

information, that the state's commercial quota has been harvested.

The regulations at § 648.4(b) provide that Federal permit holders agree as a condition of the permit not to land summer flounder in any state that the Regional Administrator has determined no longer has commercial quota available. Therefore, effective 0001 hours August 20, 1997, further landings of summer flounder in Maryland by vessels holding commercial Federal fisheries permits are prohibited for the remainder of the 1997 calendar year, unless additional quota becomes available through a transfer and is announced in the **Federal Register**. Effective the date above, federally permitted dealers are also advised that they may not purchase summer flounder from Federally permitted vessels that land in Maryland for the remainder of the calendar year, or until additional quota becomes available through a transfer.

Classification

This action is required by 50 CFR part 648 and is exempt from review under E.O. 12286.

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

Dated: August 18, 1997.

Gary C. Matlock,

*Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.*

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 970813196-7196-01; ID. 073197A]

Fisheries Off West Coast States and in the Western Pacific; Northern Anchovy Fishery; Quotas for the 1997-98 Fishing Year

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

ACTION: Interim final quotas.

SUMMARY: NMFS announces the estimated spawning biomass and interim final harvest quotas for the northern anchovy fishery in the exclusive economic zone south of Point Reyes, CA, the 1997-98 fishing year. These quotas may only be adjusted if inaccurate data were used or if errors were made in the calculations. Comments on these two points are

invited. If no changes are necessary, these interim final quotas will become final quotas without further notice. The intended effect of this action is to establish allowable harvest levels for the central subpopulation of Pacific anchovy.

DATES: Effective on August 15, 1997. Comments will be accepted until September 15, 1997.

ADDRESSES: Submit comments on the interim final quotas to Dr. William T. Hogarth, Acting Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213. Administrative Reports LJ-95-11 and LJ-97-08 are available from this same address.

FOR FURTHER INFORMATION CONTACT: Mr. James J. Morgan, Southwest Region, NMFS, (562) 980-4036.

SUPPLEMENTARY INFORMATION: In consultation with the California Department of Fish and Game and the NMFS Southwest Fisheries Science Center, the Acting Administrator, Southwest Region, NMFS, (Regional Administrator) has decided to use the 1995 estimate of 388,000 mt spawning biomass for the central subpopulation of northern anchovy, *Engraulis mordax*, to set harvest limits for the 1997-98 fishing year. This is the same biomass estimate that was used for the 1995-96 and the 1996-97 fishing years and is being used because no new assessment has been made. Recently examined indices of relative abundance of anchovy schools from airplane fish-spotter logs and egg production from research cruises indicate that the biomass remains at or above that estimated in 1995.

The biomass estimate was derived from a stock assessment model using spawning biomass estimated by five indices of abundance. Documentation of the spawning biomass is contained in Administrative Report LJ-95-11, published by the Southwest Fisheries Science Center, NMFS (see **ADDRESSES**). Administrative Report LJ-97-08 examining indices of relative abundance was provided at a public meeting of the Pacific Fishery Management Council's (Council) Coastal Pelagics Planning Team and Advisory Subpanel in Long Beach, CA, on June 18, 1997. At that time, a review of the status of the anchovy resource was presented by the Planning Team, and NMFS requested estimates of domestic processing needs from the fishing industry so that a basis could be established for setting annual quotas. As was the case in 1996, representatives of the industry felt that 13,000 mt would meet the needs of the reduction industry.

Reports of the Planning Team and the Advisory Subpanel were then presented to the Council at its June 23-25 meeting in Seattle, WA. Although no additional information was provided to the Council regarding anticipated domestic use of anchovy, the Council recommended that the entire 61,600 mt available for reduction fishing be allocated to the domestic fishery (70 percent of the biomass above 300,000 mt). There is some uncertainty with regard to what the domestic fishery will harvest, and there is always great uncertainty with regard to what Mexico will harvest. Nevertheless, the U.S. harvest has remained low. The Mexican harvest increased significantly in 1995 but dropped to a moderate level in 1996. With the information available, the best estimate of domestic use for reduction fishing is 13,000 mt.

According to the formula in the FMP, the U.S. optimum yield (OY) is 61,600 mt (70 percent of the biomass above 300,000), which is allocated to reduction fisheries, plus 4,900 mt for non-reduction fisheries. Since there is no agreement with Mexico on the management of northern anchovy, a portion of the biomass (30 percent) above 300,000 mt is designated as the amount to account for this unregulated harvest. Any portion of the U.S. OY not used by U.S. fishermen is identified as total allowable level of foreign fishing (TALFF) and is available to foreign fishing.

The amount of the TALFF is based on the portion of the U.S. OY that will not be used by U.S. fishermen, minus the amount of harvest by Mexican vessels that is in excess of that allocated to Mexico according to the formula in the FMP. The estimate of Mexican excess harvest is based on the largest harvest in the last 3 years; however, the biomass has been so low during this time that there was no significant fishery off Mexico until 1995, and there has been no excess Mexican harvest as defined in the FMP.

After considering the above, the Regional Administrator has made the following determinations for the 1997-98 fishing year by applying the formulas in the FMP and in 50 CFR Part 660.509(b):

1. The total U.S. OY for northern anchovy is 66,500 mt, plus an unspecified amount for use as live bait.
2. The total U.S. harvest quota for reduction purposes is 13,000 mt.
 - a. Of the total reduction harvest quota, 1,300 mt is reserved for the reduction fishery in Subarea A (north of Pt. Buchon). The FMP requires that 10 percent of the U.S. reduction quota or

9,072 mt, whichever is less, be reserved for the northern fishery. This is not a special quota, but only a reduction in the amount allocated to the southern fishery south of Pt. Buchon (Subarea B). After the northern fishery has harvested 1,300 mt, any unused portion of the Subarea B allocation may also be harvested north of Pt. Buchon.

b. The reduction quota for subarea B (south of Pt. Buchon) is 11,700 mt.

3. The U.S. harvest quota for non-reduction fishing

(i.e., fishing for anchovy for use as dead bait or human consumption) is 4,900 mt (as set by § 660.509(b)).

4. There is no U.S. harvest limit for the live bait fishery.

5. The domestic annual processing capacity (DAP) is 13,000 mt.

6. The amount allocated to joint venture processing

(JVP) is zero, because there is no history of, nor are there applications for, joint ventures.

7. Domestic annual harvest capacity (DAH) is 13,000 mt. DAH is the sum of DAP and JVP.

8. The TALFF is 48,600 mt.

The fishery will be monitored during the year and evaluated with respect to the OY and the estimated needs of the fishing industry. Adjustments may be made to comply with the requirements of the FMP and its implementing regulations.

This action is authorized by 50 CFR part 660.509 and is exempt from review under E.O. 12866.

The Assistant Administrator for Fisheries, NOAA (AA) finds for good cause under 5 U.S.C. 553(b)(B) that providing prior notice and an opportunity for public comment on this action is unnecessary because establishing the quota is a ministerial act, determined by applying a formula in the FMP. Accordingly, providing prior notice and an opportunity for

public comment would serve no useful purpose.

Because this rule merely establishes a quota and does not require any participants in the fishery to take action or to come into compliance, the AA finds for good cause under 5 U.S.C. 553(d)(3) that delaying the effective date of this rule for 30 days is unnecessary. Further, because establishing a quota allows the opening of the fishery, it relieves a restriction and under 5 U.S.C. 553(d)(1) is not subject to a delay in effective date. Accordingly the AA makes the quota effective upon the date of filing for public inspection with the Office of the Federal Register.

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

Dated: August 15, 1997.

Roland A. Schmitten,

*Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

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