

data sources to correct typographical errors, match wire centers at identical locations, or otherwise reconcile minor discrepancies in the wire center identifiers. In addition, in the process of calculating support amounts for the year 2000, USAC staff received additional matching information from carriers, which shall be incorporated in the Commission's matching process for calculating support amounts for the year 2001. In a small number of cases no matches could be found. We find that line counts in wire centers reported by carriers in their quarterly filings that cannot be matched will not be used to estimate average costs. Such lines will be used in determining support amounts, however, because these lines are included in the quarterly line counts that are used to calculate statewide support amounts, according to the methodology adopted in the *Twentieth Reconsideration Order*. We expect that on an ongoing basis we will find opportunities to make additional improvements in matching wire centers.

12. *Confidentiality*. Most non-rural carriers claim that their wire center line count data are confidential. In April 2000, the Commission denied requests for confidential treatment of quarterly wire center line count data to the limited extent that the number of lines in wire centers receiving support may be determined when the Commission releases per-line and total support amounts. The Commission has not yet determined whether the line count data of wire centers that do not receive support should be afforded confidential treatment and has made such data available to interested parties under the terms of the *Interim Protective Order*. We do not decide, at this time, whether the data submitted pursuant to the *1999 Data Request* should be afforded confidential treatment. The Commission will resolve the separate but related issues raised by these confidentiality requests at a later date. Pending resolution of these issues, the line count data filed pursuant to the *1999 Data Request* will be made available only pursuant to the *Interim Protective Order* previously adopted in this proceeding.

III. Ordering Clauses

13. Pursuant to the authority contained in sections 1-4, 201-205, 214, 218-220, 254, 303(r), 403, and 410 of the Communications Act of 1934, as amended, and § 1.108 of the Commission's rules, this Order is adopted.

List of Subjects

47 CFR Part 36

Communications common carriers, Reporting and recordkeeping requirements, Telephone.

47 CFR Part 54

Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.
William F. Caton,
Deputy Secretary.
 [FR Doc. 00-32927 Filed 12-26-00; 8:45 am]
BILLING CODE 6712-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 001025298-0349-02; I.D. 101000C]

RIN 0648-AO56

Fisheries of the Northeastern United States; Summer Flounder, Scup, Black Sea Bass, Atlantic Mackerel, Squid and Butterfish Fisheries; Modification of Scup Gear Restricted Areas (GRAs) and Exemptions to the GRAs, and Modifications to the Landing Limits in the Atlantic Mackerel, Squid, and Butterfish Fisheries

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

ACTION: Final rule.

SUMMARY: NMFS issues regulations to modify the GRAs that were established in the Mid-Atlantic Bight to reduce scup bycatch in small-mesh fisheries; exempt Atlantic mackerel fishing from all of the GRA restrictions and Loligo squid fishing from the November 1 through December 31, 2000, GRA restrictions; modify the procedure and criteria for exempting small-mesh fisheries from the requirements of the GRAs; and modify the landing limits in the Atlantic mackerel, squid and butterfish fisheries. The modification of the GRAs is intended to reduce negative economic impacts on the small-mesh fishing industry, while still ensuring that scup bycatch in small-mesh fisheries is reduced. The modification of the procedure for exempting small-mesh fisheries from the requirements of the GRAs is intended to address problems with the current method of determining exemptions. The modification of the

landing limits in the Atlantic mackerel, squid and butterfish fisheries is necessary to discourage directed fishing after the closure of the directed fisheries.

DATES: Effective December 23, 2000, except for amendments in §§ 648.14(a)(73), 648.14(p)(3) and (p)(4), 648.22(c), and 648.122(e), which are effective January 26, 2001.

ADDRESSES: Copies of the Regulatory Impact Review (RIR), the Initial Regulatory Flexibility Analysis (IRFA) and Final Regulatory Flexibility Analysis (FRFA) contained within the RIR, and the Environmental Assessment (EA) are available from the Northeast Regional Office, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930-2298. The EA/RIR/FRFA is also accessible via the Internet at <http://www.nero.gov/ro/doc/nr.htm>.

Send comments on any ambiguity or unnecessary complexity arising from the language used in this final rule to the Northeast Regional Office at the same address.

FOR FURTHER INFORMATION CONTACT: Richard A. Pearson, Fishery Policy Analyst, at 978-281-9279.

SUPPLEMENTARY INFORMATION: A proposed rule for this action was published in the **Federal Register** on November 2, 2000 (65 FR 65818). The comment period closed on November 17, 2000.

Revised GRAs and Exemptions

The GRA measures contained in this final rule are unchanged from those in the proposed rule. A complete discussion of background issues that led to the development of these measures is contained in the preamble to the proposed rule and is not repeated here. The coordinates and time periods of the modified GRAs are listed below. Copies of a chart depicting the areas appear in the EA/RIR/IRFA/FRFA and are available from the Administrator, Northeast Region, NMFS (Regional Administrator) upon request (see **ADDRESSES**). This final rule exempts Atlantic mackerel from the minimum mesh-size requirements in all of the GRAs and exempts the Loligo squid fishery from the minimum mesh-size requirements in the GRAs from November 1 through December 31, 2000.

**NORTHERN GEAR RESTRICTED AREA I
(NOVEMBER 1 THROUGH DECEMBER
31)**

| Point | N. lat. | W. long. |
|-------|---------|----------|
| NGA 1 | 41° 00" | 71° 00" |
| NGA 2 | 41° 00" | 71° 30" |
| NGA 3 | 40° 00" | 72° 40" |
| NGA 4 | 40° 00" | 72° 05" |
| NGA 1 | 41° 00" | 71° 00" |

**NORTHERN GEAR RESTRICTED AREA II
(DECEMBER 1 THROUGH JANUARY 31)**

| Point | N. lat. | W. long. |
|-------|---------|----------|
| NGA 6 | 40° 00" | 71° 40" |
| NGA 7 | 40° 00" | 72° 10" |
| NGA 8 | 39° 00" | 73° 09" |
| NGA 9 | 39° 00" | 72° 50" |
| NGA 6 | 40° 00" | 71° 40" |

**SOUTHERN GEAR RESTRICTED AREA
(JANUARY 1 THROUGH APRIL 30)**

| Point | N. lat. | W. long. |
|-------|---------|----------|
| SGA 1 | 39° 00" | 72° 50" |
| SGA 2 | 39° 11" | 72° 58" |
| SGA 3 | 38° 00" | 74° 05" |
| SGA 4 | 38° 00" | 73° 57" |
| SGA 1 | 39° 00" | 72° 50" |

Procedures for Establishing Exemptions

NMFS is also modifying the procedures for establishing exemptions to the GRAs. The current regulations specify that a fishery may be exempted from the GRAs if the Regional Administrator, in consultation with the Mid-Atlantic Fishery Management Council (Council), determines that scup caught as bycatch in small-mesh fisheries is less than 10 percent, by weight, of the total catch and that the exemption will not jeopardize achievement of the fishing mortality objectives for scup. This final rule revises the procedures by instead authorizing the Council to recommend exemptions for species other than scup to the Regional Administrator through the framework adjustment process in the Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries (FMP). This procedure provides for greater public participation through the Council process and requires supporting rationale for any exemption.

Modification of Landing Limits

NMFS is also modifying the regulations pertaining to landings limits specified for Atlantic mackerel, squid, and butterfish, as recommended by the Council at its August 2000 meeting. When the directed fisheries for these

species are closed, vessels with appropriate fishing permits are allowed to land an allowance of incidentally harvested fish. This action limits the use of the allowance to once each calendar day and redefines the incidental allowance as a possession limit rather than as a landing limit to enhance at-sea enforcement. A complete discussion of this measure appears in the preamble to the proposed rule and is not repeated here.

Comments and Responses

There were 110 written comments submitted in response to the proposed rule during the comment period. Most of the comments were submitted by commercial fishing industry members. Several conservation groups also submitted a co-signed comment. Other comments were received from the New England Fishery Management Council (NEFMC), the Massachusetts Division of Marine Fisheries (MADMF), the Town of East Hampton, NY, and the Fifth Coast Guard District Office of Law Enforcement. NMFS considered all comments received during the comment period in making the decision to issue this final rule and responds to these comments here.

Comment 1: One hundred and six commenters supported immediate adoption of the proposed modifications to the GRAs. Several noted that, although they support the proposed GRA modifications in the short term, they oppose GRAs as a long-term solution for reducing scup discards. These commenters encouraged NMFS to consider current industry efforts to conduct experimental work that may lead to fishing and gear modifications to reduce scup discards.

Response: This final rule implements the proposed modifications to the GRAs. Other options for reducing scup discards will be considered in conjunction with the proposed 2001 specifications for the fishery (65 FR 71042, November 28, 2000). Other measures, such as gear modifications to reduce scup discards, will be considered by the Council and NMFS once there is sufficient scientific research to assess their effectiveness.

Comment 2: Two commenters opposed the proposed modification of the GRAs. They were concerned that this would reduce the effectiveness of the GRAs and significantly increase scup discards because the smaller GRAs would be difficult to enforce and because they do not account for annual changes in scup migration and for the displacement of fishing effort to adjacent areas of potentially high scup bycatch. Both questioned the reliability

of the available sea sampling (observer) data, which indicate that the proposed GRA modification would not significantly increase scup discards.

Response: The Council's Scup Monitoring Committee (Scup MC) reviewed the available sea sampling data and the analysis comparing the discard reductions associated with the current GRAs to those of the proposed GRAs. The Scup MC recommended that NMFS adopt the modifications as contained in the proposed rule. NMFS acknowledges that the sea sampling data upon which the analysis is based are limited. However, the same limited data were used to establish the current GRAs, which these commenters supported. These data constitute the best scientific information available. NMFS believes that, even with the acknowledged limitations, there is sufficient rationale to adopt the modified GRAs because they are estimated to offer significant scup discard reductions with a considerably smaller negative economic impact on industry than on the existing GRAs. The potential displacement of fishing effort to adjacent areas was considered, but its magnitude cannot be estimated. The U.S. Coast Guard has indicated that the geographic configuration, size, and time periods of the modified GRAs are enforceable and that they can provide adequate surveillance to detect the majority of fishing vessels operating in the areas.

Comment 3: One hundred and six commenters supported the proposed exemption from the GRA restrictions for the Atlantic mackerel small-mesh fishery, and 105 commenters supported the temporary exemption of the Loligo squid small-mesh fishery.

Response: This final rule implements the proposed exemptions.

Comment 4: Two commenters opposed the proposed exemption for the Atlantic mackerel small-mesh fishery and the temporary exemption of the Loligo squid small-mesh fishery. They expressed concern that the proposed exemptions could significantly increase scup discards. One commenter questioned why NMFS apparently provided lower scup bycatch estimates for the Atlantic mackerel fishery in the proposed rule for this action than in the final specifications for the 2000 fishery without explaining the basis for this change. The commenter also objected to the methodology used for calculating scup bycatch in the mackerel fishery, which divided total scup catch by total catch of all species caught on directed mackerel trips (with ≥ 50 percent mackerel catch). The commenter stated that this methodology disguises significant scup bycatch. Both

commenters also expressed concern that the temporary *Loligo* squid small-mesh exemption could be interpreted as a precursor for a permanent exemption.

Response: NMFS believes that it is appropriate to calculate scup bycatch by comparing scup catch to total fish catch. This method is also used to determine exemptions in other Northeast Region fisheries. Using this method, the highest percentage of scup bycatch for any observed directed mackerel trip was 6.3 percent, based upon an updated analysis of the sea sampling database from 1989 through 2000. The average percentage of scup bycatch for all observed directed mackerel trips was 0.39 percent. On the basis of this information (observed trips), it does not appear that the directed mackerel small-mesh fishery jeopardizes the attainment of scup mortality objectives. Therefore, the Scup MC recommended that the Atlantic mackerel small-mesh fishery be exempt from the GRA restrictions. NMFS supports the Scup MC's recommendation to exempt the Atlantic mackerel small-mesh fishery. However, NMFS also recognizes the problems associated with using a threshold criterion to exempt fisheries that, although they have overall low percentages of scup bycatch, have occasionally large scup discards in single tows. To better consider the impacts of such fisheries on scup discard mortality, NMFS is changing the procedures for establishing exemptions to remove the 10-percent threshold criterion for exemption, as discussed in the response to Comment 5.

The discrepancy between the bycatch estimates in the 2000 specifications and the proposed rule for this action is attributable to two factors: Differences in the methodologies used by the Council and NMFS to calculate bycatch, and the addition of sea sampling data from trips conducted in 2000. As mentioned, NMFS calculates scup bycatch by comparing the scup catch to the total catch. In the EA for the 2000 scup specifications, the Council calculated scup bycatch by comparing the scup discards to the total scup catch. The Council's methodology resulted in a higher percentage estimate of scup discards than NMFS'.

The temporary exemption for the *Loligo* squid small-mesh fishery is not expected to increase scup discards significantly because the directed *Loligo* fishery is closed for the period of the exemption (through December 31, 2000). The exemption will allow vessels in the GRAs to retain up to 2,500 lb (1,134 kg) of *Loligo* squid caught incidentally while participating in other exempt fisheries per trip. The *Loligo*

exemption will be reconsidered in conjunction with the proposed 2001 specifications for the fishery. A permanent exemption of the *Loligo* fishery would have to be based on an assumption that directed fishing for *Loligo* will occur and would require a sufficient factual justification.

Comment 5: NMFS received many comments in support of the proposed change to the procedures for establishing exemptions to the GRAs. However, these same commenters and several others objected to removal of the 10-percent bycatch threshold currently used to establish exemptions to the GRA restrictions. These commenters believe that precise, quantifiable bycatch criteria are needed as a threshold to evaluate proposals requesting exemptions.

Response: NMFS believes that the use of a quantified standard alone is not appropriate for determining exemptions in these fisheries, given the limited data. Observer data for small-mesh trips, which are the best available discard information, are not available for all areas and time periods of concern. This makes precise characterization of discards difficult. The discard information from observed trips also indicates that these fisheries may have significant scup bycatch on some trips, which could be masked by considering only the overall percentage of scup bycatch. This catch pattern correlates with anecdotal information identifying at least some of the small-mesh fisheries as primary sources of scup discards. These regulations change the current procedure used to establish exemptions by delegating that authority to the Council. The Council, by using the framework adjustment process will allow for full public discussion of the issues, an analysis of impacts, thorough Council deliberation, and sound justification to support any proposed exemptions to the GRA restrictions.

Comment 6: NMFS received one comment in support of the measure that will allow only one landing of incidental catch allowances in the squid, mackerel and butterfish fisheries per calendar day.

Response: This final rule implements this measure.

Changes From the Proposed Rule

In § 648.22(c) the word "possess" was added to clarify the fact that the incidental allowance is a possession restriction.

In § 648.14, paragraph (p)(4) is retained to reflect that the possibility exists that there may be a total closure of a fishery; and the word "possess" is

added to clarify the fact that the closure is an absolute prohibition.

The designation of the points in the GRAs is changed to reflect that they represent discrete enclosed areas.

No other changes were made from the proposed rule.

Classification

NMFS prepared an FRFA for this action. A copy of the FRFA is available from NMFS (see ADDRESSES). A summary of the FRFA follows:

A description of the reasons why action by the agency is being taken and the objectives of this final rule are explained in the preambles to the proposed rule and final rule and are not repeated here. This action does not contain any collection of information, reporting, or recordkeeping requirements. It does not duplicate, overlap, or conflict with any other Federal rules. This action is taken under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and regulations at 50 CFR part 648. There are no compliance costs associated with this final rule.

One hundred and ten comments were received on the measures contained in the proposed rule, but none were in response to the initial regulatory flexibility analysis on impacts of these measures on small entities. NMFS has responded to comments received on the proposed rule in the preamble of this final rule. No substantive changes were made from the proposed rule.

The revised GRAs could impact the owners of any vessel that would otherwise have fished with small mesh in the affected area. In the analysis of the 2000 specifications for the summer flounder, scup, and black sea bass fisheries, the Council estimated that a maximum of 172 vessels (based on 1998 vessel trip report (VTR) data) would be affected by any of the proposed GRAs. This estimate was based on the largest, most restrictive GRAs considered by the Council. Although that alternative was not implemented, the upper limit of affected vessels under any alternative, including the alternative implemented in this final rule, is 172. Because the revised GRAs are smaller than the area analyzed by the Council, the number of impacted vessels is likely to be less than 172. However, it is not possible to quantify how many vessels actually will be impacted by the smaller GRAs.

Exempting mackerel from the GRAs may potentially affect any vessel possessing a mackerel permit. About 1,980 commercial vessels currently hold an Atlantic mackerel permit, based on NMFS permit file data. According to

NMFS data, 11 percent of mackerel landings (1989 - 2000), valued at \$346,000 (1998 prices), were derived from the area encompassed by the GRA established by this final rule.

The *Loligo* exemption is expected to produce positive economic impacts on permitted vessels. However, it is difficult to estimate how many vessels will benefit from this exemption. Due to the distance of the GRAs from shore and the current landing limit of 2,500 lb (1,134 kg) for the *Loligo* fishery resulting from the October 25, 2000, closure of the directed fishery, NMFS believes that this measure will benefit only those vessels targeting other exempt species, such as Atlantic mackerel, and are able to retain the *Loligo* trip limit.

The best available information indicates that the modification of landing limits in the Atlantic mackerel, squid and butterfish fisheries will impact approximately 60 vessels that have reportedly made multiple daily landings, out of a total of 2,737 vessels holding one or more permits in these fisheries. Although vessels engaging in the practice of making multiple landings in one calendar day will suffer some loss in revenue as a result of the measure to prohibit this practice, the benefits of having quota available in subsequent periods, when prices are potentially higher, may offset this loss.

The modification of exemption criteria and procedures is an administrative change that is not likely to result in any economic impacts to small entities.

The alternatives implemented by this final rule are expected to minimize economic impacts on small entities while achieving the conservation goals and objectives of the FMP and the Fishery Management Plan for Atlantic Mackerel, Squid, and Butterfish Fisheries. The alternative to retain status quo measures was considered by the Council, but those measures were determined to result in greater negative economic impacts than the alternative measures that are implemented through this final rule. The economic impacts of the status quo measures were compared to the impacts of the measures enacted by this final rule in the classification section of the proposed rule.

The Council and NMFS concluded that the alternative to modify the configuration of the GRAs, as implemented by this final rule, was preferable to the status quo alternative because it provided substantial economic relief to small entities participating in the small-mesh fisheries in this area while still achieving significant conservation benefits, consistent with the objectives of the

FMP. NMFS believes that the configuration of the modified GRAs is based upon the best available information. While other modifications to the GRAs could possibly further reduce negative economic impacts on small entities, the existing data are not sufficient to clearly suggest another alternative that would still achieve the conservation benefits necessary to be consistent with the FMP and with the Magnuson-Stevens Act.

Similarly, existing data indicate that exempting Atlantic mackerel and *Loligo* squid fisheries from the GRA restrictions is justified. This alternative, relative to the status quo alternative of no exemptions, provides economic relief to participants in these small-mesh fisheries who will fish in the GRAs, with relatively little negative impact on the scup resource. However, the available data on the *Loligo* small-mesh fishery are less convincing in this regard than are those for the mackerel fishery. Therefore, this rule exempts the *Loligo* fishery only through December 31, 2000. While exempting the *Loligo* fishery for a longer term would likely provide greater economic benefits to small entities, at least in the short term, such an exemption could result in unacceptably high discard mortality of scup, which would prevent scup from rebuilding as required under the Magnuson-Stevens Act and which could compromise the longer-term health of that fishery.

As additional information on scup discards in small-mesh fisheries in the Mid-Atlantic Bight becomes available, NMFS anticipates that the Council will re-evaluate the GRAs and related management measures. The proposed specifications for the 2001 fisheries for summer flounder, scup, and black sea bass contain additional alternatives that are being considered for the scup fishery.

The revision of the trip limits for the Atlantic mackerel, squid, and butterfish fisheries to prevent multiple landings in a single calendar day will impact a limited number of small entities. However, the status quo alternative has resulted in an unanticipated windfall for those fishermen who are located close enough to concentrations of *Loligo*, in particular, to make multiple landings in a day. Because these landings occur after the directed fishery has been closed but are still counted against the period's quota, the status quo alternative can result in quota overages, which must be deducted from the quota of a future period. This can cause unintended allocational impacts both geographically and among boat-size sectors of the fishery. There is also

the possibility that quota overages could be large enough to negatively impact the resource. The selected alternative prevents these problems and helps ensure fair access to these resources by small entities throughout the range and temporal extent of these fisheries.

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

The President has directed Federal agencies to use plain language in their communications with the public, including regulations. To comply with this directive, we seek public comment on any ambiguity or unnecessary complexity arising from the language used in this final rule. Such comments should be sent to the Regional Administrator (see ADDRESSES).

The provisions of this final rule that modify the existing GRAs and exempt the Atlantic mackerel and *Loligo* squid fisheries relieve a restriction and, under 5 U.S.C. 553(d)(1), are not subject to a 30-day delay in effective date.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: December 20, 2000.

William T. Hogarth,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. In § 648.14, paragraphs (a)(73), (a)(122), (a)(123), (p)(3), and (p)(4) are revised to read as follows:

§ 648.14 Prohibitions.

(a) * * *

(73) Take, retain, possess, or land more mackerel, squid or butterfish than specified under a notification issued under § 648.22.

* * * * *

(122) Effective January 1, 2001, fish for, possess or land *Loligo* squid, silver hake, or black sea bass in or from the areas and during the time periods, described in § 648.122(a), (b), or (c) while in possession of midwater trawl or other trawl nets or netting that do not meet the minimum mesh-size restrictions or that are modified, obstructed or constricted, if subject to the minimum mesh-size requirements specified in §§ 648.122 and 648.123(a), unless the nets or netting are stowed in accordance with § 648.23(b).

(123) Effective December 27, 2000 through December 31, 2000, fish for, possess or land silver hake or black sea bass in or from the areas, and during the time periods described in § 648.122(a), (b), or (c) while in possession of midwater trawl or other trawl nets or netting that do not meet the minimum mesh-size restrictions or that are modified, obstructed or constricted, if subject to the minimum mesh-size requirements specified in §§ 648.122 and 648.123(a), unless the nets or netting are stowed in accordance with § 648.23(b).

* * * * *

(p) * * *

(3) Take, retain, possess, or land mackerel, squid or butterfish in excess of a possession allowance specified under § 648.22.

(4) Take, retain, possess, or land mackerel, squid or butterfish after a total closure specified under § 648.22.

* * * * *

3. In § 648.22, paragraph (c) is revised to read as follows:

§ 648.22 Closure of the fishery.

* * * * *

(c) *Incidental catches.* During the closure of the directed fishery for mackerel, the possession limit for mackerel is 10 percent by weight of the total amount of fish on board. During a period of closure of the directed fishery for Loligo, Illex, or butterfish, the possession limit for Loligo and butterfish is 2,500 lb (1.13 mt) each, and the possession limit for Illex is 5,000 lb (2.27 mt). Vessels may not land more than these limits during any single calendar day, which is defined as the 24-hour period beginning at 0001 hours and ending at 2400 hours.

4. In § 648.122, paragraph (e) is redesignated as paragraph (f); paragraphs (a), (b), (c), and (d) are revised; and a new paragraph (e) is added as follows:

§ 648.122 Season and area restrictions.

(a) *Southern Gear Restricted Area.* (1) From January 1 through April 30, all trawl vessels in the Southern Gear Restricted Area that fish for or possess non-exempt species as specified in paragraph (a)(2) of this section, must fish with nets that have a minimum mesh size of 4.5 inches (11.43 cm) diamond mesh, applied throughout the codend for at least 75 continuous meshes forward of the terminus of the net, or for codends with fewer than 75 meshes, the minimum mesh-size codend must be a minimum of one-third of the net, measured from the terminus of the codend to the headrope,

excluding any turtle excluder device extension, unless otherwise specified in this section. The Southern Gear Restricted Area is an area bounded by straight lines connecting the following points in the order stated (copies of a chart depicting the area are available from the Regional Administrator upon request):

SOUTHERN GEAR RESTRICTED AREA

| Point | N. lat. | W. long. |
|-------|---------|----------|
| SGA 1 | 39° 00" | 72° 50" |
| SGA 2 | 39° 11" | 72° 58" |
| SGA 3 | 38° 00" | 74° 05" |
| SGA 4 | 38° 00" | 73° 57" |
| SGA 1 | 39° 00" | 72° 50" |

(2) *Non-exempt species.* Unless otherwise specified in paragraph (d) of this section, the restrictions specified in paragraph (a)(1) of this section apply to vessels in the Southern Gear Restricted Area that are fishing for or in possession of the following non-exempt species: Black sea bass, Loligo squid, and silver hake (whiting). Vessels fishing for or in possession of all other species of fish and shellfish are exempt from these restrictions.

(b) *Northern Gear Restricted Area I.* (1) From November 1 through December 31, all trawl vessels in the Northern Gear Restricted Area I that fish for or possess non-exempt species as specified in paragraph (b)(2) of this section must fish with nets that have a minimum mesh size of 4.5 inches (11.43 cm) diamond mesh, applied throughout the codend for at least 75 continuous meshes forward of the terminus of the net, or for codends with fewer than 75 meshes, the minimum mesh-size codend must be a minimum of one-third of the net, measured from the terminus of the codend to the headrope, excluding any turtle excluder device extension, unless otherwise specified in this section. The Northern Gear Restricted Area I is an area bounded by straight lines connecting the following points in the order stated (copies of a chart depicting the area are available from the Regional Administrator upon request):

NORTHERN GEAR RESTRICTED AREA I

| Point | N. lat. | W. long. |
|-------|---------|----------|
| NGA 1 | 41° 00" | 71° 00" |
| NGA 2 | 41° 00" | 71° 30" |
| NGA 3 | 40° 00" | 72° 40" |
| NGA 4 | 40° 00" | 72° 05" |
| NGA 1 | 41° 00" | 71° 00" |

(2) *Non-exempt species.* Unless otherwise specified in paragraphs (b)(3) and (d) of this section, the restrictions specified in paragraph (b)(1) of this section apply to vessels in the Northern Gear Restricted Area I that are fishing for, or in possession of, the following non-exempt species: Black sea bass, Loligo squid, and silver hake (whiting). Vessels fishing for or in possession of all other species of fish and shellfish are exempt from these restrictions.

(3) *Temporarily Exempted Species.* From November 1, 2000 through December 31, 2000, the restrictions specified in paragraph (b)(1) of this section do not apply to vessels in the Northern Gear Restricted Area I that are fishing for, or in possession of Loligo squid.

(c) *Northern Gear Restricted Area II.* (1) From December 1 through January 31, all trawl vessels in the Northern Gear Restricted Area II that fish for or possess non-exempt species as specified in paragraph (c)(2) of this section must fish with nets that have a minimum mesh size of 4.5 inches (11.43 cm) diamond mesh, applied throughout the codend for at least 75 continuous meshes forward of the terminus of the net, or for codends with fewer than 75 meshes, the minimum-mesh-size codend must be a minimum of one-third of the net, measured from the terminus of the codend to the headrope, excluding any turtle excluder device extension, unless otherwise specified in this section. The Northern Gear Restricted Area II is an area bounded by straight lines connecting the following points in the order stated (copies of a chart depicting the area are available from the Regional Administrator upon request):

NORTHERN GEAR RESTRICTED AREA II

| Point | N. lat. | W. long. |
|-------|---------|----------|
| NGA 6 | 40° 00" | 71° 40" |
| NGA 7 | 40° 00" | 72° 10" |
| NGA 8 | 39° 00" | 73° 09" |
| NGA 9 | 39° 00" | 72° 50" |
| NGA 6 | 40° 00" | 71° 40" |

(2) *Non-exempt species.* Unless otherwise specified in paragraphs (c)(3) and (d) of this section, the restrictions specified in paragraph (c)(1) of this section apply to vessels in the Northern Gear Restricted Area II that are fishing for, or in possession of, the following non-exempt species: Black sea bass, Loligo squid, and silver hake (whiting). Vessels fishing for or in possession of all other species of fish and shellfish are exempt from these restrictions.

(3) *Temporarily Exempted Species.* From December 1, 2000 through December 31, 2000, the restrictions specified in paragraph (c)(1) of this section do not apply to vessels in the Northern Gear Restricted Area II that are fishing for, or in possession of *Loligo* squid.

(d) *Transiting.* Vessels that are subject to the provisions of the Southern and Northern GRAs, as specified in paragraphs (a), (b), and (c) of this section may transit these areas provided that trawl net codends on board of mesh size less than that specified in paragraphs (a), (b), and (c) of this section are not available for immediate use and are stowed in accordance with the provisions of § 648.23(b).

(e) *Addition or deletion of exemptions.* The MAFMC may recommend to the Regional Administrator, through the framework procedure specified in § 648.108(a), additions or deletions to exemptions for fisheries other than scup. A fishery may be restricted or exempted by area, gear, season, or other means determined to be appropriate to reduce bycatch of scup.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 001215358-0358-01; 113000A]

RIN 0648-AN78

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 harvest guideline.

SUMMARY: NMFS announces the annual harvest guideline for Pacific sardine in the exclusive economic zone off the Pacific coast for the January 1, 2001, through December 31, 2001, fishing season. This harvest guideline has been calculated according to the regulations implementing the Coastal Pelagic Species Fishery Management Plan (FMP). The intended effect of this action is to establish allowable harvest levels for Pacific sardine off the Pacific coast.

DATES: Effective January 1, 2001, through December 31, 2001.

ADDRESSES: The report Stock Assessment of Pacific Sardine with Management Recommendations for 2001 is available from Rebecca Lent, Administrator, Southwest Region, (Regional Administrator), 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 divides managed 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. Harvest guidelines for monitored species (jack mackerel, northern anchovy, and market squid), which are underutilized or under the jurisdiction of the State of California, are not based on current biomass estimates, although a constant allowable biological catch (ABC) for each species is based on the long-term yield of each species.

At a public meeting each year, the biomass for each actively managed species is presented at a public meeting held by the Pacific Fishery Management Council's (Council) Coastal Pelagic Species Management Team (Team). At that time, the biomass, the harvest guideline, and the status of the fishery is reviewed. Following review and recommendations by the Council and after hearing all public comments, NMFS publishes the annual harvest guideline in the **Federal Register** before the beginning of the fishing season.

On October 17, 2000, in accordance with the procedures of the FMP, the biomass report and harvest guideline for Pacific sardine were reviewed at a public meeting of the Team at the offices of the Southwest Region in Long Beach, California. A public meeting between the Team and the Council's CPS Advisory Subpanel (Subpanel) was held the following day. The Council reviewed the report at its meeting of November 2, 2000, and heard comments from its advisory bodies and the public. No significant comments on the biomass estimate were received; therefore, the Council recommended to NMFS that the biomass and harvest guideline be announced.

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 2000. 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. Documentation of the 2000 estimate is described in Stock Assessment of Pacific Sardine with Management Recommendations for 2001 (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 2000, this estimate is 1,182,465 metric tons (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 2000, 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 2000, the fraction was 15 percent based on three seasons of sea surface temperature at Scripps Pier, California.

Based on the estimated biomass of 1,182,465 mt and the formula in the FMP, a harvest guideline of 134,737 mt was calculated for the fishery beginning January 1, 2001. 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. Any unused resource in either area will be reallocated between areas to help ensure that the optimum yield will be achieved. The northern allocation is 44,912 mt; the southern allocation is 89,825 mt.

Classification

This action is authorized by 50 CFR 660.509 and is exempt from review under Executive Order 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