

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) • Elevation in feet (NAVD)	
				Existing	Modified
Maps available for inspection at the City of New Richmond Civic Center, 156 East First Street, New Richmond, Wisconsin.					
Send comments to The Honorable David Schnitzler, Mayor of the City of New Richmond, 156 East First Street, New Richmond, Wisconsin 54017.					

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Dated: July 21, 2003.

**Anthony S. Lowe,**

Mitigation Division Director, Emergency Preparedness and Response Directorate.

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 660**

[Docket No. 030721177-3177-01; I.D. 060903C]

RIN 0648-AQ96

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

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes a regulation to implement the annual harvest guideline for Pacific mackerel in the exclusive economic zone (EEZ) off the Pacific coast. The Coastal Pelagic Species (CPS) Fishery Management Plan (FMP) and its implementing regulations require NMFS to set an annual harvest guideline for Pacific mackerel based on the formula in the FMP. This action proposes allowable harvest levels for Pacific mackerel off the Pacific coast.

**DATES:** Comments must be received by August 13, 2003.

**ADDRESSES:** Send comments on the proposed rule to Rodney R. McInnis, Acting Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802. The report Stock Assessment of Pacific Mackerel with Recommendations for the 2003-2004 Management Season may be obtained at this same address. An environmental assessment/regulatory impact review/initial regulatory flexibility analysis (IRFA) may be obtained at this same address.

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

**SUPPLEMENTARY INFORMATION:** The CPS 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 the categories of actively managed and monitored. Harvest guidelines of actively managed species (Pacific sardine and Pacific mackerel) are based on formulas applied to current biomass estimates. 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) CPS 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, then, after providing time for public comment,

makes its recommendation to NMFS. The annual harvest guideline and season structure is published by NMFS in the **Federal Register** as soon as practicable before the beginning of the appropriate fishing season. The Pacific mackerel season begins on July 1 of each year and ends on June 30 the following year.

The Team and Subpanel meetings took place at the NMFS Southwest Regional Office in Long Beach, CA, on May 21, 2003 (68 FR 23703, May 5, 2003). The SSC meeting took place in conjunction with the June 16-20, 2003, Council meeting in Foster City, CA.

A modified virtual population analysis stock assessment model is used to estimate the biomass of Pacific mackerel. The model employs both fishery dependent and fishery independent indices to estimate abundance. The biomass was calculated through the end of 2002, then estimated for the fishing season that began July 1, 2003, based on: (1) the number of Pacific mackerel estimated to comprise each year class at the beginning of 2003, (2) modeled estimates of fishing mortality during 2002, (3) assumptions for natural and fishing mortality through the first half of 2003, and (4) estimates of age-specific growth. Based on this approach the biomass for July 1, 2003, would be 68,924 metric tons (mt). Applying the formula in the FMP would result in a harvest guideline of 10,652 mt, which is lower than last year but similar to low harvest guidelines of recent years.

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

1. *The biomass of Pacific mackerel.* For 2003, this estimate is 68,924 mt.
2. *The cutoff.* This is the biomass level below which no commercial

fishery is allowed. The FMP established the cutoff level at 18,200 mt. The cutoff is subtracted from the biomass, leaving 50,724 mt.

3. *The portion of the Pacific mackerel biomass that is in U.S. waters.* This estimate is 70 percent, based on the historical average of larval distribution obtained from scientific cruises and the distribution of the resource obtained from logbooks of fish-spotters. Therefore, the harvestable biomass in U.S. waters is 70 percent of 50,724 mt, that is, 35,507 mt.

4. *The harvest fraction.* This is the percentage of the biomass above 18,200 mt that may be harvested. The FMP established the harvest fraction at 30 percent. The harvest fraction is multiplied by the harvestable biomass in U.S. waters (35,507 mt), which results in 10,652 mt.

Information on the fishery and the stock assessment are found in the report *Stock Assessment of Pacific Mackerel with Recommendations for the 2003–2004 Management Season*, which may be obtained at the address above (see **ADDRESSES**).

Following recommendations of the fishing industry and Subpanel for the 2002/2003 fishing season, a directed fishery for Pacific mackerel of 9,500 mt was set beginning July 1, 2002, followed by an incidental allowance of 40 percent of Pacific mackerel in landings of any CPS, if the 9,500 mt was harvested. A 1-mt landing of Pacific mackerel per trip would have been allowed if no other CPS (northern anchovy, Pacific sardine, jack mackerel, market squid) were landed during a trip. NMFS implemented a directed and incidental fishery last season in response to concerns about how a low harvest guideline for mackerel might interfere with the sardine fishery. Pacific mackerel is often caught with sardine; therefore, mackerel might have to be discarded, which would increase bycatch. As of May 30, 2003, approximately 3,800 mt of Pacific mackerel had been landed in the directed fishery; therefore, an incidental fishery was not necessary.

At its meeting on May 21, 2003, the Subpanel recommended for the 2003/2004 fishing season that a directed fishery of 7,500 mt and an incidental fishery of 3,152 mt be implemented. An incidental allowance of 40 percent of Pacific mackerel in landings of any CPS would become effective when 7,500 mt of Pacific mackerel is estimated to be harvested. The Subpanel also recommended to allow 1 mt of mackerel to be landed per trip while fishing for salmon or groundfish in the incidental fishery without landing any other CPS.

The Subpanel recommended that an inseason review of the mackerel season be completed for the March 2004 Council meeting, with the possibility of reopening the directed fishery as an automatic action if sufficient amount of the harvest guideline reserved for the incidental fishery remains unharvested.

Public comments are requested on how the fishery might be conducted for the 2003/2004 fishing season to achieve but not exceed the harvest guideline while minimizing impacts on the harvest of other CPS.

In view of the above, the following would be implemented for the July 1, 2003, through June 30, 2004, fishing season:

Based on the estimated biomass of 68,924 mt and the formula in the FMP, a harvest guideline of 10,652 mt would be in effect for the fishery beginning on July 1, 2003. This harvest guideline would be for the fishing season beginning at 12:01 a.m. on July 1, 2003, and continue through June 30, 2004, unless the harvest guideline is attained and the fishery is closed before June 30, 2004. A directed fishery of 7,500 mt and an incidental fishery of 3,152 mt would be implemented, with an incidental allowance of 40 percent of Pacific mackerel in landings of any CPS becoming effective when 7,500 mt of Pacific mackerel is estimated to be harvested. A landing of 1 mt of Pacific mackerel per trip would be permitted during the incidental fishery without landing any other CPS.

#### Classification

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

Public comments are also requested on the IRFA that NMFS has prepared that describes the economic impact this proposed rule, if adopted, would have on small entities. Specifically, NMFS is requesting that the public provide comments on the range of alternatives considered by NMFS and offer any additional alternatives that NMFS should consider for the Pacific mackerel fishery. The IRFA is available from NMFS (see **ADDRESSES**). A summary of the IRFA follows:

A description of the action, why it is being considered, and the legal basis for this action are contained in the **SUMMARY** and in the **SUPPLEMENTARY INFORMATION** of this proposed rule and is not repeated here. A harvest guideline is required by the FMP to protect the resource from overfishing while allowing harvest by fishermen. For the purposes of analysis, the no action alternative has potential negative environmental and economic impacts.

Failure to set a harvest guideline based on a biomass estimate could lead to overfishing. This would provide some short term economic benefits to the fishing industry through increased revenue, but a decline in the resource would lead to lower revenue in subsequent years. The alternative to not have a directed and incidental fishery is reasonable, but could have negative economic consequences, because Pacific mackerel often occur in schools of Pacific sardine; therefore, a prohibition on landing Pacific mackerel would disrupt the sardine fishery. The season structure of the 2002–2003 fishing season was reviewed, which included a directed fishery of 9,500 mt, an incidental fishery of 3,035 mt, and an incidental harvest of 40 percent following closure of the directed fishery. The lower harvest guideline and the primary goal of minimizing economic impacts on the sardine fishery during the 2003–2004 fishing season led to setting the incidental fishery at a similar level, 3,152 mt, with a 40 percent incidental rate, reducing the size of the directed fishery. Many alternatives to the specific amounts of the harvest guideline allocated to the directed and incidental fisheries are possible, but the amounts essential for an efficient fishery are not predictable; therefore, changes during the fishing season may be necessary. A review of previous seasons indicated that about 3,000 mt should be reserved for an incidental fishery. Changes can be made during the fishing season, but a high incidental rate and a significant incidental fishery would likely minimize interruption of the sardine fishery and regulatory changes during the year. If a significant amount of the harvest guideline remains toward the end of the season, the directed fishery can be reopened. This proposed rule does not duplicate, overlap, or conflict with other Federal rules. There are no reporting, record-keeping, or other compliance requirements of the proposed rule.

Approximately 83 vessels harvest Pacific mackerel off the U.S. West Coast. This includes 65 vessels with limited entry permits, which are authorized to fish south of 39°N. lat. (a point north of Monterey, California). Approximately 18 vessels harvest CPS species in southern California for bait; however, little Pacific mackerel is used for bait. The primary harvesters of Pacific mackerel are the vessels with limited entry permits from Monterey, California south. Some of the vessels in Monterey, California may move south to harvest CPS, but may not relocate to harvest Pacific mackerel in all years. All of

these vessels would be considered small businesses under the Small Business Administration standards; therefore, there would be no financial impacts resulting from disproportionality between small and large vessels under the proposed action. CPS vessels typically harvest a number of other species, including anchovy, Pacific sardine, and market squid.

The average revenue from Pacific mackerel in real dollars in the last 10 years, from 1993 through 2002 is almost \$1.8 million per year. This is the revenue the industry might expect on average per year given the amount of mackerel available for harvest and market demand. With a harvest guideline of 10,652 mt and an average ex-vessel price per ton of \$144.55, potential revenue could be \$1.5 million. The harvest guideline for the 2002–2003 fishing season was 12,535 mt; however, as of June 3, 2003, only 3,790 mt had been landed, primarily because of the lack of availability of the resource in the area of the fishing fleet. Total landings for the 2002–2003 fishing season are not likely to exceed 4,000 tons. Therefore, if the harvest guideline is reached during the 2003–2004 fishing season, there will be an increase of \$960,000 in ex vessel revenue above that of the 2002–2003 fishing season. The increase would be beneficial for fishermen and processors, and will benefit the fishing communities in southern California, where virtually all Pacific mackerel is landed. Enforcement and administrative costs (primarily port sampling) remain unchanged because calls at ports of landing are designed not only to assess the status of Pacific mackerel but all species harvested during the year by the CPS fleet. Average conditions are likely to prevail during the 2003–2004 fishing season, that is, ex vessel revenue derived from Pacific mackerel will fall between \$1.4 million and \$1.8 million based on a real ex vessel price that has varied between \$126.98/mt and \$172.59/mt from 1993 to 2002.

Cost data is not available for the 65 vessels with limited entry permits; therefore, average gross revenue per vessel is used as a proxy for changes in profitability. With an estimated increase of \$960,000 in gross revenue, the average gross revenue per vessel would be \$14,769. Setting a harvest guideline is required by the FMP and Federal regulations; therefore, a no action alternative is not reasonable. However,

for the purposes of measuring impacts, if there is sufficient biomass to allow a fishery, the fishing season begins on July 1 even if a harvest guideline is not determined. Unless action were taken to curtail the fishery, unlimited amounts of Pacific mackerel could be harvested. With such a low biomass, exceeding the MSY would be likely, which would lead to some short term economic benefits to the fishing industry, but would lower the biomass estimate the following year along with the harvest guideline, which would reduce potential future revenue to the fleet. The impact of future revenue loss is greater at the low biomass levels that have occurred in recent years, because rebuilding the resource from low biomass levels takes longer. Nevertheless, market conditions and availability of Pacific mackerel in the area of the fishery have a strong effect on landings. Since 1994, overall fleet revenue has averaged \$29.9 million and revenue obtained from Pacific mackerel has averaged 7.8 percent of that total. Under the proposed alternative, revenue is likely to average less because squid landings contribute substantial revenue to the fleet and squid availability is not expected to be depressed by an El Nino during the 2003–2004 Pacific mackerel season as it was in 1998. In an unrestricted mackerel fishery, average revenue would be more likely to approach 7.8 percent. In view of the above, the relatively low harvest guideline for the 2003–2004 fishing season will provide a slight increase in revenue and will not have a substantial effect on overall vessel profitability.

The proposed alternative also divides the harvest guideline into a 7,500 mt directed fishery, a 3,152 mt incidental fishery, and a limit of 40 percent by weight of Pacific mackerel in any landing of CPS when the directed fishery is closed. The numbers chosen were based on recent experience in the fishery, primarily availability of Pacific mackerel in the area of the fishery and the recent market value of mackerel compared to other CPS fisheries. A directed fishery with no incidental fishery could lead to significant negative economic impacts by closing the sardine fishery, which provided over \$10 million in revenue to the CPS fleet in 2002. Interfering with the sardine fishery leads to increased bycatch of Pacific mackerel and increased enforcement action. To minimize the impact on the CPS fleet, the season

structure of the 2002–2003 fishing season was reviewed, which included a directed fishery of 9,500 mt, an incidental fishery of 3,035 mt, and an incidental harvest of 40 percent following closure of the directed fishery. The lower harvest guideline and the primary goal of minimizing economic impacts on the sardine fishery during the 2003–2004 fishing season led to setting the incidental fishery at a similar level, of 3,152 mt, with a 40 percent incidental rate, thereby, reducing the size of the directed fishery. The FMP allows up to a 45 percent incidental harvest following the closing of the directed fishery, but 45 percent was considered not likely necessary. A 40 percent incidental rate operating in combination with a relatively significant incidental fishery was considered sufficient. Although the incidental rate can be changed during the fishing season, if the rate is set too low initially, fishing operations in the sardine fishery may be interrupted by attempting to avoid the capture of Pacific mackerel occurring in schools of Pacific sardine. Misjudgement by fishermen of the amount of Pacific mackerel occurring in schools of sardine leads to discards and increases bycatch. The possibility of dramatic changes during the fishing season were recognized, which could require in-season adjustments to any of the above factors. The goal of the changes would be to minimize disruption of the sardine fishery, which would minimize economic impact on the fishing industry; however, administrative costs of implementing changes would increase in proportion to the number of changes needed. The proposed action will yield potentially lower revenue from Pacific mackerel than what otherwise might be possible under environmental conditions more favorable to Pacific mackerel (That is, a higher biomass); however, the low harvest guideline for the 2003–2004 fishing season will provide a small increase in revenue above that of the 2002–2003 fishing season and will not have a substantial effect on overall vessel profitability.

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

Dated: July 23, 2003.

**William T. Hogarth,**

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

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