

setting opacity standards for vehicle emissions, requiring that pollution control equipment is not removed and prohibiting unnecessary idling of vehicles. New Hampshire air pollution control regulations apply statewide. New Hampshire submitted this rule to EPA on August 31, 2000 for inclusion in the SIP.

## II. What Are the Requirements of Chapter 1100, Part Env-A 1101?

The New Hampshire rule, Part Env-A 1101 includes sections Env-A 1101.01 through 1101.10. New Hampshire has also submitted Env-A 101.63 and Env-A 101.109, which are the definitions of "Emergency motor vehicle" and "Motor vehicle," respectively. Specifically, sections being proposed for approval establish opacity standards for diesel engines built on or before 1990 to be no higher than 55 percent opacity, those diesel engines built after 1990 to have no higher than 40 percent opacity, and for gasoline engines to have no visible emissions other than water vapor, except at start up. The rule also prohibits the owner or operator of a diesel or gasoline powered vehicle from altering or removing any emission control equipment or system, and requires that equipment to be maintained and operational. Finally, with limited exceptions as provided for in the rule, such as for emergency vehicles or when the vehicle is stuck in traffic, no diesel or gasoline powered engine may be allowed to idle for more than 5 consecutive minutes if the temperature is above 32 degrees Fahrenheit, nor for more than 15 consecutive minutes if the temperature is between 32 degrees and minus 10 degrees Fahrenheit. This rule will result in emissions reductions of volatile organic compounds, nitrogen oxides, carbon monoxide, and fine particulate.

## III. Proposed Action

EPA is proposing to approve a SIP revision at the request of the New Hampshire DES. This version of the rule was adopted on September 25, 1996 and submitted to EPA for approval on August 31, 2000. We are proposing to approve the September 25, 1996 version of Chapter Env-A 1100, Part Env-A 1101 entitled "Diesel and Gasoline Powered Motor Vehicles." EPA is proposing to approve these New Hampshire requirements into the SIP because EPA has found that the requirements will help prevent emissions of volatile organic compounds, nitrogen oxides, carbon monoxide and fine particles and will strengthen the New Hampshire SIP.

EPA is soliciting public comments on the issues discussed in this notice or on

other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA New England Regional Office listed in the **ADDRESSES** section of this document.

## IV. What Are the Administrative Requirements?

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997),

because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: June 13, 2003.

**Robert W. Varney,**  
Regional Administrator, EPA New England.  
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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 030612150-3150-01; I.D. 051503B]

RIN 0648-AQ94

#### Fisheries off West Coast States and in the Western Pacific; Coastal Pelagic Species Fishery; Regulatory Amendment

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

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

**SUMMARY:** NMFS proposes a regulatory amendment to the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP). This amendment was submitted

by the Pacific Fishery Management Council (Council) for review and approval by the Secretary of Commerce. The proposed amendment would change the management subareas and the allocation process for Pacific sardine. The purpose of this proposed amendment is to establish a more effective and efficient allocation process for Pacific sardine and increase the possibility of achieving optimum yield (OY).

**DATES:** Comments must be received by July 28, 2003.

**ADDRESSES:** Send comments on the proposed rule to Rodney R. McInnis, Acting Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802.

Copies of the environmental assessment/regulatory impact review/initial regulatory flexibility analysis (EA/RIR/IRFA) may be obtained from Donald O. McIssac, Executive Director, Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220.

**FOR FURTHER INFORMATION CONTACT:** James Morgan, Sustainable Fisheries Division, NMFS, at 562-980-4036.

**SUPPLEMENTARY INFORMATION:** Pacific sardines are managed pursuant to the CPS FMP, which was implemented by regulations published at 64 FR 69893, December 15, 1999. The annual harvest guideline for Pacific sardine is allocated two-thirds south of Pt. Piedras Blancas, CA (35°40' N. lat.) (a point south of Monterey, California, which includes the fishery in Southern California) and one-third north (includes fisheries in Monterey, CA, Oregon, and Washington), beginning annually on January 1. On October 1, the harvest guideline remaining in each sub-area is added together, then divided equally between the two areas.

In 2002, the northern allocation was reached before October 1, which required closure of the fishery while significant amounts of sardine remained unharvested in the south (67 FR 58733, September 18, 2002). Rough ocean conditions in the Pacific Northwest beginning in October make fishing with purse seine gear difficult or impossible. Because the fisheries off Oregon and Washington would be virtually over by October, the Council requested an emergency rule to make the required allocation in 2002 earlier than October 1, to avoid losses in jobs and revenue. An emergency rule was implemented on September 26, 2002 (67 FR 60601), that reallocated the harvest guideline and reopened the fishery.

The FMP established a limited entry fishery south of Pt. Arena, CA (39° N. lat.), which is a point north of San Francisco, CA. An open access fishery exists north of Pt. Arena, CA made up of fisheries off Northern California, Oregon, and Washington.

There was no sardine fishery in Oregon and Washington when the CPS FMP was implemented. The allocation procedure included in the CPS FMP was adopted from California rules and was designed to protect the Monterey, CA fishery (in the northern subarea or Subarea A) from the possibility of the fishery in Southern California (in the southern subarea or Subarea B) catching the entire harvest guideline before sardine became available in Monterey. The fishing pattern that has developed is that, generally, sardine become available to the Southern California fishery at the beginning of the year, the Pacific Northwest in the summer, and Monterey in the fall. As a result, there are three areas affected by the existing allocation system rather than two, and the possibility exists that the fishery in the Pacific Northwest might preempt the Monterey fishery. If Pacific sardine remain unharvested in either area following the reallocation on October 1, there currently is no procedure to make further reallocations to increase the likelihood of achieving optimum yield (OY).

The Council recognized that a process with more flexibility for making allocation decisions was needed. Therefore, the Council considered a regulatory amendment pursuant to the framework process identified in 50 CFR 660.517 of the regulations implementing the CPS FMP. At its November 2002 meeting in Foster City, CA, the Council adopted a set of management alternatives to address the allocation issue and directed its Coastal Pelagic Species Management Team (Management Team) to analyze these alternatives and others it believed appropriate. The primary goal was to avoid closing any segment of the fishery while a portion of the harvest guideline remain unharvested. The Management Team provided a draft environmental assessment for the Council's March 2003 meeting in Sacramento, CA, which included a range of options that showed the projected harvest in the three areas and how much of the harvest guideline would remain at the end of the fishing season. After receiving reports from its Coastal Pelagic Species Advisory Subpanel (Subpanel) and its Management Team, and after hearing public comments, the Council adopted a range of alternatives for public review. A revised environmental assessment

was provided to the public during the week of March 24, 2003.

At its meeting in Vancouver, WA on April 10, 2003, the Council received reports from its Subpanel and its Management Team, and heard public comments. The Council then adopted an option that: (1) changes the definition of subarea A and subarea B by moving the geographic boundary between the two areas from Pt. Piedras Blancas at 35° 40' 00" N. lat. to Pt. Arena at 39° 00' 00" N. lat., (2) moves the date when Pacific sardine that remain unharvested are reallocated to Subarea A and Subarea B from October 1 to September 1, (3) changes the percentage of the unharvested sardine that is reallocated to Subarea A and Subarea B from 50 percent to both subareas to 20 percent to Subarea A and 80 percent to Subarea B, and (4) reallocates all unharvested sardine that remain on December 1 coast wide. This procedure is proposed to be in effect for 2003 and 2004, and for 2005 if the 2005 harvest guideline is at least 90 percent of the 2003 harvest guideline.

An interim approach was taken because the sardine resource has recovered after decades of absence and there is insufficient information available on stock structure and migration patterns to assess the impacts of a more detailed allocation process on the fishing communities along the Pacific coast. The proposed change would most likely avoid the need for an emergency rule to reallocate unharvested portions of the OY and would have a greater possibility of achieving OY than the current allocation process. Information from resource surveys scheduled for the Pacific Northwest in 2003 and 2004 plus accumulated data on size and age of sardine from all areas of the fishery will improve the assessment model and provide better data for measuring the impacts of various allocation options for the longer-term.

While the proposed action is being taken as a regulatory amendment under a framework, implementing the proposed action permanently will eventually require a change in Section 5.2 of the FMP, which describes the north-south allocation. The only regulatory change that would be required is to redefine Subarea A and Subarea B at 50 CFR 660.503. If the regulatory amendment is approved, the fishery in Monterey, CA would become a part of the Subarea B fishery rather than Subarea A, and Pacific sardine landed in Monterey in 2003 would become part of the Subarea B landings.

## Classification

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866.

The Council prepared an IRFA that describes the economic impact this proposed rule, if adopted, would have on small entities. The IRFA is available from the Council (*see ADDRESSES*). A summary of the IRFA follows:

A description of the action, why it is being considered, and the legal basis for this action are contained in the **SUMMARY** and in the **SUPPLEMENTARY INFORMATION** sections of this proposed rule. This proposed rule does not duplicate, overlap, or conflict with other Federal rules. There are no reporting, record-keeping, or other compliance requirements of the proposed rule.

Approximately 140 vessels are permitted in the sardine fisheries off the U.S. West Coast; 65 vessels are permitted in the Federal coastal pelagic species (CPS) limited entry fishery off California, while approximately 55 vessels are permitted in State of Oregon and Washington sardine fisheries. An additional 18 live bait vessels are permitted in Southern California and 2 live bait vessels are permitted in Oregon and Washington. All of these vessels would be considered small businesses under the Small Business Administration standards. Therefore, there would be no disproportionate economic impacts resulting between small and large vessels under the proposed action. Because cost data are lacking for the harvesting operations of CPS finfish vessels, it was not possible to evaluate the economic impacts from estimated changes in sardine landings in terms of vessel profitability. Instead, economic impacts were evaluated based only on changes in sardine ex-vessel revenues compared to sardine landings under the status quo. Therefore, the difference between vessel revenues generated by 2003 proposed quotas and those generated by 2003 projected landings were used as a proxy for vessel profitability among the three regions evaluated. All projections utilized 2001 data and changes in ex-vessel revenues are described in 2001 dollars. CPS finfish vessels typically harvest a number of other species, including anchovy, mackerel, squid, and tuna. However, since data on individual vessel operations were not readily available, it was not possible to evaluate potential changes in fishing strategies by these vessels in response to different opportunities to harvest sardines under each of the allocation alternatives and what this would mean in terms of total ex-vessel revenues from all species.

Under the proposed action, sardine landings for CPS vessels for the entire West Coast are estimated to increase 9,846 metric tons (mt) from the status quo, with a corresponding increase in ex-vessel value of \$1,077,540. All of the coastwide harvest guideline OY would be caught by the end of the season under the proposed action. Sardine landings by vessels participating in the Oregon/Washington fishery were estimated to be 7,622 mt greater than the status quo, with ex-vessel revenues increasing by \$873,526. Landings by CPS vessels that historically would have participated in the Northern California sardine fishery would increase 2,449 mt above the status quo with a corresponding rise in ex-vessel revenues of \$228,035. Under the proposed action, a loss of 225 mt in landings was estimated for vessels that historically fished out of Southern California ports, which equates to foregone ex-vessel revenues amounting to \$24,021, or approximately \$370 per vessel, in lost ex-vessel revenue relative to the status quo. Twenty live bait vessels landed approximately 2,000 mt per year of mixed species from 1993 through 1997. Those landings were comprised mostly of Pacific sardine and northern anchovy. The estimated live bait 18 vessels fishing in Southern California are expected to be only minimally impacted by this action similar to results for the CPS limited entry vessels fishing in that area. The two live bait vessels fishing in Oregon and Washington are not expected to be impacted by this action.

For the 65 CPS limited entry vessels that could participate in either the Southern California or Northern California sardine fisheries, the 225 mt loss represents a potential loss in ex-vessel revenues for the CPS vessels choosing to operate in Southern California, which is substantially less than 0.01 percent per vessel. If the 65 CPS limited entry vessels choose to fish in the traditional Northern California sardine fishery, the potential gain in ex-vessel revenue for that fishery is estimated to be approximately \$3,508 per vessel per year. However, this amount could be underestimated since data from the 2001 SAFE report show that only 27 CPS vessels landed in Monterey/Santa Cruz and only 13 CPS vessels landed in San Francisco.

Even though limited entry vessels based in Southern California are not restricted from participating in the Northern California or the open access Oregon/Washington sardine fisheries, it is unlikely that it would be profitable for all Southern California vessels to do so due to additional travel time and fuel costs. However, any loss in profitability

by the CPS vessels choosing to fish in Southern California could be mitigated to a certain extent by moving northward to land larger, higher-priced sardines in Northern California ports.

Vessels that participate in the Oregon/Washington sector of the fishery are estimated to increase ex-vessel revenues by \$15,882 per vessel based on the estimated 55 State sardine permits issued. However, this figure may be underestimated since data show that, of the 35 Washington permitted vessels, only 19 vessels participated in these fisheries in 2002 with the majority of the catch accomplished by only 13 vessels.

The Council considered 3 alternatives to the proposed action in addition to the no-action alternative. All alternatives resulted in ex-vessel revenue gains of various magnitudes for the fishery as a whole. However, the proposed alternative yielded the greatest overall gain, with the least negative impacts to individual vessels from any one region while also providing the fishery with the possibility of achieving OY as required under the Magnuson-Stevens Fishery Conservation and Management Act.

Alternative 1 (status quo) With a 10 percent increase in harvest from 2002, total landings would be 101,061 mt and total ex-vessel revenues would amount to \$10,587,481. Southern California vessels would realize ex-vessel revenues of \$5,749,562, Northern California vessels \$1,039,424, and Oregon/Washington vessels \$3,798,405.

Alternative 2 (start year with 66–33 allocation, subarea line to 39° N lat., September [50–50] reallocation, and December [coastwide] reallocation). Relative to the status quo, Southern California vessels would lose 3,618 mt or \$386,201 in ex-vessel revenues. Northern California vessels would gain 35 mt or \$3,306, and Oregon/Washington would gain 10,108 mt or \$1,158,314, for a net increase in coastwide ex-vessel revenues of \$775,420.

Alternative 4 (start year with 66–33 allocation, subarea line not changed, September [50–50] reallocation, and December [coastwide] reallocation). Compared to the status quo, Southern California vessels would realize no change in landings, Northern California vessels would gain 274 mt or \$25,518 in ex-vessel revenues, and Oregon/Washington vessels would gain 8,091 mt or \$927,167. This results in an overall net increase of \$952,685 in ex-vessel revenues.

Alternative 5 (start year with 66–33 allocation, subarea line to 39° N lat., September coastwide reallocation).

Relative to the status quo, Southern California vessels would lose 2,500 mt or \$266,924 in ex-vessel revenues. Northern California vessels would gain 2,239 mt or \$208,547, and Oregon/Washington vessels would gain 10,108 mt or \$1,099,937, for a net increase in overall ex-vessel revenues of \$1,099,937.

#### List of Subject in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: June 19, 2003.

**John Oliver,**

*Deputy Assistant Administrator for Operations, National Marine Fisheries Service.*

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 660 as follows:

#### **PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC**

1. The authority citation for part 660 continues to read as follows:

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

2. In § 660.503, paragraphs (b)(2) and (c)((1) are revised to read as follows:

#### **§ 660.503 Management subareas.**

\* \* \* \* \*

(b) \* \* \*

(2) Southern boundary - at 39° 00' 00" N. lat. (Pt. Arena).

(c) \* \* \*

(1) Northern boundary - at 39° 00' 00" N. lat. (Pt. Arena); and

\* \* \* \* \*

3. Section 660.509 is revised to read as follows:

#### **§ 660.509 Closure of directed fishery.**

(a) The date when Pacific sardine that remains unharvested will be reallocated

to Subarea A and Subarea B has been changed from October 1 to September 1 for 2003 and 2004, and for 2005 if the 2005 harvest guideline is at least 90 percent of the 2003 harvest guideline.

(b) All unharvested sardine that remains on December 1 will be available for harvest coast wide.

4. In § 660.511, new paragraph (f) is added to read as follows:

#### **§ 660.511 Catch restrictions.**

\* \* \* \* \*

(f) The percentage of the unharvested sardine that is reallocated to Subarea A and Subarea B has been changed from 50 percent to both subareas to 20 percent to Subarea A and 80 percent to Subarea B.

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