

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Butterfly, Fender's blue.	<i>Icaricia icarioides fenderi</i> .	U.S.A. (OR) .....	NA .....	E	*	NA	NA
*	*	*	*	*	*	*	

3. Amend § 17.12(h) by adding the following, in alphabetical order, under

FLOWERING PLANTS, to the List of Endangered and Threatened Plants:

**§ 17.12 Endangered and threatened plants.**

\* \* \* \* \*  
(h) \* \* \*

Species		Historic range	Family	Status	When listed	Critical habi- tat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*	*	
<i>Erigeron decumbens</i> <i>var. decumbens.</i>	Willamette daisy .....	U.S.A. (OR) .....	Asteraceae .....	E		NA	NA
*	*	*	*	*	*	*	
<i>Lupinus sulphureus</i> ssp. kincaidii. <i>Lupinus oregonus</i> <i>var. kincaidii</i> = <i>synonym.</i> <i>Lupinus sulphureus</i> <i>var. kincaidii</i> = <i>synonym.</i>	Kincaid's lupine .....	U.S.A. (OR, WA) ....	Fabaceae .....	T		NA	NA
*	*	*	*	*	*	*	

Dated: January 5, 2000.

**Rowan W. Gould,**

Acting Director, Fish and Wildlife Service.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 991229356-9356-01; 121799F]

RIN 0648-AN36

#### Fisheries off West Coast States and in the Western Pacific; Coastal Pelagic Species Fisheries; Annual Specifications

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

**ACTION:** Final harvest guidelines.

**SUMMARY:** NMFS announces the annual harvest guidelines for Pacific sardine and Pacific mackerel in the exclusive economic zone (EEZ) off the Pacific coast. The Coastal Pelagic Species

Fishery Management Plan (FMP) and its implementing regulations require NMFS to establish annual harvest guidelines for Pacific sardine and Pacific mackerel based on a formulas appearing in the FMP. The intended effect of this action is to establish allowable harvest levels for coastal pelagic species off the Pacific coast.

**DATES:** Effective January 1, 2000.

Comments are invited until February 24, 2000.

**ADDRESSES:** Submit comments on the annual specifications to Rodney R. McInnis, Acting Regional Administrator, Southwest Region, (Regional Administrator), NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213. The reports *Stock Assessment of Sardine for 1999 with Management Recommendations for 2000* and *Status of the Pacific Mackerel Resource and Fishery in 1999* are available from this same address.

**FOR FURTHER INFORMATION CONTACT:**

James J. Morgan, Southwest Region, NMFS, (562) 980-4030.

**SUPPLEMENTARY INFORMATION:** The FMP, which was partially approved by the Secretary of Commerce on June 10, 1999, and implemented by publication of a final rule in the **Federal Register** on

December 15, 1999 (64 FR 69888), divides managed species into the categories of *actively managed* and *monitored*. Harvest guidelines of actively managed species (Pacific sardine and Pacific mackerel) are based on formulas applied to current biomass estimates. Harvest guidelines for monitored species (jack mackerel, northern anchovy, and market squid), which are underutilized or managed primarily by California, are not based on current biomass estimates. Nonetheless, the FMP includes a constant allowable biological catch (ABC) for each monitored species based on long-term yields. If an ABC for a monitored species is reached, it would be designated an actively managed species; at that time, the Pacific Fishery Management (Council) would review the condition of the resource and recommend necessary management action. Except for northern anchovy, this is the first year of managing coastal pelagic species under this FMP.

At a public meeting each year, the biomass for each actively managed species is presented by the Council's Coastal Pelagic Species Management Team (Team) to the Council's Coastal Pelagic Species Advisory Subpanel (Subpanel). At that time, the biomass,

the harvest guideline, and the status of the fisheries is reviewed. This information is also reviewed by the Council's Scientific and Statistical committee. Following review by the Council and after hearing all public comments, NMFS publishes the annual harvest guidelines in the *Federal Register* before the beginning of the appropriate fishing season. The Pacific sardine season begins on January 1 of each year and ends on December 31. The Pacific mackerel season begins on July 1 of each year and ends on June 30. Normally, the Pacific mackerel harvest guideline would be announced in June; however, the first harvest guidelines for both species will be effective on January 1, 2000, as this will be the first year of managing these species.

The FMP allows the Administrator, Southwest Region, NMFS to announce harvest guidelines before review by the Council if there is insufficient time for review. At its meeting in September 1999, the Council decided to use this procedure during the first year of managing Pacific sardine and Pacific mackerel because the sardine assessment would not be completed by its November 1999 Meeting. The Council plans to complete its review at its March 2000 meeting, when the stock assessment and fishery evaluation report for Pacific sardine will be presented. At the November meeting, the Team presented the Council with the Pacific mackerel assessment to establish a harvest guideline for the season that began on July 1, 1999. The Council adopted the Team's recommendations, including the necessary procedure to subtract the estimated harvest of Pacific mackerel from July 1, 1999, to December 31, 1999, to establish a harvest guideline beginning January 1, 2000, consistent with the beginning of the fishing season.

On December 9, 1999, consistent with the procedures of the FMP, the biomass report and attendant harvest guidelines for Pacific sardine and Pacific mackerel were reviewed at a public meeting of the Team at the NMFS Southwest Fisheries Science Center in La Jolla, California. A public meeting between the Team and the Subpanel was held on December 14, 1999, at the Southwest Region, NMFS, in Long Beach, California. No significant comments regarding the harvest guidelines were received.

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 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 1999. The modification of CANSAR was developed to account for the expansion of the Pacific sardine stock northward to include waters off the northwest Pacific coast. Documentation of the 1999 estimate is described in the Council report *Stock Assessment of Sardine for 1999 with Management Recommendations for 2000* (see ADDRESSES).

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

1. *The biomass of age one sardine and above.* For 1999, this estimate is 1,581,346 metric tons (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 1999, 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 for warmer ocean temperatures and a lower fraction for cooler temperatures. Warm ocean temperatures favor the production of Pacific sardine. For 1999, the fraction used was 15 percent, based on three seasons of sea surface temperature at Scripps Pier, California.

Based on the estimated biomass of 1,581,346 mt and the formula in the FMP, a harvest guideline of 186,791 mt was calculated for the fishery beginning on January 1, 2000. The harvest guideline is allocated one third for Subarea A, which is north of 35° 40' N. lat. to the Canadian border, and two thirds for Subarea B, which is south of 35° 40' N. lat. to the Mexican border. Any unused resource in either area will be reallocated between areas to help ensure that optimum yield will be achieved. The northern allocation is 62,264 mt; the southern allocation is 124,527 mt.

The size of the Pacific mackerel population was estimated using a modified virtual population analysis stock assessment model, which employs both fishery dependent and fishery independent data to estimate abundance. The model was used to calculate biomass estimates through the end of 1998 and then project an estimate of biomass for July 1, 1999, based on the number of Pacific mackerel estimated to

comprise each year class at the beginning of 1999, estimates of fishing mortality during 1998, assumptions of natural and fishing mortality through the first half of 1999, and estimates of age-specific growth. Documentation of the 1999 estimate is described in the Council report *Status of the Pacific Mackerel Resource and Fishery in 1999* (see ADDRESSES).

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

1. *The biomass of Pacific mackerel.* For 1999, this estimate is 239,286 mt.

2. *The cutoff.* This is the biomass level below which no commercial fishery is allowed. The FMP established the cutoff level at 18,200 mt.

3. *The portion of the Pacific mackerel biomass that is in U.S. waters.* This estimate is 70 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 18,200 mt that may be harvested. The FMP established the harvest fraction at 30 percent.

Based on the estimated biomass of 239,286 mt and the formula in the FMP, a harvest guideline of 46,428 was calculated for the fishery beginning on July 1, 1999. To determine a harvest guideline for the period beginning January 1, 2000, the estimated harvest of Pacific mackerel between July 1, 1999, through December 31, 1999, was subtracted from the harvest guideline. The amount harvested is 3,609 mt; therefore, the harvest guideline available to the fishery beginning on January 1, 2000, is 42,819 mt.

### Classification

This action is authorized by 50 CFR 660.509 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA (AA) finds for good cause under 5 U.S.C. § 553(b)(B) that providing prior notice and an opportunity for public comment on this action is unnecessary because establishing the harvest guidelines is a ministerial act, determined by applying formulas in the FMP. Accordingly, providing prior notice and an opportunity for public comment would serve no useful purpose.

Because this rule merely announces the result of harvest guideline calculations and does not require any participants in the fishery to take action or to come into compliance, the AA finds for good cause under 5 U.S.C. § 553(d)(3) that delaying the effective

date of this rule for 30 days is unnecessary.

Because prior notice and opportunity for public comment are not required for this action by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable.

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

Dated: January 18, 2000.

**Andrew R. Rosenberg,**

*Deputy Assistant Administrator, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 000119015-0015-01; I.D. 010500A]

RIN 0648-AM32

#### Fisheries of the Exclusive Economic Zone Off Alaska; Steller Sea Lion Protection Measures for the Pollock Fisheries Off Alaska

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

**ACTION:** Emergency interim rule; revision to 2000 interim harvest specifications; request for comments.

**SUMMARY:** NMFS issues an emergency interim rule implementing reasonable and prudent alternatives (RPAs) to avoid the likelihood that the pollock fisheries off Alaska will jeopardize the continued existence of the western population of Steller sea lions or adversely modify its critical habitat. This emergency rule implements three types of management measures for the pollock fisheries of the Bering Sea and Aleutian Islands Management Area (BSAI) and Gulf of Alaska (GOA): Measures to temporally disperse fishing effort; measures to spatially disperse fishing effort; and measures to provide sufficient protection from fisheries competition for prey in waters adjacent to rookeries and important haulouts. These emergency measures are necessary to avoid jeopardy and adverse modification.

**DATES:** Effective January 20, 2000, through July 19, 2000. Comments must be received by February 24, 2000.

**ADDRESSES:** Comments may be sent to Sue Salveson, Assistant Regional

Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK, 99802, Attn: Lori Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. Copies of the Biological Opinion (BiOp) on the pollock fisheries of the BSAI and GOA and the Atka mackerel fishery of the Aleutian Islands subarea, the Revised Final Reasonable and Prudent Alternatives (RFRPAs), and the Environmental Assessment/Regulatory Impact Review (EA/RIR) prepared for the emergency interim rule may be obtained from the same address. The BiOp and the RFRPAs are also available on the Alaska Region home page at <http://www.fakr.noaa.gov>. Comments will not be accepted if submitted via e-mail or Internet.

**FOR FURTHER INFORMATION CONTACT:**

Shane Capron, 907-586-7228 or [shane.capron@noaa.gov](mailto:shane.capron@noaa.gov)

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fisheries in the exclusive economic zone off Alaska under the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMPs). The North Pacific Fishery Management Council (Council) prepared the FMPs under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the FMPs appear at 50 CFR parts 600 and 679.

#### Background

In 1990, NMFS designated the Steller sea lion as a threatened species under the Endangered Species Act of 1973 (ESA). The designation followed severe declines throughout much of the GOA and Aleutian Islands region. In 1993, NMFS defined critical habitat for the species to include (among other areas), the marine areas within 20 nautical miles (nm) of major rookeries and haulouts of the species west of 144° W long. In 1997, NMFS recognized two separate populations, and reclassified the western population (west of 144° W long.) as endangered.

NMFS first began collecting information on the abundance of Steller sea lions during the 1950s and 1960s. However, the first counts based on reliable data were not available until the late 1970s; these counts reported approximately 109,800 animals. During the 1980s, a precipitous decline of Steller sea lions was observed. By 1996, counts declined to only 22,000 animals, a decline of 80 percent from the late

1970s. Counts of adult and juvenile Steller sea lions have continued to decline over the last few years, but at a lower rate. Due to the small population size, these recent reductions may be a serious obstacle to the recovery of the western population of Steller sea lions.

Multiple factors have contributed to the decline, but considerable evidence indicates that lack of available prey is a serious problem. Foraging studies confirm that Steller sea lions depend on pollock as a major prey source, and that they may be particularly sensitive to any reduced availability of prey during the winter. The significance of pollock in the diet of sea lions may have increased since the 1970s due to shifts in the Bering Sea ecosystem related to atmospheric and oceanographic changes. Pollock are also the target of the largest commercial fisheries in Alaska, fisheries that have grown increasingly concentrated in time and area. This concentration of effort occurs largely in areas designated as Steller sea lion critical habitat and may reduce prey availability during critical times in the life history of sea lions. Additional information on Steller sea lions and the pollock fisheries of the BSAI and GOA is contained in the BiOp and in the EA/RIR prepared for this action (see **ADDRESSES**).

#### Purpose and Need for Action

In accordance with the requirements of the ESA, the NMFS Office of Protected Resources issued a BiOp dated December 3, 1998, revised December 16, 1998, on the pollock fisheries of the BSAI and GOA and the Atka mackerel fishery of the Aleutian Islands subarea. The BiOp concluded that the BSAI and GOA pollock trawl fisheries, as projected for 1999 through 2002, were likely to jeopardize the endangered western population of Steller sea lions and destroy or adversely modify critical habitat designated for this population. "To jeopardize" means "to engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species" (50 CFR 402.02). The clause "adversely modify its critical habitat" means "a direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to, alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to