

magnitude at this time, due to uncertainties in the stock assessment. The preferred alternative allows for a 4-percent increase, from 3.135 million bu (1.669 million hL) to 3.25 million bu (1.730 million hL). The resource can support the 4-percent increase in landings, and the industry believes it can utilize this additional product and thus have a beneficial impact for the Nation.

The proposed quota for Maine mahogany ocean quahogs is 100,000 Maine bu (35,240 hL), the maximum allowed under the FMP. The FMP specifies that upward adjustments to the quota would require a scientific survey and stock assessment of the Maine mahogany ocean quahog resource. However, no survey or assessment has been conducted. The Council considered two alternative quotas for the Maine mahogany fishery, in addition to the preferred alternative of 100,000 bu (35,240 hL), including 50,000 bu and 72,466 bu (17,620 and 25,537 hL). Any quota the Council would have recommended below the 1999 landing level of 93,938 Maine bu (33,104 hL) would most likely have resulted in a decrease in revenues to individual vessels.

Processors

In 2001, 13 processors participated in the surfclam and ocean quahog fisheries, and 10 companies bought ocean quahogs directly from vessels from within the State of Maine. Of the 13 processors, approximately 5 are responsible for the vast majority of purchases in the ex-vessel market and sale of processed clam products in appropriate wholesale markets. Impacts to surfclam and ocean quahog processors would most likely mirror the impacts of the various quotas to vessels, as discussed above. Revenues earned by processors would be derived from the wholesale market for clam products and, since a large number of substitute products (i.e., other food products) are available, the demand for processed clam products is likely to be price-dependant.

Allocation Holders

In 2002, there were 99 surfclam allocation holders totaled 99, while 63 firms or individuals held ocean quahog allocation. Under the 2003 quotas, (that is, no change from 2002 quotas on ocean quahogs, Maine mahogany ocean quahogs, and a slight increase of 4 percent for surfclams), it is likely that impacts to allocation holders or buyers will be minimal. Theoretically, increases in quota would most likely benefit those who purchase quota

(through lower prices, or values) and affect negatively sellers of quota because of reduction in value. Decreases in quota would most likely have an opposite effect.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Act of 1996 (SBREFA) states that for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rule making process, a letter to permit holders that also serves as the small entity compliance guide (the guide) was prepared. Copies of this final rule are available from the Northeast regional Office, and the guide, that is, permit holder letter, will be sent to all holders of permits issued for mackerel, squid, and butterfish fisheries. The guide and this final rule will be available upon request (see ADDRESSES).

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

Dated: December 23, 2002.

William T. Hogarth,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 021112272-2328-02; 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: Final rule.

SUMMARY: NMFS issues 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: Effective January 30, 2003, through December 31, 2003.

ADDRESSES: The report *Stock Assessment of Pacific Sardine with Management Recommendations for 2003* may be obtained from Rodney R. McInnis, Acting Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213.

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 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, where comments from its advisory bodies and the public were heard. A proposed rule was published in the **Federal Register**

on November 25, 2002 (67 FR 7053), requesting public comments. The public comment period ended on December 10, 2002, and no comments were received.

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 FMP allocates the harvest guideline 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°40' N. lat. to the Mexican border. The harvest off Oregon and Washington has increased from 1 mt in 1998 to almost 38,000 mt in 2002. This expansion of sardine fisheries to the Pacific northwest has fostered a review of the current allocation system in the FMP with the aim of developing the most equitable distribution of the available resource between all users. The Council has directed its Team to analyze several alternatives to the current allocation system; however, unless and until the FMP is amended, the current allocation system will remain in effect. Therefore, the northern allocation for 2003 is 36,969 mt; the southern allocation is 73,939 mt. All Pacific sardine harvested beginning January 1, 2003, will be credited toward the 2003 harvest guideline.

When an allocation or the harvest guideline is reached, a landing allowance of sardine of 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. The Council recommended that the 45 percent incidental allowance be applied when an allocation or harvest guideline is reached.

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, CA.

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, CA) 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. If an allocation or the harvest guideline is reached, up to 45 percent by weight of Pacific sardine may be landed in any landing of Pacific mackerel, jack mackerel, northern anchovy, or market squid.

Classification

These final specifications are issued under the authority of, and NMFS has determined that they are in accordance with, the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and the regulations implementing the FMP at 50 CFR part 660, subpart I.

This final 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 the proposed rule for this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule. No comments were received regarding the economic impacts of this action. As a result, no regulatory flexibility analysis was prepared.

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

Dated: December 24, 2002.

Rebecca Lent,

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

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