

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).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 30, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: April 30, 2007.

**Laura Yoshii,**

*Acting Regional Administrator, Region IX.*

■ Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

#### PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

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

#### Subpart F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(344)(i)(C) and (347) to read as follows:

##### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*  
(344) \* \* \*  
(i) \* \* \*

(C) San Joaquin Valley Unified Air Quality Management District.

(1) Rule 4307, adopted on October 20, 2005; Rule 4309, adopted on December 15, 2005; and Rule 4905, adopted on October 20, 2005.

\* \* \* \* \*

(347) New and amended regulations for the following APCDs were submitted on October 5, 2006, by the Governor's designee.

(i) Incorporation by reference.

(A) San Joaquin Valley Unified Air Pollution Control District.

(1) Rule 4307, adopted on April 20, 2006; and Rule 4352, adopted on May 18, 2006.

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[FR Doc. E7-10236 Filed 5-29-07; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 07-2040; MB Docket No. 05-143; RM-11221; RM-11286]

#### Radio Broadcasting Services; Romney and Wardensville, WV

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Audio Division, at the request of Hardy County Broadcast Associates, allots Channel 239A at Wardensville, West Virginia, as the community's first local FM service. Channel 239A can be allotted to Wardensville, West Virginia, in compliance with the Commission's minimum distance separation requirements with at city reference coordinates: 39-04-30 North Latitude and 78-35-53 West Longitude. Because Wardensville is located within the protected areas of the National Radio Astronomy Observatory "Quiet Zone" at Green Bank, West Virginia, the successful applicant for Channel 239A at Wardensville will be required to comply with the notification requirement of Section 73.1030(a) of the Commission's rules, 47 CFR 73.1030(a).

**DATES:** Effective June 25, 2007.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Deborah Dupont, Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Report and Order*, MB Docket No. 05-143, adopted May 9, 2007, and released May 11, 2007. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The complete text of this decision also may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC,

20554, (800) 378-3160, or via the company's Web site, <http://www.bcpweb.com>. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

#### List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ As stated in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

#### PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336.

##### § 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under West Virginia, is amended by adding Wardensville, Channel 239A.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. E7-10360 Filed 5-29-07; 8:45 am]

**BILLING CODE 6712-01-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 061213334-6334-01; I.D. 120806B]

**RIN 0648-AV05**

#### Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Interim Rule Extension

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

**ACTION:** Temporary rule; interim rule extension.

**SUMMARY:** This action extends interim measures that were implemented by the National Marine Fisheries Service (NMFS) on December 22, 2006, to reduce the potential for overfishing the Atlantic sea scallop (scallop) resource and causing excessive scallop mortality resulting from deck loading by reducing the number of limited access and general category scallop trips to the Elephant Trunk Access Area (ETAA), and prohibiting the retention of more

than 50 U.S. bushels (17.62 hL) of in-shell scallop outside of the boundaries of the ETAA. This action will extend these interim measures, which were scheduled to expire on June 20, 2007, through December 23, 2007.

**DATES:** Effective from June 21, 2007, through December 23, 2007.

**FOR FURTHER INFORMATION CONTACT:**

Peter W. Christopher, Fishery Policy Analyst, 978-281-9288; fax 978-281-9135.

**SUPPLEMENTARY INFORMATION:** On December 22, 2006, the National Marine Fisheries Service (NMFS) implemented an interim final rule (71 FR 76945) that adjusted management measures for the ETAA. The interim action: (1) Reduced the number of trips from five trips to three trips for full-time scallop vessels in the ETAA (scallop possession limit would remain at 18,000 lb); (2) reduced the number of trips from 3 trips to 2 trips (for all access areas) for part-time scallop vessels in the ETAA (scallop possession limit for part-time vessels would be increased from 16,800 lb (7,620 kg) per trip to 18,000 lb (8,165 kg) per trip); (3) reduced the occasional vessel possession limit from 10,500 lb (4,763 kg) per trip to 7,500 lb (3,402 kg) per trip; (4) reduced the general category scallop fleet ETAA trip allocation from 1,360 trips to 865 trips; (5) delayed the opening of the ETAA from January 1, 2007, to March 1, 2007; and (6) prohibited the retention or deck loading (i.e., leaving a high volume of scallops on deck after leaving an access area so that the scallops can be shucked on the way in) of more than 50 U.S. bushels (17.62 hL) of in-shell scallop outside of the boundaries of the ETAA.

The interim action measures superseded measures scheduled to go into effect on January 1, 2007, under Framework 18 to the Atlantic Sea Scallop Fishery Management Plan (FMP) (Framework 18). The interim action was enacted in response to findings of the Scallop Plan Development Team (PDT), which advised the New England Fishery Management Council (Council) on November 7, 2006, that reducing the number of trips in the ETAA, delaying the opening, and prohibiting "deckloading", would reduce the potential for overfishing the scallop resource in 2007. The Council voted in November 2006, to recommend that NMFS implement interim measures consistent with the PDT's memorandum. On December 22, 2006, NMFS implemented an interim final rule adopting these recommendations. This interim final rule was scheduled to expire on June 20, 2007.

If the interim action expired, measures in Framework 18 would become effective, an increase in the number of trips and deck loading scallops in the ETAA would occur, and the benefits of the interim action would be lost. To ensure the interim action prevents or reduces overfishing for the 2007 fishing year, extension of the interim rule is necessary. This extension will keep measures in place through December 23, 2007. Since the 2007 fishing ends on February 29, 2008, the Council has initiated Framework Adjustment 20 that would extend the interim measures through February 29, 2008.

### Interim Measures

#### 1. ETAA Trip Reduction

This interim rule extension maintains the reduction in the number of trips from five trips to three trips for full-time scallop vessels in the ETAA (scallop possession limit remains at 18,000 lb (8,165 kg)); the reduction in the number of trips from three trips to two trips (for all access areas) for part-time scallop vessels in the ETAA (scallop possession limit for part-time vessels remains at 16,800 lb (7,620 kg) per trip); and the reduction in the occasional vessel possession limit from 10,500 lb (4,763 kg) per trip to 7,500 lb (3,402 kg) per trip. The regulations at § 648.60(a)(5) published for Framework 18 specified that an occasional vessel's possession limit is 7,500 lb (3,402 kg) per trip. However, Framework 18 intended and analyzed a possession limit of 10,500 lb (4,763 kg) per trip for the 2007 FY. This interim rule extension also maintains the reduction in the general category scallop fleet trip allocation from 1,360 to 865 trips in the ETAA.

Reducing the number of trips for scallop vessels in the ETAA addressed the concern that overfishing of the scallop resource may occur in 2007. Although the biomass in the ETAA remains very high relative to the rest of the scallop resource, it is less abundant than was projected in Framework 18. As a result, even though the fishing mortality is expected to be lower than the target fishing mortality in the area, it would be high enough at the lower biomass to contribute to overfishing in 2007. Part-time vessels have a trip reduction with an increase in the possession limit to ensure that the total access area catch for part-time vessels remains at 40 percent of the full-time access area catch, as intended by the FMP. Occasional vessels have one trip to any access area, but have a possession limit of 7,500 lb (3,402 kg) for the trip, ensuring that the total access area catch

for occasional vessels remains at 8.3 percent of the full-time access area catch. Reducing trips in the ETAA was contemplated in Framework 18 and the potential impacts of the trip reductions were fully analyzed in Framework 18.

#### 2. Delayed Opening of the ETAA

This interim rule extension maintains the provision that delayed the opening of the ETAA from January 1, 2007, until March 1, 2007. The delayed opening prevented vessels from harvesting scallops in the ETAA before they gained meat-weight during January through February. Following spawning in the fall months, scallops undergo a period of recovery when the meats increase in size and weight. Harvesting scallops at a higher meat-weight improves scallop yield, resulting in lower mortality, since fewer scallops need to be caught to meet the poundage possession limits. In addition, with three trips per vessel, one of the original reasons for opening the ETAA on January 1, 2007, (i.e., to spread the five allocated trips over a longer period) is no longer supported. The March 1, 2007, opening was also contemplated in Framework 18. The new information provided by the Council demonstrates that the delay was necessary, along with the trip reductions, to reduce overfishing in 2007.

#### 3. Prohibition on Deckloading

This interim rule extension maintains the prohibition on the retention of more than 50 U.S. bushels (17.62 hL) of in-shell scallop outside of the boundaries of the ETAA for vessels on Access Area trips. Deckloading is the practice of loading the deck of a vessel with the scallop catch from several tows. Under the current Access Area regulations, vessels can deckload and leave the area, and the vessel crews can spend the time steaming home, sorting and shucking scallops, thereby reducing overall trip costs. This can result in a vessel having more scallops on board than are necessary to achieve the possession limit. The excess scallops are discarded. In addition, due to deckloading, scallops remain on deck longer, increasing discard mortality. In the ETAA, deckloading may cause even higher scallop mortality, since catch rates are expected to be very high, there is a mix of scallop sizes in the area, and scallop crews may discard smaller scallops in favor of larger scallops. Although the amount of additional mortality cannot be estimated, prohibiting deckloading on ETAA trips is a complementary measure that will help prevent additional scallop mortality.

## Comments and Responses

*Comment 1:* Two commenters offered strong support for the interim action.

*Response:* Comment noted.

*Comment 2:* One commenter noted that NMFS “should have seen the [ETAA] issue coming.”

*Response:* Framework 18 included a mechanism to adjust the ETAA trips. The Council and NMFS included the provision to adjust ETAA measures in the event that the biomass estimates were overestimated in Framework 18 initially. The Framework 18 mechanism was determined to be not as effective as the interim action in addressing the uncertainty in the projections, but the issue was anticipated.

## Classification

Because this interim rule merely extends the interim action already in place, for which public comment was accepted and considered, NMFS finds it is impracticable and contrary to the public interest to provide any additional notice and opportunity for public comment under 5 U.S.C. 553(b)(B) prior to publishing the interim rule. Waiving prior notice and comment allows the ETAA interim measures to remain in place, thereby reducing the potential for overfishing the scallop resource and preventing excessive scallop mortality. For these reasons, the need to extend these measures to assure that overfishing does not occur also constitutes good cause under authority contained in 5 U.S.C. 553(d)(3), to waive the 30-day delayed effective date, and extend the interim action upon publication. This interim rule has been determined to be not significant for purposes of Executive Order 12866. This interim rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior notice and opportunity for public comment.

Dated: May 23, 2007.

**Samuel D. Rauch III**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

[FR Doc. E7-10370 Filed 5-29-07; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 061127309-7100-02; I.D. 110706D]

RIN 0648-AU72

#### Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Reporting Requirements and Conservation Measures

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

**ACTION:** Final rule.

**SUMMARY:** This action implements new reporting and conservation measures under the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP). The purpose of this action is to prevent interactions between CPS fisherman and southern sea otters, as well as establish methods for fishermen to report these occurrences when they occur. These reporting requirements and conservation measures require CPS fishermen/vessel operators to employ avoidance measures when southern sea otters are present in the area they are fishing and to report any interactions that may occur between their vessel and/or fishing gear and sea otters.

**DATES:** Effective June 29, 2007, except for § 660.520 which contains information collection requirements that have not been approved by OMB. NOAA will publish a document in the **Federal Register** announcing the effective date.

**ADDRESSES:** Copies of Amendment 11 and its Environmental Assessment/Regulatory Impact Review may be obtained from the Southwest Regional Office by contacting Rodney R. McInnis, Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this action may be submitted to the Southwest Regional Office and by e-mail to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov) or fax to (202) 395-7285

**FOR FURTHER INFORMATION CONTACT:** Joshua B. Lindsay, Southwest Region, NMFS, (562) 980-4034.

**SUPPLEMENTARY INFORMATION:** The CPS FMP, which was implemented by publication of the final rule in the

**Federal Register** on December 15, 1999 (64 FR 69888), regulates commercial fishing for CPS in the Exclusive Economic Zone (EEZ) off the West Coast; 3-200 nautical miles off the coastlines of Washington, Oregon, and California. This action implements new reporting requirements and conservation measures under the CPS FMP. Southern sea otters are listed as threatened under the Endangered Species Act (ESA) and depleted under the Marine Mammal Protection Act (MMPA), providing them strict protection under these laws. Known interactions between CPS fishing operations and southern sea otters are extremely rare. Data gathered from this action will prove valuable in determining whether such interactions are as rare as believed or whether stronger measures are necessary to ensure protection of this species. This action stems from a biological opinion (BO) issued by the U.S. Fish and Wildlife Service (USFWS) regarding the implementation of Amendment 11 to the CPS FMP.

## Background

In accordance with the regulations implementing the ESA, NMFS initiated an ESA section 7 consultation with the USFWS regarding the possible effects of implementing Amendment 11 (71 FR 36999) to the CPS FMP. USFWS determined that formal consultation was necessary on the possible effects to the threatened southern sea otter. USFWS completed a biological opinion (BO) for this action and concluded that it was not likely to jeopardize the continued existence of the southern sea otter. The requirements and conservation measures put forth in this action stem from this BO and are an attempt to provide further conservation efforts for southern sea otters. These reporting requirements and conservation measures require all CPS fishermen and vessel operators to employ avoidance measures when sea otters are present in the fishing area and to report any interactions that may occur between their vessel and/or fishing gear and otters.

Specifically, these new measures and regulations are:

1. CPS fishing boat operators and crew are prohibited from deploying their nets if a southern sea otter is observed within the area that would be encircled by the purse seine.

2. If a southern sea otter is entangled in a net, regardless of whether the animal is injured or killed, such an occurrence must be reported within 24 hours to the Regional Administrator, NMFS Southwest Region.