

included in NMFS' 2000 biological opinion for this fishery. The current biological opinion (2023) analyzed maintaining the closed area as a management measure in the U.S. West Coast Fishery Management Plan for Highly Migratory Species.

On May 9, 2024, the CPC issued an El Niño Advisory. Under the CPC's El Niño/Southern Oscillation (ENSO) diagnostic system, an El Niño Advisory is issued when El Niño conditions are observed and expected to continue. NMFS staff reviewed the SST anomalies in the SCB during March and April of 2024, relying on SST maps available through NOAA's Coast Watch program (for details see <https://coastwatch.pfeg.noaa.gov/erddap/index.html>). These maps indicated that SSTs were above normal in the SCB. NMFS determined that El Niño conditions were occurring off southern California based on SSTs that were warmer than normal during March and April 2024, consistent with regulations at 50 CFR 660.713(c)(2)(ii), and implemented the LCA on June 1, 2024 (89 FR 47106).

Per regulations at 50 CFR 660.713(c)(2)(iii), if SSTs return to normal or below normal during a closure period, the AA may reopen the fishery after publishing a **Federal Register** notice announcing that El Niño conditions are no longer present in the SCB.

The CPC report on June 13, 2024, indicated a transition from El Niño to ENSO-neutral/La Niña Watch conditions based on cooler SSTs observed and a forecasted continued cooling trend in the Pacific Ocean. The most recent CPC report on July 11, 2024, indicates ENSO-neutral is expected to continue for the next several months, with La Niña favored to emerge during August–October (70 percent chance) and persist into the Northern Hemisphere winter 2024–2025 (79 percent chance during November–January). Additionally, SST data summarized and available on the West Coast Office of the Coast Watch program website indicates cooler than normal temperatures in the SCB were reported in May, June, and July.

Based on this information, NMFS has determined that El Niño conditions are no longer present and that we may reopen the LCA under the regulations. NMFS has determined that re-opening the LCA is warranted to increase fishing opportunities and lessen regulatory burden on vessels' time-area access, while complying with legal and regulatory requirements to ensure the conservation of loggerhead sea turtles.

The LCA closure prohibits DGN fishing in the LCA through August 31, 2024. Fishing with DGN gear also is prohibited within 75 nautical miles of the mainland shore through August 14 under 50 CFR 660.713(d), which includes much of the LCA. Thus, this closure primarily affects the DGN fishery during the last two weeks in August, when fishing with DGN gear would otherwise be open in much of the LCA.

Most DGN vessels typically commence fishing on or near August 15, depending on various factors including when swordfish are present on the fishing grounds in commercially viable quantities. Currently, one vessel is present in the area immediately outside the LCA. We anticipate that up to seven vessels may start fishing in August.

Classification

This action is allowed by current regulations at 50 CFR 660.713 and is exempt from Office of Management and Budget review under Executive Order 12866.

NMFS finds good cause to waive the requirement to provide prior notice and an opportunity for public comment for this action pursuant to the authority set forth at 5 U.S.C. 553(b)(B). Notice and comment procedures for this action are impracticable and contrary to the public interest. Specifically, the regulations allow for lifting the DGN fishing restrictions in response to updated weather information. The most recent El Niño status determination occurred on July 11, 2024, and regulations provide that the AA may publish a **Federal Register** notice announcing that El Niño conditions are no longer present off the coast of southern California and may terminate the closure prior to August 31. The closure period began on June 1 and restricts fishing for swordfish and sharks within a defined geographic area. Relieving this restriction will allow fishers access to the area while swordfish and other marketable highly migratory species are available on the fishing grounds. Delaying this action for 30 days would prevent active fishers from accessing some of the fishing grounds in the LCA. Given the change in conditions, we expect that loggerhead turtles leave the LCA with the cooler temperatures and that there is little likelihood of turtle entanglements or interactions in the area. Therefore, we find that there is good cause to waive the 30-day notice and opportunity for public comment requirements.

The APA excepts from the 30-day delay in effective date a rule that "grants or recognizes an exception or relieves a restriction" (5 U.S.C. 553(d)(1)). This

rule relieves a restriction on DGN fishing in the LCA, and the 30-day delay in effective date therefore is not required.

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

Dated: July 26, 2024.

Lindsay Fullenkamp,

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. 240726–0206; RTID 0648–XE135]

Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Interim Specifications and Management Measures for Pacific Sardine

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

ACTION: Final rule.

SUMMARY: This final rule implements interim annual harvest specifications and management measures for the northern subpopulation of Pacific sardine (hereafter, Pacific sardine), pursuant to an order issued on July 10, 2024, by the U.S. District Court for the Northern District of California in *Oceana, Inc., v. Raimondo, et al.*. Specifically, this rule re-instates the annual specifications and management measures that were in place for the 2023–2024 fishing year in whole, until the 2024–2025 annual Pacific sardine specifications and management measures are effective.

DATES: Effective July 29, 2024.

FOR FURTHER INFORMATION CONTACT: Katie Davis, West Coast Region, NMFS, (323) 372–2126, Katie.Davis@noaa.gov.

SUPPLEMENTARY INFORMATION: This final rule re-instates the harvest specifications and management measures that were in place for the 2023–2024 Pacific sardine fishing year (88 FR 41040, June 23, 2023) and that expired on June 30, 2024. These interim harvest specifications and management measures are effective until the 2024–2025 annual Pacific sardine specifications are effective. Proposed 2024–2025 Pacific sardine harvest specifications and management

measures were published in the **Federal Register** on June 21, 2024 (89 FR 52005).

This action is necessary to comply with a June 28, 2024 remedy order and July 10, 2024 amending remedy order issued by the U.S. District Court for the Northern District of California (the Court) in *Oceana, Inc., v. Raimondo, et*

al., No. 5:21–cv–05407–VKD (N.D. Cal., filed July 14, 2021), which directs NMFS to implement interim specifications that are no less restrictive than the 2023–2024 specifications, that take effect upon the expiration of the 2023–2024 specifications (*i.e.*, July 1, 2024), and remain in effect until NMFS

promulgates 2024–2025 annual specifications.

The interim specifications being implemented by this action can be found in table 1, and the additional regulations and management measures are listed below table 1.

TABLE 1—INTERIM HARVEST SPECIFICATIONS, IN METRIC TONS
[mt]

Overfishing limit (OFL)	Acceptable biological catch (ABC)	Harvest guideline (HG)	Annual catch limit (ACL)	Annual catch target (ACT)
5,506	3,953	0	3,953	3,600

This final rule also temporarily reinstates the following management measures for commercial sardine harvest:

1. The primary directed commercial fishery is closed.

2. If landings in the live bait fishery reach 2,500 mt of Pacific sardine, then a 1 mt per-trip limit of sardine would apply to the live bait fishery.

3. An incidental per-landing limit of 20 percent (by weight) of Pacific sardine applies to other coastal pelagic species (CPS) primary directed fisheries (*e.g.*, Pacific mackerel).

4. If the ACT of 3,600 mt is attained, then a 1 mt per-trip limit of Pacific sardine landings would apply to all CPS fisheries (*i.e.*, items 2 and 3 of this list would no longer apply).

5. An incidental per-landing allowance of 2 mt of Pacific sardine would apply to non-CPS fisheries until the ACL is reached.

All sources of catch, including any exempted fishing permit (EFP) set-asides, the live bait fishery, and other minimal sources of harvest, such as incidental catch in CPS and non-CPS fisheries and minor directed fishing, will be accounted for against the ACT and ACL.

The NMFS West Coast Regional Administrator will publish a notice in the **Federal Register** to announce when catch reaches the management measure limits, as well as any resulting changes to allowable incidental catch

percentages. Additionally, to ensure that the regulated community is informed of any closure, NMFS will make announcements through other means available, including emails to fishermen, processors, and state fishery management agencies.

Classification

NMFS has the authority to implement annual harvest specifications and management measures for Pacific sardine under the Magnuson-Stevens Fishery Conservation and Management Act (MSA; 16 U.S.C. 1801 *et seq.*). The NMFS Assistant Administrator has determined that this interim specifications rule is necessary to comply with a Court order.

The NMFS Assistant Administrator has determined that good cause exists to issue this rule without advance notice in a proposed rule or the opportunity for public comment (see 5 U.S.C. 553(b)(3)(B)) and to make the rule effective immediately without providing a 30-day delay after publication (see 5 U.S.C. 553(d)(3)). NMFS is obligated to implement these measures immediately to comply with the Court's June 28, 2024 Order, which "directs NMFS to implement interim specifications effective July 1, 2024 that are no less restrictive than the 2023–2024 specifications," and the Court's July 10, 2024 Order, which amended the June 28, 2024 Order to "implement interim specifications (including a further interim rule if necessary) that are no less

restrictive than the current 2023–2024 annual specifications as soon as possible . . . Such interim specifications shall remain in effect until issuance of the final 2024–2025 annual specifications." To comply with the July 10, 2024 order, NMFS must implement this rule prior to the expiration of the first interim specifications rule on August 1, 2024 (89 FR 57093, July 12, 2024). NMFS does not have discretion to implement measures that do not comply with the order in substance or timing. Providing prior notice and an opportunity for comment and delaying the effective date of this rule for 30 days after publication is therefore unnecessary and impracticable, and good cause exists to make this interim rule effective immediately.

This final rule is exempt from review under Executive Order 12866.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

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

Dated: July 26, 2024.

Kimberly Damon-Randall,

*Director, Office of Protected Resources,
National Marine Fisheries Service.*

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