

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

Dated: September 8, 2005.

Michael K. Buckley,

*Deputy Director, Mitigation Division,
Emergency Preparedness and Response
Directorate.*

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 041130335-5154-02; I.D. 091305E]

Fisheries Off West Coast States and in the Western Pacific; Coastal Pelagic Species Fisheries; Reallocation of Pacific Sardine

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

ACTION: Temporary rule; reallocation of Pacific Sardine.

SUMMARY: NMFS announces the reallocation of the remaining Pacific sardine harvest guideline in the exclusive economic zone off the Pacific coast. On September 1, 2005, 85,132 metric tons (mt) of the 136,179-mt harvest guideline are estimated to remain unharvested. The Coastal Pelagic Species Fishery Management Plan (FMP) requires that a review of the fishery be conducted and any uncaught portion of the harvest guideline remaining unharvested in Subarea A (north of Pt. Arena, CA) and Subarea B (south of Pt. Arena, CA) be added together and reallocated, with 20 percent allocated to Subarea A and 80 percent to Subarea B; therefore, 17,026 mt is allocated to Subarea A and 68,106 mt is allocated to Subarea B. This action ensures that a sufficient amount of the Pacific sardine resource is available to all harvesters on the Pacific coast and to achieve optimum yield.

DATES: Effective September 14, 2005, through December 31, 2005.

FOR FURTHER INFORMATION CONTACT:

Tonya L. Wick, Southwest Region, NMFS, 562-980-4036.

SUPPLEMENTARY INFORMATION: On June 22, 2005, NMFS published notice of a harvest guideline of 136,179 mt for Pacific sardine in the **Federal Register** (70 FR 36053) for the fishing season January 1, 2005, through December 31, 2005. The harvest guideline was allocated as specified in the FMP, that is, one-third (45,393 mt) for Subarea A, which is north of 39° 00' 00" N. lat. (Pt. Arena, CA) to the Canadian border; and two-thirds (90,786 mt) for Subarea B, which is south of 39° 00' 00" N. lat. to the Mexican border.

On August 26, 2003, a regulatory amendment to the FMP developed by the Pacific Fishery Management Council (Council) was approved, and a final rule implementing the amendment was published in the **Federal Register** on September 5, 2003 (68 FR 52523). The amendment (1) changed the definition of Subarea A and Subarea B by moving the geographic boundary between the two areas from Pt. Piedras Blancas at 35° 40' 00" N. lat. to Pt. Arena at 39° 00' 00" N. lat.; (2) changed the date when Pacific sardine that remain unharvested are reallocated to Subarea A and Subarea B from October 1 to September 1; (3) changed the percentage of the unharvested sardine that is reallocated to Subarea A and Subarea B from 50 percent to both subareas to 20 percent to Subarea A and 80 percent to Subarea B; and (4) reallocated all unharvested sardine that remain on December 1 coast wide.

NMFS anticipates slightly higher landings in the Pacific Northwest in 2005 than landings for the same period during the 2004 fishing season. NMFS anticipates landings by September 1 in Subarea A north of Pt. Arena of 30,997 mt; therefore, 14,396 mt of the initial allocation to Subarea A of 45,393 mt will remain unharvested. NMFS anticipates lower landings in California than landings for the same period in 2004. NMFS anticipates landings of 20,050 mt by September 1 in Subarea B south of Pt. Arena; therefore, 70,736 mt of the initial allocation to Subarea B of 90,786 mt remains unharvested. Based on this information, NMFS anticipates

that a total of 85,132 mt of the 136,179 mt harvest guideline will remain unharvested on September 1, 2005. Therefore, according to the requirements of the FMP, as amended, NMFS reallocates 20 percent of 85,132 mt (17,026 mt) to Subarea A, and reallocates 80 percent of 85,132 mt (68,106 mt) to Subarea B.

Any portion of the 136,179 mt harvest guideline that remains unharvested in Subarea A and Subarea B on December 1, 2005, will be available for harvest coast-wide until the 136,179-mt harvest guideline is reached and the fishery closed.

Classification

This action is authorized by the FMP in accordance with 50 CFR 660.517 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA (AA) finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and an opportunity for public comment on this action because doing so is impracticable. It is impracticable because the information upon which the reallocation is based was not available until September 1, 2005, and affording prior notice and opportunity for public comment would delay the agency reallocating Pacific sardine and thus preclude all harvesters from accessing the Pacific sardine resource when it was available for harvest.

For the reasons mentioned above, the AA also finds good cause under 5 U.S.C. 553(d)(3) to waive the 30 day delay in the effectiveness of this action because it relieves a restriction.

The analytical requirement of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable because prior notice and opportunity for public comment are not required for this action by 5 U.S.C. 553, or any other applicable law.

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

Dated: September 13, 2005.

Alan D. Risenhoover,

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

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