

application, or to the address specified for registration or documentation purposes, or such notification will be otherwise served on the owners or operator of the vessel. Additionally, NMFS will notify state agencies and provide notification through publication in local newspapers, radio broadcasts, and any other means as appropriate. The proposed and any final determinations will include, to the extent practicable, information on fishing sector, targeted gear type, target fishery, temporal and geographic scope of coverage, or other information, as appropriate.

(c) Fisheries listed on the most recent annual Marine Mammal Protection Act List of Fisheries in any given year, in accordance with 16 U.S.C. 1387, will serve as the comprehensive set of commercial fisheries to be considered for inclusion in the annual determination. Recreational fisheries may also be included in the annual determination.

(d) Publication of the proposed and final determinations should be coordinated to the extent possible with the annual Marine Mammal Protection Act List of Fisheries process as specified at 50 CFR 229.8.

(e) Inclusion of a fishery in a proposed or final determination does not constitute a conclusion by NMFS that those participating in the fishery are illegally taking sea turtles.

**§ 222.403 Duration of selection; effective date.**

(a) Fisheries included in the final annual determination in a given year will remain eligible for observer coverage under this rule for five years, without need for NMFS to include the fishery in the intervening proposed annual determinations, to enable the design of an appropriate sampling program and to ensure collection of scientific data. If NMFS wishes to continue observations beyond the fifth year, NMFS must include the fishery in the proposed annual determination and seek comment, prior to the expiration of the fifth year.

(b) A 30-day delay in effective date for implementing observer coverage will follow the annual notification, except for those fisheries that were included in a previous determination

within the preceding five years or where the AA has determined that there is good cause pursuant to the Administrative Procedure Act to make the rule effective without a 30-day delay.

**§ 222.404 Observer program sampling.**

(a) During the program design, NMFS would be guided by the following standards in the distribution and placement of observers among fisheries and vessels in a particular fishery:

(1) The requirements to obtain the best available scientific information;

(2) The requirement that assignment of observers is fair and equitable among fisheries and among vessels in a fishery;

(3) The requirement that no individual person or vessel, or group of persons or vessels, be subject to inappropriate, excessive observer coverage; and

(4) The need to minimize costs and avoid duplication, where practicable.

(b) Consistent with 16 U.S.C. 1881(b), vessels where the facilities for accommodating an observer or carrying out observer functions are so inadequate or unsafe (due to size or quality of equipment, for example) that the health or safety of the observer or the safe operation of the vessel would be jeopardized, would not be required to take observers under this rule.

**PART 223—THREATENED MARINE AND ANADROMOUS SPECIES**

**Subpart A—General Provisions**

Sec.

223.101 Purpose and scope.

223.102 Enumeration of threatened marine and anadromous species.

**Subpart B—Restrictions Applicable to Threatened Marine and Anadromous Species**

223.201 Guadalupe fur seal.

223.202 Steller sea lion.

223.203 Anadromous fish.

223.204 Tribal plans.

223.205 Sea turtles.

223.206 Exceptions to prohibitions relating to sea turtles.

223.207 Approved TEDs.

223.208 Corals.

223.209 [Reserved]