

agricultural chemical contamination has depressed tricolored blackbird numbers below a carrying capacity in any year. Hamilton (2000, p. 20) stated that there was no documented evidence, since the work of Beedy and Hayworth (1992), that toxic contaminants have adversely affected the tricolored blackbird, and those instances provided by the petitioners as documentation of nest failure due to chemical toxicity were not substantiated.

Summary of Factor E

To summarize factor E, we agree that high selenium concentrations have been documented in some of the dead nestlings at Kesterson Reservoir. However, whether the selenium toxicosis was the cause of death of these tricolored blackbird nestlings or cause for the complete nesting failure observed in 1986, or from other factors, is still unknown. No information was provided suggesting that there are ongoing dieoffs such as occurred in 1986. In addition, neither the petition nor other available information provides anything more than speculation on the types and magnitudes of effects these chemicals may have on the tricolored blackbird. Due to this lack of information, we are unable to determine that use of toxic chemicals within the range of the species has led to reduction in the population size of the species, or that a reduction in the population of this species is likely to occur in the future. Therefore, we find the petition does not contain substantial scientific or commercial information that other natural or manmade factors may be a factor threatening the continued existence of the tricolored blackbird.

Finding

We evaluated each of the five listing factors individually, and because the threats to the tricolored blackbird are not mutually exclusive, we also evaluated the collective effect of these threats. The petition focused on all five listing factors. We have reviewed the petition and supporting literature, as well as other information in our files on the tricolored blackbird. After our review we find that the petition did not present substantial information that indicates rangewide declines, a substantial reduction in population numbers, or substantiated threats to existing populations that rise to the level that would indicate the listing of the tricolored blackbird is warranted or likely to become so in the foreseeable future. Threats to the tricolored blackbird, as described by the petition, included loss of native habitats, agricultural activities causing nest

destruction and direct mortality of birds, destruction of other suitable breeding substrates and surrounding habitats, overutilization of the species, predation, lack of existing regulatory mechanisms, and chemical contamination.

While these threats may affect local populations of tricolored blackbirds, the information provided in the petition was speculative in nature. The petition did not provide specific information to document the degree that the species has been affected by these threats, or that these threats have led to a significant decline in the range or distribution of the species or are likely to do so in the future.

Surveys conducted for the tricolored blackbird that we are aware of and that were discussed in the petitioner's information did not use a consistent level of effort in surveying and the petitioners did not base their conclusion on the most current population information available. Therefore, population and distribution trends have varied throughout survey years due to survey methods in addition to the likely natural population fluctuations. At present the most recent studies indicate that, since 2000, the rangewide population of tricolored blackbirds has increased regardless of any potential habitat loss, predation, or chemical contamination.

We have reviewed the petition and supporting information provided with the petition and evaluated that information in relation to other pertinent literature and information available to us at the time of the petition review. Based on this review and evaluation, we find that the petition and other available information does not present substantial information demonstrating that listing the tricolored blackbird as threatened or endangered may be warranted at this time. We encourage interested parties to continue to gather data that will assist with the conservation of the tricolored blackbird.

References Cited

A complete list of all references cited herein is available, upon request, from the Sacramento Fish and Wildlife Office (see **ADDRESSES**).

Author

The primary authors of this notice are staff of Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Sacramento, CA 95825.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: November 28, 2006.

Kenneth Stansell,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. E6-20547 Filed 12-4-06; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 061124308-6308-01; I.D. 101906C]

RIN 0648-AV02

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Atlantic; Commercial King Mackerel Fishery of the Atlantic; Consideration of a Control Date

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

ACTION: Advance notice of proposed rulemaking; request for comments.

SUMMARY: This notice announces that the South Atlantic Fishery Management Council (SAFMC) is considering additional management measures to further limit the number of participants or levels of participation in the commercial fishery for Atlantic group king mackerel in the exclusive economic zone (EEZ) of the South Atlantic and Mid-Atlantic region. If such management measures are implemented, the SAFMC is considering June 15, 2004, as a possible control date where anyone who entered the fishery after that date would not be assured of future access.

DATES: Comments must be received by January 4, 2007.

ADDRESSES: You may submit comments by any of the following methods:

- E-mail: 0648-AV02.ANPR@noaa.gov. Include in the subject line of the e-mail comment the following document identifier: "0648-AV02".
- Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Mail: Steve Branstetter, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

- Fax: 727-824-5308.

FOR FURTHER INFORMATION CONTACT:

Steve Branstetter, 727-824-5305.

SUPPLEMENTARY INFORMATION:

The commercial fishery for Atlantic group king mackerel in the South Atlantic and Mid-Atlantic EEZ is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic Region (FMP). The SAFMC has approval from the Mid-Atlantic Fishery Management Council (MAFMC) to manage Atlantic group king mackerel in the Mid-Atlantic region. The FMP was prepared jointly by the SAFMC and the Gulf of Mexico Fishery Management Council (GMFMC), with the approval of the MAFMC, and implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act.

The SAFMC anticipates that future action may be necessary to further control effort or participation in the Atlantic group king mackerel fishery through additional management actions. The SAFMC has concerns about future shifts in fishing effort that would increase catches of Atlantic group king mackerel in the South Atlantic and Mid-Atlantic EEZ, and wants to prevent the possibility of excess harvesting capacity developing for the Atlantic group king mackerel fishery. Should the SAFMC and GMFMC take future action to restrict participation in the fishery for Atlantic group king mackerel, they may use June 15, 2004, as a possible control date. This control date replaces an existing control date of October 16, 1995 (60 FR 53567, October 16, 1995). Implementation of any program to restrict access in the Atlantic group king mackerel fishery would require: preparation of an amendment to the FMP and publication of a notice of availability of the amendment with a comment period, publication of a proposed rule with a public comment period, approval of the amendment, and issuance of a final implementing rule.

Consideration of a control date does not commit the SAFMC, the GMFMC, or NMFS to any particular management regime or criteria for entry into the commercial Atlantic group king mackerel fishery. Fishermen are not guaranteed future participation in a fishery regardless of their entry date or intensity of participation in the fishery before or after the control date under consideration. Use of the June 15, 2004 control date in future management actions would mean anyone entering the fishery after that date would not be assured of future access. Nevertheless, even fishermen who are permitted prior

to the June 15, 2004 control date are not guaranteed future participation in the fishery. The SAFMC may choose to give variably weighted consideration to fishermen active in the fishery before and after the control date. Other qualifying criteria, such as documentation of landings and sales, may be applied for entry into the fishery. The SAFMC subsequently may choose a different control date or they may choose a management regime without using a control date. The SAFMC also may choose to take no further action to control entry or access to the fishery, in which case the control date may be rescinded.

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

Dated: November 29, 2006.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. E6-20588 Filed 12-4-06; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No. 061124307-6307-01; I.D. 112106A]

RIN 0648-AT65

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Specifications and Management Measures

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

ACTION: Proposed rule, request for comments.

SUMMARY: NMFS proposes 2007 specifications and management measures for Atlantic mackerel, squid, and butterfish (MSB). This action also proposes to modify existing management measures to improve the monitoring and management of the squid fisheries. Specifically, trimester quota allocations for the *Loligo* squid fishery and an increased *Loligo* squid incidental catch limit for *Illex* squid moratorium vessels are proposed for 2007. This action also requests public comment concerning the possibility of an inseason adjustment to increase the mackerel harvest, if landings approach proposed harvest limits. Lastly, this action would clarify, update, and correct existing regulatory language that

is misleading or incorrect. These proposed specifications and management measures promote the utilization and conservation of the MSB resource.

DATES: Public comments must be received no later than 5 p.m., eastern standard time, on January 4, 2007.

ADDRESSES: Copies of supporting documents used by the Mid-Atlantic Fishery Management Council (Council), including the Environmental Assessment (EA) and Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA), are available from: Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19904-6790. The EA/RIR/IRFA is accessible via the Internet at <http://www.nero.nmfs.gov>.

Written comments on the proposed rule may be sent by any of the following methods:

- E-mail to the following address: 2007MSBSpex@noaa.gov. Include in the subject line of the e-mail comment the following document identifier: "Comments on 2007 MSB Specifications";

- Electronically through the Federal e-Rulemaking portal: <http://www.regulations.gov>;

- Mail to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on 2007 MSB Specifications"; or

- Fax to Patricia A. Kurkul, (978) 281-9135.

FOR FURTHER INFORMATION CONTACT:

Carrie Nordeen, Fishery Policy Analyst, 978-281-9272, fax 978-281-9135.

SUPPLEMENTARY INFORMATION:**Background**

Regulations implementing the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP) appear at 50 CFR part 648, subpart B. Regulations governing foreign fishing appear at 50 CFR part 600, subpart F. These regulations, at §§ 648.21 and 600.516(c), require that NMFS, based on the maximum optimum yield (Max OY) of each fishery as established by the regulations, annually publish a proposed rule specifying the amounts of the initial optimum yield (IOY), allowable biological catch (ABC), domestic annual harvest (DAH), and domestic annual processing (DAP), as well as, where applicable, the amounts for total allowable level of foreign fishing (TALFF) and joint venture processing