

fishery has been exceeded. When evaluating whether the overall ACL has been exceeded, NMFS will add the maximum carryover available to sectors, as specified at § 648.87(b)(1)(i)(C), to the estimate of total catch for the pertinent stock. If catch by scallop vessels exceeds the pertinent sub-ACL specified in paragraph (a)(4)(iii)(C) of this section by 50 percent or more, or if scallop catch exceeds the scallop fishery sub-ACL and the overall ACL for that stock is also exceeded, then the applicable scallop fishery AM shall take effect, as specified in § 648.64 of the Atlantic sea scallop regulations.

(v) *AM if the small-mesh fisheries GB yellowtail flounder sub-ACL is exceeded.* If NMFS determines that the sub-ACL of GB yellowtail flounder allocated to the small-mesh fisheries, pursuant to paragraph (a)(4)(iii)(G) of this section, is exceeded, NMFS shall implement the AM specified in this paragraph consistent with the Administrative Procedures Act. The AM requires that small-mesh fisheries vessels, as defined in paragraph (a)(4)(iii)(G)(1) of this section, use one of the following approved selective trawl gear in the GB yellowtail flounder stock area, as defined at § 648.85(b)(6)(v)(H): A haddock separator trawl, as specified in § 648.85(a)(3)(iii)(A); a Ruhle trawl, as specified in § 648.85(b)(6)(iv)(J)(3); a rope separator trawl, as specified in § 648.84(e); or any other gear approved consistent with the process defined in § 648.85(b)(6). If reliable information is available, the AM shall be implemented in the fishing year immediately following the year in which the overage occurred only if there is sufficient time to do so in a manner consistent with the Administrative Procedures Act. Otherwise, the AM shall be implemented in the second fishing year after the fishing year in which the overage occurred. For example, if NMFS determined after the start of Year 2 that the small-mesh fisheries sub-ACL for GB yellowtail flounder was exceeded in Year 1, the applicable AM would be implemented at the start of Year 3. If updated catch information becomes available subsequent to the implementation of an AM that indicates that an overage of the small-mesh fisheries sub-ACL did not occur, NMFS shall rescind the AM, consistent with the Administrative Procedure Act.

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PART 697—ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT

■ 8. The authority citation for part 697 continues to read as follows:

Authority: 16 U.S.C. 5101 *et seq.*

■ 9. In § 697.7, revise paragraphs (c)(1)(xxii) and (c)(2)(xvii) to read as follows:

§ 697.7 Prohibitions.

* * * * *

(c) * * *

(1) * * *

(xxii) Possess, deploy, fish with, haul, harvest lobster from, or carry aboard a vessel any lobster trap gear, on a fishing trip in the EEZ from a vessel that fishes for, takes, catches, or harvests lobster by a method other than lobster traps.

* * * * *

(2) * * *

(xvii) Possess, deploy, fish with, haul, harvest lobster from, or carry aboard a vessel any lobster trap gear on a fishing trip in the EEZ on a vessel that fishes for, takes, catches, or harvests lobster by a method other than lobster traps.

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[FR Doc. 2014-09135 Filed 4-21-14; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 131203999-4326-02]

RIN 0648-XD020

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 an annual catch limit (ACL), harvest guideline (HG), annual catch target (ACT), and associated annual reference points for Pacific sardine in the U.S. exclusive economic zone (EEZ) off the Pacific coast for a one-time interim harvest period of January 1, 2014, through June 30, 2014, and to set annual harvest levels, such as overfishing limit (OFL), acceptable biological catch (ABC), annual catch limit (ACL), for Pacific sardine for the whole calendar year 2014. These specifications were determined according to the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP), and reflect the recent 6-month change to the starting date of the annual Pacific sardine fishery from January 1 to July 1. The 2014 ACT or maximum directed HG

is 19,846 (mt). Based on the seasonal allocation framework in the FMP, this equates to a first period (January 1 to June 30) allocation of 6,946 mt (35% of ACT). This rule also establishes an adjusted directed non-tribal harvest allocation for this period of 5,446 mt. This value was reduced from the total first period allocation by 1000 mt for potential harvest by the Quinalt Indian Nation as well as 500 mt to be used as an incidental set aside for other non-tribal commercial fisheries if the 5,446 mt limit is reached and directed fishing for sardine is closed. This rule is intended to conserve and manage the Pacific sardine stock off the U.S. West Coast.

DATES: Effective April 22, 2014 through June 30, 2014.

ADDRESSES: West Coast Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802.

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

SUPPLEMENTARY INFORMATION: During public meetings each year, the estimated biomass for Pacific sardine is presented to the Pacific Fishery Management Council's (Council) CPS Management Team (Team), the Council's CPS Advisory Subpanel (Subpanel) and the Council's Scientific and Statistical Committee (SSC), and the biomass and the status of the fisheries are reviewed and discussed. The biomass estimate is then presented to the Council along with the calculated OFL, ABC, ACL and HG, along with recommendations and comments from the Team, Subpanel and SSC. Following review by the Council and after hearing public comment, the Council adopts a biomass estimate and makes its catch level recommendations to NMFS. Each year NMFS then implements regulations that set the annual quota for the Pacific sardine fishing year that currently begins January 1 and ends December 31.

However, on February 28, 2014, NMFS published a final rule (79 FR 11343) to change the start date of the 12-month Pacific sardine fishery from January 1 to July 1, thus changing the fishing season from one based on the calendar year to a fishing year that will begin on July 1 and extend till the following June 30, as well as establish a one-time interim harvest period for the 6 months from January 1, 2014, through June 30, 2014. The purpose of this change is to better align the timing of the research and science that is used in the annual stock assessments with the annual management schedule. As a result of this action, the start of the next complete fishing season will begin on

July 1, 2014, and extend through June 30, 2015. Because the 2013 fishing season ended on December 31, 2013, it is necessary to implement interim management measures and harvest specifications for the period January 1, 2014 to June 30, 2014, to allow for fishing opportunities to continue during a transition from the current start of the fishing season to the new start on July 1. The purpose of this final rule is to implement the quota for the January 2014 through June 2014 period, as well as the other annual harvest levels (OFL, ABC and ACL) for the whole calendar year 2014, with the expectation that the annual harvest levels will be replaced for the new fishing year, beginning in July 2014, based on a new stock assessment and Council action in April 2014. The Council is scheduled to address sardine management for the next complete year (July 1 to June 30) at its April 2014 meeting.

The CPS FMP and its implementing regulations require NMFS to set these annual catch levels for the Pacific sardine fishery based on the annual specification framework in the FMP. This framework includes a harvest control rule that determines the maximum HG, the primary management target for the fishery, for the current fishing season. The HG is based, in large part, on the current estimate of stock biomass. The harvest control rule in the CPS FMP is $HG = [(Biomass - CUTOFF) * FRACTION * DISTRIBUTION]$ with the parameters described as follows:

1. *Biomass*. The estimated stock biomass of Pacific sardine age one and above.
2. *CUTOFF*. This is the biomass level below which no commercial fishery is allowed. The FMP established this level at 150,000 mt.
3. *DISTRIBUTION*. The average portion throughout the year of the Pacific sardine biomass estimated to occur in the EEZ off the Pacific coast in any given year. The FMP established this level at is 87 percent.

4. *FRACTION*. The harvest fraction is the percentage of the biomass above 150,000 mt that may be harvested.

At the November 2013 Council meeting, the Council adopted a report completed by NMFS Southwest Fisheries Science Center providing a biomass projection estimate for Pacific sardine of 378,120 mt. This report and the resulting biomass estimate were endorsed by the Council's SSC as the best available information on the stock status. Based on recommendations from its SSC and other advisory bodies, the Council recommended and NMFS is implementing an OFL of 59,214 metric tons (mt), an ABC of 54,052 mt, an ACL

of 54,052 mt (equal to the ABC), and a HG of 29,770. The current 2014 biomass estimate represents a 42 percent decrease from the updated stock assessment previously adopted by the Council in November, 2012. This current biomass estimate is based on a catch-only projection model that included updated catches from 2012 and 2013, but did not include other fishery or survey data collected over the past year. New data will, however, be incorporated in the next full assessment that will serve as the basis for the complete 12-month fishery management cycle beginning July 1, 2014.

The Council also adopted and NMFS is implementing an ACT or maximum directed HG of 19,846 (mt) as the maximum harvest level from which to calculate the first period allocation. Based on the seasonal allocation framework in the FMP, this equates to a January 1 to June 30 allocation of 6,946 mt (35% of HG/ACT). The Council then adopted and NMFS is implementing an adjusted non-tribal harvest allocation for this period of 5,946 mt. This number has been reduced from the total allocation for this period by 1,000 mt for potential harvest by the Quinault Indian Nation. A 500 mt incidental catch set aside is also being established for this period, leaving 5,446 mt as the non-tribal directed fishing allocation for the period of January 1, 2014, through June 30, 2014. The purpose of the incidental set-aside allotment and allowance of an incidental catch-only fishery is to allow for the restricted incidental landings of Pacific sardine in other fisheries, particularly other CPS fisheries, when a seasonal directed fishery is closed to reduce bycatch and allow for continued prosecution of other important CPS fisheries. If during this period the directed harvest allocation is projected to be taken, fishing would be closed to directed harvest and only incidental harvest would be allowed. For the remainder of the period, any incidental Pacific sardine landings would be counted against that period's incidental set-aside. As an additional accountability measure, the incidental fishery would also be constrained to a 40 percent by weight incidental catch rate when Pacific sardine are landed with other CPS so as to minimize the targeting of Pacific sardine and reduce potential discard of sardine. In the event that an incidental set-aside is projected to be attained, the incidental fishery will be closed for the remainder of the period. If the total January 1 to June 30 allocation of Pacific sardine is reached or is expected to be reached, the Pacific sardine fishery will be closed until it re-

opens at the beginning of the next fishing season.

As explained in the proposed rule, 1,000 mt of the HG is being set aside for use by the Quinault Indian Nation. NMFS will consult with Quinault Department of Fisheries staff and Quinault Fisheries Policy representatives prior to the end of the allocation period to determine whether any part of this set-aside is available for transfer into the non-tribal directed fishery.

The NMFS West Coast Regional Administrator will publish a notice in the **Federal Register** announcing the date of any closure to either directed or incidental fishing. Additionally, to ensure the regulated community is informed of any closure, NMFS will also make announcements through other means available, including fax, email, and mail to fishermen, processors, and state fishery management agencies.

On February 4, 2014, NMFS published a proposed rule for this action and solicited public comments (79 FR 6527). NMFS received one comment—explained below—regarding the proposed interim Pacific sardine specifications. The rule was not changed as a result of the comment; the final rule is the same as proposed.

Comment: The commenter requested that NMFS disapprove the proposed action and take emergency action to close the sardine fishery. The commenter states closing the fishery is necessary because certain parameters of the harvest control rules (such as the FRACTION parameter in the HG rule and sigma value used to calculate the ABC) used to determine the proposed quotas are flawed and/or are not based on best available information. Additionally, based on the commenter's opinion, the stock has fallen to a level requiring the fishing to be closed to allow the stock to recover to some higher level.

Response: The CPS FMP and its implementing regulations require NMFS to set an OFL, ABC, ACL and HG for the Pacific sardine fishery using the control rules set in the FMP. Reconsideration of the existing control rules and their parameters is beyond the scope of this rulemaking. Additionally, as explained in the preamble to this rule, the annual harvest reference points being established by this rule (OFL, ABC, ACL) are temporary, and will be replaced when complete year (12-month) sardine management (July 1 to June 30) is addressed in a subsequent rulemaking in late Spring 2014.

With regard to the parameters of the harvest control rules, the commenter specifically calls into question the

calculation of the FRACTION parameter as well as the determination of scientific uncertainty by the Council's SSC used in the calculation of the ABC. NMFS will respond to some aspects of the comment that relate to the control rules, such as these two items. However, in addition to responding to the comments about the calculation of the FRACTION parameter and the sigma value, *for information* purposes only, NMFS will respond to some aspects of the comments that are beyond the scope of this action, such as the CUTOFF and status of the sardine stock, as well as some of the more general comments relating to optimum yield, overfishing and concerns regarding forage for other species.

Contrary to the opinion of the commenter, the interim 2014 Pacific sardine ACL, HG, and associated annual reference points are based on the best available science. As explained above under **SUPPLEMENTARY INFORMATION**, this year's biomass estimate used for these interim specifications went through scientific review, and along with the resulting OFL and ABC, was endorsed by the SSC and NMFS as the best available science.

Due to past shifts in sardine productivity being linked with warm or cold ocean regimes, the CPS FMP currently uses a correlation between sea surface temperature measured at the Scripps Institution of Oceanography (SIO) pier and sardine productivity to determine the FRACTION parameter of the HG rule. NMFS recognizes that the management regime is likely transitioning to a new temperature index generated through the California Cooperative Oceanic Fisheries Investigations as well as a new temperature-recruit relationship for use in annually calculating the FRACTION component of the HG control rule. The rationale for this revision being that this new method of measuring temperature is a better predictor of sardine recruitment variability than the previous relationship based on temperatures at SIO. However, only when and if the Council process, subsequent NMFS review, and implementation processes for the revised FRACTION calculation are completed, the current control rule remains the best available science for setting harvest levels for Pacific sardine.

Also specific to the values used in the harvest control rules for this interim period the commenter questions the quantification of scientific uncertainty, or "sigma" value, used in the ABC control. This sigma value, the scientific uncertainty associated with estimating the OFL, is quantified annually by the

Council's SSC based upon the best available data. Therefore although, as suggested by the commenter, this value may not encompass all possible sources of uncertainty in the OFL, NMFS believes that this determination by the SSC represents the best available information for calculating the ABC.

Beyond the specific comments regarding the HG FRACTION and the sigma value, the commenter also states that sardine management overall is not achieving OY, not preventing overfishing and directly impacting predators of Pacific sardine by removing their prey source. With regard to OY, as described in the FMP, catch levels determined from the HG formula will result in OY. The interim 2014 HG (i.e., the basis for the directed fishing management target for this period) was determined using this HG formula. The Council then recommended a lower ACT or maximum directed HG as the maximum harvest level from which to calculate the first period allocation. Directed commercial fishing is not allowed above this level and management measures are in place to prevent the fishery from exceeding the limit based on in-season catch monitoring, in-season closures and incidental catch set-asides. As it relates to overfishing, the interim 2014 ACT catch level is approximately 40,000 mt below the interim 2014 OFL, providing a large buffer against overfishing. Additionally, due to a similar buffer in 2013, total catch for the 2013 fishing season was approximately 40,000 mt lower than the OFL, therefore contrary to the statement made by the commenter, overfishing did not occur in 2013. These lower HGs are the result of OY considerations, including ecological, and the management strategy in the CPS FMP that establishes catch levels much lower than is needed to simply avoid overfishing or because of a risk of exceeding the ABC/ACL due to management uncertainty. These considerations and precautions are based on the environmentally driven dynamic nature of the Pacific sardine stock as well as its importance in the ecosystem as forage for other species. Therefore sardine management is intended to be more conservative than other MSY-based management strategies (OFL/ABC), because the focus for CPS management is oriented primarily towards biomass versus catch, leaving adequate forage in the ocean and maintaining long-term, consistent catch levels for industry. Highlighting the fact that current management puts a higher emphasis on maintaining biomass versus maximizing catch, the calculated

HG for the 2014 interim period only equates to approximately four percent of the estimated biomass. Although the commenter cites mortality events and breeding failures of certain marine mammals and seabirds over recent years, no evidence is provided that links these circumstances with lack of prey due to fishing on sardine and in some cases whether they were linked to the status of the sardine stock on the whole.

With regard to overall sardine stock status, the HG control rule explicitly protects the stock from approaching an overfished condition (while explicitly reducing fishing if biomass decreases) through the use of a 150,000 mt CUTOFF parameter (level at which fishing is prohibited), which is three times the biomass at which the stock is considered overfished (50,000 mt). Although not the subject of this rulemaking, the commenter questions the values used for the CUTOFF parameter as well as the FMP's designation of 50,000 mt as the overfished level, as reflected in their assertion that the stock has fallen to a level that requires "recovery." NMFS notes that the use of a CUTOFF parameter is not a requirement of the MSA or National Standard Guidelines; rather, it is a proactive and precautionary policy choice of the council and NMFS to use such an explicit mechanism in the control rule to prevent the fishery from causing the stock to approach the level that would be considered overfished. With regard to the overfished level, it represents the best available science and is the stock size level from which, on average, the stock would be expected to rebuild in ten years. Additionally, low biomass conditions for Pacific sardine may result from overfishing, unfavorable environmental conditions, or both acting in concert. 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 sardine do not, however, depend on whether a low biomass condition was due to excess fishing or unfavorable environmental conditions, because reductions in fishing mortality are required in either case.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act, the Assistant Administrator, NMFS, has determined that this final rule is consistent with the CPS FMP, other provisions of the Magnuson-Stevens

Fishery Conservation and Management Act, and other applicable law.

NMFS finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness for the establishment of these interim harvest specifications for the 2014 Pacific sardine fishing season. For the reasons set forth below, a reduction in the delay in effectiveness of this measure is necessary for the conservation and management of the Pacific sardine resource. This rule establishes the ability to restrict fishing when the directed harvest allocation is approached or reached, as well as institute and manage the incidental harvest allocation. A delay in effectiveness is likely to prevent the ability to close the fishery when necessary, and cause the fishery to exceed both the directed and incidental harvest allocations. Because the directed harvest allocation is approximately 12,000 mt less than the level for the same time period in 2013, NMFS expects that it will be necessary to close the directed fishery and institute an incidental catch only fishery prior to the start of the next fishing year on July 1, 2014. Delaying the effective date of this rule is contrary to the public interest because it may cause the fishery to exceed the established directed and incidental allocations. These allocations are important mechanisms in preventing overfishing and managing the fishery at optimum yield while allowing fair and equitable opportunity to the resource by all sectors of the Pacific sardine fishery. Additionally, the ability to close the directed fishery and institute the incidental fishery prior to the entire allocation being caught allows access to other profitable CPS fisheries, such as market squid, northern anchovy and Pacific mackerel. To inform the regulated community of this final rule NMFS will also announce this action through other means available, including fax, email, and mail to fishermen, processors, and state fishery management agencies. Additionally, NMFS will advise the CPS Advisory Subpanel, which is comprised of representatives from all sectors and regions of the sardine industry, including processors, fishermen, user groups, conservation groups and fishermen association representatives, of current landings as they become available and for the public at-large also post them on NMFS' West Coast Regional Office Web site, http://www.westcoast.fisheries.noaa.gov/fisheries/pelagic/coastal_pelagic_species.html. Therefore, NMFS finds that there is good cause to waive the 30-

day delay in effectiveness in this circumstance.

These final specifications are exempt from review under Executive Order 12866.

No comments were submitted by public comments regarding the Initial Regulatory Flexibility Analysis (IRFA) prepared pursuant to the Regulatory Flexibility Act (RFA) for this action or on the economic impacts of the rule generally. Therefore, the Final Regulatory Flexibility Analysis (FRFA) contains no changes from the IRFA. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. The results of the FRFA are stated below. For copies of the FRFA, please see the **ADDRESSES** section above.

The purpose of this action is to implement harvest specifications for the Pacific sardine fishery in the U.S. EEZ off the Pacific coast. The CPS FMP and its implementing regulations require NMFS to set an OFL, ABC, ACL and HG or ACT for the Pacific sardine fishery based on the specified harvest control rules in the FMP.

On February 28, 2014, NMFS published a final rule (79 FR 11343) changing the start date of the 12-month Pacific sardine fishery from January 1 to July 1, thus changing the fishing season from one based on the calendar year to a fishing year that will begin on July 1 and extend until the following June 30, as well as establish a one-time interim harvest period for the 6 months from January 1, 2014, through June 30, 2014. The purpose of this change is to better align the timing of the research and science that is used in the annual stock assessments with the annual management schedule. As a result of this action, the start of the next complete fishing season will begin on July 1, 2014, and extend until June 30, 2015. Because the 2013 fishing season ended on December 31, 2013, it is necessary to implement interim management measures and harvest specifications for the period January 1, 2014 to June 30, 2014, to allow for fishing opportunities to continue during the transition from January 1, the current start of the fishing season, to the proposed new start on July 1. Therefore, the purpose of this final rule is to implement the quota and associated management measures for the January 2014 through June 2014 interim harvest period, as well as the other annual harvest levels (OFL, ABC and ACL) for 2014, with the expectation that these annual reference points will be replaced when complete year (12-month) sardine

management (July 1 to June 30) is addressed in a subsequent rulemaking in spring 2014.

On June 20, 2013, the U.S. Small Business Administration (SBA) issued a final rule revising the small business size standards for several industries effective July 22, 2013 (78 FR 37398). The rule increased the size standard for Finfish Fishing from \$4.0 million to \$19.0 million, Shellfish Fishing from \$4.0 million to \$5.0 million, and Other Marine Fishing from \$4.0 million to \$7.0 million. NMFS conducted its analysis for this action using the new size standards.

As stated above, the SBA now defines small businesses engaged in finfish fishing as those vessels with annual revenues of or below \$19 million. Under the former, lower size standards, all entities subject to this action in previous years were considered small entities, and under the new standards they continue to be considered small. The entities that would be affected by this action are the vessels that fish for Pacific sardine as part of the West Coast CPS finfish fleet. In 2013, there were approximately 96 vessels permitted to operate in the directed sardine fishery component of the CPS fishery off the U.S. West Coast, 55 vessels in the Federal CPS limited entry fishery off California (south of 39 N. lat.), and a combined 23 vessels in Oregon and Washington's state Pacific sardine fisheries. The average annual per vessel revenue in 2013 for the West Coast CPS finfish fleet was well below \$19 million; therefore, all of these vessels are considered small businesses under the RFA. Because each affected vessel is a small business, this action has an equal effect on all of these small entities, and therefore will impact a substantial number of these small entities in the same manner. Therefore this rule will not create disproportionate costs between small and large vessels/businesses.

The profitability of these vessels as a result of this action is based on the average Pacific sardine ex-vessel price per mt. NMFS used average Pacific sardine ex-vessel price per mt to conduct a profitability analysis because cost data for the harvesting operations of CPS finfish vessels was unavailable.

For the 2013 fishing year, approximately 19,000 mt were available for harvest by the directed fishery during the 6-month time period of January 1, 2013 through June 30, 2013. Approximately 4,000 mt (approximately 2,500 mt in California and 1,500 mt in Oregon and Washington) of this allocation was harvested during that time period, for an estimated ex-vessel

value of \$850,000. Using these figures, the average 2013 ex-vessel price per mt of Pacific sardines was approximately \$215 during that time period.

The ACT or maximum directed HG that is used to calculate the first period allocation of January 1, 2014 to June 30, 2014 is 19,846 mt. This value is approximately 40,000 mt less than the maximum directed HG used to calculate the three seasonal allocations in 2013. Based on the seasonal allocation framework in the FMP, this equates to an allocation of 6,946 mt (35% of the 19,846 HG/ACT) for the interim harvest period of January 1, 2014 to June 30, 2014. From this value, the non-tribal directed fishing allocation for this period, accounting for a tribal set-aside and an incidental harvest allocation, is 5,446 mt. This equates to a decrease of approximately 12,000 mt between the first period (January–June) directed harvest allocation for 2014 compared to the same period in 2013. If the fleet were to take the entire January 1 through June 30, 2014, allocation, and assuming a coastwide average ex-vessel price per mt of \$230 (average 2013 ex-vessel price per mt), the potential revenue to the fleet would be approximately \$1.25 million. Therefore, because the non-tribal directed fishing allocation for the January 1, 2014 to June 30, 2014 period is 12,000 mt less than for the same period in 2013, this action will decrease the effected small entities' potential profitability during this same time period when compared to the same period last season.

However, although there is a decrease in potential profitability to sardine harvesting vessels for the January 1, 2014 to June 30, 2014 time period based on this rule compared to last season, as stated above, only approximately 4,000 mt of the allocated 19,000 mt were landed in 2013 during the first allocation period, therefore it is difficult to predict whether the allocation will ultimately restrict the harvesting capacity of the fleet for this period. Additionally, revenue derived from harvesting Pacific sardine is typically

only one factor determining the overall revenue for a majority of the vessels that harvest Pacific sardine; as a result, the economic impact to the fleet from the action cannot be viewed in isolation. From year to year, depending on market conditions and availability of fish, most CPS/sardine vessels supplement their income by harvesting other species. Many vessels in California also harvest anchovy, mackerel, and in particular, squid, making Pacific sardine only one component of a multi-species CPS fishery. For example, market squid have been readily available to the fishery in California over the last three years with total annual ex-vessel revenue averaging approximately \$66 million over that time, compared to an annual average ex-vessel from sardine of \$16 million over that same time period.

These vessels typically rely on multiple species for profitability because abundance of sardine, like the other CPS stocks, is highly associated with ocean conditions and can vary seasonally, and therefore are harvested at various times and areas throughout the year. Because each species responds to ocean conditions in its own way, not all CPS stocks are likely to be abundant at the same time; therefore, as abundance levels and markets fluctuate, it has necessitated that the CPS fishery as a whole rely on a group of species for its annual revenues. Therefore, although there will be a potential reduction in sardine revenue for the small entities affected by this action when compared to the previous season, it is difficult to predict exactly how this reduction will impact overall annual revenue for the fleet.

There are no significant alternatives to this action that would accomplish the stated objectives of the applicable statutes and would also minimize any significant economic impact of this action on the affected small entities. The CPS FMP and its implementing regulations require NMFS to set an annual HG for the Pacific sardine fishery based on the harvest formula in the FMP. The harvest formula is applied

to the current stock biomass estimate to determine the HG. Therefore, if the estimated biomass decreases or increases from one year to the next, the HG will correspondingly decrease or increase. Because the current stock biomass estimate decreased from 2013 to 2014, the HG and subsequent first period allocation also decreased.

There are no reporting, record-keeping, or other compliance requirements required by this rule. Additionally, no other Federal rules duplicate, overlap or conflict with this rule.

This action does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

Small Business Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a notice to fishermen that also serves as a small entity compliance guide (guide) was prepared and will be distributed to fishermen and processors. The guide is also available on the Internet at <http://swr.nmfs.noaa.gov>. Copies of this final rule and guide, i.e., the notice to fishermen, will be available upon request from the West Coast Regional Office (see **ADDRESSES**).

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

Dated: April 17, 2014.

Paul N. Doremus,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

[FR Doc. 2014–09180 Filed 4–21–14; 8:45 am]

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