

§ 648.86 Multispecies possession restrictions.

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(h) * * *

(2) * * *

(ii) The vessel does not fish south of 40°00' N. lat. for a minimum of 30 consecutive days (when fishing under the NE multispecies DAS program, or under the monkfish DAS program if the vessel is fishing under the limited access monkfish Category C or D provisions). Vessels subject to these restrictions may fish any portion of a trip in the GOM and GB Regulated Mesh Areas, provided the vessel complies with the possession restrictions specified under this paragraph (h). Vessels subject to these restrictions may also transit the SNE and MA Regulated Mesh Areas south of 40°00' N. lat., provided the gear is stowed in accordance with one of the provisions of § 648.23(b).

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3. In § 648.92, paragraph (b)(2) is revised to read as follows:

§ 648.92 Effort-control program for monkfish limited access vessels.

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(b) * * *

(2) Category C and D limited access monkfish permit holders. (i) August 1, 2002 - April 30, 2003. Each monkfish DAS used by a limited access multispecies or scallop vessel holding a Category C or D limited access monkfish permit shall also be counted as a multispecies or scallop DAS, as applicable, unless otherwise specified in this paragraph (b). A Category C or D vessel that had fewer unused multispecies DAS than unused monkfish DAS as of August 1, 2002, may fish under the limited access monkfish provisions for Category A or B vessels, as applicable, for the number of DAS that equal the difference between its unused monkfish DAS and unused multispecies DAS as of August 1, 2002. For such vessels, when the total allocation of multispecies DAS has been used, a monkfish DAS may be used without concurrent use of a multispecies DAS. (For example, if a monkfish Category D vessel has 10 NE multispecies DAS and 40 monkfish DAS remaining as of August 1, 2002, that vessel may use the remaining 30 monkfish DAS to fish on monkfish, without a NE multispecies DAS being used, once the remaining 10 NE multispecies DAS have been utilized. However, the vessel must fish the remaining 30 monkfish DAS under the regulations pertaining to a Category B vessel, and must not retain any regulated multispecies.)

(ii) Beginning May 1, 2003. Each monkfish DAS used by a limited access multispecies or scallop vessel holding a Category C or D limited access monkfish permit shall also be counted as a multispecies or scallop DAS, as applicable, except when a Category C or D vessel that has an allocation of multispecies DAS under § 648.82(l) that is less than the number of monkfish DAS allocated for the fishing year May 1 through April 30, that vessel may fish under the monkfish limited access Category A or B provisions, as applicable, for the number of DAS that equal the difference between the number of its allocated monkfish DAS and the number of its allocated multispecies DAS. For such vessels, when the total allocation of multispecies DAS have been used, a monkfish DAS may be used without concurrent use of a multispecies DAS. (For example, if a monkfish Category D vessel's multispecies DAS allocation is 30, and the vessel fished 30 monkfish DAS, 30 multispecies DAS would also be used. However, after all 30 multispecies DAS are used, the vessel may utilize its remaining 10 monkfish DAS to fish on monkfish, without a multispecies DAS being used, provided that the vessel fishes under the regulations pertaining to a Category B vessel and does not retain any regulated multispecies.)

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 660**

[Docket No. 02112272-2272-01; I.D. 110202D]

RIN 0648-AP88

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

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

ACTION: Proposed rule.

SUMMARY: NMFS proposes a regulation to implement the annual harvest guideline for Pacific sardine in the U.S. exclusive economic zone off the Pacific coast for the fishing season January 1, 2003, through December 31, 2003. This

harvest guideline has been calculated according to the regulations implementing the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP) and establishes allowable harvest levels for Pacific sardine off the Pacific coast.

DATES: Comments must be received by December 10, 2002.

ADDRESSES: Send comments on the proposed rule to Rodney R. McInnis, Acting Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213. The report *Stock Assessment of Pacific Sardine with Management Recommendations for 2003* may be obtained at this same address.

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

SUPPLEMENTARY INFORMATION: The FMP, which was implemented by publication of the final rule in the **Federal Register** on December 15, 1999 (64 FR 69888), divides management unit species into two categories: actively managed and monitored. Harvest guidelines for actively managed species (Pacific sardine and Pacific mackerel) are based on formulas applied to current biomass estimates. Biomass estimates are not calculated for species that are only monitored (jack mackerel, northern anchovy, and market squid).

At a public meeting each year, the biomass for each actively managed species is reviewed by the Pacific Fishery Management Council's (Council) Coastal Pelagic Species Management Team (Team). The biomass, harvest guideline, and status of the fisheries are then reviewed at a public meeting of the Council's CPS Advisory Subpanel (Subpanel). This information is also reviewed by the Council's Scientific and Statistical Committee (SSC). The Council reviews reports from the Team, Subpanel, and SSC, and then, after providing time for public comment, makes its recommendation to NMFS. The annual harvest guideline and season structure are published by NMFS in the **Federal Register** as soon as practicable before the beginning of the appropriate fishing season. The Pacific sardine season begins on January 1 and ends on December 31 of each year.

The CPS Team, Subpanel, and SSC meetings as described above were held as in the past. The Team meeting took place at the Southwest Regional Office in Long Beach, CA, on October 8, 2002. A public meeting between the Team and the Subpanel was held at the same location that afternoon. The Council reviewed the report at its October-

November meeting in Foster City, CA, when it heard comments from its advisory bodies and the public.

Based on a biomass estimate of 999,871 metric tons (mt), the harvest guideline for Pacific sardine for January 1, 2003, through December 31, 2003, is 110,908 mt. The biomass estimate is slightly lower than last year's estimate; however, this year's biomass is not statistically different from those estimates calculated in the past. Nevertheless, estimates from recent years suggest that the rapid growth of the biomass observed since 1983 is leveling off.

The harvest guideline is allocated one-third for Subarea A, which is north of 35°40' N. lat. (Pt. Piedras Blancas, CA) to the Canadian border, and two-thirds for Subarea B, which is south of 35° N. lat. to the Mexican border. Under this proposed rule, the northern allocation for 2003 would be 36,969 mt; the southern allocation would be 73,939 mt. In 2002, the northern allocation was 39,481 mt and the southern allocation was 78,961 mt.

Normally, an incidental landing allowance of sardine in landings of other CPS is set at the beginning of the fishing season. The incidental allowance would become effective if the harvest guideline is reached and the fishery closed. A landing allowance of sardine up to 45 percent by weight of any landing of CPS is authorized by the FMP. An incidental allowance prevents fishermen from being cited for a violation when sardine occur in schools of other CPS, and it minimizes bycatch of sardine if sardine are inadvertently caught while fishing for other CPS. Sardine landed with other species also requires sorting at the processing plant, which adds to processing costs. Mixed species in the same load may damage smaller fish. The Subpanel discussed this issue and noted that the fish off Oregon and Washington, both sardine and mackerel, are generally larger than the fish off southern California and markets differ in the two areas; therefore, deciding what the allowance should be for the entire fishery was difficult. The Subpanel did not agree on an appropriate allowance. Public comment is sought on this issue.

The sardine population was estimated using a modified version of the integrated stock assessment model called Catch at Age Analysis of Sardine Two Area Model (CANSAR TAM). CANSAR-TAM is a forward-casting, age-structured analysis using fishery dependent and fishery independent data to obtain annual estimates of sardine abundance, year-class strength, and age-specific fishing mortality for 1983 through 2002. The modification of CANSAR-TAM was developed to account for the expansion of the Pacific sardine stock northward to include waters off the northwest Pacific coast. Information on the fishery and the stock assessment are found in the report *Stock Assessment of Pacific Sardine with Management Recommendations for 2003* (see ADDRESSES).

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

1. *The biomass of age one sardine and above.* For 2003, this estimate is 999,871 mt.

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

3. *The portion of the sardine biomass that is in U.S. waters.* For 2003, this estimate is 87 percent, based on the average of larval distribution obtained from scientific cruises and the distribution of the resource obtained from logbooks of fish-spotters.

4. *The harvest fraction.* This is the percentage of the biomass above 150,000 mt that may be harvested. The fraction used varies (5–15 percent) with current ocean temperatures. A higher fraction is used for warmer ocean temperatures, which favor the production of Pacific sardine, and a lower fraction is used for cooler temperatures. For 2003, the fraction was 15 percent based on three seasons of sea surface temperature at Scripps Pier, California.

Based on the estimated biomass of 999,871 mt and the formula in the FMP, a harvest guideline of 110,908 mt was determined for the fishery beginning January 1, 2003. The harvest guideline is allocated one-third for Subarea A, which is north of 35°40' N. lat. (Pt. Piedras Blancas, California) to the Canadian border, and two-thirds for

Subarea B, which is south of 35°40' N. lat. to the Mexican border. The northern allocation is 36,969 mt; the southern allocation is 73,939 mt.

Classification

These proposed specifications are issued under the authority of, and are in accordance with, the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and 50 CFR part 660 subpart I (the regulations implementing the FMP).

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows:

The harvest guideline is lower than those of recent years; however, the harvest guideline has not been achieved in recent years. From 1999 through 2001, landings were 60,000 mt, 72,000 mt, and 77,000 mt respectively. Landings are likely to reach 86,000 mt in 2002. Based on the landings estimate of approximately 86,000 mt for 2002 and the 2002 harvest guideline of 118,442, approximately 32,000 mt is likely to remain unharvested by the end of 2002. Accordingly, vessels and processors will not be economically impacted because there is sufficient resource available to satisfy all available markets. Although markets have expanded for this resource, from 1999 through 2001, 17,000 mt, 50,000 mt, and 59,000 mt has gone unharvested. Real ex-vessel revenue per ton has increased as well as total ex-vessel revenue, which suggests a growing diversity in markets.

Hence, implementation of these specifications would not have a significant economic impact on a substantial number of small entities. As a result, no regulatory flexibility analysis for this rule has been prepared.

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

Dated: November 20, 2002.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

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