

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

[Docket No. 070607119-7119-01]

RIN 0648-AV11

**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 sardine in the U.S. exclusive economic zone (EEZ) off the Pacific coast (California, Oregon, and Washington) for the fishing season of January 1, 2007, through December 31, 2007. 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 sardine off the Pacific coast.

**DATES:** Effective November 26, 2007 through December 31, 2007.

**ADDRESSES:** Copies of the report *Assessment of Pacific Sardine Stock for U.S. Management in 2007* 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. The HG for actively managed species (Pacific sardine and Pacific mackerel) is 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) CPS Management Team (Team) and the

Council's CPS Advisory Subpanel (Subpanel). At that time, the biomass, the HG, and the status of the fisheries are reviewed and discussed. This information is then presented to the Council along with recommendations and comments from the Team and Subpanel. Following review by the Council and after hearing public comments, the Council makes its recommendation to NMFS.

Public meetings of the Team, Subpanel and CPS Subcommittee of the Scientific and Statistical Committee (SSC) were held in October 2006. During these meetings the current stock assessment update for Pacific sardine, which included a preliminary biomass estimate and HG, was presented and reviewed in accordance with the procedures of the FMP. In November, the Council held a public meeting in San Diego, California (71 FR 62998) during which time the Council reviewed the current stock assessment, biomass numbers and proposed HG. Following the Team and Subpanel reports and hearing public comments, the Council adopted the Team's recommended HG for the 2007 Pacific sardine fishing season (January 1, 2007 through December 31, 2007) of 152,564 metric tons (mt). Although this HG is 28 percent higher than the HG for 2006, it is over 50,000 mt greater than the largest recent harvest by U.S. west coast fisheries. The Council also adopted the Subpanel recommendation of an incidental catch allowance for Pacific sardine of up to 45 percent by weight in other CPS fisheries in the event that the coastwide harvest of Pacific sardine exceeds a seasonal allocation prior to the next scheduled reallocation.

The Pacific sardine HG is apportioned based on the following allocation scheme established by Amendment 11 (71 FR 36999) to the CPS FMP: 35 percent (53,397 mt) is allocated coastwide on January 1; 40 percent (61,025 mt), plus any portion not harvested from the initial allocation is reallocated coastwide on July 1; and on September 15 the remaining 25 percent (38,141 mt), plus any portion not harvested from earlier allocations is released.

If the total harvest guideline or these apportionment levels for Pacific sardine are reached at any time, the Pacific sardine fishery shall be closed until either it re-opens per the allocation scheme or the beginning of the next fishing season. The Regional Administrator shall publish in the **Federal Register**, through appropriate rulemaking procedures, the date of the closure of the directed fishery for Pacific sardine.

**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 OMB 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: October 18, 2007.

**Samuel D. Rauch III,**

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

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 070213032-7032-01]

RIN 0648-XD59

**Fisheries of the Exclusive Economic Zone Off Alaska; Trawl Gear in the Gulf of Alaska**

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

**ACTION:** Temporary rule; modification of a closure.

**SUMMARY:** NMFS is opening directed fishing for groundfish by vessels using trawl gear in the Gulf of Alaska (GOA), effective 1200 hrs, Alaska local time, October 22, 2007. This action is necessary to fully use the 2007 Pacific halibut prohibited species catch (PSC) limit specified for vessels using trawl gear in the GOA.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), October 22, 2007, through

2400 hrs, A.l.t., December 31, 2007. Comments must be received at the following address no later than 4:30 p.m., A.l.t., November 6, 2007.

**ADDRESSES:** You may submit comments, identified by 0648-XD59, by any one of the following methods:

- Mail to: P.O. Box 21668, Juneau, AK 99802;

- Hand delivery to the Federal Building, 709 West 9th Street, Room 420A, Juneau, Alaska;

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

- FAX to 907-586-7557, Attn: Ellen Sebastian

- Mail to the Federal Building, 709 West 9th Street, Room 420A, Juneau, Alaska

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. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Hogan, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of

the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2007 Pacific halibut bycatch allowance specified for trawl gear in the GOA is 2,000 metric tons (mt) as established by the 2007 and 2008 harvest specifications for groundfish of the GOA (72 FR 9676, March 5, 2007, as corrected by 72 FR 13217, March 21, 2007).

NMFS closed directed fishing for groundfish by vessels using trawl gear in the GOA under § 679.21(d)(7)(i) on October 15, 2007 (72 FR 59038, October 18, 2007). As of October 19, 2007, NMFS has determined that 59 metric tons of the 2007 Pacific halibut bycatch allowance for the fishery remains. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully use the 2007 Pacific halibut PSC limit specified for vessels using trawl gear in the GOA, NMFS is terminating the previous closure and is opening directed fishing for groundfish by vessels using trawl gear in the GOA, effective 1200 hrs, A.l.t., October 22, 2007.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

#### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is

impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of the groundfish fishery by vessels using trawl gear in the GOA. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet and processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of October 19, 2007.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Without this inseason adjustment, NMFS could not allow the fishery for groundfish by vessels using trawl gear in the GOA to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until November 6, 2007.

This action is required by § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: October 22, 2007.

**Alan D. Risenhoover,**

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

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