First-tier subcontract means a subcontract awarded directly by the contractor for the purpose of acquiring services for performance of a prime contract. It does not include the contractor’s supplier agreements with vendors, such as long-term arrangements for materials or supplies or services that benefit multiple contracts and/or the costs of which are normally applied to a contractor’s general and administrative expenses or indirect costs.

(b) The contractor shall report annually, by October 31, at https://www.sam.gov, on services performed during the preceding Government fiscal year (October 1–September 30) under this contract or agreement for each order, including any first-tier subcontract, which exceeds $3 million for services in the following service acquisition portfolio groups:

(1) Logistics management services.
(2) Equipment-related services.
(3) Knowledge-based services.
(4) Electronics and communications services.

(c) The Contractor shall report the following information for the order:

(1) The total dollar amount invoiced for services performed during the preceding Government fiscal year under the order.
(2) The number of Contractor direct labor hours, to include first-tier subcontractor direct labor hours, as applicable, expended on the services performed under the order during the preceding Government fiscal year.
(3) The Government will review the Contractor’s reported information for reasonableness and consistency with available contract information. In the event the Government believes that revisions to the Contractor’s reported information are warranted, the Government will notify the Contractor. Upon notification, the Contractor shall revise the reported information or provide the Government with a supporting rationale for the information.

(End of clause)
Measures for commercial sardine harvest during the 2021–2022 fishing year:

1. If landings in the live bait fishery reach 1,800 mt of Pacific sardine, then a 1-mt per-trip limit of sardine would apply to live bait fishery.

2. An incidental per-landing limit of 20-percent (by weight) Pacific sardine applies to other CPS primary directed fisheries (e.g., Pacific mackerel).

3. If the ACT of 3,000 mt is attained, then a 1-mt per-trip limit of Pacific sardine would apply to all CPS fisheries (i.e., 1 and 2) would no longer apply.

4. An incidental per-landing allowance of 2 mt of Pacific sardine would apply to non-CPS fisheries until the ACL is reached.

All sources of catch, including any exempted fishing permit (EFP) set-asides, the live bait fishery, and other minimal sources of harvest, such as incidental catch in CPS and non-CPS fisheries and minor directed fishing, will be accounted for against the ACT and ACL. At the April 2021 Council meeting, the Council approved 830 mt of the ACL for three EFP proposals to support stock assessments for Pacific sardine. Any Pacific sardine harvested between July 1, 2021, and the effective date of the final rule will count toward the 2021–2022 ACT.

The NMFS West Coast Regional Administrator will publish a notification in the Federal Register to announce when catch reaches the incidental limits as well as any changes to allowable incidental catch percentages. Additionally, to ensure that the regulated community is informed of any closure, NMFS will make announcements through other means available, including emails to fishermen, processors, and state fishery management agencies.

**Comments and Responses**

On May 26, 2021, NMFS published a proposed rule for this action and solicited public comments through June 10, 2021 (86 FR 28325). NMFS received one public comment letter containing multiple comments from the environmental group Oceana. After considering the public comment, NMFS made no changes from the proposed rule. NMFS summarizes and responds to the comment letter from Oceana below.

**Comment:** Oceana states that the proposed harvest specifications are not based on the best available science, fail to prevent overfishing, and will impede rebuilding. Oceana requests that NMFS revise the proposed specifications to reduce catch limits. Specifically, Oceana suggests that NMFS use a different E_{MSY} value to calculate the OFL, ABC, and ACL, which would result in an OFL of 1,230 mt, an ABC of 741 mt, and an ACL lower than 741 mt. Oceana also suggests that NMFS reduce catch by limiting live bait harvest of sardine, denying EFP applications that propose to land or sell sardine or limiting their catch to 10 mt, and limiting incidental catch of sardine in other directed CPS fisheries to no more than 10 percent of landings.

**Response:** NMFS has determined this action is based on the best available science, prevents overfishing, and will not imped rebuilding. NMFS disagrees with Oceana’s suggestion that setting a lower ACL, specifically an ACL lower than 741 mt, is necessary to prevent overfishing. The reference points being implemented through this action were recommended by the Council based on the control rules in the FMP and were endorsed by the Council’s Scientific and Statistical Committee (SSC) as the best scientific information available for setting the 2021–2022 harvest specifications for Pacific sardine. In addition, the management measures adopted by the Council, including an ACT that was set even lower than the ACL (3,000 mt), are more than adequate to ensure catch does not exceed the ACL/ABC and OFL, and therefore add an additional measure for preventing overfishing. Furthermore, although the SSC did not endorse the 2021 catch-only projection due to uncertainty in the model (including the level of catch by Mexico), more precaution was built into the Council’s ABC recommendation to account for this uncertainty and to ensure overfishing is prevented. The reference points implemented through this action should also be viewed in the context of the non-discretionary harvest restrictions already in place, pursuant to the CPS FMP, which generally restrict the fishery from catching the full ACL. These non-discretionary restrictions include the continued closure of the primary directed fishery (i.e., the largest fishery that takes the majority of Pacific sardine catch) and restrictions on incidental harvest of Pacific sardine in other CPS fisheries (which are currently less than half of typical incidental limits).

NMFS also finds it unnecessary to further limit the landings of sardine by implementing any of the additional measures recommended by Oceana—i.e., limiting live bait harvest, denying EFP applications or limiting their allowable catch, and reducing the percentage of landings allowed in other directed CPS fisheries. The Council considered the overfished status of Pacific sardine, as well as the uncertainty around the 2021 catch update due to the inability to collect survey data during the COVID–19 pandemic, and incorporated precautionary measures in their recommendations to NMFS to account for those factors. Those precautionary measures included: (1) Deeming the assessment Tier 3 (high uncertainty); (2) using a P* value of 0.4 (high uncertainty); (3) reducing the ACT from the ACL; (4) reducing the EFP allowance from the requested amount; (5) limiting incidental sardine landings in CPS fisheries to 20 percent; and (6) incorporating accountability measures. These accountability measures include: (1) Limiting live bait landings to 1 mt per landing once 1,800 mt of sardine is attained; (2) imposing a per-trip limit of 1 mt of sardine in all CPS fisheries once the ACT is attained; and (3) implementing an incidental per-landing allowance of 2 mt in non-CPS fisheries until the ACL is reached.

Finally, although changes to how E_{MSY} is calculated is beyond the scope of this rulemaking, NMFS would nevertheless like to respond to Oceana’s suggestion in this regard. NMFS is aware of the 2019 scientific publication referenced by Oceana in their comment letter and of ongoing Council discussions related to E_{MSY}. NMFS is committed to participating in discussions about new science and whether that science justifies a change to how E_{MSY} is calculated for management purposes. Regarding the 2019 paper mentioned by Oceana that was authored by researchers at the SWFSC. NMFS notes that research related to the appropriate temperature

### Table 1—Harvest Specifications for the 2021–2022 Sardine Fishing Year in Metric Tons (mt)

<table>
<thead>
<tr>
<th>Biomass estimate</th>
<th>OFL</th>
<th>ABC</th>
<th>HG</th>
<th>ACL</th>
<th>ACT</th>
</tr>
</thead>
<tbody>
<tr>
<td>28,276</td>
<td>5,525</td>
<td>3,329</td>
<td>0</td>
<td>3,329</td>
<td>3,000</td>
</tr>
</tbody>
</table>

**Notes:**

- **OFL:** Ocean Fishery Limit
- **ABC:** Average Biological Capacity
- **HG:** Harvest Guarantee
- **ACL:** Allowable Catch Limit
- **ACT:** Actual Catch Limit
index to inform E\text{MSY} is ongoing. NMFS has not yet determined whether, based on that paper, a change in how E\text{MSY} is calculated is necessary for management purposes. NMFS will continue to examine whether this new publication warrants a change in management; however, at this time NMFS has determined that the reference points set through this action are based on the best scientific information available.

Regarding recent Council discussions related to E\text{MSY}, NMFS notes that the Council’s SSC—the scientific advisory body that is responsible for recommending changes to E\text{MSY}—has the ability to recommend changes to E\text{MSY} at any time, and it has not determined that a change is necessary at this time. The Council’s SSC previously made such a recommendation in 2014 when it recommended that NMFS switch from using the 3-year average of Scripps Institution of Oceanography (SIO) sea surface temperature measurements to using the 3-year average of CalCOFI sea surface temperature measurements to inform E\text{MSY}. In 2014 the SSC also recommended an interim measure of a static E\text{MSY} of 18 percent until that change, from SIO to CalCOFI, could be adopted after being properly analyzed.

**Classification**

Pursuant to section 304(b)(1)(A) of the MSA, the NMFS Assistant Administrator has determined that this final rule is consistent with the CPS FMP, other provisions of the MSA, and other applicable law.

The need to implement these measures in a timely manner to ensure they are in place as soon as possible after the start of the fishing season, July 1, 2021, constitutes good cause under authority contained in 5 U.S.C. 553(d)(3), to establish an effective date less than 30 days after date of publication. In accordance with the FMP, this rule was recommended by the Council at its meeting in April 2021, the contents of which were based on the best available new information on the population status of Pacific sardine that became available at that time. Making these final specifications effective as soon as possible after July 1, the first day of the fishing year, is necessary for the conservation and management of the Pacific sardine resource because last year’s restrictions on harvest are not effective after June 30. The FMP requires a prohibition on primary directed fishing for Pacific sardine for the 2021–2022 fishing year because the sardine biomass has dropped below the CUTOFF. The purpose of the CUTOFF in the FMP, and for prohibiting a primary directed fishery when the biomass drops below this level, is to protect the stock when biomass is low and provide a buffer of spawning stock that is protected from fishing and can contribute to rebuilding the stock. A delay of a full 30 days in the date of effectiveness for this rule would result in the re-opening of the primary directed commercial fishery on July 1.

Delaying the effective date of this rule much beyond July 1 would be contrary to the public interest because it would jeopardize the sustainability of the Pacific sardine stock. Furthermore, most affected fishermen are aware that the Council recommended that primary directed commercial fishing be prohibited for the 2021–2022 fishing year, and are fully prepared to comply with the prohibition.

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 a significant economic impact on a substantial number of small entities for the purposes of the Regulatory Flexibility Act. The factual basis for the certification was published in the proposed rule and is not repeated here. As a result, a regulatory flexibility analysis was not required, and none was prepared.

Pursuant to Executive Order 13175, this rule was developed after meaningful consultation and collaboration with the Council’s tribal representative, who has agreed with the provisions that apply to tribal vessels.

This action does not contain a collection-of-information requirement for purposes of the Paper Reduction Act. There are no relevant Federal rules that may duplicate, overlap, or conflict with the action.

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

Dated: July 6, 2021.

**Samuel D. Rauch, III,**

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

[FR Doc. 2021-14643 Filed 7-6-21; 4:15 pm]

**BILLING CODE 3510-22-P**

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 665**

[Docket No. 210701–0142]

**RIN 0648–BK28**

**Pacific Island Fisheries; Exemption for Large U.S. Longline Vessels To Fish In Portions of the American Samoa Large Vessel Prohibited Area; Court Order**

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

**ACTION:** Final rule.

**SUMMARY:** NMFS implements a regulatory exemption that allows certain U.S. longline vessels 50 ft (15.2 m) and larger (“large longline vessels”) to fish in portions of the American Samoa Large Vessel Prohibited Area (LVPA). The intent is to comply with a U.S. Ninth Circuit Court of Appeals decision and Order that reversed a district court ruling that had vacated and set aside the exemption.

**DATES:** Effective July 6, 2021.

**FOR FURTHER INFORMATION CONTACT:** Bob Harman, NMFS PIRO Sustainable Fisheries, 808–725–5170.

**SUPPLEMENTARY INFORMATION:** NMFS and the Western Pacific Fishery Management Council (Council) manage pelagic fisheries in the U.S. Pacific Islands under the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific Region. In 2016, NMFS published a final rule (81 FR 5619, February 3, 2016) that allowed U.S. longline vessels greater than 50 feet that hold a Federal American Samoa longline limited entry permit to fish within the LVPA to within about 12–17 nm (22–31 km) from shore around Swains Island, Tutuila, and the Manua Islands. Large longline vessels continued to be restricted from fishing within the remaining portions of the LVPA. The intent of the rule was to improve the viability of the American Samoa longline fishery and achieve optimum yield, while preventing overfishing in accordance with National Standard 1 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Additional information about the LVPA exemptions is available in the proposed rule (80 FR 51527, August 25, 2015) and final rule. In July 2016, the Territory of American Samoa sued NMFS in the U.S. District Court for the District of Hawaii (Territory of American Samoa v. NMFS,