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XI. Effective Date and Congressional Notification

30. This final rule is effective 30 days from publication in **Federal Register**. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB that this rule is not a "major rule" as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996.

List of Subjects in 18 CFR Part 40

Applicability, Mandatory reliability standards.

By the Commission.

Kimberly D. Bose,
Secretary.

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix 1

List of Commenters

American Transmission Company LLC
Avista Corporation
Black Hills Power, Inc.
Bonneville Power Administration
Constellation Energy Group, Inc.³²
Department of Interior, Office of Environmental Policy and Compliance
Entergy Services, Inc.
Exelon Corporation
Florida Reliability Coordinating Council
Independent Electricity System Operator and Hydro One Networks
International Transmission Company³³
ISO/RTO Council
Kansas City Power & Light Company, KCP&L
Greater Missouri Operations Company
Manitoba Hydro
Modesto Irrigation District
National Grid
New England States Committee on Electricity
North American Electric Reliability Corporation
Pacific Gas and Electric Company
Public Power Council³⁴

³² Baltimore Gas & Electric Company, Constellation Energy Commodities Group, Inc., Constellation Energy Control and Dispatch, LLC, Constellation NewEnergy, Inc., and Constellation Power Source Generation, Inc., and Constellation Energy Nuclear Group, LLC.

³³ ITC Transmission, Michigan Electric Transmission Company, LLC, ITC Midwest LLC, and ITC Great Plains, LLC.

³⁴ Public Power Council includes Washington Rural Electric Cooperative Association, Idaho Consumer-Owned Utilities Association, Oregon PUD Association, Northwest Public Power Association, Oregon Rural Electric Cooperative Association, PNGC Power, Western Public Agencies Group, Western Montana Electric G&T Cooperative, Inc., Oregon Municipal Electric Utilities Association, Washington PUD Association, Northwest Requirements Utilities.

Reliability First Corporation
San Diego Gas & Electric Company
Southern Company Services, Inc.³⁵
Trade Associations³⁶
Tampa Electric Company
Virginia Electric and Power Company, doing business as Dominion Virginia Power
Wisconsin Electric Power Company

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 0912281446-0111-02]

RIN 0648-XA709

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

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific sardine off the coasts of Washington, Oregon and California. This action is necessary because the directed harvest allocation total for the third seasonal period (September 15–December 31) is projected to be reached by the effective date of this rule. From the effective date of this rule until January 1, 2012, Pacific sardine may be harvested only as part of the live bait fishery or incidental to other fisheries; the incidental harvest of Pacific sardine is limited to 30-percent by weight of all fish per trip. Fishing vessels must be at shore and in the process of offloading at 12:01 a.m. Pacific Daylight Time, on the date of closure.

DATES: Effective 12:01 a.m. Pacific Daylight Time Wednesday, September 21, 2011, through 11:59 p.m. Pacific Standard Time, December 31, 2011.

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

SUPPLEMENTARY INFORMATION: This document announces that based on the best available information recently obtained from the fishery and

information on past effort, the directed fishing harvest allocation for the third allocation period (September 15–December 31) will be reached and therefore directed fishing for Pacific sardine is being closed until January 1, 2012. Fishing vessels must be at shore and in the process of offloading at the time of closure. From 12:01 am on the date of closure through December 31, 2011, Pacific sardine may be harvested only as part of the live bait fishery or incidental to other fisheries, with the incidental harvest of Pacific sardine limited to 30-percent by weight of all fish caught during a trip.

NMFS manages the Pacific sardine fishery in the U.S. exclusive economic zone (EEZ) off the Pacific coast (California, Oregon, and Washington) in accordance with the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP). Annual specifications published in the **Federal Register** establish the harvest guideline (HG) and allowable harvest levels for each Pacific sardine fishing season (January 1–December 31). If during any of the seasonal allocation periods the applicable adjusted directed harvest allocation is projected to be taken only incidental harvest is allowed, and for the remainder of the period, any incidental Pacific sardine landings will be counted against that period's incidental set aside. In the event that an incidental set-aside is projected to be attained, all fisheries will be closed to the retention of Pacific sardine for the remainder of the period via appropriate rulemaking.

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

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

Classification

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

NMFS finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) for the closure of the directed harvest of Pacific sardine. For

³⁵ Alabama Power Company, Georgia Power Company, Gulf Power Company, and Mississippi Power Company.

³⁶ The Trade Association includes the Edison Electric Institute, the American Public Power Association, Canadian Electricity Association, the National Rural Electric Cooperative Association, the Transmission Access Policy Study Group, and the Electric Power Supply Association.

the reasons set forth below, notice and comment procedures are impracticable and contrary to the public interest. For the same reasons, NMFS also finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness for this action. This measure responds to the best available information and is necessary for the conservation and management of the Pacific sardine resource. A delay in effectiveness would cause the fishery to exceed the in-season

harvest level. These seasonal harvest levels are important mechanisms in preventing overfishing and managing the fishery at optimum yield. The established directed and incidental harvest allocations are designed to allow fair and equitable opportunity to the resource by all sectors of the Pacific sardine fishery and to allow access to other profitable CPS fisheries, such as squid and Pacific mackerel.

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

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

Dated: September 19, 2011.

James P. Burgess,

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

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