

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 660**

[Docket No. 100830407-0626-02]

RIN 0648-XY51

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. The HG accords with 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 total HG for the 2010–2011 fishing year is 11,000 metric tons (mt) divided into a directed fishery HG of 8,000 mt and an incidental fishery of 3,000 mt. If 8,000 mt are landed, the directed fishery for Pacific mackerel will close and a 45-percent by weight incidental trip allowance for landing Pacific mackerel with other CPS will be implemented, with the exception that 1 mt may be landed per trip without any other CPS.

DATES: Effective February 22, 2011, through June 30, 2011.

FOR FURTHER INFORMATION CONTACT: Amber Morris, Southwest Region, NMFS, (562) 980–3231.

SUPPLEMENTARY INFORMATION: The CPS FMP, which is implemented by regulation at 50 CFR part 660, subpart I, divides management unit species into two categories: Actively managed and monitored. The HGs for actively managed species (Pacific sardine and Pacific mackerel) are based on formulas applied to current biomass estimates.

The biomass and harvest specifications for each actively managed species within the CPS FMP are

reviewed every year by the Pacific Fishery Management Council (Council) at their public meetings. The Scientific and Statistical Committee (SSC), the Coastal Pelagic Species Management Team (Team) and the Council's Coastal Pelagic Species Advisory Subpanel (Subpanel) review and discuss the biomass, the acceptable biological catch (ABC) and the status of the fisheries, and present their comments to the Council. 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 Council reviewed relevant materials, heard public comments and made recommendations related to the 2010–2011 Pacific mackerel fishing season at their June 2010 public meeting.

For the 2010–2011 fishing year, the Council recommended and NMFS is implementing a total HG of 11,000 metric tons (mt) divided into a directed fishery HG of 8,000 mt and an incidental fishery of 3,000 mt. If 8,000 mt are landed, the directed fishery for Pacific mackerel will close and a 45-percent by weight incidental trip allowance for landing Pacific mackerel with other CPS will be implemented, with the exception that 1 mt may be landed per trip without any other CPS.

In making its recommendations, the Council relied on the 2009 full stock assessment, 2009 landings, and public comments in developing the series of management measures for the July 1, 2010, through June 30, 2011, Pacific mackerel fishing season. The Council recommended and NMFS approved an ABC of 55,408 mt which was calculated from the biomass estimate of 282,049 mt that was produced by the stock assessment and reviewed by a Stock Assessment Review Panel. The Council recommended and NMFS approved an overall HG of 11,000 mt with 8,000 mt allocated to a directed fishery and 3,000 mt set aside for incidental landings in other CPS fisheries should the 8,000 mt directed fishery HG be attained. The 1,000 mt increase in the set aside for incidental landings as compared to last season was in response to comments made by industry at the June 2010 Pacific Council meeting that Pacific

mackerel availability to the fleet may be increasing and that fishing opportunities for other CPS could be forgone if the mackerel season closed early. The Council also recommended and NMFS approved that NMFS close the directed fishery if the 8,000 mt directed fishery HG is attained and implement a 45-percent incidental catch allowance for landing Pacific mackerel with other CPS (in other words, no more than 45% by weight of the CPS landed per trip may be Pacific mackerel) with the exception that up to 1 mt of Pacific mackerel could be landed per trip without landing any other CPS.

On September 17, 2010, a proposed rule was published for this action and public comments solicited (74 FR 56976). No comments were received. For further background information on this action please refer to the preamble of the proposed rule (74 FR 56976, September 17, 2010).

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 and Conservation and Management Act and other applicable laws. This final rule is 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 during the proposed rule stage that this action would not have significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule 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 13, 2011.

Samuel D. Rauch III,

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

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