

*Boiler operating day* means any 24-hour period between 12:00 midnight and the following midnight during which any fuel is combusted at any of the units identified in paragraph (f) of this section.

*Combustion controls* shall mean new low NO<sub>x</sub> burners, new overfire air, and/or rotating overfire air.

*Continuous emission monitoring system* or *CEMS* means the equipment required by 40 CFR Part 75 to determine compliance with this paragraph (f).

*NO<sub>x</sub>* means nitrogen oxides expressed as nitrogen dioxide (NO<sub>2</sub>).

*Owner/operator* means any person who owns or who operates, controls, or supervises an EGU identified in paragraph (f) of this section.

*Unit* means any of the EGUs identified in paragraph (f) of this section.

*Unit-wide* means all of the EGUs identified in paragraph (f) of this section.

*Valid data* means data recorded when the CEMS is not out-of-control as defined by part 75 and which meets the relative accuracy requirements of this paragraph.

(2) *Emission limitations*—the total discharge of NO<sub>x</sub> from Units 1, 2, and 3, expressed as NO<sub>2</sub>, shall not exceed 0.20 lb/MMBtu determined over a 30 successive boiler operating day period. For each boiler operating day, hourly emissions of NO<sub>2</sub>, in pounds of NO<sub>2</sub>, for units 1, 2 and 3 for that day shall be summed together. For each boiler operating day, heat input, in millions of BTU, for units 1, 2 and 3 for that day shall be summed together. Each day the 30 successive boiler operating day NO<sub>2</sub> emission rate, in lb/MMBtu, shall be determined by adding together that day and the preceding 29 boiler operating days' pounds of NO<sub>2</sub> and dividing that total pounds of NO<sub>2</sub> by the sum of the heat input during the same 30-day period.

(3) *Compliance date*. The owners and operators subject to this section shall comply with the emissions limitations and other requirements of this section by January 1, 2015 and thereafter.

(4) *Testing and monitoring*. (i) At all times after the compliance date specified in paragraph (f)(3) of this section, the owner/operator of each unit shall maintain, calibrate, and operate a CEMS, in full compliance with the requirements found at 40 CFR part 75, to accurately measure NO<sub>x</sub>, diluent, and stack gas volumetric flow rate from each unit. In addition to these requirements, relative accuracy test audits shall be performed for both the NO<sub>2</sub> pounds per hour measurement and the hourly heat input measurement. Each such relative accuracy test audit shall have a relative

accuracy, as defined in 40 CFR part 60, appendix F, section 2.6, of less than 20 percent. This testing shall be evaluated each time the 40 CFR part 75 monitors undergo relative accuracy testing. Compliance with the emission limit for NO<sub>2</sub> shall be determined by using valid data that is quality assured in accordance with the requirements of this paragraph. (ii) If a valid NO<sub>x</sub> pounds per hour or heat input is not available for any hour for a unit, that heat input and NO<sub>x</sub> pounds per hour shall not be used in the calculation of the unit-wide rolling 30 successive boiler operating day average. Each unit shall obtain at least 90 percent hours of data over each calendar quarter. 40 CFR part 60 Appendix A Reference Methods may be used to supplement the part 75 monitoring.

(iii) Upon the effective date of the unit-wide NO<sub>x</sub> limit, the owner or operator shall have installed CEMS software that meets with the requirements of this section for measuring NO<sub>2</sub> pounds per hour and calculating the unit-wide 30 successive boiler operating day average as required in paragraph (f)(2) of this section.

(iv) Upon the completion of installation of ammonia injection on any of the three units, the owner or operator shall install, and thereafter maintain and operate, instrumentation to continuously monitor and record levels of ammonia consumption for that unit.

(5) *Notifications*. (i) The owner or operator shall notify EPA within two weeks after completion of installation of combustion controls or ammonia injection on any of the units subject to this section.

(ii) The owner or operator shall also notify EPA of initial start-up of any equipment for which notification was given in paragraph (f)(5)(i) of this section.

(6) *Equipment Operations*. After completion of installation of ammonia injection on any of the three units, the owner or operator shall inject sufficient ammonia to minimize the NO<sub>x</sub> emissions from that unit while preventing excessive ammonia emissions.

(7) *Recordkeeping*. The owner or operator shall maintain the following records for at least five years: (i) For each unit, CEMS data measuring NO<sub>x</sub> in lb/hr, heat input rate per hour, the daily calculation of the unit-wide 30 successive boiler operating day rolling lb NO<sub>2</sub>/MMBtu emission rate as required in paragraph (f)(2) of this section. (ii) Records of the relative accuracy test for NO<sub>x</sub> lb/hr measurement and hourly heat input

(iii) Records of ammonia consumption for each unit, as recorded by the instrumentation required in paragraph (f)(4)(iv) of this section.

(8) *Reporting*. Reports and notifications shall be submitted to the Director of Enforcement Division, U.S. EPA Region IX, at 75 Hawthorne Street, San Francisco, CA 94105. Within 30 days of the end of each calendar quarter after the effective date of this section, the owner or operator shall submit a report that lists the unit-wide 30 successive boiler operating day rolling lb NO<sub>2</sub>/MMBtu emission rate for each day. Included in this report shall be the results of any relative accuracy test audit performed during the calendar quarter.

(9) *Enforcement*. Notwithstanding any other provision in this implementation plan, any credible evidence or information relevant as to whether the unit would have been in compliance with applicable requirements if the appropriate performance or compliance test had been performed, can be used to establish whether or not the owner or operator has violated or is in violation of any standard or applicable emission limit in the plan.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 120312182-2239-02]

RIN 0648-XC166

#### Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Closure

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Pacific sardine off the coasts of Washington, Oregon and California. This action is necessary because the directed harvest allocation total for the second seasonal period (July 1–September 14) is projected to be reached by the effective date of this rule. From the effective date of this rule until September 15, 2012, Pacific sardine may be harvested only as part of the live bait fishery or incidental to other fisheries; the incidental harvest of Pacific sardine is limited to 30-percent by weight of all

fish per trip. Fishing vessels must be at shore and in the process of offloading at 12:01 a.m. Pacific Daylight Time, August 23, 2012.

**DATES:** Effective 12:01 a.m. Pacific Daylight Time (PDT) August 23, 2012, through 11:59 p.m., September 14, 2012.

**FOR FURTHER INFORMATION CONTACT:**

Joshua Lindsay, Southwest Region, NMFS, (562) 980-4034.

**SUPPLEMENTARY INFORMATION:** This document announces that based on the best available information recently obtained from the fishery and information on past effort, the directed fishing harvest allocation for the second allocation period (July 1–September 14) will be reached and therefore directed fishing for Pacific sardine is being closed until September 15, 2012. Fishing vessels must be at shore and in the process of offloading at the time of closure. From 12:01 a.m., August 23, through September 14, 2012, Pacific sardine may be harvested only as part of the live bait fishery or incidental to other fisheries, with the incidental harvest of Pacific sardine limited to 30-percent by weight of all fish caught during a trip.

NMFS manages the Pacific sardine fishery in the U.S. exclusive economic zone (EEZ) off the Pacific coast (California, Oregon, and Washington) in accordance with the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP). Annual specifications published in the **Federal Register** establish the harvest guideline (HG) and allowable

harvest levels for each Pacific sardine fishing season (January 1–December 31). If during any of the seasonal allocation periods the applicable adjusted directed harvest allocation is projected to be taken only incidental harvest is allowed, and for the remainder of the period, any incidental Pacific sardine landings will be counted against that period's incidental set aside. In the event that an incidental set-aside is projected to be attained, all fisheries will be closed to the retention of Pacific sardine for the remainder of the period via appropriate rulemaking.

Under 50 CFR 660.509, if the total HG or these apportionment levels for Pacific sardine are reached at any time, NMFS is required to close the Pacific sardine fishery via appropriate rulemaking and it is to remain closed until it re-opens either per the allocation scheme or the beginning of the next fishing season. In accordance with § 660.509 the Regional Administrator shall publish a notice in the **Federal Register** announcing the date of the closure of the directed fishery for Pacific sardine.

The above in-season harvest restrictions are not intended to affect the prosecution of the live bait portion of the Pacific sardine fishery.

**Classification**

This action is required by 50 CFR 660.509 and is exempt from Office of Management and Budget review under Executive Order 12866.

NMFS finds good cause to waive the requirement to provide prior notice and

opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) for the closure of the directed harvest of Pacific sardine. For the reasons set forth below, notice and comment procedures are impracticable and contrary to the public interest. For the same reasons, NMFS also finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness for this action. This measure responds to the best available information and is necessary for the conservation and management of the Pacific sardine resource. A delay in effectiveness would cause the fishery to exceed the in-season harvest level. These seasonal harvest levels are important mechanisms in preventing overfishing and managing the fishery at optimum yield. The established directed and incidental harvest allocations are designed to allow fair and equitable opportunity to the resource by all sectors of the Pacific sardine fishery and to allow access to other profitable CPS fisheries, such as squid and Pacific mackerel.

Many of the same fishermen who harvest Pacific sardine rely on these other fisheries for a significant portion of their income.

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

Dated: August 17, 2012.

**Lindsay Fullenkamp,**

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

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