

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 08/05/2010

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 02/25/2010

ACTION REQUESTED: Extension without change of a currently approved collection
TYPE OF REVIEW REQUESTED: Regular
ICR REFERENCE NUMBER: 201002-0648-001
AGENCY ICR TRACKING NUMBER:
TITLE: Southwest Region Permit Family of Forms
LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change
OMB CONTROL NUMBER: 0648-0204

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: 08/31/2013

DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	710	143	20,603
New	923	139	27,304
Difference			
Change due to New Statute	0	0	0
Change due to Agency Discretion	0	0	0
Change due to Agency Adjustment	213	-4	6,701
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
Southwest Region Permit Family of Forms - Coastal Pelagic Species and EFP Permit Renewals, Transfers and Appeals	NA	Coastal Pelagics Fishing Limited Entry Permit Application	50 CFR 660.718
Southwest Permit Family of Forms - HMS Permits	NA	Pacific HMS Vessel Permit Application	
Southwest Region - Coastal Pelagic Species - Exempted Fishing Permits			50 CFR 660.516

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 b. <input type="checkbox"/> None 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
7. Title	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
8. Agency form number(s) (<i>if applicable</i>)	6. Requested expiration date a. <input type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other Specify: _____ / _____
9. Keywords	10. Abstract
11. Affected public (<i>Mark primary with "P" and all others that apply with "x"</i>) a. ___ Individuals or households d. ___ Farms b. ___ Business or other for-profit e. ___ Federal Government c. ___ Not-for-profit institutions f. ___ 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. ___ Application for benefits e. ___ Program planning or management b. ___ Program evaluation f. ___ Research c. ___ General purpose statistics g. ___ Regulatory or compliance d. ___ Audit	16. Frequency of recordkeeping or reporting (<i>check all that apply</i>) a. <input type="checkbox"/> Recordkeeping b. <input type="checkbox"/> Third party disclosure c. <input type="checkbox"/> Reporting 1. <input type="checkbox"/> On occasion 2. <input type="checkbox"/> Weekly 3. <input type="checkbox"/> Monthly 4. <input type="checkbox"/> Quarterly 5. <input type="checkbox"/> Semi-annually 6. <input type="checkbox"/> Annually 7. <input type="checkbox"/> Biennially 8. <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
SOUTHWEST REGION PERMIT FAMILY OF FORMS
OMB CONTROL NO. 0648-0204**

A. JUSTIFICATION

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

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) established regional fishery management councils, including the Pacific Fishery Management Council (Pacific Council), to develop fishery management plans (FMP) for fisheries in the U.S. exclusive economic zone (EEZ). These plans, if approved by the Secretary of Commerce, are implemented by Federal regulations, which are enforced by the National Marine Fisheries Service (NMFS) and the United States (U.S.) Coast Guard (USCG), in cooperation with State agencies to the extent possible. FMPs are intended to regulate fishing for stocks to prevent overfishing and achieve the optimum yield from the fisheries for the benefit of the U.S.

The Pacific Council has prepared a FMP for the coastal pelagic species (CPS) fishery off the U.S. West Coast and for U.S. West Coast Fisheries for Highly Migratory Species. Each of these FMPs contain a requirement that commercial fishery participants obtain permits for the fishery. This request deals with the information collection requirements for permits. The Southwest Region, NMFS, administers the permit program. Both permits are valid for a two-year term.

There are three types of permits: basic fishery permits (e.g., highly migratory species (HMS)), limited entry permits for selected fisheries (e.g., West Coast coastal pelagic fishery), and experimental fishing permits (EFP). Basic permits are used in all fisheries where there are no specific limitations or eligibility criteria for entry to the fishery. Limited access/entry permits are used to prevent overcapitalization or address other management goals in the fishery. EFPs are used to authorize controlled and observed fishing with gear or techniques or within closed areas, which would otherwise be prohibited. Such fishing may demonstrate new ways to fish economically without significant adverse biological problems or with less take of protected resources such as sea turtles. In addition, there are provisions for transfers among owners and for appeals of actions of certain limited entry permits such as the coastal pelagic species limited entry permits.

General permit requirements are found in 50 CFR 660.1-3 (Subpart A) with the specific requirements contained in relevant sections of 50 CFR 660 (Subpart I and Subpart K).

There are typically provisions in the permit process for appeals of permit denials. Appellants may use any appropriate format in requesting NMFS to review their case.

Permits and the information obtained through permit applications are essential in the management of these fisheries. They serve to identify actual or potential participants in the various fisheries. These data are needed to help measure the impacts of management controls on the participants in the fisheries. Permits are also effective tools in the enforcement of other fishery regulations. The threat of permit sanctions that would exclude a vessel from the fishery may be more effective than fines for violations of specific fishery regulations. Further,

transferable limited access/entry permits may have a resale value and may be an asset that the government can seize in settlement of penalties for fishery violations.

Permits also provide an important link between the NMFS and fishermen via the permit application process. They make it easier for NMFS staff to contact fishermen and advise them of changes in the regulations or fishery conditions and give fishermen a direct point of contact in case they have questions or issues they want to bring to the attention of NMFS or a fishery management council.

Section 303 (b) (1) of the Magnuson-Stevens Act specifically authorizes the establishment of permit requirements. Almost all international, federal, state, and local fishery management authority uses permits as part of their management systems.

A non-substantive change request was approved July 22, 2009 in advance of a final rule to establish an annual permit application fee for Pacific HMS fishery permits. This was a request to implement permit fees under the Fishery Management Plan for United States West Coast Fisheries for Highly Migratory Species under the Office of Management and Budget (OMB) Control No. 0648-0204, Southwest Region Permit Family of Forms.

The National Marine Fishery Service's Southwest Region Sustainable Fisheries Division published a final rule, Regulation Identifier Number (RIN) 0648-AW50, "Fisheries off West Coast States; Highly Migratory Species Fisheries," that amended regulations implemented under the U.S. West Coast Fisheries for Highly Migratory Species, Fishery Management Plan (HMS, FMP) to establish a framework for the collection of permit fees. The purpose was to comply with NMFS National Policy Directive 30-120 pertaining to NMFS Permit Fees. Historically, only some fishery management plans have authorized the collection of permit fees. This resulted in a set of inconsistent permit fee policies around the country. NMFS issued Policy Directive 30-120 to establish a more consistent agency permit program that recovers the expense of permit processing and issuance for all permits issued by NMFS to the extent of the law allowed.

The final rule specified that an application for an HMS permit, including the renewal of an existing permit, will include an application fee payable by the permit applicant. In accordance with the National Oceanic and Atmospheric Administration (NOAA) Finance Handbook guidelines for cost recovery permits, the initial fee has been calculated at \$30 for the Pacific HMS Permit, which is valid for two years. The Assistant Administrator may change the fee amount required at any time if a different fee is determined appropriate in accordance with the NOAA Finance Handbook and specified by the Administrator, Southwest Region, on the application form. The final rule became effective August 27, 2009.

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 requested on the NMFS Southwest Region federal fisheries permit application forms by the Southwest Region is utilized to determine whether the applicant meets the eligibility criteria for a permit for the fishery the applicant intends to participate in. The data

may also be used by several offices of NMFS, USCG, and state and territorial fishery-management, research, and enforcement agencies. As requested, summaries of permit application information are provided to the Western Pacific and Pacific Councils, member states, and interested parties to describe the characteristics of the fishery and estimate the nature and magnitude of the impacts of fishery regulations on different permit holders. Information on the vessel (as provided in documentation or registration certificates) is used to ascertain actual or potential participants in different sectors of each fishery and the amount of harvesting pressure they might exert on the fishery. This is important in determining the potential effectiveness and impacts of different management approaches and in assessing the capacity of the fleets in the fisheries.

The information collected is basic data on applicants, such as name of owner and vessel operator, name of vessel and its official number, address, telephone number, and radio call sign. Independently verifiable data on the vessel's USCG documentation or state registration certificates identify the legal ownership of the vessel being permitted. This latter requirement is essential for imposing permit sanctions, which are an effective fisheries enforcement tool. Since many vessels may be owned by partnerships or corporations, identification of ownership on the application form allows NMFS to sanction the company as well as the individual vessel operator for repeated violations of federal regulations. By having addresses, the NMFS can mail fishery information to vessel owners and operators; also permit renewal forms are sent to permit holders quickly and easily. Telephone numbers (business, home, facsimile) are used to assist NMFS in processing the application by allowing questions to be resolved more quickly than by correspondence.

Disclosure of the Employer Identification Numbers of the corporate applicants is mandatory in accordance with the Debt Collection Improvement Act (31 U.S.C. 7701), which requires that agencies obtain taxpayer identification numbers from persons applying for Federal permits.

Vessel owner or his or her agent's signature is required as legally binding actions, which ensure eligibility to receive or transfer a permit under specific FMP regulations. False statements without the signature of the applicant would be difficult to prosecute.

Appeals of permit denials must be accompanied by documentation from the appellant to demonstrate why the permit should have been granted. This could include fishing logs, invoices from fish sales, State landings records, auction house receipts, financial transaction records relative to vessel ownership, or other records to demonstrate that the appellant had met the eligibility criteria for the particular fishery.

EFPs are issued to applicants for fishing activities that would otherwise be prohibited under a FMP. A specific form for an EFP application is not required; however, an application for an EFP must provide a narrative description of the proposed activity to fully document the intended operations. This documentation allows NMFS, the Pacific Council and affected state/territorial fishery agency to evaluate the consequences of the experimental fishing activity and weigh the benefits and costs. EFPs allow innovation that may relieve excessive fishing effort or discover new methods that may resolve existing technological barriers to better management of the fishery and resource.

The implementing regulations of Amendment 10 to the CPS FMP revised criteria and provisions to allow limited entry permits to be transferred to permit owners or associated vessel. A permit may be transferred only once during a calendar year. Information obtained from transfer and renewal applications allows NMFS to determine eligibility and status of each vessel and permit and overall fishery capacity goals. The coastal pelagic species permit collection is necessary for NMFS to administer and monitor the limited entry program for the fishery. Vessels authorized to fish in a restricted U.S. West Coast fishery need to be distinguished from unauthorized vessels with regard to assessing economic impacts and enforcement at sea.

It is anticipated that the information collected will be disseminated to the public or used to support publicly disseminated information. 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. Prior to dissemination, the information will be subjected to quality control measures and a 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.

The Southwest Region's (SWR) Web site at <http://swr.nmfs.noaa.gov/permits.htm> is used to inform the public about the SWR permit programs and provides a means by which the application form for the Pacific HMS and coastal pelagic species limited entry permits may be obtained. EFP applications have no forms associated with them. These applications are relatively rare events and cannot be predicted in advance. While there is no current improved information technology that would simplify the application process, implementation of the National Permits System (NPS) is ongoing. NPS is expected to soon have a public interface option that will allow SWR permit applicants to apply for permits via the internet.

4. Describe efforts to identify duplication.

One Federal program that provides some similar information is the vessel documentation program of the U.S. Coast Guard. The permit process incorporates verification of the current USCG Certificate of Documentation data on file for vessels to determine information about the vessels and their ownership. This is achieved via a NMFS internet site that reflects quarterly updates from USCG data sources. Similar verification is occasionally conducted via state vessel registration contacts. The permit application form no longer contains a requirement to provide duplicate information.

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

All of the vessels in the Pacific coastal pelagic fishery are small business entities of similar size and are affected comparably. All fishing operations involving vessels in the highly migratory fisheries, except the large scale tuna purse seine vessels, can be categorized as small businesses.

However, the reporting burden of applying for a permit is slight relative to the overall cost of fishing. No special measures are needed to accommodate different sized businesses. Only the minimum data to meet the permit program objectives are requested from the permit applications.

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

If permit data are not available or are collected less frequently, NMFS will have difficulty monitoring the fishery, determining entry and exit patterns, and providing information needed to ensure full impact analysis from the regulatory programs. NMFS Enforcement will be unable to assure the identity of current permit holders for purposes of compliance monitoring and enforcement of the regulations. There will be less frequent contact with fishermen and our ability to contact permit holders to consult them prior to adopting new regulations and to advise them of regulatory changes will diminish. Our ability to document transfers of marketable permits under the current CPS limited access permit programs will be compromised.

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

The collection is consistent with the OMB Guidelines.

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 November 5, 2009 (74 FR 57289) solicited public comment on this collection. None was received.

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

No payments or gifts are involved in this program.

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

As stated on the forms: under the Magnuson-Stevens Act and NOAA Administrative Order 216-100, information submitted in accordance with regulatory requirements under the Act is confidential. This includes confidential information submitted with a permit application. Personal and proprietary information is not released to the public.

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 questions of a sensitive nature are asked.

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

For the west coast HMS fishery permits, it was estimated that after the initial first 2-year cycle has been completed, 90 percent of all permit holders (1,587 of 1,763 current valid permit holders) will renew permits every 2 years with minimal changes in information, taking 6 minutes (0.1 hours) per year. Thus, 1,587 vessels would renew with a burden of 158.7 hours, or an annualized burden of 79.4 hours (794 responses). Permit renewals are staggered, with only half of current permit holders expected to renew in a given year. In addition, there will be substitution vessels for the 10 percent (176 vessels) which depart the fishery, at a burden of 30 minutes for a new permit, with a total burden estimated at 88 hours. The annualized burden for this sector is 44 hours per year (88 responses). **Thus, the total annualized burden is 123 hours (79.4 + 44). Total annualized responses are 882.**

For the west coast coastal pelagic fishery permits, there will be no new permits issued, only biannual renewals. It is estimated that there will be 65 respondents x 0.25 per hour equaling 16.25 hours. The annualized burden for this sector would be 8.1 hours (33 responses). Transfers are estimated at 7 respondents x 0.50 hr/response = 3.50 hours (annualized to 1.75 hours, 4 responses). Appeals are estimated at 5 respondents x 2 hours/response = 10 hours (annualized to 5 hours; 3 responses). **Thus, the total annualized burden is 15 hours (8.1 + 1.75 + 5). Total annualized responses are 40.**

For EFPs, it is estimated that there will be one new permit issued each year x 60 minutes to complete. **Thus, the total annualized burden hours would be 1 hour and 1 response per year.**

Total respondents will be 1829. Total annualized responses will be 923. Total annualized burden hours will be 139.

The estimated total annual labor cost to respondents is estimated at \$2,780 per year. This was derived by multiplying the number of hours of burden each year times an hourly cost rate of \$20, the estimated total cost for administrative staff support in an office setting.

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 Question 12 above).

There is no "start-up" capital cost for complying with these requirements. The annual cost to the respondents for postage, faxes, copies, etc. related to this collection is estimated at \$851.00 (approximately \$0.92 per response).

A total of 882 Pacific HMS permit applications (794 renewals and 88 new applications) are expected per year. At \$30 per permit application fee, this will add \$26,460 to the adjusted total recordkeeping/reporting costs of \$851, bringing the new total to **\$27,304**.

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

The estimated annualized cost to the government is estimated at \$19,524.19. This is based on the approximate cost of a GS-7/8 Permits Technician in the Los Angeles Area for sending out permit renewal notices, reviewing application, responding to inquiries, awarding the permit and processing the data. The breakdown is as follows:

1.10 hrs x 923 responses = 1,015.3 hours x \$19.23 per hour = \$19,524.19.

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

Although there has been an increase of 213 annual HMS permit responses, with other response categories remaining the same, there is a small net decrease in burden hours due to an adjusted estimate for new HMS applications, from 60 minutes to 30 minutes.

The total cost burden for recordkeeping has increased by \$6,701, due to greater numbers of HMS respondents and responses: both the number of permit submission recordkeeping/reporting costs and the number of \$30 HMS permit fees.

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

No publications based solely on permit data are planned at this time.

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.

The expiration dates will be shown on the application forms.

18. Explain each exception to the certification statement.

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.



U.S. DEPARTMENT OF COMMERCE
 NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
 NATIONAL MARINE FISHERIES SERVICE
 501 WEST OCEAN BLVD
 SUITE 4200
 LONG BEACH, CA 90802

OMB Control No.: 0648-0204
 Expiration Date: 04/30/2010

Permit Application Fee: \$30

**Pacific Highly Migratory Species
 Vessel Permit Application**

SECTION 1 VESSEL INFORMATION (please print legibly or type)

USCG DOC. OR STATE REG. NO. VESSEL		VESSEL NAME		HULL IDENTIFICATION NUMBER	
HOME PORT AND STATE			USCG DOCUMENTED HAIL PORT AND STATE		
RADIO CALL SIGN			DOES THIS VESSEL HAVE AN OPERATIONAL VMS? YES _____ NO _____		
REGISTERED LENGTH (FT.)	REGISTERED BREADTH (FT.)	REGISTERED DEPTH (FT.)	GROSS TONS	NET TONS	
HOLD CAPACITY (SHORT TONS)		HOLD CAPACITY (METRIC TONS)		HOLD CAPACITY (CUBIC METERS)	
PROPULSION TYPE	REFRIGERATION TYPE	HORSEPOWER		HULL MATERIAL	
YEAR BUILT	LOCATION BUIL	CREW SIZE (INCLUDING OFFICERS)		PASSENGER CAPACITY	
PREVIOUS VESSEL NAMES		VESSEL FLAG		EFFECTIVE DATES	

SECTION 2 SELECT THE TYPE OF GEAR TO BE AUTHORIZED BY THE HMS PERMIT

COMMERCIAL:			RECREATIONAL:		
HARPOON	PURSE SEINE	CHARTER VESSEL			
TROLL/JIG	LONGLINE				
DRIFT GILLNET	BAITBOAT				

SECTION 3 VESSEL OWNERSHIP INFORMATION

COMPANY NAME		CORPORATION EIN	DATE CORPORATION FILED	DUNNS NO.
BUSINESS ADDRESS		CITY	STATE	ZIP
BUSINESS TELEPHONE	BUSINESS FAX	BUSINESS CELL PHONE	BUSINESS E-MAIL	
MANAGING OWNER NAME LAST	FIRST	MIDDLE	SUFFIX	DATE OF BIRTH (MONTH/DAY/YEAR)
SECOND OWNER NAME LAST	FIRST	MIDDLE	SUFFIX	DATE OF BIRTH (MONTH/DAY/YEAR)
THIRD OWNER NAME LAST	FIRST	MIDDLE	SUFFIX	DATE OF BIRTH (MONTH/DAY/YEAR)

SECTION 4 SIGNATURE (All applications must be signed and dated)

I certify that the above information is complete, true, and correct to the best of my knowledge and belief.

OWNER'S SIGNATURE:	NAME: (Print legibly or type)	DATE:
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General - This information is being collected by the National Marine Fisheries Service to ensure that timely and accurate records are available concerning the fishing vessels of the U.S. that participate in Pacific Ocean fisheries for highly migratory species, consistent with the requirements of the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species. The collection of information concerning U.S. fishing vessels harvesting tuna in the eastern Pacific Ocean is also necessary for the U.S. to comply with its obligations as a member of the Inter-American Tropical Tuna Commission.

This permit is required for commercial fishing vessels and recreational charter vessels that harvest any of the species that are included in the FMP. They are: Billfish/Swordfish: striped marlin (*Tetrapturus audax*); swordfish (*Xiphias gladius*). Sharks: common thresher shark (*Alopias vulpinus*); pelagic thresher shark (*Alopias pelagicus*); bigeye thresher shark (*Alopias superciliosus*); shortfin mako or bonito shark (*Isurus oxyrinchus*); blue shark (*Prionace glauca*). Tunas: north Pacific albacore (*Thunnus alalunga*); yellowfin tuna (*Thunnus albacares*); bigeye tuna (*Thunnus obesus*); skipjack tuna (*Katsuwonus pelamis*); northern bluefin tuna (*Thunnus orientalis*). Other: dorado or dolphinfish (*Coryphaena hippurus*).

Instructions -

Section 1 - Enter vessel information as it appears on the Coast Guard documentation or, if the vessel is not Coast Guard documented, as it appears on the state registration certificate.

Hull Identification Number - If your vessel does not have a hull identification number leave the box blank.

Home Port - enter the city and state where the vessel is customarily kept, not necessarily the home port listed on the certificate of documentation.

Hail Port - enter the city and state listed on the certificate of documentation.

Radio Call Sign - If your vessel has no radio, leave blank.

Operational VMS - Global positioning system using satellites to track vessel movements.

Hold Capacity - Cubic Meters is preferred; however, Short Tons or Metric Tons are acceptable.

Provide all other information required to the best of your ability.

Section 2 - For commercial fishing vessels, mark only gears that the vessel will use to harvest highly migratory species. Indicate only whether a recreational vessel is a charter or commercial passenger fishing vessel (CPFV). It is not necessary to list any gear for recreational vessels.

Section 3 - For a vessel owned by a company, enter an EIN (Employer Identification Number). The owner's date of birth will be used as an additional identifier and to establish the two-year renewal date for the permit. Enter the month, day, and year. Contact information for all owners of the vessel is required. If there are more than three owners, use an additional sheet. It is recommended that vessel owners obtain a DUNNS Number by contacting Dunn and Bradstreet at their website: www.dnb.com.

Enclose a check in the amount of \$30, payable to "US Department of Commerce - NOAA" for the application fee. Please write your vessel number and name in the memo section of your check.

Warning: A false statement on this form is punishable by permit sanctions (revocation, suspension, or modification) under 15 CFR part 904, a civil penalty up to \$100,000 under 16 USC 1858, and as a federal crime under 18 USC 1001.

Paperwork Reduction Act - Public reporting burden for this collection is estimated to average 30 minutes 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. 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 Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, California 90802-4213.

Privacy Act Statement

The EIN is collected under the authority of the Debt Collection Improvement Act of 1996 (Public Law 104-134). The primary purpose for requesting the EIN is for the collection and reporting on any delinquent amounts arising out of such person's relationship with the government pursuant to the Debt Collection Improvement Act of 1996 (Public Law 104-134). Reporting of the EIN is mandatory, and permit applications, renewals and transfer requests will not be processed without this information. Personally identifiable information is confidential and protected under the Privacy Act (5 U.S.C. 552a). Business information may be disclosed to the public.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southwest Region
501 West Ocean Boulevard, Suite 4200
Long Beach, California 90802-4213

OMB Control No.: 0648-0204
Expiration Date: 4/30/2010

COASTAL PELAGICS FISHING LIMITED ENTRY PERMIT
PERMIT RENEWAL/PERMIT TRANSFER/CHANGE OF ADDRESS
OR REPLACEMENT OF LOST PERMIT

ACTION DESIRED (Check appropriate box):

- RENEWAL** Complete applicant (1) Current vessel information (2)
- PERMIT TRANSFER** Complete applicant (1) Current vessel information (2) New permit owner (3) New vessel information (4)
- PERMIT CHANGE OF ADDRESS** Complete applicant (1) Current vessel information (2). Put new address in new owner (3).
- REPLACEMENT OF LOST PERMIT** Complete applicant (1) Current vessel information (2).

(1) APPLICANT INFORMATION

Name of current permit owner	
Address	Phone No.
Signature	Date

(2) VESSEL INFORMATION

Vessel Name	Gross Tonnage
Official Number (Coast Guard)	State Official Number

This form is intended to be used for all transfers of limited entry permits to either a new vessel and/or a new owner. If two or more permits are being applied to a larger vessel, more than one form will be needed. Please refer to the implementing regulations at 50 CFR 660.514 for details.

COASTAL PELAGICS FISHING PERMIT APPLICATION - Page Two

(3) NEW PERMIT OWNER

Name of intended permit owner	
Address	Phone No.
Signature	Date

(4) NEW VESSEL INFORMATION

Vessel Name	Gross Tonnage
Official Number (Coast Guard)	State Official Number

Comparable capacity means gross tonnage as determined by the formula in 46 CFR 69.209(a) for a vessel not designed for sailing, plus 10 percent of the vessel's calculated gross tonnage.

Gross tonnage (GT) means gross tonnage as determined by the formula in 46 CFR 69.209(a) for a vessel not designed for sailing (.67 x length x breadth x depth/100). A vessel's length, breadth, and depth are those specified on the vessel's certificate of documentation issued by the U.S. Coast Guard or state.

* * * * *

Warning: A false statement on this form is punishable by permit sanctions (revocation, suspension, or modification) under 15 CFR part 904, a civil penalty up to \$100,000 under 16 USC 1858, and as a federal crime under 18 USC 1001.

The purpose of this information collection is to limit the number of vessels fishing for coastal pelagic species according to the provisions of the Fishery Management Plan for Coastal Pelagic Species, which was approved by the Secretary of Commerce and implemented by federal regulations on December 15, 1999 (64 FR 69888). The information on this form is mandatory for owners of vessels who wish to participate in the limited entry fishery, and is required by 50 CFR 660.512. 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 Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

Paperwork Reduction Act - Public reporting burden for this collection is estimated to average 30 minutes 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 this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, California 90802-4213.

SEC. 303. CONTENTS OF FISHERY MANAGEMENT PLANS 16 U.S.C. 1853

95-354, 99-659, 101-627, 104-297

(a) **REQUIRED PROVISIONS.**—Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall—

(1) contain the conservation and management measures, applicable to foreign fishing and fishing by vessels of the United States, which are—

(A) necessary and appropriate for the conservation and management of the fishery to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery;

(B) described in this subsection or subsection (b), or both; and

(C) consistent with the national standards, the other provisions of this Act, regulations implementing recommendations by international organizations in which the United States participates (including but not limited to closed areas, quotas, and size limits), and any other applicable law;

(2) contain a description of the fishery, including, but not limited to, the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the cost likely to be incurred in management, actual and potential revenues from the fishery, any recreational interest in the fishery, and the nature and extent of foreign fishing and Indian treaty fishing rights, if any;

(3) assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery, and include a summary of the information utilized in making such specification;

(4) assess and specify—

(A) the capacity and the extent to which fishing vessels of the United States, on an annual basis, will harvest the optimum yield specified under paragraph (3),

(B) the portion of such optimum yield which, on an annual basis, will not be harvested by fishing vessels of the United States and can be made available for foreign fishing, and

(C) the capacity and extent to which United States fish processors, on an annual basis, will process that portion of such optimum yield that will be harvested by fishing vessels of the United States;

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(5) specify the pertinent data which shall be submitted to the Secretary with respect to commercial, recreational, charter fishing, and fish processing in the fishery, including, but not limited to, information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, number of hauls, economic information necessary to meet the requirements of this Act, and the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors;

(6) consider and provide for temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery; except that the adjustment shall not adversely affect conservation efforts in other fisheries or discriminate among participants in the affected fishery;

(7) describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 305(b)(1)(A), minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat;

(8) in the case of a fishery management plan that, after January 1, 1991, is submitted to the Secretary for review under section 304(a) (including any plan for which an amendment is submitted to the Secretary for such review) or is prepared by the Secretary, assess and specify the nature and extent of scientific data which is needed for effective implementation of the plan;

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(9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and analyze the likely effects, if any, including the cumulative conservation, economic, and social impacts, of the conservation and management measures on, and possible mitigation measures for—

(A) participants in the fisheries and fishing communities affected by the plan or amendment;

(B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants; and

(C) the safety of human life at sea, including whether and to what extent such measures may affect the safety of participants in the fishery;

(10) specify objective and measurable criteria for identifying when the fishery to which the plan applies is overfished (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery) and, in the case of a fishery which the Council or the Secretary has determined is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery;

(11) establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority—

(A) minimize bycatch; and

(B) minimize the mortality of bycatch which cannot be avoided;

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(12) assess the type and amount of fish caught and released alive during recreational fishing under catch and release fishery management programs and the mortality of such fish, and include conservation and management measures that, to the extent practicable, minimize mortality and ensure the extended survival of such fish;

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(13) include a description of the commercial, recreational, and charter fishing sectors which participate in the fishery, including its economic impact, and, to the extent practicable, quantify trends in landings of the managed fishery resource by the commercial, recreational, and charter fishing sectors;

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(14) to the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate, taking into consideration the economic impact of the harvest restrictions or recovery benefits on the fishery participants in each sector, any harvest restrictions or recovery benefits fairly and equitably among the commercial, recreational, and charter fishing sectors in the fishery and;

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(15) establish a mechanism for specifying annual catch limits in the plan (including a multiyear plan), implementing regulations, or annual specifications, at a level such that overfishing does not occur in the fishery, including measures to ensure accountability.

97-453, 99-659, 101-627, 102-251, 104-297

(b) DISCRETIONARY PROVISIONS.—Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may—

(1) require a permit to be obtained from, and fees to be paid to, the Secretary, with respect to—

(A) any fishing vessel of the United States fishing, or wishing to fish, in the exclusive economic zone [or special areas,]* or for anadromous species or Continental Shelf fishery resources beyond such zone [or areas]*;

(B) the operator of any such vessel; or

(C) any United States fish processor who first receives fish that are subject to the plan;

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(2)(A) designate zones where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

(B) designate such zones in areas where deep sea corals are identified under section 408, to protect deep sea corals from physical damage from fishing gear or to prevent loss or damage to such fishing gear from interactions with deep sea corals, after considering long-term sustainable uses of fishery resources in such areas; and

(C) with respect to any closure of an area under this Act that prohibits all fishing, ensure that such closure—

- (i) is based on the best scientific information available;
- (ii) includes criteria to assess the conservation benefit of the closed area;
- (iii) establishes a timetable for review of the closed area's performance that is consistent with the purposes of the closed area; and
- (iv) is based on an assessment of the benefits and impacts of the closure, including its size, in relation to other management measures (either alone or in combination with such measures), including the benefits and impacts of limiting access to: users of the area, overall fishing activity, fishery science, and fishery and marine conservation;

(3) establish specified limitations which are necessary and appropriate for the conservation and management of the fishery on the—

- (A) catch of fish (based on area, species, size, number, weight, sex, bycatch, total biomass, or other factors);
- (B) sale of fish caught during commercial, recreational, or charter fishing, consistent with any applicable Federal and State safety and quality requirements; and
- (C) transshipment or transportation of fish or fish products under permits issued pursuant to section 204;

(4) prohibit, limit, condition, or require the use of specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the provisions of this Act;

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(5) incorporate (consistent with the national standards, the other provisions of this Act, and any other applicable law) the relevant fishery conservation and management measures of the coastal States nearest to the fishery and take into account the different circumstances affecting fisheries from different States and ports, including distances to fishing grounds and proximity to time and area closures;

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(6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account—

- (A) present participation in the fishery;
- (B) historical fishing practices in, and dependence on, the fishery;
- (C) the economics of the fishery;
- (D) the capability of fishing vessels used in the fishery to engage in other fisheries;
- (E) the cultural and social framework relevant to the fishery and any affected fishing communities;
- (F) the fair and equitable distribution of access privileges in the fishery; and
- (G) any other relevant considerations;

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(7) require fish processors who first receive fish that are subject to the plan to submit data which are necessary for the conservation and management of the fishery;

(8) require that one or more observers be carried on board a vessel of the United States engaged in fishing for species that are subject to the plan, for the purpose of collecting data necessary for the conservation and management of the fishery; except that such a vessel shall not be required to carry an observer on board if the facilities of the vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized;

(9) assess and specify the effect which the conservation and management measures of the plan will have on the stocks of naturally spawning anadromous fish in the region;

(10) include, consistent with the other provisions of this Act, conservation and management measures that provide harvest incentives for participants within each gear group to employ fishing practices that result in lower levels of bycatch or in lower levels of the mortality of bycatch;

(11) reserve a portion of the allowable biological catch of the fishery for use in scientific research;

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(12) include management measures in the plan to conserve target and non-target species and habitats, considering the variety of ecological factors affecting fishery populations; and

(14)[sic]¹⁵ prescribe such other measures, requirements, or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery.

97-453, 104-297

(c) PROPOSED REGULATIONS.—Proposed regulations which the Council deems necessary or appropriate for the purposes of—

(1) implementing a fishery management plan or plan amendment shall be submitted to the Secretary simultaneously with the plan or amendment under section 304; and

(2) making modifications to regulations implementing a fishery management plan or plan amendment may be submitted to the Secretary at any time after the plan or amendment is approved under section 304.

¹⁵ So in original.

P.L. 109-479, sec. 104(b), MSA § 303 note

16 U.S.C. 1853 note

EFFECTIVE DATES; APPLICATION TO CERTAIN SPECIES.—The amendment made by subsection (a)(10)¹⁶—

(1) shall, unless otherwise provided for under an international agreement in which the United States participates, take effect—

(A) in fishing year 2010 for fisheries determined by the Secretary to be subject to overfishing; and

(B) in fishing year 2011 for all other fisheries; and

(2) shall not apply to a fishery for species that have a life cycle of approximately 1 year unless the Secretary has determined the fishery is subject to overfishing of that species; and

(3) shall not limit or otherwise affect the requirements of section 301(a)(1) or 304(e) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851(a)(1) or 1854(e), respectively).

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SEC. 303A. LIMITED ACCESS PRIVILEGE PROGRAMS.

16 U.S.C. 1853a

(a) **IN GENERAL.**—After the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, a Council may submit, and the Secretary may approve, for a fishery that is managed under a limited access system, a limited access privilege program to harvest fish if the program meets the requirements of this section.

(b) **NO CREATION OF RIGHT, TITLE, OR INTEREST.**—Limited access privilege, quota share, or other limited access system authorization established, implemented, or managed under this Act—

(1) shall be considered a permit for the purposes of sections 307, 308, and 309;

(2) may be revoked, limited, or modified at any time in accordance with this Act, including revocation if the system is found to have jeopardized the sustainability of the stock or the safety of fishermen;

(3) shall not confer any right of compensation to the holder of such limited access privilege, quota share, or other such limited access system authorization if it is revoked, limited, or modified;

(4) shall not create, or be construed to create, any right, title, or interest in or to any fish before the fish is harvested by the holder; and

(5) shall be considered a grant of permission to the holder of the limited access privilege or quota share to engage in activities permitted by such limited access privilege or quota share.

¹⁶ Section 104(a)(10) of P.L. 109-479 added section 303(a)(15).

(c) REQUIREMENTS FOR LIMITED ACCESS PRIVILEGES.—

(1) IN GENERAL.—Any limited access privilege program to harvest fish submitted by a Council or approved by the Secretary under this section shall—

(A) if established in a fishery that is overfished or subject to a rebuilding plan, assist in its rebuilding;

(B) if established in a fishery that is determined by the Secretary or the Council to have over-capacity, contribute to reducing capacity;

(C) promote—

(i) fishing safety;

(ii) fishery conservation and management; and

(iii) social and economic benefits;

(D) prohibit any person other than a United States citizen, a corporation, partnership, or other entity established under the laws of the United States or any State, or a permanent resident alien, that meets the eligibility and participation requirements established in the program from acquiring a privilege to harvest fish, including any person that acquires a limited access privilege solely for the purpose of perfecting or realizing on a security interest in such privilege;

(E) require that all fish harvested under a limited access privilege program be processed on vessels of the United States or on United States soil (including any territory of the United States);

(F) specify the goals of the program;

(G) include provisions for the regular monitoring and review by the Council and the Secretary of the operations of the program, including determining progress in meeting the goals of the program and this Act, and any necessary modification of the program to meet those goals, with a formal and detailed review 5 years after the implementation of the program and thereafter to coincide with scheduled Council review of the relevant fishery management plan (but no less frequently than once every 7 years);

(H) include an effective system for enforcement, monitoring, and management of the program, including the use of observers or electronic monitoring systems;

(I) include an appeals process for administrative review of the Secretary's decisions regarding initial allocation of limited access privileges;

(J) provide for the establishment by the Secretary, in consultation with appropriate Federal agencies, for an information collection and review process to provide any additional information needed to determine whether any illegal acts of anti-competition, anti-trust, price collusion, or price fixing have occurred among regional fishery associations or persons receiving limited access privileges under the program; and

(K) provide for the revocation by the Secretary of limited access privileges held by any person found to have violated the antitrust laws of the United States.

(2) WAIVER.—The Secretary may waive the requirement of paragraph (1)(E) if the Secretary determines that—

- (A) the fishery has historically processed the fish outside of the United States; and
- (B) the United States has a seafood safety equivalency agreement with the country where processing will occur.

(3) FISHING COMMUNITIES.—

(A) IN GENERAL.—

(i) ELIGIBILITY.—To be eligible to participate in a limited access privilege program to harvest fish, a fishing community shall—

- (I) be located within the management area of the relevant Council;
- (II) meet criteria developed by the relevant Council, approved by the Secretary, and published in the Federal Register;
- (III) consist of residents who conduct commercial or recreational fishing, processing, or fishery-dependent support businesses within the Council's management area; and
- (IV) develop and submit a community sustainability plan to the Council and the Secretary that demonstrates how the plan will address the social and economic development needs of coastal communities, including those that have not historically had the resources to participate in the fishery, for approval based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register.

(ii) FAILURE TO COMPLY WITH PLAN.—The Secretary shall deny or revoke limited access privileges granted under this section for any person who fails to comply with the requirements of the community sustainability plan. Any limited access privileges denied or revoked under this section may be reallocated to other eligible members of the fishing community.

- (B) PARTICIPATION CRITERIA.—In developing participation criteria for eligible communities under this paragraph, a Council shall consider—
- (i) traditional fishing or processing practices in, and dependence on, the fishery;
 - (ii) the cultural and social framework relevant to the fishery;
 - (iii) economic barriers to access to fishery;
 - (iv) the existence and severity of projected economic and social impacts associated with implementation of limited access privilege programs on harvesters, captains, crew, processors, and other businesses substantially dependent upon the fishery in the region or subregion;
 - (v) the expected effectiveness, operational transparency, and equitability of the community sustainability plan; and
 - (vi) the potential for improving economic conditions in remote coastal communities lacking resources to participate in harvesting or processing activities in the fishery.

(4) REGIONAL FISHERY ASSOCIATIONS.—

(A) IN GENERAL.—To be eligible to participate in a limited access privilege program to harvest fish, a regional fishery association shall—

- (i) be located within the management area of the relevant Council;
- (ii) meet criteria developed by the relevant Council, approved by the Secretary, and published in the Federal Register;
- (iii) be a voluntary association with established by-laws and operating procedures;
- (iv) consist of participants in the fishery who hold quota share that are designated for use in the specific region or subregion covered by the regional fishery association, including commercial or recreational fishing, processing, fishery-dependent support businesses, or fishing communities;
- (v) not be eligible to receive an initial allocation of a limited access privilege but may acquire such privileges after the initial allocation, and may hold the annual fishing privileges of any limited access privileges it holds or the annual fishing privileges that is [sic]¹⁷ members contribute; and
- (vi) develop and submit a regional fishery association plan to the Council and the Secretary for approval based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register.

(B) FAILURE TO COMPLY WITH PLAN.—The Secretary shall deny or revoke limited access privileges granted under this section to any person participating in a regional fishery association who fails to comply with the requirements of the regional fishery association plan.

¹⁷ So in original.

(C) PARTICIPATION CRITERIA.—In developing participation criteria for eligible regional fishery associations under this paragraph, a Council shall consider—

- (i) traditional fishing or processing practices in, and dependence on, the fishery;
- (ii) the cultural and social framework relevant to the fishery;
- (iii) economic barriers to access to fishery;
- (iv) the existence and severity of projected economic and social impacts associated with implementation of limited access privilege programs on harvesters, captains, crew, processors, and other businesses substantially dependent upon the fishery in the region or subregion;
- (v) the administrative and fiduciary soundness of the association; and
- (vi) the expected effectiveness, operational transparency, and equitability of the fishery association plan.

(5) ALLOCATION.—In developing a limited access privilege program to harvest fish a Council or the Secretary shall—

(A) establish procedures to ensure fair and equitable initial allocations, including consideration of—

- (i) current and historical harvests;
- (ii) employment in the harvesting and processing sectors;
- (iii) investments in, and dependence upon, the fishery; and
- (iv) the current and historical participation of fishing communities;

(B) consider the basic cultural and social framework of the fishery, especially through—

- (i) the development of policies to promote the sustained participation of small owner-operated fishing vessels and fishing communities that depend on the fisheries, including regional or port-specific landing or delivery requirements; and
- (ii) procedures to address concerns over excessive geographic or other consolidation in the harvesting or processing sectors of the fishery;

(C) include measures to assist, when necessary and appropriate, entry-level and small vessel owner-operators, captains, crew, and fishing communities through set-asides of harvesting allocations, including providing privileges, which may include set-asides or allocations of harvesting privileges, or economic assistance in the purchase of limited access privileges;

(D) ensure that limited access privilege holders do not acquire an excessive share of the total limited access privileges in the program by—

- (i) establishing a maximum share, expressed as a percentage of the total limited access privileges, that a limited access privilege holder is permitted to hold, acquire, or use; and
- (ii) establishing any other limitations or measures necessary to prevent an inequitable concentration of limited access privileges; and

(E) authorize limited access privileges to harvest fish to be held, acquired, used by, or issued under the system to persons who substantially participate in the fishery, including in a specific sector of such fishery, as specified by the Council.

(6) PROGRAM INITIATION.—

(A) LIMITATION.—Except as provided in subparagraph (D), a Council may initiate a fishery management plan or amendment to establish a limited access privilege program to harvest fish on its own initiative or if the Secretary has certified an appropriate petition.

(B) PETITION.—A group of fishermen constituting more than 50 percent of the permit holders, or holding more than 50 percent of the allocation, in the fishery for which a limited access privilege program to harvest fish is sought, may submit a petition to the Secretary requesting that the relevant Council or Councils with authority over the fishery be authorized to initiate the development of the program. Any such petition shall clearly state the fishery to which the limited access privilege program would apply. For multispecies permits in the Gulf of Mexico, only those participants who have substantially fished the species proposed to be included in the limited access program shall be eligible to sign a petition for such a program and shall serve as the basis for determining the percentage described in the first sentence of this subparagraph.

(C) CERTIFICATION BY SECRETARY.—Upon the receipt of any such petition, the Secretary shall review all of the signatures on the petition and, if the Secretary determines that the signatures on the petition represent more than 50 percent of the permit holders, or holders of more than 50 percent of the allocation in the fishery, as described by subparagraph (B), the Secretary shall certify the petition to the appropriate Council or Councils.

(D) NEW ENGLAND AND GULF REFERENDUM.—

(i) Except as provided in clause (iii) for the Gulf of Mexico commercial red snapper fishery, the New England and Gulf Councils may not submit, and the Secretary may not approve or implement, a fishery management plan or amendment that creates an individual fishing quota program, including a Secretarial plan, unless such a system, as ultimately developed, has been approved by more than 2/3 of those voting in a referendum among eligible permit holders, or other persons described in clause (v), with respect to the New England Council, and by a majority of those voting in the referendum among eligible permit holders with respect to the Gulf Council. For multispecies permits in the Gulf of Mexico, only those participants who have substantially fished the species proposed to be included in the individual fishing quota program shall be eligible to vote in such a referendum. If an individual fishing quota program fails to be approved by the requisite number of those voting, it may be revised and submitted for approval in a subsequent referendum.

(ii) The Secretary shall conduct a referendum under this subparagraph, including notifying all persons eligible to participate in the referendum and making available to them information concerning the schedule, procedures, and eligibility requirements for the referendum process and the proposed individual fishing quota program. Within 1 year after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary shall publish guidelines and procedures to determine procedures and voting eligibility requirements for referenda and to conduct such referenda in a fair and equitable manner.

(iii) The provisions of section 407(c) of this Act shall apply in lieu of this subparagraph for an individual fishing quota program for the Gulf of Mexico commercial red snapper fishery.

(iv) Chapter 35 of title 44, United States Code, (commonly known as the Paperwork Reduction Act) does not apply to the referenda conducted under this subparagraph.

(v) The Secretary shall promulgate criteria for determining whether additional fishery participants are eligible to vote in the New England referendum described in clause (i) in order to ensure that crew members who derive a significant percentage of their total income from the fishery under the proposed program are eligible to vote in the referendum.

(vi) In this subparagraph, the term ‘individual fishing quota’ does not include a sector allocation.

(7) TRANSFERABILITY.—In establishing a limited access privilege program, a Council shall—

(A) establish a policy and criteria for the transferability of limited access privileges (through sale or lease), that is consistent with the policies adopted by the Council for the fishery under paragraph (5); and

(B) establish, in coordination with the Secretary, a process for monitoring of transfers (including sales and leases) of limited access privileges.

(8) PREPARATION AND IMPLEMENTATION OF SECRETARIAL PLANS.—This subsection also applies to a plan prepared and implemented by the Secretary under section 304(c) or 304(g).

(9) ANTITRUST SAVINGS CLAUSE.—Nothing in this Act shall be construed to modify, impair, or supersede the operation of any of the antitrust laws. For purposes of the preceding sentence, the term ‘antitrust laws’ has the meaning given such term in subsection (a) of the first section of the Clayton Act, except that such term includes section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

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(d) AUCTION AND OTHER PROGRAMS.—In establishing a limited access privilege program, a Council shall consider, and may provide, if appropriate, an auction system or other program to collect royalties for the initial, or any subsequent, distribution of allocations in a limited access privilege program if—

(1) the system or program is administered in such a way that the resulting distribution of limited access privilege shares meets the program requirements of this section; and

(2) revenues generated through such a royalty program are deposited in the Limited Access System Administration Fund established by section 305(h)(5)(B) and available subject to annual appropriations.

(e) COST RECOVERY.—In establishing a limited access privilege program, a Council shall—

(1) develop a methodology and the means to identify and assess the management, data collection and analysis, and enforcement programs that are directly related to and in support of the program; and

(2) provide, under section 304(d)(2), for a program of fees paid by limited access privilege holders that will cover the costs of management, data collection and analysis, and enforcement activities.

(f) CHARACTERISTICS.—A limited access privilege established after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 is a permit issued for a period of not more than 10 years that—

(1) will be renewed before the end of that period, unless it has been revoked, limited, or modified as provided in this subsection;

(2) will be revoked, limited, or modified if the holder is found by the Secretary, after notice and an opportunity for a hearing under section 554 of title 5, United States Code, to have failed to comply with any term of the plan identified in the plan as cause for revocation, limitation, or modification of a permit, which may include conservation requirements established under the plan;

(3) may be revoked, limited, or modified if the holder is found by the Secretary, after notice and an opportunity for a hearing under section 554 of title 5, United States Code, to have committed an act prohibited by section 307 of this Act; and

(4) may be acquired, or reacquired, by participants in the program under a mechanism established by the Council if it has been revoked, limited, or modified under paragraph (2) or (3).

(g) LIMITED ACCESS PRIVILEGE ASSISTED PURCHASE PROGRAM.—

(1) IN GENERAL.—A Council may submit, and the Secretary may approve and implement, a program which reserves up to 25 percent of any fees collected from a fishery under section 304(d)(2) to be used, pursuant to section 53706(a)(7) of title 46, United States Code, to issue obligations that aid in financing—

(A) the purchase of limited access privileges in that fishery by fishermen who fish from small vessels; and

(B) the first-time purchase of limited access privileges in that fishery by entry level fishermen.

(2) ELIGIBILITY CRITERIA.—A Council making a submission under paragraph (1) shall recommend criteria, consistent with the provisions of this Act, that a fisherman must meet to qualify for guarantees under subparagraphs (A) and (B) of paragraph (1) and the portion of funds to be allocated for guarantees under each subparagraph.

(h) EFFECT ON CERTAIN EXISTING SHARES AND PROGRAMS.—Nothing in this Act, or the amendments made by the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, shall be construed to require a reallocation or a reevaluation of individual quota shares, processor quota shares, cooperative programs, or other quota programs, including sector allocation in effect before the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006.

(i) TRANSITION RULES.—

(1) IN GENERAL.—The requirements of this section shall not apply to any quota program, including any individual quota program, cooperative program, or sector allocation for which a Council has taken final action or which has been submitted by a Council to the Secretary, or approved by the Secretary, within 6 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, except that—

(A) the requirements of section 303(d) of this Act in effect on the day before the date of enactment of that Act shall apply to any such program;

(B) the program shall be subject to review under subsection (c)(1)(G) of this section not later than 5 years after the program implementation; and

(C) nothing in this subsection precludes a Council from incorporating criteria contained in this section into any such plans.

(2) PACIFIC GROUND FISH PROPOSALS.—The requirements of this section, other than subparagraphs (A) and (B) of subsection (c)(1) and subparagraphs (A), (B), and (C) of paragraph (1) of this subsection, shall not apply to any proposal authorized under section 302(f) of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 that is submitted within the timeframe prescribed by that section.

16 U.S.C. 1853a note, 1854
MSA §§ 303A note, 304

P.L. 109-479, sec. 106(e), MSA § 303A note

16 U.S.C. 1853a note

APPLICATION WITH AMERICAN FISHERIES ACT.—Nothing in section 303A of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), as added by subsection (a) [P.L. 109-479], shall be construed to modify or supersede any provision of the American Fisheries Act (46 U.S.C. 12102 note; 16 U.S.C. 1851 note; et alia).

P.L. 104-297, sec. 108(i), MSA § 303 note

EXISTING QUOTA PLANS.—Nothing in this Act [P.L.104-297] or the amendments made by this Act shall be construed to require a reallocation of individual fishing quotas under any individual fishing quota program approved by the Secretary before January 4, 1995.

SEC. 304. ACTION BY THE SECRETARY

16 U.S.C. 1854

104-297

(a) REVIEW OF PLANS.—

(1) Upon transmittal by the Council to the Secretary of a fishery management plan or plan amendment, the Secretary shall—

(A) immediately commence a review of the plan or amendment to determine whether it is consistent with the national standards, the other provisions of this Act, and any other applicable law; and

(B) immediately publish in the Federal Register a notice stating that the plan or amendment is available and that written information, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

(2) In undertaking the review required under paragraph (1), the Secretary shall—

(A) take into account the information, views, and comments received from interested persons;

(B) consult with the Secretary of State with respect to foreign fishing; and

(C) consult with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea and to fishery access adjustments referred to in section 303(a)(6).

(3) The Secretary shall approve, disapprove, or partially approve a plan or amendment within 30 days of the end of the comment period under paragraph (1) by written notice to the Council. A notice of disapproval or partial approval shall specify—

(A) the applicable law with which the plan or amendment is inconsistent;

(B) the nature of such inconsistencies; and

(C) recommendations concerning the actions that could be taken by the Council to conform such plan or amendment to the requirements of applicable law.

If the Secretary does not notify a Council within 30 days of the end of the comment period of the approval, disapproval, or partial approval of a plan or amendment, then such plan or amendment shall take effect as if approved.

104-297

SEC. 402. INFORMATION COLLECTION

16 U.S.C. 1881a

109-479

(a) COLLECTION PROGRAMS.—

(1) COUNCIL REQUESTS.—If a Council determines that additional information would be beneficial for developing, implementing, or revising a fishery management plan or for determining whether a fishery is in need of management, the Council may request that the Secretary implement an information collection program for the fishery which would provide the types of information specified by the Council. The Secretary shall undertake such an information collection program if he determines that the need is justified, and shall promulgate regulations to implement the program within 60 days after such determination is made. If the Secretary determines that the need for an information collection program is not justified, the Secretary shall inform the Council of the reasons for such determination in writing. The determinations of the Secretary under this paragraph regarding a Council request shall be made within a reasonable period of time after receipt of that request.

(2) SECRETARIAL INITIATION.—If the Secretary determines that additional information is necessary for developing, implementing, revising, or monitoring a fishery management plan, or for determining whether a fishery is in need of management, the Secretary may, by regulation, implement an information collection or observer program requiring submission of such additional information for the fishery.

109-479

(b) CONFIDENTIALITY OF INFORMATION.—

(1) Any information submitted to the Secretary, a State fishery management agency, or a marine fisheries commission by any person in compliance with the requirements of this Act shall be confidential and shall not be disclosed except—

(A) to Federal employees and Council employees who are responsible for fishery management plan development, monitoring, or enforcement;

(B) to State or Marine Fisheries Commission employees as necessary to further the Department's mission, subject to a confidentiality agreement that prohibits public disclosure of the identity of business of any person;

(C) to State employees who are responsible for fishery management plan enforcement, if the States employing those employees have entered into a fishery enforcement agreement with the Secretary and the agreement is in effect;

(D) when required by court order;

(E) when such information is used by State, Council, or Marine Fisheries Commission employees to verify catch under a limited access program, but only to the extent that such use is consistent with subparagraph (B);

(F) when the Secretary has obtained written authorization from the person submitting such information to release such information to persons for reasons not otherwise provided for in this subsection, and such release does not violate other requirements of this Act;

(G) when such information is required to be submitted to the Secretary for any determination under a limited access program; or

(H) in support of homeland and national security activities, including the Coast Guard's homeland security missions as defined in section 888(a)(2) of the Homeland Security Act of 2002 (6 U.S.C. 468(a)(2)).

(2) Any observer information shall be confidential and shall not be disclosed, except in accordance with the requirements of subparagraphs (A) through (H) of paragraph (1), or—

(A) as authorized by a fishery management plan or regulations under the authority of the North Pacific Council to allow disclosure to the public of weekly summary bycatch information identified by vessel or for haul-specific bycatch information without vessel identification;

(B) when such information is necessary in proceedings to adjudicate observer certifications; or

(C) as authorized by any regulations issued under paragraph (3) allowing the collection of observer information, pursuant to a confidentiality agreement between the observers, observer employers, and the Secretary prohibiting disclosure of the information by the observers or observer employers, in order—

(i) to allow the sharing of observer information among observers and between observers and observer employers as necessary to train and prepare observers for deployments on specific vessels; or

(ii) to validate the accuracy of the observer information collected.

(3) The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve the confidentiality of information submitted in compliance with any requirement or regulation under this Act, except that the Secretary may release or make public any such information in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such information. Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary, or with the approval of the Secretary, the Council, of any information submitted in compliance with any requirement or regulation under this Act or the use, release, or publication of bycatch information pursuant to paragraph (2)(A).

(c) RESTRICTION ON USE OF CERTAIN INFORMATION.—

(1) The Secretary shall promulgate regulations to restrict the use, in civil enforcement or criminal proceedings under this Act, the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.), and the Endangered Species Act (16 U.S.C. 1531 et seq.), of information collected by voluntary fishery data collectors, including sea samplers, while aboard any vessel for conservation and management purposes if the presence of such a fishery data collector aboard is not required by any of such Acts or regulations thereunder.

(2) The Secretary may not require the submission of a Federal or State income tax return or statement as a prerequisite for issuance of a permit until such time as the Secretary has promulgated regulations to ensure the confidentiality of information contained in such return or statement, to limit the information submitted to that necessary to achieve a demonstrated conservation and management purpose, and to provide appropriate penalties for violation of such regulations.

16 U.S.C. 1881a-1881b
MSA §§ 402-403

(d) **CONTRACTING AUTHORITY.**—Notwithstanding any other provision of law, the Secretary may provide a grant, contract, or other financial assistance on a sole-source basis to a State, Council, or Marine Fisheries Commission for the purpose of carrying out information collection or other programs if—

(1) the recipient of such a grant, contract, or other financial assistance is specified by statute to be, or has customarily been, such State, Council, or Marine Fisheries Commission; or

(2) the Secretary has entered into a cooperative agreement with such State, Council, or Marine Fisheries Commission.

(e) **RESOURCE ASSESSMENTS.**—

(1) The Secretary may use the private sector to provide vessels, equipment, and services necessary to survey the fishery resources of the United States when the arrangement will yield statistically reliable results.

(2) The Secretary, in consultation with the appropriate Council and the fishing industry--

(A) may structure competitive solicitations under paragraph (1) so as to compensate a contractor for a fishery resources survey by allowing the contractor to retain for sale fish harvested during the survey voyage;

(B) in the case of a survey during which the quantity or quality of fish harvested is not expected to be adequately compensatory, may structure those solicitations so as to provide that compensation by permitting the contractor to harvest on a subsequent voyage and retain for sale a portion of the allowable catch of the surveyed fishery; and

(C) may permit fish harvested during such survey to count toward a vessel's catch history under a fishery management plan if such survey was conducted in a manner that precluded a vessel's participation in a fishery that counted under the plan for purposes of determining catch history.

(3) The Secretary shall undertake efforts to expand annual fishery resource assessments in all regions of the Nation.

104-297

SEC. 403. OBSERVERS

16 U.S.C. 1881b

(a) **GUIDELINES FOR CARRYING OBSERVERS.**—Within one year after the date of enactment of the Sustainable Fisheries Act, the Secretary shall promulgate regulations, after notice and opportunity for public comment, for fishing vessels that carry observers. The regulations shall include guidelines for determining—

(1) when a vessel is not required to carry an observer on board because the facilities of such vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; and

(2) actions which vessel owners or operators may reasonably be required to take to render such facilities adequate and safe.

-CITE-

01/08/2008

31 USC CHAPTER 77 - ACCESS TO INFORMATION FOR DEBT COLLECTION

-EXPCITE-

TITLE 31 - MONEY AND FINANCE
SUBTITLE V - GENERAL ASSISTANCE ADMINISTRATION
CHAPTER 77 - ACCESS TO INFORMATION FOR DEBT COLLECTION

-HEAD-

CHAPTER 77 - ACCESS TO INFORMATION FOR DEBT COLLECTION

-MISC1-

Sec. 7701 Taxpayer identifying number

AMENDMENTS

1996 - Pub. L. 104-134, title III, Sec. 31001(i)(3)(A), Apr. 26, 1996, 110 Stat. 1321-365, which directed that the chapter title to chapter 77 of subtitle VI of this title be amended by substituting "ACCESS TO INFORMATION FOR DEBT COLLECTION" for "LOAN REQUIREMENTS", was executed by making the substitution in the chapter title of chapter 77 of subtitle V of this title, to reflect the probable intent of Congress.

-End-

-CITE-

31 USC Sec. 7701

01/08/2008

-EXPCITE-

TITLE 31 - MONEY AND FINANCE
SUBTITLE V - GENERAL ASSISTANCE ADMINISTRATION
CHAPTER 77 - ACCESS TO INFORMATION FOR DEBT COLLECTION

-HEAD-

Sec.7701 Taxpayer identifying number

-STATUTE-

(a) In this section -

(1) "included Federal loan program" has the same meaning given that term in section 6103(1)(3)(C) of the Internal Revenue Code of 1986 (26 U.S.C. 6103(1)(3)(C)).

(2) "taxpayer identifying number" means the identifying number required under section 6109 of the Internal Revenue Code of 1986 (26 U.S.C. 6109).

(b) The head of an agency administering an included Federal loan program shall require a person applying for a loan under the program to provide that person's taxpayer identifying number.

(c)(1) The head of each Federal agency shall require each person doing business with that agency to furnish to that agency such person's taxpayer identifying number.

(2) For purposes of this subsection, a person shall be considered to be doing business with a Federal agency if the person is -

(A) a lender or servicer in a Federal guaranteed or insured loan program administered by the agency;

(B) an applicant for, or recipient of, a Federal license, permit, right-of-way, grant, or benefit payment administered by the agency or insurance administered by the agency;

(C) a contractor of the agency;

(D) assessed a fine, fee, royalty or penalty by the agency; and

(E) in a relationship with the agency that may give rise to a receivable due to that agency, such as a partner of a borrower in or a guarantor of a Federal direct or insured loan administered by the agency.

(3) Each agency shall disclose to a person required to furnish a taxpayer identifying number under this subsection its intent to use such number for purposes of collecting and reporting on any delinquent amounts arising out of such person's relationship with the Government.

(4) For purposes of this subsection, a person shall not be treated as doing business with a Federal agency solely by reason of being a debtor under third party claims of the United States. The preceding sentence shall not apply to a debtor owing claims resulting from petroleum pricing violations or owing claims resulting from Federal loan or loan guarantee/insurance programs.

(d) Notwithstanding section 552a(b) of title 5, United States Code, creditor agencies to which a delinquent claim is owed, and their agents, may match their debtor records with Department of Health and Human Services, and Department of Labor records to obtain names (including names of employees), name controls, names of employers, taxpayer identifying numbers, addresses (including addresses of employers), and dates of birth. The preceding sentence shall apply to the disclosure of taxpayer identifying numbers only if such disclosure is not otherwise prohibited by section 6103 of the Internal Revenue Code of 1986. The Department of Health and Human Services and the Department of Labor shall

release that information to creditor agencies and may charge reasonable fees sufficient to pay the costs associated with that release.

-SOURCE-

(Added Pub. L. 103-272, Sec. 4(f)(1)(Y)(i), July 5, 1994, 108 Stat. 1363; amended Pub. L. 104-134, title III, Sec. 31001(i)(1), Apr. 26, 1996, 110 Stat. 1321-364.)

-REFTEXT-

REFERENCES IN TEXT

Section 6103 of the Internal Revenue Code of 1986, referred to in subsecs. (a)(1) and (d), is classified to section 6103 of Title 26, Internal Revenue Code.

-MISC1-

AMENDMENTS

1996 - Subsecs. (c), (d). Pub. L. 104-134 added subsecs. (c) and (d).

-End-

-CITE-

31 USC SUBTITLE VI - MISCELLANEOUS

01/08/2008

-EXPCITE-

TITLE 31 - MONEY AND FINANCE
SUBTITLE VI - MISCELLANEOUS

-HEAD-

SUBTITLE VI - MISCELLANEOUS

-MISC1-

Chap.		Sec.
91.	Government Corporations	9101
93.	Sureties and Surety Bonds	9301
95.	Government Pension Plan Protection	9501
97.	Miscellaneous	9701

AMENDMENTS

1996 - Pub. L. 104-134, title III, Sec. 31001(i)(3)(B), Apr. 26, 1996, 110 Stat. 1321-365, which directed that the table of chapters for subtitle VI of this title be amended by inserting a new item for chapter 77 "Access to information for debt collection" before the item for chapter 91, was executed to the table of chapters for subtitle V of this title by substituting "Access to information for debt collection" for "Loan Requirements" in item for chapter 77, to reflect the probable intent of Congress.

-End-

e-CFR Data is current as of January 26, 2010

Title 50: Wildlife and Fisheries

PART 660—FISHERIES OFF WEST COAST STATES

Subpart A—General

§ 660.1 Purpose and scope.

(a) The regulations in this part govern fishing for West Coast fishery management unit species by vessels of the United States that operate or are based inside the outer boundary of the EEZ off West Coast States.

(b) General regulations governing fishing by all vessels of the United States and by fishing vessels other than vessels of the United States are contained in part 600 of this chapter.

(c) Regulations governing the harvest, possession, landing, purchase, and sale of shark fins are found at part 600, subpart N, of this chapter.

[61 FR 34572, July 2, 1996, as amended at 67 FR 6201, Feb. 11, 2002; 69 FR 53362, Sept. 1, 2004; 71 FR 17989, Apr. 10, 2006]

§ 660.2 Relation to other laws.

(a) NMFS recognizes that any state law pertaining to vessels registered under the laws of that state while operating in the fisheries regulated under this part, and that is consistent with this part and the FMPs implemented by this part, shall continue in effect with respect to fishing activities regulated under this part.

(b) Fishing activities addressed by this Part may also be subject to regulation under 15 CFR part 922, subpart G, if conducted in the Channel Islands National Marine Sanctuary.

[72 FR 29235, May 24, 2007]

§ 660.3 Reporting and recordkeeping.

Any person who is required to do so by applicable state law or regulation must make and/or file all reports of management unit species landings containing all data and in the exact manner required by applicable state law or regulation.

[71 FR 17989, Apr. 10, 2006]

Title 50: Wildlife and Fisheries

PART 660—FISHERIES OFF WEST COAST STATES

Subpart I—Coastal Pelagics Fisheries

Source: 64 FR 69893, Dec. 15, 1999, unless otherwise noted.

§ 660.501 Purpose and scope.

This subpart implements the Fishery Management Plan for Coastal Pelagic Species (FMP). These regulations govern commercial fishing for CPS in the EEZ off the coasts of Washington, Oregon, and California.

§ 660.502 Definitions.

In addition to the definitions in the Magnuson-Stevens Act and in §600.10 of this chapter, the terms used in this subpart have the following meanings:

Actively managed species (AMS) means those CPS for which the Secretary has determined that harvest guidelines or quotas are needed by Federal management according to the provisions of the FMP.

Advisory Subpanel (AP) means the Coastal Pelagic Species Advisory Subpanel that comprises members of the fishing industry and public appointed by the Council to review proposed actions for managing the coastal pelagic fisheries.

Biomass means the estimated amount, by weight, of a coastal pelagic species population. The term biomass means total biomass (age 1 and above) unless stated otherwise.

Coastal pelagic species (CPS) means northern anchovy (*Engraulis mordax*), Pacific mackerel (*Scomber japonicus*), Pacific sardine (*Sardinops sagax*), jack mackerel (*Trachurus symmetricus*), and market squid (*Loligo opelescens*).

Coastal Pelagic Species Management Team (CPSMT) means the individuals appointed by the Council to review, analyze, and develop management measures for the CPS fishery.

Comparable capacity means gross tonnage plus 10 percent of the vessel's calculated gross tonnage.

Council means the Pacific Fishery Management Council, including its CPSMT, AP, Scientific and Statistical Committee (SSC), and any other committee established by the Council.

Finfish means northern anchovy, Pacific mackerel, Pacific sardine, and jack mackerel.

Fishery Management Area means the EEZ off the coasts of Washington, Oregon, and California between 3 and 200 nautical miles offshore, bounded in the north by the Provisional International Boundary between the United States and Canada, and bounded in the south by the International Boundary between the United States and Mexico.

Fishing trip means a period of time between landings when fishing is conducted.

Gross tonnage (GT) means gross tonnage as determined by the formula in 46 CFR 69.209(a) for a vessel not designed for sailing ($.67 \times \text{length} \times \text{breadth} \times \text{depth} / 100$). A vessel's length, breadth, and depth are those specified on the vessel's certificate of documentation issued by the U.S. Coast Guard or State.

Harvest guideline means a specified numerical harvest objective that is not a quota. Attainment of a harvest guideline does not require complete closure of a fishery.

Harvesting vessel means a vessel involved in the attempt or actual catching, taking or harvesting of fish, or any activity that can reasonably be expected to result in the catching, taking or harvesting of fish.

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

Krill means all species of euphuists that occur in the EEZ off the West Coast.

Land or *Landing* means to begin transfer of fish from a fishing vessel. Once transfer begins, all fish onboard the vessel is counted as part of the landing.

Limited entry fishery means the commercial fishery consisting of vessels fishing for CPS in the CPS Management Zone under limited entry permits issued under §660.512.

Live bait fishery means fishing for CPS for use as live bait in other fisheries.

Monitored species (MS) means those CPS the Secretary has determined not to need management by harvest guidelines or quotas according to the provisions of the FMP.

Nonreduction fishery means fishing for CPS for use as dead bait or for processing for direct human consumption.

Owner, means a person who is identified as the current owner in the Certificate of Documentation (CG-1270) issued by the U.S. Coast Guard for a documented vessel, or in a registration certificate issued by a state or the U.S. Coast Guard for an undocumented vessel.

Person, means any individual, corporation, partnership, association or other entity (whether or not organized or existing under the laws of any state), and any Federal, state, or local government, or any entity of any such government that is eligible to own a documented vessel under the terms of 46 U.S.C. 12102(a).

Processing or to process means preparing or packaging coastal pelagic species to render the fish suitable for human consumption, pet food, industrial uses or long-term storage, including, but not limited to, cooking, canning, smoking, salting, drying, filleting, freezing, or rendering into meal or oil, but does not mean heading and gutting unless there is additional preparation.

Prohibited harvest species means all krill species in the EEZ off the West Coast.

Prohibited Species means all species of trout and salmon (*Salmonidae*) and Pacific halibut (*Hippoglossus stenolepis*).

Quota means a specified numerical harvest objective for a single species of CPS, the attainment (or expected attainment) of which causes the complete closure of the fishery for that species.

Reduction fishery means fishing for CPS for the purposes of conversion into fish flour, fish meal, fish scrap, fertilizer, fish oil, other fishery products, or byproducts for purposes other than direct human consumption.

Regional Administrator means the Regional Administrator, Southwest Region, NMFS, 501 W. Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213, or a designee.

Reserve means a portion of the harvest guideline or quota set aside at the beginning of the year for specific purposes, such as for individual harvesting groups to ensure equitable distribution of the resource or to allow for uncertainties in preseason estimates of DAP and JVP.

Sustainable Fisheries Division (SFD) means the Assistant Regional Administrator for Sustainable Fisheries, Southwest Region, NMFS, or a designee.

Totally lost means that the vessel being replaced no longer exists *in specie*, or is absolutely and irretrievably sunk or otherwise beyond the possible control of the owner, or the costs of repair (including recovery) would exceed the repaired value of the vessel.

Trip limit means the total allowable amount of a CPS species by weight or by percentage of weight of fish on board the vessel that may be taken and retained, possessed, or landed from a single fishing trip by a vessel that harvests CPS.

[64 FR 69893, Dec. 15, 1999, as amended at 68 FR 3822, Jan. 27, 2003; 71 FR 37001, June 29, 2006; 74 FR 33373, July 13, 2009]

§ 660.503 Management subareas.

The fishery management area is divided into subareas for the regulation of fishing for CPS, with the following designations and boundaries:

(a) *CPS Limited Entry Zone* means the EEZ between:

(1) Northern boundary—at 39°00'00" N. lat. off California; and

(2) Southern boundary—the United States-Mexico International Boundary, which is a line connecting the following coordinates:

32°35'22" N. lat., 117°27'49" W. long.

32°37'37" N. lat., 117°49'31" W. long.

31°07'58" N. lat., 118°36'18" W. long.

30°32'31" N. lat., 121°51'58" W. long.

(b) *Subarea A* means the EEZ between:

(1) Northern boundary—the United States-Canada Provisional International Boundary, which is a line connecting the following coordinates:

48°29'37.19" N. lat. 124°43'33.19" W. long.

48°30'11" N. lat. 124°47'13" W. long.

48°30'22" N. lat. 124°50'21" W. long.

48°30'14" N. lat. 124°54'52" W. long.

48°29'57" N. lat. 124°59'14" W. long.

48°29'44" N. lat. 125°00'06" W. long.

48°28'09" N. lat. 125°05'47" W. long.

48°27'10" N. lat. 125°08'25" W. long.

48°26'47" N. lat. 125°09'12" W. long.

48°20'16" N. lat. 125°22'48" W. long.

48°18'22" N. lat. 125°29'58" W. long.

48°11'05" N. lat. 125°53'48" W. long.

47°49'15" N. lat. 126°40'57" W. long.

47°36'47" N. lat. 127°11'58" W. long.

47°22'00" N. lat. 127°41'23" W. long.

46°42'05" N. lat. 128°51'56" W. long.

46°31'47" N. lat. 129°07'39" W. long.; and

(2) Southern boundary—at 39°00'00" N. lat. (Pt. Arena).

(c) *Subarea B* means the EEZ between:

(1) Northern boundary—at 39°00'00" N. lat. (Pt. Arena); and

(2) Southern boundary—the United States-Mexico International Boundary described in paragraph (a)(2) of this section.

[64 FR 69893, Dec. 15, 1999, as amended at 68 FR 52527, Sept. 4, 2003]

§ 660.504 Vessel identification.

(a) *Official number*. Each fishing vessel subject to this subpart must display its official number on the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck so as to be visible from enforcement vessels and aircraft.

(b) *Numerals.* The official number must be affixed to each vessel subject to this subpart in block Arabic numerals at least 14 inches (35.56 cm) in height. Markings must be legible and of a color that contrasts with the background.

§ 660.505 Prohibitions.

In addition to the general prohibitions specified in §600.725 of this chapter, it is unlawful for any person to do any of the following:

- (a) In the CPS Limited Entry Zone, take and retain, possess or land more than 5 mt of CPS finfish, other than live bait, on a harvesting vessel without a limited entry permit.
- (b) In the CPS Limited Entry Zone, take and retain, possess or land more than 125 mt of CPS finfish on a harvesting vessel.
- (c) Sell CPS without an applicable commercial state fishery license.
- (d) Fish in the reduction fishery for CPS in any closed area specified in §660.507.
- (e) Fish in the reduction fishery for northern anchovy using gear not authorized under §660.506.
- (f) When fishing for CPS, fail to return a prohibited species to the sea immediately with a minimum of injury.
- (g) Falsify or fail to affix and maintain vessel markings as required by §660.504.
- (h) Fish for CPS in violation of any terms or conditions attached to an exempted fishing permit issued under §600.745 of this chapter.
- (i) When a directed fishery has been closed, take and retain, possess, or land more than the incidental trip limit announced in the Federal Register.
- (j) Refuse to submit fishing gear or fish subject to such person's control to inspection by an authorized officer, or to interfere with or prevent, by any means, such an inspection.
- (k) Falsify or fail to make and/or file any and all reports of fishing, landing, or any other activity involving CPS, containing all data, and in the exact manner, required by the applicable State law, as specified in §660.3.
- (l) Fail to carry aboard a vessel that vessel's limited entry permit issued under §660.512 or exempted fishing permit issued under §660.516.
- (m) Make a false statement on an application for issuing, renewing, transferring, or replacing a limited entry permit for the CPS fishery.
- (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.
- (o) Fish for, target, harvest or land a prohibited harvest species in any fishery within the EEZ off the West Coast.

[64 FR 69893, Dec. 15, 1999, as amended by 72 FR 29892, May 30, 2007; 74 FR 33373, July 13, 2009]

§ 660.506 Gear restrictions.

The only fishing gear authorized for use in the reduction fishery for northern anchovy off California are round haul nets that have a minimum wet-stretch mesh size of 10/16 of an inch (1.59 cm) excluding the bag portion of a purse seine. The bag portion must be constructed as a single unit and must not exceed a rectangular area, adjacent to 20 percent of the total corkline of the purse seine. Minimum mesh size requirements are met if a stainless steel wedge can be passed with only thumb pressure through 16 of 20 sets of 2 meshes each of wet mesh. The wedges used to measure trawl mesh size are made of 20 gauge stainless steel and will be no wider than 10/16 of an inch (1.59 cm) less one thickness of the metal at the widest part.

§ 660.507 Closed areas to reduction fishing.

The following areas are closed to reduction fishing:

(a) *Farallon Islands closure* (see Figure 1 to this subpart). The portion of Subarea A bounded by—

(1) A straight line joining Pigeon Point Light (37°10.9' N. lat., 122°23.6' W. long.) and the U.S. navigation light on Southeast Farallon Island (37°42.0' N. lat., 123°00.1' W. long.); and

(2) A straight line joining the U.S. navigation light on Southeast Farallon Island (37°42.0' N. lat., 123°00.1' W. long.) and the U.S. navigation light on Point Reyes (37°59.7' N. lat., 123°01.3' W. long.).

(b) *Subarea B closures.* Those portions of Subarea B described as—

(1) *Oxnard closure* (see Figure 1 to this subpart). The area that extends offshore 4 miles from the mainland shore between lines running 250° true from the steam plant stack at Manadabay Beach (34°12.4' N. lat., 119°15.0' W. long.) and 220° true from the steam plant stack at Ormond Beach (34°07.8' N. lat., 119°10.0' W. long.).

(2) *Santa Monica Bay closure* (see Figure 1 to this subpart). Santa Monica Bay shoreward of that line from Malibu Point (34°01.8' N. lat., 118°40.8' W. long.) to Rocky Point (Palos Verdes Point) (33°46.5' N. lat., 118°25.7' W. long.).

(3) *Los Angeles Harbor closure* (see Figure 1 to this subpart). The area outside Los Angeles Harbor described by a line extending 6 miles 180° true from Point Fermin (33°42.3' N. lat., 118°17.6' W. long.) and then to a point located 3 miles offshore on a line 225° true from Huntington Beach Pier (33°39.2' N. lat., 118°00.3' W. long.).

(4) *Oceanside to San Diego closure* (see Figure 1 to this subpart). The area 6 miles from the mainland shore south of a line running 225° true from the tip of the outer breakwater (33°12.4' N. lat., 117°24.1' W. long.) of Oceanside Harbor to the United States-Mexico International Boundary.

§ 660.508 Annual specifications.

(a) The Regional Administrator will determine the harvest guidelines or quotas for all AMS from the estimated biomass and the formulas in the FMP.

(b) Harvest guidelines or quotas, including any apportionment between the directed fishery and set-aside for incidental harvest, will be published in the Federal Register before the beginning of the relevant fishing season.

(c) The announcement of each harvest guideline or quota will contain the following information:

(1) A summary of the status of AMS and MS;

(2) The estimated biomass on which the harvest guideline or quota was determined;

(3) The portion, if appropriate, of the harvest guideline or quota set aside to allow for incidental harvests after closure of the directed fishery;

(4) The estimated level of the incidental trip limit that will be allowed after the directed fishery is closed; and

(5) The allocation, if appropriate, between Subarea A and Subarea B.

(d) Harvest guidelines and quotas will receive a public review according to the following procedure:

(1) A meeting will be held between the Council's CPSMT and AP, where the estimated biomass and the harvest guideline or quota will be reviewed and public comments received. This meeting will be announced in the Federal Register before the date of the meeting, if possible.

(2) All materials relating to the biomass and harvest guideline or quota will be forwarded to the Council and its Scientific and Statistical Committee and will be available to the public from the Regional Administrator.

(3) At a regular meeting of the Council, the Council will review the estimated biomass and harvest guideline or quota and offer time for public comment. If the Council requests a revision, justification must be provided.

(4) The Regional Administrator will review the Council's recommendations, justification, and public comments and base his or her final decision on the requirements of the FMP.

§ 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.

[71 FR 37001, June 29, 2006]

§ 660.510 Fishing seasons.

All seasons will begin at 0001 hours and terminate at 2400 hours local time. Fishing seasons for the following CPS species are:

(a) *Pacific sardine*. January 1 to December 31, or until closed under §660.509.

(b) *Pacific mackerel*. July 1 to June 30, or until closed under §660.509.

§ 660.511 Catch restrictions.

(a) All CPS harvested shoreward of the outer boundary of the EEZ (0–200 nautical miles off shore) will be counted toward the catch limitations specified in this section.

(b) The trip limit for harvesting vessels fishing in the CPS Limited Entry Zone for CPS other than live bait without a limited entry permit is 5 mt tons of all CPS finfish combined.

(c) The trip limit for vessels with a limited entry permit on a fishing trip in which the vessel fishes or lands fish in the Limited Entry Zone is 125 mt of all CPS finfish combined.

(d) After the directed fishery for a CPS is closed under §660.509, no person may take and retain, possess or land more of that species than the incidental trip limit set by the Regional Administrator.

(e) While fishing for CPS, all species of trout and salmon (*Salmonidae*) and Pacific halibut (*Hippoglossus stenolepis*) are prohibited species and must be released immediately with a minimum of injury.

(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.

[64 FR 69893, Dec. 15, 1999, as amended at 68 FR 52527, Sept. 4, 2003; 71 FR 37001, June 29, 2006]

§ 660.512 Limited entry fishery.

(a) *General*. (1) This section applies to fishing for or landing CPS finfish in the limited entry fishery in the Limited Entry Zone.

(2) Effective January 1, 2000, the owner of a vessel with more than 5 mt of CPS finfish on board in the CPS Limited Entry Zone, other than live bait, must have a limited entry permit registered for use with that vessel.

(3) Only a person eligible to own a documented vessel under the terms of 46 U.S.C. 12102(a) qualifies to be issued or may hold, by ownership or otherwise, a limited entry permit.

(b) *Initial qualification*. (1) A limited entry permit for a vessel will be issued only if that vessel landed 100 mt of CPS finfish from January 1, 1993, through November 5, 1997.

(2) A limited entry permit will be issued only to the current owner of the vessel, unless:

(i) The previous owner of a vessel qualifying for a permit, by the express terms of a written contract, reserved the right to the limited entry permit, in which case the limited entry permit will be issued to the previous owner based on the catch history of the qualifying vessel, or

(ii) A vessel that would have qualified for a limited entry permit was totally lost prior to issuance of a limited entry permit. In this case, the owner of the vessel at the time it was lost retains the right to a permit for a replacement vessel, unless the owner conveyed the right to another person by the express

terms of a written contract. The lost vessel must be replaced within 2 years of the date that the qualifying vessel was lost, and the replaced vessel must be of equal or less net tonnage.

(c) *Documentation and burden of proof.* A vessel owner (or person holding limited entry rights under the express terms of a written contract as specified in paragraph (a)(2)) of this section applying for issuance, renewal, transfer, or registration of a limited entry permit must prove that the qualification requirements are met by submitting the following documentation:

(1) A certified copy of the vessel's documentation as a fishing vessel of the United States (U.S. Coast Guard or state) is the best evidence of vessel ownership;

(2) A certified copy of a state fish landing receipt is the best evidence of a landing of a vessel;

(3) A copy of a written contract reserving or conveying limited entry rights is the best evidence of reserved or acquired rights; and

(4) Other relevant, credible evidence that the applicant may wish to submit or that the SFD may request or require.

(d) *Fees.* The Regional Administrator may charge fees to cover administrative expenses related to issuing limited entry permits, as well as renewing, transferring, and replacing permits. The amount of the fee is calculated in accordance with the procedures of the NOAA Finance Handbook for determining the administrative costs of each special product or service. The fee may not exceed such costs and is specified with each application form. The appropriate fee must accompany each application.

(e) *Initial decisions.* (1) The SFD will make initial decisions regarding issuing, renewing, transferring, and registering limited entry permits.

(2) Adverse decisions shall be in writing and shall state the reasons for the adverse decision.

(3) The SFD may decline to act on an application for issuing, renewing, transferring, or registering a limited entry permit and will notify the applicant, if the permit sanction provisions of the Magnuson-Stevens Act at 16 U.S.C. 1858(a) and implementing regulations at 15 CFR part 904, subpart D, apply.

(f) *Initial issuance.* (1) The SFD will issue limited entry permits.

(2) In order to receive a final decision on a limited entry permit application before January 1, 2000, an applicant must submit the application to the SFD on or before February 14, 2000.

(3) A separate, complete, and accurate application form, accompanied by any required supporting documentation and the appropriate fee, must be submitted for each vessel for which a limited entry permit is sought.

(4) Upon receipt of an incomplete or improperly executed application, the SFD will notify the applicant of the deficiency. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered void.

(5) The SFD may request further documentation before acting on an application.

(6) The SFD will not accept applications for a limited entry permit after July 1, 2000.

(g) *Appeals.* (1) Any applicant for an initial permit may appeal the initial issuance decision to the Regional Administrator. To be considered by the Regional Administrator, such appeal must be in writing and state the reasons for the appeal, and must be submitted within 30 days of the action by the Regional Administrator. The appellant may request an informal hearing on the appeal.

(2) Upon receipt of an appeal authorized by this section, the Regional Administrator will notify the permit applicant, or permit holder as appropriate, and will request such additional information and in such form as will allow action upon the appeal.

(3) Upon receipt of sufficient information, the Regional Administrator will decide the appeal in accordance with the permit eligibility criteria set forth in this section and in the FMP, as appropriate, based upon information relative to the application on file at NMFS and the Council and any additional information submitted to or obtained by the Regional Administrator, the summary record kept of any hearing and the hearing officer's recommended decision, if any, and such other considerations as the Regional Administrator deems appropriate. The Regional Administrator will notify all interested persons of the decision, and the reasons therefore, in writing, normally within 30 days of the receipt of sufficient information, unless additional time is needed for a hearing.

(4) If a hearing is requested or if the Regional Administrator determines that one is appropriate, the Regional Administrator may grant an informal hearing before a hearing officer designated for that purpose after first giving notice of the time, place, and subject matter of the hearing to the applicant. The appellant and, at the discretion of the hearing officer, other interested persons may appear personally or be represented by counsel at the hearing and submit information and present arguments as determined appropriate by the hearing officer. Within 30 days of the last day of the hearing, the hearing officer shall recommend in writing a decision to the Regional Administrator.

(5) The Regional Administrator may adopt the hearing officer's recommended decision, in whole or in part, or may reject or modify it. In any event, the Regional Administrator will notify interested persons of the decision, and the reason(s) therefore, in writing, within 30 days of receipt of the hearing officer's recommended decision. The Regional Administrator's action shall constitute final action for the agency for the purposes of the APA.

(6) Any time limit prescribed in this section may be extended for a period not to exceed 30 days by the Regional Administrator for good cause, either upon his or her own motion or upon written request from the appellant stating the reason(s) therefore.

(h) *Issuance of new permits.* (1) When the aggregate gross tonnage of all vessels participating in the limited entry fishery declines below 5,650.9 metric tons (mt), the Council will review the status of the fishery, taking into consideration:

(i) The changes in gross tonnage that have and are likely to occur in the transfer of limited entry permits;

(ii) The actual harvesting capacity as experienced in the current fishery in comparison to the capacity goal;

(iii) Comments of the CPSMT;

(iv) Any other relevant factors related to maintaining the capacity goal.

(2) Following its review, the Council will recommend to NMFS whether additional permit(s) should be issued and if the new permit(s) should be temporary or permanent. The issuance of new permit(s) shall be based on the following:

(i) The qualifying criteria in paragraph (b) of this section, but vessels that were issued a permit before December 31, 2000, are not eligible.

(ii) If no vessel meets the qualifying criteria in paragraph (b), then the permit(s) will be issued to the vessel(s) with total landings nearest 100 mt during the qualifying period of paragraph (b).

(iii) No vessel will be issued a permit under this paragraph (h) that is currently registered for use with a permit.

(3) The Regional Administrator will review the Council's recommendation and determine whether issuing additional permit(s) is consistent with the FMP and with paragraph (h)(2) of this section. If issuing additional permit(s) is appropriate, the Regional Administrator will:

(i) Issue the appropriate number of permits consistent with the Council's recommendation; and

(ii) Publish a document in the Federal Register notifying the public that new permits or a new permit has been issued, the conditions attached to any permit, and the reasons for the action.

[64 FR 69893, Dec. 15, 1999, as amended at 68 FR 3822, Jan. 27, 2003]

§ 660.513 Permit conditions.

(a) A limited entry permit expires on failure to renew the limited entry permit as specified in §660.515.

(b) A limited entry permit may not be used with a vessel unless it is registered for use with that vessel. Limited entry permits will be registered for use with a particular vessel at the time the permit is issued, renewed, or transferred.

(c) Limited entry permits issued or applied for under this subpart are subject to sanctions pursuant to the Magnuson-Stevens Act, 16 U.S.C. 1858(g), and 15 CFR part 904, subpart D.

§ 660.514 Transferability.

(a) *General.* (1) The SFD will process applications for transferring limited entry permits to a different owner and/or to a different vessel according to this section.

(2) After January 27, 2003, the SFD will issue a limited entry permit to the owner of each vessel permitted to participate in the limited entry fishery for CPS. This permit will replace the existing permit and will include the gross tonnage of the vessel, which will constitute an endorsement for that vessel for the purpose of regulating the transfer of limited entry permits.

(b) *Criteria.* (1) When the aggregate gross tonnage of all vessels participating the limited entry fishery is at or below 5,650.9 mt, a permit may be transferred to a different owner or to a different vessel in the following circumstances only:

(i) A permit may be transferred to a vessel without a permit if the vessel without a permit has a comparable capacity to the capacity on the permit or is less than comparable capacity on the permit.

(ii) When a permit is transferred to a vessel without a permit that has less gross tonnage than that of the permitted vessel, the excess gross tonnage may not be separated from the permit and applied to a second vessel.

(iii) A permit may be transferred to a vessel without a permit that is of greater than comparable capacity only if two or more permits are transferred to the vessel without a permit to equal the gross tonnage of the vessel. The number of permits required will be determined by adding together the comparable capacity of all permits being transferred. Any gross tonnage in excess of that needed for a vessel remains with the permit.

(2) When a vessel with multiple permits leaves the fishery, the permits may be sold separately and applied to other vessels according to the criteria in this section.

(c) *Stipulations.* (1) The gross tonnage endorsement of a permit is integral to the permit for the duration of the permit, regardless of the gross tonnage of any vessel to which the permit is transferred.

(2) Permits may be used only on the vessel for which they are registered by the SFD. All permits that authorize a vessel to operate in the limited entry fishery must be on board the vessel during any fishing trip on which CPS is harvested or is on board.

(3) A permit may be transferred only once during a calendar year.

(d) *Vessel alterations.* (1) A permitted vessel's length, breadth, or depth may be altered to increase the gross tonnage of the vessel only if the aggregate gross tonnage of all vessels participating in the limited entry fishery equals, or is below 5,650.9 mt, and only under the following conditions:

(i) The gross tonnage of the altered vessel, calculated according to the formula in 46 CFR 69.209(a), does not exceed 110 percent of the vessel's original gross tonnage endorsement, and

(ii) A new certificate of documentation is obtained from the U.S. Coast Guard or State. Modifications exceeding 110 percent of the vessel's gross tonnage endorsement will require registration of the vessel under an additional permit or permits or under a permit with a sufficient gross tonnage endorsement.

(2) A copy of the certificate of documentation indicating changes in length, depth, or breadth must be provided to the SFD.

(3) The revised gross tonnage will not be valid as an endorsement until a revised permit is issued by the SFD.

(e) *Applications.* (1) All requests for the transfer of a limited entry permit will be made to the SFD in writing and shall contain the following information:

(i) Name, address, and phone number of the owner of the permitted vessel.

(ii) Name of the permitted vessel and documentation number of the vessel.

(iii) Name, address, and phone number of the owner of the vessel to which the permit is to be transferred.

(iv) Name and documentation number of the vessel to which the permit is to be transferred.

(v) Signature(s) of the owner(s) of the vessels participating in the transfer.

(vi) Any other information that the SFD may request.

(2) No permit transfer is effective until the transfer has been authorized by the SFD.

(f) *Capacity reduction.* (1) When the aggregate gross tonnage of the limited entry fleet reaches 5,933.5 mt, a permit may be transferred to a vessel without a permit only if the vessel without a permit is of the same or less gross tonnage.

(2) When the aggregate gross tonnage of the limited entry fleet reaches 5,933.5 mt, alterations in the length, depth, or breadth of a permitted vessel may not result in an increase in the gross tonnage of the vessel.

§ 660.515 Renewal of limited entry permits.

- (a) Each limited entry permit must be renewed by January 1 of even numbered years.
- (b) The SFD will send notices to renew limited entry permits to the most recent address of the permit holder.
- (c) The permit owner must provide SFD with notice of any address change within 15 days of the change.
- (d) The permit holder must submit applications for renewal of a permit on forms available from the SFD.
- (e) The permit owner is responsible for renewing a limited entry permit.
- (f) An expired permit cannot be used to fish for CPS in the limited entry fishery.

§ 660.516 Exempted fishing.

- (a) *General.* In the interest of developing an efficient and productive fishery for CPS, the Regional Administrator may issue exempted fishing permits (EFP) for the harvest of CPS that otherwise would be prohibited.
- (b) No exempted fishing for CPS may be conducted unless authorized by an EFP issued for the participating vessel in accordance with the criteria and procedures specified in §600.745 of this chapter.

§ 660.517 Framework for revising regulations.

- (a) *General.* NMFS will establish and adjust specifications and management measures in accordance with procedures and standards in Amendment 8 to the FMP.
- (b) *Annual actions.* Annual specifications are developed and implemented according to §660.508.
- (c) *Routine management measures.* Consistent with section 2.1 of Amendment 8 to the FMP, management measures designated as routine may be adjusted during the year after recommendation from the Council, approval by NMFS, and publication in the Federal Register.
- (d) *Changes to the regulations.* Regulations under this subpart may be promulgated, removed, or revised. Any such action will be made according to the framework measures in section 2 of Amendment 8 to the FMP and will be published in the Federal Register.

§ 660.518 Pacific Coast Treaty Indian Rights.

- (a) Pacific Coast treaty Indian tribes have treaty rights to harvest CPS in their usual and accustomed fishing areas in U.S. waters.
- (b) For the purposes of this section, "Pacific Coast treaty Indian tribes" and their "usual and accustomed fishing areas" are described at §660.324(b) and (c).
- (c) Boundaries of a tribe's fishing area may be revised as ordered by a Federal court.
- (d) *Procedures.* The rights referred to in paragraph (a) of this section will be implemented in accordance with the procedures and requirements of the framework contained in Amendment 9 to the FMP and in this Subpart.
 - (1) The Secretary, after consideration of the tribal request, the recommendation of the Council, and the comments of the public, will implement Indian fishing rights.
 - (2) The rights will be implemented either through an allocation of fish that will be managed by the tribes or through regulations that will apply specifically to the tribal fisheries.
 - (3) An allocation or a regulation specific to the tribes shall be initiated by a written request from a Pacific Coast treaty Indian tribe to the NMFS Southwest Regional Administrator at least 120 days prior to the start of the fishing season as specified at §660.510 and will be subject to public review according to the procedures in §660.508(d).
 - (4) The Regional Administrator will announce the annual tribal allocation at the same time as the annual specifications.
- (e) The Secretary recognizes the sovereign status and co-manager role of Indian tribes over shared Federal and tribal fishery resources. Accordingly, the Secretary will develop tribal allocations and regulations in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.

[66 FR 44987, Aug. 27, 2001]

§ 660.519 Scientific observers.

All fishing vessels operating in the coastal pelagic species fishery, including catcher/processors, at-sea processors, and vessels that harvest in Washington, Oregon, or California and land catch in another area, may be required to accommodate NMFS- certified observers aboard to collect scientific data. An observer program will be considered only for circumstances where other data collection methods are deemed insufficient for management of the fishery. Any observer program will be implemented in accordance with §660.517.

[66 FR 44987, Aug. 27, 2001]

§ 660.520 Reporting requirements.

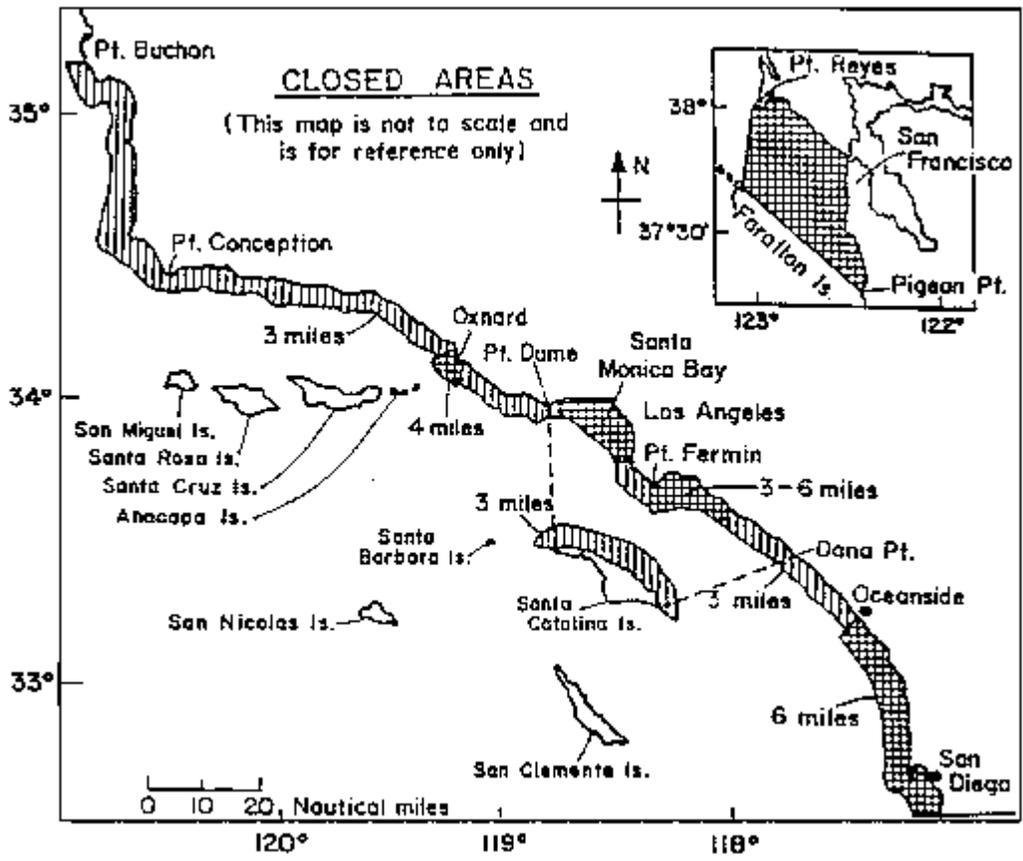
- (a) *Otter interaction.* (1) If a southern sea otter is entangled in a net, regardless of whether the animal is injured or killed, the vessel operator must report this interaction within 24 hours to the Regional Administrator.
- (2) While fishing for CPS, vessel operators must record all observations 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]

[72 FR 29892, May 30, 2007]

Figure 1 to Subpart I of Part 660—Existing California Area Closures (hatched areas extend to 3 miles offshore; cross-hatched areas extend beyond 3 miles offshore) and Optional Catalina Channel Foreign Vessel Closure (outlined by dashed lines)



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Title 50: Wildlife and Fisheries PART 660—FISHERIES OFF WEST COAST STATES

Subpart K—Highly Migratory Fisheries

Source: 69 FR 18453, Apr. 7, 2004, unless otherwise noted.

§ 660.701 Purpose and scope.

This subpart implements the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (FMP). These regulations govern commercial and recreational fishing for HMS in the U.S. EEZ off the coasts of Washington, Oregon, and California and in adjacent high seas waters.

§ 660.702 Definitions.

Basket-style longline gear means a type of longline gear that is divided into units called *baskets*, each consisting of a segment of main line to which 10 or more branch lines with hooks are spliced. The mainline and all branch lines are made of multiple braided strands of cotton, nylon, or other synthetic fibers impregnated with tar or other heavy coatings that cause the lines to sink rapidly in seawater.

Closure, when referring to closure of a fishery, means that taking and retaining, possessing, or landing the particular species or species group is prohibited.

Commercial fishing means:

- (1) Fishing by a person who possesses a commercial fishing license or is required by law to possess such license issued by one of the states or the Federal Government as a prerequisite to taking, retaining, possessing, landing and/or sale of fish; or
- (2) Fishing that results in or can be reasonably expected to result in sale, barter, trade or other disposition of fish for other than personal consumption.

Commercial fishing gear includes the following types of gear and equipment used in the highly migratory species fisheries:

- (1) *Harpoon* . Gear consisting of a pointed dart or iron attached to the end of a pole or stick that is propelled only by hand and not by mechanical means.
- (2) *Surface hook-and-line* . Fishing gear, other than longline gear, with one or more hooks attached to one or more lines (includes troll, rod and reel, handline, albacore jig, live bait, and bait boat). Surface hook and line is always attached to the vessel.
- (3) *Drift gillnet* . A panel of netting, 14 inch (35.5 cm) stretched mesh or greater, suspended vertically in the water by floats along the top and weights along the bottom. A drift gillnet is not stationary or anchored to the bottom.
- (4) *Purse seine* . An encircling net that may be closed by a purse line threaded through the bottom of the net. Purse seine gear includes ring net, drum purse seine, and lampara nets.
- (5) *Pelagic longline* . A main line that is suspended horizontally in the water column and not stationary or anchored, and from which dropper lines with hooks (gangions) are attached. Legal longline gear also includes basket-style longline gear.

Council means the Pacific Fishery Management Council, including its Highly Migratory Species Management Team (HMSMT), Scientific and Statistical Committee (SSC), Highly Migratory Species Advisory Subpanel (HMSAS), and any other committee established by the Council.

Fishing trip is a period of time between landings when fishing is conducted.

Fishing year is the year beginning at 0801 GMT (0001 local time) on April 1 and ending at 0800 GMT on March 31 (2400 local time) of the following year.

Harvest guideline means a specified numerical harvest objective that is not a quota. Attainment of a harvest guideline does not require closure of a fishery.

Highly Migratory Species (HMS) means species managed by the FMP, specifically:

Billfish/Swordfish:

striped marlin (*Tetrapturus audax*)

swordfish (*Xiphias gladius*)

Sharks:

common thresher shark (*Alopias vulpinus*)

pelagic thresher shark (*Alopias pelagicus*)

bigeye thresher shark (*Alopias superciliosus*)

shortfin mako or bonito shark (*Isurus oxyrinchus*)

blue shark (*Prionace glauca*)

Tunas:

north Pacific albacore (*Thunnus alalunga*)

yellowfin tuna (*Thunnus albacares*)

bigeye tuna (*Thunnus obesus*)

skipjack tuna (*Katsuwonus pelamis*)

northern bluefin tuna (*Thunnus orientalis*)

Other:

dorado or dolphinfish (*Coryphaena hippurus*)

Highly Migratory Species Advisory Subpanel (HMSAS) means the individuals comprised of members of the fishing industry and public appointed by the Council to review proposed actions for managing highly migratory species fisheries.

Highly Migratory Species Fishery Management Plan (FMP) means the Fishery Management Plan for the U.S. West Coast Fisheries for Highly Migratory Species developed by the Pacific Fishery Management Council and approved by the Secretary of Commerce and amendments to the FMP.

Highly Migratory Species Management Team (HMSMT) means the individuals appointed by the Council to review, analyze, and develop management measures for highly migratory species fisheries.

Incidental catch or incidental species means HMS caught while fishing for the primary purpose of catching other species with gear not authorized by the FMP.

Land or landing means offloading fish from a fishing vessel or arriving in port to begin offloading fish or causing fish to be offloaded from a fishing vessel.

Mesh size means the opening between opposing knots in a net. Minimum mesh size means the smallest distance allowed between the inside of one knot to the inside of the opposing knot when the mesh is stretched, regardless of twine size.

Offloading means removing HMS from a vessel.

Permit holder means a permit owner.

Permit owner means a person who owns an HMS permit for a specific vessel fishing with specific authorized fishing gear.

Person, as it applies to fishing conducted under this subpart, means any individual, corporation, partnership, association or other entity (whether or not organized or existing under the laws of any state), and any Federal, state, or local government, or any entity of any such government that is eligible to own a documented vessel under the terms of 46 U.S.C. 12102(a).

Processing or to process means the preparation or packaging of HMS to render it suitable for human consumption, industrial uses or long-term storage, including, but not limited to, cooking, canning, smoking, salting, drying, filleting, freezing, or rendering into meal or oil, but does not mean heading and gutting or freezing at sea unless additional preparation is done.

Prohibited species means those species and species groups whose retention is prohibited unless authorized by other applicable law (for example, to allow for examination by an authorized observer or to return tagged fish as specified by the tagging agency).

Quota means a specified numerical harvest objective, the attainment (or expected attainment) of which causes closure of the fishery for that species or species group.

Recreational charter vessel means a vessel that carries fee-paying passengers for the purpose of recreational fishing.

Recreational fishing means fishing with authorized recreational fishing gear for personal use only and not for sale or barter.

Regional Administrator means the Administrator, Southwest Region, NMFS, 501 W. Ocean Boulevard, Suite 4200, Long Beach, CA 90802-4213, or a designee.

Special Agent-In-Charge (SAC) means the Special Agent-In-Charge, NMFS, Office of Enforcement, Southwest Region, or a designee of the Special Agent-In-Charge.

Sustainable Fisheries Division (SFD) means the Assistant Regional Administrator for Sustainable Fisheries, Southwest Region, NMFS, or his or her designee.

Tranship means offloading or otherwise transferring HMS or products thereof to a receiving vessel.

Vessel monitoring system unit (VMS unit) means the hardware and software equipment owned by NMFS, installed on vessels by NMFS, and required by this subpart K to track and transmit the positions from fishing vessels.

§ 660.703 Management area.

The fishery management area for the regulation of fishing for HMS has the following designations and boundaries:

(a) Southern boundary—the United States-Mexico International Boundary, which is a line connecting the following coordinates:

32°35'22" N. lat. 117°27'49" W. long.

32°37'37" N. lat. 117°49'31" W. long.

31°07'58" N. lat. 118°36'18" W. long.

30°32'31" N. lat. 121°51'58" W. long.

(b) Northern boundary—the United States-Canada Provisional International Boundary, which is a line connecting the following coordinates:

48°29'37.19" N. lat. 124°43'33.19" W. long.

48°30'11" N. lat. 124°47'13" W. long.

48°30'22" N. lat. 124°50'21" W. long.

48°30'14" N. lat. 124°54'52" W. long.

48°29'57" N. lat. 124°59'14" W. long.

48°29'44" N. lat. 125°00'06" W. long.

48°28'09" N. lat. 125°05'47" W. long.

48°27'10" N. lat. 125°08'25" W. long.

48°26'47" N. lat. 125°09'12" W. long.

48°20'16" N. lat. 125°22'48" W. long.

48°18'22" N. lat. 125°29'58" W. long.

48°11'05" N. lat. 125°53'48" W. long.

47°49'15" N. lat. 126°40'57" W. long.

47°36'47" N. lat. 127°11'58" W. long.

47°22'00" N. lat. 127°41'23" W. long.

46°42'05" N. lat. 128°51'56" W. long.

46°31'47" N. lat. 129°07'39" W. long.

(c) Adjacent waters on the high seas in which persons subject to this subpart may fish.

§ 660.704 Vessel identification.

(a) *General*. This section only applies to commercial fishing vessels that fish for HMS off or land HMS in the States of California, Oregon, and Washington. This section does not apply to recreational charter vessels that fish for HMS off or land HMS in the States of California, Oregon, and Washington.

(b) *Official number*. Each fishing vessel subject to this section must display its official number on the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck so as to be visible from enforcement vessels and aircraft.

(c) *Numerals*. The official number must be affixed to each vessel subject to this section in block Arabic numerals at least 10 inches (25.40 cm) in height for vessels more than 25 ft (7.62 m) but equal to or less than 65 ft (19.81 m) in length; and 18 inches (45.72 cm) in height for vessels longer than 65 ft (19.81 m) in length. Markings must be legible and of a color that contrasts with the background.

[72 FR 43564, Aug. 6, 2007]

§ 660.705 Prohibitions.

In addition to the general prohibitions specified in §600.725 of this chapter, it is unlawful for any person to do any of the following:

(a) Fish for HMS in the U.S. EEZ off the Pacific coast without a permit issued under §660.707 for the use of authorized fishing gear.

(b) Fish with gear in any closed area specified in this subpart that prohibits the use of such gear.

(c) Land HMS at Pacific coast ports without a permit issued under §600.707 for the use of authorized fishing gear.

(d) Sell HMS without an applicable commercial state fishery license.

(e) When fishing for HMS, fail to return a prohibited species to the sea immediately with a minimum of injury.

(f) Falsify or fail to affix and maintain vessel markings as required by §660.704.

(g) Fish for HMS in violation of any terms or conditions attached to an exempted fishing permit issued under §600.745 of this chapter.

(h) When a directed fishery has been closed for a specific species, take and retain, possess, or land that species after the closure date.

(i) Refuse to submit fishing gear or fish subject to such person's control to inspection by an authorized officer, or to interfere with or prevent, by any means, such an inspection.

(j) Falsify or fail to make and/or file any and all reports of fishing, landing, or any other activity involving HMS, containing all data, and in the exact manner, required by the applicable state law, as specified in §660.708(b).

(k) Fail to carry aboard a vessel that vessel's permit issued under §660.707 or exempted fishing permit issued under §660.718, except if the permit was issued while the vessel was at sea.

(l) Fail to carry a VMS unit as required under §660.712(d).

(m) Interfere with, tamper with, alter, damage, disable, or impede the operation of a VMS unit or to attempt any of the same; or to move or remove a VMS unit without the prior permission of the SAC.

(n) Make a false statement, oral or written, to an authorized officer, regarding the use, operation, or maintenance of a VMS unit.

(o) Fish for, catch, or harvest HMS with longline gear without a VMS unit on board the vessel after installation of the VMS unit by NMFS.

(p) Possess on board a vessel without a VMS unit HMS harvested with longline gear after NMFS has installed the VMS unit on the vessel.

(q) Direct fishing effort toward the harvest of swordfish (*Xiphias gladius*) using longline gear deployed west of 150° W. long. and north of the equator (0° lat.) on a vessel registered for use of longline gear in violation of §660.712(a)(1).

(r) Possess a light stick on board a longline vessel when fishing west of 150° W. long. and north of the equator (0° lat.) in violation of §660.712(a)(6)

(s) Possess more than 10 swordfish on board a longline vessel from a fishing trip where any part of the trip included fishing west of 150° W. long. and north of the equator (0° lat.) in violation of §660.712(a)(9).

(t) Interfere with, impede, delay, or prevent the installation, maintenance, repair, inspection, or removal of a VMS unit.

(u) Interfere with, impede, delay, or prevent access to a VMS unit by a NMFS observer.

(v) Connect or leave connected additional equipment to a VMS unit without the prior approval of the SAC.

(w) Fish for HMS with a vessel registered for use of longline gear within closed areas or by use of unapproved gear configurations in violation of §660.712(a)(2), (a)(3), (a)(7), (a)(8), or (a)(9).

(x) Fail to use a line setting machine or line shooter, with weighted branch lines, to set the main longline when operating a vessel that is registered for use of longline gear and equipped with monofilament main longline, when making deep sets north of 23° N. lat. in violation of §660.712(c)(1)(i) and (c)(1)(ii).

(y) Fail to employ basket-style longline gear such that the mainline is deployed slack when operating a vessel registered for use of longline gear north of 23° N. lat. in violation of §660.712 (c)(1)(iii).

(z) Fail to maintain and use blue dye to prepare thawed bait when operating a vessel registered for use of longline gear that is fishing north of 23° N. lat., in violation of §660.712(c)(2) and (c)(3).

(aa) Fail to retain, handle, and discharge fish, fish parts, and spent bait strategically when operating a vessel registered for use of longline gear that is fishing north of 23° N. lat. in violation of §660.712 (c)(4) through (c)(7).

(bb) Fail to handle short-tailed albatrosses that are caught by pelagic longline gear in a manner that maximizes the probability of their long-term survival, in violation of §660.712(c)(8).

(cc) Fail to handle seabirds other than short-tailed albatross that are caught by pelagic longline gear in a manner that maximizes the probability of their long-term survival in violation of §660.712(c)(17).

(dd) Own a longline vessel registered for use of longline gear that is engaged in longline fishing for HMS without a valid protected species workshop certificate issued by NMFS or a legible copy thereof in violation of §660.712(e)(3).

(ee) Fish for HMS on a vessel registered for use of longline gear without having on board a valid protected species workshop certificate issued by NMFS or a legible copy thereof in violation of §660.712(e).

(ff) Fail to carry line clippers, dip nets, and wire or bolt cutters on a vessel registered for use as a longline vessel in violation of §660.712(b).

(gg) Fail to comply with sea turtle handling, resuscitation, and release requirements specified in §660.712(b)(4) through (7) when operating a vessel.

(hh) Fail to comply with seabird take mitigation or handling techniques required under §660.712(c)

(ii) Fish for HMS with a vessel registered for use as a longline vessel without being certified by NMFS for completion of an annual protected species workshop as required under §660.712(e).

(jj) Fail to notify the Regional Administrator at least 24 hours prior to departure on a fishing trip using longline gear as required under §660.712(f).

(kk) Except when fishing under a western Pacific longline limited entry permit issued under §660.21, direct fishing effort toward the harvest of swordfish or fail to have and use gear in waters west of 150° W. long. in violation of §660.720.

(ll) Except when fishing under a western Pacific longline limited entry permit issued under §660.21, possess a light stick on board a longline vessel on the high seas of the Pacific Ocean west of 150° W. long. north of the equator in violation of §660.720 (a)(ii).

(mm) Except when fishing under a western Pacific longline limited entry permit issued under §660.21, possess more than 10 swordfish on board a longline vessel from a fishing trip where any part of the trip included fishing on the high seas of the Pacific Ocean west of 150° W. long. north of the equator in violation of §660.720 (a)(iii).

(nn) Except when fishing under a western Pacific longline limited entry permit issued under §660.21, fail to employ basket-style longline gear such that the mainline is deployed slack when fishing on the high seas of the Pacific Ocean west of 150° W. long. north of the equator, in violation of §660.720 (a)(iv).

(oo) Except when fishing under a western Pacific longline limited entry permit issued under §660.21, when a conventional monofilament longline is deployed by a vessel subject to this section, deploy fewer than 15 branch lines between any two floats, in violation of §660.720 (a)(v). Vessel operators using basket-style longline gear may not set less than 10 branch lines between any 2 floats when fishing in waters west of 150° W. long. north of the equator.

(pp) Except when fishing under a western Pacific longline limited entry permit issued under §660.21, fail to deploy longline gear such that the deepest point of the main longline between any two floats, *i.e.*, the deepest point in each sag of the main line, is at a depth greater than 100 m (328.1 ft or 54.6 fm) below the sea surface, in violation of §660.720 (a)(vi).

(qq) Take and retain, possess on board, or land, fish in excess of any bag limit specified in §660.721.

[69 FR 18453, Apr. 7, 2004, as amended at 72 FR 58259, Oct. 15, 2007]

§ 660.706 Pacific Coast Treaty Indian rights.

(a) Pacific Coast treaty Indian tribes have treaty rights to harvest HMS in their usual and accustomed (u&a) fishing areas in U.S. waters.

(b) Pacific Coast treaty Indian tribes means the Hoh, Makah, and Quileute Indian Tribes and the Quinault Indian Nation.

(c) NMFS recognizes the following areas as marine u&a fishing grounds of the four Washington coastal tribes. The Makah u&a grounds were adjudicated in *U.S. v. Washington*, 626 F.Supp. 1405, 1466 (W.D. Wash. 1985), affirmed 730 F.2d 1314 (9th Cir. 1984). The u&a grounds of the Quileute, Hoh, and Quinault tribes have been recognized administratively by NMFS (See, *e.g.*, 64 FR 24087 (May 5, 1999) (u&a grounds for groundfish); 50 CFR 300.64(i) (u&a grounds for halibut)). The u&a grounds recognized by NMFS may be revised as ordered by a Federal court.

(d) *Procedures.* The rights referred to in paragraph (a) of this section will be implemented by the Secretary of Commerce, after consideration of the tribal request, the recommendation of the Council, and the comments of the public. The rights will be implemented either through an allocation of fish that will be managed by the tribes, or through regulations that will apply specifically to the tribal fisheries. An allocation or a regulation specific to the tribes shall be initiated by a written request from a Pacific Coast treaty Indian tribe to the NMFS Northwest Regional Administrator, at least 120 days prior to the time the allocation is desired to be effective, and will be subject to public review through the Council process. The Secretary of Commerce recognizes the sovereign status and co-manager role of Indian tribes over shared Federal and tribal fishery resources. Accordingly, the Secretary of Commerce will develop tribal allocations and regulations in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.

(e) *Identification.* A valid treaty Indian identification card issued pursuant to 25 CFR part 249, subpart A, is prima facie evidence that the holder is a member of the Pacific Coast treaty Indian tribe named on the card.

(f) Fishing (on a tribal allocation or under a Federal regulation applicable to tribal fisheries) by a member of a Pacific Coast treaty Indian tribe within that tribe's u&a fishing area is not subject to provisions of the HMS regulations applicable to non-treaty fisheries.

(g) Any member of a Pacific Coast treaty Indian tribe must comply with any applicable Federal and tribal laws and regulations, when participating in a tribal HMS fishery implemented under paragraph (d) of this section.

(h) Fishing by a member of a Pacific Coast treaty Indian tribe outside that tribe's u&a fishing area, or for a species of HMS not covered by a treaty allocation or applicable Federal regulation, is subject to the HMS regulations applicable to non-treaty fisheries.

§ 660.707 Permits.

(a) *General.* This section applies to vessels that fish for HMS off or land HMS in the States of California, Oregon, and Washington.

(1) A commercial fishing vessel of the United States must be registered for use under a HMS permit that authorizes the use of specific gear, and a recreational charter vessel must be registered for use under a HMS permit if that vessel is used:

(i) To fish for HMS in the U.S. EEZ off the States of California, Oregon, and Washington; or

(ii) To land or transship HMS shoreward of the outer boundary of the U.S. EEZ off the States of California, Oregon, and Washington.

(2) The permit must be on board the vessel and available for inspection by an authorized officer, except that if the permit was issued while the vessel was at sea, this requirement applies only to any subsequent trip.

(3) A permit is valid only for the vessel for which it is registered. A permit not registered for use with a particular vessel may not be used.

(4) Only a person eligible to own a documented vessel under the terms of 46 U.S.C. 12102(a) may be issued or may hold (by ownership or otherwise) an HMS permit.

(b) *Application.* (1) Following publication of the final rule implementing the FMP, NMFS will issue permits to the owners of those vessels on a list of vessels obtained from owners previously applying for a permit under the authority of the High Seas Fishing Compliance Act, the Tuna Conventions Act of 1950, the Marine Mammal Protection Act, and the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region, or whose vessels are listed on the vessel register of the Inter-American Tropical Tuna Commission.

(2) All permits issued by NMFS in accordance with paragraph (b)(1) of this section will authorize the use of specific fishing gear by the identified commercial fishing vessels.

(3) An owner of a vessel subject to these requirements who has not received an HMS permit from NMFS and who wants to engage in the fisheries must apply to the SFD for the required permit in accordance with the following:

(i) A Southwest Region Federal Fisheries application form may be obtained from the SFD or downloaded from the Southwest Region home page (<http://swr.nmfs.noaa.gov/permits.htm>) to apply for a permit under this section. A completed application is one that contains all the necessary information and signatures required.

(ii) A minimum of 15 days should be allowed for processing a permit application. If an incomplete or improperly completed application is filed, the applicant will be sent a notice of deficiency. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

(iii) A permit will be issued by the SFD. If an application is denied, the SFD will indicate the reasons for denial.

(iv) *Appeals.* (A) Any applicant for an initial permit may appeal the initial issuance decision to the RA. To be considered by the RA, such appeal must be in writing and state the reasons for the appeal, and must be submitted within 30 days of the action by the RA. The appellant may request an informal hearing on the appeal.

(B) Upon receipt of an appeal authorized by this section, the RA will notify the permit applicant, or permit holder as appropriate, and will request such additional information and in such form as will allow action upon the appeal.

(C) Upon receipt of sufficient information, the RA will decide the appeal in accordance with the permit provisions set forth in this section at the time of the application, based upon information relative to the application on file at NMFS and the Council and any additional information submitted to or obtained by the RA, the summary record kept of any hearing and the hearing officer's recommended decision, if any, and such other considerations as the RA deems appropriate. The RA will notify all interested persons of the decision, and the reasons for the decision, in writing, normally within 30 days of the receipt of sufficient information, unless additional time is needed for a hearing.

(D) If a hearing is requested, or if the RA determines that one is appropriate, the RA may grant an informal hearing before a hearing officer designated for that purpose after first giving notice of the time, place, and subject matter of the hearing to the applicant. The appellant, and, at the discretion of the hearing officer, other interested persons, may appear personally or be represented by counsel at the hearing and submit information and present arguments as determined appropriate by the hearing officer. Within 30 days of the last day of the hearing, the hearing officer shall recommend in writing a decision to the RA.

(E) The RA may adopt the hearing officer's recommended decision, in whole or in part, or may reject or modify it. In any event, the RA will notify interested persons of the decision, and the reason(s) therefore, in writing, within 30 days of receipt of the hearing officer's recommended decision. The RA's decision will constitute the final administrative action by NMFS on the matter.

(F) Any time limit prescribed in this section may be extended for a period not to exceed 30 days by the RA for good cause, either upon his or her own motion or upon written request from the appellant stating the reason(s) therefore.

(4) Permits issued under this subpart will remain valid until the first date of renewal, and permits may be subsequently be renewed for 2-year terms. The first date of renewal will be the last day of the vessel owner's birth month in the second calendar year after the permit is issued (e.g., if the birth month is March and the permit is issued on October 3, 2007, the permit will remain valid through March 31, 2009).

(5) Replacement permits may be issued without charge to replace lost or mutilated permits. Replacement permits may be obtained by submitting to the SFD c/o the Regional Administrator a complete, signed vessel permit application. An application for a replacement permit is not considered a new application.

(6) Any permit that has been altered, erased, or mutilated is invalid.

(c) *Display.* Any permit issued under this subpart, or a facsimile of the permit, must be on board the vessel at all times while the vessel is fishing for, taking, retaining, possessing, or landing HMS shoreward of the outer boundary of the fishery management area unless the vessel was at sea at the time the permit was issued. Any permit issued under this section must be displayed for inspection upon request of an authorized officer.

(d) *Sanctions.* Procedures governing sanctions and denials are found at subpart D of 15 CFR part 904.

(e) *Fees.* An application for a permit, or renewal of an existing permit under paragraph (b)(1) of this section will include a fee for each vessel. The fee amount required will be calculated in accordance with the NOAA Finance Handbook and specified on the application form.

[69 FR 18453, Apr. 7, 2004, as amended at 72 FR 10937, Mar. 12, 2007; 74 FR 37178, July 28, 2009]

§ 660.708 Reporting and recordkeeping.

(a) *Logbooks.* The operator of any commercial fishing vessel and any recreational charter vessel fishing for HMS in the management area must maintain on board the vessel an accurate and complete record of catch, effort, and other data on report forms provided by the Regional Administrator or a state agency. All information specified on the forms must be recorded on the forms within 24 hours after the completion of each fishing day. The original logbook form for each day of the fishing trip must be submitted to either the Regional Administrator or the appropriate state management agency within 30 days of each landing or transshipment of HMS. Each form must be signed and dated by the fishing vessel operator.

(1) Logbooks that meet the logbook reporting requirement may be found at <http://swr.nmfs.noaa.gov/logbooks.htm> and include:

- (i) The logbook required under 50 CFR 300.21 implementing the Tuna Conventions Act of 1950;
- (ii) The logbook required under §660.14 implementing the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region;
- (iii) The logbook required by 50 CFR 300.17 implementing the High Seas Fishing Compliance Act of 1995.
- (iv) Any logbook required by the fishery management agency of the States of California, Oregon, or Washington.

(2) Any holder of a permit who does not submit logbooks under any of the above authorities must submit a written request to the SFD for the appropriate logbook. The applicant must provide his or her name and address, the name of the vessel, and the type of fishing gear used.

(3) The Regional Administrator may, after consultation with the Council, act to modify the information to be provided on the fishing record forms.

(b) Any person who is required to do so by the applicable state law must make and/or file, retain, or make available any and all reports of HMS containing all data, and in the exact manner, required by the applicable state law.

[69 FR 18453, Apr. 7, 2004]

§ 660.709 Annual specifications.

(a) *Procedure.* (1) In June of each year, the HMSMT will deliver a preliminary SAFE report to the Council for all HMS with any necessary recommendations for harvest guidelines, quotas or other management measures to protect HMS.

(2) In September of each year, the HMSMT will deliver a final SAFE report to the Council. The Council will adopt any necessary harvest guidelines, quotas or other management measures for public review.

(3) In November each year, the Council will take final action on any necessary harvest guidelines, quotas, or other management measures and make its recommendations to NMFS.

(4) The Regional Administrator will implement through rulemaking any necessary and appropriate harvest guidelines, quotas, or other management measures based on the SAFE report, recommendations from the Council, and the requirements contained in the FMP.

(b) Fishing seasons for all species will begin on April 1 of each year at 0001 hours local time and terminate on March 31 of each year at 2400 hours local time.

(c) Harvest guidelines, quotas, and other management measures announced for a particular year will be in effect the following year unless changed through the public review process described in paragraph (a) of this section.

(d) Irrespective of the normal review process, the Council may propose management action to protect HMS at any time. The Council may adopt a management cycle different from the one described in this section provided that such change is made by a majority vote of the Council and a 6-month notice of the change is given. NMFS will implement the new schedule through rulemaking.

§ 660.710 Closure of directed fishery.

(a) When a quota has been taken, the Regional Administrator will announce in the Federal Register the date of closure of the fishery for the species of concern.

(b) When a harvest guideline has been taken, the Regional Administrator will initiate review of the species of concern according to section 8.4.8 of the FMP and publish in the Federal Register any necessary and appropriate regulations following Council recommendations.

§ 660.711 General catch restrictions.

(a) *Prohibited species.* HMS under the FMP for which quotas have been achieved and the fishery closed are prohibited species. In addition, the following are prohibited species:

- (1) Any species of salmon.
- (2) Great white shark.
- (3) Basking shark.
- (4) Megamouth shark.
- (5) Pacific halibut.

(b) *Incidental landings.* HMS caught by gear not authorized by this subpart may be landed in incidental amounts as follows:

(1) Drift gillnet vessels with stretched mesh less than 14 inches may land up to 10 HMS per trip, except that no swordfish may be landed.

(2) Bottom longline vessels may land up to 20 percent by weight of management unit sharks in landings of all species, or 3 individual sharks of the species in the management unit, whichever is greater.

(3) Trawl and pot gear vessels may land up to 1 percent by weight of management unit sharks in a landing of all species or 2 individual sharks of the species in the management unit, whichever is greater.

(c) *Marlin prohibition.* The sale of striped marlin by a vessel with a permit under this subpart is prohibited.

(d) *Sea turtle handling and resuscitation.* All sea turtles taken incidentally in fishing operations by any HMS vessel other than vessels subject to §660.712 must be handled in accordance with 50 CFR 223.206(d)(1).

§ 660.712 Longline fishery.

- (a) *Gear and fishing restrictions.* (1) Owners and operators of vessels registered for use of longline gear may not use longline gear to fish for or target HMS within the U.S. EEZ.
- (2) Owners and operators of vessels registered for use of longline gear may not make shallow sets with longline gear to fish for or target swordfish (*Xiphias gladius*) west of 150° W. long. and north of the equator (0° N. lat.).
- (3) A person aboard a vessel registered for use of longline gear fishing for HMS west of 150° W. long. and north of the equator (0° N. lat.) may not possess or deploy any float line that is shorter than or equal to 20 m (65.6 ft or 10.9 fm). As used in this paragraph, float line means a line used to suspend the main longline beneath a float.
- (4) From April 1 through May 31, owners and operators of vessels registered for use of longline gear may not use longline gear in waters bounded on the south by 0° lat., on the north by 15° N. lat., on the east by 145° W. long., and on the west by 180° long.
- (5) From April 1 through May 31, owners and operators of vessels registered for use of longline gear may not receive from another vessel HMS that were harvested by longline gear in waters bounded on the south by 0° lat., on the north by 15° N. lat., on the east by 145° W. long., and on the west by 180° long.
- (6) From April 1 through May 31, owners and operators of vessels registered for use of longline gear may not land or transship HMS that were harvested by longline gear in waters bounded on the south by 0° lat., on the north by 15° N. lat., on the east by 145° W. long., and on the west by 180° long.
- (7) No light stick may be possessed on board a vessel registered for use of longline gear during fishing trips that include any fishing west of 150° W. long. and north of the equator (0° N. lat.). A light stick as used in this paragraph is any type of light emitting device, including any fluorescent glow bead, chemical, or electrically powered light that is affixed underwater to the longline gear.
- (8) When a conventional monofilament longline is deployed in waters west of 150° W. long. and north of the equator (0° N. lat.) by a vessel registered for use of longline gear, no fewer than 15 branch lines may be set between any two floats. Vessel operators using basket-style longline gear must set a minimum of 10 branch lines between any 2 floats when fishing in waters north of the equator.
- (9) Longline gear deployed west of 150° W. long. and north of the equator (0° N. lat.) by a vessel registered for use of longline gear must be deployed such that the deepest point of the main longline between any two floats, *i.e.*, the deepest point in each sag of the main line, is at a depth greater than 100 m (328.1 ft or 54.6 fm) below the sea surface.
- (10) Owners and operators of longline vessels registered for use of longline gear may land or possess no more than 10 swordfish from a fishing trip where any part of the trip included fishing west of 150° W. long. and north of the equator (0° N. lat.).
- (11) Owners and operators of longline vessels registered for use of longline gear are subject to the provisions at 50 CFR part 223 prohibiting shallow sets to target swordfish in waters beyond the U.S. EEZ and east of 150° W. long. and establishing that no more than 10 swordfish may be landed by a longline vessel registered for use of longline gear from a trip if any sets of longline gear were made on that trip in those waters.
- (b) *Sea turtle take mitigation measures.* (1) Owners and operators of vessels registered for use of longline gear must carry aboard their vessels line clippers meeting the minimum design standards specified in paragraph (b)(2) of this section, dip nets meeting minimum standards specified in paragraph (b)(3) of this section, and wire or bolt cutters capable of cutting through the vessel's hooks. These items must be used to disengage any hooked or entangled sea turtles with the least harm possible to the sea turtles and as close to the hook as possible in accordance with the requirements specified in paragraphs (b)(4) through (b)(7) of this section.
- (2) Line clippers are intended to cut fishing line as close as possible to hooked or entangled sea turtles. NMFS has established minimum design standards for line clippers. The Arceneaux line clipper (ALC) is a model line clipper that meets these minimum design standards and may be fabricated from readily available and low-cost materials (see figure 1 to §660.32). The minimum design standards are as follows:
- (i) The cutting blade must be curved, recessed, contained in a holder, or otherwise afforded some protection to minimize direct contact of the cutting surface with sea turtles or users of the cutting blade.
- (ii) The blade must be capable of cutting 2.0–2.1 mm monofilament line and nylon or polypropylene multistrand material commonly known as braided mainline or tarred mainline.
- (iii) The line clipper must have an extended reach handle or pole of at least 6 ft (1.82 m).
- (iv) The cutting blade must be securely fastened to the extended reach handle or pole to ensure effective deployment and use.
- (3) Dip nets are intended to facilitate safe handling of sea turtles and access to sea turtles for purposes of cutting lines in a manner that minimizes injury and trauma to sea turtles. The minimum design standards for dip nets that meet the requirements of this section are:
- (i) The dip net must have an extended reach handle of at least 6 ft (1.82 m) of wood or other rigid material able to support a minimum of 100 lbs (34.1 kg) without breaking or significant bending or distortion.
- (ii) The dip net must have a net hoop of at least 31 inches (78.74 cm) inside diameter and a bag depth of at least 38 inches (96.52 cm). The bag mesh openings may be no more than 3 inches x 3 inches (7.62 cm x 7.62 cm).
- (4) All incidentally taken sea turtles brought aboard for dehooking and/or disentanglement must be handled in a manner to minimize injury and promote post-hooking survival.
- (i) When practicable, comatose sea turtles must be brought on board immediately, with a minimum of injury, and handled in accordance with the procedures specified in paragraphs (b)(5) and (b)(6) of this section.
- (ii) If a sea turtle is too large or hooked in such a manner as to preclude safe boarding without causing further damage/injury to the turtle, line clippers described in paragraph (b)(2) of this section must be used to clip the line and remove as much line as possible prior to releasing the turtle.
- (iii) If a sea turtle is observed to be hooked or entangled by longline gear during hauling operations, the vessel operator must immediately cease hauling operations until the turtle has been removed from the longline gear or brought on board the vessel.
- (iv) Hooks must be removed from sea turtles as quickly and carefully as possible. If a hook cannot be removed from a turtle, the line must be cut as close to the hook as possible.
- (5) If the sea turtle brought aboard appears dead or comatose, the sea turtle must be placed on its belly (on the bottom shell or plastron) so that the turtle is right side up and its hindquarters elevated at least 6 inches (15.24 cm) for a period of no less than 4 hours and no more than 24 hours. The amount of the elevation depends on the size of the turtle; greater elevations are needed for larger turtles. A reflex test, performed by gently touching the

eye and pinching the tail of a sea turtle, must be administered by a vessel operator, at least every 3 hours, to determine if the sea turtle is responsive. Sea turtles being resuscitated must be shaded and kept damp or moist but under no circumstance may be placed into a container holding water. A water-soaked towel placed over the eyes, carapace, and flippers is the most effective method to keep a turtle moist. Those that revive and become active must be returned to the sea in the manner described in paragraph (b)(6) of this section. Sea turtles that fail to revive within the 24-hour period must also be returned to the sea in the manner described in paragraph (b)(6)(i) of this section.

(6) Live turtles must be returned to the sea after handling in accordance with the requirements of paragraphs (b)(4) and (b)(5) of this section:

(i) By putting the vessel engine in neutral gear so that the propeller is disengaged and the vessel is stopped, and releasing the turtle away from deployed gear; and

(ii) Observing that the turtle is safely away from the vessel before engaging the propeller and continuing operations.

(7) In addition to the requirements in paragraphs (b) and (c) of this section, a vessel operator shall perform sea turtle handling and resuscitation techniques consistent with 50 CFR 223.206(d)(1), as appropriate.

(c) *Longline Seabird mitigation measures.* (1) Seabird mitigation techniques. Owners and operators of vessels registered for use of longline gear must ensure that the following actions are taken when fishing north of 23° N. lat.:

(i) Employ a line setting machine or line shooter to set the main longline when making deep sets west of 150° W. long. using monofilament main longline;

(ii) Attach a weight of at least 45 g to each branch line within 1 m of the hook when making deep sets using monofilament main longline;

(iii) When using basket-style longline gear, ensure that the main longline is deployed slack to maximize its sink rate;

(2) Use completely thawed bait that has been dyed blue to an intensity level specified by a color quality control card issued by NMFS;

(3) Maintain a minimum of two cans (each sold as 0.45 kg or 1 lb size) containing blue dye on board the vessel;

(4) Discharge fish, fish parts (offal), or spent bait while setting or hauling longline gear, on the opposite side of the vessel from where the longline gear is being set or hauled;

(5) Retain sufficient quantities of fish, fish parts, or spent bait, between the setting of longline gear for the purpose of strategically discharging it in accordance with paragraph (a)(6) of this section;

(6) Remove all hooks from fish, fish parts, or spent bait prior to its discharge in accordance with paragraph (c)(4) of this section; and

(7) Remove the bill and liver of any swordfish that is caught, sever its head from the trunk and cut it in half vertically, and periodically discharge the butchered heads and livers in accordance with paragraph (a)(6) of this section.

(8) If a short-tailed albatross is hooked or entangled by a vessel registered for use of longline gear, owners and operators must ensure that the following actions are taken:

(i) Stop the vessel to reduce the tension on the line and bring the bird on board the vessel using a dip net;

(ii) Cover the bird with a towel to protect its feathers from oils or damage while being handled;

(iii) Remove any entangled lines from the bird;

(iv) Determine if the bird is alive or dead.

(A) If dead, freeze the bird immediately with an identification tag attached directly to the specimen listing the species, location and date of mortality, and band number if the bird has a leg band. Attach a duplicate identification tag to the bag or container holding the bird. Any leg bands present must remain on the bird. Contact NMFS, the Coast Guard, or the U.S. Fish and Wildlife Service at the numbers listed on the Short-tailed Albatross Handling Placard distributed at the NMFS protected species workshop, inform them that you have a dead short-tailed albatross on board, and submit the bird to NMFS within 72 hours following completion of the fishing trip.

(B) If alive, handle the bird in accordance with paragraphs (c)(9) through (c)(14) of this section.

(9) Place the bird in a safe enclosed place;

(10) Immediately contact NMFS, the Coast Guard, or the U.S. Fish and Wildlife Service at the numbers listed on the Short-tailed Albatross Handling Placard distributed at the NMFS protected species workshop and request veterinary guidance;

(11) Follow the veterinary guidance regarding the handling and release of the bird.

(12) Complete the short-tailed albatross recovery data form issued by NMFS.

(13) If the bird is externally hooked and no veterinary guidance is received within 24–48 hours, handle the bird in accordance with paragraphs (c)(17)(iv) and (v) of this section, and release the bird only if it meets the following criteria:

(i) Able to hold its head erect and respond to noise and motion stimuli;

(ii) Able to breathe without noise;

(iii) Capable of flapping and retracting both wings to normal folded position on its back;

(iv) Able to stand on both feet with toes pointed forward; and

(v) Feathers are dry.

(14) If released under paragraph (c)(13) of this section or under the guidance of a veterinarian, all released birds must be placed on the sea surface.

(15) If the hook has been ingested or is inaccessible, keep the bird in a safe, enclosed place and submit it to NMFS immediately upon the vessel's return to port. Do not give the bird food or water.

(16) Complete the short-tailed albatross recovery data form issued by NMFS.

(17) If a seabird other than a short-tailed albatross is hooked or entangled by a vessel registered for use of longline gear, owners and operators must ensure that the following actions are taken:

- (i) Stop the vessel to reduce the tension on the line and bring the seabird on board the vessel using a dip net;
 - (ii) Cover the seabird with a towel to protect its feathers from oils or damage while being handled;
 - (iii) Remove any entangled lines from the seabird;
 - (iv) Remove any external hooks by cutting the line as close as possible to the hook, pushing the hook barb out point first, cutting off the hook barb using bolt cutters, and then removing the hook shank;
 - (v) Cut the fishing line as close as possible to ingested or inaccessible hooks;
 - (vi) Leave the bird in a safe enclosed space to recover until its feathers are dry; and
 - (vii) After recovered, release seabirds by placing them on the sea surface.
- (d) *Vessel monitoring system.* (1) Only a VMS unit owned by NMFS and installed by NMFS complies with the requirement of this subpart.
- (2) After the holder of a permit to use longline gear has been notified by the SAC of a specific date for installation of a VMS unit on the permit holder's vessel, the vessel must carry the VMS unit after the date scheduled for installation.
- (3) A longline permit holder will not be assessed any fee or other charges to obtain and use a VMS unit, including the communication charges related directly to requirements under this section. Communication charges related to any additional equipment attached to the VMS unit by the owner or operator shall be the responsibility of the owner or operator and not NMFS.
- (4) The holder of a longline permit and the master of the vessel operating under the permit must:
- (i) Provide opportunity for the SAC to install and make operational a VMS unit after notification.
 - (ii) Carry the VMS unit on board whenever the vessel is at sea.
 - (iii) Not remove or relocate the VMS unit without prior approval from the SAC.
- (5) The SAC has authority over the installation and operation of the VMS unit. The SAC may authorize the connection or order the disconnection of additional equipment, including a computer, to any VMS unit when deemed appropriate by the SAC.
- (e) *Protected species workshop.* (1) Each year both the owner and the operator of a vessel registered for use of longline gear must attend and be certified for completion of a workshop conducted by NMFS on mitigation, handling, and release techniques for turtles and seabirds and other protected species.
- (2) A protected species workshop certificate will be issued by NMFS annually to any person who has completed the workshop.
- (3) An owner of a vessel registered for use of longline gear must have on file a valid protected species workshop certificate or copy issued by NMFS in order to maintain or renew their vessel registration.
- (4) An operator of a vessel registered for use of longline gear must have on board the vessel a valid protected species workshop certificate issued by NMFS or a legible copy thereof.
- (f) An operator of a vessel registered for use of longline gear must notify the Regional Administrator at least 24 hours prior to embarking on a fishing trip regardless of the intended area of fishing.
- (g) An operator of a vessel registered for use of longline gear in waters east of 150° W. long. and beyond the EEZ is subject to the requirements at 50 CFR part 223.

[69 FR 18453, Apr. 7, 2004]

§ 660.713 Drift gillnet fishery.

- (a) *Take Reduction Plan gear restrictions.* Gear restrictions resulting from the Pacific Offshore Cetacean Take Reduction Plan established under the authority of the Marine Mammal Protection Act of 1972 can be found at 50 CFR 229.31.
- (b) *Other gear restrictions.* (1) The maximum length of a drift gillnet on board a vessel shall not exceed 6,000 ft (1828 m).
- (2) Up to 1,500 ft (457 m) of drift gillnet in separate panels of 600 ft (182.88 m) may be on board the vessel in a storage area.
- (c) *Protected Resource Area closures.* (1) Pacific leatherback conservation area. No person may fish with, set, or haul back drift gillnet gear in U.S. waters of the Pacific Ocean from August 15 through November 15 in the area bounded by straight lines connecting the following coordinates in the order listed:
- (i) Pt. Sur at 36°18.5' N. lat., to
 - (ii) 34°27' N. lat. 123°35' W. long., to
 - (iii) 34°27' N. lat. 129° W. long., to
 - (iv) 45° N. lat. 129° W. long., thence to
 - (v) the point where 45° N. lat. intersects the Oregon coast.
- (2) *Pacific loggerhead conservation area.* No person may fish with, set, or haul back drift gillnet gear in U.S. waters of the Pacific Ocean east of the 120° W. meridian from June 1 through August 31 during a forecasted, or occurring, El Nino event off the coast of southern California.
- (i) *Notification of an El Nino event.* The Assistant Administrator will publish in the Federal Register a notification that an El Nino event is occurring, or is forecast to occur, off the coast of southern California and the requirement of a closure under this paragraph (c)(2). Furthermore, the Assistant Administrator will announce the requirement of such a closure by other methods as are necessary and appropriate to provide actual notice to the participants in the California/Oregon drift gillnet fishery.
- (ii) *Determination of El Nino conditions.* The Assistant Administrator will rely on information developed by NOAA offices which monitor El Nino events, such as NOAA's Climate Prediction Center and the West Coast Office of NOAA's Coast Watch program, in order to determine whether an El Nino is forecasted or occurring for the coast of southern California. The Assistant Administrator will use the monthly sea surface temperature anomaly charts to determine whether there are warmer than normal sea surface temperatures present off of southern California during the months prior to the closure month for years in which an El Nino event has been declared by the NOAA Climate Prediction Center. Specifically, the Assistant Administrator, will use

sea surface temperature data from the third and second months prior to the month of the closure for determining whether El Nino conditions are present off of southern California.

(iii) *Reopening.* If, during a closure as described within this paragraph (c)(2), sea surface temperatures return to normal or below normal, the Assistant Administrator may publish a Federal Register notice announcing that El Nino conditions are no longer present off the coast of southern California and may terminate the closure prior to August 31.

(d) *Mainland area closures.* The following areas off the Pacific coast are closed to driftnet gear:

(1) Within the U.S. EEZ from the United States-Mexico International Boundary to the California-Oregon border from February 1 through April 30.

(2) In the portion of the U.S. EEZ within 75 nautical miles from the mainland shore from the United States-Mexico International Boundary to the California-Oregon border from May 1 through August 14.

(3) In the portion of the U.S. EEZ within 25 nautical miles of the coastline from December 15 through January 31 of the following year from the United States-Mexico International Boundary to the California-Oregon border.

(4) In the portion of the U.S. EEZ from August 15 through September 30 within the area bounded by line extending from Dana Point to Church Rock on Santa Catalina Island, to Point La Jolla, CA.

(5) In the portion of the U.S. EEZ within 12 nautical miles from the mainland shore north of a line extending west of Point Arguello, CA, to the California-Oregon border.

(6) In the portion of the U.S. EEZ within the area bounded by a line from the lighthouse at Point Reyes to Noonday Rock, to Southeast Farallon Island to Pillar Point, CA.

(7) In the portion of the U.S. EEZ off the Oregon coast east of a line approximating 1000 fathoms as defined by the following coordinates:

42°00'00" N. lat. 125°10'30" W. long.

42°25'39" N. lat. 124°59'09" W. long.

42°30'42" N. lat. 125°00'46" W. long.

42°30'23" N. lat. 125°04'14" W. long.

43°02'56" N. lat. 125°06'57" W. long.

43°01'29" N. lat. 125°10'55" W. long.

43°50'11" N. lat. 125°19'14" W. long.

44°03'23" N. lat. 125°12'22" W. long.

45°00'06" N. lat. 125°16'42" W. long.

45°25'27" N. lat. 125°16'29" W. long.

45°45'37" N. lat. 125°15'19" W. long.

46°04'45" N. lat. 125°24'41" W. long.

46°16'00" N. lat. 125°20'32" W. long.

(8) In the portion of the U.S. EEZ north of 46°16' N. latitude (Washington coast).

(e) *Channel Islands area closures.* The following areas off the Channel Islands are closed to driftnet gear:

(1) *San Miguel Island closures.* (i) Within the portion of the U.S. EEZ north of San Miguel Island between a line extending 6 nautical miles west of Point Bennett, CA, and a line extending 6 nautical miles east of Cardwell Point, CA.

(ii) Within the portion of the U.S. EEZ south of San Miguel Island between a line extending 10 nautical miles west of Point Bennett, CA, and a line extending 10 nautical miles east of Cardwell Point, CA.

(2) *Santa Rosa Island closure.* Within the portion of the U.S. EEZ north of San Miguel Island between a line extending 6 nautical miles west from Sandy Point, CA, and a line extending 6 nautical miles east of Skunk Point, CA, from May 1 through July 31.

(3) *San Nicolas Island closure.* In the portion of the U.S. EEZ within a radius of 10 nautical miles of 33°16'41" N. lat., 119°34'39" W. long. (west end) from May 1 through July 31.

(4) *San Clemente Island closure.* In the portion of the U.S. EEZ within 6 nautical miles of the coastline on the easterly side of San Clemente Island within a line extending 6 nautical miles west from 33°02'16" N. lat., 118°35'27" W. long. and a line extending 6 nautical miles east from the light at Pyramid Head, CA.

[69 FR 18453, Apr. 7, 2004, as amended at 72 FR 31757, June 8, 2007]

§ 660.714 Purse seine fishery. [Reserved]

§ 660.715 Harpoon fishery. [Reserved]

§ 660.716 Surface hook-and-line fishery. [Reserved]

§ 660.717 Framework for revising regulations.

(a) *General.* NMFS will establish and adjust specifications and management measures in accordance with procedures and standards in the FMP.

(b) *Annual actions.* Annual specifications are developed and implemented according to §660.709.

(c) *Routine management measures.* Consistent with section 3.4 of the FMP, management measures designated as routine may be adjusted during the year after recommendation from the Council, approval by NMFS, and publication in the Federal Register.

(d) *Changes to the regulations.* Regulations under this subpart may be promulgated, removed, or revised. Any such action will be made according to the framework measures in section 8.3.4 of the FMP and will be published in the Federal Register.

§ 660.718 Exempted fishing.

(a) In the interest of developing an efficient and productive fishery for HMS, the Regional Administrator may issue exempted fishing permits (EFP) for the harvest of HMS that otherwise would be prohibited.

(b) No exempted fishing for HMS may be conducted unless authorized by an EFP issued for the participating vessel in accordance with the criteria and procedures specified in 50 CFR 600.745.

§ 660.719 Scientific observers.

(a) All fishing vessels with permits issued under this subpart and operating in HMS fisheries, including catcher/processors, at-sea processors, and vessels that embark from a port in Washington, Oregon, or California and land catch in another area, may be required to accommodate an NMFS certified observer on board to collect scientific data.

(b) All vessels with observers on board must comply with the safety regulations at 50 CFR 600.746.

(c) NMFS shall advise the permit holder or the designated agent of any observer requirement in response to any pre-trip notification in this subpart.

(d) When NMFS notifies the permit holder or designated agent of the obligation to carry an observer in response to a notification under this subpart or as a condition of an EFP issued under 50 CFR 660.718, the vessel may not engage in the fishery without taking the observer.

(e) A permit holder must accommodate a NMFS observer assigned under this section. The Regional Administrator's office, and not the observer, will address any concerns raised over accommodations.

(f) The permit holder, vessel operator, and crew must cooperate with the observer in the performance of the observer's duties, including:

(1) Allowing for the embarking and debarking of the observer.

(2) Allowing the observer access to all areas of the vessel necessary to conduct observer duties.

(3) Allowing the observer access to communications equipment and navigation equipment as necessary to perform observer duties.

(4) Allowing the observer access to VMS units to verify operation, obtain data, and use the communication capabilities of the units for official purposes.

(5) Providing accurate vessel locations by latitude and longitude or loran coordinates, upon request by the observer.

(6) Providing sea turtle, marine mammal, or sea bird specimens as requested.

(7) Notifying the observer in a timely fashion when commercial fishing operations are to begin and end.

(g) The permit holder, operator, and crew must comply with other terms and conditions to ensure the effective deployment and use of observers that the Regional Administrator imposes by written notice.

(h) The permit holder must ensure that assigned observers are provided living quarters comparable to crew members and are provided the same meals, snacks, and amenities as are normally provided to other vessel personnel.

§ 660.720 Interim protection for sea turtles.

(a) Until the effective date of §§660.707 and 660.712 (d) and (e), it is unlawful for any person who is not operating under a Hawaii longline limited access permit under §660.21(b) to do any of the following:

(1) Direct fishing effort toward the harvest of swordfish (*Xiphias gladius*) using longline gear deployed on the high seas of the Pacific Ocean west of 150° W. long. and north of the equator (0° lat.).

(2) Possess a light stick on board a longline vessel on the high seas of the Pacific Ocean west of 150° W. long. north of the equator. A light stick as used in this paragraph is any type of light emitting device, including any fluorescent glow bead, chemical, or electrically powered light that is affixed underwater to the longline gear.

(3) An operator of a longline vessel subject to this section may land or possess no more than 10 swordfish from a fishing trip where any part of the trip included fishing west of 150° W. long. and north of the equator (0° N. lat.).

(4) Fail to employ basket-style longline gear such that the mainline is deployed slack when fishing on the high seas of the Pacific Ocean west of 150° W. long. north of the equator.

(5) When a conventional monofilament longline is deployed by a vessel subject to this section, no fewer than 15 branch lines may be set between any two floats. Vessel operators using basket-style longline gear must set a minimum of 10 branch lines between any 2 floats when fishing in waters west of 150° W. long. north of the equator.

(6) Longline gear deployed by a vessel subject to this section must be deployed such that the deepest point of the main longline between any two floats, *i.e.*, the deepest point in each sag of the main line, is at a depth greater than 100 m (328.1 ft or 54.6 fm) below the sea surface.

(b) [Reserved]

§ 660.721 Recreational fishing bag limits.

This section applies to recreational fishing for HMS management unit species in the U.S. EEZ off the coast of California, Oregon, and Washington and in the adjacent high seas areas. In addition to individual fishermen, the operator of a vessel that fishes in the EEZ is responsible for ensuring that the bag limits of this section are not exceeded. The bag limits of this section apply on the basis of each 24-hour period at sea, regardless of the number of trips per day. The provisions of this section do not authorize any person to take more than one daily bag limit of fishing during one calendar day. Federal recreational HMS regulations are not intended to supersede any more restrictive state recreational HMS regulations relating to federally-managed HMS. The bag limits include fish taken in both state and Federal waters.

(a) *Albacore Tuna Daily Bag Limit.* Except pursuant to a multi-day possession permit referenced in paragraph (c) of this section, a recreational fisherman may take or retain no more than:

(1) Ten albacore tuna if any part of the fishing trip occurs in the U.S. EEZ south of a line running due west true from 34°27' N. latitude (at Point Conception, Santa Barbara County) to the U.S.-Mexico border.

(2) Twenty-five albacore tuna if any part of the fishing trip occurs in the U.S. EEZ north of a line running due west true from 34°27' N. latitude (at Point Conception, Santa Barbara County) to the California-Oregon border.

(b) *Bluefin Tuna Daily Bag Limit.* A recreational fisherman may take or retain no more than 10 bluefin tuna in the U.S. EEZ off the coast of California.

(c) *Possession Limits.* If the State of California requires a multi-day possession permit for albacore or bluefin tuna harvested by a recreational fishing vessel and landed in California, aggregating daily trip limits for multi-day trips would be deemed consistent with Federal law.

(d) *Boat Limits* Off the coast of California, boat limits apply, whereby each fisherman aboard a vessel may continue to use recreational angling gear until the combined daily limits of HMS for all licensed and juvenile anglers aboard has been attained (additional state restrictions on boat limits may apply). Unless otherwise prohibited, when two or more persons are angling for HMS species aboard a vessel in the EEZ, fishing may continue until boat limits are reached.

[72 FR 58259, Oct. 15, 2007]

Table 2 to Part 660—Vessel Capacity Ratings for West Coast Groundfish Limited Entry Permits

Vessel length	Capacity rating
<20	1.00
21	1.13
22	1.27
23	1.42
24	1.58
25	1.75
26	1.93
27	2.12
28	2.32
29	2.53
30	2.76
31	2.99
32	3.24
33	3.50
34	3.77
35	4.05
36	4.35
37	4.66
38	4.98
39	5.31
40	5.66
41	6.02
42	6.39
43	6.78
44	7.18
45	7.59
46	8.02
47	8.47
48	8.92
49	9.40
50	9.88
51	10.38
52	10.90
53	11.43
54	11.98
55	12.54
56	13.12

57	13.71
58	14.32
59	14.95
60	15.59
61	16.25
62	16.92
63	17.61
64	18.32
65	19.04
66	19.78
67	20.54
68	21.32
69	22.11
70	22.92
71	23.74
72	24.59
73	25.45
74	26.33
75	27.23
76	28.15
77	29.08
78	30.04
79	31.01
80	32.00
81	33.01
82	34.04
83	35.08
84	36.15
85	37.24
86	38.34
87	39.47
88	40.61
89	41.77
90	42.96
91	44.16
92	45.38
93	46.63
94	47.89
95	49.17
96	50.48
97	51.80
98	53.15
99	54.51
100	55.90
101	57.31
102	58.74

103	60.19
104	61.66
105	63.15
106	64.67
107	66.20
108	67.76
109	69.34
110	70.94
111	72.57
112	74.21
113	75.88
114	77.57
115	79.28
116	81.02
117	82.77
118	84.55
119	86.36
120	88.18
121	90.03
122	91.90
123	93.80
124	95.72
125	97.66
126	99.62
127	101.61
128	103.62
129	105.66
130	107.72
131	109.80
132	111.91
133	114.04
134	116.20
135	118.38
136	120.58
137	122.81
138	125.06
139	127.34
140	129.64
141	131.97
142	134.32
143	136.70
144	139.10
145	141.53
146	143.98
147	146.46
148	148.96

149	151.49
150	154.05
151	154.68
152	155.31
153	155.94
154	156.57
155	157.20
156	157.83
157	158.46
158	159.10
159	159.73
160	160.36
161	160.99
162	161.62
163	162.25
164	162.88
165	163.51
166	164.14
167	164.77
168	165.41
169	166.04
170	166.67
171	167.30
172	167.93
173	168.56
174	169.19
175	169.82
176	170.45
177	171.08
178	171.72
179	172.35
180	172.98
181	173.61
182	174.24
183	174.87
184	175.50
185	176.13
186	176.76
187	177.40
188	178.03
189	178.66
190	179.29
191	179.92
192	180.55
193	181.18
194	181.81

195	182.44
196	183.07
197	183.71
198	184.34
199	184.97
200	185.60
201	186.23
202	186.86
203	187.49
204	188.12
205	188.75
206	189.38
207	190.02
208	190.65
209	191.28
210	191.91
211	192.54
212	193.17
213	193.80
214	194.43
215	195.06
216	195.69
217	196.33
218	196.96
219	197.59
220	198.22
221	198.85
222	199.48
223	200.11
224	200.74
225	201.37
226	202.01
227	202.64
228	203.27
229	203.90
230	204.53
231	205.16
232	205.79
233	206.42
234	207.05
235	207.68
236	208.32
237	208.95
238	209.58
239	210.21
240	210.84

241	211.47
242	212.10
243	212.73
244	213.36
245	213.99
246	214.63
247	215.26
248	215.89
249	216.52
250	217.15
251	217.78
252	218.41
253	219.04
254	219.67
255	220.30
256	220.94
257	221.57
258	222.20
259	222.83
260	223.46
261	224.09
262	224.72
263	225.35
264	225.98
265	226.61
266	227.25
267	227.88
268	228.51
269	229.14
270	229.77
271	230.40
272	231.03
273	231.66
274	232.29
275	232.93
276	233.56
277	234.19
278	234.82
279	235.45
280	236.08
281	236.71
282	237.34
283	237.97
284	238.60
285	239.24
286	239.87

287	240.50
288	241.13
289	241.76
290	242.39
291	243.02
292	243.65
293	244.28
294	244.91
295	245.55
296	246.18
297	246.81
298	247.44
299	248.07
300	248.70
301	249.33
302	249.96
303	250.59
304	251.22
305	251.86
306	252.49
307	253.12
308	253.75
309	254.38
310	255.01
311	255.64
312	256.27
313	256.90
314	257.54
315	258.17
316	258.80
317	259.43
318	260.06
319	260.69
320	261.32
321	261.95
322	262.58
323	263.21
324	263.85
325	264.48
326	265.11
327	265.74
328	266.37
329	267.00
330	267.63
331	268.26
332	268.89

333	269.52
334	270.16
335	270.79
336	271.42
337	272.05
338	272.68
339	273.31
340	273.94
341	274.57
342	275.20
343	275.83
344	276.47
345	277.10
346	277.73
347	278.36
348	278.99
349	279.62
350	280.25
351	280.88
352	281.51
353	282.14
354	282.78
355	283.41
356	284.04
357	284.67
358	285.30
359	285.93
360	286.56
361	287.19
362	287.82
363	288.46
364	289.09
365	289.72
366	290.35
367	290.98
368	291.61
369	292.24
370	292.87
371	293.50
372	294.13
373	294.77
374	295.40
375	296.03
376	296.66
377	297.29
378	297.92

379	298.55
380	299.18
381	299.81
382	300.44
383	301.08
384	301.71
385	302.34
386	302.97
387	303.60
388	304.23
389	304.86
390	305.49
391	306.12
392	306.75
393	307.39
394	308.02
395	308.65
396	309.28
397	309.91
398	310.54
399	311.17
>400	311.80

of Pacific whiting had been taken through July 3, 2009 and that the shore-based allocation would be reached by 10 a.m. on July 7, 2009. For the reasons stated here and in accordance with the regulations at 50 CFR 660.323(b)(4), NMFS herein announces: Effective 10 a.m. July 7, 2009 the Pacific whiting shoreside fishery was closed.

Classification

This action is authorized by the regulations implementing the groundfish FMP. The determination to take this action was based on the most recent data available. The aggregate data upon which the determinations were based are available for public inspection at the office of the Regional Administrator (see **ADDRESSES**) during business hours.

The Assistant Administrator for Fisheries (AA), NMFS, finds good cause to waive the requirement to provide prior notice and opportunity for comment on this action pursuant to 5 U.S.C. 553(3)(b)(B), because providing prior notice and opportunity would be impracticable because if this restriction were delayed in order to provide notice and comment, it would allow the allocation for the shore-based sector to be exceeded, which would either reduce the amount available to the catcher/processor sector or cause the OY to be exceeded.

A delay to provide a cooling off period also would be expected to cause the fishery to exceed its allocation. Therefore, good cause also exists to waive the 30-day delay in effectiveness requirement of 5 U.S.C. 553(d)(3).

This action is taken under the authority of 50 CFR 660.323(b)(4), and is exempt from review under Executive Order 12866.

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

Dated: July 22, 2009.

James P. Burgess,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. E9-17930 Filed 7-27-09; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket NO. 080226308-9700-02]

RIN 0648-AW50

Fisheries Off West Coast States; Highly Migratory Species Fisheries

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to initiate collection of a permit fee for vessel owners participating in commercial and charter recreational fishing for highly migratory species (HMS) in the Exclusive Economic Zone (EEZ) off the West Coast of California, Oregon, and Washington. The HMS permits are issued under implementing regulations for the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (HMS FMP). **DATES:** This final rule is effective August 27, 2009.

ADDRESSES: 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 final rule may be submitted to the Southwest Region and by e-mail to David_Rostker@omb.eop.gov, or fax to (202) 395-7285.

FOR FURTHER INFORMATION CONTACT: Chris Fanning, Permits Coordinator, Sustainable Fisheries Division, NMFS, 562-980-4198.

SUPPLEMENTARY INFORMATION: On April 7, 2004, NMFS published a final rule to implement the HMS FMP (69 FR 18444) that included mandatory permit requirements at 50 CFR 660.707. The HMS FMP permit requirements included authority to collect permit fees which NMFS opted not to exercise at that time. NMFS is now exercising the option to charge an administrative fee for the recovery of HMS permit processing and issuance expenses as authorized under Section 303(b)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), 16 U.S.C. 1853(b)(1). Section 304(d) of the MSA specifies that such fees may not exceed the administrative costs of issuing the permits. This final

rule specifies that an application for an HMS permit, including the renewal of an existing permit, must include a fee payable by the vessel owner. The amount of the fee will be determined in accordance with the NOAA Finance Handbook available at (<http://www.corporateservices.noaa.gov/~finance/FinanceHandbook.htm>) and specified on the application form. At this time, the fee amount is expected to be approximately \$30. The proposed rule to require a permit fee was published in the **Federal Register** on December 19, 2008 (73 FR 77589), soliciting public comment through January 20, 2009.

Comments and Responses

NMFS did not receive any public comment on the proposed rule.

Classification

The Administrator, Southwest Region, NMFS, determined that this regulation is necessary for the conservation and management of the U.S. West Coast Fisheries for Highly Migratory Species 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 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.

This final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) which has been approved by OMB as an amendment to OMB Control No. 0648-0204. Public reporting burden for the payment of HMS permit fees is estimated to average 5 minutes or less per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information. Send comments regarding this burden estimate, 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, 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.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: July 23, 2009.

James W. Balsiger,

*Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

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

PART 660—FISHERIES OFF THE WEST COAST STATES

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

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

■ 2. A new paragraph (e) is added to § 660.707 to read as follows:

§ 660.707 Permits.

* * * * *

(e) *Fees.* An application for a permit, or renewal of an existing permit under paragraph (b)(1) of this section will include a fee for each vessel. The fee amount required will be calculated in accordance with the NOAA Finance Handbook and specified on the application form.

[FR Doc. E9-17936 Filed 7-27-09; 8:45 am]

BILLING CODE 3510-22-S

JAN 25 2008



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, MD 20910

Dr. Donald McIsaac
Executive Director
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 101
Portland, OR 97220-1384

RECEIVED

FEB 01 2008

PFMC

Dear Dr. McIsaac,

Per our discussion at the recent Council Coordination Committee meeting, this letter requests action from each Council, as appropriate, regarding permit fees. The National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS) established a policy (attached) in 2004 to collect fees in association with all permits. As you know, NMFS may charge permit fees to recover its administrative costs to the extent fees are provided for under a fishery management plan pursuant to section 303(b)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). Historically, decisions whether to charge administrative fees for MSA permit processing and issuance expenses have been made on a case-by-case basis. The result is a set of inconsistent permit fee policies around the country in which fishermen may or may not be charged, or charged differing fees, for similar permits.

My goal is to establish a consistent application of agency policy providing for the assessment and collection of fees that recovers the expenses of permit processing and issuance for all permits issued by NMFS to the extent allowed by law. To achieve this goal, I ask that each Regional Fishery Management Council work closely with their NMFS Regional Administrator to ensure that each of their fishery management plans contains the authority necessary to collect fees and, if not, to amend those plans to provide for the collection of fees. In some cases, fees or the authority for fees for all permits may be in place and no new action necessary.

Please work with your Regional Administrator to develop a plan of action for establishing these fees within your area of jurisdiction. Additionally, implementation of fees around the country will necessitate outreach to the fishing industry to explain the basis for the new fees and I would like to hear your thoughts on how to best accomplish such outreach. I will ask that each Council/Region report on their plans to establish these fees at the next Council Coordination Committee meeting in May.

Sincerely,

A handwritten signature in black ink, appearing to read "Samuel D. Rauch, III".

Samuel D. Rauch, III
Deputy Assistant Administrator for
Regulatory Programs

Enclosure

Cc: D. Robert Lohn, Regional Administrator
Rodney R. McInnis, Regional Administrator



NATIONAL MARINE FISHERIES SERVICE POLICY DIRECTIVE 30-120

Administration and Operations

NMFS Permit Fees

NOTICE: This publication is available at: <http://www.nmfs.noaa.gov/directives/>.

OPR: F/P (M. Holliday)

Certified by: F/P (M. Holliday)

Type of Issuance: Renewed 07

SUMMARY OF REVISIONS:

Introduction. The authority for the National Oceanic and Atmospheric Administration’s (NOAA) National Marine Fisheries Service (NMFS) to charge permit fees to recover its administrative costs is contained in five statutes. Historically, each NMFS permit program individually decided whether or not to use this authority to charge an administrative fee for the recovery of permit processing and issuance expenses. The result is a set of inconsistent permit fee policies around the country. The purpose of this directive is to establish a more consistent agency permit program that recovers the expenses of permit processing and issuance for all permits issued by NMFS to the extent allowed by law.

Objective. Permits are used to identify participants who are eligible to conduct specific activities in programs regulated by NMFS. To receive this benefit, participants must meet certain criteria and submit an application and supporting documentation to a specified NMFS office. The process of application review, certification and permit issuance carries with it an administrative cost. The objective is to implement a consistent policy across NMFS of recovering these costs from applicants. As part of the policy implementation, issues to be resolved include retention of permit fees in NMFS accounts, harmonization of the regional application, review, certification and issuance process, and establishing uniform online application and payment options for applicants.

Authorities and Responsibilities. This directive establishes the following authorities and responsibilities:

- (1) Under its authority for administration of the Fisheries Information System, the Office of Science and Technology has responsibility for developing and managing the plan to transition to the new policy of recovering fees for all permits.
- (2) To assist in and monitor the implementation of the policy, a Leadership Council subcommittee is created comprised of the NMFS Chief Information Officer, the directors of the Offices of Science and Technology, Sustainable Fisheries, Management and Budget, Enforcement, and the Northeast Regional Administrator. The subcommittee will be chaired by the director of the Office of Science and Technology.
- (3) The plan should target full implementation of this policy within 18 months of issuance of this directive.

removal of associated fields from quarantine, under § 301.86-3. The fields removed from quarantine were in Bingham and Bonneville Counties.

The current map of the quarantined area can be viewed on the PPQ Web site at (http://www.aphis.usda.gov/plant_health/plant_pest_info/potato/pcn.shtml).

Authority: 7 U.S.C. 7701-7772 and 7781-7786; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 30th day of October 2009.

Kevin Shea

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9-26676 Filed 11-04-09; 8:45 am]

BILLING CODE 3410-34-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Southwest Region Permit Family of Forms

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 January 4, 2010.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Patricia A. Culver, (562) 980-4239 or Trisha.Culver@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

Permits are required for persons to participate in Federally-managed fisheries off the West Coast. There are two types of permits, for coastal pelagic and highly migratory fisheries. Appeals and certain waiver requests can also be submitted. Transfer applications may also be required.

The permit application forms provide basic information about permit holders and the vessels and gear being used. This information is important for understanding the nature of the fisheries and provides a link to participants. It also aids in enforcement of regulations.

II. Method of Collection

Forms are available on the Internet; paper applications are also available and may be submitted by mail or FAX.

III. Data

OMB Control Number: 0648-0204.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,270.

Estimated Time per Response: Permit applications and transfers, 30 minutes; additional information (when requested) for the coastal pelagic fishery, 1 hour; and appeals, 2 hours.

Estimated Total Annual Burden Hours: 143.

Estimated Total Annual Cost to Public: \$20,603.

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: October 30, 2009.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E9-26560 Filed 11-4-09; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-960]

Certain Standard Steel Fasteners From the People's Republic of China: Amendment to Initiation of Antidumping Duty Investigation

DATES: *Effective Date:* November 5, 2009.

SUMMARY: The Department of Commerce ("Department") is currently conducting an antidumping duty investigation of certain standard steel fasteners from the People's Republic of China ("PRC"). The period of investigation ("POI") is January 1, 2009, through June 30, 2009. We are limiting the number of quantity and value questionnaires that will be sent directly to exporters and extending the deadline for parties to submit a response to the quantity and value questionnaire.

FOR FURTHER INFORMATION CONTACT: Susan Pulongbarit or Jerry Huang, AD/CVD Operations Office 9, (202) 482-4031 or (202) 482-4047, respectively; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Background: On October 22, 2009, the Department of Commerce ("the Department") published a notice of initiation of antidumping duty investigations of certain standard steel fasteners ("fasteners") from the PRC and Taiwan. See *Certain Standard Steel Fasteners From the People's Republic of China and Taiwan: Initiation of Antidumping Duty Investigations*, 74 FR 54537 (October 22, 2009) ("*Initiation*").

SUPPLEMENTARY INFORMATION: In the *Initiation*, the Department stated that it intended to release quantity and value questionnaires to those PRC companies identified in the petitions by Nucor Fastener ("Petitioner"). See Petitions for the Imposition of Antidumping and Countervailing Duties: Certain Standard Steel Fasteners from the People's Republic of China and Taiwan, dated September 23, 2009, at Exhibit I-4 ("Petition") and Letter from Wiley Rein to the Secretary of Commerce Regarding Certain Standard Steel Fasteners from the People's Republic of China, dated October 14, 2009, at Attachment.

Given that Petitioner identified more than 400 producers and exporters of fasteners from the PRC, the Department has determined to limit the number of quantity and value questionnaires it will send out to exporters based on U.S. Customs and Border Protection ("CBP")