

measured for length frequency. Regulatory discards, including sub-legal weakfish, and non-marketable species, were to be sorted, weighed and a sub-sample would be taken for length frequency. These fish were to be properly disposed of, and would not be sold. ESA and other protected species would have been handled as required by law; observers would have recorded and reported all discarded red drum and striped bass. The flynet characterization was to be terminated if takes (lethal or non-lethal) of loggerhead or Kemp's ridley sea turtles exceeded one half of the numbers (20 and 2) allowed in the Incidental Take Statement of the 1997 BO (that is, 10 or 1, in any one year). Further, analysis of the study data was to be coordinated by NCDMF and NMFS staff and the Commission was to be briefed through annual and final reports that would provide maps of the sample areas overlaid with the location of each tow, species encountered, total weights, numbers, and length frequency distributions of selected species. The final report was also to summarize the findings from each year and attempt to relate variability in catches and species composition with environmental variables. The report was also to summarize all interactions with sea turtles and include a discussion on the use of TEDs in the flynet fishery.

#### Newly Proposed EFP

Unfortunately, due to poor weather and insufficient availability of fish, NCDMF was unable to complete its year one experiments in the 2-year study. Accordingly, NCDMF seeks to reapply for EFPs to conduct an identical two year characterization study under identical terms, this time for the 2004 and 2005 years. Specifically, the NCDMF proposes to complete the first year of the 2-year flynet characterization study using the same means and methods as described above for last year's EFP. The flynet characterization study would be conducted in a closed area south of Cape Hatteras by two participating flynet vessels, each with its own EFP and observer aboard, conducting up to a total of 18 trips per year over each of two seasons, from 15 January through 1 April, in 2004 and 2005, for a maximum of 36 trips.

The EFP would exempt up to three vessels from the requirements of the Atlantic weakfish regulations according to the provisions at 50 CFR 600.745 and 697.22, as follows: (1) prohibiting of the use of flynets in the closed area of the EEZ off North Carolina as defined at § 697.7(a)(5); and (2) fishing for, harvesting, possession or retention of any weakfish less than 12 inches (30.5

cm) in total length from the EEZ as specified at § 697.7(a)(1) and (2) for data collection purposes.

The environmental assessment prepared for the proposed flynet characterization study in 2003 found that no significant environmental impacts would result from the proposed action.

Dated: November 26, 2003.

**Bruce C. Morehead,**

*Acting 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. 031125290-3290-01; I.D. 111203D]

RIN 0648-AQ97

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

**SUMMARY:** NMFS proposes a regulation to implement the annual harvest guideline for Pacific sardine in the U.S. exclusive economic zone off the Pacific coast for the fishing season January 1, 2004, through December 31, 2004. This harvest guideline has been calculated according to the regulations implementing the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP) and establishes allowable harvest levels for Pacific sardine off the Pacific coast.

**DATES:** Comments must be received by December 17, 2003.

**ADDRESSES:** Send comments on the proposed rule to Rodney R. McInnis, Acting Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213. The report *Stock Assessment of Pacific Sardine with Management Recommendations for 2004* may be obtained at this same address. An environmental assessment/regulatory impact review/initial regulatory flexibility analysis (IRFA) for this proposed rule may be obtained at this same address.

**FOR FURTHER INFORMATION CONTACT:** Svein Fougner, Southwest Region, NMFS, 562-980-4040.

**SUPPLEMENTARY INFORMATION:** The FMP, which was implemented by publication of the final rule in the **Federal Register** on December 15, 1999 (64 FR 69888), divides management unit species into two categories: actively managed and monitored. Harvest guidelines for actively managed species (Pacific sardine and Pacific mackerel) are based on formulas applied to current biomass estimates. Biomass estimates are not calculated for species that are only monitored (jack mackerel, northern anchovy, and market squid).

At a public meeting each year, the biomass for each actively managed species is reviewed by the Pacific Fishery Management Council's (Council) Coastal Pelagic Species Management Team (Team). The biomass, harvest guideline, and status of the fisheries are then reviewed at a public meeting of the Council's CPS Advisory Subpanel (Subpanel). This information is also reviewed by the Council's Scientific and Statistical Committee

(SSC). The Council reviews reports from the Team, Subpanel, and SSC, and then, after providing time for public comment, makes its recommendation to NMFS. The annual harvest guideline and season structure are published by NMFS in the **Federal Register** as soon as practicable before the beginning of the appropriate fishing season. The Pacific sardine season begins on January 1 and ends on December 31 of each year.

The Team meeting took place at the Southwest Fisheries Science Center in La Jolla, CA on October 14, 2003. A public meeting between the Team and the Subpanel was held at the same location that afternoon. The Council reviewed the report at its November meeting in Del Mar, CA and heard comments from its advisory bodies and the public.

Public comments are requested on how the fishery might be conducted for the 2004 fishing season to achieve but not exceed the harvest guideline while minimizing impacts on the harvest of other CPS.

In view of the above, the following would be implemented for the January 1 through December 31, 2004, fishing season.

Based on a biomass estimate of 1,090,587 metric tons (mt)(in U.S. and Mexican waters), using the FMP formula, the harvest guideline for