

based companies in domestic and export markets.

**Executive Order 12866**

This rule is not considered by the Department of Justice to be a "significant regulatory action" under Executive Order 12866, section 3(f), Regulatory Planning and Review, because it will have an annual effect on the economy of less than \$100 million. Without the increases/decreases, the Service estimates that it will collect \$1.3 million in fees for immigration and adjudication services for these four small volume applications in FY 1998. With the fee adjustments, the Service will collect approximately \$1.8 million. The implementation of this rule will provide the Service with an additional \$.5 million in revenue over the revenue that would be collected under the old fee structure. This revenue increase is a recovery of costs based on workload volumes required to process these applications.

**Executive Order 13132**

This regulation 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 section 6 of Executive Order 13132, the Department of Justice has determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

**Executive Order 12988: Civil Justice Reform**

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

**List of Subjects in 8 CFR Part 103**

Administrative practice and procedure, Authority delegations (Government agencies), Fees, Forms, Freedom of information, Privacy, Reporting and recordkeeping requirements, Surety bonds.

Accordingly, part 103 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

**PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS**

1. The authority citation for part 103 continues to read as follows:

**Authority:** 5 U.S.C. 552, 552(a); 8 U.S.C. 1101, 1103, 1201, 1252 note, 1252b, 1304, 1356; 31 U.S.C. 9701; E.O. 12356, 47 FR 14874, 15557; 3 CFR, 1982 Comp., p.166; 8 CFR part 2.

2. In § 103.7, paragraph (b)(1) is amended by revising the entries for the following forms, to read as follows:

**§ 103.7 Fees.**

|   |     |   |   |   |
|---|-----|---|---|---|
| * | *   | * | * | * |
|   | (b) | * | * | * |
|   | (1) | * | * | * |
| * | *   | * | * | * |

Form I-360. For filing a petition for an Amerasian, Widow(er), or Special Immigrant—\$110.00, except there is no fee for a petition seeking classification as an Amerasian.

|   |   |   |   |   |
|---|---|---|---|---|
| * | * | * | * | * |
|---|---|---|---|---|

Form N-300. For filing an application for declaration of intention—\$50.00.

Form N-336. For filing a request for hearing on a decision in naturalization proceedings under section 336 of the Act—\$170.00.

|   |   |   |   |   |
|---|---|---|---|---|
| * | * | * | * | * |
|---|---|---|---|---|

Form N-470. For filing an application for section 316(b) or 317 of the Act benefits—\$80.00.

|   |   |   |   |   |
|---|---|---|---|---|
| * | * | * | * | * |
|---|---|---|---|---|

Dated: December 8, 1999.

**Janet Reno,**

*Attorney General.*

[FR Doc. 99-32485 Filed 12-14-99; 8:45 am]

**BILLING CODE 4410-10-M**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**15 CFR Part 902**

**50 CFR Part 660**

[Docket No. 990430115-9314-02; I.D. 030299B]

**RIN 0648-AL48**

**Fisheries Off West Coast States and in the Western Pacific; Northern Anchovy/Coastal Pelagic Species Fishery; Amendment 8**

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues regulations to implement Amendment 8 to the Northern Anchovy Fishery Management Plan. This rule removes jack mackerel north of 39° N. lat. from the Pacific Coast Groundfish Fishery Management Plan and adds four species to the management unit of the Coastal Pelagic Species (CPS) (formerly the Northern Anchovy Fishery Management Plan (FMP)); defines a new fishery management area and divides it into a limited entry zone and two new

subareas; establishes a procedure for setting annual specifications including harvest guidelines and quotas; provides for closure of the directed fishery when the directed portion of a harvest guideline or quota is taken; identifies fishing seasons for Pacific sardine and Pacific mackerel; establishes catch restrictions in the limited entry zone and, when the directed fishery for a CPS is closed, limits harvest of that species to an incidental limit set by the Southwest Regional Administrator, NMFS, (Regional Administrator); implements a limited entry program; authorizes the Regional Administrator to issue exempted fishing permits for the harvest of CPS that otherwise would be prohibited; and establishes a framework process by which management decisions could be made without amending the FMP. No regulations are required at this time to implement the overfishing definitions and designation of essential fish habitat (EFH).

The intent of this action is to implement the provisions of Amendment 8 to the Northern Anchovy Fishery Management Plan, which will prevent overfishing, maximize yield from available resources, and control increasing harvesting capacity off the Pacific coast.

**DATES:** Effective January 14, 2000, except for § 660.502 and § 660.512 which are effective December 15, 1999, and §§ 660.505(a),(b),(g), and 660.511 which are effective January 1, 2000.

**ADDRESSES:** Copies of Amendment 8, which includes the final supplemental environmental impact statement (FSEIS)/regulatory impact review may be obtained from Larry Six, Executive Director, Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, Oregon, 97201. Comments regarding the reporting burden estimate or any other aspect of the collection-of-information requirements contained in this rule should be sent to Rodney R. McInnis, Acting Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (ATTN: NOAA Desk Officer).

**FOR FURTHER INFORMATION CONTACT:** James Morgan, Sustainable Fisheries Division, NMFS, at 562-980-4030.

**SUPPLEMENTARY INFORMATION:** The Pacific Fishery Management Council (Council) submitted Amendment 8 for Secretarial review by a letter dated December 11, 1998. On March 12, 1999,

a notice of availability of the FSEIS for Amendment 8 was published in the **Federal Register** (64 FR 12279). The proposed rule was published on May 25, 1999 (64 FR 28143). The comment period on the FSEIS ended on May 11, 1999. The comment period on the proposed rule ended on July 9, 1999.

On June 10, 1999, the Secretary of Commerce partially approved Amendment 8. Optimum yield (OY) for squid was disapproved because the amendment did not provide an estimate of maximum sustainable yield (MSY), the theoretical concept on which OY and overfishing are based under the Magnuson-Stevens Act. The bycatch provisions were disapproved because Amendment 8 did not contain a standardized reporting methodology to assess the amount and type of bycatch in the fishery and because there is no explanation of whether additional management measures to minimize bycatch and the mortality of unavoidable bycatch are practicable at this time. The Council has directed its CPS Management Team (Management Team) and its CPS Advisory Subpanel (Advisory Subpanel) to begin working to resolve these two issues. All other elements of Amendment 8 were approved.

The requirements of the Magnuson-Stevens Act, as amended by the Sustainable Fisheries Act, such as defining OY, overfishing, levels at which managed stocks are considered overfished, EFH, and social and economic data on fishing communities were discussed in the preamble to the proposed rule and are not repeated here.

### Species in the FMP

Amendment 8 and this final rule place Pacific mackerel (*Scomber japonicus*), Pacific sardine (*Sardinops sagax*), jack mackerel (*Trachurus symmetricus*), and market squid (*Loligo opalescens*) in a management unit with northern anchovy (*Engraulis mordax*). All CPS are harvested by a fleet of vessels using mainly roundhaul nets (e.g., purse seines). Managed species are divided into two categories: "Actively managed" and "monitored". Actively managed species are subject to annual harvest limits based on current biomass estimates. There are no mandatory harvest limits for monitored species; however, other management measures, such as area closures, could apply to monitored species. Amendment 8 sets the allowable biological catch (ABC) levels for monitored species well below estimates of MSY to obviate the need for detailed resource assessments until the domestic fishery necessitates active management of these species. Initially,

Pacific sardine and Pacific mackerel are designated as actively managed species, while jack mackerel, northern anchovy, and market squid are monitored species.

In Amendment 11 to the Pacific Groundfish Fishery Management Plan, jack mackerel was removed from that fishery management plan, effective upon implementation of Amendment 8 to the Northern Anchovy Fishery Management Plan.

### Fishery Management Areas and Subareas

The fishery management area is the exclusive economic zone (EEZ) off the coasts of Washington, Oregon, and California between 3 and 200 nautical miles offshore, bounded in the north by the Provisional International Boundary between the United States and Canada, and bounded in the south by the International Boundary between the United States and Mexico. The fishery management area is divided into subareas for the regulation of fishing for CPS, with the following boundaries: The CPS Limited Entry Zone covers that portion of the EEZ between 39°00'00" N. lat. (off California) and the U.S. Mexico-International Boundary; Subarea A covers that portion of the EEZ between the U.S.-Canada Provisional International Boundary and Pt. Piedras Blancas, California (35°40'00" N. lat.); Subarea B covers that portion of the EEZ between Pt. Piedras Blancas, California, and the U.S.-Mexico International Boundary.

### Limited Entry System

A limited entry system is established in the commercial fishery for CPS finfish (squid is not included) south of 39° N. lat. (Pt. Arena, California). Open access will continue north of 39° N. lat. Historically, 99 percent of the sardine resource has been harvested south of Pt. Arena. When abundance is high, fishermen without limited entry permits who are active in more northern areas can benefit from the high abundance by fishing in the open access fishery. When abundance declines, the resource tends to disappear from the north and moves south.

To qualify for a limited entry permit, a vessel must have landed at least 100 metric tons (mt) of CPS finfish from January 1, 1993, through November 5, 1997. The number of vessels qualified for a limited entry permit is estimated to be 70. These vessels have been responsible for approximately 99 percent of the harvest of CPS finfish during the window period.

The limited entry program takes effect on January 1, 2000; that is, fishermen harvesting CPS finfish south of 39° N.

lat. must have a limited entry permit on board their vessels at that time. Applicants for permits should obtain the required forms as soon as possible so that delays in obtaining the required permit can be avoided. The forms can be obtained by writing the Regional Administrator (See **ADDRESSES**), by calling the Sustainable Fisheries Division (See **FOR FURTHER INFORMATION CONTACT**), or by downloading the application from the Southwest Region Web Site at <http://swr.ucsd.edu>. Permits will be issued to the owner of the qualifying vessel and can only be transferred once during the year 2000. This one-time transfer affords the owner of a qualifying vessel the opportunity to upgrade his/her vessel or to replace an aging vessel, and it also allows those who wish to enter the fishery a 1-year opportunity to buy a permit. After the year 2000, a permit cannot be transferred to another person. A permit can only be registered for use with another vessel if the permitted vessel has been lost, stolen, or scrapped, or has been removed from all federally managed fisheries.

Vessels fishing CPS finfish in the limited entry fishery may land no more than 125 mt of CPS from any fishing trip. This limit was designed to curtail increases in harvest capacity.

Many vessels have landed small amounts of CPS for dead bait or for small specialty markets in the past and would not qualify for a limited entry permit. Under the framework provisions of Amendment 8, the Council can recommend that vessels without a permit be allowed to make CPS finfish landings up to a specified amount between 1 and 5 mt under the so-called "exempted trip limit." The final rule initially sets the exempted trip limit at 5 mt. Any change in the exempted trip limit will be implemented through rulemaking. Additionally, all vessels harvesting CPS finfish for live bait are exempt from the limited entry permit provisions.

### Framework Process

This rule establishes a framework process to set and adjust fishery specifications and management measures in accordance with procedures and standards described in section 2 of Amendment 8. The framework process consists of two procedural categories: the point-of-concern framework procedure and the socio-economic framework procedure, according to which the Council may recommend and NMFS may approve the establishment and adjustment of management measures. The point-of-concern framework procedure would be

used in response to resource conservation and ecological issues, while the socio-economic framework procedure would be used to address socio-economic issues in the fishery. Under both of these procedures, the Council and NMFS may carry out four types of actions: (1) Automatic actions for non-discretionary actions, which will become effective upon publication of a **Federal Register** notice without prior public notice and opportunity for comment and without a prior Council meeting; (2) notice actions, which will be used for all management actions, except automatic actions, intended to have temporary affect that are either non-discretionary or have probable impacts that were previously analyzed and which will require at least one Council meeting and publication of one **Federal Register** notice; (3) abbreviated rulemakings, which will be used for all discretionary management actions intended to have permanent effect, the impacts of which have not been previously analyzed, and which will require at least one Council meeting and publication of one rule in the **Federal Register**; and (4) full rulemaking actions, which will require at least two Council meetings and publication of proposed and final rules in the **Federal Register** with an opportunity for public comment.

Under the framework system, many different types of actions could be taken to respond quickly to changes in the fishery. For example, actively managed and monitored species could be moved between categories as circumstances require. Other actions include trip frequency limits, area or subarea closures, seasons, size limits, gear limitations, and other appropriate measures. Amendment 8 and this final rule authorize the Council to designate certain management measures as "routine management measures." This designation will enable the Council to modify the measure through the single meeting notice procedure described above.

#### Harvest Guidelines

The Regional Administrator will calculate the annual harvest guidelines for actively managed CPS based on the estimated biomass, formulas, and the standards set in the FMP. Harvest guidelines for CPS will be calculated using the current biomass estimate multiplied by a fixed harvest rate. The portion of the resource in U.S. waters may change from year to year; the harvest guidelines will be calculated using the best estimate available. The amount of the harvest guideline needed for incidental trip limits when the

fishery is nearing closure may vary depending on when the harvest guideline is projected to be achieved, but the sum of the incidental amount and the amount harvested directly must equal the total harvest guideline.

Following the determination of the estimated biomass, the Management Team and Advisory Subpanel will review the biomass estimate and resulting harvest guideline during a public meeting. Public comments and comments of the Advisory Subpanel will be reported to the Council. After hearing public comments, the Council will either adopt the harvest guideline for the upcoming fishing season or recommend a different harvest guideline, accompanied by a justification for the recommendation. Although there is little flexibility in setting harvest guidelines, errors in calculations and in the way the specific factors were used in determining the biomass are elements that could be examined.

The annual process for calculating harvest guidelines will include public review of the estimated biomass and harvest guidelines before the fishing season begins; however, the Regional Administrator may announce the harvest guideline in the **Federal Register** before the process is completed to help fishermen plan their activities and begin harvesting when the fishing season begins.

#### Fishing Seasons

This rule sets the Pacific sardine season at January 1 to December 31, or until closed, and the Pacific mackerel season at July 1 to June 30, or until closed. At this time, the California Department of Fish and Game is managing these two species. The Council's Management Team and Advisory Subpanel will meet to review the status of these two resources so that NMFS harvest guidelines can be implemented beginning on January 1, 2000.

This rule supercedes the existing harvest limits for northern anchovy, published in the **Federal Register** on September 2, 1999 (64 FR 48113). Those interim final quotas were issued under regulations that were in effect before this final rule was promulgated.

#### Comments and Responses

Eleven letters on Amendment 8 and the proposed rule were received from the fishing industry. Most did not believe that there was justification for implementing limited entry in the CPS fishery. Comments are grouped together here, followed by NMFS' responses.

*Comment 1:* Members of the Advisory Subpanel made decisions about limiting the number of vessels to serve their own interests. As a result, the fleet is too small to harvest the resource available.

*Response:* The Planning Team recommended a fleet smaller than that preferred by the Advisory Subpanel, pointing out that a smaller fleet was capable of harvesting the MSY of all CPS finfish. The Council recommended a larger fleet after hearing testimony from the Planning Team, Advisory Subpanel, and from processors, who believed that the Planning Team's recommendation for a smaller fleet would not provide a sufficient number of vessels in a situation when a processor needed a supply of one species at a time when most vessels might prefer harvesting a higher valued species. The limited entry fleet established by Amendment 8 is expected to meet the needs of the fishing industry and be capable of harvesting all CPS finfish that are likely to be available.

*Comment 2:* Limiting the number of vessels is unnecessary. The fleet failed to harvest the sardine quota in 1998 and will not harvest the quota in 1999 because the demand for sardine is limited. If limited entry is needed in the future, the framework process could be used to implement it.

*Response:* Enough capacity is believed to exist to harvest the MSY of all finfish managed by the FMP. If experience shows that there are not enough vessels, the entry of additional vessels could be allowed using the framework process. However, experience in other fisheries shows that allowing a fleet to grow uncontrollably leads to a larger fleet than necessary, and removing excess capacity is often difficult and costly.

*Comment 3:* Trip limits are inefficient because restricting vessels to a certain tonnage each day increases costs.

*Response:* The trip limit in the limited entry fishery is a limitation on the number of metric tons per trip (initially set at 125 mt/trip), not per day. No vessel initially permitted in the fishery is expected to be capable of landing 125 metric tons. Therefore, the initial trip limit is not expected to impose inefficiencies on the fishery. As many trips as necessary can be completed to satisfy processors' needs. Trip limits as used in the coastal pelagics fishery are different from those in other fisheries. The trip limit was imposed to avoid rapid expansion of the fleet, not to spread the harvest over the year or to limit the capabilities of the existing fleet.

*Comment 4:* Amendment 8 does not assess the capacity that U.S. processors can, or the extent that U.S. processors will, process the OY of coastal pelagic species.

*Response:* The recent increase in abundance of Pacific sardine has been dramatic. In response to the increase, new processing capacity has been added in southern and central California, and there is an active search by processors for additional markets. Processing capacity is expected to rise and fall with available market demand. Nevertheless, a better idea of how much fish will be processed by domestic processors will be gained from experience as processors adapt to market conditions. At this time, there appears to be enough potential processing capacity to satisfy available markets.

*Comment 5:* The limited entry system allocates fishing privileges unnecessarily and in a manner that is unfair to existing fishermen. A combination of squid and finfish landings as qualifying criteria would be more equitable.

*Response:* Vessels that primarily land squid qualify for a limited entry permit if at least 100 mt of CPS finfish was landed during the window period (average of 20 mt/year). Using squid as a qualifying species was an option in Amendment 8, but was not adopted because the fleet would have included many vessels that landed no CPS finfish. The result would have been a much larger fleet with vessels that have never landed CPS finfish receiving a permit that applies only to finfish while some vessels that actually targeted CPS finfish would have been eliminated from the fishery.

*Comment 6:* Amendment 8 does not, as required by Section 303(a)(4)(A) of the Magnuson-Stevens Act, assess and specify the capacity and the extent to which fishing vessels of the United States, on an annual basis will harvest the OY of CPS finfish. Amendment 8 focuses on the number of vessels rather than the capacity of vessels.

The importance of carrying capacity is apparent if one looks at the practices of the Inter-American Tropical Tuna Commission (IATTC), which tracks closely the capacity of individual vessels in the various tuna fleets as well as the harvesting rates of individual vessels.

*Response:* The harvesting capacity of the fleet was assessed in Amendment 8 by examining a combination of what vessels can physically hold and how many trips they can make during the year. Assuming a modest harvest rate by existing vessels, the MSY of finfish likely to be available could be harvested

in a 6-month season. The underlying purpose of determining domestic capacity is to make fishery resources available to U.S. fishermen before making them available to foreign fishermen. The capacity of each individual vessel does not need to be determined to meet the requirements of the Magnuson-Stevens Act.

The IATTC keeps rigorous records of hold capacity of individual vessels. In the tuna fishery, however, a substantial amount of harvested fish is at sea at any particular moment. To determine when quotas will be reached, the IATTC needs to know how much fish individual vessels hold and how much fish a vessel can harvest each day. To manage quotas on coastal pelagic species, all that needs to be known is how much is landed. The IATTC could not manage tuna based only on landings.

*Comment 7:* Amendment 8 violated procedural safeguards of the Magnuson-Stevens Act with regard to public review and analysis of the provisions that severely curtail the transferability of permits after the year 2000.

*Response:* Non-transferable permits were an option in Amendment 8 through several drafts of the sections on limited entry and was available for public review and comment. The option was included in the draft amendment dated August 1998, and the option was available for public review and comment at the public hearings chaired by the Council. The provisions have been implemented by notice-and-comment rulemaking under the Administrative Procedure Act.

*Comment 8:* Amendment 8 shows that the annual number of roundhaul vessels that have landed CPS during 1981–1997 has changed substantially from year to year. Since the vessels are not listed by official number and name, the variation may be due to duplication.

*Response:* To determine potential fleet size, the Planning Team used data from the Pacific Fishery Information Network. When vessels landed catch at more than one port, the port of landing was taken to be where most of the landings were made. Effort was taken to minimize the possibility of duplication.

*Comment 9:* Amendment 8 takes an overly optimistic view of the harvesting capacity of the coastal pelagics fleet. Historical records do not show such high harvests. There are no data to support the high harvests needed per vessel to land more than 400,000 mt in a 6-month period.

*Response:* As stated in comment 6, the estimate of a 6-month season to harvest the MSY of all species likely to be available may be inexact. Nevertheless, the goal of Amendment 8

is not to achieve the number of vessels that will be needed to harvest the full quotas for coastal pelagic species during years of particularly high stock abundance. The goal of limited entry is to ensure that there is no more capital invested in the fishery than necessary. As stated in the amendment, wide variability in the coastal pelagic resources is inevitable. Presently, northern anchovy is at relatively low biomass levels and has a limited market. The sardine resource is increasing, but demand has not increased as rapidly as the resource. The Pacific mackerel quota is larger in 1999 than in recent years, but it is uncertain whether the full market potential will be realized. Amendment 8 concludes that about 70 vessels will be sufficient to meet the varied objectives of the FMP.

In addition to the harvesting that occurs in the limited entry fishery, when one or more resources exhibit large abundance, any vessel may harvest north of 39° N. lat. without a limited entry permit. If OY is not being taken because of overly restrictive management, the Council and NMFS will adjust the system as appropriate.

*Comment 10:* The Council did not take into account the present participation and importance of the CPS finfish fishery as it affects the commercial fishing community in San Diego County.

*Response:* Amendment 8 establishes liberal qualifying criteria that will make it unlikely that vessels dependent on CPS finfish will be excluded from the fishery. The Magnuson-Stevens Act requires that each plan or amendment include a fishery impact statement that assesses the effects, if any, of the conservation and management measures on participants in the fisheries and on fishing communities. Although the analysis may not have addressed all of the particular impacts of Amendment 8 on a specific fishing community such as the commercial fishing community in San Diego County, the limited entry scheme, besides preventing overcapitalization, is designed to protect historic participation in the fishery while providing maximum benefits to all users. Provisions for small and incidental harvesters to maintain their catches prevent individuals from being penalized or from being excluded from the fishery. Although CPS finfish are commonly low-valued species, when the abundance of CPS finfish is large and market conditions make harvesting feasible, any harvester that has landed minimal or no CPS finfish may gain benefits from the fishery by participating in the open access fishery north of 39° N. lat.

*Comment 11:* The provision to allow only 1 year to upgrade a vessel is too restrictive. The restriction on transfers combined with the trip limit is extremely inefficient.

*Response:* Amendment 8 does not restrict improvements to existing vessels; it strictly limits registering a limited entry permit with an entirely different vessel. This rule does not restrict a fisherman's choice to increase horsepower, install a refrigeration system, enlarge hold capacity, or make any other changes to improve an existing vessel. By implementing a trip limit and regulating transfers to control expansion of the fleet, NMFS avoided a complicated system of regulations governing horsepower, vessel length, and hold capacity. Any potential inefficiencies created by the limited entry program are expected to be outweighed by controlling increases in harvesting capacity.

#### NMFS Action

The administrative procedures needed to implement a limited entry permit system are being made effective upon the date of publication in the **Federal Register** of the final rule. The effectiveness of the substantive measures of Amendment 8 is being delayed until January 1, 2000.

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 0648-0204 for § 660.512.

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**.

#### Changes to the Proposed Rule

NMFS has made a number of changes to the proposed rule. In section 660.502, the phrase "as used in this subpart" has been removed from the definitions for "owner" and "person." Also, a definition of "prohibited" "species" has been added for clarity. Section 660.505(f) has been revised to indicate that when fishing for CPS, it is unlawful for any individual to fail to return a prohibited species to the sea immediately with a minimum of harm. This section has also been revised to make it consistent with the language in section 660.511(e) regarding the immediate release of prohibited species. Section 660.506 has been revised to

indicate that the only gear authorized for use in the reduction fishery for northern anchovy off California is round haul nets that have a minimum wet-stretch mesh size of 10/16 of an inch (1.59 cm) excluding the bag portion of a purse seine. Also, the last sentence that discusses other gear used in the CPS fisheries has been deleted. Section 660.512(b) has been revised to indicate that a limited entry permit for a vessel will be issued only if that vessel landed 100 mt of CPS finfish from January 1, 1993, through November 5, 1999. Section 660.512(c) has been revised to indicate that a vessel owner applying for issuance, renewal, transfer, or registration of a limited entry permit must prove that the qualification requirements are met by submitting the specified documentation. Section 660.512(g) regarding the process for appealing the initial issuance of a permit has been revised to indicate that the Sustainable Fisheries Division issues the permit and not the Regional Administrator.

#### Classification

The Regional Administrator, Southwest Region, NMFS, determined that Amendment 8 is necessary for the conservation and management of the coastal pelagics fishery and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

The Council prepared an FSEIS for Amendment 8. A notice of availability for Amendment 8 was published on March 26, 1999 (64 FR 14720). Amendment 8 contains a framework management process that makes it possible for the Council to change and modify management procedures in a timely and efficient manner without amending the FMP. The framework management process will allow the Council to act quickly to address resource conservation and ecological issues. A limited entry program will control the expansion of fishing effort. The benefits of limited entry are primarily socioeconomic because limited entry prevents excess invested capital and reduces the likelihood of detrimental environmental effects, as open access fisheries tend to reduce efficiency and increase pressure on fishermen to overharvest fishery resources. Pacific sardine and Pacific mackerel are designated as actively managed, and are subject to species-specific controls. Allowable harvest is based on MSY and the importance of each species as forage for other fish, marine mammals, and birds. This approach is expected to minimize environmental impacts. Northern anchovy, jack mackerel, and market

squid are designated as monitored species. No current biomass estimates are determined for these monitored species, although a constant ABC for each species is based on the long-term yield of each species. This approach is expected to minimize environmental impacts. Although Northern anchovy and jack mackerel may be considered underutilized species, increasing the harvest of these species will only occur following additional review. Almost nothing is known about market squid. However, an aggressive research program is underway to define the status of the resource, develop a management program, and minimize any possible environmental impacts resulting from their harvest.

The Assistant Administrator for Fisheries, NOAA, for good cause, finds under 5 U.S.C. 553(d)(3), that a 30-day delay in effectiveness for those provisions of the final rule that authorize processing of applications for limited entry permits would be contrary to the public interest. Making these provisions effective as of the date of publication of this rule will ensure that applicants for limited entry permits have sufficient time to submit their applications and have them reviewed before the requirement to have permits onboard fishing vessels is enforced beginning on January 1, 2000.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration when this rule was proposed, that it would not have a significant economic impact on a substantial number of small entities. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not prepared.

This final rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The information collection for the limited entry permit application has been approved by OMB, under OMB control number 0648-0204 for Federal fishing permits. The public reporting burden for this requirement is estimated to be 30 minutes for a limited entry permit application, 30 minutes for requesting the transfer of a permit, and 2 hours to prepare a request for the appeal of a decision to deny a permit. The additional permit qualification documentation and burden of proof is estimated to take 1 hour per response. These estimates include the time for reviewing instructions, searching

existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The requirement to affix the official number of the vessel has been approved by OMB under OMB control number 0648-0361. The public reporting burden for this requirement is estimated to be 45 minutes to affix the official number of a vessel to its bow and weather deck. Send comments regarding these burden estimates or any other aspect of the data collection, including suggestions for reducing the burden, to NMFS (see ADDRESSES) and to OMB, Washington, DC 20503 (ATTN: NOAA Desk Officer).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

Informal consultations under the Endangered Species Act were both concluded with NMFS and the U.S. Fish and Wildlife Service on June 10, 1999. As a result of these informal consultations, the Regional Administrator determined that fishing activities conducted under this rule are not likely to adversely affect endangered or threatened species or critical habitat.

A second informal consultation was initiated with the Protected Resources Division, Southwest Region, regarding the effects of Amendment 8 on eight salmon and steelhead evolutionary significant units declared as threatened in March 1999. Included in the consultation were Coastal California Chinook and Central Valley Spring Chinook, which are pending listing as threatened. On September 2, 1999, a determination was received declaring that Amendment 8 would not likely adversely affect these listed species and those pending listing.

**List of Subjects**

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: December 7, 1999.

**Penelope D. Dalton,**  
Assistant Administrator for Fisheries,  
National Marine Fisheries Service.

For the reasons set out in the preamble, 15 CFR part 902, and 50 CFR part 660, are amended as follows:

**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, the table in paragraph (b) is amended by removing § 660.505 and its corresponding OMB number-0306 and by adding under 50 CFR the following entries in numerical order:

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

\* \* \* \* \*  
(b) \* \* \*

| CFR part or section where the information collection requirement is located | Current OMB control number (all numbers begin with 0648-) |
|---|---|
| 50 CFR:   |   |
| * * * * *   |   |
| 660.504   | -0361   |
| 660.512   | -0204   |
| * * * * *   |   |

**50 CFR CHAPTER VI**

**PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC**

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

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

**§ 660.302 [Amended]**

2. In § 660.302, under the definition of "Groundfish" and under the term "Roundfish," remove the text "jack mackerel (north of 39° N. lat.), *Trachurus symmetricus*."

3. In § 660.337, paragraph (a)(1) is revised to read as follows:

**§ 660.337 Limited entry permits—"designated species B" endorsement.**

(a) \* \* \*

(1) *General. Designated species* means Pacific whiting and shortbelly rockfish. Bycatch allowances in fisheries for these species will be established using the procedures specified for incidental

allowances in joint venture and foreign fisheries in the PCGFMP.

\* \* \* \* \*

4. Revise Subpart I to read as follows:

**Subpart I-Coastal Pelagics Fisheries**

Sec.

|         |                                     |
|---------|-------------------------------------|
| 660.501 | Purpose and scope.                  |
| 660.502 | Definitions.                        |
| 660.503 | Management subareas.                |
| 660.504 | Vessel identification.              |
| 660.505 | Prohibitions.                       |
| 660.506 | Gear restrictions.                  |
| 660.507 | Closed areas to reduction fishing.  |
| 660.508 | Annual specifications.              |
| 660.509 | Closure of directed fishery.        |
| 660.510 | Fishing seasons.                    |
| 660.511 | Catch restrictions.                 |
| 660.512 | Limited entry fishery.              |
| 660.513 | Permit conditions.                  |
| 660.514 | Transferability.                    |
| 660.515 | Renewal of limited entry permits.   |
| 660.516 | Exempted fishing.                   |
| 660.517 | Framework for revising regulations. |

Figure 1 to Subpart I—Existing California Area Closures

**Subpart I—Coastal Pelagics Fisheries**

**§ 660.501 Purpose and scope.**

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

**§ 660.502 Definitions.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*Person*, means any individual, corporation, partnership, association or other entity (whether or not organized or existing under the laws of any state), and any Federal, state, or local government, or any entity of any such government that is eligible to own a

documented vessel under the terms of 46 U.S.C. 12102(a).

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

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

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

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

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

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

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

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

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

#### § 660.503 Management subareas.

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

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

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

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

32°35'22" N. lat., 117°27'49" W. long.  
32°37'37" N. lat., 117°49'31" W. long.  
31°07'58" N. lat., 118°36'18" W. long.  
30°32'31" N. lat., 121°51'58" W. long.

(b) *Subarea A* means the EEZ

between:

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

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

48°30'11" N. lat. 124°47'13" W. long.  
48°30'22" N. lat. 124°50'21" W. long.  
48°30'14" N. lat. 124°54'52" W. long.  
48°29'57" N. lat. 124°59'14" W. long.  
48°29'44" N. lat. 125°00'06" W. long.  
48°28'09" N. lat. 125°05'47" W. long.  
48°27'10" N. lat. 125°08'25" W. long.  
48°26'47" N. lat. 125°09'12" W. long.  
48°20'16" N. lat. 125°22'48" W. long.  
48°18'22" N. lat. 125°29'58" W. long.  
48°11'05" N. lat. 125°53'48" W. long.  
47°49'15" N. lat. 126°40'57" W. long.  
47°36'47" N. lat. 127°11'58" W. long.  
47°22'00" N. lat. 127°41'23" W. long.  
46°42'05" N. lat. 128°51'56" W. long.  
46°31'47" N. lat. 129°07'39" W. long.;

and

(2) Southern boundary—at 35°40'00" N. lat. (Pt. Piedras Blancas).

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

(1) Northern boundary—35°40'00" N. lat. (Pt. Piedras Blancas); and  
(2) Southern boundary—the United States-Mexico International Boundary described in paragraph (a)(2) of this section.

#### § 660.504 Vessel identification.

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

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

#### § 660.505 Prohibitions.

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

(a) In the CPS Limited Entry Zone, take and retain, possess or land more than 5 mt of CPS finfish, other than live bait, on a harvesting vessel without a limited entry permit.

(b) In the CPS Limited Entry Zone, take and retain, possess or land more than 125 mt of CPS finfish on a harvesting vessel.

(c) Sell CPS without an applicable commercial state fishery license.

(d) Fish in the reduction fishery for CPS in any closed area specified in § 660.507.

(e) Fish in the reduction fishery for northern anchovy using gear not authorized under § 660.506.

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

(g) Falsify or fail to affix and maintain vessel markings as required by § 660.504.

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

(i) When a directed fishery has been closed, take and retain, possess, or land more than the incidental trip limit announced in the **Federal Register**.

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

(k) Falsify or fail to make and/or file any and all reports of fishing, landing, or any other activity involving CPS, containing all data, and in the exact manner, required by the applicable State law, as specified in § 660.3.

(l) Fail to carry aboard a vessel that vessel's limited entry permit issued under § 660.512 or exempted fishing permit issued under § 660.516.

(m) Make a false statement on an application for issuing, renewing, transferring, or replacing a limited entry permit for the CPS fishery.

#### § 660.506 Gear restrictions.

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

#### § 660.507 Closed areas to reduction fishing.

The following areas are closed to reduction fishing:

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

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

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

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

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

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

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

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

#### § 660.508 Annual specifications.

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

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

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

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

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

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

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

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

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

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

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

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

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

#### § 660.509 Closure of directed fishery.

When the directed fishery portion of the harvest guideline or quota is estimated to be taken, the Regional Administrator will announce in the **Federal Register** the date of closure of the directed fishery for CPS and the amount of the incidental trip limit that will be allowed.

#### § 660.510 Fishing seasons.

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

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

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

#### § 660.511 Catch restrictions.

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

(b) The trip limit for harvesting vessels fishing in the CPS Limited Entry

Zone for CPS other than live bait without a limited entry permit is 5 mt tons of all CPS finfish combined.

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

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

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

**§ 660.512 Limited entry fishery.**

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

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

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

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

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

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

(ii) A vessel that would have qualified for a limited entry permit was totally lost prior to issuance of a limited entry permit. In this case, the owner of the vessel at the time it was lost retains the right to a permit for a replacement vessel, unless the owner conveyed the right to another person by the express terms of a written contract. The lost vessel must be replaced within 2 years of the date that the qualifying vessel was lost, and the replaced vessel must be of equal or less net tonnage.

(c) *Documentation and burden of proof.* A vessel owner (or person holding limited entry rights under the

express terms of a written contract as specified in paragraph (a)(2)) of this section applying for issuance, renewal, transfer, or registration of a limited entry permit must prove that the qualification requirements are met by submitting the following documentation:

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

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

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

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

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

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

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

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

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

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

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

(4) Upon receipt of an incomplete or improperly executed application, the SFD will notify the applicant of the deficiency. If the applicant fails to

correct the deficiency within 30 days following the date of notification, the application will be considered void.

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

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

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

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

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

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

(5) The Regional Administrator may adopt the hearing officer's

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

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

**§ 660.513 Permit conditions.**

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

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

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

**§ 660.514 Transferability.**

(a) Upon application by the permit holder, the SFD will process applications for transferring limited entry permits according to this section.

(b) Before January 1, 2001, a limited entry permit may be transferred to a different owner and/or for use with a different vessel. The permit may be transferred only once. No transfer is effective until the permit has been

reissued and is in the possession of the new permit holder.

(c) After December 31, 2000, a permit may not be registered for use with a vessel other than the vessel for which it was registered on December 31, 2000, except as follows:

(1) The vessel to which the permit was registered on December 31, 2000 (the replaced vessel), is totally lost, stolen, or scrapped, such that it cannot be used in a federally regulated commercial fishery, and

(2) The replacement vessel to which the permit will be registered is of equal or less net tonnage than the replaced vessel, and

(3) The replaced vessel is owned by the permit holder.

(d) After December 31, 2000, a limited entry permit may not be transferred to a different owner.

**§ 660.515 Renewal of limited entry permits.**

(a) Each limited entry permit must be renewed by January 1 of even numbered years.

(b) The SFD will send notices to renew limited entry permits to the most recent address of the permit holder.

(c) The permit owner must provide SFD with notice of any address change within 15 days of the change.

(d) The permit holder must submit applications for renewal of a permit on forms available from the SFD.

(e) The permit owner is responsible for renewing a limited entry permit.

(f) An expired permit cannot be used to fish for CPS in the limited entry fishery.

**§ 660.516 Exempted fishing.**

(a) *General.* In the interest of developing an efficient and productive

fishery for CPS, the Regional Administrator may issue exempted fishing permits (EFP) for the harvest of CPS that otherwise would be prohibited.

(b) No exempted fishing for CPS may be conducted unless authorized by an EFP issued for the participating vessel in accordance with the criteria and procedures specified in § 600.745 of this chapter.

**§ 660.517 Framework for revising regulations.**

(a) *General.* NMFS will establish and adjust specifications and management measures in accordance with procedures and standards in Amendment 8 to the FMP.

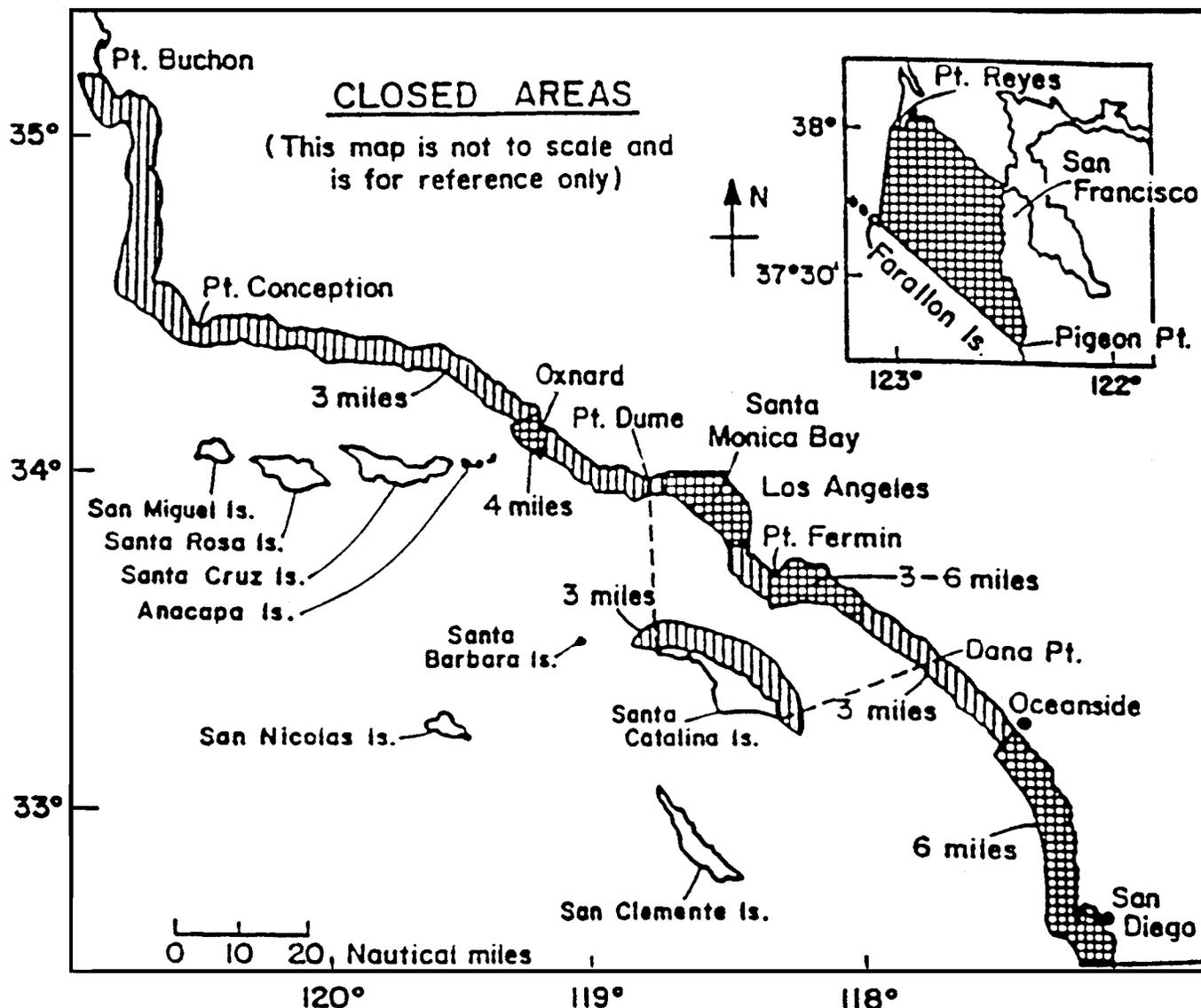
(b) *Annual actions.* Annual specifications are developed and implemented according to § 660.508.

(c) *Routine management measures.* Consistent with section 2.1 of Amendment 8 to the FMP, management measures designated as routine may be adjusted during the year after recommendation from the Council, approval by NMFS, and publication in the **Federal Register**.

(d) *Changes to the regulations.* Regulations under this subpart may be promulgated, removed, or revised. Any such action will be made according to the framework measures in section 2 of Amendment 8 to the FMP and will be published in the **Federal Register**.

Figure 1 to Part 660, Subpart I—Existing California Area Closures (hatched areas extend to 3 miles offshore; cross-hatched areas extend beyond 3 miles offshore) and optional Catalina Channel foreign vessel closure (outlined by dashed lines)

BILLING CODE 3510-22-F



[FR Doc. 99-32320 Filed 12-14-99; 8:45 am]  
 BILLING CODE 3510-22-C

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

**21 CFR Part 176**

[Docket No. 99F-1423]

**Indirect Food Additives: Paper and Paperboard Components**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of 4,5-dichloro-1,2-dithiol-3-one (also known as 4,5-dichloro-3H-

1,2-dithiol-3-one) as a slimicide in the manufacture of food-contact paper and paperboard. This action is in response to a petition filed by Yoshitomi Fine Chemicals, Ltd.

**DATES:** The regulation is effective December 15, 1999. Submit written objections and requests for a hearing by January 14, 2000.

**ADDRESSES:** Submit written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Mark A. Hepp, Center for Food Safety and Applied Nutrition (HFS-215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-418-3098.

**SUPPLEMENTARY INFORMATION:** In a notice published in the **Federal Register** of May 27, 1999 (64 FR 28825), FDA announced that a food additive petition

(FAP 9B4654) had been filed by Yoshitomi Fine Chemicals, Ltd., c/o SRS International Corp., suite 1000, 1625 K St. NW., Washington, DC 20006-1604. The petition proposed to amend the food additive regulations in § 176.300 *Slimicides* (21 CFR 176.300) to provide for the safe use of 4,5-dichloro-1,2-dithiol-3-one as a slimicide in the manufacture of food-contact paper and paperboard.

In its evaluation of the safety of this additive, FDA has reviewed the safety of the additive itself and the chemical impurities that may be present in the additive resulting from its manufacturing process. Although the additive itself has not been shown to cause cancer, it has been found to contain minute amounts of 1,2-dichloroethane and tetrachloroethylene, carcinogenic impurities resulting from the manufacture of the additive.