

Blancas, CA at 35° 40' 00" N. lat. to Pt. Arena, CA at 39° 00' 00" N. lat., (2) moves the date when Pacific sardine that remain unharvested are reallocated to Subarea A and Subarea B from October 1 to September 1, (3) changes the percentage of the unharvested sardine that is reallocated to Subarea A and Subarea B from 50 percent to both subareas to 20 percent to Subarea A and 80 percent to Subarea B, and (4) reallocates all unharvested sardine that remain on December 1 coast wide. This procedure will be in effect for 2003 and 2004, and for 2005 if the 2005 harvest guideline is at least 90 percent of the 2003 harvest guideline. Currently, Subarea A includes the area from Monterey, CA, north to the U.S.-Canada border. Subarea B includes the area south of Monterey, CA to the U.S.-Mexico border. Changing the boundary between the two subareas will move Monterey, CA to Subarea B, and the new geographic boundary will coincide with the boundary for the limited access and open access fisheries.

The change in the allocation system is viewed by the Council as an interim approach. The sardine resource has recovered after decades of low abundance and there is a more detailed process for allocating the resource among the fishing communities along the Pacific coast. The change will most likely avoid the need for an emergency rule to reallocate unharvested portions of the OY, which was necessary in 2002, and will have a greater possibility of achieving OY than the current allocation process. Information from resource surveys scheduled for the Pacific Northwest in 2003 and 2004 plus accumulated data on size and age of sardine from all areas of the fishery will improve the assessment model and provide better data for measuring the impacts of various allocation options for the longer-term.

#### Comments and Responses

Six letters were received from the fishing industry and one from the city of Monterey, CA. Two electronic mail messages were received. Most respondents opposed the proposed action. One comment was received on the IRFA and is addressed in the Response to Comment 10. Following is a summary of the comments received:

*Comment 1:* The proposed regulations do not comply with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) because the proposed action overcapitalizes the fishery by allowing more vessels in the fishery than are Federally licensed.

*Response:* The final regulations comply with the Magnuson-Stevens Act. Amendment 8 to the FMP gives the reasons for having an open access area in the Pacific Northwest. Sardine will be available in the Pacific Northwest only when the biomass is around 750,000 mt or more. A high biomass allows benefits to be obtained by a larger number of harvesters. Amendment 8 cautions against investing heavily in harvesting sardine in this area because sardine exhibit wide fluctuations in abundance. The fishing season in the Pacific Northwest is also restricted by deteriorating sea conditions in the fall. The new allocation procedure is only valid through 2005. Resource surveys are being conducted in the Pacific Northwest to obtain better information on the status of Pacific sardine. At this time, there is no indication that there is overcapitalization in the Pacific Northwest; however, fishing capacity in this area will be an issue when the Council begins review of alternatives for a longer term allocation procedure.

*Comment 2:* The Council did not take a precautionary approach when selecting its proposed action. Cooler sea surface temperatures indicate a potential shift in the ocean environment that will likely lead to a decline in sardine abundance. Action was taken without knowing the impact of harvesting the larger fish in the Pacific Northwest.

*Response:* Recognizing the role of temperature in sardine abundance is one of the risk averse measures utilized in the FMP. If the average sea surface temperature declines, the harvest rate will be reduced, which will yield a smaller harvest guideline, thereby protecting the resource. The size of the fish harvested involves two issues. One is that a disproportional harvest of larger fish in the Pacific Northwest may have a detrimental effect on the resource. Size and age data are collected all along the Pacific coast and, to date, there is no indication of a detrimental impact on the resource from harvesting relatively large fish in the north or relatively small fish in the south. The second issue is that the migration patterns of the resource are poorly understood; therefore, the relationship between fish harvested in the south and fish harvested in the north at any particular time is not known. Although uncertainty does exist, the model used to estimate the current biomass includes a factor to account for migration, which is based on information obtained from the historical fishery. Given the overall conservative harvest formula adopted by the Council, there does not appear to be

any risk to the resource from implementing the proposed action.

*Comment 3:* Including Monterey in the southern California subarea risks preempting Monterey's fall harvest due to the much larger fishing industry in southern California.

*Response:* Monterey may be at some risk of preemption from southern California and the Pacific Northwest, but preemption is not likely at current harvest guideline levels. Under the current system, Monterey is at risk of early closure if there is strong participation from the northern fisheries, as in 2002. There is less risk to Monterey fisheries under the proposed new system because Monterey often has a strong fall fishery, which might be preempted by the summer fishery in the Pacific Northwest. The Council may address this issue when it considers a more permanent allocation process.

*Comment 4:* The net result of the proposed action will be to shift economic hardship from the open access area in the Pacific Northwest to the limited access area in California.

*Response:* Under the proposed alternative, the net gain in producer surplus above the status quo in the open access area would be \$1,567,441. The net gain in the limited access area would be \$288,712. Of all options considered, the proposed alternative has the largest net gain above the status quo for the limited access while still providing a net gain for the open access area. No economic hardships are anticipated from taking this action.

*Comment 5:* The proposed action perpetuates the coast wide overfishing of the sardine resource that has occurred from the recent expansion of the Mexican and Canadian harvest, which is not adequately accounted for in setting the harvest guideline.

*Response:* The Council determined that the proposed alternative is more likely to achieve OY than the status quo, and the analysis in the analytical documents supporting the conclusion. From current figures on the 2002 fishery, the total harvest by Mexico, Canada, and the United States was about 145,000 mt, close to 9,000 mt above the total allowable biological catch. There is no agreement between the United States and any other country on management; however, the harvest formula deals with this uncertainty in two ways. First, a percentage of the biomass is subtracted from the total biomass to account for harvest beyond the jurisdiction of the United States. Second, total removals from the resource in all sectors of the fishery are included in the calculation of the next