

Pacific sardine in U.S. waters for January 1, 2004, through December 31, 2004, is 122,747 mt. The biomass estimate is slightly higher than last year's biomass estimate; however, the difference between this year's biomass is not statistically significant from the biomass estimates of recent years. Therefore, the impacts of the fishery on the stock will be approximately the same as in the year prior. Similarly, the impacts of the fishery on other components of the environment will be similar to those in 2003.

Under the FMP, the harvest guideline is allocated one-third for Subarea A, which is north of 39° 00' N. lat. (Pt. Arena, CA) to the Canadian border, and two-thirds for Subarea B, which is south of 39° 00' N. lat. to the Mexican border. Under this proposed rule, the northern allocation for 2004 would be 40,916 mt; the southern allocation would be 81,831 mt. In 2003, the northern allocation was 36,969 mt and the southern allocation was 73,939 mt.

Normally, an incidental landing allowance of sardine in landings of other CPS is set at the beginning of the fishing season. The incidental allowance would become effective if the harvest guideline is reached and the fishery closed. A landing allowance of sardine up to 45 percent by weight of any landing of CPS is authorized by the FMP. An incidental allowance prevents waste of sardine caught while fishing for other species and protects fishermen from being cited for a violation when sardine occur in catches of other species, while controlling total sardine harvest by reducing the potential to target sardine while claiming to be fishing for other species. Sardine landed with other species also requires sorting at the processing plant, which adds to processing costs. Mixed species in the same load may damage smaller fish. The sardine population was estimated using a modified version of the integrated stock assessment model called Catch at Age Analysis of Sardine Two Area Model (CANSAR TAM). CANSAR-TAM is a forward-casting, age-structured analysis using fishery dependent and fishery independent data to obtain annual estimates of sardine abundance, year-class strength, and age-specific fishing mortality for 1983 through 2003. The CANSAR-TAM was modified to account for the expansion of the Pacific sardine stock northward to include waters off the northwest Pacific coast. Information on the fishery and the stock assessment are found in the report Stock Assessment of Pacific Sardine with Management Recommendations for 2004 (see **ADDRESSES**).

The formula in the FMP uses the following factors to determine the harvest guideline:

1. *The biomass of age one sardine and above.* For 2004, this estimate is 1,090,587 mt.

2. *The cutoff.* This is the biomass level below which no commercial fishery is allowed. The FMP established this level at 150,000 mt.

3. *The portion of the sardine biomass that is in U.S. waters.* For 2004, this estimate is 87 percent, based on the average of larval distribution obtained from scientific cruises and the distribution of the resource obtained from logbooks of fish-spotters.

4. *The harvest fraction.* This is the percentage of the biomass above 150,000 mt that may be harvested. The fraction used varies (5–15 percent) with current ocean temperatures. A higher fraction is used for warmer ocean temperatures, which favor the production of Pacific sardine, and a lower fraction is used for cooler temperatures. For 2004, the fraction was 15 percent based on three seasons of sea surface temperature at Scripps Pier, California.

As indicated above the harvest guideline for U.S. waters is allocated one-third (40,916 mt) to Subarea A, two-thirds (81,831 mt) to Subarea B.

Classification

These proposed specifications are issued under the authority of, and are in accordance with, the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and 50 CFR part 660, subpart I (the regulations implementing the FMP).

This proposed rule has been determined to be exempt for significant for purposes of Executive Order 12866.

NMFS prepared an IRFA 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 sardine 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. A harvest guideline is established by the FMP to limit harvests to levels that protect the resource while providing a source of revenue for the fishing industry and other benefits to society over the long term.

The harvest formula in the FMP is conservative and a significantly higher harvest than that allowed by the FMP could be realized without a detrimental effect on the resource, at least in the short term; this could provide substantial economic benefits to the fishing industry. However, there are both biological and economic reasons to restrain harvests. First, there is uncertainty about the effect of expanded harvests in the northern subarea; that fishery takes larger fish that may play an important role in maintenance of resource productivity. Research into the relationship of the northern and southern components is necessary before allowing higher harvests. Second, the harvest guideline derived by the current formula has provided sufficient resources in recent years to satisfy existing markets; therefore, there would not likely be a significant economic benefit from a higher harvest guideline. The best information available on the economics of the CPS fishery indicates that landings and revenue have increased steadily since recovery of the resource began and could increase in 2004 if additional markets were developed. However, landings in 2003 are projected to be similar to the landings in 2001 and 2002, suggesting that markets are saturated. Therefore, there would not likely be a significant increase in harvests even if more fish were made available. That is, there is little opportunity to increase revenue in 2004.

Implementing the 2003 harvest guideline and allocations (i.e., the no action alternative) would keep the fishery at 2003 levels. There would not be much difference between this alternative and the proposed action as the harvest guideline would be quite similar.

Implementing the new harvest guideline for 2004 without allocating to the different subareas would set up a derby fishery without regard to the allocation procedures in the FMP. The fisheries in Subarea A and in Subarea B could harvest without restriction. There would be a possibility that the fishery in the northern subarea would harvest sardine at a level that would result in either a shift of fishery benefits from south to north or an early closure of the coastwide fishery. There would be increased revenue in the north at the expense of the southern fishery. However, premature closure would also result in substantial idle purse seine capacity in the southern subarea, where the fishery has traditionally been more active in the fall and winter.

Setting a harvest guideline above that authorized by the FMP is conceivable if