

exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001), or Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes. As a result, this action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of FFDCA. As such, EPA has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, EPA has determined that Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999), and Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 9, 2000), do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4).

This action does not involve any technical standards that would require EPA consideration of voluntary consensus standards pursuant to 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).

XI. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report 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 this final rule in the **Federal Register**. This final rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: February 17, 2011.

Keith A. Matthews,

Director, Biopesticides and Pollution Prevention 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), 346a and 371.

■ 2. In § 180.1196, add paragraph (c) to read as follows:

§ 180.1196 Peroxyacetic acid; exemption from the requirement of a tolerance.

* * * * *

(c) An exemption from the requirement of a tolerance is established for residues of the biochemical pesticide peroxyacetic acid and its metabolites and degradates, including hydrogen peroxide and acetic acid, in or on all food commodities, when used in accordance with good agricultural practices.

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DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Chapter 2

Defense Federal Acquisition Regulation Supplement; Appendix A, Armed Services Board of Contract Appeals, Part 2—Rules

CFR Correction

In Title 48 of the Code of Federal Regulations, Chapter 2 (Parts 201 to 299), revised as of October 1, 2010, on page 516, in Appendix A, above the heading "Preface", the following heading and text is added;

APPENDIX A TO CHAPTER 2—ARMED SERVICES BOARD OF CONTRACT APPEALS

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Part 2—Rules

Approved 15 July 1963.

Revised 1 May 1969.

Revised 1 September 1973.

Revised 30 June 1980.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 110111018-1095-02]

RIN 0648-XA109

Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Annual Specifications

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

ACTION: Temporary emergency rule; interim measures.

SUMMARY: NMFS is suspending directed fishing for Pacific sardine off the coasts of Washington, Oregon and California through June 30, 2011. This action is necessary because the proposed directed harvest allocation total for Pacific sardine the first seasonal period (January 1–June 30) of 15,214 metric tons (mt) is projected to be reached by the effective date of this rule. Under this rule, 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 caught per trip. Vessels with Pacific sardine catch must be at shore and in the process of offloading at 12:01 a.m. Pacific Standard Time (PST) on the date of this closure. This rule is necessary to help conserve and manage Pacific sardine off the West Coast.

DATES: Effective 12:01 am PST, March 5, 2011, through June 30, 2011.

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

SUPPLEMENTARY INFORMATION: Based on the best available information recently obtained from the fishery and information on past effort, the proposed 2011 directed fishing harvest allocation for Pacific sardine for the first period (January 1–June 30) of fishing year 2011 has been reached. Accordingly, NMFS is closing directed fishing for Pacific sardine until the beginning of the next fishing period for this species on July 1, 2011. Vessels with Pacific sardine catch must be at shore and in the process of offloading at the time of this closure. From 12:01 a.m. on the date of closure through June 30, 2011, 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. This action is necessary to avoid overfishing and ensure orderly management of the 2011 Pacific sardine fishery in anticipation of approval and implementation of the 2011 Pacific sardine annual specifications. NMFS anticipates the second and third allocation periods of the 2011 fishing

season being managed under those annual specifications.

NMFS manages the Pacific sardine fishery in the U.S. exclusive economic zone (EEZ) off the Pacific coast (California, Oregon, and Washington) under the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*, in accordance with the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP). Additionally, the Magnuson-Stevens Act provides that, where necessary to prevent overfishing, NMFS may issue an emergency rule to address the overfishing concern (18 U.S.C. 1855(c)). Each year, NMFS publishes annual specifications in the **Federal Register** to establish the harvest guideline (HG) and seasonal allocations for each fishing season (January 1–December 31). Per the framework in the CPS FMP, if, during any of the seasonal allocation periods, the applicable adjusted directed harvest allocation is projected to be taken, only incidental harvest is allowed. These seasonal allocations were established as mechanisms to prevent overfishing and provide equitable opportunity to the resource.

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 interim rule has been determined to be not significant for purposes of 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 is necessary for the conservation and management of the Pacific sardine resource while the rulemaking process for the 2011 Pacific sardine annual specifications is finalized. A delay in effectiveness of this action would cause the fishery to exceed a proposed seasonal allocation. The seasonal allocation framework established in the FMP is an important mechanism to prevent overfishing, and is designed to allow fair and equitable opportunity to the resource by all sectors of the Pacific sardine fishery. Delaying the effective date of this rule is therefore impracticable, because any delay would decrease the Pacific sardine stock. Delay is also contrary to the public interest, because additional reduction of Pacific sardine beyond the incidental take limit set out in this action would decrease the future stock of the species, as well as harvest limits, thereby reducing future potential catch of the stock along with the profits associated with those harvests.

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

Dated: February 28, 2011.

Samuel D. Rauch III,

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

[FR Doc. 2011-4922 Filed 3-1-11; 4:15 pm]

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