E.O. 12866 requires agencies to regulate in the ''most cost-effective manner,'' to make a ''reasoned determination that the benefits of the intended regulation justify its costs,'' and to develop regulations that ''impose the least burden on society.'' We therefore request comments, including specific data if possible, concerning the costs and benefits of incorporating requirements for the storage of explosives and other high-hazard materials during transportation into the HMR.

H. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document may be used to cross-reference this action with the Unified Agenda.

I. Privacy Act

Anyone is able to search the electronic form for all comments received into any of our dockets by the name of the individual submitting the comments (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) of you may visit *http://dms.dot.gov*.

Issued in Washington, DC, on November 10, 2005, under authority delegated in 49 CFR part 106.

Robert McGuire,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 05–22751 Filed 11–15–05; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 051028280–5280–01; I.D. 102105A]

RIN 0648–AT11

Fisheries Off West Coast States and in the Western Pacific; Coastal Pelagic Species Fisheries; Amendment 11

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to implement Amendment 11 to the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP) which would change the framework for the annual apportionment of the Pacific sardine harvest guideline along the U.S. Pacific coast. The purpose of the proposed rule is to achieve optimal utilization of the Pacific sardine resource and equitable allocation of the harvest opportunity for Pacific sardine.

DATES: Comments must be received by December 16, 2005.

ADDRESSES: You may submit comments on this proposed rule identified by I.D. 102105A by any of the following methods:

- E-mail: *0648–AT11.SWR@noaa.gov*. Include I.D. 102105A in the subject line of the message.
- Federal e-Rulemaking portal:*http://www.regulations.gov* Follow the instruction for submitting comments.
- Fax: (562) 980–4047.
- Mail: Rodney R. McInnis, Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, California 90802.

For copies of Amendment 11 entitled *Allocation of the Pacific Sardine Harvest Guideline Amendment 11 to the Coastal Pelagic Species fishery Management Plan*, and the accompanying environmental assessment/initial regulatory flexibility analysis/regulatory impact review (EA/IRFA/RIR) may be obtained at the address above.

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

SUPPLEMENTARY INFORMATION: Pacific sardines are managed pursuant to the CPS FMP, which was implemented by regulations published at 64 FR 69893, December 15, 1999. According to the original allocation scheme in the CPS FMP, the annual harvest guideline for Pacific sardine was allocated two-thirds south of Pt. Piedras Blancas, California (35° 40′ N. lat.) (a point south of Monterey, California, which included the fishery in Southern California) and one-third north (included fisheries in Monterey, California, Oregon, and Washington), beginning annually on January 1. On October 1, the harvest guideline remaining in each subarea was added together, then divided equally between the two areas.

In 2002, the northern allocation was reached before October 1, which required closure of the fishery while significant amounts of Pacific sardine remained unharvested in the south (67 FR 58733, September 18, 2002). Rough ocean conditions in the Pacific Northwest beginning in October makes fishing for Pacific sardine with a purse seine gear difficult or impossible. Thus, even if the harvest of Pacific sardine were provided to fisheries in the Pacific Northwest after October 1, it would not likely be obtained because the rough ocean conditions along the coast during that time would preclude fishing for Pacific sardine. Because the Pacific sardine fisheries off Oregon and Washington would be virtually over by October, the Pacific Fishery Management Council (Council) requested an emergency rule to make the required allocation in 2002 earlier than October 1, to avoid losses in jobs and revenue. An emergency rule was implemented on September 26, 2002 (67 FR 60601), that reallocated the harvest guideline and reopened the fishery.

The CPS FMP established a limited entry fishery south of Pt. Arena, California (39° N. lat.), which was a point north of San Francisco, California. An open access fishery existed north of Pt. Arena, California made up of Pacific sardine fisheries off Northern California, Oregon, and Washington.

When the CPS FMP was implemented no Pacific sardine fishery in Oregon and Washington existed. The Council adopted the allocation procedure included in the CPS FMP to protect the Monterey, California fishery (in the northern subarea or Subarea A) from the possibility of the fishery in Southern California (in the southern subarea or Subarea B) catching the entire harvest guideline before Pacific sardine became available in Monterey. As a result of the FMP's allocation procedure, a fishing pattern developed whereby Pacific sardine was caught by the Southern California fleet at the beginning of the year, by the Pacific Northwest fleet in the summer, and by the Monterey fleet in the fall. The fishing pattern led to the possibility that the fishery in the northern subarea might preempt the fishery in the southern subarea. If Pacific sardine remained unharvested in either subarea following the reallocation on October 1, the FMP did not provide a procedure to make further reallocations to any subarea to increase the likelihood of achieving optimum yield (OY) in the Pacific sardine fishery.

The Council recognized that a process with more flexibility for making allocation decisions was needed. Therefore, the Council considered amending the framework process for implementing the CPS FMP found at 50

CFR 660.517. At its November 2002 meeting in Foster City, CA, the Council adopted a set of management alternatives to address the allocation issue and directed its Coastal Pelagic Species Management Team (Team) to analyze these alternatives. The primary goal was to avoid closing any sector of the Pacific sardine fishery while a portion of the harvest guideline remain unharvested.

At its meeting in Vancouver, Washington, on April 10, 2003, the Council received reports from the CPS Advisory Subpanel (Subpanel), Team, and public comments, and adopted an interim allocation framework that: (1) changed the definition of subarea A and subarea B by moving the geographic boundary between the two areas from Pt. Piedras Blancas at 35° 40′ 00″ N. lat. to Pt. Arena at 39° 00′ 00″ N. lat., (2) moved the date when Pacific sardine that remain unharvested are reallocated to Subarea A and Subarea B from October 1 to September 1, (3) changed the percentage of the unharvested Pacific sardine that is reallocated to Subarea A and Subarea B from 50 percent to both subareas to 20 percent to Subarea A and 80 percent to Subarea B, and (4) reallocated all unharvested Pacific sardine that remained on December 1 coastwide. This procedure was proposed to be in effect for 2003 and 2004, and for 2005 if the 2005 harvest guideline is at least 90 percent of the 2003 harvest guideline.

Using the best available information, the interim allocation framework was developed to address concerns for the short-term until NMFS and the Council had sufficient time to develop a more comprehensive, longer-term allocation framework. In order to achieve optimal utilization and equitable allocation between the different sectors of the Pacific sardine fishery, the Council tasked the Subpanel to develop an initial range of allocation alternatives for a longer-term allocation framework. The Subpanel adopted a range of alternatives for the allocation of Pacific sardine at their meetings in August and September 2004. At the November 2004 meeting the Council reviewed the range of alternatives, and with some modification and additions, forwarded nine alternatives to the Team for preliminary analysis. When adopting a range of alternatives for long-term allocation in April 2005, the Council expressed an interest in having the flexibility to revisit the proposed action in the near-term as the Pacific sardine resource and the fisheries and markets that rely on it are dynamic and difficult to predict.

At the April 2005 Council meeting the Council adopted seven of the nine alternatives and sent those to the Team for further analysis. Below is a summary of the seven forwarded alternatives given to the Team for analysis including both a no action alternative and a status quo alternative. If the Council chose to take no action, the allocation framework would revert to original FMP (64 FR 69888, December 15, 1999) formula that was in place before the regulatory amendment (69 FR 8572, February 25, 2003) was implemented in 2003. Under status quo the Council would have chosen to take action to extend the interim allocation. The order of alternatives does not indicate rank or priority. All alternatives (except No Action) used Point Arena, California (39° N. lat.) as the dividing line between the allocation subareas. In order to present the alternatives in a clear and comparable fashion the descriptions bullet the fishing season, the initial allocation, and reallocations made at different points during the fishing season.

No Action: FMP Allocation Framework

The allocation subareas are divided at Point Piedras Blancas, California (35° 40′ N. lat.).

Season: January 1 – December 31

Initial allocation: On January 1, 33 percent of the harvest guideline is allocated to the Subarea A (north, which includes Monterey) and 66 percent to the Subarea B (Southern California).

Reallocation: On October 1, remaining unharvested portion of the harvest guideline is pooled and reallocated 50 percent to Subarea A (north) and 50 percent to Subarea B (south).

Status Quo: Interim Allocation Framework

Season: January 1 – December 31

Initial allocation: On January 1, 33 percent of the harvest guideline is allocated to the Subarea A (north) and 66 percent to Subarea B (south).

Reallocation: On September 1, 20 percent of the remaining unharvested portion of the harvest guideline is reallocated to the Subarea A (north) and 80 percent to Subarea B (south).

Second reallocation: On December 1, the remaining unharvested portion of the harvest guideline is reallocated coastwide.

Alternative 1: Coastwide Allocation In Two Periods

Season: January 1 – December 31

Initial allocation: On January 1, 50 percent of the harvest guideline is allocated coastwide.

Reallocation: On July 1, the remaining harvest guideline (50 percent plus any unharvested portion from the initial allocation) is allocated coastwide.

Alternative 2: Rejected by the Council

Alternative 3: Coastwide Allocation In Three Periods

Season: January 1 – December 31

Initial allocation: On January 1, 40 percent of the harvest guideline is allocated coastwide.

Reallocation: On July 1, 40 percent of the harvest guideline (plus any unharvested portion from the initial allocation) is allocated coastwide.

Second reallocation: On October 1, 20 percent of the harvest guideline (plus any unharvested portion from the first reallocation) is reallocated coastwide.

Alternative 4: Allocation Formula Depends on the Size of the Harvest Guideline

Season: January 1 – December 31

(a) The coastwide harvest guideline is greater than 100,000 mt:

Initial allocation: On January 1, 40 percent of the coastwide harvest guideline is allocated to the Subarea A (north) and 60 percent to the Subarea B (south).

Reallocation: On September 1, the remaining unharvested portion of the harvest guideline is pooled and allocated coastwide.

(b) The coastwide harvest guideline is less than 100,000 mt:

Initial allocation: On January 1, 33 percent of the coastwide harvest guideline is allocated to Subarea A (north) and 66 percent to the Subarea B (south).

Reallocation: On September 1, the remaining unharvested portion of the coastwide harvest guideline is pooled and 20 percent is allocated to Subarea A (north) and 80 percent to the Subarea B (south).

Second reallocation: On November 1, any remaining unharvested portion of the harvest guideline is again pooled and reallocated coastwide.

Alternative 5: Rejected by the Council

Alternative 6: Transfer of Unused Allocations Between Subareas

Season: January 1 – December 31

Initial allocation (for 2006 only): On January 1, 40 percent of the harvest guideline is allocated to the Subarea A (north) and 60 percent to the Subarea B (south).

Reallocation: On September 1, the remaining harvest guideline is pooled and allocated coastwide.

Transfer Rules For Computing Subsequent-Year Allocations After the

initial year (2006) these rules dictate the allocations to each subarea in each subsequent year:

Rule 1: The transfer of a portion of the harvest guideline from one subarea to the other, for the purpose of recomputing allocation percentages for the next year, occurs if the portion of a subarea's allocation remaining uncaught at the end of the year is greater than the transfer limits described in Rule 2.

Rule 2: If the harvest guideline is greater than 100,000 mt, the transfer amount will be equal to 10 percent of the coastwide harvest guideline for that year. When the coastwide harvest guideline is 100,000 mt or less, the transfer amount will be 5,000 mt.

Rule 3: The transfer amount is applied to the current-year allocation for each subarea. The resulting numerical values are then converted to percentages of the current-year coastwide harvest guideline and used to determine the initial allocation for the following year.

Rule 4: No subarea may initially be allocated more than 75 percent of the coastwide harvest guideline.

Rule 5: The September 1 coastwide reallocation always applies.

Alternative 7: Equal Reallocation

Season: January 1 – December 31

Initial allocation: On January 1, 33 percent of the harvest guideline is allocated to the Subarea A (north) and 66 percent to the Subarea B (south).

Reallocation: On September 1, remaining harvest guideline is pooled and 50 percent of the harvest guideline is allocated to the Subarea A (north) and 50 percent to the Subarea B (south).

Second Reallocation: On November 1, any remaining unharvested portion of the harvest guideline is again pooled and reallocated coastwide.

At the June 2005 Council meeting in Foster City, CA, the Council adopted a preferred option for the allocation of Pacific sardine that creates a seasonal, coastwide allocation scheme. This preferred alternative is a modified version of Alternative 3, which provides the following allocation formula for the non-tribal share of the harvest guideline:

Coastwide Allocation In Three Periods

Season: January 1 – December 31

Initial allocation: On January 1, 35 percent of the harvest guideline is allocated coastwide.

Reallocation: On July 1, 40 percent of the harvest guideline (plus any unharvested portion from the initial allocation) is allocated coastwide.

Second reallocation: On September 15, 25 percent of the harvest guideline (plus any unharvested portion from the first reallocation) is reallocated coastwide.

The Council also recommended a review of the allocation formula in 2008.

Classification

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866.

At this time, NMFS has not determined that Amendment 11 that this proposed rule would implement is consistent with the national standards of the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

An IRFA was prepared that describes the economic impact this proposed rule, if adopted, would have on small entities. The IRFA is available from NMFS (see **ADDRESSES**). A summary of the IRFA follows:

A description of the action, why it is being considered, and the legal basis for this action are contained in the **SUMMARY** and in the **SUPPLEMENTARY INFORMATION** sections of this proposed rule. This proposed rule does not duplicate, overlap, or conflict with other Federal rules. There are no reporting, record-keeping, or other compliance requirements of the proposed rule.

Approximately 104 vessels were permitted to operate in the Pacific sardine fisheries off the U.S. West Coast in 2004; 63 vessels were permitted in the Federal CPS limited entry fishery off California (south of 39° N. lat.), while 41 vessels were permitted in Oregon and Washington's state Pacific sardine fisheries. All of these vessels would be considered small businesses under the Small Business Administration standards since the vessels do not have annual receipts in excess of $3.5 million. Therefore, NMFS does not anticipate any disproportionate economic impacts resulting between small and large vessels under the proposed action. Additionally, this proposed action is not likely to significantly affect (both positive and negative effects) these small entities. The purpose of the action is to achieve optimal utilization of the available harvest by all entities through an equitable coastwide allocation. Therefore vessels in all regions should have an equal opportunity to the resource.

The fleet as it exists in present day is not likely to change over the 2005–2009 period because vessels from California could fish in the U.S. Exclusive Economic Zone off Oregon and Washington without a respective state issued limited entry permit, but would have to land their catches in California. Given the current technology and operational aspects of the Pacific sardine fishery this would not be practicable. Therefore, NMFS believes that these 63 and 41 vessels will comprise the respective southern and northern subarea fleets in the future. Under the preferred long-term allocation alternative, Pacific sardine landings for CPS for the entire West Coast were projected to increase: (1) 19,674 mt from the status quo over the 2005–2009 period, with a corresponding increase in ex-vessel revenues of $3,076,891, under a 136,000–mt harvest guideline, and a 10 percent annual growth rate in landings for all fishery sectors over the 2005–2009 period (defined as base case); (2) no change in total landings, but an increase of $1,514,553 in ex-vessel revenues under a 72,000 mt harvest guideline, and a 10- percent annual growth rate in landings for all Pacific sardine fishery sectors over the 2005–2009 period (defined as low harvest guideline case or); and, (3) no change in total landings or in total ex-vessel revenues under a 200,000 mt harvest guideline, and a 10–percent annual growth rate in landings for all fishery sectors over the 2005–2009 period (defined as high harvest guideline case).

NMFS anticipates a 10 percent annual growth rate per year based on input from the Pacific sardine industry members as to what the Pacific sardine market could accommodate. For the preferred alternative, Pacific sardine landings in the northern subarea sardine fishery were estimated to be 28,141 mt greater than the status quo with ex-vessel revenues increasing by $3.8 million under the base case; a 34,592–mt increase in landings and an increase of $4.7 million in ex-vessel revenue under the low harvest guideline case; and a no increase in landings or in ex-vessel revenue under the high harvest guideline case. Landings in the southern subarea Pacific sardine fishery would decrease by 8,467–mt and ex-vessel revenues would decrease by $743,181 relative to the status quo under the base case; a decrease of 26,011 mt in landings and $3.2 million in ex-vessel revenues under the low harvest guideline case; and, no changes under the high harvest guideline case.

For the 63 CPS limited entry vessels that would be eligible to participate in the southern subarea Pacific sardine fishery, the 8,467 mt loss in landings over the period under the base case, preferred alternative, represents a potential decrease in ex-vessel revenues of $11,797 per vessel from the status quo alternative, which would be 2.6

percent loss in each vessel's projected revenues. For the preferred alternative under the low harvest guideline case, vessels in the southern subarea fishery stand to lose $50,497 each, a 15.3–percent decrease from the status quo, and under the high harvest guideline case there would be no change in vessel earnings from the status quo. These estimates may understate the actual earnings impacts per vessel since only 61 vessels participated in the southern subarea fishery during 2004.

For the 41 vessels that could participate in the northern subarea fishery each would stand to gain $93,173 in ex-vessel revenues over the period under the base case, preferred alternative, a 10.6–percent increase from the status quo alternative. For the preferred alternative under the low harvest guideline case, vessels in the northern subarea fishery gain $114,533 each, a 26.4–percent increase from the status quo, and under the high harvest guideline case there would be no change from the status quo. These estimates may understate the actual earnings impacts per vessel since only 34 vessels recorded landings in the northern subarea fishery during 2004.

The Council considered six alternatives to the preferred alternative in addition to the status quo alternative. All alternatives resulted in ex-vessel revenue gains of various magnitudes for the fishery as a whole except the ''No Action'' alternative in all cases, and alternative 4.b under the low harvest guideline case. Although the proposed alternative did not yield the greatest overall gain, with the least negative impacts to individual vessels from any one region, it was deemed most equitable by industry members when considered relative to the full range of conservation and management objectives constituting optimum yield under the Magnuson-Stevens Act.

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: November 9, 2005.

James W. Balsiger,

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

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 660 as follows:

PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

1. The authority citation for part 660 continues to read as follows:

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

2. In § 660.502, the definition for ''Initial annual harvest guideline'' is added, in alphabetical order, to read as follows:

§ 660.502 Definitions.

* * * * *

Initial harvest guideline means a specified numerical harvest objective set at the beginning of the fishing season.

* * * * *

3. Section 660.509 is revised to read as follows:

§ 660.509 Closure of directed fishery.

* * * * *

(a) When the annual harvest guideline for either Pacific sardine or Pacific mackerel is reached, the directed fishery for Pacific sardine or Pacific mackerel shall be closed until the beginning of the next fishing season as stated in § 660.510 (a) and (b). The Regional Administrator shall announce in the **Federal Register** the date of closure of the directed fishery for Pacific sardine or Pacific mackerel. Upon such closure, Pacific mackerel may be harvested incidental to the directed fishery for Pacific sardine to the extent permitted by the annual harvest guideline. The Regional Administrator shall announce in the **Federal Register** the amount of the incidental trip limit, if any, that was recommended by the Council and approved by NMFS.

(b) When the allocation and reallocation levels for Pacific sardine in § 660.511 (f)-(h) are reached, the Pacific sardine fishery shall be closed until either it re-opens per the allocation scheme in § 660.511 (g) and (h) or the beginning of the next fishing season as stated in § 660.510 (a). The Regional Administrator shall announce in the **Federal Register** the date of the closure of the directed fishery for Pacific sardine.

4. In § 660.511 paragraph (f) is revised, and paragraphs (g), and (h) are added to read as follows:

§ 660.511 Catch restrictions.

* * * * *

(f) On January 1, 35 percent of the initial harvest guideline for Pacific sardine is allocated coastwide within the fishery management area.

(g) On July 1, 40 percent of the initial harvest guideline for Pacific sardine plus the remaining unharvested portion of the January 1 allocation in (f) is allocated coastwide within the fishery management area.

(h) On September 15, 25 percent of the initial harvest guideline for Pacific sardine plus the remaining unharvested portion of the July 1 allocation is allocated coastwide within the fishery management area.

[FR Doc. 05–22729 Filed 11–15–05; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 110805A]

RIN 0648–AT92

Fisheries of the Exclusive Economic Zone Off Alaska; Total Allowable Catch Amounts for ''Other Species'' in the Groundfish Fisheries of the Gulf of Alaska

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

ACTION: Notice of availability; request for comments.

SUMMARY: The North Pacific Fishery Management Council (Council) has submitted Amendment 69 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). If approved, Amendment 69 would amend the manner in which the total allowable catch (TAC) for the ''other species'' complex is annually determined in the Gulf of Alaska (GOA). As part of the annual harvest specifications, the Council would recommend a TAC amount for the ''other species'' complex at a level less than or equal to 5 percent of the sum of the TACs for the remaining groundfish species and complexes in the GOA. This action would allow conservation and management of species within the ''other species'' category and is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the FMP, and other applicable laws. Comments from the public are welcome.

DATES: Comments on the amendment must be received on or before January 17, 2006.

ADDRESSES: Send comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: