

determination is based upon the analysis performed under various laws and executive orders for the counterpart Federal regulations.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of \$100 million or more in any given year. This determination is based upon the analysis performed under various laws and executive orders for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 28, 2003.

Brent Wahlquist,

Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 03-9033 Filed 4-11-03; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[FL-094-200316b; FRL-7481-7]

Approval and Promulgation of State Plan for Designated Facilities and Pollutants: Florida

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the section 111(d)/129 State Plan submitted by the Florida Department of Environmental Protection (FDEP) for the State of Florida on November 29, 2001, for implementing and enforcing the Emissions Guidelines (EG) applicable to existing Commercial and Industrial Solid Waste Incinerators. The Plan was submitted by FDEP to satisfy Federal Clean Air Act requirements. In the Final Rules Section of this **Federal Register**, the EPA is approving the Florida State Plan revision as a direct final rule without prior proposal because the Agency views this revision as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no significant, material, and adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this rule.

The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Written comments must be received on or before May 14, 2003.

ADDRESSES: All comments should be addressed to: Joydeb Majumder, EPA Region 4, Air Toxics and Management Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Copies of documents relative to this action are available for inspection during normal business hours at the above listed Region 4 location. Anyone interested in examining this document should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Joydeb Majumder at (404) 562-9121 or Sean Lakeman at (404) 562-9043.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: March 24, 2003.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 03-8954 Filed 4-11-03; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 032803F]

Fisheries of the Northeastern United States; Atlantic Herring Fishery; Scoping Process

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

ACTION: Notice of intent to prepare a supplemental environmental impact statement (SEIS) and notice of re-initiation of scoping process; request for comments.

SUMMARY: The New England Fishery Management Council (Council) announces its intent to prepare an amendment to the Fishery Management Plan (FMP) for Atlantic Herring (*Clupea harengus*) and to prepare an SEIS to analyze the impacts of any proposed management measures. The Council is also formally re-initiating a public process to determine the scope of alternatives to be addressed in the amendment and SEIS. The purpose of this notification is to alert the interested

public of the re-commencement of the scoping process and to provide for public participation in compliance with environmental documentation requirements.

DATES: The Council will discuss and take scoping comments at public meetings in April and May 2003. For specific dates and times of the scoping meetings, see **SUPPLEMENTARY INFORMATION**. Written scoping comments must be received on or before 5 pm., local time, June 2, 2003.

ADDRESSES: The Council will take scoping comments at public meetings in Maine, Massachusetts, and New Jersey. For specific locations, see

SUPPLEMENTARY INFORMATION. Written comments and requests for copies of the scoping document and other information should be directed to Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950, telephone (978) 465-0492. The scoping document is accessible electronically via the Internet at <http://www.nefmc.org>. Comments may also be sent via facsimile (fax) to (978) 465-3116. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (978) 465-0492.

SUPPLEMENTARY INFORMATION:

Background

The U.S. Atlantic herring fishery is managed as one stock complex along the east coast from Maine to Cape Hatteras, NC, although evidence suggests that separate spawning components exist within the stock complex. The Council and the Atlantic States Marine Fisheries Commission (ASMFC or Commission) adopted management measures for the herring fishery in state and Federal waters in 1999, and NMFS approved most of the management measures contained in the Federal Herring FMP on October 27, 1999. The Federal Atlantic Herring FMP became effective on January 10, 2001.

The state and Federal management plans contain similar management measures. The state and Federal management plans for herring establish total allowable catches (TACs) levels in each of four management areas. In state waters, there are spawning area restrictions and requirements for vessels to take specified days out of the fishery (under the Commission plan). Both plans include limits on the size of vessels that can take, catch, or harvest herring. Each plan includes administrative elements such as

requirements for vessel, dealer, and processor permits and reporting requirements. A control date of September 16, 1999, was established for the Atlantic herring fishery in Federal waters (64 FR 50266, September 16, 1999).

Additional measures for the Federal Herring FMP are being considered for two reasons: (1) a new stock assessment for herring is available; and (2) the Council made a commitment to consider limited or controlled access in the herring fishery shortly after developing the Herring FMP.

In February 2003, the Transboundary Resource Assessment Committee (TRAC), composed of both U.S. and Canadian scientists, met in St. Andrew's, New Brunswick, to undertake a joint peer review of the status of the transboundary herring resource and to provide collective guidance for fisheries managers to consider. The TRAC assessment will be used in considering possible adjustments to the FMP, which may include changes to the herring overfishing definition and its associated reference points, revisions to the estimates of maximum sustainable yield (MSY) and optimum yield (OY) for the herring fishery, adjustments to management areas, and/or adjustments to area-specific TAC calculations. The Herring Plan Development Team (PDT) will review the TRAC information and provide technical guidance on these and other issues as the development of this amendment proceeds.

While the overall TAC for herring is more than twice recent landing levels, the TAC in the inshore Gulf of Maine (Area 1A) represents more than 60 percent of the total landings and has triggered a closure of the herring fishery in this area every year. Some fishermen believe that harvesting capacity in this area should be restricted to avoid problems that result from excess fishing capacity. One of these problems is a "race to fish" as increasing numbers of vessels try to catch the TAC before the others. Besides generating inefficiencies, the available TAC in this area will likely continue to be taken before the fishing year is over. This can disrupt the supply of herring for various markets and affect stability in the fishery.

Management of a number of fisheries in the Northeast Region is complicated by excess fishing capacity which makes it difficult to reduce fishing mortality to levels necessary for stock rebuilding. In order to avoid the problems experienced in these fisheries, there is interest in developing a limited access system for the herring fishery to possibly address existing capacity problems in Area 1A

and avoid such problems in other areas as the fishery continues to develop.

In July 1999, the Council made a formal commitment to develop a limited or controlled access program for the herring fishery. Scoping meetings were conducted in early 2000, and comments were sought on limited/controlled access in the herring fishery, particularly in Area 1A. At that time, concern about excess capacity was focused on Area 1A, as Areas 2 and 3 (southern New England and Georges Bank) could support increased fishing effort and additional capacity in the fishery. However, some new markets have emerged, additional harvesting and processing capacity has developed, and catches from Areas 2 and 3 have increased somewhat, suggesting that capacity concerns in these areas may be different than they were in 2000. For this reason, the Council may consider a limited access program for all herring management areas.

This amendment may address one or more of the following issues:

1. According to the best available scientific information, overfishing is not occurring on the herring resource at this time, but may occur in the future if effort and capacity are not monitored and controlled in a proactive manner.
2. Allocation issues have arisen since the establishment of the TACs in the herring fishery, and these issues should be examined and minimized to the extent practicable (examples include the race to fish and gear conflicts resulting from the TACs).
3. Interactions of herring with other species and other fisheries are becoming increasingly important, especially as all stocks in the Northeast Region continue to increase. These interactions and their associated impacts should be examined so that negative impacts can be minimized where possible and appropriate.

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Measures Under Consideration

At this time, the Council is seeking comments on a wide range of management measures it is considering to address a range of issues. The measures under consideration include, but are not limited to, the following:

Limited Access

One or more kinds of permits may be issued to vessels fishing in one or more of the management areas. Qualification criteria for limited access permits could take many different forms. For example, qualification criteria could be based on catch levels over a particular period of time, possession of another permit, future performance in the fishery, or any combination of these standards.

If the Council does develop a limited access program in this amendment, it may develop separate qualifying criteria for the directed herring fishery and the incidental catch herring fishery. The Council also may consider a quota-based limited access program for participants in the herring fishery. Under such a program, TACs for herring could be specifically allocated to a limited number of individuals or entities. This allows the individuals or entities to be responsible for controlling their own capacity and harvesting their share of the resource in a way that maximizes their economic benefits and the overall benefits to the fishery. Some examples of quota-based programs that may be considered include Individual Fishing Quotas (IFQs), group quota shares, and community quota shares.

In addition to establishing some kind of limited access program, the Council will consider the "no action alternative;" that is, to allow the herring fishery to remain an open-access fishery. Consideration of the no action alternative is a legal requirement and is based on the fact that domestic catches are currently less than one-half the overall TAC. New markets and additional harvesting capacity to fully utilize the herring resource are currently being examined for the herring fishery. In addition, an open access system provides the most flexibility to fishermen to move into the herring fishery as an alternative to other fisheries.

Other Effort Controls

A limited access program by itself may or may not address potential capacity problems in the herring fishery, especially in Area 1A. For this reason, the Council is considering and seeking comments on other types of effort controls for the fishery, if necessary. These include, but are not limited to, the following:

1. *Vessel Upgrade Restrictions*—Restrictions on the overall size and capacity of herring vessels is already included in the FMP. However, additional restrictions on the ability of herring vessels to upgrade (increase their size and/or horsepower) may be an effective tool for controlling existing capacity in the fishery.

2. *Trip Limits*—Trip limits may slow down the race to fish and prevent early closure of the fishery, especially in Area 1A. For the herring fishery, it would be important to consider the high-volume nature of the directed fishery and the need to minimize regulatory discarding.

3. *Days at Sea (DAS) for the Herring Fishery*—Limits on the number of days that vessels can fish for herring is

another way to control effort in the fishery.

4. *Days Out of the Herring Fishery*—Requirements for vessels to take days out of the herring fishery were included in the Herring FMP, but were not approved by NMFS for several reasons. The Commission implemented days out of the fishery in state waters through the Interstate FMP for herring and has found it to be an effective tool to slow the race to fish. For this reason, the Council may re-consider a program for days out of the Federal fishery. Such a program may be based on no-fishing days or no-landing days (as is currently in the Commission plan).

Management Area Boundaries

The recently-completed TRAC Assessment of the herring resource recommends, among other things, consideration of some adjustments to the existing management area boundaries for the herring fishery. The Council will consider these recommendations as well as other comments received during the scoping period regarding adjustments to existing herring management area boundaries.

Other Measures and Adjustments Under Consideration

Because of the new TRAC Assessment and other management issues that have emerged over the past 3 years, the Council may consider additional measures for development in this amendment.

1. *Transboundary Nature of the Resource and Interactions with Canadian Herring Fisheries*—The Council is seeking comments on more effective ways to address the transboundary nature of this resource. Specifically, the Council is seeking comments on interactions between U.S. herring management and the New Brunswick weir fishery, the southwest Nova Scotia herring fishery, and the Canadian fishery for herring on Georges Bank.

2. *Seine-only and/or Trawl-only Areas*—To reduce gear conflicts associated with the TACs and the race to fish, the Council may consider

establishing areas for fishing with purse seines and/or midwater trawls only.

3. *Clarification of the Definition of Midwater Trawl*—The Council may consider revising the regulatory definition of a midwater trawl to improve enforcement and clarify perceptions about the gear intended to be fished.

4. *Spawning Area Restrictions*—Spawning area restrictions were included in the Herring FMP, but were not approved by NMFS for several reasons. The Commission implemented spawning area restrictions through the Interstate FMP for herring. The Council is seeking comment on whether or not these restrictions should be re-considered in this amendment.

5. *Improved Coordination with Mackerel Management*—Mackerel is managed through the Mid-Atlantic Fishery Management Council's Squid/Mackerel/Butterfish FMP. The Council recognizes the overlap between the herring and mackerel fisheries and the need to better coordinate the management of these resources. The Council is seeking comments on how to better coordinate herring and mackerel management.

6. *Bycatch and Bycatch Monitoring*—The Council is seeking comments on measures to minimize bycatch and to better monitor the nature of bycatch in the herring fishery. This includes consideration of requirements for observer coverage in the fishery.

Scoping Process

All persons affected by or otherwise interested in herring management are invited to participate in determining the scope and significance of issues to be analyzed by submitting written comments (see **ADDRESSES**) or by attending one of the scoping hearings. Scoping consists of the range of actions, alternatives, and impacts to be considered. Alternatives include the following: not amending the management plan (taking no action), developing an amendment that contains management measures such as those discussed in this notice, or other reasonable courses of action. Impacts

may be direct, individual, or cumulative.

This scoping process will also identify and eliminate from detailed analysis issues that are not significant. When, after the scoping process is completed, the Council proceeds with the development of an amendment to the Herring FMP, the Council will prepare an SEIS to analyze the impacts of a range of alternatives under consideration. The Council will hold public hearings to receive comments on the draft amendment and on the analysis of its impacts presented in the SEIS.

Scoping Hearing Schedule

The Council will discuss and take scoping comments at public meetings as follows:

1. Monday, April 28, 2003, 7 p.m., Holiday Inn, 31 Hampshire Street, Mansfield, MA 02048. Telephone (508) 339-2200.

2. Tuesday, April 29, 2003, 7 p.m., Kings Grant Hotel, Trask Road, Route 128, Exit 21N, Danvers, MA 01923. Telephone (978) 774-6800.

3. Tuesday, May 6, 2003, 7 p.m., Samoset Resort and Conference Center, 220 Warrenton Street, Rockport, ME 04856. Telephone (207) 594-2511.

4. Monday, May 12, 2003, 7 p.m., Clarion Hotel and Conference Center, 6821 Black Horse Pike, Egg Harbor Township/Atlantic City West, NJ 08234. Telephone (609) 272-0200/(800) 782-9237.

Special Accommodations

The meetings are accessible to people with physical disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to this meeting date.

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

Dated: April 9, 2003.

Richard W. Surdi,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
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