

Petersburg, FL 33702. Comments also may be sent via fax to 727-570-5583. Comments will not be accepted if submitted via e-mail or Internet.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule may be submitted to Robert Sadler, Southeast Region, NMFS, at the above address, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT:

Steve Branstetter, phone: 727-570-5305, fax: 727-570-5583, e-mail: Steve.Branstetter@noaa.gov.

SUPPLEMENTARY INFORMATION: The South Atlantic Fishery Management Council (Council) prepared the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Council submitted its original FMP to NMFS in 1999 for Secretarial review. On November 24, 1999, NMFS disapproved the FMP based on the FMP's lack of a maximum sustainable yield (MSY) estimate and its failure to justify adequately an optimum yield (OY) of zero (64 FR 69989, December 15, 2003).

Background and Rationale

The FMP and this proposed rule address conservation and management of pelagic sargassum off the U.S. Atlantic coast from the North Carolina/Virginia boundary through the east coast of Florida, including the Atlantic side of the Florida Keys.

Pelagic sargassum supports a diverse assemblage of marine organisms, including over 100 species of fish, fungi, micro- and macro-epiphytes, at least 145 species of invertebrates, four species of sea turtles, and numerous marine birds. The Council has designated pelagic sargassum not only as EFH but also as an EFH-HAPC for snapper-grouper species and coastal migratory pelagic species, and is in the process of designating it as EFH and EFH-HAPC for dolphin and wahoo.

Proposed Management Measures

Annual Quota

The Council concluded that the removal of pelagic sargassum constitutes a net loss of EFH off the southern Atlantic states. However, to lessen the negative impact of a total prohibition of harvest of pelagic sargassum, the Council decided that an annual harvest level of 5,000 lb (2,268 kg) would not jeopardize the continued

viability of the resource and, therefore, would be in compliance with the habitat policies of the Council, NMFS, and NOAA and in conformance with the mandate of the Magnuson-Stevens Act to address EFH. Accordingly, this rule proposes an annual quota of 5,000 lb (2,268 kg) wet, landed weight.

Area and Seasonal Restrictions

This rule proposes to restrict the harvest of pelagic sargassum in the South Atlantic EEZ to the area that is between 36°34'55" N. lat. (the latitude line of the Virginia/North Carolina boundary) and 34° N. lat., (a line closely approximating the North Carolina/South Carolina boundary), and more than 100 nautical miles offshore. This restriction would prevent any geographic expansion of the fishery in the South Atlantic EEZ. In addition, this rule proposes to seasonally restrict the harvest and possession of pelagic sargassum to the months of November through June. This seasonal restriction would lessen the incidental take of sea turtles. The summer and fall months are the months when the greatest density of post-hatchling sea turtles are expected to occur in weed lines of pelagic sargassum.

Observer Requirement

This rule proposes to require an owner or operator of a vessel in the fishery to accommodate a NMFS-approved observer on trips. This requirement would facilitate the monitoring of pelagic sargassum catches, provide valuable information on the pelagic sargassum resource, and monitor the incidental take of sea turtles and other bycatch. The FMP specifies the proposed bycatch sampling methodology.

Net and Frame Size Limitations

This rule proposes a minimum allowable mesh size for a net used for pelagic sargassum of 4 inches (10.2 cm), stretched mesh, which was the minimum mesh size historically employed in the fishery. This minimum mesh size would preclude any increase in incidental catch that might be associated with smaller mesh sizes.

This rule also proposes a limit on the size of the frame used to hold a pelagic sargassum net. Such frame could be no larger than 4 ft by 6 ft (1.2 m by 1.8 m). This measure would control harvesting efficiency and would help limit the amount of any one bed of pelagic sargassum that would be harvested, thus preserving some habitat for the remaining larval and juvenile fish and juvenile sea turtles after harvesting occurs.

Additional Measures in the FMP

In addition to the measures described above, for the management of pelagic sargassum, the FMP would establish the management unit; specify MSY, OY, maximum fishing mortality threshold (MFMT) (the fishing mortality rate which, if exceeded, constitutes overfishing), and minimum stock size threshold (MSST) (the stock size below which pelagic sargassum is overfished); and identify EFH and EFH-HAPC as follows:

Management unit - The population of pelagic sargassum (*Sargassum natans* or *S. fluitans*) in the South Atlantic EEZ and in adjoining state waters.

MSY - 100,000 mt (220,460,000 lb).

OY - 5,000 lb (2,268 kg), wet weight.

MFMT - 9.0 to 18.0 units per year (These values relate to the intrinsic rate of increase in the population).

MSST - 25,000 mt (55,115,000 lb).

EFH - Where pelagic sargassum occurs in the South Atlantic EEZ and adjoining state waters including the Gulf Stream.

EFH-HAPC - Where pelagic sargassum occurs in the South Atlantic EEZ and adjoining state waters.

Availability of the FMP

Additional background and rationale for management of sargassum are contained in the FMP. The availability of the FMP was announced in the **Federal Register** on April 17, 2003, (68 FR 18942). Written comments on the FMP must be received by June 16, 2003. NMFS will address all comments that are received on the FMP or on this proposed rule during their respective comment periods.

Classification

At this time, NMFS has not determined that the FMP is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. In making that determination, NMFS will take into account the data, views, and comments received during the comment period.

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

The Council prepared a Draft Environmental Impact Statement (DEIS) for the original version of the FMP; a notice of its availability was published on July 17, 1998 (63 FR 38643). The comment period ended on August 24, 1998. The environmental impacts described in the DEIS are summarized as follows: The proposed actions are not expected to have any adverse effects on the ocean and coastal habitats. The pelagic sargassum fishery substantially