

April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This action nevertheless will be effective March 31, 2008, because it is an immediate final rule.

#### List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Incorporation by reference, Indians—lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

**Authority:** This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: December 17, 2007.

**Robert W. Varney,**

*Regional Administrator, EPA New England.*

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#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

##### 50 CFR Part 660

[Docket No. 070907502-7668-03]

RIN 0648-XB01

##### 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:** Final rule.

**SUMMARY:** NMFS issues this final rule 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, 2007, through June 30, 2008. 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. The HG for the 2007-2008 fishing season is 40,000 metric tons (mt). If this total is reached, Pacific mackerel fishing will be closed to directed harvest and only incidental harvest will be allowed at a 45 percent by weight incidental catch rate when landed with other CPS, except that up to one mt of Pacific mackerel can be landed without landing any other CPS.

**DATES:** Effective March 3, 2008 through June 30, 2008.

**ADDRESSES:** Copies of the report *Pacific Mackerel (Scomber japonicus) Stock Assessment for U.S. Management in the*

*2007-2008 Fishing Year* may be obtained from the Southwest Regional Office by contacting Rodney R. McInnis, Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213.

**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 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 annual public meetings, 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 (Team), the Council's Coastal Pelagic Species Advisory Subpanel (Subpanel) 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 Pacific mackerel season begins on July 1 and ends on June 30 of each year.

A full assessment for Pacific mackerel was conducted this year and reviewed by a Stock Assessment Review (STAR) Panel in La Jolla, CA, May 1-4. Public meetings of the Team and Subpanel were then held May 8-10 in Long Beach, CA. During these meetings the STAR Panel report and 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 359,290 metric tons (mt), the ABC for U.S. fisheries for the 2007/2008 management season is 71,629 mt.

In June, the Council held a public meeting in Foster City, CA, during which time they reviewed the current

stock assessment, biomass numbers and ABC and heard statements from the SSC, Team and Subpanel (72 FR 29130). The SSC endorsed the assessment as the best available science for use in management. Both the Team and Subpanel recommended setting the 2007/2008 HG below ABC and no higher than 40,000 mt. This HG recommendation is still roughly double the HG adopted by the Council for the 2006/2007 fishing year (19,845 mt) and much greater than the average U.S. harvest since the year 2000 (5,700 mt). Setting the harvest guideline substantially below the ABC was recommended as a precautionary measure in response to uncertainty associated with changes to assessment modeling parameters and the reference in the FMP that the domestic fishery appears to be market limited to roughly 40,000 mt.

Following the SSC, Team and Subpanel reports the Council adopted an HG of 40,000 mt for the 2007–2008 fishing year. 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. This incidental fishery is 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 without landing any other CPS.

The Council may schedule an inseason review of the Pacific mackerel fishery for the March or April 2008 Council meeting, in order to consider 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 2007–08 Fishing Season* (see ADDRESSES).

#### Classification

The Administrator, Southwest Region, NMFS, determined that this final rule is necessary for the conservation and management of the CPS fishery and that it is consistent with the Magnuson-

Stevens Fishery Conservation and Management Act and other applicable laws.

This final rule is exempt from Office of Management and Budget 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 during the proposed rule stage that 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 (72 FR 35419) and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

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

Dated: January 24, 2008.

**Samuel D. Rauch III,**

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

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