.32.5.2 Target Species**

500 A foreign nation may conduct joint venture operations only for species for which there is a JVP and only

501 using boats with appropriate permits. Directed fishing is allowed only for species for which the foreign
502 nation has received an allocation of TALFF.

503 **2.32.5.3 Incidental Catch**

504 Incidental catch refers to CPS which are unavoidably caught while fishing for another species. It is
505 recognized that incidental harvest of domestically fully utilized CPS is unavoidable in joint venture and
506 foreign fisheries. Minimal incidental allowances consistent with the status of the stocks and the efficiency
507 of the joint venture or foreign fisheries will usually be allowed. These incidental allowances are not to be
508 considered as surpluses to domestic processing needs and are allowed only to provide for full utilization of
509 the species targeted in the joint venture or foreign fishery.

510 Allowances for incidental harvest in joint ventures or foreign fisheries may be percentages or some other
511 quantity at the Council's discretion. Incidental allowances may be changed at any time during the year, but
512 are published at least annually, concurrent with the annual specifications of JVP.

513 The Council may modify incidental catch allowances inseason to reflect changes in the condition of the
514 resource and performance of the U.S. industry. The Council will consider public testimony and consider
515 the following factors before establishing or changing incidental allowances: (1) observed catch rates in any
516 previous joint venture or foreign fishery; (2) current estimates of relative abundance and availability of
517 species caught incidentally; (3) ability of the foreign vessels to take the JVP or TALFF; (4) past and
518 projected foreign and U.S. fishing effort; (5) status of stocks; (6) impacts on the domestic industry; and (7)
519 other relevant information. Inseason changes will be made as a routine management measure.

520 **2.32.5.4 Prohibited Species**

521 Prohibited species means salmonids or any species of fish that a joint venture or foreign vessel is not
522 authorized to retain. Prohibited includes fish received in excess of any authorization, landing limit, or HG.
523 These species must be immediately returned to the sea with a minimum of injury after allowing for sampling
524 by an observer, if any. This FMP authorizes the designation of other prohibited species in the future, or the
525 removal of a species from this classification if consistent with the applicable law for that species.

526 **2.32.5.5 Season and Area Restrictions**

527 There is no season restriction unless otherwise specified according to this FMP. There is no area restriction,
528 unless otherwise specified according to this FMP. Joint venture and foreign fisheries for CPS may not be
529 conducted within the LE area south of 39° N latitude.

530 Season and area restrictions for foreign vessels operating in a joint venture or foreign fishery may be
531 established, modified, or removed at any time during the year in accordance with the procedures in
532 Sections 2.1.12 and 2.1.23 or by foreign vessel permit conditions.

533 **2.32.5.6 Reporting and Record Keeping Requirements**

534 Foreign nations receiving U.S. harvested fish in a joint venture or participating in a foreign fishery are
535 required to submit detailed reports of fishing effort, location, amount, and disposition by species or species
536 group, and transfer of fish or fish products, as needed for monitoring and management of the fishery.
537 Reports may be required at specified time intervals. The NMFS Regional Administrator may require daily
538 reports when a specified fraction of JVP, TALFF, or incidental allowance is reached. In addition, each
539 country may be required to report arrival, departure, and positions of each of its vessels, as specified under
540 the regulations and permit conditions, as needed for monitoring fleet deployment. Logbooks may be

541 required to fulfill fishery conservation, management, and enforcement purposes of the MSA. These logs
542 may include, but are not limited to, communications logs, transfer logs, or daily joint venture logs with
543 haul-by-haul and daily receipt data, effort, and production information.

544 **2.32.5.7 Dumping**

545 Foreign and other vessels are prohibited from dumping pollutants and fishing gear which would degrade
546 the environment or interfere with domestic fishing operations.

547 **2.32.5.8 Fishery Closure**

548 A joint venture or directed foreign fishery shall cease each year when, (1) the JVP or TALFF is reached;
549 (2) the maximum incidental catch allowance for that nation of any species or species group is reached;
550 (3) the overall HG or harvest quota for the allocated species is reached; (4) the applicable open season is
551 ended; or (5) as necessary for resource conservation reasons under the point-of-concern mechanism.

552 **2.32.5.9 Observers**

553 Observers shall be placed on each foreign vessel while it is operating in a foreign or joint venture fishery,
554 as provided by Title II of the MSA. The law provides for the following exceptions to this requirement:

- 555 1. If observers are aboard motherships of a mothership/catcher vessel fleet.
- 556 2. If the vessel is in the EEZ for such a short time that an observer would be impractical.
- 557 3. If facilities for quartering an observer are inadequate or unsafe.
- 558 4. For reasons beyond the control of the Secretary, an observer is not available.

559 **2.32.5.10 Other Restrictions**

560 The Secretary may impose additional requirements for the conservation and management of fishery
561 resources covered by the vessel permit or for national defense or security reasons. These restrictions
562 include, but are not limited to, season, area, and reporting requirements.

563 The highest priority of this FMP is to provide for conservation of the resource. Any restriction on the joint
564 venture fishery may be modified under the point-of-concern mechanism for resource conservation reasons.

565 **2.32.6 Foreign Recreational**

566 Foreign recreational fishing refers to any fishing from a foreign vessel not operated for profit or scientific
567 research, and not involved in the sale, barter, or trade of any part of the catch. This FMP authorizes
568 establishment of catch restrictions on the foreign recreational fishery which are consistent with the goals
569 and objectives of this FMP and the national standards established by the MSA.

570 **2.32.7 Limited Entry**

571 Research and monitoring programs may need to be developed and implemented for the CPS fishery so that
572 information required in an LE program is available. Such data should indicate the character and level of
573 participation in the fishery, including but not limited to: (1) investment in vessel and gear; (2) the number
574 and type of units of gear; (3) the distribution of catch; (4) the value of catch; (5) the economic returns to
575 the participants; (6) mobility between fisheries; (7) purchase or sale prices of LE permits; and (8) various

576 social and community considerations.

577 **2.32.8 Exempted Fishing**

578 "Exempted fishing" is defined to be fishing practices that are new to the fishery or not allowed under the
579 FMP. Under this FMP, the NMFS Regional Administrator may authorize the targeted or incidental harvest
580 of CPS for experimental or exploratory fishing that would otherwise be prohibited. The NMFS Regional
581 Administrator may restrict the number of experimental permits by total catch, time, or area. The NMFS
582 Regional Administrator may also require any level of industry-funded observer coverage for these
583 experimental permits. EFP proposals targeting management unit species or CPS EC species will be subject
584 to the protocol for EFPs for CPS Fisheries (Council Operating Procedure 23). EFP proposals targeting EC
585 species shared between all four FMPs, including the CPS FMP, will be subject to the protocol for Shared
586 EC Species (Council Operating Procedure 24). Exempted fisheries for euphausiids (krill) will not be
587 considered.

588 Exempted fisheries are expected to be of limited size and duration and must be authorized by an EFP issued
589 for the participating vessel in accordance with the criteria and procedures specified in 50 CFR §600.745.
590 The duration of EFPs will ordinarily be one year. Permits will not be renewed automatically. An
591 application must be submitted to the Regional Administrator for each year. A fee sufficient to cover
592 administrative expenses may be charged for EFPs. An applicant for an EFP need not be the owner or
593 operator of the vessel(s) for which the EFP is requested as long as the proposed activity is compatible with
594 LE and other management measures in the FMP.

595 This FMP authorizes mandatory data reporting and mandatory on-board observers with EFPs. Installation
596 of vessel monitoring units aboard vessels with EFPs may be required.

597 Nothing in this FMP is intended to exclude or to limit use of CPS, markets, or processing methods as long
598 as the process in question is compatible with measures and intentions of this FMP.

599 Priorities for issuing EFPs are as follows:

- 600 1. Domestic boats delivering to domestic processors and domestic factory trawlers (with equal
601 priority).
- 602 2. Domestic catcher-boats delivering to a foreign offshore processor.

603

604 Boats already involved in developing a fishery for an underutilized species (i.e., boats with a catch history
605 or previous EFP) should receive highest priority in applying for and renewing permits.

606 **2.32.9 Other Fees and Permits**

607 Nothing in this FMP is intended to exclude use of additional fees or permits in the future as long as the fee
608 or permit is consistent with applicable law, management measures, and intent of this FMP. It may, for
609 example, become desirable to issue permits for processing CPS in onshore plants or processing vessels
610 offshore. It may be desirable to charge fees sufficient to cover administrative costs of issuing additional
611 types of permits. Changes in requirements for obtaining, maintaining, and renewing permits are authorized.

612 **2.43** Scientific Research

613 Nothing in this FMP is intended to inhibit or prevent any scientific research involving CPS which is
614 acknowledged by the Secretary through procedures set out in 50 CFR §600.745.

615 Proposed activity is not scientific research unless it is submitted in writing to the Secretary in the form of a
616 research proposal which addresses all of the factors below. An activity may be acknowledged as scientific
617 research if its primary objective, purpose, or product is the acquisition of data, information, or knowledge
618 as determined by consideration of all of the following factors:

- 619 1. The proposed program will result in information useful for scientific or management purposes.
- 620 2. The application of existing knowledge alone is insufficient to solve the scientific or management
621 subject or problem presented by the scientific research proposal.
- 622 3. Facts/data/samples will be collected or observed and analyzed in a scientifically acceptable manner
623 and the results will be formally prepared and available to the public.
- 624 4. Recognized scientific experts, organizations, or institutions with expertise in the field or subject
625 matter area are conducting, sponsoring or are otherwise affiliated with the activity.

626

627 Secretarial Acknowledgment of Scientific Research

628 If the Secretary agrees that an activity constitutes scientific research involving CPS, a letter of
629 acknowledgment should be issued to the applicant and operator or master of the vessel conducting the
630 scientific research. The letter will include information on the purpose, scope, location, and schedule of the
631 acknowledged activities. Any activities not in accordance with the letter of acknowledgment should be
632 subject to all provisions of the MSA and its implementing regulations. The Secretary should transmit copies
633 of letters of acknowledgment to the Council, state or Federal administrative and enforcement agencies to
634 ensure they are aware of the research activities.

635 CPS taken under the scientific research exclusion may be sold to offset all or part of the cost of carrying
636 out the research plan including costs associated with operating the research vessel.

637 **2.54** Restrictions on Other Fisheries

638 For each non-CPS fishery, a reasonable limit on the incidental CPS catch may be established that is based
639 on the best available information. The objectives of restrictions on other fisheries under this framework
640 are to:

- 641 1. Minimize discards in the non-CPS fishery by allowing retention and sale, thereby increasing fishing
642 income.
- 643 2. Discourage targeting on CPS by the non-CPS fleet.

644

645 Incidental limits may be imposed or adjusted in accordance with appropriate procedures described in this
646 FMP. The Secretary may accept or reject but not substantially modify the Council's recommendations.

647 2.65 Procedures for Reviewing State Regulations

648 This FMP acknowledges that state regulations are a fundamental part of CPS management. All existing
649 state regulations at the time of implementation of this plan are consistent with this FMP.

650 This FMP establishes a review process by which any state may obtain a determination that its regulations
651 are consistent with the FMP and the national standards. As necessary, the Council may also recommend to
652 NMFS that duplicate or different Federal regulations be implemented in the EEZ. While the Council retains
653 the authority to recommend Federal regulations be implemented in the EEZ, the preference is to continue
654 to rely on state regulations in that area as long as they are consistent with the FMP.

655 While states are not required to submit regulations which they wish to apply in the EEZ to the Council for
656 a consistency determination, regulations which have not received a consistency determination run the risk
657 of being declared inconsistent and invalid if challenged in a state law enforcement proceeding. The Council
658 invites submission of all present and future state fishery regulations relating to the harvest of species
659 managed under this FMP which are to apply in the EEZ.

660 Review Procedure

661 Any state may propose that the Council review a particular state regulation for the purpose of determining
662 its consistency with the FMP and the need for complementary Federal regulations. Although this procedure
663 is directed at the review of new regulations, existing regulations affecting the harvest of CPS managed by
664 the FMP may also be reviewed under this process. The state making the proposal will include a summary
665 of the regulation in question and concise arguments in support of consistency.

666 Upon receipt of a state's proposal, the Council may make an initial determination whether or not to proceed
667 with the review. If the Council determines that the proposal has insufficient merit or little likelihood of
668 being found consistent, it may terminate the process immediately and inform the petitioning state in writing
669 of the reasons for its rejection.

670 If the Council determines sufficient merit exists to proceed with a determination, it will review the state's
671 documentation or prepare an analysis considering, if relevant, the following factors:

- 672 1. How the proposal furthers or is not otherwise consistent with the objectives of the FMP, the MSA,
673 and other applicable law.
- 674 2. Likely effect on or interaction with any other regulations in force for the fisheries in the area
675 concerned.
- 676 3. Expected impacts on the species or species group taken in the fishery sector being affected by the
677 regulation.
- 678 4. Economic impacts of the regulation, including changes in catch, effort, revenue, fishing costs,
679 participation, and income to different sectors being regulated as well as to sectors which might be
680 indirectly affected.
- 681 5. Any impacts in terms of achievement of HGs or harvest quotas, maintaining year-round fisheries,
682 maintaining stability in fisheries, prices to consumers, improved product quality, discards, joint
683 venture operations, gear conflicts, enforcement, data collection, or other factors.

684

685 The Council will inform the public of the proposal and supporting analysis and invite public comments
686 before and at the next scheduled Council meeting. At its next scheduled meeting, the Council will consider
687 public testimony, public comment, advisory reports, and any further state comments or reports, and
688 determine whether or not the state regulation is consistent with the FMP and whether or not to recommend
689 implementation of complementary Federal regulations or to endorse state regulations as consistent with the
690 FMP without additional Federal regulations.

691 If the Council recommends the implementation of complementary Federal regulations, it will forward its
692 recommendation to the NMFS Regional Administrator for review and approval. The NMFS Regional
693 Administrator will publish the proposed regulation in the *Federal Register* for public comment, after which,
694 if approved, he/she will publish final regulations as soon as practicable. If the Regional Administrator
695 disapproves the proposed regulations, he/she will inform the Council in writing of the reasons for
696 disapproval.

697 2.76 Standardized Bycatch Reporting Methodology

698 As required under ~~Magnuson-Stevens Act~~MSA, all FMPs must “establish a standardized reporting
699 methodology to assess the amount and type of bycatch occurring in the fishery” (16 U.S.C. § 1853(a)(11)).
700 ~~Standardized bycatch reporting methodology (SBRM)~~ is an established, consistent procedure or procedures
701 used to collect, record, and report bycatch data in a fishery, which may vary from one fishery to another.
702 This section describes the SBRM for CPS fisheries and how it meets the purpose of SBRMs.

703 Characteristics of Bycatch

704 Bycatch in CPS fisheries is typically low due to the characteristics of the targeted species and the fishing
705 gears. For example, CPS finfish typically school with similarly sized fish and are harvested above the
706 thermocline (not associated with substrate). CPS vessels fish with roundhaul gear (purse seine or lampara
707 nets). Roundhaul fishing tends to reduce unintentional catch, primarily because the fishermen target specific
708 schools of CPS finfish and market squid, and the net can be adjusted when fishing in shallow water to
709 reduce bycatch of benthic species. The most common catch of non-target species in a CPS fishery are other
710 CPS species, which are typically sold and therefore are not bycatch. Various reviews of catch in CPS
711 fisheries have confirmed that bycatch of non-CPS is extremely low.

712 The SBRM for CPS fisheries, as established under Amendment 9, is a reflection of the characteristics of
713 bycatch in the fishery and findings from analyses during the development of Amendment 9 that showed
714 bycatch was sufficiently minimized through existing management measures and regulations, and that
715 SBRM could be accomplished cost-effectively through required state programs. The CPS SBRM consists
716 of a suite of reporting and monitoring programs required by the states of California, Oregon, and
717 Washington including logbooks, fish landing receipts, shorebased/dockside sampling, and observer
718 programs for newly developing fisheries. Of these, fish landing receipts are mandated by all three states
719 and apply uniformly to all CPS landings whereas the other programs may vary by fishery and state
720 depending on need.

721 Data Uncertainty

722 Additionally, the CPS FMP authorizes federal observers as described in Section 2.32.1.1. This regulation
723 was added to the FMP through Amendment 9 as part of the FMP’s SBRM. Based on the data collected
724 through historical observing programs, bycatch in CPS fisheries is known with reasonable certainty to be
725 low, with the majority of non-target species caught in CPS fisheries being other CPS that are incidental
726 catch rather than bycatch. Hence, CPS fisheries are not currently subject to having mandatory observers
727 aboard. In addition, Washington and Oregon state regulations authorize observers and states may conduct

728 observer programs.

729 Feasibility Check and Data Use

730 These reporting and monitoring programs have been operating efficiently for many years and have shown
731 to be feasible over time, as evidenced by their continued operation and use of the resulting data. The data
732 from these programs are used each year by the Council, usually in the annual SAFE document, to assess
733 the type and amount of bycatch in CPS fisheries. There is relatively low uncertainty around the suite of data
734 from these programs because they have been ground-truthed by other more intensive data collection
735 methods, namely observer programs in the 1990s and early 2000s, that were discontinued due to findings
736 that bycatch in CPS fisheries was indeed low.

737

Chapter 3

1 3.0 LIMITED ENTRY

2 This FMP establishes an LE program for CPS finfish including northern anchovy, Pacific ~~(chub)~~ mackerel,
3 jack mackerel, and Pacific sardine landed south of 39° N latitude. Details on the purpose and analysis of
4 the LE capacity goal and permit transferability can be found in Amendment 10.

5 3.1 Problem Addressed by Limited Entry

6 Prior to implementation of the FMP, vessels participating in the CPS finfish fishery were capable of
7 harvesting more CPS finfish than available under current or likely future biomass conditions. Fisheries
8 characterized by excess harvesting capacity are described as overcapitalized in terms of the number of
9 vessels, and the amount of gear and equipment devoted to harvesting. As fisheries become overcapitalized,
10 harvesting costs increase while catches remain the same. This situation represents an economically
11 inefficient use of society's productive resources, and causes several problems for managers and the fishing
12 industry when abundance declines and catches are reduced. As harvest capacity in the fisheries increases,
13 problems arising from the need for more restrictive management measures and resolution of allocation
14 issues become more acute. No relief from these problems will occur if harvest capacity continues to rise.

15 It was estimated that 640 vessels landed CPS finfish during the period January 1, 1993 through November
16 5, 1997. Forty-one of these vessels, six percent, accounted for more than 95 percent of finfish landings for
17 the five-year period (Amendment 8, Appendix B, Table 3.8.7-1). Available information at the time
18 indicated that present participants could harvest at least as much CPS finfish as would be available under
19 conditions of greater availability. ~~At the time,~~ Capacity during the 1993 to 1997 period was estimated to
20 be as much as 20 percent greater than the combined MSY for anchovy, Pacific (chub) mackerel, and sardine
21 (about 400,000 mt per year).^{1/} ~~At the time,~~ Experience in the fishery and some crude calculations indicate
22 that about 75 vessels would have sufficient harvesting capacity to take almost all of the CPS finfish likely
23 to ever be available.

24 In addition to ~~current~~ CPS finfish participants, that were active during the 1993-1997 period, it was expected
25 that newcomers awere likely to be attracted to the fishery, because of the expanding sardine biomass and
26 squid fishery, and as competition in other Pacific Coast fisheries ~~becomes more intense~~ intensified. In the
27 latter instance, nearly all groundfish stocks ~~are now were then~~ fully harvested by domestic fishers in the
28 Pacific Coast groundfish fishery. Potential participants in the CPS finfish fishery then consisted of fishers
29 leaving other West Coast and North Pacific fisheries that had ~~ve~~ grown increasingly more restrictive and
30 overcrowded relative to available CPS harvests.

31 In the Pacific Coast CPS finfish fishery, excess harvest capacity was expected tois likely ~~to~~ result in an
32 increasing number and complexity of regulations. Accordingly, the Council will faced increased pressure
33 to balance the conflicting need to protect the resource with the need to provide sufficient allowable catch
34 to sustain the fishery.

35 It was recognized that H increased number and complexity of regulations have many adverse impacts in such
36 areas as fleet costs, resource utilization, safety, enforcement costs and effectiveness. Moreover, there is a
37 point beyond which additional regulations, which interfere with ~~day to day~~ day-to-day vessel operations
38 (e.g., trip limits or mesh size regulations), will not improve the Council's ability to accomplish its
39 management goals. Pressures on industry arise not only from management measures which restrict

^{1/} The estimate 400,000 mt per year is the sum of estimated MSY for each stock reduced by a crude estimate of the fraction of the stock in U.S. waters. It is unlikely that all stocks would be abundant at the same time and that 400,000 mt of catch would be available in any one year.

40 operations, but also from increased competition for the allowable catches among larger numbers of vessels.

41 For these reasons, the FMP established an LE fishery south of 39° North latitude (as described at Section
42 3.45.2). -Operational aspects of the LE fishery are described in subsequent sections.

43 3.2 Goals and Objectives for Finfish Limited Entry

44 The goals and objectives for this FMP are presented in Section 1.65. The most important of these in the
45 context of LE are:

- 46 A. Promote efficiency and profitability in the fishery.
- 47 B. Achieve OY.
- 48 C. Accommodate existing fishery segments.
- 49 D. Use resources spent on management of CPS efficiently.

50

51 Not all these objectives are complementary. -The challenge is to create an LE program which strikes a
52 balance between increasing net returns from the fishery, achieving OY, accommodating participation by
53 those with substantial investments in the fishery, and efficiently using management resources.

54 ~~3.32.1~~ Capacity Goal

55 The purpose of the capacity goal is to ensure fishing capacity in the CPS LE fishery is in balance with
56 resource availability. -The LE fleet capacity goal is 5,650.9 mt as represented by cumulative ~~gross tonnage~~
57 ~~(GT)~~ of the LE fleet of vessels.

58 This level of capacity results in a larger, diverse CPS finfish fleet, which also relies on other fishing
59 opportunities such as squid and tuna, with normal harvesting capacity equal to the long-term expected
60 aggregate finfish target harvest level, approximately 110,000 mt, and with physical capacity available to
61 harvest peak period amounts of finfish, 275,000 mt. -The ~~current~~ (June 2002) fleet of 65 vessels satisfies
62 this goal. -Estimated normal harvesting capacity for the ~~current~~ (June 2002) fleet ranged from 60,000 mt to
63 111,000 mt per year; physical harvesting capacity ranged from 361,000 to 539,000 mt per year. -Total
64 calculated GT for the ~~current~~ (June 2002) fleet ~~was~~ 5,650.9 mt. -Therefore, 5,650.9 mt of GT represents
65 the current fleet capacity goal.

66 ~~3.3 — Achievement of Goals and Objectives and Need for Additional Measures to Reduce~~ 67 ~~Capacity~~

68 The LE program for CPS finfish adopted under this amendment to the northern anchovy FMP will not in
69 itself immediately accomplish the goals and objectives the Council has established for the fishery. It is a
70 first step that may slow or prevent the worsening of conditions which impede the Council from achieving
71 the overall goals and objectives for the fishery. -The LE fleet size and transferability provisions represent a
72 balance between the LE goals of accommodating existing fishery participants (goal C ~~above~~) and promoting
73 efficiency and profitability in the fishery (goal A). -Establishment of this LE system ~~will provide~~s a starting
74 point for any future programs which may be necessary to further reduce harvest capacity.

75 3.3.1 Maintaining the Capacity Goal

76 Conditions and effects of transferability will be reevaluated periodically in conjunction with achievement
77 of the capacity goal, and objectives of the FMP. -The Council established a trigger for reevaluation based
78 on an overall change in fleet GT of 5 percent. -The CPSMT will evaluate capacity in the CPS finfish fishery

79 relative to the capacity goal every two years ~~and starting in 2003. In report in~~ the annual CPS SAFE, ~~(begun~~
80 ~~in 2003) the CPSMT will include a report to the Council~~ on the status of fleet capacity and, if necessary,
81 ~~make~~ recommendations regarding the capacity goal and permit transferability.

82 ~~3.4 Nature of the Interest Created~~

83 ~~CPS LE permits confer a privilege to participate in the West Coast CPS finfish fishery in accordance with~~
84 ~~the LE system established under this FMP and implementing regulations, or any future amendment to the~~
85 ~~FMP and implementing regulations. Future amendments to the FMP may modify or even abolish the LE~~
86 ~~system. The permits are also subject to sanctions including revocation, as provided by the MSA, 16 USC~~
87 ~~1858(g) and 15 CFR part 904.~~

88 ~~3.45~~ Scope of Limited Entry

89 ~~3.45.1~~ *Species within the Scope of Limited Entry*

90 The provisions of this chapter apply only to CPS finfish, including northern anchovy, Pacific ~~(chub)~~
91 mackerel, jack mackerel, and Pacific sardine.

92 ~~3.45.2~~ *Geographic Scope of Limited Entry*

93 The provisions of this chapter establish a CPS finfish LE program for the fishery south of 39° N latitude
94 (approximately Point Arena, California). ~~In the context of LE, fishing for and landing CPS finfish south of~~
95 ~~39° N latitude is defined as landing CPS finfish. Fishing for and landing of CPS finfish north of 39° N~~
96 ~~latitude is not affected by LE requirements. CPS finfish fishing in the northern area is would be~~ managed
97 as an open access fishery. ~~This does not preclude effective management or future extension of LE in the~~
98 north.

99 ~~3.56~~ Limited Entry Permits

100 ~~3.56.1~~ *Initial Issuance of Limited Entry Permits*

- 101 1. Each qualifying vessel will entitle the current owner to one LE permit.
- 102 2. A vessel qualifies for an LE permit by meeting the initial issuance criteria in Section 3.526.1.1.
- 103 3. A given vessel cannot receive more than one LE permit.
- 104 4. Fees may be charged to cover ~~National Marine Fisheries Service (NMFS)~~ administrative costs
105 associated with issuance or transfer of permits.
- 106 5. Permits are assigned to one vessel at a time.
- 107 6. The vessel owner is responsible for maintaining the permit and any other documentation required
108 on board each vessel with a permit to fish for CPS.
- 109 7. An LE permit may not be used with a vessel unless it is registered for use with that vessel.
- 110 8. LE permits will be registered for use with a vessel and a registered vessel may be changed only
111 according to procedures outlined in the FMP and regulations.
- 112 9. If the permit will be used with a vessel other than the one registered on the permit, a registration

113 for use with the new vessel must be obtained from the Regional Director and placed aboard the
114 vessel before the vessel is used to fish for CPS.

115
116 **3.5.26-1.1 Initial Issuance Criteria**

117 The owner of a CPS vessel ~~will~~ received an LE permit if, during the window period of January 1, 1993 to
118 November 5, 1997, the vessel landed or delivered a cumulative total of 100 mt of CPS finfish. -No more
119 than one LE permit ~~was~~ will be issued for each qualifying vessel. -The permit ~~was~~ will be issued only to the
120 current owner of the vessel, unless (1) the previous owner of a vessel qualifying for a permit ~~has~~, by the
121 express terms of a written contract, reserved the right to the permit, in which case the permit ~~was~~ will be
122 issued to the previous owner based on the catch history of the qualifying vessel; or (2) a vessel that would
123 have qualified for an LE permit was totally lost before a permit was issued. -In this case, the owner of the
124 vessel at the time it was lost retain~~ed~~s the right to the permit, unless the owner conveyed the right to another
125 person by the express terms of a written contract.

126 **3.5.36-1.2 Ownership Restriction**

127 Only entities (human beings, corporations, etc.) qualified to own a U.S. fishing vessel may be issued or
128 may hold (by ownership or otherwise) an LE permit.

129 **3.5.46-1.3 Limited Entry Permit Held by Owner of Record of the Vessel**

- 130 1. The vessel owner is responsible for acquiring and holding an LE permit for each vessel that is
131 required to have an LE permit to catch CPS finfish under this LE section.
- 132 2. The vessel owner is responsible for maintaining NMFS required documentation of the LE permit
133 on board the vessel.
- 134 3. The LE permit will be used with one vessel only. That vessel must be declared and registered with
135 the NMFS issuing authority. Registration is incomplete and LE permits may not be used until
136 acknowledged in writing by NMFS.
- 137 4. A vessel owner may not use a vessel, or allow a vessel to be used, to catch any Council-managed
138 CPS finfish under the LE regulations unless the vessel owner holds an LE permit which explicitly
139 allows such catch and the LE permit has been registered with NMFS for use with that vessel.

140 **3.5.56-1.4 Loss of a Vessel Prior to Permit Issuance**

- 141 1. An LE permit will be issued for a vessel which qualified for a permit but is lost before permits are
142 issued. The vessel must be replaced within two years of the loss unless otherwise determined by the
143 NMFS Regional Director. -The replacement vessel must be of equal or less GT.
- 144 2. For a vessel that would qualify an owner for an LE permit, in the case of a vessel's sinking or total
145 loss, all rights to a permit from the fishing history of the vessel prior to the sinking or total loss
146 remain with the owner unless specifically transferred.

147 **3.5.66-1.5 Appeals Process**

148 If an application for a permit is denied, the applicant may appeal the denial to the NMFS Regional
149 Administrator. -The appeal must be in writing, state the action being appealed, and reasons. -The appellant

150 may request an informal hearing before a hearing officer and the NMFS Regional Administrator will decide
151 if a hearing is required. -If required, hearings will be carried out in a timely fashion (normally within 30
152 days of the receipt of sufficient information).

153 The NMFS Regional Administrator will decide the appeal in accordance with the criteria for LE permits
154 specified in this FMP and implementing regulations. The NMFS Regional Administrator will consider the
155 information submitted by the appellant, the summary record of the hearing and hearing officer's
156 recommendation (if any) and other relevant information.

157 **3.5.76-2** *Permit Renewal Procedures*

158 1. Permits must be renewed every two calendar years in order to remain valid for the following
159 calendar year. -The renewal date for LE permits will be January 1 at two year intervals
160 beginning in the year after implementation.

161 2. Notice of upcoming renewal periods will be sent at the appropriate time every two years to the
162 most recent address as provided to the permit issuing authority by the permit holder. -It shall
163 be the permit holder's responsibility to provide the permit issuing authority with address
164 changes in a timely manner.

165 3. An annual fee will be charged which reflects the administrative costs of maintaining the permit
166 system.

167 4. Failure to renew during this period will result in expiration of the permit at the end of the
168 calendar year.

169 5. Once a permit has expired because of failure to renew during the renewal period, it may not
170 subsequently be renewed or reissued, except through a process as specified in Section
171 **3.5.66-1.5**.

172 **3.5.86-3** *Conditions for Transfers of Existing Permits*

173 CPS finfish LE permits may be transferred with restrictions on the harvesting capacity of the vessel to
174 which it would be transferred. -These restrictions are as follows: 1) full transferability of permits to vessels
175 of comparable capacity (vessel GT +10 percent allowance), and 2) allow permits to be combined up to a
176 greater level of capacity in cases where the vessel to be transferred to is of greater harvesting capacity than
177 the one from which the permit will be transferred.

178 Each LE permit will have an endorsement based on the currently permitted vessel's calculated GT as
179 defined in 46 *CFR* 69.209 for ship-shaped hulls, where:

180
$$GT = 0.67(\text{Length} * \text{Breadth} * \text{Depth}) / 100.$$

181 The original permits and their respective endorsements will remain in effect for the lifetime of each permit,
182 regardless of the GT of a vessel to which it may be transferred. -In cases where a permit is transferred to a
183 vessel with smaller GT, the original GT endorsement will remain, and excess GT may not be split out from
184 the original permit configuration and sold. -In cases where two or more permits are transferred to a larger
185 vessel, the larger vessel will hold the original permits and may fish for CPS finfish as long as the aggregate
186 GT endorsements, including the 10 percent allowances, add up to the new vessel's calculated GT. - In the
187 event that a vessel with multiple permits wishes to leave the CPS LE program, those permits may be sold
188 together or separately, but the original permit endorsement may not be altered.

189 To ensure manageability of the permit program and stability of the fleet, only one transfer per permit will
190 be allowed in each calendar year. -Permits may only be used on the vessel to which they are registered, and
191 permit leasing will not be allowed. -Catch history will be tied to the vessel, and not to the permits.

192 **3.5.96-3.1 Adjusting Permit Transferability to Maintain the Capacity Goal**

193 When the upper threshold of fleet GT (fleet GT plus 5 percent, or 5,933.5 mt) is reached, fleet capacity will
194 be restored to the capacity goal (5,650.9 mt) by restricting conditions for permit transfer. -Under this
195 mechanism, once the trigger point (5,933.5 mt) is met or exceeded, permits could only be transferred to
196 vessels with equal or smaller GT and the 10 percent vessel allowance is removed. -The 10 percent allowance
197 could be reconsidered once total fleet GT is reduced to the 5,650.9 mt target.

198 **3.5.106-4 Procedures for Issuing New Limited Entry Permits in the Future**

199 If, in response to positive changes in CPS finfish resources or market conditions, it is determined that new
200 LE permits should be issued the qualifying criteria originally established in the FMP (Section 3.5.26-1-1)
201 would be used for issuance of these new permits. -It is expected that this would entail continuing down the
202 list of vessels having landings during the 1993-97 window period in order of decreasing window period
203 landings. -For example, the next permit awarded would go to the 71st of the 640 vessels identified in the
204 original analysis (Amendment 8) with window period finfish landings if this vessel were to apply for a new
205 permit. -Each vessel on the list would need to have its harvest capacity evaluated so that in aggregate the
206 new capacity target was not exceeded. -New permits could be issued on either a temporary or permanent
207 basis, depending on the circumstances surrounding the need for additional fleet capacity. -Prior to issuance
208 of new permits, the Council or the Regional Administrator would need to determine if the new permits
209 would be either temporary or permanent.

210 **3.6-5 Coastal Pelagic Species Fishing Exempted from Limited Entry**

211 **3.6.15-4 Exempted Landings**

212 Vessels landing small quantities of CPS finfish on a per trip basis do not require an LE permit. The Council
213 will set, by regulation, a level of landings per trip that is exempt from LE. -This level must be between 1
214 mt and 5 mt per trip. -The level specified by the Council will remain in place until changed by rulemaking.

215 **3.6.25-2 Recreational Fishing**

216 Recreational fishing for CPS finfish does not require an LE permit. -However, the Council may choose to
217 restrict recreational harvest quotas, implement area closures or impose any other type of management
218 measure.

219 **3.6.35-3 Live Bait Coastal Pelagic Species Fishing**

220 Fishing CPS species for use as live bait does not require an LE permit. -This includes live bait harvested
221 for use in recreational and commercial fisheries.

222 3.7.6.6 *Additional Management of the Limited Entry Fishery*

223 **3.7.16.6.1 Trip Limit**

224 The Council may set a trip limit, by regulation, of up to 125 mt on landings of CPS finfish. -In this context,
225 a trip is defined as any activity (e.g., catching, landing, transporting or delivering) by a vessel that
226 harvests CPS finfish with an LE permit (i.e., a possession limit that applies to harvesting operations
227 only). -Also in this context, a trip limit should not be confused with trip limits used in other fisheries
228 (e.g., groundfish) to lengthen the season without exceeding HGs or to manage bycatch.

229 3.84 Nature of the Interest Created

230 CPS LE permits confer a privilege to participate in the West Coast CPS finfish fishery in accordance with
231 the LE system established under this FMP and implementing regulations, or any future amendment to the
232 FMP and implementing regulations. Future amendments to the FMP may modify or even abolish the LE
233 system. The permits are also subject to sanctions including revocation, as provided by the MSA, 16 USC
234 1858(g) and 15 CFR ~~part~~ 904.

235

Chapter 4

4.0 OPTIMUM YIELD, MAXIMUM SUSTAINABLE YIELD, ACCEPTABLE BIOLOGICAL CATCH, HARVEST CONTROL RULES, AND OVERFISHING DEFINITIONS FOR THE COASTAL PELAGIC SPECIES FISHERY

This FMP defines OY, MSY control rules, and defines overfishing and overfished stocks for CPS. All aspects of harvest policies for CPS, including the MSY control rule, definition of overfishing, definition of overfished stocks and rebuilding criteria, can be modified using framework procedures described in Chapter 2 ~~Section 2.0~~.

4.1 Definition of Optimum Yield

The MSA (~~50 CFR § 600.10~~ ~~Section 3(33)~~) defines the term "optimum yield," ~~with respect to the yield from a fishery~~, as the amount of fish which:

- (A) will provide the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities, and taking into account the protection of marine ecosystems;
- (B) is prescribed on the basis of the MSY from the fishery, as reduced by any relevant social, economic, or ecological factor; and
- (C) in the case of an overfished fishery, provides for rebuilding to a level consistent with producing the MSY in such fishery.

OY for a CPS stock is defined to be the level of harvest which is less than or equal to ABC estimated using an ABC control rule, consistent with the goals and objectives of this FMP, and used by the Council to manage the stock. The ABC is a harvest specification of a stock or stock complex's annual catch that accounts for the scientific uncertainty in the estimate of OFL (MSY or MSY proxy) and any other scientific uncertainty, and should be based on the ABC control rule. The ABC control rule specifies an approach to setting ABC for a stock or stock complex as a function of the scientific uncertainty in the estimate of OFL and any other scientific uncertainty. In practice, OY will be determined with reference to ABC. Harvest control rules and other OY considerations (economic, social, and ecological) will be used to set ACLs, ACTs, and/or HGs on an annual or multi-year basis. In particular, OY will be set less than ABC to the degree required to prevent overfishing.

4.2 Definition of ~~Overfishing Limits~~ OFL, ~~or~~ MSY, and ABC Control Rules

An OFL is an annual amount of catch that corresponds to the estimate of MSY fishing mortality on an annual basis (~~F_{msy}~~); above which overfishing is occurring applied to a stock or stock complex's abundance expressed in terms of numbers or weight of fish. In general, OFLs for CPS are based on MSY or MSY proxy harvest rates applied to the best available estimate of biomass. In cases where biomass estimates include portions of the population in foreign waters, a DISTRIBUTION term will be used to estimate the percentage of the population in U.S. EEZ.

The ABC is a harvest specification set below the OFL and is a threshold that incorporates a scientific uncertainty buffer against overfishing (i.e., exceeding the OFL). The ABC is decided by the Council based on its preferred level of overfishing risk aversion. The ABC is based on a percentage reduction of the OFL as determined by an SSC determination on scientific uncertainty and a risk policy determined by the Council. In cases where scientific uncertainty (σ) associated with estimating an OFL is quantified by the SSC, the percentage reduction that defines the scientific uncertainty buffer and the ABC can be determined by translating the estimated σ to a range of probability of overfishing (P^*) values. The Council then determines the preferred level of risk aversion by selecting an appropriate P^* value, accordingly. Each P^* value is then matched to its corresponding BUFFER fraction that is applied to the OFL according to the

44 ABC control rule.

OFL	BIOMASS * F_{MSY} * DISTRIBUTION
ABC	BIOMASS * BUFFER * F_{MSY} * DISTRIBUTION

45

46 To some extent, the existing harvest control rules for some managed species merge scientific uncertainty
47 and OY considerations thereby providing additional reductions from OFL levels, ~~particularly during warm~~
48 ~~temperature regimes~~. Therefore, harvest control rules will be considered in conjunction with ABC control
49 rules to prevent overfishing (see Section 4.6).

50 4.3 Definition of Overfishing

51 By definition, overfishing occurs in a fishery whenever fishing occurs over a period of one year or more at
52 a rate that is high enough to jeopardize the capacity of the stock to produce MSY on a continuing basis if
53 applied in the long term. Overfishing in the CPS fishery is "approached" whenever projections indicate
54 overfishing will occur within two years. The definition of overfishing is in terms of a fishing mortality or
55 exploitation rate. Depending on the exploitation rate, overfishing can occur when CPS stocks are at either
56 high or low abundance levels. The Council must take action to eliminate overfishing when it occurs and to
57 avoid overfishing when exploitation rates approach the overfishing level.

58 In operational terms, overfishing occurs in the CPS fishery whenever catch exceeds OFL, and overfishing
59 is approached whenever projections indicate that fishing mortality or exploitation rates will exceed the OFL
60 level within two years. The definition of an overfished stock is an explicit part of the harvest control rule
61 for CPS stocks.

62 4.4 Definition of an Overfished Stock

63 By definition, an overfished stock in the CPS fishery is a stock at a biomass level low enough to jeopardize
64 the capacity of the stock to produce MSY on a continuing basis. An overfished condition is approached
65 when projections indicate that stock biomass will fall below the overfished level within two years. The
66 Council must take action to rebuild overfished stocks and to avoid overfished conditions in stocks with
67 biomass levels approaching an overfished condition.

68 4.5 Rebuilding Programs

69 Management of overfished CPS stocks must include a rebuilding program that can, on average, be expected
70 to result in recovery of the stock to MSY levels in ten years. It is impossible to develop a rebuilding
71 program that would be guaranteed to restore a stock to the MSY level in ten years, because CPS stocks may
72 remain at low biomass levels for more than ten years even with no fishing. The focus for CPS is, therefore,
73 on the average or expected time to recovery based on realistic projections. If the expected time to stock
74 recovery ~~is associated with unfavorable ecosystem conditions and~~ is greater than ten years due to
75 reasons environmental conditions as outlined in the MSA at 50 CFR § 600.310(j), ~~then~~ the Council and the
76 U.S. Secretary of Commerce (Secretary) may consider extending the time period ~~as described at 50 CFR §~~
77 600.310(ej).

78 Rebuilding programs for CPS may be an integral part of the harvest control rule or may be developed or
79 refined further in the event that biomass of a CPS stock reaches the overfished level. If a stock is overfished,
80 for the period between when it is determined to be overfished and the effective date of a rebuilding plan,
81 the Council shall consider whether to allow any harvest of the overfished stock and what the appropriate
82 interim harvest level should be.

83 4.5.1 Rebuilding Plan for Pacific Sardine

84 In July 2019, the National Marine Fisheries Service notified the Council that it had declared the Pacific
85 sardine stock overfished. The declaration came as a result of the 2019 Pacific sardine stock assessment
86 indicating that the stock had declined below its MSST of 50,000 mt. A rebuilding plan was adopted by the
87 Council in September 2020. The rebuilding reference points for Pacific sardine are:

88 $T_{min} = 12$ years

89 $T_{max} = 24$ years

90 $T_{target} = 14$ years

91 Rebuilding target = 150,000 mt of age 1+ biomass

92

93 Total catch limits (i.e., OFL/ABC/ACL) will be set annually based on annual stock assessments and the
94 control rules in the FMP and recommendations from the SSC regarding uncertainty in the assessment and
95 OFL.

96 The management measures under the Pacific sardine Rebuilding Plan include the following:

- 97 • The primary directed fishery for Pacific sardine will be closed until the biomass reaches or
98 exceeds 150,000 mt (i.e., the Rebuilding target and CUTOFF in the HG control rule);
- 99 • Incidental limits in other primary directed CPS fisheries are restricted to no more than 20 percent
100 Pacific sardine per landing until the biomass reaches or exceeds 50,000 mt (i.e., the MSST for
101 Pacific sardine);
- 102 • The minor directed fisheries are limited to 1 mt of Pacific sardine per trip per day;
- 103 • Live bait harvest is not specifically constrained under the Rebuilding Plan but is subject to
104 management measures that will be reviewed during the Council's annual specifications process;
105 and
- 106 • Other management measures the Council may recommend (e.g., incidental catch limits in non-
107 CPS fisheries)

108 The population dynamics of small coastal pelagic fish such as Pacific sardine are highly influenced by
109 environmental conditions. Although fishing pressure can also impact the population dynamics of small
110 pelagics, it is generally agreed that under current sardine management, harvest is a lesser factor in sardine
111 population status than environmental factors. Historical analysis of marine sediment layers (Baumgartner
112 et al, 1992) conclude that the sardine population is prone to long periods of decline even in the absence of
113 fishing.

114 4.6 Harvest Control Rules

115 For CPS, a harvest control rule is defined to be a harvest strategy that provides biomass levels at least as
116 high as the F_{MSY} approach while also providing relatively high and relatively consistent levels of catch.
117 ~~According to Federal regulations (50 CFR '600.310(b)(1)(ii)), an MSY control rule is "a harvest strategy~~
118 ~~which, if implemented, would be expected to result in a long term average catch approximating MSY."~~
119 ~~Similarly, MSY stock size "means the long term average size of the stock or stock complex, measured in~~
120 ~~terms of spawning biomass or other appropriate units that would be achieved under an MSY control rule in~~

121 ~~which the fishing mortality rate is constant."~~ Harvest specifications as estimated by the harvest control rule
122 shall not exceed ABC or the harvest recommendations of the SSC. Rather, harvest control rules will be
123 considered in conjunction with ABC control rules to prevent overfishing. The CPS harvest control rules are
124 more conservative than MSY-based management strategies, because the focus for CPS is oriented primarily
125 towards stock biomass levels at least as high as the MSY stock size (defined at 50 CFR § 600.310(e)) while
126 reducing harvest as biomass levels approach overfished levels. The primary focus is on biomass, rather
127 than catch, because ~~most CPS (Pacific sardine, northern anchovy, and market squid)~~ are very important in
128 the ecosystem for forage.

129 Harvest control rules in the CPS fishery may vary depending on the nature of the fishery, management
130 goals, assessment and monitoring capabilities, and available information. Under the framework
131 management approach used for CPS, it is not necessary to amend the CPS FMP in order to develop or
132 modify harvest control rules or definitions of overfishing. The CPS FMP includes two primary forms of
133 harvest control rules for CPS, the default control rule and the general control rule, described below.

134 ~~CPS stocks and fisheries with biologically significant levels of catch, or biological, or socio-economic~~
135 ~~considerations requiring relatively intense harvest management procedures must have stock-specific~~
136 ~~harvest control rules, a definition of overfishing and a definition of an overfished stock. The purpose of the~~
137 ~~general harvest control rule, described below, is to provide managers with a tool for setting and adjusting~~
138 ~~harvest levels on a periodic basis while preventing overfishing and overfished stock conditions.~~

139 CPS stocks and fisheries without biologically significant levels of catch or biological, or socio-economic
140 considerations requiring relatively intense harvest management procedures do not require stock specific
141 harvest control rules. For these ~~rules~~, the main use of harvest control rules is to help gauge the need for
142 setting and adjusting harvest levels on a more frequent basis. These types of harvest control rules and
143 harvest policies may be more generic and simple than those for stocks with significant fisheries. Any stock
144 supporting catches approaching the ABC or MSY levels should be managed with periodic adjustments
145 unless there is too little information available or other practical problems.

146 CPS stocks and fisheries with biologically significant levels of catch, or biological, or socio-economic
147 considerations requiring relatively intense harvest management procedures must have stock-specific
148 harvest control rules, a definition of overfishing and a definition of an overfished stock. The purpose of the
149 general harvest control rule, described below, is to provide managers with a tool for setting and adjusting
150 harvest levels on a periodic basis while preventing overfishing and overfished stock conditions.

151 Transboundary Issues

152 Management of transboundary stocks is one of the most difficult problems in the management of CPS.
153 Ideally, transboundary CPS stocks would be managed cooperatively by the U.S., Canada, and Mexico on
154 the basis of common policy. At present, there are no cooperative management agreements with Mexico or
155 Canada.

156 In the absence of a cooperative management agreement, the default approach in the CPS FMP sets harvest
157 levels for U.S. fisheries by prorating the total target harvest level according to the portion of the stock
158 resident in U.S. waters or estimating the biomass in U.S. waters only. In practice, this approach is similar
159 to managing the U.S. and Mexican portions of a stock separately, since harvest for the U.S. fishery in a
160 given year depends ultimately on the biomass in U.S. waters.

161 Other approaches that may be developed in the future are not precluded by this default. If the portion of
162 the stock in U.S. waters cannot be estimated or is highly variable, then other approaches may be used.

163 Detailed management schedules and processes for CPS fisheries are found in COP 9, Schedule 3.

164 4.6.1 *Default CPS Harvest Control Rule*

165 The Council may use the default harvest control rule, defined below, for species where it has been
166 determined that little need for intensive management exists unless a better species-specific rule is available.
167 The default harvest control rule can be modified under framework management procedures.

168 The default harvest control rule sets ABC for the entire stock (U.S., Mexico, Canada, and international
169 fisheries) equal to 25 percent of the best estimate of the MSY catch level. Overfishing occurs whenever
170 the total catch ~~from~~(U.S., Mexico, Canada, and international fisheries) exceeds ABC or whenever fishing
171 occurs at a rate that is high enough to jeopardize the capacity of the stock to produce MSY. Overfishing of
172 a CPS stock managed using the default control rule is "approached" whenever projections or estimates
173 indicate that the overfishing will occur within two years.

174 In making decisions about using the general control rule or another stock-specific control rule, the Council
175 may choose to consider ABC and catches in U.S. waters only. ABC in U.S. waters is the ABC for the entire
176 stock prorated by an estimate of the fraction of the stock in U.S. waters. Management may not be effective
177 if U.S. catches are small and overfishing is occurring in Mexico, Canada, or in international waters outside
178 the jurisdiction of Federal authorities.

179 4.6.4 *Harvest Control Rules for Northern Anchovy and Jack Mackerel and Market Squid*

180 Management of northern anchovy (northern and central subpopulations), and jack mackerel and market
181 squid will, at the outset of the CPS FMP, use the default control rules and overfishing specifications. Stock
182 specific MSY proxies, ABC, and ACLs can be revised based on the best available science as recommended
183 by the SSC and as adopted through the annual harvest specification process, and will be reported in the CPS
184 SAFE.

185 The OFL will be based on species-specific MSY proxies. In general, the default ABC control rule consists
186 of a 75 percent reduction from OFL to ABC until such time as the SSC recommends an alternate value
187 based on the best available science. ACLs would be specified for multiple years until such time as the
188 species becomes managed using the general harvest control rule or a new species-specific control rule, or
189 new scientific information becomes available. ACLs may also be sector-specific.

<u>OFL</u>	<u>STOCK SPECIFIC MSY PROXY</u>
<u>ABC</u>	<u>OFL * 0.25</u>
<u>ACL</u>	<u>Equal to ABC or reduced by OY considerations.</u>

191 4.6.4.1—Northern Anchovy-Central Subpopulation

192 The central subpopulation of northern anchovy ranges from approximately San Francisco, California, to
193 Punta Baja, Mexico. The ABC would then be prorated by the DISTRIBUTION of the stock in U.S. waters
194 (82 percent) to arrive at ABC in U.S. waters.

195 4.6.4.2—Northern Anchovy-Northern Subpopulation

196 The northern subpopulation of northern anchovy ranges from San Francisco north to British Columbia, with
197 a major spawning center off Oregon and Washington that is associated with the Columbia River plume.
198 The northern subpopulation supports small but locally important bait and human consumption fisheries.
199 Northern anchovy is an important source of forage to local predators, including depleted and endangered
200 salmonid stocks.

201 Additionally, the portion of the northern subpopulation of northern anchovy resident in U.S. waters is
202 unknown. It is likely that some biomass occurs in Canadian waters off British Columbia.

203 MSY for the northern subpopulation of northern anchovy is specified as an F_{MSY} of 0.3. This value (the
204 default exploitation rate for Pacific mackerel) is considered the best available science and an appropriate
205 specification of MSY, as northern anchovy are likely to be as productive and have a higher natural mortality
206 than Pacific mackerel, for which there is much greater understanding of productivity and biology.

207 4.6.4.3—Jack Mackerel

208 The ABC level for jack mackerel is calculated by age/area from mid-range potential yield values. ABC in
209 U.S. waters will be prorated according to the DISTRIBUTION of the stock in U.S. waters (65 percent).
210 Since 1990, jack mackerel catches have generally been less than 2,000 mt per year. If jack mackerel catches
211 increase and become significant, managers may decide to address management of different age groups and
212 areas independently.

213 4.6.2 General Harvest Control Rules

214 The general form of the harvest control rule utilized for the ~~California~~-CPS fisheries ~~is was~~ designed to
215 continuously reduce the exploitation rate as biomass declines. The general formula used is:

216
$$H = (\text{BIOMASS-CUTOFF}) \times \text{FRACTION} \times \text{DISTRIBUTION}$$

217 H is the harvest target level, CUTOFF is the lowest level of estimated biomass at which directed harvest is
218 allowed and FRACTION is the fraction of the biomass above CUTOFF that can be taken by the fishery.
219 BIOMASS is generally the estimated biomass of fish age 1+ at the beginning of the season.
220 DISTRIBUTION is the average portion of biomass assumed in U.S. waters. The ~~purpose-of-CUTOFF term~~
221 is to protect the stock when biomass is low. The ~~purpose-of-FRACTION term is to specify~~
222 of the stock is available to the fishery when BIOMASS exceeds CUTOFF. It may be useful to define any
223 of the parameters in this general harvest control rule so that they depend on environmental conditions or
224 stock biomass. Thus, the harvest control rule could depend explicitly on the condition of the stock or
225 environment.

226 The formula generally uses the estimated biomass for the whole stock in one year (BIOMASS) to set harvest
227 for the whole stock in the following year (H) although projections or estimates of BIOMASS, abundance
228 index values, or other data might be used instead. BIOMASS is an estimate only, it is never assumed that
229 BIOMASS is a perfect measure of abundance. Efforts to develop a harvest formula must consider probable
230 levels of measurement error in BIOMASS, which typically have CVs of about 50 percent for CPS.

231 The general harvest control rule for CPS (depending on parameter values) is compatible with the MSA and
232 useful for CPS that are important as forage. If the CUTOFF is greater than zero, then the harvest rate
233 (H/BIOMASS) declines as biomass declines. By the time BIOMASS falls as low as CUTOFF, the harvest
234 rate is reduced to zero. The CUTOFF provides a buffer of spawning stock that is protected from fishing

235 and available for use in rebuilding if a stock becomes overfished. The combination of a spawning biomass
 236 buffer equal to CUTOFF and reduced harvest rates at low biomass levels means that a rebuilding program
 237 for overfished stocks may be defined implicitly. Moreover, the harvest rate never increases above
 238 FRACTION. If FRACTION is approximately equal to F_{MSY} , then the harvest control rule harvest rate will
 239 not exceed F_{MSY} . In addition to the CUTOFF and FRACTION parameters, it may be advisable to define a
 240 maximum harvest level parameter (MAXCAT) so that total harvest specified by the harvest formula never
 241 exceeds MAXCAT. MAXCAT is used to guard against extremely high catch levels due to errors in
 242 estimating biomass, to reduce year-to-year variation in catch levels, and to avoid overcapitalization during
 243 short periods of high biomass and high harvest. MAXCAT also prevents the catch from exceeding MSY
 244 at high stock levels and spreads the catch from strong year classes over a wider range of fishing seasons.

245 ACLs will be set no higher than ABC and may be sector-specific. Harvest control rules and other OY
 246 considerations will be used to set an HG. The HG cannot exceed the ACL or ABC. In cases where the HG
 247 exceeds the ABC, the Council will set a lower ACL, HG, or ACT in response. An HG or ACT may be
 248 utilized below an ACL or sector-specific ACL to account for management uncertainty, discard or bycatch
 249 mortality, and research take. These provisions will be considered on an annual basis in response to changing
 250 resource status and fishery dynamics.

<i>OFL</i>	<i>BIOMASS * F_{MSY} * DISTRIBUTION</i>
<i>ABC</i>	<i>BIOMASS * BUFFER * F_{MSY} * DISTRIBUTION</i>
<i>ACL</i>	<i>LESS THAN OR EQUAL TO ABC</i>
<i>HG</i>	<i>(BIOMASS - CUTOFF) * FRACTION * DISTRIBUTION.</i>
<i>ACT</i>	<i>EQUAL TO HG OR ACL, WHICHEVER VALUE IS LESS</i>

251
 252 Other general types of control rules may be useful for CPS and this FMP does not preclude their use as long
 253 as they are compatible with National Standards and the MSA.

254 4.6.3 Transboundary Issues

255 ~~Management of transboundary stocks is one of the most difficult problems in the management of CPS.~~
 256 ~~Ideally, transboundary CPS stocks would be managed cooperatively by the U.S., Canada, and Mexico on~~
 257 ~~the basis of common policy. At present, there are no cooperative management agreements with Mexico or~~
 258 ~~Canada.~~

259 ~~In the absence of a cooperative management agreement, the default approach in the CPS FMP sets harvest~~
 260 ~~levels for U.S. fisheries by prorating the total target harvest level according to the portion of the stock~~
 261 ~~resident in U.S. waters or estimating the biomass in U.S. waters only. In practice, this approach is similar~~
 262 ~~to managing the U.S. and Mexican portions of a stock separately, since harvest for the U.S. fishery in a~~
 263 ~~given year depends ultimately on the biomass in U.S. waters.~~

264 ~~Other approaches that may be developed in the future are not precluded by this default. If the portion of~~
 265 ~~the stock in U.S. waters cannot be estimated or is highly variable, then other approaches may be used. It~~
 266 ~~may be more practical, for example, to use a high CUTOFF in the harvest control rule to compensate for~~

267 ~~stock biomass off Mexico or Canada.~~

268 **4.6.32 Harvest Control Rule for Pacific Sardine¹**

269 The Harvest Control Rule for Pacific sardine includes OY considerations and will be used to calculate an
270 HG or ACT for the entire sardine stock, but cannot exceed ABC. The harvest control rule is based on an
271 estimate of biomass for the whole sardine stock, a CUTOFF equal to 150,000 mt, a FRACTION between
272 five percent and 15 percent (depending on oceanographic conditions as described below), a U.S.
273 DISTRIBUTION of 87 percent, and MAXCAT of 200,000 mt. The U.S. ABC is calculated from the target
274 harvest for the whole stock by prorating the total ABC based on proportion of total biomass in U.S. waters.

275 FRACTION in the harvest control rule for Pacific sardine is a proxy for F_{MSY} (i.e., the fishing mortality rate
276 for deterministic equilibrium MSY) that builds in OY considerations and other precautions to avoid
277 overfishing. FRACTION depends on recent ocean temperatures because F_{MSY} and productivity of the
278 sardine stock is higher under ocean conditions associated with warm water temperatures (Appendix B,
279 Section 4.2.3.4). An estimate of the relationship between F_{MSY} for sardine and ocean temperatures is:

280
$$F_{MSY} = 0.248649805 T^2 - 8.190043975 T + 67.4558326^2$$

281 where T is the average three season sea surface temperature at Scripps Pier, California during the three
282 preceding seasons. The harvest control rule for sardine sets the control rule parameter FRACTION equal
283 to F_{MSY} except that FRACTION is never allowed to be higher than 15 percent or lower than 5 percent. OFL
284 and ABC calculations may be limited to a range E_{MSY} of sea-surface temperatures dependent upon the
285 recommendation of the SSC and based on the best available science. For example, under the analysis for
286 Amendment 13, the CPSMT and the SSC recommended limiting OFL and ABC calculations by the
287 interquartile range of SSTs, which span three-season averages from 1916-19 through 1994-97. The lower
288 quartile SST for this period was 16.61 °C, with a corresponding F_{MSY} of 0.0200. The upper quartile SST
289 was 17.33 °C, with an F_{MSY} of 0.1985.

290 Although F_{MSY} may be greater or lesser, FRACTION can never be greater than 15 percent or less than 5
291 percent unless the harvest control rule for sardine is revised, because 5 percent and 15 percent are policy
292 decisions taken by Council based on social, economic, and biological criteria. In contrast, relationships
293 between FRACTION, F_{MSY} , and environmental conditions are technical questions and estimates or
294 approaches may be revised by technical teams to accommodate new ideas and data.

295 The temperature-dependent F_{MSY} for sardine is unique among F_{MSY} definitions for Council-managed
296 species; to some extent, the existing sardine harvest control rule provides substantial reductions in harvest
297 relative to F_{MSY} , particularly during warm temperature regimes.

298 **4.6.2.1—Definition for Overfished Stock for Sardine**

299 An overfished sardine population is one with a 1+ stock biomass on July 1 of 50,000 mt or less. The
300 Council is required to minimize fishing mortality on an overfished stock to the extent practicable and to
301 undertake a rebuilding program which may be implicit to the harvest control rule or explicit. See Section

¹ In November 2014, the Council adopted a revised temperature-recruitment relationship, established a new temperature index, and adopted a revised FRACTION range. The new temperature-recruitment relationship is $E_{MSY} = -18.46452 + 3.25209(T) - 0.19723(T^2) + 0.0041863(T^3)$. The new temperature index is the California Cooperative Oceanic Fisheries Investigations (CalCOFI) time series, and the revised harvest FRACTION range is 5-20%. These are described in the November 2014 Council briefing book materials.

302 4.5.1 for the Pacific sardine rebuilding plan.

303 **4.6.32.12 Live Bait and Minor Directed Harvest between the ABC and CUTOFF**

304 The live bait fishery ~~which supplies live sardines CPS to recreational and commercial fisheries, and the~~
305 ~~minor directed fishery~~ may be allowed to operate when estimated biomass falls below the CUTOFF, ~~which~~
306 ~~is currently set at 150,000 mt~~ and other directed fishing is precluded, but the estimated biomass is still above
307 the definition of an overfished stock; and while live bait and minor directed harvests are not expected to
308 exceed the ACL or ABC. This does not prevent the Council from undertaking any measure authorized
309 under this FMP, including a sector-specific ACL, that may be necessary to manage these fisheries the live
310 bait fishery and the sardine stock. The live bait and/or minor directed fishery could, for example, be
311 managed by HG or quota, season, or gear restrictions at any point under the framework management
312 process.

313 **4.6.43 Harvest Control Rule for Pacific ~~(Chub)~~ Mackerel**

314 The harvest control rule for Pacific mackerel sets the CUTOFF and the definition of an overfished stock at
315 18,200 mt, FRACTION at 30 percent, and a U.S. DISTRIBUTION of 70 percent. Overfishing is defined
316 as any fishing in excess of ABC calculated using the harvest control rule. No MAXCAT is defined because
317 the U.S. fishery appears to be limited to about 40,000 mt per year by markets. The target harvest level is
318 defined for the entire stock in Mexico, Canada, and U.S. waters (not just the U.S. portion), and the U.S.
319 target harvest level is prorated based on relative abundance in U.S. waters.

320 ~~4.6.4 Harvest Control Rules for Northern Anchovy, Jack Mackerel, and Market Squid~~

321 ~~Management of northern anchovy (northern and central subpopulations), jack mackerel and market squid~~
322 ~~will, at the outset of the CPS FMP, use the default control rules and overfishing specifications. Stock~~
323 ~~specific MSY proxies, ABC, and ACLs can be revised based on the best available science as recommended~~
324 ~~by the SSC and as adopted through the annual harvest specification process, and will be reported in the CPS~~
325 ~~SAFE.~~

327 ~~The OFL will be based on species specific MSY proxies. In general, the default ABC control rule consists~~
328 ~~of a 75 percent reduction from OFL to ABC until such time as the SSC recommends an alternate value~~
329 ~~based on the best available science. ACLs would be specified for multiple years until such time as the~~
330 ~~species becomes managed using the general harvest control rule or a new species specific control rule, or~~
331 ~~new scientific information becomes available. ACLs may also be sector specific.~~

OFL	STOCK SPECIFIC MSY PROXY
ABC	OFL * 0.25
ACL	Equal to ABC or reduced by OY considerations.

332
333 **4.6.4.1 ~~Northern Anchovy Central Subpopulation~~**

334 ~~The central subpopulation of northern anchovy ranges from approximately San Francisco, California, to~~
335 ~~Punta Baja, Mexico. The ABC would then be prorated by the DISTRIBUTION of the stock in U.S. waters~~
336 ~~(82 percent) to arrive at ABC in U.S. waters.~~

337 ~~4.6.4.2 Northern Anchovy-Northern Subpopulation~~

338 ~~The northern subpopulation of northern anchovy ranges from San Francisco north to British Columbia, with~~
339 ~~a major spawning center off Oregon and Washington that is associated with the Columbia River plume.~~
340 ~~The northern subpopulation supports small but locally important bait and human consumption fisheries.~~
341 ~~Northern anchovy is an important source of forage to local predators, including depleted and endangered~~
342 ~~salmonid stocks.~~

343 ~~Additionally, the portion of the northern subpopulation of northern anchovy resident in U.S. waters is~~
344 ~~unknown. It is likely that some biomass occurs in Canadian waters off British Columbia.~~

345 ~~MSY for the northern subpopulation of northern anchovy is specified as an F_{MSY} of 0.3. This value (the~~
346 ~~default exploitation rate for Pacific mackerel) is considered the best available science and an appropriate~~
347 ~~specification of MSY, as northern anchovy are likely to be as productive and have a higher natural mortality~~
348 ~~than Pacific mackerel, for which there is much greater understanding of productivity and biology.~~

349 ~~4.6.4.3 Jack Mackerel~~

350 ~~The ABC level for jack mackerel is calculated by age/area from mid-range potential yield values. ABC in~~
351 ~~U.S. waters will be prorated according to the DISTRIBUTION of the stock in U.S. waters (65 percent). If~~
352 ~~jack mackerel catches increase and become significant, managers may decide to address management of~~
353 ~~different age groups and areas independently. This question does not need to be addressed at this time~~
354 ~~because catches are low (generally less than 2,000 mt per year since 1990).~~

355 ~~4.6.54.4 Harvest Control Rule for Market Squid~~

356 The MSY Control Rule for market squid is founded generally on conventional spawning biomass “per
357 recruit” model theory. Specifically, the MSY Control Rule for market squid is based on evaluating
358 (throughout a fishing season) levels of egg escapement associated with the exploited population. The
359 estimates of egg escapement are evaluated in the context of a “threshold” that is believed to represent a
360 minimum level that is considered necessary to allow the population to maintain its level of abundance into
361 the future (i.e., allow for “sustainable” reproduction year after year). In practical terms, the Egg Escapement
362 approach can be used to evaluate the effects of fishing mortality (F) on the spawning potential of the stock,
363 and in particular, to examine the relation between the stock’s reproductive output and candidate proxies for
364 the fishing mortality that results in MSY (F_{MSY}).

365 The fishing mortality (F_{MSY}) that results in a threshold level of egg escapement of at least 30 percent ~~will~~
366 ~~be is~~ used ~~initially~~ as a proxy for MSY. ~~However, it is important to note that the~~ The level of egg
367 escapement ~~has will be been~~ reviewed on an intermittent basis in California as new information becomes
368 available concerning the dynamics of the stock and fishery, to ensure that the proposed threshold meets its
369 objective as a long-term, sustainable biological reference point for this marine resource. This is not a trivial
370 exercise, given the need for ongoing research regarding the biology of this species, which may result in
371 revised recommendations in the future. ~~Ultimately, Currently,~~ the market squid fishery ~~operates~~ operate
372 freely, within the constraints of ~~currently adopted state~~ regulations as dictated by the states ~~CDFG and~~
373 NMFS (e.g., annual landings cap, weekend closures, closed areas) and NMFS and potentially treaty
374 tribes, and NMFS, as long as egg escapement is equal to, or greater than, the threshold value. ~~Assessments~~
375 ~~will be conducted on a yearly basis for the first two years (2002-04) and on a multi-year basis beginning in~~
376 2005. In the event that egg escapement is determined to be below the 30 percent threshold for two
377 successive years, then a point-of-concern would be triggered under the FMP’s management framework,
378 and the Council could consider revising market squid management. ~~Current state~~ regulations for squid are
379 not anticipated to change in the near future, however, should existing laws limiting effort or harvest be

380 rescinded, further management actions by the Council could also be considered.

381 As noted, the Council and state authorities will continue to monitor squid landings. If landings increase or
382 a biological risk to the stock develops, the Council can be expected to revise squid management quickly
383 under the "point-of-concern" framework management procedures (Section 2.1.12).

384 4.6.65 Prohibited Harvest Species

385 Prohibited Harvest Species management includes all species of krill occurring in the West Coast EEZ and
386 is intended to ensure that, to the extent practicable, fisheries will not develop that could put at risk krill
387 stocks and the other living marine resources that depend on krill. This means that OY for krill is zero, and
388 the target, harvest and transshipment of krill is prohibited. Also, EFPs will not be issued under the EFP
389 procedures of this FMP to allow individuals to harvest krill as an exception to the prohibition of harvest.
390 These actions would fully achieve the objectives of the Amendment 12 to the extent practicable, but would
391 not account for environmental conditions and the responses of krill and other resources to changes in
392 environmental conditions. Prohibited Harvest Species management recognizes that *de minimis* or trace
393 amounts of krill may be retained by fishermen while targeting other species; such inadvertent action is not
394 intended to be the subject of this prohibition.

395 4.7 Stock Assessment and Fishery Evaluation Report

396 The CPSMT will prepare an annual SAFE report describing the status of the CPS fishery. The SAFE report
397 provides information to the councils for determining annual harvest levels for each stock, documenting
398 significant trends or changes in the resource, marine ecosystems, and fishery over time, and assessing the
399 relative success of existing state and Federal fishery management programs. This includes landings, prices,
400 revenues, and economic, biological or environmental conditions not covered elsewhere in assessments for
401 CPS species. In particular, the SAFE report shall include:

- 402 1. Current status of CPS resources.
- 403 2. A description of the maximum fishing mortality threshold and the ~~MSST minimum stock size threshold~~
404 for each stock or stock complex, along with information by which the Council may determine:
 - 405 (a) Whether overfishing is occurring with respect to any stock or stock complex, whether any stock or
406 stock complex is overfished, whether the rate or level of fishing mortality applied to any stock or
407 stock complex is approaching the maximum fishing mortality threshold, and whether the size of
408 any stock or stock complex is approaching the ~~MSST minimum stock size threshold~~.
 - 409 (b) Any management measures necessary to provide for rebuilding an overfished stock or stock
410 complex (if any) to a level consistent with producing the MSY in such fishery.
- 411 3. The total and U.S. target levels, if calculated, along with all available information about bycatch, DAH,
412 domestic annual processing (DAP), JVP, and TALFF used to specify HGs or quotas.
- 413 4. Recent and historical catch statistics (landings and value).
- 414 5. Recommendations for use of HG or quotas by species.
- 415 6. A brief history of the harvesting sector for the fishery.
- 416 7. A brief history of CPS management.
- 417 8. A summary of recent economic conditions, including information such as status of fleet capacity,
418 number of vessels and performance by gear type, including recreational and commercial fishing
419 interests, fishing communities, and fish processing interests.
- 420 9. Safety considerations.
- 421 10. Ecosystem information including ecological factors that may inform decisions on SDCs, harvest
422 specifications, and management measures.
- 423 11. Bycatch summary.
- 424 12. Any necessary expansions to previous environmental and regulatory impact documents, and ecosystem

- 425 and habitat descriptions.
- 426 13. Other relevant biological, sociological, economic, and ecological information that may be useful to the
427 Council.
- 428 14. Information on recent and upcoming assessments and reference to the assessment schedules and
429 processes specified in COP 9, Schedule 3.

430

431 The Council will notice the availability of SAFE reports via mailing lists and the Council newsletter and
432 will publish SAFE reports primarily via the Council web page. Paper copies will be provided on request.

433 The annual SAFE report prepared by the CPSMT will include all available information that may be used
434 to determine if a point-of-concern exists (e.g., overfishing) or if a stock should be considered for changes
435 in its management.

436 4.8 Annual Specifications and Announcement of Harvest Levels

437 Each year, the Secretary will publish in the *Federal Register* the final specifications for all CPS annually
438 managed by the Council. The total U.S. harvest will be allocated to the various fisheries as ACLs, HGs or
439 ACTs, or as quotas.

440 In calculating ACLs, ACTs, HGs and quotas for each species, an estimate of the incidental catch of each
441 species caught while fishermen are targeting other species will be taken into account. Therefore, the total
442 HG will consist of an incidental catch portion and a directed fishery portion. In general, HGs or ACTs will
443 be used to describe direct and incidental take, will set in accordance with harvest control rules, and will be
444 below the ACL to take into account management uncertainty and additional known sources of mortality
445 such as discards, bycatch, research take, and live bait fisheries. This will be done to minimize the chances
446 of exceeding the target harvest levels and the ACL.

447 If the HG, ACL, or ACT for the directed fishery is reached the directed fishery will be closed by an
448 automatic action and incidental catch will continue to be allowed under the incidental catch allowance,
449 which is expressed in an amount of fish or a percentage of a load (~~Chapter 5~~Section 5-1). Minor directed
450 fishing will also be allowed to continue after a directed fishery is closed, unless otherwise specified by the
451 Council, or an ACL is anticipated to be exceeded (~~Chapter 5~~Section 5-2). If the estimated incidental catch
452 portion of the HG, ACL, or ACT has been set too high, resulting in the probability of not attaining the target
453 harvest level by the end of the fishing season, the remaining incidental catch portion may be allocated to
454 the directed fishery through the "routine" management procedures. This reallocation of the remaining
455 incidental catch portion of the HG to the directed fishery is not likely to be necessary unless substantial
456 errors are discovered in calculations or estimates.

457 4.8.1 General Procedure for Setting Annual Specifications

458 The intent of the management approach under the FMP is to reassess the status of each species for which
459 the Council has determined a need at frequent intervals and preferably every year (although a full analytic
460 stock assessment may not be necessary or possible in some cases). The general procedure for making the
461 annual specifications for CPS is as follows:

- 462 1. The ~~CPSMT will produce a SAFE report as specified in Section 4.7 that documents the current~~
463 ~~estimates of biomass for each CPS assessed and status of the fishery. In the report, the~~ CPSMT will
464 recommend either HGs or quotas, including a directed portion and an incidental portion, an initial
465 incidental catch allowance to be used when HGs are reached together with an estimate of total incidental

- 466 catch, and will make all calculations of the specifications as required by this FMP.
- 467 2. Documents will be sent to the NMFS Regional Administrator, ~~WCR~~Southwest Region, the Council,
- 468 members of the Council's SSC, members of the CPSAS, and all interested parties for review.
- 469 3. A public meeting or meetings will be announced in the *Federal Register* and held with the CPSMT and
- 470 the CPSAS to discuss the proposed annual specifications and to obtain public comments.
- 471 4. At its first opportunity, the Council will review all information compiled for the annual specifications,
- 472 consult with its SSC, CPSMT, CPSAS, and hear public comments. The Council also will review any
- 473 important social and economic information at that time, then make a recommendation to the NMFS
- 474 Regional Administrator on the final specifications, including OFL, ABC, OY levels, ACLs, ACTs,
- 475 HGs, quotas, allocations, and other management measures for the fishing season.
- 476 5. Following the Council meeting, the NMFS Regional Administrator will consider all comments and
- 477 make a determination of the final specifications. This determination will be published in the *Federal*
- 478 *Register* with a request for additional public comment.
- 479 6. Alternate Procedure: If assessment and season schedules warrant, the NMFS Regional Administrator
- 480 may make preliminary harvest specifications quickly (without prior discussion at a Council meeting)
- 481 to allow fishing to begin without delay. As soon as practicable, the Council will review all background
- 482 documents contributing to the determination of the biomass estimates and make a final recommendation
- 483 for the resulting target harvest level, HGs and quotas. Following the meeting of the Council, the NMFS
- 484 Regional Administrator will consider all comments and make a determination of whether any changes
- 485 in the final specifications are necessary. If such changes are warranted, they will be published in the
- 486 *Federal Register*.

487

488 If assembling the data and producing a report would require enough time that permitting a complete

489 public review before the beginning of the fishing season could reduce the season, then this alternate

490 procedure should be used.

- 491
- 492 7. NMFS, the treaty tribes, and the west coast states will monitor the fishery throughout the year, tracking
- 493 incidental catch, ACTs, and HGs and quotas. If an HG or quota for any species is or is likely to be
- 494 reached prematurely, a "point of concern" will occur, triggering a mandatory review of the status of the
- 495 stock. If the directed harvest portion of an ACT or ACL, HG, or quota is reached, then directed fishing
- 496 will be prohibited and the pre-specified incidental trip limit will be imposed as an automatic action
- 497 through publication of a notice in the *Federal Register*.
- 498

499 The NMFS Regional Administrator would be responsible for setting the HGs based on the estimated

500 biomass and the standards set in the FMP. The formulas used to set HGs for CPS are straightforward and

501 provide little latitude for judgment, therefore, there is less discretion involved in setting annual

502 specifications for CPS than for other fisheries.

503 HGs for CPS are based on the current biomass estimate multiplied by a fixed harvest rate. The portion of

504 the resource in U.S. waters may change over time, but in any one year is the best estimate available. The

505 amount of the HG needed for incidental trip limits when the fishery is nearing closure will vary depending

506 on when the HG is projected to be achieved, but the incidental amount and the amount harvested directly

507 must equal the total HG.

508 Following the determination of the estimated biomass, a public meeting would be held between the CPSMT

509 and CPSAS. The biomass estimate and resultant HG would be reviewed, public comments obtained, and

510 all information forwarded to the Council. At its meeting, the Council, after hearing public comments, would

511 either adopt the annual specifications or recommend changes, accompanied by a justification for why the

512 change should be made.

513 The intention of the proposed regulations is to have public review of and a Council recommendation on the
514 estimated biomass and HGs before the fishing season begins; however, the NMFS Regional Administrator
515 is not precluded from announcing the HGs in the *Federal Register* before the process is completed so that
516 fishermen can plan their activities and begin harvesting when the fishing season begins.

517 4.8.2 *Factors Considered*

518 The following factors will be considered when making the annual specifications:

- 519 1. The current estimated biomass and any other biological information.
- 520 2. The harvest control rule described in the FMP, which is specific for each annually managed species.
- 521 3. Results of comments of domestic processors and joint venture operations about processing capacity
522 and planned utilization.
- 523 4. Results of an analysis of the fishing capacity and planned utilization of recent years modified by new
524 information and comments by the fishing industry relating to intended use.
- 525 5. Information on ecological factors such as the status of the ecosystem, predator-prey interactions, or
526 oceanographic conditions that may warrant additional ecosystem-based management considerations.
- 527 6. Any relevant historical information on the utilization of CPS resources.

528 All data used to make annual specifications will be available for public inspection on the Council's website
529 (www.pcouncil.org). ~~-during normal business hours at the Southwest Regional Office of NMFS.~~

530 4.8.3 *Guidelines for Choosing Between a Harvest Guideline and Quota*

531 HGs or quotas generally function as ACTs and can be specified as such. The maximum HG is derived by
532 the harvest control rule in place for each stocks. The Council may adopt the maximum HG so long as it is
533 below the established ACL. Additionally, the Council will consider potential factors that may contribute
534 to exceeding an HG, quota, or other ACT to determine if the recommended harvest target is sufficiently
535 low to avoid exceeding the ACL.

536 Quotas are specified numerical harvest objectives, the attainment of which results in automatic closure of
537 the fishery for that species. Retention, possession, and landing of a species after attainment of its quota is
538 prohibited. A quota is a single numerical value, not a range.

539 HGs are specified numerical harvest objectives that differ from quotas in that closure of a fishery (i.e.,
540 prohibition of retention, possession, and landing) is not automatically required upon attainment of the
541 objective. An HG may be either a range or a point estimate.

542 The preferred approach for managing domestic coastal pelagic resources is by HG. Foreign fisheries will
543 normally be managed by quotas. HGs are used for the domestic fishery because bycatch of one CPS is
544 common when fishing for another, and curtailing the harvest of one species may limit the harvest of another
545 and prevent achieving target harvest levels.

546 HGs and/or ACTs will be used as long as the following conditions are met:

- 547 1. Allowing an imprecise cap on total harvest will still ensure long-term productivity of the resource and
548 the economic well-being of the fishery and dependent species and is unlikely to exceed an ACL.
- 549 2. Unavoidable bycatch would occur after a quota was reached and further landings prohibited, curtailing
550 the harvest of other resources or creating discards.
- 551 3. Fishing in excess of an HG or ACT is not expected to significantly affect future yields or exceed an
552 ACL.

553 4. Overfishing is not likely to occur.

554 Generally, a quota will not be used for domestic fisheries unless extra protection of an individual species
555 becomes important. Foreign fishing allocations will generally be quotas. Quotas should be used for
556 domestic fisheries when:

- 557 1. A high degree of protection of one species is needed to ensure the future well-being of the fishery or
558 dependent species.
- 559 2. Permitting bycatch after an HG is reached cannot be accepted if the objectives of the FMP are to be
560 met.
- 561 3. Fishing in excess of an HG would significantly affect future yields or exceed an ACL.
- 562 4. Overfishing may occur and is less likely under quota management.

563 The choice of a numerical specification of an HG, ACT, or quota is based on a balance of its social,
564 economic, biological, and ecological effects as stated above.

565 4.9 Annual Assessment and Management Cycles

566 This FMP specifies that schedules for annually assessed CPS be developed based on the Council's workload
567 and meeting schedule, opportunity for industry and technical review of biomass estimates and HGs or
568 quotas, seasonal patterns in the fishery, collection and processing of survey and fishery ~~CalCOFI~~ data ~~during~~
569 ~~the peak spawning season~~, collection of other data, time required for notification of fishers, and workload
570 of the CPSMT and CPSAS. The FMP does not specify what those schedules will be, since they will be
571 implemented through regulations.

572 The annual assessment and management cycles determine the start and close date (season) for each annually
573 assessed fishery. These may be changed by abbreviated rulemaking as described in Chapter 2 ~~Section 2.1~~.

574
575 Detailed management schedules and processes for CPS fisheries are found in COP 9, Schedule 3.
576

Chapter 5

5.0 BYCATCH, INCIDENTAL CATCH, AND ALLOCATION

This FMP establishes incidental catch allowances for CPS and an allocation formula for Pacific sardine.

5.1 Incidental Catch Allowances

~~"Bycatch" is defined in the MSA as "fish which are harvested in a fishery, but not sold or kept for personal use and includes economic discards and regulatory discards." In the CPS fisheries, fish are caught and sold incidental to catching other species, because they sometimes school together.~~ Incidental catch allowances permit fishermen to land a certain percentage of fish that would otherwise be considered bycatch. Incidental catch allowances can be expressed as an amount or percentage of catch, landings, or deliveries.

Incidental catch allowances will be set by the Council, based on recommendation from the CPSMT, and consistent ~~with Sections 5.1.1 through 5.1.6 of this~~ FMP. Estimates of total incidental catch expected under the incidental catch allowances will be factored into HG, quota, or other ACT recommendations. As described in ~~Section 4.8~~Chapter 4, estimates of total incidental catch will normally be combined with the directed fishery HG to arrive at a total OY. The purpose of this adjustment is to ensure that overfishing does not occur due to incidental catch.

Incidental catch allowances are the primary method for managing bycatch in the CPS fishery. Other management approaches, such as fishing seasons or area restrictions, might also be required to reduce bycatch or incidental catch. The incidental catch allowances described here do not exclude the possibility of trip limits or other regulations imposed to reduce bycatch, prolong the directed fishery, or for other purposes.

~~5.2.1.6~~ Guidelines and Criteria for Setting Incidental Catch Allowances

~~In setting incidental catch allowances, Council will consider existing regulations, goals and objectives of this FMP, best available data, scientific and management advice available, guidelines given below, and other policies established by the Council. If decision by the NMFS Regional Administrator about incidental catch allowances is necessary due to time constraints, it will be made based on consultation with the Council Chair, Director of the California Department of Fish and Game, CPSMT, CPSAS, other representatives appointed by the Council, and interested parties as appropriate~~

~~5.2.1.6.1~~ — Overfished Stocks

~~In order of priority, the Council's goals in setting incidental catch allowances for overfished stocks should be to (1) minimize fishing mortality on overfished stocks, and (2) minimize discards of overfished stocks. Incidental catch allowances for overfished stocks should approximate rates of incidental catch when fishing is conducted in a manner that minimizes catch of the overfished stock.~~

~~The Council must set incidental catch allowances for all overfished stocks. Once set, incidental catch allowances for overfished stocks remain in force until they are changed. Incidental catch allowances for overfished stocks can be revised during the fishing season if conditions warrant or new information becomes available.~~

~~5.1.1~~ — Incidental Catch Allowances When Stocks are Overfished

When a stock is overfished ~~according to the definition of overfishing~~as defined in this FMP, incidental

39 catch allowances for commercial fishing shall be set at 0 percent to 20 percent of landed weight, as
40 recommended by the Council.

41 5.2.25.1.6.2 Stocks Not Overfished

42 Incidental catch allowances for stocks that are not overfished are enforced once a directed fishery HG has
43 been reached, and the directed fishery has been closed. Goals in setting incidental catch allowances for
44 stocks that are not overfished should be to (1) avoid unnecessary discard, (2) ensure that HG is taken, but
45 not exceeded, and (3) promote efficiency and profitability in the fishery. Estimates of total incidental catch
46 (based on past or current incidental catch rates, incidental catch allowances, HGs and other conditions in
47 the fishery) are normally considered when HGs are set. Thus, incidental catch allowances should be set at
48 the same time and in concert with HGs.

49 Incidental catch allowances are meant to accommodate catches that are difficult to avoid during normal
50 fishing directed at other species. Therefore, incidental catch allowances should be set at levels that
51 approximate incidental catch rates during normal fishing activities and do not result in landings in excess
52 of an ACL or ABC.

53

54 *5.1.2— Incidental Catch Allowances When Stocks are Not Overfished*

55 When a stock is not overfished ~~according to the definition of overfishing~~ as defined in the FMP, incidental
56 catch allowances for commercial fishing shall be set at 0 percent to 45 percent of landed weight, as
57 recommended by the Council.

58 5.2.2.15.1.3 Pacific (~~chub~~) Mackerel Landed Incidentally

59 When the Pacific (~~chub~~) mackerel resource is not overfished, and total landings for the directed fishery
60 established under an HG have been caught, the Council may set an allowable incidental trip limit of one mt
61 or lower.

62 5.2.35.1.7 Incidental Catch Allowance for Shared ~~EC~~ Ecosystem Component Species

63 Shared EC Species could continue to be taken incidentally without violating Federal regulations, unless
64 regulated or restricted for other purposes, such as with bycatch minimization regulations. The targeting of
65 Shared EC Species is prohibited.

66 5.3 Catch Allowance for Live Bait

67 5.3.15.1.4 Catch Allowances for Live Bait When Stocks are Overfished

68 When a stock is overfished ~~according to the definition~~ as defined in the FMP, catch allowances for live bait
69 fishing may be determined by the Council. Allowing a directed live bait fishery when a stock is overfished
70 is contingent on Council consideration of biological, environmental, and socio-economic factors. The
71 Council is required to minimize fishing mortality on an overfished stock to the extent practicable and to
72 undertake a rebuilding program, which may be implicit to the harvest control rule or explicit.

73 5.3.25.1.5 ~~Incidental~~ Catch Allowances for Live Bait When Stocks are Not Overfished

74 When a stock is not overfished according to the definition of overfishing in the FMP and an ACL is not

75 anticipated to be exceeded, no restrictions are placed on live bait harvest.

76 ~~5.1.6 Guidelines and Criteria for Setting Incidental Catch Allowances~~

77 ~~In setting incidental catch allowances, Council will consider existing regulations, goals and objectives of~~
78 ~~this FMP, best available data, scientific and management advice available, guidelines given below, and~~
79 ~~other policies established by the Council. If decision by the NMFS Regional Administrator about incidental~~
80 ~~catch allowances is necessary due to time constraints, it will be made based on consultation with the Council~~
81 ~~Chair, Director of the California Department of Fish and Game, CPSMT, CPSAS, other representatives~~
82 ~~appointed by the Council, and interested parties as appropriate.~~

83 ~~5.1.6.1 Overfished Stocks~~

84 ~~In order of priority, the Council's goals in setting incidental catch allowances for overfished stocks should~~
85 ~~be to (1) minimize fishing mortality on overfished stocks, and (2) minimize discards of overfished stocks.~~
86 ~~Incidental catch allowances for overfished stocks should approximate rates of incidental catch when fishing~~
87 ~~is conducted in a manner that minimizes catch of the overfished stock.~~

88 ~~The Council must set incidental catch allowances for all overfished stocks. Once set, incidental catch~~
89 ~~allowances for overfished stocks remain in force until they are changed. Incidental catch allowances for~~
90 ~~overfished stocks can be revised during the fishing season if conditions warrant or new information~~
91 ~~becomes available.~~

92 ~~5.1.6.2 Stocks Not Overfished~~

93 ~~Incidental catch allowances for stocks that are not overfished are enforced once a directed fishery HG has~~
94 ~~been reached, and the directed fishery has been closed. Goals in setting incidental catch allowances for~~
95 ~~stocks that are not overfished should be to (1) avoid unnecessary discard, (2) ensure that HG is taken, but~~
96 ~~not exceeded, and (3) promote efficiency and profitability in the fishery. Estimates of total incidental catch~~
97 ~~(based on past or current incidental catch rates, incidental catch allowances, HGs and other conditions in~~
98 ~~the fishery) are normally considered when HGs are set. Thus, incidental catch allowances should be set at~~
99 ~~the same time and in concert with HGs.~~

100 ~~Incidental catch allowances are meant to accommodate catches that are difficult to avoid during normal~~
101 ~~fishing directed at other species. Therefore, incidental catch allowances should be set at levels that~~
102 ~~approximate incidental catch rates during normal fishing activities and do not result in landings in excess~~
103 ~~of an ACL or ABC.~~

104 ~~5.1.7 Incidental Catch Allowance for Shared EC Species~~

105 ~~Shared EC Species could continue to be taken incidentally without violating Federal regulations, unless~~
106 ~~regulated or restricted for other purposes, such as with bycatch minimization regulations. The targeting of~~
107 ~~Shared EC Species is prohibited.~~

108 ~~5.4.5.2 Minor Directed CPS Finfish Fisheries~~

109 A very small sector of the CPS fishery harvests minor amounts of CPS not as part of the primary
110 commercial directed fishery, but as a small artisanal fishery. This component of the fishery typically sells
111 catch as specialty dead bait to recreational and commercial fisheries, or for human consumption to
112 restaurants and the public. Total landings from this sector typically make up less than one percent of the
113 total landings of any particular CPS stock. These operations do not fall under standard incidental landing

114 exemptions and do not meet the incidental landing allowances described above when the directed fishery
115 is closed. Setting minor directed harvest limits when other directed fishing has been closed, and managing
116 this harvest under the ACL similar to other harvests allowed after the closure (e.g., live bait and incidental)
117 allows these very small catches to continue under certain scenarios when this catch would otherwise be
118 precluded, such as the Pacific sardine biomass dropping below the CUTOFF value, or when the directed
119 fishery allocation for the year or a fishing period has been reached.

120
121 Minor directed fishing will be allowed to continue after a directed fishery is closed, unless otherwise
122 specified, or an ACL is anticipated to be exceeded. The allowance for minor directed fishing is that no
123 vessel or person may land more than one mt per day and vessels may not make more than one trip per day.
124 Minor directed fishing will not be allowed after the ACL is met or exceeded, or is projected to be exceeded.

125
126 5.55.3 Seasonal Allocation for the Directed Pacific Sardine Fishery

127 The non-tribal share of the Pacific sardine HG is allocated coastwide on a seasonal basis as follows:

- 128 ~~1. 35 percent of the HG to be allocated coastwide on January 1.~~
129 12. On July 1, 40 percent of the initial harvest guideline for Pacific sardine is allocated coastwide within
130 the fishery management area.40 percent of the HG, plus any portion not harvested from the initial
131 allocation, to be reallocated coastwide on July 1.
132 23. On September 15, 25 percent of the initial harvest guideline for Pacific sardine plus the remaining
133 unharvested portion of the July 1 allocation is allocated coastwide within the fishery management area.
134 ~~On September 15 the remaining 25 percent of the HG, plus any portion not harvested from earlier~~
135 ~~allocations, to be reallocated coastwide.~~
136 3.1. On January 1, 35 percent of the initial harvest guideline for Pacific sardine plus the remaining
137 unharvested portion of the September 15 allocation is allocated coastwide within the fishery management
138 area.35 percent of the HG to be allocated coastwide on January 1.

139