

Dated: May 13, 2002.

Debra Edwards,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a), and 374.

2. Section 180.555 is amended by alphabetically adding commodities to the table in paragraph (a) to read as follows:

§ 180.555 Trifloxystrobin; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * * *	*
Citrus, dried pulp	0.8
Citrus, oil	30
Corn, field, forage	0.2
Corn, field, grain	0.05
Corn, field, stover	7
Corn, field, refined oil	0.1
Corn, pop, grain	0.05
Corn, pop, stover	7
* * * *	*
Egg	0.04
Fruit, citrus, group	0.3
Fruit, stone, group	2
* * * *	*
Nut, tree, group	0.04
* * * *	*
Pistachio	0.04
* * * *	*
Poultry, fat	0.04
Poultry, meat	0.04
Poultry, meat byproducts	0.04
* * * *	*
Rice, grain	3.5
Rice, hulls	8
Rice, straw	7.5
* * * *	*
* * * *	*

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BILLING CODE 6560-50-S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 268

[FRL-7214-4]

Land Disposal Restrictions: Granting of Two Site-Specific Treatment Variances to U.S. Ecology Idaho, Incorporated in Grandview, Idaho and CWM Chemical Services, LLC in Model City, New York

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is promulgating two site-specific treatment variances from the Land Disposal Restrictions (LDR) standards for wastes generated at U.S. Ecology Idaho, Incorporated (USEII) in Grandview, Idaho, and CWM Chemical Services, LLC (CWM) in Model City, New York. These waste streams are derived from the treatment of multiple listed and characteristic hazardous wastes, including K088 (spent potliners from primary aluminum reduction), and differ significantly from the waste used to establish the LDR treatment standard for arsenic in K088 non-wastewaters. Accordingly, we are finalizing an alternate treatment standard of 5.0 mg/l for arsenic, measured using the Toxicity Characteristic Leaching Procedure (TCLP), for the K088 derived emission control dust from the USEII facility. We are also, for the CWM facility, finalizing an alternate treatment standard of 5.0 mg/l for arsenic, measured using the Toxicity Characteristic Leaching Procedure, for the K088 derived baghouse dust, incinerator ash, and filtercake.

This treatment variance requires USEII and CWM to dispose of their respective waste in RCRA Subtitle C landfills provided the waste complies with the specified alternate treatment standard for arsenic in K088 non-wastewaters and meets all other applicable LDR treatment standards.

DATES: This rule is effective May 22, 2002.

ADDRESSES: The official record for this rulemaking is identified as Docket Number F-2002-TV3F-FFFFF and is located in the RCRA Docket Information Center (RIC), Crystal Gateway One, 1235 Jefferson Davis Highway, First Floor, Arlington, VA 22202. The RIC is open from 9 am to 4 pm Monday through Friday, excluding federal holidays. To review docket materials, we recommend that you make an appointment by

calling 703-603-9230. You may copy up to 100 pages from any regulatory document at no charge. Additional copies cost \$0.15 per page. (The index is available electronically. See the **SUPPLEMENTARY INFORMATION** section for information on accessing them.)

FOR FURTHER INFORMATION CONTACT: For general information, call the RCRA Call Center at 1-800-424-9346 or TDD 1-800-553-7672 (hearing impaired). The RCRA Call Center operates Monday-Friday, 9 am to 6 pm, Eastern Standard Time. For more detailed information on specific aspects of this rule, contact Laurie Solomon on 703-308-8443, solomon.laurie@epa.gov, or write her at the Office of Solid Waste, 5302W, U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460-0002.

SUPPLEMENTARY INFORMATION:

Availability of Rule on Internet

Please follow these instructions to access the rule: From the World Wide Web (WWW), type <http://www.epa.gov/epaoswer/hazwaste/ldr>.

The official record for this action will be kept in paper form. Accordingly, EPA has transferred any comments received electronically into paper form and placed them in the official record which also includes comments submitted directly in writing. The official record is the paper record maintained at the RIC listed in the **ADDRESSES** section at the beginning of this document.

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I. Why and How Are Treatment Variances Granted?

Under section 3004(m) of the Resource Conservation and Recovery

Act (RCRA) as amended by the Hazardous and Solid Waste Amendments of 1984, EPA is required to set "levels or methods of treatment, if any, which substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste so that short-term and long-term threats to human health and the environment are minimized." We have interpreted this language to authorize treatment standards based on the performance of best demonstrated available technology (BDAT). This interpretation was sustained by the court in *Hazardous Waste Treatment Council vs. EPA*, 886 F. 2d 355 (D.C.Cir.1989).

We recognize that there may be wastes that cannot be treated to levels specified in the regulation (see 40 CFR 268.40) (51 FR 40576, November 7, 1986). For such wastes, a treatment variance exists (40 CFR 268.44) that, if granted, becomes the treatment standard for the waste at issue.

Treatment variances may be national or site-specific. A national generic variance can result in the establishment of a new treatability group and a corresponding treatment standard that applies to all wastes that meet the criteria of the new waste treatability group (55 FR 22526, June 1, 1990). A site-specific variance applies only to a specific waste from a specific facility. See 62 FR at 64505 (December 5, 1997). Under 40 CFR 268.44(h), a generator or treatment facility may apply to the Administrator, or EPA's delegated representative, for a site-specific variance in cases where a waste that is generated under conditions specific to one site cannot or should not be treated to the specified level(s). Under 40 CFR 268.44(h)(1), the applicant for a site-specific variance must demonstrate that because the physical or chemical properties of the waste differ significantly from the waste analyzed in development of the treatment standard, the waste cannot be treated to the specified levels or by the specified method(s). Although there are other grounds for obtaining treatment variances, we will not discuss those in this notice because this is the only provision relevant to the present petitions. U.S. Ecology Idaho, Incorporated (USEII) (Grandview, ID) submitted their request for a treatment variance in September 2000. CWM Chemical Services LLC (CWM) (Model City, NY) submitted their request in December 2000. All information and data used in the development of this proposal can be found in the RCRA docket supporting this rule.

II. Summary of the Proposed Rule

On July 24, 2001 (66 FR 38405), we proposed to grant two site-specific treatment variances from the K088 (spent potliners from primary aluminum reduction) treatment standard for arsenic. The first proposed variance is for arsenic in the K088-derived emission control dust from an air pollution control system from a stabilization and containment building at the USEII facility. The second proposed variance is for arsenic in roll-off boxes of K088-derived baghouse dust and incinerator ash at the CWM Model City facility. This variance also covers wastewater treatment filtercake from the CWM facility (66 FR 38405, July 24, 2001). To date, no K088 filtercake has been generated. At both facilities, these waste streams are derived from the treatment of multiple listed and characteristic hazardous wastes, including K088. Under the RCRA regulations, when different hazardous wastes are combined for treatment and there are different treatment standards for a particular hazardous constituent, the treatment residue must meet the most stringent of the applicable treatment standards. Section 268.40 (c). With the advent of the Universal Treatment Standards, this situation does not arise often because most of the treatment standards are identical. However, K088 has a "non-universal" treatment standard for arsenic, which arguably might be considered more stringent than the universal treatment standard. (63 FR 51257, September 24, 1998.) The treatment standard for arsenic in K088 waste is to achieve a total concentration of arsenic of less than 26.1 mg/kg. The wastes which are the subject of these petitions would likely not achieve this treatment standard. The treatment residues, however, feasibly can be treated to meet the arsenic Universal Treatment Standard of 5 ppm measured using the TCLP.

In the proposal, we concluded that an alternative treatment standard of 5.0 mg/l for arsenic, measured using the TCLP, is warranted for the following reasons. First, the chemical properties of the derived-from waste at both facilities differ significantly from the waste used to establish the LDR treatment standard for arsenic in K088 non-wastewaters. Second, the alternative standard of 5.0 mg/l TCLP is currently the standard applicable to arsenic in all other hazardous wastes, except K088 non-wastewaters. Third, arsenic concentrations in USEII's K088-derived emission control dust and in CWM's K088-derived baghouse dust, incinerator ash and filtercake cannot be treated to

a lower treatment standard based on a total analysis. This is because arsenic, as an element, cannot be destroyed and must be immobilized. In the proposal, we concluded that these reasons meet the criteria for granting a site-specific variance under 40 CFR 268.44(h)(1). (66 FR 38407, July 24, 2001.)

III. Comment Summary and Final Rule

We received three comments on the proposed rule. One commenter supports EPA's decision to grant these variances based on its experiences in meeting the relevant Land Disposal Restrictions. Another commenter requests clarification regarding whether the alternate treatment standard of 5.0 mg/l, measured using the TCLP, is limited to CWM's wastes that are currently managed on-site. Our answer is that the treatment standard granted under today's variance applies to existing and future incinerator residue treated at the facility. It also applies to existing and future baghouse dust generated at the facility, as well as to any K088 derived-from filtercake generated in the future at the facility (since the reasons for granting the treatment variance apply in all of these situations).

A commenter also requested clarification regarding which incinerator residue at CWM's Model City facility is covered by this final regulation. The commenter sought clarification as to whether the variance applies to just those wastes that are received from off-site and treated on-site or to these wastes plus any K088 derived baghouse dust and incinerator ash received from off-site and directly disposed in CWM's Model City Subtitle C landfill without treatment. The variance granted to CWM's Model City facility under this rulemaking is limited to wastes generated or treated at the Model City facility. Facilities other than CWM's Model City facility who believe their wastes meet the criteria for a variance from the K088 standard can submit their own variance petition to the Agency for consideration.

Two commenters believe that the 26.1 mg/kg arsenic standard should apply only to newly-generated K088 and that all other mixture, derived-from and contained-in K088 should use the 5.0 arsenic TCLP universal treatment standard (UTS). These commenters believe that the cost and time spent by industry and EPA in preparing and responding to petitions for variances would be more than offset by a revised treatment standard. One commenter suggests that the rationale that EPA has used in previous final and proposed variances—that the treatment residues are physically and chemically different

from the waste analyzed in establishing the treatment standard—is applicable in all cases where K088 is treated with other hazardous waste and a K088-derived residue is generated. This commenter believes that, as a result, the most effective course of action is to revise the regulations and adopt a treatment standard of 5.0 mg/l for arsenic, measured using the TCLP, in K088 derived-from waste. Under this suggested approach, the 26.1 ppm total arsenic standard would continue to apply to newly-generated K088 at the primary aluminum facility. EPA would finalize a new standard for all other mixture, derived-from and contained-in K088 wastes; this new standard would use the existing UTS standard of 5.0 ppm arsenic.

Based on the limited number of variance requests we have received, we believe that the existing regulation is sufficient. We disagree with the commenter's cost estimate of revising the regulation versus continuing to use variances. In cases where site-specific variances from this standard are appropriate, EPA's regulations set forth a means by which generators or treaters of hazardous waste can file petitions for variances from the K088 treatment standard. To date, EPA has responded to only four petitions regarding the treatment standard for arsenic in K088. (66 FR 33887, June 26, 2001 and 65 FR 45978, July 26, 2000, plus the two granted today.) There are no outstanding treatment variance petitions.

In conclusion, for USEIL, EPA is granting an alternate treatment standard of 5.0 mg/l for arsenic, measured using the TCLP, in existing and future K088 derived-from emission control dust from its air pollution control system. Likewise, at CWM's Model City facility, EPA is granting an alternate treatment standard of 5.0 mg/l for arsenic, measured using the TCLP, for existing and future K088 derived baghouse dust, incinerator ash and filtercake.

IV. Administrative Requirements

A. Regulatory Impact Analysis Pursuant to Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether a regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy,

productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Because this final rule does not create any new regulatory requirements, it is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This final rule will not impose any requirements on small entities. These treatment variances do not create any new regulatory requirements. Rather, they establish an alternative treatment standard for a regulated constituent at two specific facilities. This action, therefore, does not require a regulatory flexibility analysis.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for

Federal Agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. If a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives. Under section 205, EPA must adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule, unless the Administrator publishes with the final rule an explanation why that alternative was not adopted. The provisions of section 205 do not apply when they are inconsistent with applicable law.

EPA has determined that this final rule does not include a Federal mandate that may result in estimated costs of \$100 million or more in the aggregate to either State, local, or tribal governments or the private sector in one year. The final rule would not impose any federal intergovernmental mandate because it imposes no enforceable duty upon State, tribal or local governments. States, tribes, and local governments would have no compliance costs under this rule. EPA has also determined that this final rule contains no regulatory requirements that might significantly or uniquely affect small governments. In addition, as discussed above, the private sector is not expected to incur costs exceeding \$100 million. EPA has fulfilled the requirement for analysis under the Unfunded Mandates Reform Act. Thus, today's final rule is not subject to the requirements of sections 202, 204 and 205 of UMRA.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule will not significantly or uniquely affect small governments. This final rule will not impose any requirements on small

entities. These treatment variances do not create any new regulatory requirements. Rather, they establish an alternative treatment standard for a regulated constituent at two specific facilities. Today's final rule is not, therefore, subject to the requirements of section 203 of UMRA.

D. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

Today's final rule is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The subject wastes will comply with all other treatment standards and be disposed of in RCRA Subtitle C landfills. Therefore, we have identified no risks that may disproportionately affect children.

E. Environmental Justice Executive Order 12898

EPA is committed to addressing environmental justice concerns and is assuming a leadership role in environmental justice initiatives to enhance environmental quality for all residents of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, or income bears disproportionately high and adverse human health and environmental impacts as a result of EPA's policies, programs, and activities, and that all people live in clean and sustainable communities. In response to Executive Order 12898 and to the concerns voiced by many groups outside the Agency, EPA's Office of Solid Waste and Emergency Response formed an Environmental Justice Task Force to analyze the array of environmental justice issues specific to

waste programs and to develop an overall strategy to identify and address these issues (OSWER Directive No. 9200.3-17).

Today's final rule applies to wastes that will be treated and disposed of in a RCRA Subtitle C hazardous waste landfill, ensuring a high degree of protection to human health and the environment. Therefore, the Agency does not believe that today's action will result in any disproportionately negative impacts on minority or low-income communities relative to affluent or non-minority communities.

F. Paperwork Reduction Act

This rule only changes the treatment standards applicable to a sub-category of K088 wastes at two facilities. It does not change in any way the paperwork requirements already applicable to these wastes. Therefore, this rule is not affected by the requirements of the Paperwork Reduction Act.

G. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards based on new methodologies. Therefore, EPA did not consider the use of any voluntary consensus standards.

H. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." "Policies that have tribal implications" is defined in the Executive Order to include regulations that have "substantial direct effects on one or more Indian tribes, on the relationship between the Federal

government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, 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 in Executive Order 13175. These treatment variances do not create any new regulatory requirements. Rather, they establish an alternative treatment standard for a regulated constituent at two specific facilities. Thus, Executive Order 13175 does not apply to this final rule.

I. Executive Order 13132 (Federalism)

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" are defined in the Executive Order to include regulations that 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 governments."

This final rule does not have federalism implications. It will 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. These treatment variances do not create any new regulatory requirements. Rather, they establish an alternative treatment standard for a regulated constituent at two specific facilities. Thus, Executive Order 13132 does not apply to this rule.

J. Executive Order 13211 (Energy Effects)

This rule is not a "significant energy action" as defined in Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355 (May 22, 2001)) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that this rule is not likely to have any adverse energy effects.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801, *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A Major rule cannot take effect until 60 days after it is published in the **Federal Register**.

This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective May 22, 2002.

List of Subjects in 40 CFR Part 268

Environmental protection, Hazardous waste, Reporting and recordkeeping requirements.

Dated: May 7, 2002.

Marianne Lamont Horinko,

Assistant Administrator for Solid Waste and Emergency Response.

For the reasons set out in the preamble, Title 40, Chapter I of the Code of Federal Regulations is amended as follows:

PART 268—LAND DISPOSAL RESTRICTIONS

1. The authority citation for part 268 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

2. In § 268.44, the table in paragraph (o) is amended by adding in alphabetical order two new entries for "CWM Chemical Services LLC, Model City, New York"; and "U.S. Ecology Idaho, Incorporated, Grandview, Idaho" and Footnotes 9 and 10 to read as follows:

§ 268.44 Variance from a treatment standard.

* * * * *

(o) * * *

TABLE—WASTES EXCLUDED FROM THE TREATMENT STANDARDS UNDER SEC. 268.40

Facility name ¹ and address	Waste code	See also	Regulated hazardous constituent	Wastewaters		Nonwastewaters	
				Concentration (mg/L)	Notes	Concentration (mg/kg)	Notes
* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
CWM Chemical Services, LLC, Model City, New York.	K088 ⁹	Standards under § 268.40.	Arsenic	1.4	NA	5.0 mg/L TCLP ...	NA
* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
U.S. Ecology Idaho, Incorporated, Grandview, Idaho.	K088 ¹⁰	Standards under § 268.40.	Arsenic	1.4	NA	5.0 mg/L TCLP ...	NA * * *
* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *

1 * * *
* * * * *

⁹ This treatment standard applies only to K088-derived bag house dust, incinerator ash, and filtercake at this facility.

¹⁰ This treatment standard applies only to K088-derived air emission control dust generated by this facility.

Note: NA means Not Applicable.

[FR Doc. 02-12768 Filed 5-21-02; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No. 020329075-2124-03; I.D. 031902E]

RIN 0648-AP11

Fisheries of the Northeastern United States; Monkfish Fishery; Framework 1; Emergency Measures

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

ACTION: Disapproval of Framework 1; emergency interim rule; request for comments.

SUMMARY: NMFS notifies the public that it has disapproved proposed Framework 1 to the Monkfish Fishery Management Plan (FMP). NMFS is issuing this emergency interim rule to amend temporarily the monkfish fishing mortality rate (F) criteria in the FMP to be consistent with those recommended by the most recent stock assessment (SAW 34; January 2002). This emergency rule also implements the management measures that were proposed in Framework 1 to the FMP because, with the amendment of the F criteria in the FMP, these measures are consistent with the best available scientific information. The intended effect of this rule is to suspend temporarily the restrictive Year 4 default management measures that became effective May 1, 2002, and to implement management measures for the monkfish fishery based on the best scientific information.

DATES: Effective May 17, 2002 through November 18, 2002. Comments on this

emergency rule must be received no later than 5 p.m. EDT June 14, 2002.

ADDRESSES: Comments on the emergency rule should be sent to Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298. Mark the outside of the envelope "Comments on Monkfish Emergency Rule." Comments may also be submitted via facsimile (fax) to 978-281-9135. Comments will not be accepted if submitted via e-mail or the Internet.

Copies of the emergency rule, including the Environmental Assessment (EA) and Regulatory Impact Review (RIR) are available upon request from Patricia A. Kurkul at the address listed above. The EA/RIR is also accessible via the Internet at <http://www.nero.nmfs.gov>.

FOR FURTHER INFORMATION CONTACT: Allison Ferreira, Fishery Policy Analyst,