

Dated: March 1, 1999.

Nancy-Ann Min DeParle,
Administrator, Health Care Financing
Administration.

Dated: March 9, 1999.

Donna E. Shalala,
Secretary.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[I.D. 030299B]

RIN 0648-AL48

Fisheries Off West Coast States and in the Western Pacific; Northern Anchovy Fishery; Amendment 8

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

ACTION: Notice of availability of an
amendment to a fishery management
plan; request for comments.

SUMMARY: NMFS announces that the
Pacific Fishery Management Council
(Council) has submitted Amendment 8
to the Northern Anchovy Fishery
Management Plan (FMP) for Secretarial
review. The amendment was prepared
to provide a comprehensive
management approach to small coastal
pelagic species (CPS) off the Pacific
coast. The amendment also addresses
the provisions of the 1996 Sustainable
Fisheries Act (SFA) regarding
overfishing, bycatch, essential fish
habitat, and fishing communities.

DATES: Comments on Amendment 8
must be received on or before May 11,
1999.

ADDRESSES: Comments on Amendment
8 or supporting documents should be
sent to William T. Hogarth,
Administrator, Southwest Region,
NMFS, 501 West Ocean Boulevard,
Suite 4200, Long Beach, CA 90802.

Copies of Amendment 8, which
includes a Final Supplemental
Environmental Impact Statement/
Regulatory Impact Review, are available
from Larry Six, Executive Director,
Pacific Fishery Management Council,
2130 SW Fifth Avenue, Suite 224,
Portland, OR, 97201.

FOR FURTHER INFORMATION CONTACT:
James Morgan, Sustainable Fisheries
Division, NMFS, at 562-980-4030 or
Julie Walker, Pacific Fishery
Management Council, at 503-326-6352.

SUPPLEMENTARY INFORMATION: The
Magnuson-Stevens Fishery
Conservation and Management Act
(Magnuson-Stevens Act) requires each
Regional Fishery Management Council
to submit any amendment to an FMP to
NMFS for review and approval,
disapproval, or partial approval. The
Magnuson-Stevens Act also requires
that NMFS, upon receiving an
amendment, immediately publish
notification in the **Federal Register** that
the amendment is available for public
review and comment. NMFS will
consider the public comments received
during the comment period described
above in determining whether to
approve the amendment for
implementation.

Amendment 8 would place Pacific
mackerel (*Scomber japonicus*), Pacific
sardine (*Sardinops sagax*), Jack
mackerel (*Trachurus symmetricus*), and
market squid (*Loligo opalescens*) in the
FMP's management unit with northern
anchovy (*Engraulis mordax*). The basic
elements of the amendment follow:

1. Amendment 8 would divide
managed species into two categories:
"actively managed" and "monitored".
Actively managed species would be
subject to annually determined harvest
limits based on estimated biomass.
Monitored species would not be subject
to mandatory harvest limits, although
other management measures such as
closed areas could apply.

2. Amendment 8 would include
conservative harvest strategies that take
into account uncontrolled harvests in
the Mexican fishery, natural variability
in the stocks, and the importance of
coastal pelagics as forage for other fish,
marine mammals, and birds.

3. The amendment would establish a
limited entry system in the commercial
fishery for CPS finfish (squid is not
included) south of 39° N. latitude (Pt.
Arena, California). Open access would
continue north of 39° N. latitude.
Historically, 99 percent of the sardine
resource has been harvested south of Pt.
Arena. When abundance is high,
fishermen in more northern areas would
still be able to gain benefits from the
high abundance through the open access
fishery. When abundance declines, the
resource tends to disappear from the
north and move south.

4. To qualify for a limited entry
permit, a vessel would have had to land
at least 100 metric tons (mt) of finfish
during the period January 1, 1993,
through November 5, 1997.

5. Vessels with limited entry permits
would be limited to 125 mt per trip. The
purpose of the limit is to control the
fleet's harvest capacity.

6. Limited entry permits could be
transferred under only limited
circumstances to a replacement vessel,
except during the first year of the
program, when one unrestricted transfer
of each permit would be allowed.

7. To accommodate vessels that land
dead bait and fish for small specialty
markets, Amendment 8 would allow
vessels to land a specific amount,
between 1 and 5 mt, without a limited
entry permit. The Council would
determine, and could adjust, the precise
amount.

8. Amendment 8 would establish a
framework process similar to that used
in the Pacific coast groundfish fishery to
allow the implementation of certain
types of management actions without
further amending the FMP. Under the
framework system, actively managed
and monitored species could be moved
between categories as circumstances
require.

The SFA amended section 303(a) of
the Magnuson-Stevens Act, which
describes the required components of
each FMP. The SFA established a 2-year
deadline (October 11, 1998) by which
each Regional Fishery Management
Council was required to submit
amendments to NMFS to bring all FMPs
into compliance with the new
provisions of section 303(a).

Amendment 8 seeks to make the FMP
consistent with the Magnuson-Stevens
Act by defining, consistent with the
SFA, optimum yield (OY), overfishing,
and levels at which managed stocks are
considered overfished. Amendment 8
also, as required by the SFA, defines
essential fish habitat, discusses the
nature of bycatch in the fisheries for
CPS, and presents social and economic
data on communities substantially
dependent or substantially engaged in
fishing.

As described in the National Standard
guidelines (63 FR 24212, May 1, 1998),
OY is based on maximum sustainable
yield (MSY). The MSY control rules
proposed for CPS would maintain
biomass of the stocks at levels that are
the same or higher than those produced
at FMSY (the harvest rate that produces
MSY), while also allowing relatively
high and consistent levels of catch. OY
based on an MSY control rule for CPS
would always be at least as effective in
maintaining a healthy stock and fishery
as catches under an FMSY policy. An
alternative would be to define OY as
being equal to MSY, but this could
prevent the Council from reducing
harvest levels to accommodate
ecological or economic factors. Large
fluctuations in biomass make reducing
the harvest as the biomass falls
essential. The proposed definition of

overfishing is in terms of fishing mortality or exploitation rate. Depending on the exploitation rate, overfishing could occur when CPS stocks are at either high or low abundance levels. Biomass levels below which no fishing is allowed are also defined.

With regard to overfishing, experience with CPS stocks around the world indicates that overfished low biomass conditions usually occur when unfavorable environmental conditions and high fishing mortality rates occur at the same time. Management measures for overfished CPS stocks would not depend on whether low biomass was due to excess fishing or unfavorable environmental conditions. Reductions in fishing mortality are required in either case.

Bycatch as defined in the Magnuson-Stevens Act is minimal in the CPS fisheries. Any bycatch issues that might arise if a high volume fishery occurred in the northern portion of the management area are unknown. In the CPS fisheries, some fish are caught and sold incidental to catching other species, because they sometimes school together. Incidental catch allowances

are defined as percentages of catch, landings, or deliveries. Incidental catch allowances can be adjusted as needed, depending on the status of the incidental species.

Presence/absence data were used to determine essential fish habitat for CPS and were based on a thermal range bordered within the geographic area where a CPS species occurs at any life stage, where the CPS species has occurred historically during periods of similar environmental conditions, or where environmental conditions do not preclude colonization by the CPS species. This is necessary because as abundance increases, the range of CPS species increases significantly. New habitat becomes essential to maintain the prevailing biomass.

Based on socioeconomic data, historical harvests, and the natural variability exhibited by CPS species as documented in the FMP, management areas were developed to give fishing communities along the Pacific coast opportunities to make maximum use of the available biomass. The framework process may be used to make adjustments as experience is gained

from harvesting an expanding sardine biomass and as markets develop.

The FMP stresses the importance of CPS as bait to recreational fisheries and as food for those species targeted by recreational fishermen. The needs of live and dead bait fisheries are addressed. The FMP takes into account the importance of CPS as prey by maintaining levels of high average biomass.

Public comments on Amendment 8 must be received by May 11, 1999, to be considered by NMFS in the decision to approve/disapprove Amendment 8. A proposed rule to implement Amendment 8 has been submitted for Secretarial review and approval. NMFS expects to publish and request public comment on proposed regulations to implement Amendment 8 in the near future.

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

Dated: March 8, 1999.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
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