

the contingency measure SIP requirements concern what is to happen only if attainment or ROP is not actually achieved. The EPA acknowledges that contingency measures are an independently required SIP revision, but does not believe that submission of contingency measures is necessary before EPA may approve an attainment or ROP SIP.¹⁶

VIII. Proposed Action

EPA is proposing to fully approve as meeting CAA section 182(c)(2) the ground-level one-hour ozone attainment demonstration State Implementation Plan for the Massachusetts portion of the Boston-Lawrence-Worcester, MA-NH nonattainment area submitted by Massachusetts on July 27, 1998, and supplemented on September 6, 2002. EPA is proposing an attainment date of November 15, 2007 for the area, and is proposing that the RACM analysis for the Massachusetts portion of the Boston-Lawrence-Worcester, MA-NH area meets the requirements of section 172(c)(1). This notice also proposes to approve 2007 motor vehicle emissions budgets for eastern Massachusetts into the SIP.

EPA is soliciting public comments on the issues discussed in this proposal. These issues will be considered before EPA takes final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this action.

A more detailed description of the state submittal and EPA's evaluation are included in a Technical Support Document (TSD) prepared in support of this rulemaking action. A copy of the TSD is available upon request from the EPA Regional Office listed in the **ADDRESSES** section of this document.

IX. 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Volatile organic compounds.

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

Dated: October 4, 2002.

Ira W. Leighton,

Acting Regional Administrator, New England Region.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[I.D. 092402E]

RIN 0648-AP87

Fisheries Off West Coast States and in the Western Pacific; Coastal Pelagic Species Fishery; Notice of Availability of Amendment 10; Corrections.

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

ACTION: Correction to notice of availability of an amendment to a fishery management plan.

SUMMARY: This document corrects the address and phone number for the Pacific Fishery Management Council (Council) in the notice of availability of Amendment 10, which was published October 3, 2002.

DATES: Effective October 15, 2002.

SUPPLEMENTARY INFORMATION:

Background

The notice of availability of Amendment 10 to the Coastal Pelagic Species Fishery Management Plan was published in the **Federal Register** on October 3, 2002 (67 FR 62001), and requested comments by December 2, 2002. The interested public was directed to obtain a copy of Amendment 10 from the Council, but the Council's former address and phone number was cited, not its current address and phone number.

¹⁶ The U.S. Court of Appeals for the D.C. Circuit recently addressed this issue in the context of a challenge to the Washington D.C. ozone attainment demonstration SIP, and concluded that contingency measures were required as part of an attainment demonstration SIP. See *Sierra Club v. EPA*, 294 F.3d 155, 164 (D.C. Cir. 2002). However, EPA believes that the court misconstrued the statute, and declines to follow the court's reasoning outside of the D.C. Circuit. EPA believes that the statute does not compel contingency measures as part of attainment demonstration SIPs because they are required as a separate submission under a separate statutory provision. See sections 172(c)(9) and 182(c)(2).

Correction

In the **ADDRESSES** section and **FOR FURTHER INFORMATION CONTACT** section of the Notice of availability FR Doc. 02-25171, in the issue of Thursday, October 3, 2002, (67 FR 62001), make the following corrections.

1. On page 62001, in the last paragraph in the second column, delete the given address for the Pacific Fishery Management Council and replace it with the following address:

“7700 NE Ambassador Place, Suite 200, Portland, OR 97220”.

2. On page 62001, in the third column under **FOR FURTHER INFORMATION CONTACT**, delete the phone number for the Pacific Fishery Management Council and replace it with the following phone number:

“503-820-2280”.

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

Dated: October 8, 2002.

Virginia M. Fay,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic Atmospheric Administration

50 CFR Part 679

[Docket No. 020920220-2220-01; I.D. 090302E]

RIN 0648-AL97

Fisheries of the Exclusive Economic Zone Off Alaska; Western Alaska Community Development Quota Program

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes amendments to the regulations governing the halibut fishery under the Western Alaska Community Development Quota (CDQ) Program. The proposed amendments would increase the Regulatory Area (Area) 4E trip limit from 6,000 lb. (2.72 metric tons (mt)) to 10,000 lb. (4.54 mt) and modify the Area 4 Catch Sharing Plan (CSP) to allow CDQ Program participants to harvest allocations of Area 4D halibut CDQ in Area 4E. This proposed action is intended to enhance harvesting opportunities for halibut CDQ fishermen and to further the goals

and objectives of the North Pacific Fishery Management Council (Council) with respect to the CDQ program and the Pacific halibut fishery, consistent with the regulations and resource management objectives of the International Pacific Halibut Commission (IPHC).

DATES: Comments on this proposed rule must be received by November 14, 2002.

ADDRESSES: Comments should be sent to Sue Salvesson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel-Durall, or delivered to the Federal Building, 709 West 9th Street, Room 413-1, Juneau, AK. Comments also may be sent via facsimile (fax) to 907-586-7465. Comments will not be accepted if submitted via e-mail or the Internet. Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for this proposed regulatory action may be obtained from the same address.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907-586-7228, e-mail obren.davis@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

The Secretary of Commerce (Secretary) is responsible for implementing the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, as provided by the Northern Pacific Halibut Act of 1982 (Halibut Act), at 16 U.S.C. 773. Section 773(c) of the Halibut Act authorizes the Regional Fishery Management Council having authority for the geographical area concerned to develop regulations governing the allocation and catch of Pacific halibut (*Hippoglossus stenolepis*) in U.S. Convention waters. Such regulations must be approved by the Secretary before being implemented and may be in addition to regulations developed by the IPHC.

In December 1991, the Council adopted a limited access system for managing the halibut fishery in and off Alaska under authority of the Halibut Act. This limited access system included an Individual Fishing Quota (IFQ) program for Areas 2C through 4D, and the CDQ program for Areas 4B through 4E. These programs were designed to allocate specific harvesting privileges among U.S. fishermen and eligible western Alaska communities to resolve management and conservation problems associated with “open access” fishery management, and to promote the

development of fishery-based economic opportunities in western Alaska. The IFQ and CDQ programs initially were implemented by regulations published in the **Federal Register** on November 9, 1993 (58 FR 59375). Fishing for halibut under these two programs began March 15, 1995.

Under the regulations established for the halibut IFQ and CDQ programs, the catch limit of halibut that is annually established for each area by the IPHC is divided among qualified halibut quota share holders. Halibut catch limits in Areas 4B, 4C, and 4D are divided between the IFQ and CDQ programs. Twenty percent of the Area 4B, 50 percent of the Area 4C, and 30 percent of the Area 4D annual catch limits are allocated to the CDQ Program. One hundred percent of the Area 4E annual catch limit is allocated to the CDQ program. The halibut CDQ reserves are divided among eligible CDQ communities in accordance with Community Development Plans (CDP) submitted by CDQ managing organizations (CDQ groups) and approved by NMFS. This proposed action affects only halibut CDQ harvested in Areas 4D and 4E.

Since 1995, four different CDQ groups have received annual allocations of Area 4D halibut and two CDQ groups have received annual allocations of Area 4E halibut. Between 1995 and 2001, the annual halibut CDQ reserve ranged from 231,000 to 609,000 lb. (104.78 to 276.24 mt) in Area 4D and from 120,000 to 390,000 lb. (54.43 to 176.9 mt) in Area 4E. Amounts specified for halibut catch limits, reserves, and allocations are all in net (headed and gutted) weight. Halibut CDQ in Areas 4D and 4E must be allocated to the CDQ groups that represent eligible communities located in, or proximate to, Areas 4D and 4E, respectively.

Catch Sharing Plan (CSP) for Area 4

The CSP for Area 4 originally was developed by the Council to apportion the IPHC's halibut catch limit for Area 4 among Areas 4A, 4B, 4C, 4D, and 4E as necessary to carry out the socioeconomic objectives of the IFQ and CDQ programs. The Area 4 CSP was published in the **Federal Register** on March 20, 1996 (61 FR 11337), and implemented by the IPHC that same year.

NMFS subsequently modified the Area 4 CSP to remove Areas 4A and 4B from the CSP in 1998. This change was to allow the catch limits for these two areas and a combined Area 4C-4E to be set according to the IPHC's revised area specific biomass-based methodology. The IPHC considers that Areas 4A, 4B,