

use an anchor or chain, or use a grapple and chain while in spawning SMZs. Fishermen would continue to be allowed to troll for pelagic species such as dolphin, tuna, and billfish in spawning SMZs.

#### *Establish a Sunset Provision for the Spawning SMZs*

Amendment 36 would establish a 10-year sunset provision for the establishment of the proposed spawning SMZs, except for the Area 51 and Area 53 Spawning SMZs, which will remain in effect indefinitely. Thus, except for the latter two areas, the proposed spawning SMZs and their associated management measures would be effective for 10 years following the implementation of a final rule for Amendment 36. For the proposed spawning SMZs and management measures subject to the sunset provision to extend beyond 10 years, the Council would need to evaluate the effectiveness of the spawning SMZs for conserving and protecting spawning snapper-grouper species, and subsequently take further action. The Council will regularly evaluate all of the spawning SMZs over the 10-year period. They concluded that this period was an appropriate timeframe to monitor the sites and determine whether a sufficient level of spawning by snapper-grouper species occurs to justify continued protection as spawning SMZs.

#### *Move the Existing Charleston Deep Artificial Reef MPA*

Amendment 36 would move the existing Charleston Deep Artificial Reef MPA 1.4 mi (2.3 km) northwest to match the boundary of the U.S. Army Corps of Engineers' permitted artificial reef area at that location. The size of the MPA would remain the same. The Council originally designated the current area as an artificial reef site in Amendment 14. The State of South Carolina has worked with the U.S. Army Corps of Engineers to modify the boundary of this site to include material recently sunk by the state in the area and has requested the Council shift their boundary of the existing Charleston Deep Artificial Reef MPA to match the new boundary of the U.S. Army Corps of Engineers' permitted artificial reef area.

A proposed rule that would implement measures outlined in Amendment 36 has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable laws. If that determination is affirmative,

NMFS will publish a proposed rule in the **Federal Register** for public review and comment.

#### **Consideration of Public Comments**

The Council has submitted Amendment 36 for Secretarial review, approval, and implementation. Comments on Amendment 36 must be received by March 6, 2017. Comments received during the respective comment periods, whether specifically directed to the amendment or the proposed rule, will be considered by NMFS in its decision to approve, disapprove, or partially approve Amendment 36. All comments received by NMFS on the amendment or the proposed rule during their respective comment periods will be addressed in the final rule.

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

Dated: December 29, 2016.

**Alan D. Risenhoover,**

*Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 660**

**[Docket No. 160614521-6999-01]**

**RIN 0648-BF96**

#### **Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Amendment to Regulations Implementing the Coastal Pelagic Species Fishery Management Plan; Change to Pacific Mackerel Management Cycle From Annual to Biennial**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Coastal Pelagic Species (CPS) Fishery Management Plan (FMP) states that each year the Secretary will publish in the **Federal Register** the final specifications for all stocks in the actively managed stock category, which includes Pacific mackerel. NMFS is proposing to change the management framework for Pacific mackerel to set specifications biennially instead of on an annual basis from the 2017 fishing season forward.

**DATES:** Comments must be received by February 3, 2017.

**ADDRESSES:** You may submit comments on this document identified by NOAA-NMFS-2016-0053, by either of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0053](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0053), click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Barry A. Thom, Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115-0070; Attn: Joshua Lindsay.

**Instructions:** Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

#### **FOR FURTHER INFORMATION CONTACT:**

Joshua Lindsay, West Coast Region, NMFS, (562) 980-4034.

**SUPPLEMENTARY INFORMATION:** NMFS manages the Pacific mackerel fishery in the U.S. Exclusive Economic Zone (EEZ) off the Pacific coast (California, Oregon, and Washington) in accordance with the CPS FMP. The FMP states that each year the Secretary will publish in the **Federal Register** the specifications for all stocks in the actively managed stock category, which includes Pacific mackerel. In 2013 the Pacific Fishery Management Council (Council) recommended that the harvest specification process for Pacific mackerel move from a 1-year management cycle to a 2-year management cycle beginning in 2015. The Council recommended this revision to the management cycle under the CPS FMP's framework mechanism, which allows such changes by rulemaking without formally amending the fishery management plan itself. NMFS published the annual specifications for Pacific mackerel for the 2015-16 and 2016-17 fishing seasons to keep pace with the schedule of the fishery, and is now proposing to change the annual notice requirement under the framework

mechanism of the CPS FMP. This change will allow 2 years of harvest specifications to be implemented with one rulemaking, beginning with the 2017 fishing season.

The CPS FMP and its implementing regulations require NMFS to set annual catch levels for the Pacific mackerel fishery based on the annual specification framework and control rules in the FMP. These control rules include the harvest guideline (HG) control rule, which in conjunction with the overfishing limit (OFL), acceptable biological catch (ABC) and annual catch limit (ACL) rules in the FMP are used to manage harvest levels for Pacific mackerel, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* Annual estimates of biomass are an explicit part of these various harvest control rules, therefore, annual stock assessments are currently conducted for Pacific mackerel to provide annual estimates of biomass. Then, during public meetings each year, the estimated biomass for Pacific mackerel from these assessments is presented to the Council's CPS Management Team (Team), the Council's CPS Advisory Subpanel (Subpanel) and the Council's Scientific and Statistical Committee (SSC), and the biomass and the status of the fishery are reviewed and discussed. The biomass estimate is then presented to the Council along with recommendations and comments from the Team, Subpanel and SSC. Following review by the Council and after hearing public comment, the Council adopts a biomass estimate and makes its catch level recommendations to NMFS. Based on these recommendations, NMFS implements these catch specifications for each fishing year and publishes the specifications annually.

Little new information is available for informing Pacific mackerel stock assessments from one year to the next. Therefore, stock assessment scientists at the Southwest Fisheries Science Center along with the SSC determined that conducting stock assessments annually is not necessary to manage Pacific mackerel sustainably; conducting assessments every 2 years can provide the necessary scientific information to continue to manage the stock sustainably. Annual landings of Pacific mackerel have also remained at historically low levels with landings averaging 5,000 mt over the last 10 years, well below the annual quotas over this time period. This highlights that the biomass of this stock is not being greatly impacted by fishing pressure. Low landings since 2011 are

also one of the limitations of the recent stock assessments because they result in limited fishery-dependent sample information to feed into the stock assessment.

This proposed action would change the review and implementation schedule for setting Pacific mackerel harvest specifications as well as the stock assessment cycle, allowing NMFS to implement 2 years of catch specifications with a single notice and comment rulemaking. The Council would also review the Pacific mackerel biomass estimates every 2 years. Reviewing biomass estimates and implementing catch specifications for 2 years at a time instead of 1 would allow NMFS and the Council to use available time and resources in a more efficient manner, while still preserving the conservation and management goals of the FMP, and using the best available science. If this proposal is approved, NMFS would set biennial specifications from the 2017 fishing season forward.

#### Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act, the Assistant Administrator, NMFS, has determined that this proposed rule is consistent with the CPS FMP, other provisions of the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable law, subject to further consideration after public comment.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities, for the following reasons:

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide.

The small entities that would be affected by the proposed action are the vessels that harvest Pacific mackerel as part of the West Coast CPS finfish fleet and are all considered small businesses

under the above size standards. Pacific mackerel are principally caught off southern California within the limited entry portion (south of 39 degrees N. latitude; Point Arena, California) of the fishery. Currently there are 56 vessels permitted in the Federal CPS limited entry fishery off California of which about 25 to 39 vessels have been annually engaged in harvesting Pacific mackerel in recent years (2009–2015). For those vessels that caught Pacific mackerel during that time, the average annual per vessel revenue has been about \$1.25 million. The individual vessel revenue for these vessels is well below the threshold level of \$11 million; therefore, all of these vessels are considered small businesses under the RFA. Because each affected vessel is a small business, this proposed rule is considered to equally affect all of these small entities in the same manner.

This proposed action changes the management schedule for Pacific mackerel to allow 2 years of specifications to be set at one time. The general procedures for setting specifications as described in the CPS FMP (public meetings, periodic reviews of the estimates of stock biomass, tracking catch, etc.) remain unchanged. This action is not expected to have significant direct or indirect socioeconomic impacts because harvest limits and management measures influencing ex-vessel revenue and personal income, such as the general harvest control rules for actively managed species in the CPS FMP remain unchanged by this proposed action. Instead, the proposed action only changes the timing the specifications are set from an annual to biennial process.

Based on the disproportionality and profitability analysis above, the proposed action, if adopted, will not have a significant economic impact on a substantial number of small entities. As a result, an Initial Regulatory Flexibility Analysis is not required, and none has been prepared.

#### List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: December 28, 2016.

**Samuel D. Rauch III,**

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

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 660 as follows:

**PART 660—FISHERIES OFF WEST COAST STATES**

■ 1. The authority citation for part 660 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 773 *et seq.*, and 16 U.S.C. 7001 *et seq.*

■ 2. In § 660.508, add paragraph (e) to read as follows:

**§ 660.508 Annual specifications.**

\* \* \* \* \*

(e) Pacific mackerel. Every 2 years the Regional Administrator will determine,

and publish in the **Federal Register**, harvest specifications for 2 consecutive fishing seasons for Pacific mackerel.

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