

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: June 29, 2009.

**Deborah S. Ingram,**

*Acting Deputy Assistant Administrator for Mitigation, Mitigation Directorate, Department of Homeland Security, Federal Emergency Management Agency.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 0812171612-9134-02]

RIN 0648-XQ35

#### Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Closure

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Pacific sardine off the coast of Washington, Oregon and California. This action is necessary because the directed harvest allocation total for the second seasonal period (July 1–September 14) is projected to be reached by the effective date of the rule. From the effective date of this rule until September 15, 2009, Pacific sardine can only be harvested as part of the live bait fishery or incidental to other fisheries; the incidental harvest of Pacific sardine is limited to 20-percent by weight of all fish per trip. Fishing vessels must be at shore and in the process of offloading at 12:01 am Pacific Daylight Time on date of closure.

**DATES:** Effective 12:01 am Pacific Daylight Time (PDT) July 18, 2009, through September 14, 2009.

**FOR FURTHER INFORMATION CONTACT:** Joshua Lindsay, Southwest Region, NMFS, (562) 980-4034.

**SUPPLEMENTARY INFORMATION:** This notice announces that based on the best available information recently obtained from the fishery, the directed fishing harvest allocation for the second allocation period (July 1–September 14) will be reached and therefore directed fishing for Pacific sardine is now closed until September 15, 2009. Fishing vessels must be at shore and in the process of offloading at the time of closure. From 12:01 am on the date of

closure until September 15, 2009, Pacific sardine may be harvested only incidental to other fisheries, with the incidental harvest of Pacific sardine limited to 20-percent by weight of all fish caught during a trip.

NMFS manages the Pacific sardine fishery in the U.S. exclusive economic zone (EEZ) off the Pacific coast (California, Oregon, and Washington) in accordance with the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP). Annual specifications published in the **Federal Register** establish the harvest guideline (HG) and allowable harvest levels for each Pacific sardine fishing season (January 1–December 31). The acceptable biological catch (ABC) or maximum HG for the 2009 Pacific sardine fishing season (January 1, 2009–December 31, 2009) is 66,932 mt and was divided into a directed harvest fishery of 58,032 mt, an incidental fishery of 6,500 mt and an exempted fishing permit set-aside of 2,400 mt. The directed and incidental harvest amounts were subdivided throughout the year in the following way: January 1–June 30, 22,006 mt was allocated for directed harvest with an incidental set-aside of 1,000 mt; July 1–September 14, 24,543 mt plus any portion not harvested from the initial allocation was allocated for directed harvest with an incidental set-aside of 1,000 mt; September 15–December 31, 11,483 mt plus any portion not harvested from earlier allocations was allocated for directed harvest with an incidental set-aside of 4,500 mt. See, 74 FR 7826 (February 20, 2009) as adjusted by 74 FR 31199 (June 30, 2009).

If during any of the seasonal allocation periods the applicable adjusted directed harvest allocation is projected to be taken, only incidental harvest is allowed and, for the remainder of the period, any incidental Pacific sardine landings will be counted against that period's incidental set aside. In the event that an incidental set-aside is projected to be attained, all fisheries will be closed to the retention of Pacific sardine for the remainder of the period via appropriate rulemaking.

Under 50 CFR 660.509 if the total HG or these apportionment levels for Pacific sardine are reached at any time, NMFS is required to close the Pacific sardine fishery via appropriate rulemaking and it is to remain closed until it re-opens either per the allocation scheme or the beginning of the next fishing season. In accordance with § 660.509 the Regional Administrator shall publish a notice in the **Federal Register** the date of the closure of the directed fishery for Pacific sardine.

The above in-season harvest restrictions are not intended to affect the prosecution the live bait portion of the Pacific sardine fishery.

#### Classification

This action is required by 50 CFR 660.509 and is exempt from Office of Management and Budget review under Executive Order 12866.

NMFS 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) for the closure of the July 1–September 14 directed harvest of Pacific sardine. For the reasons set forth below, notice and comment procedures are impracticable and contrary to the public interest. For the same reasons, NMFS also finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness for this action. This measure responds to the best available information and is necessary for the conservation and management of the Pacific sardine resource. A delay in effectiveness would cause the fishery to exceed the in-season harvest level. These seasonal harvest levels are important mechanisms in preventing overfishing and managing the fishery at optimum yield. The established directed and incidental harvest allocations are designed to allow fair and equitable opportunity to the resource by all sectors of the Pacific sardine fishery and to allow access to other profitable CPS fisheries, such as squid and Pacific mackerel. Many of the same fishermen who harvest Pacific sardine rely on these other fisheries for a significant portion of their income.

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

Dated: July 15, 2009

**Kristen C. Koch,**

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

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