

Under section 188(b)(2) of the CAA, findings of failure to attain is based solely upon air quality considerations and the subsequent nonattainment area reclassification must occur by operation of law in light of those air quality conditions. These actions do not, in-and-of themselves, impose any new requirements on any sectors of the economy. In addition, because the statutory requirements are clearly defined with respect to the differently classified areas, and because those requirements are automatically triggered by classifications that, in turn, are triggered by air quality values, findings of failure to attain and reclassification cannot be said to impose a materially adverse impact on State, local, or tribal governments or communities.

Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Similarly, because the proposed finding of failure to attain is a factual determination based on air quality considerations and the resulting reclassification must occur by operation of law and, do not impose any federal intergovernmental mandate, these actions do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4). For the same reason, this proposed rule also does not significantly or uniquely affect the communities of Indian tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998).

For the same reasons, this proposed finding of failure to attain and resulting reclassification will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). These proposed actions are also not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because they are not economically significant. Finally, for the same reason that this proposed finding of failure to attain is a factual determination based on air quality considerations and the resulting reclassification must occur by operation of law, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed finding of failure to attain, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This proposed finding of failure to attain does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Authority: 42 U.S.C. 7401-7671q.

Dated: November 13, 2000.

Felicia Marcus,

Regional Administrator, Region 9.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-6859-2]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Proposed deletion of the John Deere Ottumwa Works Site (Site) from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA) Region VII proposes to delete the John Deere Ottumwa Works site from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes Appendix B to Part 300 of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended. The EPA has determined that the site poses no significant threat to public health or the environment, as defined by CERCLA, and therefore, further

remedial measures pursuant to CERCLA are not appropriate.

We are publishing this rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no dissenting comments. A detailed rationale for this approval is set forth in the direct final rule. If no dissenting comments are received, no further activity is contemplated. If EPA receives dissenting comments, the direct final action will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting should do so at this time.

DATES: Comments concerning this Action must be received by December 22, 2000.

ADDRESSES: Comments may be mailed to Debra Kring, Environmental Protection Specialist, Superfund Division, U.S. Environmental Protection Agency, Region VII, 901 North 5th Street, Kansas City, KS 66101. Comprehensive information on this site is available through the public docket which is available for viewing at the Site information repository at U.S. EPA Region VII, Superfund Division Records Center, 901 North 5th Street, Kansas City, KS 66101.

FOR FURTHER INFORMATION CONTACT: Debra Kring, Environmental Protection Specialist, U.S. Environmental Protection Agency, 901 North 5th Street, Kansas City, KS 66101, fax (913) 551-7063.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final Action which is located in the Rules Section of this **Federal Register**.

Dated: August 17, 2000.

William Rice,

Acting Regional Administrator, Region VII.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. No. 111500B]

Fisheries of the Exclusive Economic Zone Off Alaska; Commencement of Groundfish Fisheries in 2001

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

ACTION: Notification of 2001 total allowable catch specifications for groundfish

SUMMARY: NMFS notifies the public that the 2001 total allowable catch (TAC) specifications for groundfish in the exclusive economic zone in the Bering Sea and Aleutian Islands management area (BSAI) and in the Gulf of Alaska (GOA) will be implemented by emergency rule(s) promulgated pursuant to the Magnuson-Stevens Fishery Conservation and Management Act. NMFS has determined that the existing regulatory process for publication of annual groundfish TAC specifications is impracticable for establishing the 2001 TACs because NMFS currently is preparing a biological opinion pursuant to the Endangered Species Act (ESA) evaluating the effects of groundfish fisheries measures, including the specification of TACs, on endangered and threatened species. The intended effect of this action is to inform the public of NMFS' plan to promulgate the 2001 groundfish TAC specifications by emergency rule and to remind fishermen that no groundfish harvest is authorized for the 2001 fishing year until NMFS publishes groundfish TAC specifications for the 2001 fishing year.

FOR FURTHER INFORMATION CONTACT: Sue Salvesson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, NMFS, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the BSAI and the GOA pursuant to the Fishery Management Plan for the

Groundfish Fishery of the Bering Sea and Aleutian Islands Area, and the Fishery Management Plan for Groundfish of the Gulf of Alaska, respectively. Each of these fishery management plans (FMPs) was prepared by the North Pacific Fishery Management Council (Council) and approved by NMFS under authority of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* Regulations implementing the FMPs are codified at 50 CFR part 679. General regulations governing U.S. fisheries are codified at 50 CFR part 600.

NMFS currently is preparing a comprehensive biological opinion evaluating the effects of the Alaska groundfish fisheries measures, including the specification of TACs, on endangered and threatened species and designated critical habitat, as required by section 7 of the ESA, 16 U.S.C. 1536. NMFS is preparing this biological opinion pursuant to an order of the U.S. District Court for the Western District of Washington, issued July 19, 2000, holding NMFS in continuing violation of the ESA until NMFS issues a legally adequate biological opinion evaluating the combined, overall effects of the North Pacific groundfish fisheries on Steller sea lions and their critical habitat. *Greenpeace v. NMFS*, 106 F. Supp.2d 1066 (W.D. Wash. 2000).

NMFS expects to complete its biological opinion on the effects of the Alaska groundfish fisheries on threatened and endangered species and designated critical habitat by November

30, 2000. The biological opinion may require implementation of additional fishery management measures, including those affecting specification of TACs, in order to further protect endangered and threatened species and their designated critical habitat from the effects of the groundfish fisheries. Because the need for and type of additional protective measures will not be known until completion of the biological opinion, and because NMFS may need to implement additional protective measures before the start of the 2001 groundfish fisheries, NMFS has determined that it is impracticable to publish proposed, interim, and final TAC specifications for the 2001 Alaska groundfish fisheries pursuant to the regulatory process provided in § 679.20(c). Instead, NMFS intends to publish one or more emergency rules establishing TAC specifications for the 2001 groundfish fisheries and implementing any additional protective measures that may be necessary in accordance with the requirements of the biological opinion. NMFS will endeavor to publish these rules as quickly as possible to diminish disruption to the fisheries. Fishermen are reminded that no groundfish harvest is authorized for the 2001 fishing year until NMFS publishes 2001 TAC specifications.

Dated: November 16, 2000.

Bruce C. Morehead,

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

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