

admission was requested failed to respond thereto).

\* \* \* \* \*

16. Revise § 2.129(a) to read as follows:

**§ 2.129 Oral argument; reconsideration.**

(a) If a party desires to have an oral argument at final hearing, the party shall request such argument by a separate notice filed not later than ten days after the due date for the filing of the last reply brief in the proceeding. Oral arguments will be heard by at least three Administrative Trademark Judges of the Trademark Trial and Appeal Board at the time specified in the notice of hearing. If any party appears at the specified time, that party will be heard. If the Board is prevented from hearing the case at the specified time, a new hearing date will be set. Unless otherwise permitted, oral arguments in an inter partes case will be limited to thirty minutes for each party. A party in the position of plaintiff may reserve part of the time allowed for oral argument to present a rebuttal argument.

\* \* \* \* \*

17. Revise § 2.133 (a) and (b) to read as follows:

**§ 2.133 Amendment of application or registration during proceedings.**

(a) An application subject to an opposition may not be amended in substance nor may a registration subject to a cancellation be amended or disclaimed in part, except with the consent of the other party or parties and the approval of the Trademark Trial and Appeal Board, or upon motion approved by the Board.

(b) If, in an inter partes proceeding, the Trademark Trial and Appeal Board finds that a party whose application or registration is the subject of the proceeding is not entitled to registration in the absence of a specified restriction to the application or registration, the Trademark Trial and Appeal Board will allow the party time in which to file a motion that the application or registration be amended to conform to the findings of the Trademark Trial and Appeal Board, failing which judgment will be entered against the party.

\* \* \* \* \*

18. Revise § 2.142(e)(1) to read as follows:

**§ 2.142 Time and manner of ex parte appeals.**

\* \* \* \* \*

(e)(1) If the appellant desires an oral hearing, a request therefor should be made by a separate notice filed not later than ten days after the due date for a reply brief. Oral argument will be heard

by at least three Administrative Trademark Judges of the Trademark Trial and Appeal Board at the time specified in the notice of hearing, which may be reset if the Board is prevented from hearing the argument at the specified time or, so far as is convenient and proper, to meet the wish of the appellant or the appellant's attorney or other authorized representative.

\* \* \* \* \*

19. Revise § 2.173(a) to read as follows:

**§ 2.173 Amendment of registration**

(a) A registrant may apply to amend a registration or to disclaim part of the mark in the registration. The registrant must submit a written request specifying the amendment or disclaimer and, if the registration is involved in an inter partes proceeding before the Trademark Trial and Appeal Board, the request must be filed by appropriate motion. This request must be signed by the registrant and verified or supported by a declaration under § 2.20, and accompanied by the required fee. If the amendment involves a change in the mark, the registrant must submit a new specimen showing the mark as used on or in connection with the goods or services, and a new drawing of the amended mark. The registration as amended must still contain registrable matter, and the mark as amended must be registrable as a whole. An amendment or disclaimer must not materially alter the character of the mark.

\* \* \* \* \*

20. Revise § 2.176 to read as follows:

**§ 2.176 Consideration of above matters.**

The matters in §§ 2.171 to 2.175 will be considered in the first instance by the Post Registration Examiners, except for requests to amend registrations involved in inter partes proceedings before the Trademark Trial and Appeal Board, as specified in § 2.173(a), which shall be considered by the Board. If an action of the Post Registration Examiner is adverse, registrant may petition the Director to review the action under § 2.146. If the registrant does not respond to an adverse action of the Examiner within six months of the mailing date, the matter will be considered abandoned.

Dated: January 4, 2006.

**Jon W. Dudas,**

*Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.*

[FR Doc. 06-197 Filed 1-13-06; 8:45 am]

**BILLING CODE 3510-16-U**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 60 and 61**

[FRL-8013-3]

**Delegation of New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants for the States of Arizona, California, Hawaii, and Nevada**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve updates for delegation of certain federal standards to state and local agencies in Region IX for delegation of New Source Performance Standards (NSPS), and National Emission Standards for Hazardous Air Pollutants (NESHAPs). This document is addressing general authorities mentioned in the regulations for NSPS and NESHAPs, proposing to update the delegations tables and clarifying those authorities that are retained by EPA.

**DATES:** Any comments on this proposal must arrive by February 16, 2006.

**ADDRESSES:** Send comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, or e-mail to [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov), or submit comments at <http://www.regulation.gov>.

Please contact Cynthia G. Allen at (415) 947-4120 to arrange a time if inspection of the supporting information is desired.

**FOR FURTHER INFORMATION CONTACT:** Cynthia G. Allen at (415) 947-4120, U.S. Environmental Protection Agency, Region IX, Rulemaking Office (Air-4), 75 Hawthorne Street, San Francisco, CA 94105.

**SUPPLEMENTARY INFORMATION:** This proposal updates the delegation tables in 40 CFR parts 60 and 61, to allow easier access by the public to the status of local jurisdictions. In the Rules and Regulations section of this **Federal Register**, we are updating these delegations tables in a direct final action without prior proposal because we believe these delegations are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this

time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: November 21, 2005.

**Kerry Drake,**

*Acting Director, Air Division Region IX.*

[FR Doc. 06-381 Filed 1-13-06; 8:45 am]

BILLING CODE 6560-50-U

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No 060109004-6004-01; I.D. 010406E]

RIN: 0648-AT76

#### Fisheries Off West Coast States and in the Western Pacific; Coastal Pelagic Species Fisheries; Annual Specifications

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

**ACTION:** Proposed rule.

**SUMMARY:** NMFS proposes a regulation to implement the annual harvest guideline for Pacific sardine in the U.S. exclusive economic zone off the Pacific coast for the fishing season of January 1, 2006, through December 31, 2006. This harvest guideline has been calculated according to the regulations implementing the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP) and establishes allowable harvest levels for Pacific sardine off the Pacific coast.

**DATES:** Comments must be received by February 1, 2006.

**ADDRESSES:** You may submit comments on this proposed rule, identified by I.D. 010406E by any of the following methods:

- E-mail: 0648-AT76.SWR@noaa.gov. Include the I.D. number 010406E in the subject line of the message.

- Federal e-Rulemaking portal: <http://www.regulations.gov>. Following the instructions for submitting comments.

- Mail: Rodney R. McInnis, Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213.

- Fax: (562) 980-4047.

Copies of the report *Assessment of Pacific Sardine Stock for U.S. Management in 2006* and the Environmental Assessment/Regulatory Impact Review may be obtained from

the Southwest Regional Office (see **ADDRESSES**).

**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), divides management unit species into two categories: actively managed and monitored. Harvest guidelines for actively managed species (Pacific sardine and Pacific mackerel) are based on formulas applied to current biomass estimates. Biomass estimates are not calculated for species that are only monitored (jack mackerel, northern anchovy, and market squid).

At a public meeting each year, the biomass for each actively managed species is reviewed by the Pacific Fishery Management Council's (Council) CPS Management Team (Team). The biomass, harvest guideline, and status of the fisheries are then reviewed at a public meeting of the Council's CPS Advisory Subpanel (Subpanel). This information is also reviewed by the Council's Scientific and Statistical Committee (SSC). The Council reviews the reports from the Team, Subpanel, and SSC, provides time for public comment, and then makes its recommendation to NMFS. The annual harvest guideline and season structure are published by NMFS in the **Federal Register** as soon as practicable before the beginning of the appropriate fishing season. The Pacific sardine season begins on January 1 and ends on December 31 of each year.

Public meetings of the Team and Subpanel were held at NMFS Southwest Fisheries Science Center in La Jolla, CA on October 5 and 6, 2005 (70 FR 55335, September 21, 2005). The Council reviewed the report at its November meeting in San Diego, CA, and listened to comments from its advisory bodies and the public. The Council then adopted the 2006 harvest guideline for Pacific sardine. Based on a biomass estimate of 1,061,391 metric tons (mt), the harvest guideline for Pacific sardine for January 1, 2006, through December 31, 2006, is 118,937 mt.

The size of the sardine population was estimated using an integrated stock assessment model called Age-structured Assessment Program (ASAP). ASAP is a flexible forward-simulation that allows for the efficient and reliable estimation of a large number of parameters. ASAP uses fishery dependent and fishery independent data to obtain annual estimates of sardine abundance, year-class strength, and age-specific fishing

mortality. The ASAP model allows one to account for the expansion of the Pacific sardine stock northward to include waters off the northwest Pacific coast and for the incorporation of data from the Mexican sardine fishery. Information on the fishery and the stock assessment are found in the report *Assessment of Pacific Sardine Stock for U.S. Management in 2006* (see **ADDRESSES**).

The formula in the FMP uses the following factors to determine the harvest guideline:

1. *The biomass of sardines age one and above.* For 2006, this estimate is 1,061,391 mt.

2. *The cutoff.* This is the biomass level below which no commercial fishery is allowed. The FMP established this level at 150,000 mt.

3. *The portion of the sardine biomass that is in U.S. waters.* For 2006, this estimate is 87 percent. It is based on the average larval distribution obtained from scientific cruises and the distribution of the resource obtained from logbooks of aerial fish-spotters.

4. *The harvest fraction.* This is the percentage of the biomass above 150,000 mt that may be harvested. The fraction varies from 5 to 15 percent, depending on current ocean temperatures. The higher fraction is used for warmer ocean temperatures, which favor production of Pacific sardine, and the lower fraction is used for cooler temperatures. Based on the last three seasons of sea surface temperatures at Scripps Pier, California, a fraction of 15 percent was used for 2006.

Based on the estimated biomass of 1,061,391 mt and the formula in the FMP, a harvest guideline of 118,937 mt was determined for the fishery beginning January 1, 2006.

Amendment 11 to the CPS FMP, which is now undergoing Secretarial review, would change the framework for the annual apportionment of the Pacific sardine harvest guideline along the U.S. Pacific coast and set up a new long-term allocation scheme. A proposed rule to implement Amendment 11 was published in the **Federal Register** on November 16, 2005 (70 FR 69502). Based on this new long-term allocation scheme, 35 percent of the harvest guideline would be released coastwide on January 1; 40 percent of the harvest guideline, plus any portion not harvested from the initial 35 percent would be released coastwide on July 1; and on September 15 the remaining 25 percent, plus any portion not harvested from the earlier releases would then be available for harvest.

If the total harvest guideline or these apportionment levels for Pacific sardine