

contracts subject to FAR subpart 42.15 and this subpart. The final evaluation shall cover only the last period of performance (i.e., it shall not be cumulative).

1842.1503 Procedures. (NASA Supplement paragraphs (a), (b), and (c))

(a) The contracting officer shall determine who (e.g., the technical office or end users of the products or services) evaluates appropriate portions of the contractor's performance. The evaluations are subjective in nature. Nonetheless, the contracting officer, who has responsibility for the evaluations, shall ensure that they are reasonable.

(b) NASA Form 1680, entitled, "Evaluation of Performance," shall be used to document evaluations. This provides for a five-tiered rating (using the definitions for award fee evaluation scoring found in 1816.405-275) covering the following attributes: quality, timeliness, price or control of costs (not required for firm-fixed-price contracts or firm-fixed-price contracts with economic price adjustment), and other considerations. Evaluations used in determining award fee payments satisfy the requirements of this subpart and do not require completion of NASA Form 1680. In addition, hybrid contracts containing both award fee and non-award fee portions do not require completion of NASA Form 1680.

(c) Contracting Officers shall ensure that the Government discusses all evaluations with contractors and shall record the date and the participants on the evaluation form. Contracting officers shall sign and date the evaluation after considering any comments received from the contractor within 30 days of the contractor's receipt of the evaluation. If a contractor in its timely comments disagrees with an evaluation and requests a review at a level above the contracting officer, it shall be provided within 30 days. While the FAR forbids use of the evaluations for source selections more than three years after contract completion, they shall nevertheless be retained in the contract file as provided in FAR 4.8, Government Contract Files.

PART 1853—FORMS

1853.242-72 [Added]

3. Section 1853.242-72 is added to read as follows:

1853.242-72 Evaluation of Performance (NASA Form 1680).

NASA Form 1680, Evaluation of Performance. Prescribed in 1842.1503.

[FR Doc. 98-13511 Filed 5-20-98; 8:45 am]

BILLING CODE 7510-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 970129015-8123-06; I.D. 042798B]

RIN 0648-A184

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Pacific Offshore Cetacean Take Reduction Plan Regulations; Technical Amendment

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

ACTION: Final rule; technical amendment.

SUMMARY: NMFS issues this document to correct and clarify the meaning of a final rule to reduce bycatch of several marine mammal stocks that occur incidental to fishing for swordfish and thresher shark with drift gillnet gear offshore California and Oregon. These amendments are nonsubstantive.

DATES: Effective May 21, 1998.

FOR FURTHER INFORMATION CONTACT: Irma Lagomarsino, NMFS, Southwest Region, 562-980-4016; or Victoria Cornish, NMFS, Office of Protected Resources, 301-713-2322.

SUPPLEMENTARY INFORMATION:

Background

On October 3, 1997 (62 FR 51805), NMFS published a final rule requiring new training, equipment, and gear modifications for operators and vessels in the California/Oregon drift gillnet fishery for thresher shark and swordfish to reduce the mortality and serious injury of several marine mammal stocks that occurs incidental to fishing operations. The regulatory text was codified in subpart C of 50 CFR part 229.

Amendments to 50 CFR Part 229

NMFS has determined that the meaning of term "extender" might be unclear to some readers. An "extender" is a line that attaches a buoy (float) to a drift gillnet's floatline. To clarify this

term, NMFS is adding a definition for "extender" to § 229.31(b).

Since floatlines are attached at the top of drift gillnets, the length of extender lines determine the depth in the water column at which the net is fished. NMFS intended the final rule to require that all extenders used in the fishery be at least 6 fathoms (36 ft., 10.9 m) long because the length of extenders controls the depth the net is fished in the water column. The depth of the net in the water column is correlated with marine mammal bycatch; observer data indicate that nets deployed shallower in the water column entangle more marine mammals. However, the word, "all" was inadvertently omitted from the regulatory text. NMFS is clarifying that "all" extenders deployed must be at least 6 fathoms (36 ft., 10.9 m) long during all sets under § 229.31(b). Accordingly, since floatlines are attached to the top of the nets, all floatlines must be fished at a minimum of 36 feet (10.9 m) below the surface of the water.

NMFS is removing the outdated reference to "October 30, 1997" under § 229.31(c)(2).

Also, in the same section, the final rule requires that, while at sea, drift gillnet vessels with multifilament gillnets on board must carry enough pingers to meet the configuration requirements set forth under § 229.31(c)(3). The goal of this requirement is to facilitate enforcement of the pinger requirement during at-sea boardings by enforcement agents onto drift gillnet vessels that are not actively fishing. The term "multifilament" was intended to identify the typical gear type used in the fishery and not to describe a narrow class of fishing vessels. NMFS believes that any vessel that could potentially fish in the fishery should have the required number of pingers on board at all times while at sea. To ensure that the final rule remains inclusive, NMFS is deleting the term "multifilament" under § 229.31(c)(2).

NMFS is also adding a figure to part 229 which illustrates the pinger configuration and extender requirements (see figure 1).

Classification

The Assistant Administrator for Fisheries, NOAA (AA) has determined that this final rule, technical amendment, makes only minor, non-substantive changes and does not change operating practices in the fishery. Therefore, there is good cause under 5 U.S.C. 553(b)(B) to waive the requirement for prior notice and an opportunity for public comment. Such

procedures are unnecessary. Because this rule makes no substantive changes to the existing regulations, it is not subject to a delay of effective date under 5 U.S.C. 553(d).

As this rule is not subject to the requirement to provide prior notice and an opportunity for public comment under 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

This rule is exempt from review under E.O. 12866.

List of Subjects in 50 CFR Part 229

Administrative practice and procedure, Confidential business information, Fisheries, Marine mammals, Reporting and recordkeeping requirements.

Dated: May 15, 1998.

Gary C. Matlock,
Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 229 is amended as follows:

PART 229—AUTHORIZATION FOR COMMERCIAL FISHERIES UNDER THE MARINE MAMMAL PROTECTION ACT OF 1972

1. The authority citation for part 229 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

2. In § 229.31, paragraphs (b) and (c)(2) are revised to read as follows:

§ 229.31 Pacific Offshore Cetacean Take Reduction Plan.

* * * * *

(b) Extenders. An *extender* is a line that attaches a buoy (float) to a drift gillnet's floatline. The floatline is attached to the top of the drift gillnet. All extenders (buoy lines) must be at least 6 fathoms (36 ft; 10.9 m) in length during all sets. Accordingly, all floatlines must be fished at a minimum of 36 feet (10.9 m) below the surface of the water.

(c) * * *

(2) While at sea, drift gillnet vessels with gillnets onboard must carry enough pingers to meet the configuration requirements set forth under paragraph (c)(3) of this section.

* * * * *

3. Figure 1 to part 229 is added to read as follows:

Figure 1 -- Drift Gillnet Pinger Configuration and Extender Requirements

