

fishery is allowed. The FMP established the cutoff level at 18,200 mt. The cutoff is subtracted from the biomass, leaving 50,724 mt.

3. *The portion of the Pacific mackerel biomass that is in U.S. waters.* This estimate is 70 percent, based on the historical average of larval distribution obtained from scientific cruises and the distribution of the resource obtained from logbooks of fish-spotters. Therefore, the harvestable biomass in U.S. waters is 70 percent of 50,724 mt, that is, 35,507 mt.

4. *The harvest fraction.* This is the percentage of the biomass above 18,200 mt that may be harvested. The FMP established the harvest fraction at 30 percent. The harvest fraction is multiplied by the harvestable biomass in U.S. waters (35,507 mt), which results in 10,652 mt.

Information on the fishery and the stock assessment are found in the report *Stock Assessment of Pacific Mackerel with Recommendations for the 2003–2004 Management Season*, which may be obtained at the address above (see **ADDRESSES**).

Following recommendations of the fishing industry and Subpanel for the 2002/2003 fishing season, a directed fishery for Pacific mackerel of 9,500 mt was set beginning July 1, 2002, followed by an incidental allowance of 40 percent of Pacific mackerel in landings of any CPS, if the 9,500 mt was harvested. A 1-mt landing of Pacific mackerel per trip would have been allowed if no other CPS (northern anchovy, Pacific sardine, jack mackerel, market squid) were landed during a trip. NMFS implemented a directed and incidental fishery last season in response to concerns about how a low harvest guideline for mackerel might interfere with the sardine fishery. Pacific mackerel is often caught with sardine; therefore, mackerel might have to be discarded, which would increase bycatch. As of May 30, 2003, approximately 3,800 mt of Pacific mackerel had been landed in the directed fishery; therefore, an incidental fishery was not necessary.

At its meeting on May 21, 2003, the Subpanel recommended for the 2003/2004 fishing season that a directed fishery of 7,500 mt and an incidental fishery of 3,152 mt be implemented. An incidental allowance of 40 percent of Pacific mackerel in landings of any CPS would become effective when 7,500 mt of Pacific mackerel is estimated to be harvested. The Subpanel also recommended to allow 1 mt of mackerel to be landed per trip while fishing for salmon or groundfish in the incidental fishery without landing any other CPS.

The Subpanel recommended that an inseason review of the mackerel season be completed for the March 2004 Council meeting, with the possibility of reopening the directed fishery as an automatic action if sufficient amount of the harvest guideline reserved for the incidental fishery remains unharvested.

Public comments are requested on how the fishery might be conducted for the 2003/2004 fishing season to achieve but not exceed the harvest guideline while minimizing impacts on the harvest of other CPS.

In view of the above, the following would be implemented for the July 1, 2003, through June 30, 2004, fishing season:

Based on the estimated biomass of 68,924 mt and the formula in the FMP, a harvest guideline of 10,652 mt would be in effect for the fishery beginning on July 1, 2003. This harvest guideline would be for the fishing season beginning at 12:01 a.m. on July 1, 2003, and continue through June 30, 2004, unless the harvest guideline is attained and the fishery is closed before June 30, 2004. A directed fishery of 7,500 mt and an incidental fishery of 3,152 mt would be implemented, with an incidental allowance of 40 percent of Pacific mackerel in landings of any CPS becoming effective when 7,500 mt of Pacific mackerel is estimated to be harvested. A landing of 1 mt of Pacific mackerel per trip would be permitted during the incidental fishery without landing any other CPS.

Classification

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

Public comments are also requested on the IRFA that NMFS has prepared that describes the economic impact this proposed rule, if adopted, would have on small entities. Specifically, NMFS is requesting that the public provide comments on the range of alternatives considered by NMFS and offer any additional alternatives that NMFS should consider for the Pacific mackerel fishery. The IRFA is available from NMFS (see **ADDRESSES**). A summary of the IRFA follows:

A description of the action, why it is being considered, and the legal basis for this action are contained in the **SUMMARY** and in the **SUPPLEMENTARY INFORMATION** of this proposed rule and is not repeated here. A harvest guideline is required by the FMP to protect the resource from overfishing while allowing harvest by fishermen. For the purposes of analysis, the no action alternative has potential negative environmental and economic impacts.

Failure to set a harvest guideline based on a biomass estimate could lead to overfishing. This would provide some short term economic benefits to the fishing industry through increased revenue, but a decline in the resource would lead to lower revenue in subsequent years. The alternative to not have a directed and incidental fishery is reasonable, but could have negative economic consequences, because Pacific mackerel often occur in schools of Pacific sardine; therefore, a prohibition on landing Pacific mackerel would disrupt the sardine fishery. The season structure of the 2002–2003 fishing season was reviewed, which included a directed fishery of 9,500 mt, an incidental fishery of 3,035 mt, and an incidental harvest of 40 percent following closure of the directed fishery. The lower harvest guideline and the primary goal of minimizing economic impacts on the sardine fishery during the 2003–2004 fishing season led to setting the incidental fishery at a similar level, 3,152 mt, with a 40 percent incidental rate, reducing the size of the directed fishery. Many alternatives to the specific amounts of the harvest guideline allocated to the directed and incidental fisheries are possible, but the amounts essential for an efficient fishery are not predictable; therefore, changes during the fishing season may be necessary. A review of previous seasons indicated that about 3,000 mt should be reserved for an incidental fishery. Changes can be made during the fishing season, but a high incidental rate and a significant incidental fishery would likely minimize interruption of the sardine fishery and regulatory changes during the year. If a significant amount of the harvest guideline remains toward the end of the season, the directed fishery can be reopened. This proposed rule does not duplicate, overlap, or conflict with other Federal rules. There are no reporting, record-keeping, or other compliance requirements of the proposed rule.

Approximately 83 vessels harvest Pacific mackerel off the U.S. West Coast. This includes 65 vessels with limited entry permits, which are authorized to fish south of 39°N. lat. (a point north of Monterey, California). Approximately 18 vessels harvest CPS species in southern California for bait; however, little Pacific mackerel is used for bait. The primary harvesters of Pacific mackerel are the vessels with limited entry permits from Monterey, California south. Some of the vessels in Monterey, California may move south to harvest CPS, but may not relocate to harvest Pacific mackerel in all years. All of