

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 17**

[Docket No. FWS-HQ-ES-2017-0075;  
FF09E41000 178 FXES111609C0000]

**Endangered and Threatened Wildlife and Plants; Regulations for Candidate Conservation Agreements With Assurances**

**AGENCY:** U.S. Fish and Wildlife Service (FWS), Interior.

**ACTION:** Regulatory review; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (FWS), announce the intention to review and potentially revise the regulations concerning enhancement-of-survival permits issued under the Endangered Species Act of 1973, as amended (ESA), associated with Candidate Conservation Agreements with Assurances. In a separate document published in today's **Federal Register**, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service announce the intention to review and potentially revise the Candidate Conservation Agreement with Assurances policy.

**DATES:** We will accept comments that we receive on or before January 22, 2018. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time on the closing date.

**ADDRESSES:** You may submit comments by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. In the Search box, enter docket number FWS-HQ-ES-2017-0075. Then, click on the Search button. On the resulting page, you may enter a comment by clicking on "Comment Now!" Please ensure that you have found the correct document before submitting your comment.
- *U.S. mail or hand delivery:* Public Comments Processing, Attn: Docket No. FWS-HQ-ES-2017-0075; Division of Policy, Performance, and Management Programs; U.S. Fish and Wildlife Service; 5275 Leesburg Pike; MS: BPHC; Falls Church, VA 22041.

We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see Request for Information, below, for more information).

**FOR FURTHER INFORMATION CONTACT:** Jeff Newman, Chief, Division of Recovery and Restoration, U.S. Fish and Wildlife

Service Headquarters, MS: ES, 5275 Leesburg Pike, Falls Church, VA 22041-3803; telephone 703-358-2171. Persons who use a telecommunications device for the deaf may call the Federal Relay Service at 800-877-8339.

**SUPPLEMENTARY INFORMATION:****Background**

Through its Candidate Conservation Program, one of the FWS's goals is to encourage the public to voluntarily develop and implement conservation agreements for declining species prior to them being listed under the ESA (16 U.S.C. 1531 *et seq.*). The benefits of such conservation actions may contribute to not needing to list a species, to list a species as threatened instead of endangered, or to accelerate the species' recovery if it is listed. The FWS put in place a voluntary conservation program to provide incentives for non-Federal property owners to develop and implement conservation agreements for unlisted species: Candidate Conservation Agreements with Assurances (CCAAs). On June 17, 1999, the policy for this type of agreement (64 FR 32726) and implementing regulations in part 17 of title 50 of the Code of Federal Regulations (CFR) (64 FR 32706) were made final. On May 3, 2004, we published a final rule (69 FR 24084) to revise the CCAA regulations to make them easier to understand and implement by, among other things, defining "property owner" and by clarifying several points, including the transfer of permits, permit revocation, and advanced notification of take.

To participate in a CCAA, non-Federal property owners agree to implement specific conservation actions on their land that reduce or eliminate threats to the species that are covered under the agreement. An ESA section 10(a)(1)(A) enhancement-of-survival permit is issued to the agreement participant providing a specific level of incidental take coverage should the property owner's agreed-upon conservation actions and routine property management actions (*e.g.*, agricultural, ranching, or forestry activities) result in take of the covered species, if it is listed. Property owners receive assurances that they will not be required to undertake any conservation actions other than those agreed to if new information indicates that additional or revised conservation measures are needed for the species, and they will not be subject to additional resource use or land-use restrictions.

Based on our past 16 years of experience with CCAAs, on December 27, 2016, we revised the CCAA policy

(81 FR 95164) and made necessary amendments to the CCAA regulations (81 FR 95053) to conform to the revised policy. Those revisions to the regulations clarify the level of conservation effort each agreement needs to include in order for the FWS to approve an agreement and issue a permit. We revised the issuance criteria at 50 CFR 17.22(d)(2)(ii) and 17.32(d)(2)(ii) to include language indicating that a CCAA must provide a net conservation benefit consistent with the 2016 CCAA policy. The conservation criteria required for permit issuance were not included in the previous version of the regulations. Instead, they specifically referred to compliance with the CCAA policy, which established the criteria. Our intent was to be more clear and transparent about the level of conservation effort required for each CCAA to be approved and make it consistent with the criteria for Safe Harbor Agreements; this change also better aligned the regulations with the CCAA policy. The other major change we made to the regulations was to the duration language at 50 CFR 17.22(d)(8) and 17.32(d)(8), where we stated that the duration of a CCAA must be sufficient to provide a net conservation benefit to the covered species. The full definition of "net conservation benefit (for CCAA)" is included in part 2 of the 2016 CCAA policy. The Services are committed to strengthening the delivery of our voluntary conservation tools, such as CCAAs, by making it easier to work with us on proactive conservation efforts, thus we are soliciting public review and comment on whether to revise the 2016 CCAA regulations (and accompanying policy).

**Request for Information**

During the comment period (see **DATES**, above), we will accept written comments and information on our 2016 revisions to the CCAA regulations (81 FR 95053; December 27, 2016). You may submit your comments and materials by one of the methods listed in **ADDRESSES**. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—will be posted on <http://www.regulations.gov>. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All comments and recommendations, including names and addresses, will become part of the record for this review.

**Authority**

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

Dated: October 4, 2017.

**Gregory J. Sheehan,**

*Principal Deputy Director, U.S. Fish and Wildlife Service.*

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**BILLING CODE 4333-15-P**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 660**

[Docket No. 170322302-7999-01]

RIN 0648-BG74

**Fisheries Off West Coast States;  
Coastal Pelagic Species Fisheries;  
Amendment 16 to the Coastal Pelagic  
Species Fishery Management Plan**

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS issues this proposed rule to implement Amendment 16 of the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP). The purpose of this proposed rule is to amend the CPS regulations to allow for very small amounts of directed, non-live bait fishing on CPS finfish to occur when a fishery is otherwise closed to directed fishing. Currently, when directed fishing closures are enacted, a small sector of the CPS fishery that is not part of the primary commercial directed fishery has been precluded from fishing and/or harvesting even minor amounts because this activity does not fall under the existing exemptions during closures for incidental harvest or for harvesting CPS to be sold as live bait. NMFS is proposing changes to the CPS regulations to allow this sector to continue directed fishing after other directed fisheries are closed, unless otherwise specified or if an applicable annual catch limit (ACL) is anticipated to be exceeded. As a further restriction, to ensure this minor directed fishing provision is not exploited to make large aggregate harvests, minor directed fishing would not be allowed to exceed landings of 1 metric ton (mt) per day per vessel or person or one fishing trip per day by any vessel.

**DATES:** Comments must be received by December 22, 2017.

**ADDRESSES:** You may submit comments on this document, identified by NOAA-NMFS-2017-0135, by any of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov/#/docketDetail;D=NOAA-NMFS-2017-0135](http://www.regulations.gov/#/docketDetail;D=NOAA-NMFS-2017-0135), 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, 501 W. Ocean Blvd., Ste. 4200, Long Beach, CA 90802-4250; Attn: Joshua Lindsay.

**Instructions:** Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. 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. 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.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Copies of the draft CPS FMP as amended through Amendment 16, with notations showing how Amendment 16 would change the FMP, if approved, are available via the Federal eRulemaking Portal: <http://www.regulations.gov>, docket NOAA-NMFS-2017-0135, or by contacting the Pacific Fisheries Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220-1384.

**FOR FURTHER INFORMATION CONTACT:** Joshua B. Lindsay, Sustainable Fisheries Division, NMFS, at 562-980-4034; or Kerry Griffin, Pacific Fishery Management Council, at 503-820-2280.

**SUPPLEMENTARY INFORMATION:** The CPS fishery in the U.S. exclusive economic zone (EEZ) off the West Coast is managed under the CPS FMP, which was developed by the Council pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (MSA), 16 U.S.C. 1801 *et seq.* Species managed under the CPS FMP include Pacific sardine, Pacific mackerel, jack mackerel, northern anchovy, market

squid and krill. The CPS FMP was approved by the Secretary of Commerce and was implemented by regulations at 50 CFR part 660, subpart I.

The MSA requires each regional fishery management council to submit any amendment to a FMP to NMFS for review and approval, disapproval, or partial approval. The MSA also requires that NMFS, upon receiving an amendment to a FMP, publish notification in the **Federal Register** that the amendment is available for public review and comment. NMFS will consider the public comments received during the comment period described above in determining whether to approve, disapprove, or partially approve Amendment 16.

At its April 2017 meeting, the Pacific Fishery Management Council (Council) voted to submit Amendment 16 to NMFS for review and approval; this proposed rule would revise the implementing regulations for the CPS FMP to implement Amendment 16 by allowing "minor directed" fishing for CPS finfish after a directed fishery has been closed. Current regulations provide for potential allowances of live bait fishing and incidental landings in the event of a directed fishery closure; this action would allow a small sector of the CPS fishery that is not part of the primary commercial directed fishery to harvest minor amounts of CPS. This sector of the fishery intentionally targets CPS and typically sells the catch as specialty dead bait to recreational and commercial fisheries, or as fresh fish to restaurants and the public. Total landings from this sector typically make up less than one percent of the total landings of any particular CPS stock. Currently, when directed fishing closures are enacted, these very small-scale fisheries have been precluded from fishing and/or harvesting these minor amounts because they do not fall under the existing exemptions during closures.

If this proposed rule is approved, minor directed fishing will be allowed to continue after a directed fishery is closed. Minor directed fishing will be allowed unless otherwise specified, or if an applicable ACL is anticipated to be exceeded. As a further restriction, to ensure the minor directed landing provision is not exploited to make large aggregate harvests, this action proposes regulations to limit this directed fishing exemption so that landings cannot exceed 1 mt per day per vessel or person, and which is limited to one fishing trip per day by any vessel. The intent of distinguishing between a "vessel" and "person" in these regulations is that some participants in