

54-0035, Change 02, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact of the requirements of this AD on U.S. operators of airplanes listed in "Part II" of the service bulletin is estimated to be \$120 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

99-02-18 Empresa Brasileira de Aeronautica S.A. (EMBRAER):
Amendment 39-11012. Docket 98-NM-265-AD.

Applicability: Model EMB-120 series airplanes, serial numbers (S/N) 120003, 120004, and 120006 through 120336 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent fretting of the titanium thermal insulating blankets, which could result in an increased risk of fire in the engine exhaust duct of the tail pipe, accomplish the following:

(a) For airplanes identified in "Part I" of the effectivity listing of EMBRAER Service Bulletin S.B. 120-54-0035, Change 02, dated May 29, 1998: Within 2,400 flight hours after the effective date of this AD, accomplish paragraphs (a)(1) and (a)(2) in accordance with the service bulletin.

(1) Remove the thermal insulating blankets from the upper rear nacelle structure.

(2) Install new stainless steel plates onto the upper rear nacelle structure.

(b) For airplanes identified in "Part II" of the effectivity listing of EMBRAER Service Bulletin S.B. 120-54-0035, Change 02, dated May 29, 1998: Within 2,400 flight hours after the effective date of this AD, remove the thermal insulating blankets from the upper rear nacelle structure in accordance with the service bulletin.

(c) For all airplanes: Prior to further flight following accomplishment of either paragraph (a) or (b) of this AD, as applicable, re-position the engine exhaust duct with the use of shims in accordance with EMBRAER Service Bulletin S.B. 120-54-0035, Change 02, dated May 29, 1998. If it is not possible to re-position the engine exhaust duct with the use of shims as specified in the service bulletin, prior to further flight, replace the rear exhaust duct bracket with a new rear exhaust duct bracket, in accordance with the "NOTE" in paragraph 1.3.1.1 of the Planning section of the service bulletin.

(d) As of the effective date of this AD, no person shall install on any airplane a thermal insulating blanket having part number (P/N) 120-35411-025, -035, -036, 120035413-001, or 12035411-002.

(e) An alternative method of compliance or adjustment of the compliance time that

provides an acceptable level of safety may be used if approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(g) The actions shall be done in accordance with EMBRAER Service Bulletin S.B. 120-54-0035, Change 02, dated May 29, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Brazilian airworthiness directives 97-11-03, dated December 3, 1997, and 97-11-03R1, dated July 6, 1998.

(h) This amendment becomes effective on March 3, 1999.

Issued in Renton, Washington, on January 15, 1999.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99-1545 Filed 1-26-99; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 600

[Docket No. 980519132-9004-02; I.D. 022498F]

RIN 0648-AK49

Magnuson-Stevens Act Provisions; List of Fisheries and Gear, and Notification Guidelines

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule that establishes a list of fisheries and fishing gear used in those fisheries under the authority of each regional fishery management council (Council), or under authority of the Secretary of Commerce (Secretary) with respect to Atlantic highly migratory species (HMS). Effective 180 days after the date of publication of this list, no person or vessel may employ fishing gear or participate in a fishery not included in this list without giving 90 days advance notice to the appropriate Council or the Secretary with respect to Atlantic HMS. This final rule also establishes a process for giving such notification to the appropriate Council or to the Secretary. NMFS also issues guidelines for determining when a fishing gear or a fishery is sufficiently different from those listed to require notification to the appropriate authority. The list of fisheries and gear and the guidelines apply only to fisheries and gear that occur within the U.S. exclusive economic zone (EEZ). The list, notice requirements, and guidelines contained in this final rule are required by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: This rule is effective February 26, 1999, except that § 600.725(v) is effective July 26, 1999.

ADDRESSES: Copies of the regulatory impact review for this action can be obtained from Dr. Gary C. Matlock, Director, Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments regarding the collection-of-information requirement contained in this rule should be sent to the above address and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Mark Millikin, NMFS, (301) 713-2344.

SUPPLEMENTARY INFORMATION:

Background

This rulemaking is required by the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*), as amended by the Sustainable Fisheries Act, which was signed into law on October 11, 1996. Section 305(a) of the Magnuson-Stevens Act requires that the Secretary publish in the **Federal Register**, after notice and an opportunity for public comment, a list of fisheries under the authority of each Council and all fishing gear used in such fisheries. A fish whether targeted or not, may be

retained only if it is taken within a listed fishery, is taken with a gear authorized for that fishery, and is taken in conformance with all other applicable regulations. This list is based on information submitted by the Councils and by the Director, Office of Sustainable Fisheries, NMFS (Director), in the case of Atlantic HMS. The Magnuson-Stevens Act requires the issuance of guidelines for determining when a fishing gear or a fishery is sufficiently different from those listed as to require fishermen or other individuals to notify a Council or the Secretary under § 305(a)(3).

A proposed rule for this action was published in the **Federal Register** on June 4, 1998 (63 FR 30455), requesting comments through July 6, 1998. The preamble of the proposed rule contained some background information for this rulemaking that has not changed so it is not repeated here. That information includes: (1) How information for the list of fisheries and gear was collected, (2) prohibitions on use of unlisted gear, and (3) procedures for notification of new gear or fisheries. Background information from the proposed rule that has been modified is included again in the preamble of this final rule. That information includes: (1) Gear names and definitions related to the issue of deployment, (2) the relationship of the rule to other Federal regulations, and (3) procedures after receiving notification for other than Atlantic HMS. The portion of the preamble containing the procedures after receiving notification for species other than Atlantic HMS is repeated for the convenience of the public. List of Fisheries and Gear

The list of gear, wherever possible, avoids gear names that also imply a method of deployment. This explains the absence of "gear" such as pelagic longline, pelagic trawl, bottom trawl, otter trawl, or drift gillnet in the list. For example, "bottom trawl" and "pelagic trawl" are considered deployment methods for trawl gear, rather than gear types. Terms such as "pelagic," "bottom," and "drift" are modifiers that describe where in the water column the specific gear type is used. It is noteworthy however, that in the proposed rule, "hand harvest" was included in the list only under fisheries where it was the only allowed method of harvest—the Caribbean Queen Conch FMP and the Coral Reef FMPs in the South Atlantic and the Gulf of Mexico. In response to public comments, in this final rule, "hand harvest" is added as an allowable gear type to various mollusk and crustacean fisheries that commenters felt should also have "hand harvest" included as an allowable gear.

Relationship of This Rule to Other Federal Fishery Regulations

Beyond this rule, fisheries and associated gear continue to be managed by implementing regulations in 50 CFR chapter VI for the various FMPs under authority of the Councils and the Secretary. FMPs often address issues about gear such as structure, size, shape, material, deployment, seasonality of allowed use, prohibitions, or other features of gear and its use. Therefore, the list of fisheries and allowable gear contained in this final rule is not intended to alter or supersede other regulations related to fisheries and gear.

It is NMFS' intent that this final rule will not affect experimental fisheries conducted for a year or less elsewhere under 50 CFR chapter VI.

NMFS is not aware of any Treaty Indian tribe or subsistence fisheries in the EEZ other than those listed in § 600.725(v). This action is not intended to supersede or otherwise affect exemptions that exist for fisheries or Native American harvest under Treaty Indian fisheries. In the proposed rule (63 FR 30455; June 4, 1998), NMFS announced that it was particularly interested in receiving public comment on this topic, but received none.

Procedures After Receiving Notification

Species Other Than Atlantic HMS

After receiving notification regarding intended participation in an unlisted fishery or use of unlisted gear, a Council will begin consideration of the notification and immediately send a copy of the notification to the appropriate NMFS Regional Administrator (RA). If, after consideration of the notification and accompanying information, a Council finds that the new gear or fishery would not compromise the effectiveness of conservation and management efforts under the Magnuson-Stevens Act, the Council will recommend to the RA that the authorized list of fisheries and gear be amended, provide rationale and supporting analysis, and provide a draft proposed rule to amend the authorized list of fisheries and gear for publication in the **Federal Register**. If the Council finds that the proposed new gear or fishery will be detrimental to conservation and management efforts, the Council will recommend to the RA that the authorized list of fisheries and gear not be amended and that a proposed rule not be published, give reasons for its recommendation, and may request NMFS to issue emergency or interim regulations and begin preparation of an FMP or amendment to an FMP, if appropriate. Some examples

of how a new gear or fishery could be judged as "compromising the effectiveness of conservation and management efforts" would be if: (1) Fish stock rebuilding objectives would be seriously affected, (2) essential fish habitat would be severely impacted, (3) bycatch problems in the fishery would be further exacerbated, or (4) severe conflicts would result with existing gear or fisheries. This listing of examples of factors that would compromise the effectiveness of conservation and management efforts is not intended to be all-inclusive. The Councils and NMFS will need to consider each request on a case-by-case basis. Based on the information provided in the notification and by the Council, NMFS will make the final determination whether the new gear or fishery would compromise the effectiveness of conservation and management efforts under the Magnuson-Stevens Act and whether to publish a proposed rule to amend the list of fisheries and gear.

If the initial determination is positive, NMFS will publish the proposed rule, with a 30-day comment period. Following the end of the comment period, NMFS will either approve or disapprove the change to the list, based on the potential impacts on the effectiveness of conservation and management efforts. If approved, NMFS will publish a final rule revising the list, and notify the applicant of the final approval. If the use of the gear or participation in a fishery is determined to be detrimental to conservation and management efforts under the Magnuson-Stevens Act, the proposed addition to the list will be disapproved, NMFS will notify the applicant and the appropriate Council of the negative determination and the reasons for the determination, and may publish emergency or interim regulations in the **Federal Register** to prohibit or restrict the use of the unlisted gear or fishing in the unlisted fishery. Upon notification by NMFS that the proposed revision has been disapproved, the Council should begin preparation of an FMP or amendment to an FMP in order to provide permanent regulations relative to that gear type or fishery.

If the initial determination by NMFS is negative, because use of the gear or participation in the fishery is likely to compromise conservation and management efforts under the Magnuson-Stevens Act, and it is unlikely that additional new information would be gained from a public comment period, then NMFS will notify the applicant and the Council of the negative determination and the reasons for that determination,

and may publish emergency or interim regulations in the **Federal Register** to prohibit or restrict the use of the unlisted gear or fishing in the unlisted fishery. The Council should then begin preparation of an FMP or an amendment to an FMP to provide permanent regulations relative to that gear type or fishery.

Atlantic HMS

Notification of intent to use an unlisted gear or to participate in an unlisted fishery for Atlantic HMS should be addressed to the Director. After receiving such notification, NMFS would collect relevant information (including any information/data collected from the experimental fishing permit (EFP) program) and use the advisory panel process. A determination will be made whether the new gear or new fishery would compromise the effectiveness of conservation and management programs and whether to publish a proposed rule to amend the list of gear and fisheries. The EFP program allows NMFS to collect data such as catch rates of target and non-target finfish and protected species bycatch.

If the determination is positive, a proposed rule to amend the list of gear and fisheries will be published in the **Federal Register** for public comment. Following the end of the public comment period, NMFS will consider comments or new information received relative to the effect of the new gear or fishery on conservation and management programs, and will either approve or disapprove the proposed amendment. If approved, the applicant will be notified, and a final rule will be published amending the list of fisheries and gear. If, after receiving public comment, NMFS disapproves the proposed amendment, the applicant will be notified of the disapproval, including reasons for the disapproval, and NMFS may publish emergency or interim regulations and subsequently develop or amend the FMP to prohibit or restrict the use of the unlisted gear or participation in the unlisted fishery.

If the initial determination is negative, NMFS will notify the applicant, including the reasons for the disapproval, and may publish emergency or interim regulations and subsequently develop or amend an FMP to prohibit or restrict the use of the unlisted gear or participation in the unlisted fishery.

Comments and Responses

Seventeen sets of comments were received regarding the list of gear by fisheries and the notification procedures

from various individuals and organizations.

Comment 1: Historically, if a fishery has not been addressed through the FMP process, the regulations of adjacent states have taken precedence. This has allowed the various states the ability to manage those fisheries under regulations that are consistent with the regulations in their own waters. Many fisheries that are prosecuted mainly in state waters which may occasionally intrude into Federal waters. An example from Louisiana is the oyster fishery, which occasionally harvests from Federal waters. Establishment of a set of Federal rules of allowable gears and fisheries would seem to have far-reaching implications in this type of situation. The fishery might be in violation in Federal waters, though completely legal in the adjacent state waters, where the majority of the resource resides. Alternatively, the fishery might be found to be under Federal management, and the brief list of gears would be the only regulations on the fishery, undermining the effectiveness of state regulations.

Response: The list of fisheries and gear contained in this final rule is required by the Magnuson-Stevens Act. NMFS has attempted to compile a list that includes all existing gear and fisheries in the EEZ (i.e., within the jurisdiction of the fishery management councils), unless otherwise prohibited. The lack of a gear or fishery in the list does not preclude the use of a gear or occurrence of a fishery in state waters. Under procedures established in this rulemaking, an individual interested in using a new gear or participating in a fishery in the EEZ not already listed may notify the appropriate fishery management council or the Director as described in § 600.747.

Comment 2: The proposed definition for "dredge" could either include wing nets or include oyster dredges with mesh bags, depending on how it is read. Also, it does not include suction dredges that may be used in some areas for clam harvest.

Response: The definition of "dredge" was structured to include all types of dredges currently used in the EEZ. The definition has been modified in this final rule to include suction dredges.

Comment 3: The proposed definition of "hoop net" is too vague. Too many gears could fall under that definition; instead use the following: "A cone-shaped net of vegetable or synthetic materials having throats or flues and which are stretched over a series of rings or hoops to support the webbing."

Response: The definition for "hoop net" has been changed in the final rule

to be consistent with the suggestion by the commenter.

Comment 4: The proposed definitions for "lampara net" and purse seine" are functionally very similar. They should be either combined into a single definition, or more clearly distinguished.

Response: The definitions have been modified to more clearly distinguish them in this final rule.

Comment 5: For the "Gulf of Mexico Shrimp" and "Recreational Shrimp Fishery," under the Gulf of Mexico Fishery Management Council, butterfly net, skimmer, cast net, and dip net gear should be added. These gears are typically used only in state waters, but may possibly be used in Federal waters.

Response: Except for dip nets, these gears are not normally used in the EEZ, and have not been added to the list of fisheries and gear in this final rule.

Comment 6: For the "Recreational Fishery (non-FMP)," cast net, hoop net, tong (for oyster), pipes, drums, cans, buckets, and tires, yo-yo or trigger devices, trotline, bow and arrow, barbless spear (for flounder) and spear (for garfish) should be added.

Response: NMFS believes that all these gears except for hoop nets are for inshore use only, and has not added them to allowable gear for this fishery in this final rule.

Comment 7: The fishery, "Non-groundfish Finfish (non-FMP)," should be added for species such as black drum, sheepshead, flounder, and bluefish, and minor species such as cutlassfish and anchovies, that might be taken incidentally through gears such as trawl, gillnet, longline, handline, rod and reel, bandit gear, and many others. This relates to the issue that the list of fisheries in this rule applies to fisheries presently under state jurisdiction.

Response: NMFS agrees that this fishery and associated gear occur in the EEZ, and has added them to the list of fisheries and gear in this final rule.

Comment 8: Several commenters felt that the proposed rule misinterpreted the intent and language of section 305 of the Magnuson-Stevens Act, which established requirements for notifying the Councils before a new gear or fishery is introduced. It does not establish a system to identify gear as "allowable." The proposed rule refers to gears on the list as "allowable," implying that gear not on the list is "not allowed." This is an inaccurate interpretation.

Response: Section 305(a)(3) of the Magnuson-Stevens Act states: "Effective 180 days after publication of such list, no person or vessel may employ fishing gear or engage in a fishery not included

in such list * * *." NMFS believes, therefore, that its interpretation is correct in referring to gear in the list as "allowable gear."

Comment 9: One commenter stated that the proposed rule may misinterpret the language of the Magnuson-Stevens Act by giving the Secretary discretion to reject additions to the list recommended by the Council and to make changes not recommended by the Council. The statute does not give authority to the Secretary to make changes to the list, absent a recommendation by a Council. Section 305(a)(4) clearly states that the Secretary "shall publish a revised list" (emphasis added) after receiving any change the Council "deems appropriate." The commenter's interpretation of this language is that the Secretary must publish a proposed rule for public comment when a Council suggests a change to the list. If the Secretary does not have to publish a proposed rule, the public will not have an opportunity to counter an adverse determination by NMFS—and may not even know such a determination is being considered. The language in the proposed rule only makes sense if the list is interpreted as a list of "allowed" fisheries. The commenter does not believe this is the correct interpretation.

Response: While the Secretary and NMFS value the opinions, advice, and recommendations made by the Councils, the decision on implementing a regulatory action and issuing a rulemaking under the Magnuson-Stevens Act rests with the Secretary. An interpretation that the Secretary must implement whatever a Council recommends would run afoul of the Appointments Clause of the Constitution.

Comment 10: One commenter suggested that the list for gear and fisheries be based on permit category, rather than geographic area; this may shorten the list and would clearly identify allowed gear types. The commenter also recommended that the gear designations be more specific so fishermen can clearly understand what gear is allowed.

Response: The gear by fisheries is listed by geographic area because § 305(a)(1) of the Magnuson-Stevens Act focuses on the list of all fisheries under the authority of each Council, irrespective of whether permits exist for a given fishery. More general definitions were chosen for the list of gear by fisheries, to meet the requirements of this provision while maintaining simplicity and flexibility in its implementation. More specific descriptions and regulations to prohibit or otherwise restrict the gear in question

can be found elsewhere in 50 CFR part 600.

Comment 11: The regulation may leave the industry vulnerable to inaction by the Councils. While new gear may be used after the 90-day advance notice period, there is no requirement for the Councils to act within that time frame, so the fishermen may not know when the Council will reply. This will inhibit investment of time and money in technological improvements. Therefore, the commenter recommended that, after a specific time period (180 days or less), new gear and fisheries should be added to the list unless the Council has notified the fishermen that it will not recommend the addition.

Response: Unless specifically prohibited by rulemaking, the individual who has served notice may use a new gear in an existing fishery or may participate in a new fishery after the 90-day waiting period. NMFS will endeavor to process the request within the 90-day period.

Comment 12: The proposed rule should have consistently applied the policy stated in the Supplementary Information section that "while gear types are included on the list, methods of gear deployment were not." The example used is that "jig" and "troll" are not listed as gear because they are just methods of using hook-and-line gear, yet definitions are added for buoy gear and longline (methods of deploying hook-and-line gear) and pair trawl (a method for deploying a trawl net).

Response: Gear types differentiated by deployment are not included unless absolutely necessary. For example, "pair trawl" is no longer listed separately, but is included in the definition for "trawl." In a few instances, however, the method of deployment had to be included for gear that is significantly different than others in the category and for clarity in the description of the gear in question.

Comment 13: The proposed rule creates a "Catch 22" for the Councils and industry. Fishermen would be required to advise the Council only if a new gear or fishery is not on the list. The proposed rule uses broad definitions, to avoid the problem of trying to describe the countless gears and fisheries in use. These definitions are so broad that almost any new gear or fishery may fit under the definitions and the proposed rule will serve little useful purpose. An example is the Mid-Atlantic Fishery Management Council non-FMP "mixed trawl fishery"—any trawl for any species not covered by an FMP would fit this listing.

Response: The general wording for definitions of gear was purposefully used to provide flexibility for fishermen

and in an attempt to make the authorized list of fisheries and gear easy to refer to and understand. NMFS believes that variations of existing gear would not generally constitute a different gear. NMFS is trying to achieve a middle ground that would implement a process that is not overly burdensome to the fishermen and the Councils. At the same time, significantly new gear or fisheries should fall under the procedures of this rule. In any event, the Councils have the authority to regulate gear (e.g., size, shape, materials, deployment, seasons, areas) and fisheries (e.g., areas, seasons) more specifically if there is an identified reason to do so.

Comment 14: The New England Fishery Management Council is not submitting a list of fisheries or gear that are not included in the proposed rule. It expressed concern that the creation of such a list could easily overlook a gear or fishery, unfairly placing a notification burden on that fishery. The inconsistent structure of the list makes such a mistake probable. Therefore, it recommended that all gear types be listed for every fishery unless specifically prohibited by existing regulations.

Response: This rule satisfies the requirements of § 305(a) of Magnuson-Stevens Act (i.e., to compile a list of fisheries and gear in use in the EEZ, categorized by Council, and of NMFS, in the case of Atlantic HMS). All allowable gear and fisheries known to NMFS have been listed.

Comment 15: There should not be any exception to the full 90-day waiting period before using a new gear or participating in a new fishery. This is the minimum period necessary for the Councils to have an opportunity to review and decide on a proposed addition to the list. Any shorter period would not provide adequate time for careful review of the conservation impacts of a new gear or fishery.

Response: The provisions of § 305(a) of the Magnuson-Stevens Act do not prohibit the Secretary from amending the list of gear and fisheries within the 90-day notification period. NMFS will try to expeditiously process the notification while meeting all the requirements of this section.

Comment 16: The rule has not been published according to the timeline set by the SFA.

Response: NMFS made every effort to comply with the statutory deadlines of the SFA. However, the complexity of the proposed rule and the importance of the contents to the public required diligence and deliberation.

Comment 17: One commenter asked for listing electric jigging machines, bandit gear, and trolling green sticks as fishing gear used in various Atlantic HMS (tunas, swordfish, and mahi mahi) fisheries. The commenter noted that these gear types are all currently being used in these fisheries, partly due to the concerns over the future of pelagic longlining.

Response: NMFS recognizes that various gear may be used to enhance productivity of these fisheries. Bandit gear is currently authorized in the Atlantic tunas fishery and as a bycatch gear type in the swordfish fishery (two fish per trip). Green sticks are allowed for Atlantic tunas, if the vessel is carrying a General category permit. Jigging machines are not authorized for Atlantic tunas nor for Atlantic swordfish, although they could be allowed a two swordfish per trip bycatch allowance if used to target other species.

Changes From the Proposed Rule

Section 600.725(v) in the proposed rule has been revised to indicate that the list of fisheries and gear in that paragraph is intended to include allowable gear for harvest and retention of a fish, whether that fish is targeted or not. If the list of gear applied only to fish that were targeted, it would be extremely difficult to determine whether a fish caught and retained was legally taken under provisions of this rule. The intent of this rule is that fish in a listed fishery should not be allowed to be retained if caught with gear other than that listed under that fishery to protect the resources from development of uncontrolled fisheries or introduction of potentially harmful gear.

Section 600.746 in the proposed rule has been changed to § 600.747 in this final rule because a new § 600.746 was added by a final rule for an unrelated action published on May 18, 1998 (63 FR 27217), effective on June 17, 1998. Similarly, § 600.725(q) in the proposed rule is changed to § 600.725(v) in this final rule because paragraphs (q), (r), (s), (t), and (u) were added to this section in the same final rule (63 FR 27217, May 18, 1998) mentioned above.

Because of comments received from various Councils and NMFS Regional Offices, this final rule contains definitions for "Cast net," "Hand harvest," "Hook-and-line," "Pot," and "Submersible" that were not defined in § 600.10 of the proposed rule. The definitions for "Allowable chemical," "Barrier net," "Dredge," "Hoop net," and "Lampara net" have been changed in the final rule.

In the table of the list of authorized fisheries and gear in § 600.725(v), the following changes have been made in accordance with comments received from various Councils, NMFS Regional Offices, state agencies, and members of the public:

1. Under the heading "New England Fishery Management Council," the following changes have been made:

a. "Hand harvest" and "recreational fisheries" have been added to the Atlantic Sea Scallops Fishery FMP.

b. "Rod and reel" has been added to the groundfish hook and line fishery for the Northeast Multispecies Fishery FMP.

c. For the American Lobster Fishery FMP, the "hand harvest fishery" has been added and "hand harvest" has also been added to the gear for the recreational fishery.

d. The Striped Bass Fishery (non-FMP), the Surf Clam and Ocean Quahog Fishery FMP, and the Hagfish Fishery (non-FMP) have been added.

e. For the Atlantic Halibut Fishery (non-FMP), "handline," "gillnet," and "trawl" have been added as allowable gear.

f. "Hand harvest fishery" has been added to the Atlantic Mussel/Sea Urchin Fishery (non-FMP).

g. "Hook and line" has been added to the Atlantic Skate Fishery (non-FMP).

h. The "demersal longline fishery," "dredge fishery," and "trap/pot fishery" have been added to the Monkfish Fishery (non-FMP).

2. Under the heading "Mid-Atlantic Fishery Management Council" the following changes have been made:

a. The "striped bass fishery (non-FMP)" has been added.

b. The "bandit gear fishery" has been added to the Atlantic Mackerel, Squid, and Butterfish Fishery FMP.

c. The "Surf Clam/Ocean Quahog Fishery (FMP)" has been divided into a "dredge fishery" and a "recreational fishery."

d. The "hand harvest fishery" has been added to the "Atlantic Sea Scallop Fishery FMP" and the "American Lobster Fishery FMP."

e. The "demersal longline fishery" has been added to the monkfish fishery (non-FMP).

f. The tilefish fishery (non-FMP) and the dogfish fishery (non-FMP) have been added along with associated fisheries and allowable gear types.

3. Under the heading, "South Atlantic Fishery Management Council," "powerhead" has been added as an allowable gear to the commercial fishery of the South Atlantic Snapper-Grouper Fishery FMP, and the "sargassum fishery" and its accompanying gear (trawl) has been added.

4. Under the heading, "Gulf of Mexico Fishery Management Council," the following changes have been made:

a. A new category has been added, "oyster fishery (non-FMP)" with associated gear.

b. The "Gulf of Mexico shrimp trawl fishery" has been changed to the "Gulf of Mexico commercial shrimp fishery" and several gear types other than "trawl" have been added.

c. "Non-groundfish finfish (non-FMP)" and associated gear have been added to address possible harvest of species such as black drum, sheepshead, flounder, bluefish, cutlassfish, and anchovies.

5. Under the heading, "Caribbean Fishery Management Council," the "hand harvest fishery" has been added to the "Caribbean Spiny Lobster FMP" and "rod and reel" has been added as a gear for the "recreational fishery for Caribbean pelagics (non-FMP)."

6. Under the heading, "Pacific Fishery Management Council," the following changes have been made:

a. The "Pacific halibut fishery" has been properly labeled as a "non-FMP," and subdivided into the "longline/setline fishery" and "hook-and-line fishery."

b. The "California halibut trawl" and "trammel net fishery" have been added.

c. "Jack mackerel" has been added to the "Pacific sardine, Pacific mackerel, Pacific saury, Pacific bonito, Jack mackerel purse seine fishery."

7. Under the heading, "North Pacific Fishery Management Council," the following changes have been made:

a. "Diving gear" has been added to the "Alaska Scallop Fishery FMP."

b. The "Gulf of Alaska Groundfish Fishery FMP" with associated fisheries and gear has been added.

8. Under the heading, "Western Pacific Fishery Management Council," the following changes have been made:

a. The following new categories have been added along with associated fisheries and gear: "western Pacific crustacean (non-FMP)," "western Pacific precious corals (non-FMP)," "western Pacific pelagics (non-FMP)," "western Pacific coastal pelagics (non-FMP)," "western Pacific squid/octopus (non-FMP)," and "western Pacific shallow reef (non-FMP)."

b. The "gillnet fishery (non-FMP)" and the "recreational fishery (non-FMP)" have been deleted.

c. Under the "Western Pacific Bottomfish Fishery FMP," the "bottomfish handline fishery," has been deleted, and the "recreational fishery" has been moved to a new category, "the "western Pacific bottomfish fishery (non-FMP)."

d. Under the "Western Pacific Pelagics FMP," the dip net/hoop net fishery" and "pole and line fishery" have been deleted. Also, under the same FMP, the more specifically named fisheries, "tuna handline/hook and line," and "swordfish, tuna, billfish, mahi mahi, wahoo, shark longline/setline fishery" have been replaced by the more general headings, "hook and line fishery" and "longline fishery."

9. Under the heading, "Secretary of Commerce," the following changes have been made:

a. "Harpoon fishery" is removed from the "Atlantic Sharks FMP" and from the "Atlantic Billfish FMP."

b. "Bandit gear" and "harpoon" have been removed from the gear listed for the "recreational fishery" for the "Atlantic tunas (non-FMP)."

c. "Bandit gear" has been added to the gear in the "hook and line fishery" under the "Atlantic Swordfish FMP."

d. "Bandit gear" and "handline" have been removed from the "hook and line fishery" for the "Atlantic Billfish FMP."

NOAA codifies its OMB control numbers for information collection at 15 CFR part 902. Part 902 collects and displays the control numbers assigned to information collection requirements of NOAA by OMB pursuant to the Paperwork Reduction Act (PRA). This final rule codifies OMB control number 0648-0346 for 50 CFR 600.725 and 600.747.

Under NOAA Administrative Order 205-11, dated December 17, 1990, the Under Secretary for Oceans and Atmosphere has delegated to the Assistant Administrator for Fisheries, NOAA, the authority to sign material for publication in the **Federal Register**.

Classification

This final rule has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration when this rule was proposed, that, if adopted, it would not have a significant impact on a substantial number of small entities. This action does not change the analyses already completed nor the conclusions made under the Regulatory Flexibility Act (RFA) for any gear that can be used in a fishery or gear that is prohibited seasonally, or year round, for any previous rulemakings for fisheries under 50 CFR parts 600, 622, 630, 640, 644, 648, 649, 654, 660, 678, and 679. NMFS' guidelines for preparation of economic analyses to comply with the RFA assume that a "substantial

number" of small entities would generally be 20 percent of the total universe of small entities affected by the regulation. A regulation would have a "significant impact" on a substantial number of small entities if any of the following criteria are met: Annual gross revenues are reduced by more than 5 percent, total costs of production are increased by more than 5 percent, compliance costs for small entities are at least 10 percent higher than compliance costs as a percent of sales for large entities, or the action results in a cessation of business operations of 2 percent or more of small entities affected by the action. None of the aforementioned criteria were met by this action. The formalized list of fisheries currently in the EEZ and gear within those fisheries does not change any costs or revenues for members of the fishing industry. The new procedure that will be required before a fisherman may participate in a new fishery or employ a new gear in an existing fishery will affect only that small group of individuals (about 20 per year) having to comply with the notification procedure because of reporting requirements associated with it. As a result, a regulatory flexibility analysis was not prepared for this action. Any future rule prohibiting or restricting use of gear or prosecution of a fishery will be analyzed in accordance with the RFA.

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA). This collection-of-information requirement has been approved by OMB and assigned the number 0648-0346. Public reporting burden for this collection of information has been revised from the average estimate of 1 hour per response to 1½ hours per response for Council notification of entry into a new fishery or use of a new gear in a current fishery, 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 these burden estimates or any other aspect of this collection of information, including suggestions for reducing this burden, to NMFS and OMB (see ADDRESSES).

Notwithstanding any other provision of law, no person is required to respond to, nor shall a 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

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 600

Administrative practice and procedure, Confidential business information, Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics.

Dated: January 20, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 15 CFR chapter IX and 50 CFR chapter VI are amended as follows:

15 CFR Chapter IX

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT; OMB CONTROL NUMBERS

1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

2. In § 902.1, paragraph (b), in the table, under 50 CFR, the entries for §§ 600.725 and 600.747 are added to read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

CFR part or section where where the information collection requirement is located	Current OMB control number (all numbers begin with 0648—)
50 CFR:	
600.725	—0346
600.747	—0346

Chapter VI

PART 600—MAGNUSON-STEVENSON ACT PROVISIONS

1. The authority citation for part 600 continues to read as follows:

Authority: 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

2. In § 600.10, the definition for “Trawl” is revised and new definitions for “Allowable chemical”, “Bandit gear”, “Barrier net”, “Bully net”, “Buoy

gear”, “Cast net”, “Dip net”, “Dredge”, “Hand harvest”, “Handline”, “Hook and line”, “Hoop net”, “Lampara net”, “Longline”, “Pot”, “Powerhead”, “Purse seine”, “Rod and reel”, “Seine”, “Slurp gun”, “Snare”, “Spear”, “Submersible”, “Tangle net dredge”, “Trammel net”, and “Trap”, are added in alphabetical order to read as follows:

§ 600.10 Definitions.

Allowable chemical means a substance, generally used to immobilize marine life so it can be captured alive, that, when introduced into the water, does not take Gulf and South Atlantic prohibited coral (as defined at 50 CFR 622.2) and is allowed by Florida or Hawaii or the U.S. Pacific Insular Area for the harvest of tropical fish.

Bandit gear means vertical hook and line gear with rods that are attached to the vessel when in use. Lines are retrieved by manual, electric, or hydraulic reels.

Barrier net means a small-mesh net used to capture coral reef or coastal pelagic fishes.

Bully net means a circular frame attached at right angles to a pole and supporting a conical bag of webbing.

Buoy gear means fishing gear consisting of a float and one or more lines suspended therefrom. A hook or hooks are on the lines at or near the end. The float and line(s) drift freely and are retrieved periodically to remove catch and rebait hooks.

Cast net means a circular net with weights attached to the perimeter.

Dip net means a small mesh bag, sometimes attached to a handle, shaped and framed in various ways. It is operated by hand or partially by mechanical power to capture the fish.

Dredge means a gear consisting of a mouth frame attached to a holding bag constructed of metal rings or mesh.

Hand harvest means harvesting by hand.

Handline means fishing gear that is set and pulled by hand and consists of one vertical line to which may be attached leader lines with hooks.

Hook and line means one or more hooks attached to one or more lines (can include a troll).

Hoop net means a cone-shaped net having throats and flues stretched over a series of rings or hoops for support.

Lampara net means a surround net with the sections of netting made and joined to create bagging. It is hauled with purse rings and is generally much smaller in size than a purse seine net.

Longline means a line that is deployed horizontally and to which gangions and hooks or pots are attached. Longlines can be stationary, anchored, or buoyed lines that may be hauled manually, electrically, or hydraulically.

Pot means trap.

Powerhead means any device with an explosive charge, usually attached to a spear gun, spear, pole, or stick, that may or may not fire a projectile upon contact.

Purse seine means a floated and weighted encircling net that is closed by means of a drawstring threaded through rings attached to the bottom of the net.

Rod and reel means a hand-held (including rod holder) fishing rod with a manually or electrically operated reel attached.

Seine means a net with long narrow wings, that is rigged with floats and weights.

Slurp gun means a tube-shaped suction device that operates somewhat like a syringe by sucking up the fish.

Snare means a device consisting of a pole to which is attached a line forming at its end a loop with a running knot that tightens around the fish when the line is pulled.

Spear means a sharp, pointed, or barbed instrument on a shaft. Spears can be operated manually or shot from a gun or sling.

Submersible means a manned or unmanned device that functions or operates primarily underwater and is used to harvest fish, i.e., precious corals, with mechanical arms.

Tangle net dredge means dredge gear consisting of weights and flimsy netting that hangs loosely in order to immediately entangle fish.

Trammel net means a net consisting of two or more panels of netting, suspended vertically in the water column by a common float line and a common weight line. One panel of netting has a larger mesh size than the other(s) in order to entrap fish in a pocket.

Trap means a portable, enclosed device with one or more gates or

entrances and one or more lines attached to surface floats. Also called a pot.

Trawl means a cone or funnel-shaped net that is towed through the water, and can include a pair trawl that is towed simultaneously by two boats.

* * * * *

3. In § 600.725, paragraph (v) is added to read as follows:

§ 600.725 General prohibitions.

* * * * *

(v) The use of any gear or participation in a fishery not on the following list of authorized fisheries and gear is prohibited after July 26, 1999. A

fish, whether targeted or not, may be retained only if it is taken within a listed fishery, is taken with a gear authorized for that fishery, and is taken in conformance with all other applicable regulations. Listed gear can only be used in a manner that is consistent with existing laws or regulations. The list of fisheries and allowable gear does not, in any way, alter or supersede any definitions or regulations contained elsewhere in this chapter. A person or vessel is prohibited from engaging in fishing or employing fishing gear when such fishing or gear is prohibited or restricted by regulation

under an FMP or under other applicable law. However, after July 26, 1999, an individual fisherman may notify the appropriate Council, or the Assistant Administrator in the case of Atlantic highly migratory species, of the intent to use a gear or participate in a fishery not already on this list. Ninety days after such notification, the individual may use the gear or participate in that fishery unless regulatory action is taken to prohibit the use of the gear or participate in the fishery (e.g., through emergency or interim regulations). The list of authorized fisheries and gear is as follows:

Fishery	Allowable gear types
New England Fishery Management Council (NEFMC)	
Atlantic Sea Scallops Fishery (FMP):	
A. Dredge fishery	A. Dredge.
B. Trawl fishery	B. Trawl.
C. Hand harvest fishery	C. Hand harvest.
D. Recreational fishery	D. Hand harvest.
Atlantic Salmon Fishery (FMP)	No harvest/possession in the EEZ.
Striped Bass Fishery (Non-FMP)	No harvest/possession in the EEZ.
Northeast (NE) Multispecies Fishery (FMP):	
A. NE Multispecies Sink Gillnet	A. Gillnet.
B. North Atlantic bottom trawl	B. Trawl.
C. Groundfish hook and line	C. Longline, handline, rod and reel.
D. Mixed species trap/pot	D. Trap/pot.
E. Dredge fishery	E. Dredge.
F. Seine fishery	F. Seine.
G. Recreational fishery	G. Rod and reel, handline, spear.
American Lobster Fishery (FMP):	
A. Lobster pot/trap	A. Pot, trap.
B. North Atlantic bottom trawl	B. Trawl.
C. Dredge fishery	C. Dredge.
D. Hand harvest fishery	D. Hand harvest.
E. Recreational fishery	E. Pot, trap, hand harvest.
Atlantic Herring Fishery (Preliminary FMP):	
A. Coastal herring trawl	A. Trawl fishery.
B. Atlantic herring purse seine fishery	B. Purse seine.
C. Coastal/inshore gillnet fishery	C. Gillnet.
D. Recreational fishery	D. Hook and line, gillnet.
Dogfish Fishery (Non-FMP):	
A. Gillnet fishery	A. Gillnet.
B. Trawl fishery	B. Trawl.
C. Recreational fishery	C. Hook and line, rod and reel.
Atlantic Bluefish (FMP managed by Mid-Atlantic Fishery Management Council (MAFMC)):	
A. Pelagic longline/hook and line	A. Longline, handline.
B. Seine fishery	B. Purse seine, seine.
C. Mixed species pot/trap fishery	C. Pot, trap.
D. Bluefish, croaker, flounder trawl fishery	D. Trawl.
E. Pelagic drift gillnet fishery	E. Gillnet.
F. Dredge fishery	F. Dredge.
G. Recreational fishery	G. Rod and reel, handline, trap, pot.
Atlantic Mackerel, Squid and Butterfish Fishery (FMP managed by the MAFMC):	
A. Mackerel, squid, butterfish trawl fishery	A. Trawl.
B. Pelagic drift gillnet fishery	B. Gillnet.
C. Pelagic longline/hook and line fishery	C. Longline, handline.
D. Purse seine fishery	D. Purse seine
E. Mixed species pot/trap fishery	E. Pot, trap.
F. Dredge fishery	F. Dredge.
G. Recreational fishery	G. Rod and reel, handline, pot.
Surf Clam and Ocean Quahog Fishery (FMP managed by the MAFMC)	Dredge.
Atlantic Menhaden Purse Seine Fishery (Non-FMP)	Purse seine.
Atlantic Halibut Fishery (Non-FMP)	Longline, handline, gillnet, trawl.
Weakfish Fishery (Non-FMP):	
A. Commercial fishery	A. Trawl, gillnet, hook and line.
B. Recreational fishery	B. Hook and line.

Fishery	Allowable gear types
Atlantic Mussel/Sea Urchin Fishery (Non-FMP):	
A. Dredge fishery	A. Dredge.
B. Hand harvest fishery	B. Hand harvest.
Atlantic Skate Fishery:	
A. Trawl fishery	A. Trawl.
B. Gillnet fishery	B. Gillnet.
C. Hook-and-line fishery	C. Longline and handline.
Crab Fishery (Non-FMP)	Pot.
Northern Shrimp Fishery:	
A. Shrimp trawl fishery	A. Trawl.
B. Shrimp pot fishery	B. Pot.
Monkfish Fishery (Non-FMP):	
A. Trawl fishery	A. Trawl.
B. Gillnet fishery	B. Gillnet.
C. Demersal longline fishery	C. Longline.
D. Dredge fishery	D. Dredge.
E. Trap/pot	E. Trap/pot.
Summer Flounder, Scup, Black Sea Bass Fishery (FMP managed by MAFMC):	
A. Bluefish, croaker, flounder trawl fishery	A. Trawl.
B. Pelagic longline/hook and line fishery.	B. Longline, handline.
C. Mixed species pot/trap fishery	C. Pot, trap.
D. Pelagic drift gillnet fishery	D. Gillnet.
E. Recreational fishery	E. Rod and reel, handline, pot, trap.
Hagfish Fishery (Non-FMP)	Trap/pot.

Mid-Atlantic Fishery Management Council

Summer Flounder, Scup, Black Sea Bass FMP:	
A. Bluefish, croaker, flounder trawl fishery	A. Trawl.
B. Pelagic longline/hook and line fishery	B. Longline, handline.
C. Mixed species pot/trap fishery.	C. Pot, trap.
D. Pelagic drift gillnet fishery.	D. Gillnet.
E. Recreational fishery	E. Rod and reel, handline, pot, trap.
Atlantic Bluefish FMP:	
A. Bluefish, Croaker, Flounder trawl fishery	A. Trawl.
B. Pelagic longline/hook and line fishery	B. Longline, handline.
C. Mixed species pot/trap fishery	C. Pot, trap.
D. Pelagic drift gillnet fishery	D. Gillnet.
E. Seine fishery	E. Purse seine, seine.
F. Dredge fishery	F. Dredge.
G. Recreational fishery	G. Rod and reel, handline, trap, pot.
Atlantic Mackerel, Squid, and Butterfish Fishery (FMP):	
A. Mackerel, Squid, Butterfish trawl fishery	A. Trawl.
B. Pelagic drift gillnet fishery	B. Gillnet.
C. Pelagic longline/hook and line fishery	C. Longline, handline.
D. Purse seine fishery	D. Purse seine.
E. Mixed species pot/trap fishery	E. Pot, trap.
F. Dredge fishery	F. Dredge.
G. Bandit gear fishery	G. Bandit gear.
H. Recreational fishery	H. Rod and reel, handline, pot.
Surf Clam/Ocean Quahog Fishery (FMP):	
A. Dredge fishery	A. Dredge.
B. Recreational fishery	B. Hand harvest.
Atlantic Sea Scallop Fishery (FMP managed by NEFMC):	
A. Dredge fishery	A. Dredge.
B. Trawl fishery	B. Trawl.
C. Hand harvest fishery	C. Hand harvest.
Atlantic Menhaden Purse Seine Fishery (Non-FMP)	Purse seine.
Striped bass Fishery (Non-FMP)	No harvest/possession in the EEZ.
Northern Shrimp Trawl Fishery (Non-FMP)	Trawl.
American Lobster Fishery (FMP managed by NEFMC):	
A. Pot/trap fishery	A. Pot/trap.
B. Hand harvest fishery	B. Hand harvest.
Weakfish Fishery (Non-FMP):	
A. Commercial fishery	A. Trawl, gillnet, hook and line.
B. Recreational fishery	B. Hook and line.
Mixed Species Trawl Fishery (Non-FMP)	Trawl.
Whelk Fishery (Non-FMP):	
A. Trawl fishery	A. Trawl.
B. Pot/trap fishery	B. Pot/trap.
Monkfish Fishery (Non-FMP):	

Fishery	Allowable gear types
A. Trawl fishery	A. Trawl.
B. Longline fishery	B. Longline.
Tilefish Fishery (Non-FMP):	
A. Groundfish hook-and-line fishery	A. Longline, handline.
B. Recreational fishery	B. Rod and reel.
Dogfish Fishery (Non-FMP):	
A. Gillnet fishery	A. Gillnet.
B. Trawl fishery	B. Trawl.
C. Recreational fishery	C. Hook and line.
Coastal Gillnet Fishery (Non-FMP)	Gillnet.
Recreational Fishery (Non-FMP)	Rod and reel, handline.

South Atlantic Fishery Management Council

Golden Crab Fishery (FMP)	Trap.
Atlantic Red Drum Fishery (FMP)	No harvest/possession in EEZ.
Coral and Coral Reef Fishery (FMP):	
A. Octocoral commercial fishery	Hand harvest only.
B. Live rock aquaculture fishery	Hand harvest only.
C. Octocoral recreational fishery	Hand harvest only.
South Atlantic Shrimp Fishery (FMP)	Trawl.
South Atlantic Snapper-Grouper Fishery (FMP):	
A. Commercial fishery	A. Longline, rod and reel, bandit gear, handline, spear, powerhead.
B. Black sea bass trap/pot fishery	B. Pot, trap.
C. Wreckfish fishery	C. Rod and reel, bandit gear, handline.
D. Recreational fishery	D. Handline, rod and reel, bandit gear, spear, powerhead.
South Atlantic Spiny Lobster FMP:	
A. Commercial fishery	A. Trap, pot, dip net, bully net, snare.
B. Recreational fishery	B. Trap, pot, dip net, bully net, snare.
South Atlantic Coastal Migratory Pelagics FMP:	
A. Commercial Spanish mackerel fishery	A. Handline, rod and reel, bandit gear, gillnet, cast net.
B. Commercial King mackerel fishery	B. Handline, rod and reel, bandit gear.
C. Other commercial coastal migratory pelagics fishery	C. Longline, handline, rod and reel, bandit gear.
D. Recreational fishery	D. Bandit gear, rod and reel, handline.
Atlantic Mackerel, Squid, and Butterfish Trawl Fishery (Non-FMP)	Trawl.
Weakfish Fishery (Non-FMP):	
A. Commercial fishery	A. Trawl, gillnet, hook and line.
B. Recreational fishery	B. Hook and line.
Whelk Trawl Fishery (non-FMP)	Trawl.
Marine Life Aquarium Fishery (Non-FMP)	Dip net, slurp gun, barrier net, allowable chemical.
Calico Scallops Trawl Fishery (Non-FMP)	Trawl.
Bluefish, Croaker, Flounder Trawl Fishery (Non-FMP)	Trawl.
Recreational Fishery (Non-FMP)	Handline, bandit gear, rod and reel.
Sargassum Fishery (Non-FMP)	Trawl.

Gulf of Mexico Fishery Management Council

Gulf of Mexico Red Drum FMP	No harvest/possession in EEZ.
Coral Reef FMP:	
A. Commercial fishery	A. Hand harvest only.
B. Recreational fishery	B. Hand harvest only.
Gulf of Mexico Reef Fish FMP:	
A. Snapper-Grouper reef fish longline/hook and line fishery	A. Longline, handline, bandit gear, rod and reel, buoy gear.
B. Pot/trap reef fish fishery	B. Pot, trap.
C. Other commercial fishery	C. Spear, powerhead, cast net, trawl.
D. Recreational fishery	D. Spear, powerhead, bandit gear, handline, rod reel, cast net.
Gulf of Mexico Shrimp FMP:	
A. Gulf of Mexico commercial fishery	A. Trawl butterfly net, skimmer, castnet.
B. Recreational fishery	B. Trawl.

Fishery	Allowable gear types
Gulf of Mexico Coastal Migratory Pelagics FMP:	
A. Large pelagics longline fishery	A. Longline.
B. King/Spanish mackerel gillnet fishery	B. Gillnet.
C. Pelagic hook and line fishery	C. Bandit gear, handline, rod and reel.
D. Pelagic species purse seine fishery	D. Purse seine.
E. Recreational fishery	E. Bandit gear, handline, rod and reel, spear.
Gulf of Mexico Spiny Lobster FMP:	
A. Spiny lobster pot/trap fishery	A. Trap, pot.
B. Dip net fishery	B. Dip net, bully net, hoop net.
C. Recreational fishery	C. Dip net, bully net, pot, trap, snare.
Stone Crab FMP:	
A. Trap/pot crab fishery	A. Trap, pot.
B. Recreational fishery	B. Trap, pot.
Mullet Fishery (Non-FMP):	
A. Trawl fishery	A. Trawl.
B. Gillnet fishery	B. Gillnet.
C. Recreational fishery	C. Bandit gear, handline, rod and reel.
Inshore Coastal Gillnet Fishery (Non-FMP)	Gillnet.
Golden Crab Fishery (Non-FMP)	Trap.
Octopus Fishery (Non-FMP)	Trap.
Marine Life Aquarium Fishery (Non-FMP)	Dip net, slurp gun, barrier net, allowable chemical.
Coastal Herring Trawl Fishery (Non-FMP)	Trawl.
Butterfish Trawl Fishery (Non-FMP)	Trawl.
Gulf of Mexico Groundfish (Non-FMP):	
A. Commercial fishery	A. Trawl, purse seine, gillnet.
B. Recreational fishery	B. Hook and line.
Gulf of Mexico Menhaden Purse Fishery (Non-FMP)	Purse seine.
Sardine Purse Seine Fishery (Non-FMP)	Purse seine.
Oyster Fishery (Non-FMP)	Dredge.
Non-Groundfish finfish (Non-FMP)	Trawl, gillnet, longline, handline, rod and reel, bandit gear.
Recreational fishery (Non-FMP)	Bandit gear, handline, rod and reel, spear, bully net, gillnet, dip net, longline, powerhead, seine, slurp gun, trap, trawl, harpoon, castnet, hoop net.

Caribbean Fishery Management Council

Caribbean Spiny Lobster FMP:	
A. Trap/pot fishery	A. Trap/pot.
B. Dip net fishery	B. Dip net.
C. Entangling net fishery	C. Gillnet, trammel net.
D. Recreational fishery	D. Dip net, trap, pot, gillnet, trammel net.
E. Hand harvest fishery	E. Hand harvest.
Caribbean Shallow Water Reef Fish FMP:	
A. Longline/hook and line fishery	A. Longline, hook and line.
B. Trap/pot fishery	B. Trap, pot.
C. Entangling net fishery	C. Gillnet, trammel net.
D. Recreational fishery	D. Dip net, handline, rod and reel, slurp gun, spear.
Coral and Reef Resources FMP:	
A. Commercial fishery	A. Dip net, slurp gun.
B. Recreational fishery	B. Dip net, slurp gun.
Queen Conch FMP:	
A. Commercial fishery	A. Hand harvest only.
B. Recreational fishery	B. Hand harvest only.
Caribbean Pelagics (Non-FMP):	
A. Pelagics drift gillnet	A. Gillnet fishery.
B. Pelagics longline/hook and line fishery	B. Longline/hook and line.
C. Recreational fishery	C. Spear, handline, longline, rod and reel.

Pacific Fishery Management Council

Washington, Oregon, and California Salmon FMP:	
A. Salmon set gillnet fishery	A. Gillnet.
B. Salmon hook and line fishery	B. Hook and line.

Fishery	Allowable gear types
C. Trawl fishery	C. Trawl.
D. Recreational fishery	D. Rod and reel.
West Coast Groundfish FMP:	
A. Pacific groundfish trawl fishery	A. Trawl.
B. Set gillnet fishery	B. Gillnet.
C. Groundfish longline/setline fishery	C. Longline.
D. Groundfish handline/hook and line fishery	D. Handline, hook and line.
E. Groundfish pot/trap fishery	E. Pot, trap.
F. Recreational fishery	F. Rod and reel, handline, spear, hook and line.
Northern Anchovy Fishery (FMP)	Purse seine, lampara net.
Angel Shark, White Croaker, California Halibut, White Sea Bass, Pacific Mackerel Large-Mesh Set Net Fishery (Non-FMP)	Gillnet.
Thresher Shark/ Swordfish Drift Gillnet Fishery (Non-FMP)	Gillnet.
Pacific Shrimp/Prawn (Non-FMP):	
A. Pot/trap fishery	A. Pot/trap.
B. Trawl fishery	B. Trawl.
Lobster, Rock Crab Pot/Trap Fishery (Non-FMP)	Pot, trap.
Pacific Halibut (Non-FMP):	
A. Longline/setline fishery	A. Longline/setline.
B. Hook-and-line fishery	B. Hook-and-line.
California Halibut Trawl and Trammel Net Fishery	Trawl and trammel net.
Shark/Bonito Longline/Setline Fishery (Non-FMP)	Longline.
Dungeness Crab Pot/Trap Fishery (Non-FMP)	Pot, trap.
Hagfish Trap/Pot Fishery (Non-FMP)	Trap, pot.
Pacific Albacore, Other Tuna Hook and Line Fishery (Non-FMP)	Hook and line.
Pacific Swordfish Harpoon Fishery (Non-FMP)	Harpoon.
Pacific Scallop Dredge Fishery (Non-FMP)	Dredge.
Pacific Yellowfin, Skipjack Tuna, Purse Seine Fishery (Non-FMP)	Purse seine.
Market Squid Fishery (Non-FMP)	Purse seine; dip net.
Pacific Sardine, Pacific	Purse seine.
Mackerel, Pacific Saury, Pacific Bonito, Jack mackerel, Purse Seine Fishery (Non-FMP):	
Finfish and Shellfish Live Trap, Hook and line/Handline Fishery (Non-FMP)	Trap, handline, hook and line.
Recreational Fishery (Non-FMP)	Spear, trap, handline, pot, hook and line, rod and reel.
North Pacific Fishery Management Council	
Alaska Scallop Fishery (FMP)	Dredge, diving gear.
Bering Sea (BS) and Aleutian Islands (AI) King and Tanner Crab Fishery FMP:	
Pot fishery	Pot.
BS and AI King and Tanner Crab Fishery (Non-FMP):	
Recreational fishery	Pot.
BS and AI Groundfish Fishery FMP:	
A. Groundfish trawl fishery	A. Trawl.
B. Bottomfish hook and line, handline fishery	B. Hook and line, handline.
C. Longline fishery	C. Longline.
D. BS and AI pot/trap fishery	D. Pot, trap.
BS and AI Groundfish Fishery (Non-FMP):	
Recreational fishery	Handline, rod and reel, hook and line, pot, trap.
Gulf of Alaska (GOA) Groundfish Fishery (FMP):	
A. Groundfish trawl fishery	A. Trawl.
B. Bottomfish hook-and-line and handline	B. Hook and line, handline.
C. Longline fishery	C. Longline.
D. GOA pot/trap fishery	D. Pot/trap.
E. Recreational fishery	E. Handline, rod and reel, hook and line, pot, trap.
Pacific Halibut (Non-FMP):	
Hook and line, jig and troll fishery	Hook and line, and jig.
Alaska High Seas Salmon FMP:	
Hook and line fishery	Hook and line.
Alaska Salmon (Non-FMP):	
A. Alaska salmon hook and line fishery	A. Hook and line.
B. Alaska salmon gillnet fishery	B. Gillnet.
C. Alaska salmon purse seine fishery	C. Purse seine.
D. Recreational fishery	D. Handline, rod and reel, hook and line.
Finfish Purse Seine Fishery (Non-FMP)	Purse seine.
Octopus/Squid Longline Fishery (Non-FMP)	Longline.
Finfish Handline/Hook and Line Fishery (Non-FMP)	Handline, hook and line.
Recreational Fishery (Non-FMP)	Handline, rod and reel, hook line.

Fishery	Allowable gear types
Western Pacific Fishery Management Council	
Western Pacific Crustacean FMP Lobster Fishery	Trap.
Western Pacific Crustacean (Non-FMP):	
A. Commercial fishery	A. Gillnet, hand harvest, hoop net, spear, snare, trap, trawl.
B. Recreational fishery	B. Gillnet, hand harvest, hoop net, spear, snare, trap.
C. Charter fishery	C. Hand harvest, spear.
Western Pacific Precious Corals FMP:	
A. Tangle net dredge fishery	A. Tangle net dredge.
B. Submersible fishery	B. Submersibles.
C. Coral Dive/Hand Collection Fishery	C. Hand harvest only.
D. Recreational fishery	D. Hand harvest only.
Western Pacific Precious Corals (Non-FMP)	Hand harvest, submersible, tangle net dredge.
Western Pacific Bottomfish/Seamount Groundfish FMP:	
A. Bottomfish hook and line fishery	A. Bandit gear, buoy gear, handline, hook and line, rod and reel.
B. Seamount groundfish fishery	B. Longline, trawl.
C. Bottom longline fishery	C. Longline.
D. Trap fishery	D. Trap.
E. Spear fishery	E. Spear, powerhead.
Western Pacific Bottomfish/Seamount Groundfish (Non-FMP):	
A. Commercial fishery	A. Bandit gear, buoy gear, gillnet, handline, hook-and-line, longline, rod and reel, spear, trap.
B. Recreational fishery	B. Bandit gear, buoy gear, Gillnet, handline, hook-and-line, longline, rod and reel, spear, trap.
C. Charter fishery	C. Bandit gear, buoy gear, handline, hook-and-line, rod and reel, spear.
Western Pacific Pelagics FMP:	
A. Longline fishery	A. Longline.
B. Hook and line fishery	B. Bandit gear, buoy gear, handline, hook and line, rod and reel.
C. Purse seine fishery	C. Lampara, purse seine.
D. Spear fishery	D. Spear, powerhead.
Western Pacific Pelagics (Non-FMP):	
A. Recreational fishery	A. Bandit gear, buoy gear, dip net, handline, hook and line, hoop net, powerhead, rod and reel, spear.
B. Commercial fishery	B. Bandit gear, buoy gear, dip net, handline, hook and line, hoop net, powerhead, rod and reel, spear.
C. Charter fishery	C. Bandit gear, buoy gear, dip net, handline, hook and line, hoop net, powerhead, rod and reel, spear.
Western Pacific Coastal Pelagics (Non FMP)	Bandit gear, buoy gear, dip, net, gillnet, handline, hook and line, hoop net, lampara net, purse seine, rod and reel, spear.
Western Pacific Squid/Octopus (Non FMP)	Bandit gear, hand harvest, hook and line, rod and reel, spear, trap.
Western Pacific Shallow Reef (Non FMP)	Allowable chemical, barrier net, dip net, gillnet, hand harvest, seine, slurrp gun, trap.
Secretary of Commerce	
Atlantic Swordfish FMP:	
A. Hook and line fishery	A. Rod and reel, handline, bandit gear.
B. Longline fishery	B. Longline.
C. Drift gillnet fishery	C. Gillnet.
D. Harpoon fishery	D. Harpoon.
Atlantic Sharks FMP:	

Fishery	Allowable gear types
A. Hook and line fishery	A. Rod and reel, handline, bandit gear.
B. Longline fishery	B. Longline.
C. Drift gillnet fishery	C. Gillnet.
Atlantic Billfish FMP (Recreational only):	
Hook and line fishery	Rod and reel.
Atlantic Tunas (Non-FMP):	
A. Hook and line fishery	A. Rod and reel, handline, bandit gear.
B. Purse seine fishery	B. Purse seine.
C. Longline fishery	C. Longline.
D. Harpoon fishery	D. Harpoon.
E. Recreational fishery	E. Rod and reel, handline.

4. In subpart H, § 600.747 is added to read as follows:

§ 600.747 Guidelines and procedures for determining new fisheries and gear.

(a) *General.* Section 305(a) of the Magnuson-Stevens Act requires the Secretary to prepare a list of all fisheries under the authority of each Council, or the Director in the case of Atlantic highly migratory species, and all gear used in such fisheries. This section contains guidelines in paragraph (b) for determining when fishing gear or a fishery is sufficiently different from those listed in § 600.725(v) as to require notification of a Council or the Director in order to use the gear or participate in the unlisted fishery. This section also contains procedures in paragraph (c) for notification of a Council or the Director of potentially new fisheries or gear, and for amending the list of fisheries and gear.

(b) *Guidelines.* The following guidance establishes the basis for determining when fishing gear or a fishery is sufficiently different from those listed to require notification of the appropriate Council or the Director.

(1) The initial step in the determination of whether a fishing gear or fishery is sufficiently different to require notification is to compare the gear or fishery in question to the list of authorized fisheries and gear in § 600.725(v) and to the existing gear definitions in § 600.10.

(2) If the gear in question falls within the bounds of a definition in § 600.10 for an allowable gear type within that fishery, as listed under § 600.725(v), then the gear is not considered different, is considered allowable gear, and does not require notification of the Council or Secretary 90 days before it can be used in that fishery.

(3) If, for any reason, the gear is not consistent with a gear definition for a listed fishery as described in paragraph (b)(2) of this section, the gear is considered different and requires Council or Secretarial notification as

described in paragraph (c) of this section 90 days before it can be used in that fishery.

(4) If a fishery falls within the bounds of the list of authorized fisheries and gear in § 600.725(v) under the Council's or Secretary's authority, then the fishery is not considered different, is considered an allowable fishery and does not require notification of the Council or Director before that fishery can occur.

(5) If a fishery is not already listed in the list of authorized fisheries and gear in § 600.725(v), then the fishery is considered different and requires notification as described in paragraph (c) of this section 90 days before it can occur.

(c) *Procedures.* If a gear or fishery does not appear on the list in § 600.725(v), or if the gear is different from that defined in § 600.10, the process for notification, and consideration by a Council or the Director, is as follows:

(1) *Notification.* After July 26, 1999, no person or vessel may employ fishing gear or engage in a fishery not included on the list of approved gear types in § 600.725(v) without notifying the appropriate Council or the Director at least 90 days before the intended use of that gear.

(2) *Notification procedures.* (i) A signed return receipt for the notice serves as adequate evidence of the date that the notification was received by the appropriate Council or the Director, in the case of Atlantic highly migratory species, and establishes the beginning of the 90-day notification period, unless required information in the notification is incomplete.

(ii) The notification must include:
 (A) Name, address, and telephone number of the person submitting the notification.

(B) Description of the gear.
 (C) The fishery or fisheries in which the gear is or will be used.

(D) A diagram and/or photograph of the gear, as well as any specifications

and dimensions necessary to define the gear.

(E) The season(s) in which the gear will be fished.

(F) The area(s) in which the gear will be fished.

(G) The anticipated bycatch species associated with the gear, including protected species, such as marine mammals, sea turtles, sea birds, or species listed as endangered or threatened under the ESA.

(H) How the gear will be deployed and fished, including the portions of the marine environment where the gear will be deployed (surface, midwater, and bottom).

(iii) Failure to submit complete and accurate information will result in a delay in beginning the 90-day notification period. The 90-day notification period will not begin until the information received is determined to be accurate and complete.

(3) *Action upon receipt of notification.* (i) *Species other than Atlantic Highly Migratory Species.* (A) Upon signing a return receipt of the notification by certified mail regarding an unlisted fishery or gear, a Council must immediately begin consideration of the notification and send a copy of the notification to the appropriate Regional Administrator.

(B) If the Council finds that the use of an unlisted gear or participation in a new fishery would not compromise the effectiveness of conservation and management efforts, it shall:

(1) Recommend to the RA that the list be amended;

(2) Provide rationale and supporting analysis, as necessary, for proper consideration of the proposed amendment; and

(3) Provide a draft proposed rule for notifying the public of the proposed addition, with a request for comment.

(C) If the Council finds that the proposed gear or fishery will be detrimental to conservation and management efforts, it will recommend to the RA that the authorized list of

fisheries and gear not be amended, that a proposed rule not be published, give reasons for its recommendation of a disapproval, and may request NMFS to publish emergency or interim regulations, and begin preparation of an FMP or amendment to an FMP, if appropriate.

(D) After considering information in the notification and Council's recommendation, NMFS will decide whether to publish a proposed rule. If information on the new gear or fishery being considered indicates it is likely that it will compromise conservation and management efforts under the Magnuson-Stevens Act, and no additional new information is likely to be gained from a public comment period, then a proposed rule will not be published and NMFS will notify the appropriate Council. In such an instance, NMFS will publish emergency or interim regulations to prohibit or restrict use of the gear or participation in the fishery. If NMFS determines that the proposed amendment is not likely to compromise conservation and management efforts under the Magnuson-Stevens Act, NMFS will publish a proposed rule in the **Federal Register** with a request for public comment.

(ii) *Atlantic Highly Migratory Species.* (A) Upon signing a return receipt of the notification by certified mail regarding an unlisted fishery or gear for Atlantic highly migratory species (HMS), NMFS will immediately begin consideration of the notification.

(B) Based on information in the notification and submitted by the Council, NMFS will make a determination whether the use of an unlisted gear or participation in an unlisted HMS fishery will compromise the effectiveness of conservation and management efforts under the Magnuson-Stevens Act. If it is determined that the proposed amendment will not compromise conservation and management efforts, NMFS will publish a proposed rule.

(C) If NMFS finds that the proposed gear or fishery will be detrimental to conservation and management efforts in this initial stage of review, it will not publish a proposed rule and notify the applicant of the negative determination with the reasons therefor.

(4) *Final determination and publication of a final rule.* Following public comment, NMFS will approve or disapprove the amendment to the list of gear and fisheries.

(i) If approved, NMFS will publish a final rule in the **Federal Register** and notify the applicant and the Council, if appropriate, of the final approval.

(ii) If disapproved, NMFS will withdraw the proposed rule, notify the applicant and the Council, if appropriate, of the disapproval; publish emergency or interim regulations, if necessary, to prohibit or restrict the use of gear or the participation in a fishery; and either notify the Council of the need to amend an FMP or prepare an amendment to an FMP in the case of Atlantic highly migratory species.

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TENNESSEE VALLEY AUTHORITY

18 CFR Part 1301

Revision of Tennessee Valley Authority Freedom of Information Act Regulations and Implementation of Electronic Freedom of Information Act Amendments of 1996

AGENCY: Tennessee Valley Authority.
ACTION: Final rule.

SUMMARY: This document amends TVA's regulations under the Freedom of Information Act (FOIA). The FOIA regulations contain new provisions implementing the Electronic Freedom of Information Act (EFOIA) of 1996. Additionally, the regulations include updated cost figures to be used in calculating and charging fees.

EFFECTIVE DATE: February 26, 1999.

FOR FURTHER INFORMATION CONTACT: Wilma H. McCauley, FOIA Officer, Tennessee Valley Authority, 1101 Market Street (WR 4Q), Chattanooga, Tennessee 37402-2801, telephone number (423) 751-2523.

SUPPLEMENTARY INFORMATION:

Background Information

On September 8, 1998, TVA published a proposed rule that revised its existing regulations under the FOIA and added new provisions implementing the Electronic FOIA Amendments. See 63 FR 47448, Sept. 8, 1998. Interested persons were afforded an opportunity to participate in the rulemaking through submission of written comments on the proposed rule. TVA received no comments to its proposed rule.

New provisions implementing the Electronic FOIA Amendments are found at Sec. 1301.2 (electronic reading room), Sec. 1301.5(b) (multitrack processing), Sec. 1301.5(c) (processing under unusual circumstances), Sec. 1301.5(d) (expedited processing), Section 1301.6(b) (deletion marking), Sec. 1301.6(c) (appeal of format

determinations), Sec. 1301.6(c)(3) (volume estimation), Sec. 1301.10(b)(3) (format of disclosure), and Sec. 1301.10(b)(8) (electronic searches). Revisions to TVA's fee schedule are found at Sec. 1301.10(c) and (d).

Regulatory Flexibility Act Certification

We certify that these rules will not have a significant economic impact on a substantial number of small entities because these rules affect primarily individuals, not small entities, and for the most part simply implement the language of the EFOIA amendments. There is no reason to believe that the revised rules will impose any costs on FOIA requesters beyond those nominal costs imposed under TVA's former rules. Further, the "small entities" that make FOIA requests, as compared with individual requesters and other requesters, are relatively few in number.

List of Subjects in 18 CFR Part 1301

Freedom of Information, Privacy, Sunshine Act.

For the reasons stated in the preamble, TVA amends 18 CFR Part 1301 to read as follows:

PART 1301—PROCEDURES

1. The authority citation for part 1301 Subpart A continues to read as follows:

Authority: 16 U.S.C. 831-831dd, 5 U.S.C. 552.

2. Subpart A of Part 1301 is revised to read as follows:

Subpart A—Freedom of Information Act

Sec.

- 1301.1 General provisions.
- 1301.2 Public reading rooms.
- 1301.3 Requirements for making requests.
- 1301.4 Responsibility for responding to requests.
- 1301.5 Timing of responses to requests.
- 1301.6 Responses to requests.
- 1301.7 Exempt records.
- 1301.8 Business information.
- 1301.9 Appeals.
- 1301.10 Fees.

§ 1301.1 General provisions.

(a) This subpart contains the rules that TVA follows in processing requests for records under the Freedom of Information Act (FOIA), 5 U.S.C. 552. These rules should be read together with the FOIA, which provides additional information about access to records maintained by TVA. Requests made by individuals for records about themselves under the Privacy Act of 1974, 5 U.S.C. 552a, which are processed under subpart B of this part, are processed under this subpart also. Information routinely provided to the