



**BILLING CODE 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 660**

**RIN 0648-XG660**

**Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Amendment 17 to the Coastal Pelagic Species Fishery Management Plan**

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

**ACTION:** Announcement of availability of fishery management plan amendment; request for comments.

**SUMMARY:** NMFS announces that the Pacific Fishery Management Council has submitted Amendment 17 to the Coastal Pelagic Species Fishery Management Plan for review by the Secretary of Commerce. Amendment 17 would remove the pre-specified incidental landing limit that would become effective for live bait were a stock managed under the Fishery Management Plan to become overfished. Currently, if a coastal pelagic species stock were to become overfished, and even prior to adoption of a rebuilding plan, the Fishery Management Plan would automatically limit retention of live bait of that stock to incidentally caught fish with no more than 15 percent of any load being live bait from the overfished stock. The intent of Amendment 17 is to allow the Council flexibility in recommending restrictions on the live bait portion of the

fishery when a stock is overfished. NMFS will consider public comments in deciding whether to approve, disapprove, or partially approve Amendment 17.

**DATES:** Comments on Amendment 17 must be received by [*insert date 60 days after date of publication in the FEDERAL REGISTER*].

**ADDRESSES:** You may submit comments on this document, identified by NOAA-NMFS-2018-0137, 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-2018-0137](http://www.regulations.gov/#/docketDetail;D=NOAA-NMFS-2018-0137), 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: Lynn Massey.

**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 Coastal Pelagic Species (CPS) Fishery Management Plan (FMP) as amended through Amendment 17, with notations showing how Amendment 17 would change the FMP, if approved, are available via the Federal eRulemaking Portal: <http://www.regulations.gov>, docket NOAA–NMFS–2018–0137, or by contacting the Pacific Fisheries Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220-1384.

**FOR FURTHER INFORMATION CONTACT:** Lynn Massey, Sustainable Fisheries Division, NMFS, at 562-436-2462; or Kerry Griffin, Pacific Fishery Management Council, at 503-820-2280.

**SUPPLEMENTARY INFORMATION:** The CPS fishery in the U.S. exclusive economic zone off the West Coast is managed under the CPS FMP. The Pacific Fishery Management Council (Council) developed the CPS FMP pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* The Secretary of Commerce approved the CPS FMP and implemented the provisions of the plan through regulations at 50 CFR part 660, subpart I. Species managed under the CPS FMP include Pacific sardine, Pacific mackerel, jack mackerel, northern anchovy, market squid and krill.

The Magnuson-Stevens Act requires each regional fishery management council to submit any amendment to an FMP to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an amendment to an 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 17.

The live bait fishery provides live bait to anglers and commercial vessels in California, Oregon, and Washington, making it an extremely important component of the West Coast's recreational fishing community, as well as some commercial fishery sectors such as the albacore tuna fishery. At the June 2018 Council meeting, in anticipation that the Northern subpopulation of Pacific sardine might be declared overfished if there were even a minor decline in the 2019 biomass estimate, the Council initiated an FMP amendment to address the prosecution of the live bait sector of the CPS fishery (primarily consisting of Pacific sardine and northern anchovy) after a stock is declared overfished. Additionally, several industry members offered testimony at the June and September 2018 Council meetings about probable adverse impacts to the live bait fishery if Pacific sardine were to become overfished in the 2019-2020 fishing year. At the November 2018 meeting, the Council took final action and approved Amendment 17 to the CPS FMP for submission to the Secretary for review under section 304(a) of the Magnuson-Stevens Act, 16 U.S.C. 1854(a).

Amendment 17 would remove the pre-specified incidental catch limit in the live bait fishery that would become effective were a CPS stock declared overfished. Currently, if a CPS stock were to become overfished, and even before adoption of a rebuilding plan, the CPS FMP would automatically limit retention of live bait of that stock to incidentally caught fish with no more than 15 percent of any load being live bait from the overfished stock. Live bait is sold in units of single species; therefore the live bait fishery targets pure loads of the desired species since it is not operationally feasible to separate mixed loads. Stopping all live bait fishing would likely cause a de facto closure for catching the overfished species as live bait, which would

seriously disrupt various recreational fisheries, most notably in Southern California, and the commercial albacore fishery that purchase and rely on live bait managed under the CPS FMP.

If a CPS stock becomes overfished, Amendment 17 would provide NMFS and the Council the ability to either set incidental catch limits or allow directed fishing in the live bait fishery with consideration of biological, environmental, or socio-economic factors during each management cycle or under a developed rebuilding plan without being restricted to predetermined limits. The intent of Amendment 17 is to allow more flexibility in setting restrictions on the live bait portion of the fishery when a stock is overfished and would not weaken any statutory requirements to rebuild an overfished stock.

There are no implementing regulations associated with Amendment 17, therefore NMFS will not promulgate a proposed rule to implement this amendment.

Public comments on Amendment 17 must be received by *[insert date 60 days after date of publication in the FEDERAL REGISTER]*. All comments received by the end of the comment period on Amendment 17 will be considered in the Secretary's decision to approve, disapprove, or partially approve this amendment. To be considered in this decision, comments must be received by close of business on the last day of the comment period; that does not mean postmarked or otherwise transmitted by that date. NMFS will respond to any substantive comments received by the end of the comment period on Amendment 17 in a subsequent **Federal Register** notice, either in conjunction with or following the agency's decision.

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

Dated: March 18, 2019.

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Samuel D. Rauch III,

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National Marine Fisheries Service.

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