

centimeters or less in length for subsistence use each year from June 23 to August 8. The regulation at 50 CFR 216.72(a) includes the provision that the harvests of seals on St. Paul and St. George Islands shall be treated independently for the purposes of this section. Any suspension, termination, or extension of the harvest is applicable only to the island for which it is issued. The Traditional Council of St. George Island, Tribal Government (Traditional Council) has requested that NMFS extend the opening date of the subsistence use season for sub-adult male fur seals earlier than the scheduled opening date of June 23 (50 CFR 216.72(d)(1)). The extension of the opening date is intended to respond to this emergency request. The extension will ensure additional days to conduct the subsistence harvest in order provide meat for the community of St. George Island in response to the unavailability of food in the community store due to unforeseen flight cancellations and the complete consumption of fur seal meat from harvests in 2017. NMFS has determined that the extension of the harvest to an earlier date is permissible and should be authorized.

On July 31, 1992 (57 FR 33900) NMFS issued a final rule removing the option to extend the harvest past August 8, but authorized the harvest to start on June 23 rather than June 30. NMFS anticipated in the notice (57 FR 33901, July 31, 1992) that there would be no adverse impacts on the population from an earlier June harvest because sub-adult males dominate the harvest areas on the hauling grounds at this time of year, and few if any female seals have returned to St. George Island in June. In extending the opening date for the 2018 season, NMFS does not expect that female fur seals would be accidentally killed during the few early days of the sub-adult male harvest, and there is no evidence from prior commercial or subsistence harvests that females were accidentally taken prior to mid-July (NMFS unpublished data). The subsistence use suspension and termination provisions based on female mortality remain in effect (50 CFR 216.72(f)(1)(iv) & (g)(3)).

All other regulatory controls applicable to the subsistence use of sub-adult males on St. George Island at 50 CFR 216.72(d)(1)–(5) still apply, including the total number of fur seals (500) that may be harvested per year on St. George Island (82 FR 39044, August 17, 2017).

#### Classification

This action responds to the urgent subsistence need of the Pribilovians on

St. George Island. The Assistant Administrator for Fisheries, NOAA, (AA), determined that this rule is consistent with the Fur Seal Act (16 U.S.C. 1155) and regulations (50 CFR 216.71–216.74). The 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). Allowing prior notice and opportunity for public comment on the extension of the opening date is unnecessary because the rule establishing the extension of the opening procedures has already been subject to notice and comment, and all that remains is to notify the public of the extension of the opening date. Additionally, allowing for prior notice and opportunity for public comment for this extension of the opening date is contrary to the public interest because it requires time, thus delaying the removal of a restriction and thereby reducing socio-economic benefits to community of St. George Island. In the absence of this action, the residents of St. George Island would be prohibited from harvesting fur seals currently necessary to subsistence uses due to unforeseen events prior to the scheduled opening of the subsistence use season. For the aforementioned reasons, it is impracticable and contrary to the public interest to delay for 30 days the effective date of this action, and, accordingly, the AA also finds good cause to waive the 30-day delay in effectiveness of this action under 5 U.S.C. 553(d)(3) and to make this action effective on the date specified herein. This action is authorized by 50 CFR 216.72(a) and is exempt from review under Executive Order 12866. Because prior notice and opportunity for public comment are waived under 5 U.S.C. 553, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, are inapplicable.

**Authority:** 16 U.S.C. 1155(a).

Dated: June 20, 2018.

**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 660

[Docket No. 180320301–8551–02]

RIN 0648–XG121

#### 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 rule to implement annual management measures and catch limits for the northern subpopulation of Pacific sardine, for the fishing year lasting from July 1, 2018, through June 30, 2019. This action includes a prohibition on directed commercial fishing for Pacific sardine off the U.S. West Coast, except in the live bait, tribal, or minor directed fisheries. This action is intended to conserve and manage the Pacific sardine stock off the U.S. West Coast.

**DATES:** Effective July 1, 2018, through June 30, 2019.

#### FOR FURTHER INFORMATION CONTACT:

Joshua Lindsay, West Coast Region, NMFS, (562) 980–4034, [joshua.lindsay@noaa.gov](mailto:joshua.lindsay@noaa.gov).

**SUPPLEMENTARY INFORMATION:** NMFS manages the Pacific sardine fishery in the U.S. exclusive economic zone (EEZ) off the West Coast (California, Oregon, and Washington) in accordance with the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP). The FMP and its implementing regulations require NMFS to set annual catch levels for the Pacific sardine fishery based on the annual specification framework and control rules in the FMP. These control rules include the harvest guideline (HG) control rule, which, in conjunction with the overfishing limit (OFL) and acceptable biological catch (ABC) rules in the FMP, are used to manage harvest levels for Pacific sardine, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Annual specifications published in the **Federal Register** establish these catch limits and management measures for each Pacific sardine fishing year.

The purpose of this final rule is to implement the annual catch levels and reference points for the 2018–2019 fishing year. This final rule adopts, without changes, the catch levels and

restrictions that NMFS proposed in the rule published on May 25, 2018 (83 FR 24269), including the OFL and ABC that takes into consideration uncertainty surrounding the current estimate of biomass for Pacific sardine in the U.S.

EEZ off the U.S. West Coast. The proposed rule for this action included additional background on specifications and the details of how the Pacific Fishery Management Council (Council) derived its recommended specifications

for Pacific sardine. Those details are not repeated here. For additional information, please refer to the proposed rule for this action.

TABLE 1—REFERENCE POINTS FOR THE 2018–2019 PACIFIC SARDINE FISHING YEAR IN METRIC TONS

Biomass estimate	OFL	ABC	HG	ACL	Tribal set-aside
52,065 .....	11,324	9,436	0	7,000	800

This final rule implements an OFL of 11,324 metric tons (mt), an ABC of 9,436 mt, and a prohibition on Pacific sardine catch, unless it is harvested as part of the live bait, tribal, or minor directed fisheries, or as incidental catch in other fisheries (Table 1). Additionally, this rule implements an ACL of 7,000 mt, as well as restrictions on the incidental catch of Pacific sardine by other fisheries.

The incidental catch of Pacific sardine in other CPS fisheries will be managed with the following automatic inseason actions to reduce the potential for both targeting and discard of Pacific sardine in these fisheries:

- An incidental per landing by weight allowance of 40 percent Pacific sardine in non-treaty CPS fisheries until a total of 2,500 mt of Pacific sardine has been landed; and
- A reduction of the incidental per landing allowance to 20 percent for the remainder of the 2018–2019 fishing year once 2,500 mt Pacific sardine has been landed.

Pacific sardine is known to comele with other CPS stocks; thus, these incidental allowances are established to allow for the continued prosecution of these other important CPS fisheries and reduce the potential discard of sardine. Additionally, this final rule implements an incidental per landing allowance of up to 2 mt per trip in non-CPS fisheries.

The NMFS West Coast Regional Administrator will publish a notice in the **Federal Register** to announce when catch reaches the incidental limits as well as any changes to allowable incidental catch percentages. Additionally, to ensure that the regulated community is informed of any closure, NMFS will make announcements through other means available, including fax, email, and mail to fishermen, processors, and state fishery management agencies.

As explained in the proposed rule, the Quinault Indian Nation requested a set-aside for tribal harvest of 800 mt (the same amount that was requested and approved for the 2017–2018 fishing

season). Consistent with this request, NMFS is setting aside 800 mt of the 2018–2019 ACL for tribal harvest (Table 1).

At the April 2018 meeting, the Council voted in support of two exempted fishing permit (EFP) proposals requesting an exemption from the prohibition to directly harvest Pacific sardine. The ACL implemented in this action accounts for the potential of NMFS approval of up to 610 mt of the ACL to be harvested for EFP activities.

#### Comments and Responses

On May 25, 2018, NMFS published a proposed rule for this action and solicited public comments (83 FR 24269), with a public comment period that ended on June 11, 2018. NMFS received one comment letter from the environmental advocacy organization Oceana during the comment period. After consideration of the public comment, no changes were made from the proposed rule. NMFS summarizes and responds to the comment letter below.

*Comment 1:* Oceana supported the prohibition on non-tribal directed commercial sardine fishing, but opposed the proposed ACL level of 7,000 mt. Oceana instead requested that NMFS set an ACL of no more than 2,000 mt. Oceana commented that the proposed ACL of 7,000 mt is excessive and not commensurate with the decline in sardine biomass and that NMFS should reduce the ACL to 2,000 mt.

*Response:* NMFS disagrees that it is necessary to set the ACL lower than 7,000 mt. The ACL should be viewed in the context of the approved northern subpopulation of Pacific Sardine OFL (11,324 mt) and ABC (9,436 mt), which has been reduced from the OFL to account for scientific uncertainty. The Council's SSC endorsed the OFL and ABC, which are derived from control rules in the FMP, as the best scientific information available. The CPS FMP defines overfishing as catch exceeding the OFL. By definition, if catch approaches either the ACL or ABC,

which are set below the OFL, overfishing would not be occurring. This rule conservatively limits harvest levels by all sources with an ACL of 7,000 mt, which is below both the OFL and ABC. All incidental catch, live bait, minor directed, and tribal harvest of sardine are managed to stay at or below the ACL. Additionally, as a direct result of the decline in the estimated biomass from the last fishing year, the OFL and ABC implemented through this action are respectively approximately 33 and 40 percent lower than those implemented last year.

Small pelagic species, such as sardine, undergo wide natural fluctuations in abundance related to environmental conditions, even in the absence of fishing pressure. Given that environmental conditions are a strong driver for small pelagic species biomass, and the fact that 7,000 mt is only about 13 percent of the 2018 biomass estimate, it is highly unlikely that reducing the ACL from 7,000 mt to 2,000 mt would measurably contribute to the potential for Pacific sardine abundance to increase. Even in the absence of any fishing mortality, unfavorable environmental conditions could keep the sardine population at a low level. Based on the recent stock assessments and NMFS research, low recent recruitment (*i.e.*, the number of young fish maturing into the spawning population) is the primary cause of the current downward trend in overall population size. Research suggests recruitment is strongly related to environmental conditions, particularly large-scale oceanographic phenomena.

*Comment 2:* Oceana also commented that the OFL is not based on the best scientific information available because Oceana construes new research from NMFS Southwest Fisheries Science Center (SWFSC) as demonstrating that the temperature-recruitment relationship based on data from the California Cooperative Oceanic Fisheries Investigations (CalCOFI) survey used to inform the OFL is no longer applicable.

*Response:* NMFS is committed to using the best scientific information available, and the SWFSC is continuing research to improve our understanding of the relationship between Pacific Sardine productivity and environmental conditions. The new research referenced by Oceana is still under development, has not been formally reviewed, and therefore is not yet a valid rationale to cease using CalCOFI data to gauge the temperature-recruitment relationship. At this time, the CalCOFI-based temperature relationship is still the best scientific information available science to set the OFL.

*Comment 3:* In addition to commenting on the proposed rule, Oceana's comment requested reconsideration of various aspects of sardine management that are not considered in this action, including changing the start date of the fishery, revision of the Minimum Stock Size Threshold value, and various modifications to the OFL, ABC and HG control rules.

*Response:* Changes to the management framework of Pacific sardine and to the sardine harvest control rules are set in the CPS FMP and are beyond the scope of this rulemaking. NMFS will take these comments into consideration during related future management planning for the Pacific sardine stock, and recommends Oceana continue to bring these concerns to the attention of the Council as that body deliberates about the management framework for sardine.

#### Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the CPS FMP, other provisions of the Magnuson-Stevens Act, and other applicable law. There is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness of these final harvest specifications for the 2018–2019 Pacific sardine fishing season. In accordance with the FMP, this rule was recommended by the Council at its meeting in April 2018 the contents of which were based on the best available new information on the population status of Pacific sardine that became available at that time. Making these final specifications effective on July 1, the first day of the fishing season, is necessary for the conservation and management of the Pacific sardine resource because last year's restrictions on harvest are not effective after June 30. The FMP requires a prohibition on directed fishing for Pacific sardine for the 2018–2019 fishing year because the

sardine biomass has dropped below the CUTOFF. The purpose of the CUTOFF in the FMP, and for prohibiting a directed fishing when the biomass drops below this level, is to protect the stock when biomass is low and provide a buffer of spawning stock that is protected from fishing and can contribute to rebuilding the stock. A delay in the effectiveness of this rule for a full 30 days would result in the re-opening the directed commercial fishery on July 1.

Delaying the effective date of this rule beyond July 1 would be contrary to the public interest because it would jeopardize the sustainability of the Pacific sardine stock. Furthermore, most affected fishermen are aware that the Council recommended that directed commercial fishing be prohibited for the 2018–2019 fishing year and are fully prepared to comply with the prohibition.

This final rule is exempt from the procedures of E.O. 12866 because this action contains no implementing regulations.

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 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.

Pursuant to Executive Order 13175, this final rule was developed after meaningful consultation and collaboration with the tribal representative on the Council who has agreed with the provisions that apply to tribal vessels.

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

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

Dated: June 20, 2018.

**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. 170817779–8161–02]

RIN 0648–XG305

##### Fisheries of the Exclusive Economic Zone Off Alaska; Kamchatka Flounder in the Bering Sea and Aleutian Islands Management Area

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Kamchatka flounder in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2018 Kamchatka flounder initial total allowable catch (ITAC) in the BSAI.

**DATES:** Effective 1200 hours, Alaska local time (A.l.t.), June 20, 2018, through 2400 hours, A.l.t., December 31, 2018.

##### FOR FURTHER INFORMATION CONTACT:

Steve Whitney, 907–586–7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands 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 2018 Kamchatka flounder ITAC in the BSAI is 4,250 metric tons (mt) as established by the final 2018 and 2019 harvest specifications for groundfish in the BSAI (83 FR 8365, February 27, 2018). In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2018 Kamchatka flounder ITAC in the BSAI will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 2,000 mt, and is setting aside the remaining 2,250 mt as incidental catch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is