

requirements of § 635.5(b)(1)(ii) and § 635.5(b)(1)(iii).

(56) Fail to electronically submit an Atlantic HMS dealer report through the HMS electronic dealer reporting system to report Atlantic bigeye, albacore, yellowfin, and skipjack tunas, swordfish, and sharks to NMFS in accordance with § 635.5(b)(1)(iv), if issued, or required to have obtained, a Federal Atlantic HMS dealer permit pursuant to § 635.4

\* \* \* \* \*

(d) \* \* \*

(11) First receive or attempt to first receive Atlantic sharks without a valid Federal Atlantic shark dealer or proxy Atlantic shark identification workshop certificate issued to the dealer or proxy or fail to be certified for completion of a NMFS Atlantic shark identification workshop in violation of § 635.8.

\* \* \* \* \*

(14) First receive or attempt to first receive Atlantic sharks without making available for inspection, at each of the dealer's places of business listed on the dealer permit which first receives Atlantic sharks, an original, valid dealer or proxy Atlantic shark identification workshop certificate issued by NMFS to the dealer or proxy in violation of § 635.8(b), except that trucks or other conveyances of the business must possess a copy of such certificate.

\* \* \* \* \*

(16) First receive or attempt to first receive a shark or sharks or part of a shark or sharks landed in excess of the retention limits specified in § 635.24(a).

\* \* \* \* \*

(e) \* \* \*

(1) First receive or attempt to first receive Atlantic swordfish from the north or south Atlantic swordfish stock without a Federal Atlantic swordfish dealer permit as specified in § 635.4(g).

\* \* \* \* \*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 110606318-1319-01]

RIN 0648-BA68

#### Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Amendment 13 to the Coastal Pelagic Species Fishery Management Plan; Annual Catch Limits

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS issues this proposed rule to implement Amendment 13 to the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP). This proposed rule will implement parts of proposed Amendment 13 to the CPS FMP, which is intended to ensure the FMP is consistent with advisory guidelines published in Federal regulations. Amendment 13 revises the framework process currently in place to set and adjust fishery specifications and management measures and modifies this framework to include the specification new reference points such as annual catch limit (ACL).

**DATES:** Comments must be received by July 28, 2011.

**ADDRESSES:** You may submit comments, identified by 0648-BA68, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>.
- *Mail:* Rodney R. McInnis, Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802.
- *Fax:* (562) 980-4047, Attn: Joshua Lindsay.

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 (enter N/A in the required fields if you prefer to remain anonymous). You may submit

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

Copies of the CPS FMP as Amended through Amendment 13 and the Environmental Assessment/Regulatory Impact Review for Amendment 13, are available from Donald O. McIssac, Executive Director, Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220-1384 or the Southwest Regional Office (see **ADDRESSES**).

#### FOR FURTHER INFORMATION CONTACT:

Joshua B. Lindsay, Sustainable Fisheries Division, NMFS, at 562-980-4034 or Mike Burner, Pacific Fishery Management Council, at 503-820-2280.

**SUPPLEMENTARY INFORMATION:** The CPS fishery in the U.S. exclusive economic zone (EEZ) off the West Coast is managed under the CPS FMP, which was developed by the Pacific Fishery Management Council (Council) pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (MSA). Species managed under the CPS FMP include Pacific sardine, Pacific mackerel, jack mackerel, northern anchovy, market squid and krill. The CPS FMP was approved by the Secretary of Commerce and was implemented by regulations that can be found at 50 CFR part 660, subpart I.

The MSA was amended in 2007 to include new requirements for ACLs and accountability measures (AMs) and other provisions regarding preventing and ending overfishing and rebuilding fisheries. On January 16, 2009, NMFS revised its guidelines implementing MSA National Standard 1 (74 FR 3178) in response to these changes in the MSA. The revised guidelines explain NOAA's interpretation of the new statutory requirements for specifying ACLs at such levels that overfishing does not occur and that measures be taken to ensure accountability with these limits. The purpose of Amendment 13 is to amend the CPS FMP to ensure that it is consistent with these revised advisory guidelines and to comply with the statute. Specifically, Amendment 13 would revise the framework process to set and adjust fishery specification and management measures, and would establish a framework for specifying new reference points such as ACLs and AMs, as well as other provisions for preventing overfishing such as the potential setting of annual catch targets (ACTs).

Additionally, Amendment 13 would amend the FMP through the following measures that are designed to better

account for scientific and management uncertainty and to prevent overfishing:

- Modify the existing harvest control rules for actively managed species to include a buffer or reduction in acceptable biological catch (ABC) relative to overfishing limit (OFL) to account for scientific uncertainty. This buffer will be recommended during the annual management cycle through a combination of scientific advice from the Scientific and Statistical Committee (SSC) and a policy determination of the Council.
- Maintain the default harvest control rules for monitored stocks but modified to specify the new management reference points. ACLs would likely be specified for multiple years until such time as the species becomes actively managed or new scientific information becomes available. The current buffer of a 75-percent reduction in the ABC control rule (ABC equals 25 percent of OFL/MSY) will remain in use until recommended for modification by the SSC and approved by the Council through the annual harvest and management specification process.

- Add a mechanism for the use of sector-specific ACLs, ACTs and AMs.

Although not a change to the FMP, the Council reaffirmed that all management unit species (MUS) currently in the FMP, including those species categorized as monitored species and prohibited harvest species (krill) are “in the fishery” and will remain as MUS. Amendment 13 also adds Pacific herring (*Clupea pallasii pallasii*) and jacksmelt (*Atherinopsis californiensis*) to the FMP as ecosystem component (EC) species. Although the incidental catch of these species within CPS fisheries is extremely small, the intent of this action is to continue to specifically monitor the catches of these species and report catch estimates in the annual Stock Assessment and Fishery Evaluation report along with other incidental catch. In addition to the current ecological considerations in the FMP, the amendment also adds language to specify that the Council will include ecological considerations when reviewing and/or adopting status determination criteria (SDCs), ACLs, and ACTs.

#### Classification

Pursuant to section 304 (b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendment 13, the Magnuson-Stevens Act and other applicable law, subject to further consideration after public comment.

The Council and NMFS prepared an EA for this amendment that discusses the impact on the environment as a result of this proposed rule. A copy of the EA is available from the Council or NMFS (see **ADDRESSES**).

This proposed rule has been determined to be not significant for purposes of 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 that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows:

The purpose of this action is to implement parts of proposed Amendment 13 to the CPS FMP which is intended to ensure the FMP is consistent with the recently revised advisory guidelines implementing MSA National Standard 1 (74 FR 3178). Amendment 13 revises the framework process currently in place to set and adjust fishery specifications and management measures and modifies this framework to include the specification new reference points such as ACL, ACT and AM, as well as other provisions for preventing overfishing.

The proposed action is not expected to have substantial direct or indirect socioeconomic impacts, because harvest limits and management measures influencing ex-vessel revenue and personal income are not established under the range of alternatives considered. Instead, the proposed action revises the framework used in developing management reference points. Additionally, for the current actively managed species within the FMP, Pacific sardine and Pacific mackerel, for which annual harvest limits have been set since 2001, the control rules used in the setting of these limits are not changing based on this action. However, this action will modify the management framework in place to further ensure that overfishing does not occur. Specific catch limits and associated management measures will continue to go through the appropriate rulemaking process with environmental and economic analysis where required.

A fishing vessel is considered a “small” business by the U.S. Small Business Administration (SBA) if its annual receipts are not in excess of \$4.0 million. Since all of the vessels fishing for CPS have annual receipts below \$4.0 million they would all be considered small businesses under the SBA standards. Therefore this rule will not create disproportionate costs between small and large vessels/businesses.

NMFS has determined that this rule will not result in a significant economic impact to a substantial number of small entities.

As a result, a regulatory flexibility analysis is not required, and none has been prepared.

#### List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: June 22, 2011.

**Samuel D. Rauch III,**

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

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 660 as follows:

#### PART 660—FISHERIES OFF WEST COAST STATES

1. The authority citation for part 660 continues to read as follows:

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

2. Amend § 660.502 by removing the definition of “Monitored species (MS)” and revising the definition of “Harvest guideline” to read as follows:

#### § 660.502 Definitions.

\* \* \* \* \*

*Harvest guideline* means a specified numerical harvest objective that is not a quota. Attainment of a harvest guideline does not require complete closure of a fishery. It is operationally similar to an Annual Catch Target (ACT) (as defined at § 600.310(f)(2)).

\* \* \* \* \*

3. Revise § 660.508 as follows:

#### § 660.508 Annual specifications.

(a) The Regional Administrator will determine any harvest guideline, quota, Annual Catch Limit (ACL) (defined at § 600.310(f)(2)) or Annual Catch Target (ACT) (defined at § 600.310(f)(2)) in accordance with the framework process in the FMP.

(b) Any harvest guideline, quota, ACL, or ACT, including any apportionment between the directed fishery and set-aside for incidental harvest, will be published in the **Federal Register**.

(c) The announcement of each harvest guideline, quota, ACL or ACT will contain the following information if available or applicable:

- (1) The estimated biomass or MSY proxy on which the harvest guideline, quota, ACL or ACT was determined;
- (2) The portion, if appropriate, of the harvest guideline, quota, ACL or ACT

set aside to allow for incidental harvests after closure of the directed fishery;

(3) The estimated level of the incidental trip limit that will be allowed after the directed fishery is closed; and

(4) The allocation, if appropriate, between Subarea A and Subarea B.

(d) As necessary, harvest guidelines, quotas, OFLs (defined at § 600.310(f)(2)), ABCs (defined at § 600.310(f)(2)), ACLs or ACTs, will receive public review according to the following procedure:

(1) Meetings will be held by the Council's CPSMT and AP, where the estimated biomass and/or other biological or management benchmarks will be reviewed and public comments received. Each of these meetings will be announced in the **Federal Register** before the date of the meeting, if possible.

(2) All materials relating to the estimated biomass and/or other biological or management benchmarks will be forwarded to the Council and its Scientific and Statistical Committee and will be available to the public from the Regional Administrator when available.

(3) At a regular meeting of the Council, the Council will review the estimated biomass and/or other biological or management benchmarks and offer time for public comment. If the Council requests a revision, justification must be provided.

(4) The Regional Administrator will review the Council's recommendations, justification, and public comments and base his or her final decision on the requirements of the FMP and other applicable law.

4. Revise § 660.509 to read as follows:

**§ 660.509 Accountability measures (season closures).**

(a) *General rule.* When the directed fishery allocation or incidental allocation is reached for any CPS species it shall be closed until the beginning of the next fishing period or season. Regional Administrator shall announce in the **Federal Register** the date of such closure, as well as any incidental harvest level(s) recommended by the Council and approved by NMFS.

(b) *Pacific Sardine.* When the allocation and reallocation levels for Pacific sardine in § 660.511 (f)–(h) are reached, the Pacific sardine fishery shall be closed until either it re-opens per the allocation scheme in § 660.511 (g) and (h) or the beginning of the next fishing season as stated in § 660.510 (a). The Regional Administrator shall announce in the **Federal Register** the date of the

closure of the directed fishery for Pacific sardine.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

**RIN 0648–AY53**

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod Allocations in the Gulf of Alaska; Amendment 83

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

**ACTION:** Notification of availability of fishery management plan amendment; request for comments.

**SUMMARY:** The North Pacific Fishery Management Council submitted Amendment 83 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) to NMFS for review. If approved, Amendment 83 would establish Pacific cod allocations in the Central and Western Gulf of Alaska regulatory areas among various sectors and seasonal apportionments thereof. This action also would limit access to the Pacific cod parallel fishery for Federal fishery participants. This action is necessary to reduce the uncertainty regarding the distribution of Pacific cod catch, enhance stability among the sectors, maintain processing limits to protect coastal fishing communities, and provide entry-level opportunities for the jig sector. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and other applicable laws.

**DATES:** Comments on the amendment must be received on or before August 29, 2011.

**ADDRESSES:** Send comments to Sally Bibb, Acting Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by “RIN 0648–AY53,” by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>.
- *Fax:* (907) 586–7557, Attn: Ellen Sebastian.

• *Mail:* P.O. Box 21668, Juneau, AK 99802.

• *Hand delivery to the Federal Building:* 709 West 9th Street, Room 420A, Juneau, AK.

All comments received are a part of the public record. Comments will generally be posted without change. All Personal Identifying Information (for example, name, address) 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 (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Electronic copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for this action may be obtained from <http://www.regulations.gov> or from the Alaska Region Web site at <http://alaskafisheries.noaa.gov>.

**FOR FURTHER INFORMATION CONTACT:** Seanbob Kelly, 907–586–7228.

**SUPPLEMENTARY INFORMATION:** The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that each regional fishery management council submit any fishery management plan amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary of Commerce (Secretary). The Magnuson-Stevens Act also requires that NMFS, upon receiving a fishery management plan amendment, immediately publish a notice in the **Federal Register** announcing that the amendment is available for public review and comment. This notice announces that proposed Amendment 83 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) is available for public review and comment.

The groundfish fisheries in the exclusive economic zone of the Gulf of Alaska are managed under the FMP. The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Act.

Pacific cod total allowable catch (TAC) in the Gulf of Alaska is apportioned on the basis of processor component and season, as established under Amendment 23 to the FMP (57 FR 23321, June 3, 1992). Since implementation, 90 percent of the TAC is allocated to vessels catching Pacific cod for processing by the inshore