

NTSB has arranged for this problem to be corrected and verified that commenters may now access the Notice of Proposed Rulemaking and submit comments via <http://www.regulations.gov>. As such, the NTSB is allowing the comment period for the Notice of Proposed Rulemaking to remain open until September 30, 2008. The NTSB notes that it received several comments via facsimile and postal mail; commenters who submitted comments via facsimile or postal mail need not resubmit them.

Dated: August 8, 2008.

**Vicky D'Onofrio,**

*Federal Register Liaison Officer.*

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BILLING CODE 7533-01-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 0808051050-81056-01]

RIN 0648-XJ42

#### Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Annual Specifications

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

**ACTION:** Proposed rule.

**SUMMARY:** NMFS proposes a regulation to implement the annual harvest guideline (HG) for Pacific mackerel in the U.S. exclusive economic zone (EEZ) off the Pacific coast for the fishing season of July 1, 2008, through June 30, 2009. This HG has been calculated according to the regulations implementing the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP) and establishes allowable harvest levels for Pacific mackerel off the Pacific coast.

**DATES:** Comments must be received by September 19, 2008.

**ADDRESSES:** You may submit comments on this proposed rule identified by 0648-XJ42 by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>

- Mail: Rodney R. McInnis, Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802.

- Fax: (562)980-4047, Att: Joshua Lindsay

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Copies of the report *Pacific Mackerel (Scomber japonicus) Stock Assessment for U.S. Management in the 2008-2009 Fishing Year* may be obtained from the Southwest Regional Office (see **ADDRESSES**).

#### FOR FURTHER INFORMATION CONTACT:

Joshua Lindsay, Southwest Region, NMFS, (562) 980-4034.

**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 two categories: actively managed and monitored. Harvest guidelines (HG) 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).

During public meetings each year, the biomass for each actively managed species within the CPS FMP is presented to the Pacific Fishery Management Council's (Council) Coastal Pelagic Species Management Team (CPSMT), the Council's Coastal Pelagic Species Advisory Subpanel (CPSAS) and the CPS Subcommittee of the Scientific and Statistical Committee (SSC). At that time, the biomass, the acceptable biological catch (ABC) and the status of the fisheries are reviewed and discussed. This information is then presented to the Council along with HG recommendations and comments from the Team and Subpanel. Following review by the Council and after hearing public comments, the Council makes its HG recommendation to NOAA's National Marine Fisheries Service (NMFS). The annual HG is published in the **Federal Register** as close as practicable to the start of the fishing season. The Pacific mackerel season

begins on July 1 and ends on June 30 of each year.

For the 2008-2009 Pacific mackerel management season an updated assessment for Pacific mackerel was conducted and then reviewed by the SSC CPS Subcommittee, the CPSMT and the CPSAS during a series of meetings May 13-15, 2008, in Long Beach California. During these meetings the current stock assessment for Pacific mackerel, which included a preliminary biomass estimate and ABC, were presented and reviewed in accordance with the procedures of the FMP. Based on a total stock biomass estimate of 264,732 metric tons (mt) the harvest control rule in the CPS FMP produces an ABC of 51,772 mt for the 2008-2009 management season.

In June, the Council held a public meeting in Foster City, California, during which time the Council reviewed the current stock assessment, biomass numbers and ABC as well as heard statements from the SSC, Team and Subpanel. The SSC endorsed the assessment as the best available science for use in management. Both the Team and Subpanel recommended setting the 2008-2009 HG below ABC and no higher than 40,000 mt.

Following the SSC, Team and Subpanel reports the Council adopted a HG of 40,000 mt for the 2008-2009 fishing year. This HG recommendation is the same as the one recommended and implemented by NMFS for the 2007-2008 fishing season. Establishing a HG for the directed fishery substantially below the ABC was recommended in response to uncertainty associated with changes to assessment modeling parameters and the estimate made in the FMP that the domestic fishery appears to be market limited to roughly 40,000 mt. The Council also adopted the Subpanel recommendation that in the event that the 40,000 mt is attained by the fishery, that Pacific mackerel fishing be closed to directed harvest and only incidental harvest be allowed. The proposed incidental fishery would be constrained to a 45 percent by weight incidental catch rate when Pacific mackerel are landed with other CPS, except that up to one metric ton of Pacific mackerel could be landed per trip without landing any other CPS.

The Council may schedule an inseason review of the Pacific mackerel fishery at the nearest appropriate Council meeting, towards a possible consideration of either releasing a portion of the incidental allotment to the directed fishery or further constraining incidental landings to

ensure total harvest remains below the ABC.

Information on the fishery and the stock assessment are found in the report *Pacific mackerel (Scomber japonicus) Stock Assessment for U.S. Management in the 2008–09 Fishing Season* (see ADDRESSES).

The harvest control rule formula in the FMP uses the following factors to determine the ABC:

1. *Biomass*. The estimated stock biomass of Pacific mackerel age one and above for the 2008–2009 management season is 264,732 mt.

2. *Cutoff*. This is the biomass level below which no commercial fishery is allowed. The FMP established this level at 18,200 mt.

3. *Distribution*. The portion of the Pacific mackerel biomass estimated in the U.S. EEZ off the Pacific coast is 70 percent and is based on the average historical larval distribution obtained from scientific cruises and the distribution of the resource according to the logbooks of aerial fish-spotters.

4. *Fraction*. The harvest fraction is the percentage of the biomass above 18,200 mt that may be harvested. The FMP established this at 30 percent.

#### Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the CPS FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

These proposed specifications are exempt from review under 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 this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows:

The purpose of this proposed rule is to implement the 2008–2009 HG for Pacific mackerel in the U.S. EEZ off the Pacific coast. The CPS FMP and its implementing regulations require NMFS to set an annual HG for the Pacific mackerel fishery based on the harvest formula in the FMP. The harvest formula is applied to the current stock biomass estimate to determine the ABC, from which the HG is then derived.

Pacific mackerel harvest is one component of CPS fisheries off the U.S. West Coast which primarily includes the fisheries for Pacific sardine, Northern anchovy, Jack mackerel and Market squid. Pacific mackerel are principally caught off southern California within the limited entry portion (south of 39 N. latitude; Point Arena, California) of the fishery. Sixty-two vessels are currently

permitted in the Federal CPS limited entry fishery off California. These vessels are considered small business entities by the U.S. Small Business Administration since the vessels do not have annual receipts in excess of \$4.0 million. This proposed rule has an equal effect on all of these small entities. Therefore, there would be no disproportionate impacts on large and small business entities under the proposed action.

The profitability of these vessels as a result of this proposed rule is based on the average Pacific mackerel ex-vessel price per mt. NMFS used average Pacific mackerel ex-vessel price per mt to conduct a profitability analysis because cost data for the harvesting operations of CPS finfish vessels was unavailable.

For the 2007/2008 fishing year, the HG was set at 40,000 mt with an estimated ex-vessel value of approximately \$5.3 million. Around 6,200 mt of this HG was actually harvested during the 2007/2008 fishing season valued at an estimated \$900,000.

The proposed harvest guideline for the 2008/2009 Pacific mackerel fishing season (July 1, 2008 through June 30, 2009) is 40,000 metric tons (mt). This HG recommendation is the same as the HG recommended by the Council and approved by NMFS for the 2007/2008 fishing year. If the fleet were to take the entire 2008/2009 HG, and assuming no change in the coastwide average ex-vessel price per mt of \$146, the potential revenue to the fleet would be approximately \$5.8 million. A potential lack of availability of the resource to the fishing fleet however, could cause a reduction in the amount of Pacific mackerel harvested, in which case profits would be lower than if the total HG were taken. Additionally, if there is no change in market conditions (i.e., a lack in demand for Pacific mackerel product), it is not likely that the full HG will be taken during the 2008–2009 fishing year, in which case profits will again be lower than if the entire HG were taken. However, because the average U.S. harvest since the year 2000 is only 5,700 mt, the potential reduced revenues would not be a result of the proposed HG.

NMFS does not anticipate a drop in profitability based on this rule because it allows fishermen to harvest the same amount of fish as the previous fishing season. Based on the disproportionality and profitability analysis above, this rule if adopted, will not have a significant economic impact on a substantial number of these small entities.

As a result, an Initial Regulatory Flexibility Analysis is not required and none has been prepared.

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

Dated: August 14, 2008.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator For Regulatory Programs, National Marine Fisheries Service.*

[FR Doc. E8–19309 Filed 8–19–08; 8:45 am]

**BILLING CODE 3510–22–S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 665

RIN 0648–AV28

#### Fisheries in the Western Pacific; Bottomfish and Seamount Groundfish Fisheries; Management Measures for the Northern Mariana Islands

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

**ACTION:** Notice of availability of fishery management plan amendment; request for comments.

**SUMMARY:** NMFS announces that the Western Pacific Fishery Management Council (Council) proposes to amend the Fishery Management Plan for the Bottomfish & Seamount Groundfish Fisheries of the Western Pacific Region. If approved by the Secretary of Commerce, Amendment 10 would establish Federal permitting and reporting requirements for all commercial bottomfish fishing in the U.S. Exclusive Economic Zone (EEZ) around the Commonwealth of the Northern Mariana Islands (CNMI). The amendment would also close waters within 50 nm (80.5 km) of the southern CNMI and within 10 nm (18.5 km) of the northern island of Alamagan to bottomfish fishing by vessels over 40 ft (12.2 m) in length, which also would be required to carry and operate shipboard vessel monitoring system units, and whose operators would be required to submit bottomfish sales reports in addition to catch reports. The proposed amendment would ensure adequate collection of information about the CNMI bottomfish fishery, provide for sustained community participation in the CNMI bottomfish fishery, and encourage consistent availability of locally-caught bottomfish to CNMI consumers. Combined, these measures are intended to prevent the depletion of bottomfish stocks in the CNMI, and sustain the fisheries that depend on them.

**DATES:** Comments on Amendment 10, which includes an environmental assessment, must be received by October 20, 2008.

**ADDRESSES:** Comments on the amendment, identified by 0648–AV28, may be sent to either of the following addresses:

- Electronic Submission: Submit all electronic public comments via the