

1. Purchase and installation of VMS units, OMB control number 0648-0529 (1 hr per response);

2. Verification of VMS units, OMB control number 0648-0529 (5 min per response);

3. Notification and application for appropriate general category permit designation, OMB control number 0648-0529 (30 min per response);

4. VMS power-down notification, OMB control number 0648-0529 (2 min per response); and

5. VMS re-power and trip notification, OMB control number 0648-0529 (2 min per response).

These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information.

Public comment is sought regarding: Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS and to OMB (see **ADDRESSES**).

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: October 18, 2005.

James W. Balsiger,

Acting Deputy Assistant Administrator for Regulatory Programs, 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 § 648.4, paragraphs (a)(2)(ii)(B) through (E) are revised to read as follows:

§ 648.4 Vessel permits.

(a) * * *

(2) * * *

(ii) * * *

(B) *VMS general scallop permit.* To possess or land more than 40 lb (18.14 kg) of shucked meats or 5 bu (176.2 L) of in-shell scallops, but no more than 400 lb (181.44 kg) of shucked meats, or 50 bu (17.62 hL) of in-shell scallops, a vessel must apply for and be issued a VMS general scallop permit. Issuance of a VMS general scallop permit requires the vessel owner to submit a copy of the vendor's installation receipt or provide verification of vendor activation from a NMFS-approved VMS vendor as described in § 648.9.

(C) *Vessels without general scallop permits.* No scallop permit is required for a vessel that possesses or lands up to 40 lb (18.14 kg) of shucked meats or 5 bu (176.2 L) of in-shell scallops per trip, provided such scallops are not, or are not intended to be, sold, traded or bartered.

(D) *General scallop permit category designation.* The owner of a vessel issued a general scallop permit for the 2005 fishing year is required to complete and submit an application to the Regional Administrator for the permit specified in paragraph (a)(2)(ii)(B) of this section. There is a 30-day processing period for vessel permit applications, thus, to ensure that permits are issued by the effective date of these requirements, such applications should be submitted by November 1, 2005. Vessels shall be issued the appropriate permit category by December 1, 2005, based on the application submitted by the vessel owner. Initial general scallop permit category designations are effective December 1, 2005. A vessel owner who fails to submit either a copy of the vendor's installation receipt from a NMFS-approved VMS vendor as described in 648.9 or provide proof of vendor activation of the VMS unit by December 1, 2005, shall automatically be issued the non-VMS general scallop permit. If no application is received by December 1, 2005, for vessels previously issued a general scallop permit for the 2005 fishing year, such vessels shall be reissued non-VMS general scallop permits. Vessel owners may request a change in permit category for their general category vessel no later than January 15, 2006. Requests to change categories must include a complete application as described above.

(E) *General scallop permit restrictions.* A vessel may be issued a general scallop permit in only one category during a fishing year. The owners of a vessel issued a general

scallop permit must elect a permit category upon the vessel's permit application and shall have one opportunity to request a change in its permit category by submitting an application to the Regional Administrator within 45 days of the effective date of the vessel's permit. After that date, the vessel must remain in that permit category for the duration of the fishing year.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 050819225-5257; I.D.080505A]

RIN 0648-AS59

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 final rule to implement the annual harvest guideline for Pacific mackerel in the U.S. 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 adopts allowable harvest levels for Pacific mackerel off the U.S. Pacific coast.

DATES: Effective November 21, 2005.

ADDRESSES: The report *Assessment of the Pacific Mackerel (Scomber japonicus) Stock for U.S. Management in the 2005-2006 Season* may be obtained from Rodney R. McInnis, Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802. A regulatory impact review/regulatory analysis may be obtained at this same address.

FOR FURTHER INFORMATION CONTACT: Tonya L. Wick, Southwest Region, NMFS, (562) 980-4036.

SUPPLEMENTARY INFORMATION: The CPS FMP, which was implemented by a final

rule published 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. The Pacific mackerel season begins on July 1 of each year and ends on June 30 of the following year.

The Team meeting took place at the office of the NMFS, Southwest Fisheries Science Center, in La Jolla, CA, on May 18, 2005. The Subpanel and SSC meetings took place in conjunction with the June 13–18, 2005, Council meeting in Foster City, CA.

The size of the Pacific mackerel population was estimated using a newly modified version of the integrated stock assessment model called Age-structured Assessment Program (ASAP). Use of this new ASAP model was recommended by the Coastal Pelagic Species Stock Assessment Review panel meeting held on June 16, 2004, in La Jolla, CA. This new ASAP model replaces the old modified virtual population analysis stock assessment model used in previous years known as the ADEPT model. The ADEPT model, used for Pacific mackerel assessment from 1994 to 2004, was a more traditional 'Virtual Population Analysis' (VPA) model. The ASAP model is a more modern approach to population analysis termed 'statistical catch-at-age'. Moreover, the ASAP model is written in the powerful and highly flexible Auto-Differentiation Model Builder (ADMB) language (as opposed to Fortran), so it is amenable to modification as needed. ASAP is implemented through the NMFS Toolbox (NFT), and has received internal agency review (NFT Steering

Committee) and external review by the CPS Stock Assessment Review (STAR) Panel in 2004. ASAP is a flexible forward-simulation that allows for the efficient and reliable estimation of a large number of parameters. ASAP uses parameters such as fishery dependent (commercial and recreational landings) and fishery independent (e.g., aerial spotter survey index, commercial passenger fishing vessel logbook catch per unit effort, and California Cooperative Oceanic Fisheries Investigations surveys) data to obtain annual estimates of Pacific mackerel abundance, year-class strength, and age-specific fishing mortality for 1983 through 2004. The biomass was calculated through the end of 2004, then estimated for the fishing season that begins July 1, 2005, based on (1) the number of Pacific mackerel estimated to comprise each year class at the beginning of 2005, (2) modeled estimates of fishing mortality during 2004, (3) assumptions for natural and fishing mortality through the first half of 2005, and (4) estimates of age-specific growth. Based on this approach, the biomass for July 1, 2005, would be 101,147 metric tons (mt). Applying the formula in the FMP results in a harvest guideline of 17,419 mt, which is 32 percent greater 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 2005, this estimate is 101,147 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 82,947 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 82,947 mt, that is, 58,063 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 (58,063 mt), which results in 17,419 mt.

Information on the fishery and the stock assessment are found in the report *Assessment of the Pacific Mackerel (Scomber japonicus) Stock for U.S.*

Management in the 2005–2006 Season, which may be obtained by mail from Rodney R. McInnis, Regional Administrator (see **ADDRESSES**).

For the last 3 years, the fishing industry has recommended dividing the harvest guideline into a directed fishery and an incidental fishery, reserving a portion of the harvest guideline for incidental harvest in the Pacific sardine fishery so that the Pacific sardine fishery is not hindered by a prohibition on the harvest of Pacific mackerel. At its meeting on June 15, 2005, the Subpanel recommended for the 2005–2006 fishing season that a directed fishery of 13,419 mt and an incidental fishery of 4,000 mt be implemented. An incidental allowance of 40 percent of Pacific mackerel in landings of any CPS would become effective if the 13,419 mt of the directed fishery is harvested. The Subpanel also recommended allowing up to 1 mt of Pacific mackerel to be landed during the incidental fishery without the requirement to land any other CPS. This provision provides Pacific mackerel for small specialty markets. The Subpanel recommended that an inseason review of the Pacific mackerel season be completed for the March 2006 Council meeting, with the possibility of reopening the directed fishery if a sufficient amount of the harvest guideline reserved for the incidental fishery remains unharvested. At that time, the NMFS Southwest Regional Administrator will review the fishery to assess whether there is a sufficient unharvested portion of the harvest guideline (i.e., anything in excess of the amount needed to support incidental harvest) to warrant a reopening of the directed fishery. As of June 7, 2005, approximately 4,808 mt of Pacific mackerel had been landed; therefore, an incidental fishery was not necessary for the 2004–2005 fishing season.

At its June 2005 meeting, the Council made these recommendations to NMFS. A proposed rule containing the Council's recommendations was published August 29, 2005 (70 FR 51004). The public comment period ended on September 13, 2005. No public comments were received.

After a review of the available information, NMFS approved the Council's recommendation and hereby implements the following measures for the July 1, 2005, through June 30, 2006, fishing season:

Based on the estimated biomass of 101,147 mt and the formula in the FMP, a harvest guideline of 17,419 mt will be in effect for the fishery which began on July 1, 2005. This harvest guideline applies to Pacific mackerel harvested in

the U.S. EEZ off the Pacific coast from 12:01 a.m. on July 1, 2005, through 11:59 pm on June 30, 2006, unless the harvest guideline is attained and the fishery is closed before June 30, 2006. All landings made after July 1, 2005, will be counted toward the 2005–2006 harvest guideline of 17,419 mt. There shall be a directed fishery of 13,419 mt, followed by an incidental fishery of 4,000 mt. An incidental allowance of 40 percent of Pacific mackerel in landings of any CPS will become effective after the date when 13,419 mt of Pacific mackerel is estimated to have been

harvested. A landing of 1 mt of Pacific mackerel per trip will be permitted during the incidental fishery for trips in which no other CPS is landed.

Classification

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 certification or the economic impacts of this action. As a result, no regulatory analysis is required and none was prepared.

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

Dated: October 17, 2005.

James W. Balsiger,

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

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