

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 12/13/2010

Department of Commerce  
National Oceanic and Atmospheric Administration  
FOR CERTIFYING OFFICIAL: Simon Szykman  
FOR CLEARANCE OFFICER: Diana Hynek

In accordance with the Paperwork Reduction Act, OMB has taken action on your request received 08/12/2010

ACTION REQUESTED: Extension without change of a currently approved collection  
TYPE OF REVIEW REQUESTED: Regular  
ICR REFERENCE NUMBER: 201007-0648-006  
AGENCY ICR TRACKING NUMBER:  
TITLE: Reporting Requirements for Sea Otter Interactions with the Pacific Sardine Fishery; Coastal Pelagic Species Fishery Management Plan  
LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change  
OMB CONTROL NUMBER: 0648-0566  
The agency is required to display the OMB Control Number and inform respondents of its legal significance in accordance with 5 CFR 1320.5(b).

EXPIRATION DATE: 12/31/2013 DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	2	1	10
New	2	1	10
Difference			
Change due to New Statute	0	0	0
Change due to Agency Discretion	0	0	0
Change due to Agency Adjustment	0	0	0
Change Due to Potential Violation of the PRA	0	0	0

TERMS OF CLEARANCE:

OMB Authorizing Official: Kevin F. Neyland  
Deputy Administrator,  
Office Of Information And Regulatory Affairs

List of ICs

IC Title	Form No.	Form Name	CFR Citation
Report of sea otter interaction			50 CFR 660.61

# PAPERWORK REDUCTION ACT SUBMISSION

**Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the supporting statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.**

1. Agency/Subagency originating request	2. OMB control number <span style="float: right;">b. <input type="checkbox"/> None</span> a. _____ - _____
3. Type of information collection ( <i>check one</i> ) a. <input type="checkbox"/> New Collection b. <input type="checkbox"/> Revision of a currently approved collection c. <input type="checkbox"/> Extension of a currently approved collection d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired f. <input type="checkbox"/> Existing collection in use without an OMB control number For b-f, note Item A2 of Supporting Statement instructions	4. Type of review requested ( <i>check one</i> ) a. <input type="checkbox"/> Regular submission b. <input type="checkbox"/> Emergency - Approval requested by _____ / _____ / _____ c. <input type="checkbox"/> Delegated
	5. Small entities Will this information collection have a significant economic impact on a substantial number of small entities? <input type="checkbox"/> Yes <input type="checkbox"/> No
	6. Requested expiration date a. <input type="checkbox"/> Three years from approval date <input type="checkbox"/> Other Specify: _____ / _____
7. Title	
8. Agency form number(s) ( <i>if applicable</i> )	
9. Keywords	
10. Abstract	
11. Affected public ( <i>Mark primary with "P" and all others that apply with "x"</i> ) a. <input type="checkbox"/> Individuals or households <input type="checkbox"/> Farms b. <input type="checkbox"/> Business or other for-profit <input type="checkbox"/> Federal Government c. <input type="checkbox"/> Not-for-profit institutions <input type="checkbox"/> State, Local or Tribal Government	12. Obligation to respond ( <i>check one</i> ) a. <input type="checkbox"/> Voluntary b. <input type="checkbox"/> Required to obtain or retain benefits c. <input type="checkbox"/> Mandatory
13. Annual recordkeeping and reporting burden a. Number of respondents _____ b. Total annual responses _____ 1. Percentage of these responses collected electronically _____ % c. Total annual hours requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____	14. Annual reporting and recordkeeping cost burden ( <i>in thousands of dollars</i> ) a. Total annualized capital/startup costs _____ b. Total annual costs (O&M) _____ c. Total annualized cost requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____
15. Purpose of information collection ( <i>Mark primary with "P" and all others that apply with "X"</i> ) a. <input type="checkbox"/> Application for benefits <input type="checkbox"/> Program planning or management b. <input type="checkbox"/> Program evaluation <input type="checkbox"/> Research c. <input type="checkbox"/> General purpose statistics <input type="checkbox"/> Regulatory or compliance d. <input type="checkbox"/> Audit	16. Frequency of recordkeeping or reporting ( <i>check all that apply</i> ) a. <input type="checkbox"/> Recordkeeping <input type="checkbox"/> Third party disclosure c. <input type="checkbox"/> Reporting 1. <input type="checkbox"/> On occasion <input type="checkbox"/> Weekly <input type="checkbox"/> Monthly 4. <input type="checkbox"/> Quarterly <input type="checkbox"/> Semi-annually <input type="checkbox"/> Annually 7. <input type="checkbox"/> Biennially <input type="checkbox"/> Other (describe) _____
17. Statistical methods Does this information collection employ statistical methods <input type="checkbox"/> Yes <input type="checkbox"/> No	18. Agency Contact (person who can best answer questions regarding the content of this submission)  Name: _____ Phone: _____

## 19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

**NOTE:** The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention period for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
  - (i) Why the information is being collected;
  - (ii) Use of information;
  - (iii) Burden estimate;
  - (iv) Nature of response (voluntary, required for a benefit, mandatory);
  - (v) Nature and extent of confidentiality; and
  - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of the provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee

Date

Agency Certification (signature of Assistant Administrator, Deputy Assistant Administrator, Line Office Chief Information Officer, head of MB staff for L.O.s, or of the Director of a Program or StaffOffice)

Signature

Date

Signature of NOAA Clearance Officer

Signature

Date

**SUPPORTING STATEMENT  
REPORTING REQUIREMENTS FOR SEA OTTER INTERACTIONS  
WITH THE PACIFIC SARDINE FISHERY; COASTAL PELAGIC SPECIES  
FISHERY MANAGEMENT PLAN  
OMB CONTROL NO. 0648-0566**

**A. JUSTIFICATION**

**1. Explain the circumstances that make the collection of information necessary.**

In accordance with the regulations implementing the Endangered Species Act ([ESA](#)), the National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS) initiated an ESA section 7 consultation with the Department of the Interior's United States Fish and Wildlife Service (USFWS) regarding the possible effects of implementing Final Rule 0648-AT11, published June 29, 2006 (71 FR 36999). This rule codified Amendment 11 to the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP), developed under the authority of the [Magnuson-Stevens Fishery Conservation and Management Act](#). USFWS determined that formal consultation was necessary on the possible effects to the threatened southern sea otter. USFWS completed a biological opinion (BO) (attached to this request) for this action and although it was concluded that fishing activities were not likely to jeopardize the continued existence of the southern sea otter there remained the potential to incidentally take southern sea otters. USFWS determined that certain measures should be put in place to ensure the continued protection of the species. The reporting requirements and conservation measures put forth in [Final Rule 0648-AU72](#), published May 30, 2007 (72 FR 29891), with the announcement of Office of Management and Budget (OMB) approval of the information collection requirements in [Final Rule 0648-AX31](#), published October 10, 2008 (73 FR 60191), stemmed from this BO and are an attempt to provide further conservation efforts for southern sea otters. The reporting requirements include:

1. 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.
2. While fishing for CPS, vessel operators must record all observations of otter interactions (defined as otters within encircled nets or coming into contact with nets or vessels, including but not limited to entanglement) with their purse seine net(s) or vessel(s). With the exception of an entanglement, which will be initially reported as described in #1 above, all other observations must be reported within 20 days to the Regional Administrator.

When contacting NMFS after an interaction, fishermen would be required to provide information regarding the location (latitude and longitude) of the interaction and a description of the interaction.

Due to the low number of documented interactions (two) and the small overlap between the fishery and the distribution of southern sea otters, it is believed that cases as described above are extremely rare. However, before 2008 no legal requirement for fishermen to report such

interactions under then current regulations, and with low observer coverage within this fishery, the true frequency and type of interactions occurring is unknown. The data gathered from this collection-of-information is valuable in determining whether interactions are as rare as believed or whether stronger mitigation is necessary to ensure protection for the threatened southern sea otter. This information will prove valuable to both fishermen and/or the conservation of sea otters as it will continue to establish a record of the presence or absence of sea otter interactions. Although no responses have been received over the last three years, the fishing seasons were extremely truncated due to reduced sardine biomass levels in 2008 and 2009, compared to previous years when interactions were witnessed, potentially reducing the chance for an interaction to occur. As it is unknown what effect these reduced fishing seasons have or what the annual variability in interactions is, the continuance of this collection is important to begin to answer these questions.

**2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.**

The information gathered from this collection will be used by NMFS and the USFWS to determine whether further mitigation measures will need to be implemented to ensure the continued protection of the threatened southern sea otter. Sea otter entanglement interactions that are reported to NMFS within 24 hours of the occurrence will be examined at that time by NMFS and USFWS; all other observations will be reviewed on an annual basis.

As explained in the preceding paragraphs, the information gathered has utility. NOAA Fisheries will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. See response to Question 10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Although the information collected is not expected to be disseminated directly to the public, results may be used in scientific, management, technical or general informational publications. Should NOAA Fisheries Service decide to disseminate the information, it will be subject to the quality control measures and pre-dissemination review pursuant to [Section 515 of Public Law 106-554](#).

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.**

Information may be submitted via mail (in instances not involving capture of an otter in a net, which requires reporting within 24 hours), telephone, fax or e-mail.

**4. Describe efforts to identify duplication.**

No reporting requirements or other collections are currently gathering the same or similar information.

**5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.**

All respondents to this information collection are expected to be small businesses and/or other small entities. As few responses are expected, the burden is expected to be minimal. In order to minimize the burden, acceptable methods of submission will be mail, phone, fax, or email.

**6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.**

This collection is required to meet the terms and conditions put forth by the USFWS, and is necessary for the fishery to continue in its current state. If this collection is not conducted or is conducted less frequently there may be risk to the threatened southern sea otter.

**7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.**

Not Applicable.

**8. Provide information on the PRA Federal Register Notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**

A Federal Register Notice published on March 10, 2010 (75 FR 11115) solicited public comments on this information collection renewal. No comments were received.

**9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.**

Neither payments or gifts have been offered.

**10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.**

No assurance of confidentiality is provided.

**11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.**

No sensitive questions will be asked.

**12. Provide an estimate in hours of the burden of the collection of information.**

The total number of respondents expected annually is 2.

The frequency of response will be once per year.

The average response time per respondent is expected to be 15 minutes or less.

The total hourly burden will be 30 minutes or less, rounded up to 1 hour.

**13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in #12 above).**

The only expected cost to the respondents is the cost associated with contacting NMFS, through mail, phone, fax, or email. At a maximum cost of \$5 per response, the annual cost would be \$10.

**14. Provide estimates of annualized cost to the Federal government.**

There are no estimated costs to the Federal government.

**15. Explain the reasons for any program changes or adjustments.**

There are no changes.

**16. For collections whose results will be published, outline the plans for tabulation and publication.**

There are no plans to publish the results of this collection.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.**

Not Applicable.

**18. Explain each exception to the certification statement.**

There are no exceptions.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

The collection will not employ statistical methods.

## Regulations

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

### PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. In § 117.997, paragraph (g)(3) is revised to read as follows:

#### § 117.997 Atlantic Intracoastal Waterway, South Branch of the Elizabeth River to the Albemarle and Chesapeake Canal.

\* \* \* \* \*

(g) \* \* \*

(1) \* \* \*

(2) \* \* \*

(3) From 6 a.m. to 7 a.m. and from 9 a.m. to 4 p.m., Monday to Friday, and from 6 a.m. to 6 p.m. on Saturdays, Sundays, and Federal holidays, the draw need only be opened every hour on the hour, except the draw shall open on signal for commercial vessels that qualify under paragraphs (g)(1) or (g)(2) of this section.

\* \* \* \* \*

Dated: June 16, 2006.

**L.L. Hereth,**

*Rear Admiral, United States Coast Guard,  
Commander, Fifth Coast Guard District.*

[FR Doc. 06–5934 Filed 6–28–06; 8:45 am]

**BILLING CODE 4910–15–P**

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 051028280–6160–02; I.D. 102105A]

RIN 0648–AT11

#### Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Amendment 11

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

**ACTION:** Final rule

**SUMMARY:** NMFS issues this final rule to implement Amendment 11 to the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP), which

changes the framework for the annual apportionment of the Pacific sardine harvest guideline along the U.S. Pacific coast. The purpose of this final rule is to achieve optimal utilization of the Pacific sardine resource and equitable allocation of the harvest opportunity for Pacific sardine.

**DATES:** Effective July 31, 2006.

**ADDRESSES:** 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/final regulatory flexibility analysis/regulatory impact review may be obtained at the address below.

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

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

**SUPPLEMENTARY INFORMATION:**

Amendment 11 changes the regional allocation structure of Pacific sardine that has been in place for the last three years and establishes a coastwide, seasonal allocation apportionment. Amendment 11 provides the following allocation formula for the non-tribal share of the harvest guideline: (1) thirty-five percent of the harvest guideline to be allocated coastwide on January 1; (2) reallocate 40 percent of the harvest guideline coastwide, plus any portion not harvested from the initial allocation, on July 1; and (3) reallocate the remaining 25 percent of the harvest guideline coastwide, plus any portion not harvested from earlier allocations, on September 15. A proposed rule to implement Amendment 11 to the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP) was published in the **Federal Register** on November 16, 2005 (70 FR 69502). On January 26, 2006, NMFS Southwest Region (SWR) sent a letter to the Pacific Fishery Management Council (Council) approving Amendment 11 to the CPS FMP.

The Council adopted the CPS FMP in 1998. The CPS FMP was implemented on January 1, 2000 (64 FR 69888, December 15, 1999). The original Pacific sardine allocation formula in the FMP partitioned 33 percent of the annual harvest guideline to the northern subarea and 66 percent to the southern subarea. Nine months after the January start of the fishery (i.e., October 1), the remaining harvest guideline was pooled and reallocated 50 percent - 50 percent to each subarea. The original boundary between the two subareas was 35° 40' N.

lat. (approximately Point Piedras Blancas, California). This formula was incorporated into the CPS FMP from existing California state law. The state law was designed to balance the fishing opportunity for Pacific sardine between the southern California-based fleet and the Monterey-based fleet. At the time of the FMP's implementation, this was considered a status quo action (as the Pacific sardine fishery occurred principally in California) with no environmental impacts. No alternative allocation formulae were considered.

After the original CPS FMP was adopted, the Pacific sardine biomass expanded north along the U.S. West Coast allowing fisheries to develop in the Pacific Northwest (Oregon and Washington). With this expansion, under the original formula, the northern area allocation was shared by the Monterey-based fleet and the Oregon and Washington-based fleets. Oregon and Washington-based fleets expressed concern to the Council that the original allocation framework did not provide optimal harvest opportunity to the respective fishery sectors. Generally, the southern California-based fleet starts harvesting Pacific sardine January 1, and the harvest increases steadily throughout the year; the Monterey-based fleet starts in August (tied to market squid availability) and harvest increases through January or February of the following year; Oregon and Washington-based fleets have a more abbreviated season, which starts in June and ends in October. Because these sectors operate on very different schedules, annual allocations help to ensure that each sector receives a reasonable fishing opportunity. Ex-vessel landings in all sectors are driven by domestic and international market forces for Pacific sardines, as well as the availability and markets for other species of economic benefit to the Pacific sardine vessels and processors (e.g., market squid). The northern California-based fleets and the Oregon and Washington-based fleets are also affected by adverse weather which occurs and affects the ability of these fleets to harvest Pacific sardine during such periods.

In April 2003, the Council recommended to NMFS an interim framework for the allocation of Pacific sardine. The revised allocation system: (1) changed the definition of the subareas by moving the geographic boundary between the two areas from 35° 40' N. lat. to 39° N. lat. (Point Arena, California); (2) moved the date when remaining unharvested Pacific sardine is reallocated to the subareas from October 1 to September 1; (3) changed the percentage of the unharvested

Pacific sardine that is reallocated to the northern subarea and southern subarea from 50 percent to both subareas to 20 percent to the northern subarea and 80 percent to the southern subarea; and (4) reallocated all the unharvested Pacific sardine that remains on December 1 coastwide. The Council requested this allocation framework be in place for the 2003 and 2004 fishing seasons, and also in 2005 if the 2005 harvest guideline was at least 90 percent of the 2003 harvest guideline. NMFS implemented the revised allocation framework by a regulation that was published on September 4, 2003 (68 FR 52523). 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.

At the June 2005 Council meeting, the Council examined seven alternative long-term allocation schemes, and at that time adopted the regulations set forth in Amendment 11. The Council also recommended a review of the allocation formula in 2008, due to the fact that the Pacific sardine resource, as well as the fisheries and markets that rely on it, are often dynamic and difficult to predict.

For further background information on this action please refer to the preamble of the proposed rule (70 FR 69502).

### Comments and Responses

NMFS received three comments electronically regarding Amendment 11 or its implementing rules: two letters were received from an industry organization and one comment was received from a member of the public. Comments were not opposed to the adoption or implementation of the amendment. These comments are addressed here:

*Comment 1:* One commenter stated a belief that the northern part of the sardine population on the coast may be more variable than the southern part and felt that close monitoring and careful allocation may be needed.

*Response:* The Pacific sardine population can be hard to predict and variable. However, in April, 2006, the Southwest Fisheries Science Center, with the cooperation of the Northwest Fisheries Science Center, and the Canadian Department of Fisheries and Oceans, conducted a coast-wide sardine research survey off California, Oregon, Washington, and Vancouver Island. The primary goal of this research was a fishery independent estimate of Pacific sardine over most of its known range

during the same time period (synoptic) to provide stock structure information without migration introducing possible biases. This was the first cruise of this nature conducted to examine sardine populations; it is expected to provide valuable information towards the understanding of the northern portion of the population as well as sardine stock structure as a whole.

*Comment 2:* The second commenter asked that NOAA use a precautionary, stepwise approach to "long-term" allocation. The comment also provided notes on specific Amendment language from an industry perspective.

*Response:* NMFS believes that by the Council recommending a review of the allocation formula in 2008, with the objective of examining any new data on the sardine population that could improve the assessment model or allocation scheme, that the Council is moving in a stepwise manner regarding the allotment of the Pacific sardine resource. Most of the notes on the language were in reference to predictions made about the fishery such as future market conditions, possible landings within the two subareas, and the available harvest level. NMFS agrees that it is difficult to truly predict any of these conditions, however it is believed that the Council took a cautious approach when examining these elements during the assessment process of Amendment 11.

*Comment 3:* The third commenter also expressed the need for expanded research as well as interest in a re-examination of the capacity of the fishery, particularly the open access portion in the Northwest.

*Response:* As stated previously, a coast-wide sardine research survey has recently been completed with the intent of providing valuable insight into the stock structure and population dynamics of Pacific sardines off the West Coast. Although the Pacific sardine fishery is a federally managed limited entry fishery south of 39° N. lat. and an open access fishery north of 39° N. lat., the States of Oregon and Washington limit the number of vessels allowed in their respective state managed fisheries. Amendment 11 was designed to provide equitable harvest of the sardine resource to all parties involved. Basing the allotments on a coastwide, as opposed to a subarea scale, and using a seasonal approach should enable this to occur.

No changes were made to the regulatory text from the proposed rule.

### Classification

The Regional Administrator, Southwest Region, NMFS, determined

that the final rule implementing Amendment 11 to the CPS FMP is necessary for the conservation and management of the Pacific sardine fishery and that it is consistent with the Magnuson-Stevens Fishery Conservation and management Act and other applicable laws.

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

Following the proposed rule stage of this action a Final Regulatory Flexibility Analysis (FRFA) was prepared that examines the economic impact this action would have on small entities. The FRFA is available from NMFS (see **ADDRESSES**). A summary of the FRFA 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 final rule. This final 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.

The Council prepared an environmental assessment (EA) for Amendment 11 to the CPS FMP and the Assistant Administrator for NMFS concluded that there will be no significant impact on the human environment as a result of this final rule. Section 7 consultations under the Endangered Species Act were initiated with both the U.S. Fish and Wildlife Service and the Protected Resource Division of the NMFS. In both instances it was determined that fishing activities conducted under Amendment 11 and its implementing regulations are not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of critical habitat of any such species.

#### List of Subjects in 50 CFR Part 660

Administrative practice and procedure, Fisheries, Fishing, Indians,

Reporting and recordkeeping requirements.

Dated: June 22, 2006.

**James W. Balsiger,**

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

■ For the reasons set out in the preamble, NMFS amends 50 CFR part 660 as follows:

#### PART 660—FISHERIES OFF WEST COAST STATES

■ 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. 06-5816 Filed 6-28-06; 8:45 am]

**BILLING CODE 3510-22-S**

**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]

**BILLING CODE 3510-22-S**

**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.

3. While fishing for CPS, vessel operators must record all observations of otter interactions (defined as otters within encircled nets or coming into contact with nets or vessels, including but not limited to entanglement) with their purse seine net(s) or vessel(s). With the exception of an entanglement, which will be initially reported as described in #2 above, all other observations must be reported within 20 days to the Regional Administrator.

When contacting NMFS after an interaction, fishermen are required to provide information regarding the location, specifically latitude and longitude, of the interaction and a description of the interaction itself. If available, location information should also include: Water depth; distance from shore; and, relation to port or other landmarks. Descriptive information of the interaction should include: whether or not the otters were seen inside or outside the net; if inside the net, had the net been completely encircled; did contact occur with net or vessel; the number of otters present; duration of interaction; otter's behavior during interaction; and, measures taken to avoid interaction.

For further background information on this action please refer to the preamble of the proposed rule (71 FR 70941).

### Comments and Responses

NMFS received two public comments on the proposed rule. These comments are addressed here:

*Comment 1:* One comment stated that due to the strict protections provided to southern sea otters by the MMPA, incidental take of southern sea otters could not be authorized under the ESA and that it was necessary for NMFS to amend the proposed rule to reflect this. The comment also stated that self-reporting has not always proved effective with regard to marine mammal interactions with fisheries and that this rule should include a mandatory neutral observer program. However, to the extent that self-reporting would be required, that it be made as easy as possible for the fishermen.

*Response:* This final rule does not authorize the take of southern sea otters within CPS fisheries. The purpose of this final rule is to further protect this threatened species. Sea otters have not been documented to have been injured or killed in CPS fisheries and due to the very small overlap of CPS fisheries in the EEZ off the West Coast and the distribution of southern sea otters, the likelihood that such an event will occur is low. However, the BO prepared by USFWS determined that the possibility

of interactions between sea otters and the fishery does exist. Therefore, NMFS decided that the requirements recommended by USFWS to reduce possible interactions with, and provide protection for, southern sea otters, would be a prudent conservation measure. NMFS currently places observers on CPS vessels operating in the Monterey Bay region and will continue to do so.

*Comment 2:* The commenter stated that after an interaction it would be unnecessary for the fisherman to provide location information other than latitude and longitude. The commenter also suggests that the requirement to report non-entanglement interactions is unclear and unnecessary.

*Response:* Under § 660.520(a)(3), fishermen will only be required to provide the latitude and longitude of where the interaction took place. NMFS asks that other location information that is readily available be provided as well, but it is not required. With regards to the reporting of non-entanglement interactions, it is not the intent of this final rule to require fishermen to report casual observations of sea otters. This action only requires fishermen to report when sea otters occur within encircled nets or come into contact with fishing gear or the vessel. This information could prove valuable to both fishermen and/or the conservation of sea otters as it will establish a record of the presence or absence of sea otter interactions. If interactions are occurring, location information will be important in determining areas where further conservation efforts may be needed.

No changes were made to the regulatory text from the proposed rule.

### Classification

The Administrator, Southwest Region, NMFS, determined that this action is necessary for the conservation and management of the CPS fishery and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

This final rule contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This requirement has been submitted to OMB for approval. Public reporting burden for this otter interaction requirement is estimated to average 10 minutes per individual per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding these burden estimates or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by e-mail to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov) or fax to (202) 395-7285.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

### 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: May 23, 2007.

**Samuel D. Rauch III**

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

■ For the reasons set out in the preamble, NMFS amends 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 § 660.505, paragraph (n) is added to read as follows:

#### § 660.505 Prohibitions.

\* \* \* \* \*

(n) When fishing for CPS, deploy a net if a southern sea otter is observed within the area that would be encircled by the purse seine net.

■ 3. Section 660.520 is added to read as follows:

**§ 660.520 Reporting requirements.**

(a) *Otter interaction.* (1) If a southern sea otter is entangled in a net, regardless of whether the animal is injured or killed, the vessel operator must report this interaction within 24 hours to the Regional Administrator.

(2) While fishing for CPS, vessel operators must record all observations of otter interactions (defined as otters within encircled nets or coming into contact with nets or vessels, including but not limited to entanglement) with their purse seine net(s) or vessel(s). With the exception of an entanglement, which must be initially reported as described in paragraph (a)(1) of this section, all other observations must be reported within 20 days to the Regional Administrator.

(3) When contacting NMFS after an interaction, vessel operators must provide the location (latitude and longitude) of the interaction and a description of the interaction itself. If available, location information should also include water depth, distance from shore, and relation to port or other landmarks. Descriptive information of the interaction should include: whether or not the otters were seen inside or outside the net; if inside the net, had the net been completely encircled; whether any otters came in contact with either the net or the vessel; the number of otters present; duration of interaction; the otter's behavior during interaction; measures taken to avoid interaction.

(b) [Reserved]

[FR Doc. E7-10379 Filed 5-29-07; 8:45 am]

BILLING CODE 3510-22-S

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 070213033-7033-01]

RIN 0648-XA45

**Fisheries of the Economic Exclusive Zone Off Alaska; Pacific Cod in the Bering Sea and Aleutian Islands**

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

**ACTION:** Temporary rule; modification of a closure.

**SUMMARY:** NMFS is opening directed fishing for Pacific cod by catcher vessels less than 60 feet (18.3 meters (m)) length overall (LOA) using pot or hook-and-line gear in the Bering Sea and Aleutian

Islands management area (BSAI). This action is necessary to fully use the 2007 total allowable catch (TAC) of Pacific cod specified for catcher vessels less than 60 feet (18.3 m) LOA using pot or hook-and-line gear in the BSAI.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), May 27, 2007, through 2400 hrs, A.l.t., December 31, 2007.

Comments must be received at the following address no later than 4:30 p.m., A.l.t., June 8, 2007.

**ADDRESSES:** Send comments to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. Comments may be submitted by:

- Mail to: P.O. Box 21668, Juneau, AK 99802;

- Hand delivery to the Federal Building, 709 West 9th Street, Room 420A, Juneau, Alaska;

- FAX to 907-586-7557;

- E-mail [inseason-akr@noaa.gov](mailto:inseason-akr@noaa.gov) and include in the subject line and body of the e-mail the document identifier: bspclt60re2 (E-mail comments, with or without attachments, are limited to 5 megabytes); or

- Webform at the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions at that site for submitting comments.

**FOR FURTHER INFORMATION CONTACT:**

Jennifer Hogan, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

NMFS closed directed fishing for Pacific cod by catcher vessels less than 60 feet (18.3 m) LOA using pot or hook-and-line gear in the BSAI under § 679.20(d)(1)(iii) on March 30, 2007 (72 FR 15848, April 3, 2007). The fishery was reopened on April 30, 2007 (72 FR 18920, April 16, 2007) and was closed again on May 15, 2007 (72 FR 27980, May 18, 2007).

NMFS has determined that as of May 22, 2007, approximately 30 metric tons of Pacific cod remain in the 2007 Pacific cod TAC allocated to catcher vessels less than 60 feet (18.3 m) LOA using pot or hook-and-line gear in the BSAI. Therefore, in accordance with § 679.25(a)(2)(i)(C) and (a)(2)(iii)(D), and

to fully use the 2007 TAC of Pacific cod specified for catcher vessels less than 60 feet (18.3 m) LOA using pot or hook-and-line gear in the BSAI, NMFS is terminating the previous closure and is opening directed fishing for Pacific cod by catcher vessels less than 60 feet (18.3 m) LOA using pot or hook-and-line gear in the BSAI. The opening is effective 1200 hrs, A.l.t., May 27, 2007, through 2400 hrs, A.l.t., December 31, 2007.

**Classification**

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), 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) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of the Pacific cod fishery by catcher vessels less than 60 feet (18.3 m) LOA using pot or hook-and-line gear in the BSAI. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet and processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of May 22, 2007.

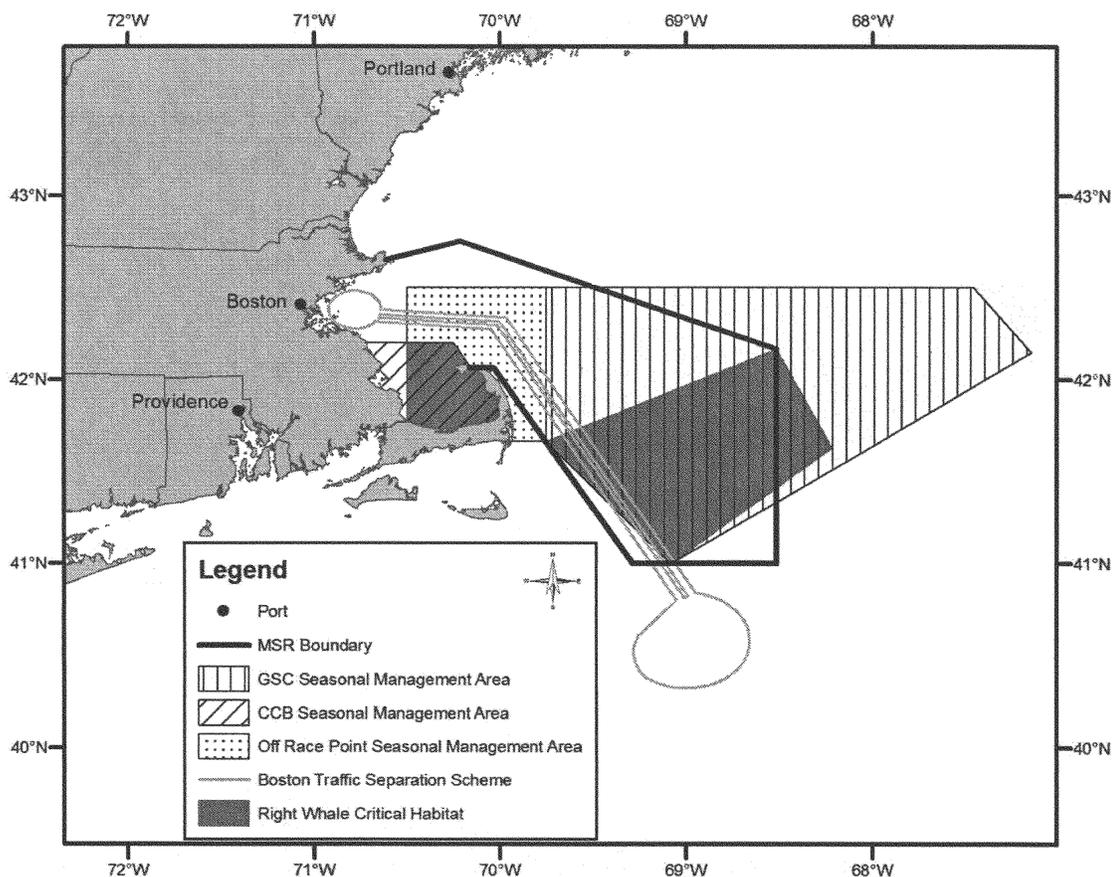
The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Without this inseason adjustment, NMFS could not allow the fishery for Pacific cod by catcher vessels less than 60 feet (18.3 m) LOA using pot or hook-and-line gear in the BSAI to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until June 8, 2007.

This action is required by § 679.25 and is exempt from review under Executive Order 12866.

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

Figure 3. Northeast United States.



[FR Doc. E8-24177 Filed 10-7-08; 4:15 pm]

BILLING CODE 3510-22-C

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 0809301285-81289-01]

RIN 0648-AX31

#### 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; notice of effectiveness of information collection.

**SUMMARY:** NMFS is announcing that the information collection and reporting requirement was approved by the Office of Management and Budget (OMB).

**DATES:** The information collection requirements in 50 CFR 660.520 are effective November 10, 2008.

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

**SUPPLEMENTARY INFORMATION:** On May 30, 2007, NMFS published a final rule (72 FR 29891) implementing new reporting requirements and conservation measures under the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP). This final rule contained information collection requirements that at the time of publication had not yet been approved

by OMB. This included the requirement to report any interactions that may occur between a CPS vessel and/or fishing gear and sea otters. The final rule stated that NMFS would publish a subsequent **Federal Register** notice announcing the effectiveness of those requirements. Therefore NMFS announces that OMB approved the collection of information requirements contained in the May 30, 2007, final rule under Control Number 0648-0566 with an expiration date of August 31, 2010.

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

Dated: October 7, 2008.

**Samuel D. Rauch III,**  
Deputy Assistant Administrator For  
Regulatory Programs, National Marine  
Fisheries Service.

[FR Doc. E8-24201 Filed 10-9-08; 8:45 am]

BILLING CODE 3510-22-S

*Seventh*, that this Order shall be served on the Denied Person and shall be published in the **Federal Register**.

This Order, which constitutes the final BIS action in this matter, is effective immediately.

Issued this 2nd day of March 2010.

**David W. Mills,**

*Assistant Secretary of Commerce for Export Enforcement.*

[FR Doc. 2010-5107 Filed 3-9-10; 8:45 am]

**BILLING CODE 3510-DT-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Proposed Information Collection; Comment Request; Reporting Requirements for Sea Otter Interactions with the Pacific Sardine Fishery; Coastal Pelagic Species Fishery Management Plan

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA).

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

**DATES:** Written comments must be submitted on or before May 10, 2010.

**ADDRESSES:** Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at [dHynek@doc.gov](mailto:dHynek@doc.gov)).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Gary Rule, (503) 230-5424 or [Gary.Rule@noaa.gov](mailto:Gary.Rule@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

In accordance with the regulations implementing the Endangered Species Act (ESA), National Marine Fisheries Service (NMFS) initiated an ESA section 7 consultation with the United States Fish and Wildlife Service (USFWS) regarding the possible effects of implementing Amendment 11 (71 FR 36999) to the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP). USFWS determined that formal

consultation was necessary on the possible effects to the threatened southern sea otter. USFWS completed a biological opinion for this action and although it was concluded that fishing activities were not likely to jeopardize the continued existence of the southern sea otter there remained the potential to incidentally take southern sea otters. USFWS determined that certain measures should be put in place to ensure the continued protection of the species. Therefore on May 30, 2007, NMFS published a final rule (72 FR 29891) implementing new reporting requirements and conservation measures under the CPS FMP. This included the requirement to report any interactions that may occur between a CPS vessel and/or fishing gear and sea otters.

*Specifically, these reporting requirements are:*

1. 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.

2. While fishing for CPS, vessel operators must record all observations of otter interactions (defined as otters within encircled nets or coming into contact with nets or vessels, including but not limited to entanglement) with their purse seine net(s) or vessel(s). With the exception of an entanglement, which will be initially reported as described in #2 above, all other observations must be reported within 20 days to the Regional Administrator.

When contacting NMFS after an interaction, fishermen are required to provide information regarding the location, specifically latitude and longitude, of the interaction and a description of the interaction itself. If available, location information should also include: Water depth; distance from shore; and, relation to port or other landmarks. Descriptive information of the interaction should include: Whether or not the otters were seen inside or outside the net; if inside the net, had the net been completely encircled; did contact occur with net or vessel; the number of otters present; duration of interaction; otter's behavior during interaction; and, measures taken to avoid interaction.

##### II. Method of Collection

The information will be collected on forms submitted by mail, phone, facsimile or e-mail.

##### III. Data

*OMB Control Number:* 0648-0566.  
*Form Number:* None.

*Type of Review:* Regular submission.  
*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 2.  
*Estimated Time per Response:* 15 minutes.

*Estimated Total Annual Burden Hours:* 1.

*Estimated Total Annual Cost to Public:* \$10.

#### IV. Request for Comments

*Comments are invited on:* (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: March 5, 2010.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 2010-5117 Filed 3-9-10; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Proposed Information Collection; Comment Request; Interim Capital Construction Fund Agreement and Certificate Family of Forms

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), DOC.

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

**DATES:** Written comments must be submitted on or before May 10, 2010.