

- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed determination of attainment for the Lyons Area for the 2008 Pb NAAQS does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Lead, Reporting and recordkeeping requirements.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: July 25, 2014.

**William C. Early,**

*Acting, Regional Administrator, Region III.*

[FR Doc. 2014-18740 Filed 8-6-14; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 600

[Docket No. 130904784-4633-01]

RIN 0648-BD67

#### Fisheries Off West Coast States; List of Authorized Fisheries and Gear

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** Through this action, NOAA proposes to update the Federal list of authorized fisheries and gear issued under section 305(a) of the Magnuson-Stevens Fishery Conservation and Management Act (“List of Fisheries”). The List of Fisheries includes a description of fisheries that operate in the U.S. West Coast Exclusive Economic Zone (EEZ), the Pacific Fishery Management Council’s (Council’s) geographic area of authority. This action is necessary because the current list is outdated and either includes several fisheries that no longer occur, or does not include fisheries that do occur, within the U.S. West Coast EEZ. The intended effect of this rule is to bring the list up to date with current West Coast fisheries and fishery management plans (FMPs).

**DATES:** Comments on this proposed rule must be received on or before September 8, 2014.

**ADDRESSES:** You may submit comments on this document, identified by NOAA-NMFS-2014-0069, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov/](http://www.regulations.gov/) #!docketDetail;D=NOAA-NMFS-2014-0069, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to William W. Stelle, Jr., Regional Administrator, West Coast Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115-0070; Attn: Yvonne deReynier.

**Instructions:** Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Yvonne deReynier, 206-526-6129; (fax) 206-526-6736; [Yvonne.deReynier@noaa.gov](mailto:Yvonne.deReynier@noaa.gov). Joshua Lindsay, 562-980-4034; 562-980-4047; [Joshua.Lindsay@noaa.gov](mailto:Joshua.Lindsay@noaa.gov).

**SUPPLEMENTARY INFORMATION:** Section 305(a) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) requires that the Secretary of Commerce maintain a list of all fisheries operating in the U.S. EEZ and all fishing gear used in such fisheries (16 U.S.C. 1855(a)). This section of the MSA further prohibits any person or vessel from employing fishing gear or engaging in a fishery not included on the List of Fisheries “without giving 90 days advance written notice to the appropriate Council.” Fishery management councils are authorized to submit changes to the list to the Secretary of Commerce as each council deems appropriate, after which the Secretary must publish a revised list after providing notice of the changes to the public and after providing an opportunity for public comment on those changes (16 U.S.C. 1855(a)(4)). These requirements became part of the MSA with the enactment of the 1996 Sustainable Fisheries Act and are implemented in Federal regulation at 50 CFR 600.725(v) and § 600.747. The regional lists in 50 CFR 600.725(v) include not just fisheries that are managed under Federal fishery management plans (FMPs), but also state-managed fisheries that may occur within the Federal waters.

From 2010–2013, the Council and its advisory bodies worked on a new Fishery Ecosystem Plan (FEP), which the Council finalized in April 2013. During its FEP discussions, the Council reviewed all of the fisheries occurring within the West Coast EEZ and determined that it needed to closely review and update the List of Fisheries at 50 CFR 600.725(v), Section VI, which lists fisheries that occur within the U.S. West Coast EEZ. The Council has not updated its section of the list since 1999 (64 FR 40781, July 28, 1999). At its September 2013 meeting, the Council finalized recommendations to NMFS for updating its section of the List of Fisheries to ensure that it accurately reflects gear currently used in West Coast fisheries. On October 1, 2013, the Council transmitted its recommended revisions to the List of Fisheries to NMFS. With this notice, NMFS proposes to amend Federal regulations in accordance with the Council’s recommendations, with no additional changes or edits.

The changes to the List of Fisheries proposed via this action primarily reflect the Council’s 1997 conversion and expansion of the Northern Anchovy FMP to a Coastal Pelagic Species FMP and 2003 adoption of a Highly Migratory Species FMP, both of which shifted several species from state to

Federal management. Proposed revisions to the List of Fisheries would provide more accurate detail on the types of gears used in the listed fisheries, and would remove Pacific saury (*Cololabis saira*) from the list of species expected to be fished in the West Coast EEZ. There have been no commercial landings of Pacific saury since 1980. The proposed revisions to the List of Fisheries are not expected to exclude any currently operating fisheries. NMFS welcomes comments on the accuracy and currency of list revisions proposed by this action.

While reviewing and developing recommendations to revise the List of Fisheries for the U.S. West Coast EEZ, the Council necessarily took a close look at NMFS regulations explaining the entire MSA process at § 305(a). Of particular interest to the Council was the question of restricting new fisheries that could “compromise the effectiveness of conservation and management efforts under [the MSA]” (16 U.S.C. 1855(a)(5)). The Council expressed interest in continuing to allow for innovation in the development of new fisheries within the EEZ, yet also wanted to ensure that new fisheries could not compromise the Council’s ongoing fishery conservation and management efforts. To balance these interests, the Council outlined a process in the FEP Appendix for persons wishing to develop new fisheries to follow so that the Council would receive timely needed scientific information on those potential fisheries. That process, in the FEP’s Appendix at Section A.1.1, recommends that U.S. citizens wishing to initiate new fisheries not on the List of Fisheries should approach the Council with an application for an Exempted Fishing Permit (EFP) and a science plan for that EFP, describing the data to be collected by the EFP fishery and the likely analyses needed to assess the potential effects of converting the fishery to an FMP fishery. This EFP application process is similar to processes the Council uses to allow fisheries participants to explore new gear types and configurations within existing fisheries. In assessing whether a new fishery could compromise existing Council conservation and management efforts, the Council intends to look at the effects of the fishery on: Any Council-managed species; species that are the prey of any Council-managed species, marine mammal species, seabird species, sea turtle species, or other species listed under the Endangered Species Act (ESA); habitat identified as essential fish habitat or otherwise protected under one of the

Council’s FMPs, critical habitat identified or protected under the ESA, or habitat protected by state or tribal management programs; species subject to state or tribal management within 0–3 nautical miles offshore of Washington, Oregon, or California; or, species that migrate beyond the U.S. EEZ. The FEP Appendix and its EFP process provide an expression of the Council’s intent, but do not compel or bind the Council or the public beyond what is already required by the MSA and federal regulations. Therefore, this notice does not seek public comment on the FEP or its Appendix.

#### Classification

Pursuant to section 304(b)(1)(A) of the MSA, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the four PFMC FMPs, other provisions of the MSA, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

The MSA requires the Secretary of Commerce to maintain a list of all fisheries under the authority of each fishery management council and all fishing gear used in such fisheries (16 U.S.C. 1855(a)). The Magnuson-Stevens Act also prohibits the use of any gear or the participation in a fishery not on the List of Fisheries without advance notice to the appropriate fishery management council (see 50 CFR 600.725(v) and 600.747). Section VI of the List of Fisheries at 50 CFR 600.725(v) lists fisheries that occur within the U.S. West Coast EEZ, the Pacific Fishery Management Council’s (Council’s) geographic area of authority. The Council has not updated its section of the list since 1999 (64 FR 40781, July 28, 1999.)

This proposed rule would implement the Council’s recommendations that NMFS update its section of the List of Fisheries to properly represent current fisheries and gear authorized for use within the Council’s geographic area of authority. The intent of this action is to update the List of Fisheries, so that the Council could ensure that it would be notified if anyone were interested in pursuing a new fishery for a currently unexploited species. Under this action, the list would more narrowly describe

all existing fisheries; fisheries that no longer exist will be removed, but every fisherman fishing today would be covered by the list. In the future, any new fishery may commence after the fisherman gives the Council at least 90 days’ advance notice (unless NMFS undertakes a regulatory process to restrict the proposed fishery).

The Small Business Administration (SBA) has established size standards for all major industry sectors in the U.S. including commercial finfish harvesters (NAICS code 114111), commercial shellfish harvesters (NAICS code 114112), other commercial marine harvesters (NAICS code 114119), for-hire businesses (NAICS code 487210), marinas (NAICS code 713930), seafood dealers/wholesalers (NAICS code 424460), and seafood processors (NAICS code 311710). A business primarily involved in finfish harvesting is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$20.5 million for all its affiliated operations worldwide. For commercial shellfish harvesters, the other qualifiers apply and the receipts threshold is \$5.5 million. For other commercial marine harvesters, for-hire businesses, and marinas, the other qualifiers apply and the receipts threshold is \$7.5 million. A business primarily involved in seafood processing is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual employment not in excess of 500 employees for all its affiliated operations worldwide. For seafood dealers/wholesalers, the other qualifiers apply and the employment threshold is 100 employees.

No business, small or large, would be affected by this rule. The proposed action is not expected to have any direct or indirect socioeconomic impacts because it would not require fishery participants or fishing communities to alter how they operate in the fisheries, nor would it change who is permitted to participate in West Coast fisheries, nor would it alter available harvest levels for any West Coast species. Because no business would be affected by this rule, the issue of disproportionality, under which we consider whether the regulation would place a substantial number of small entities at a significant competitive disadvantage to larger entities, does not arise. Because the rule would not affect the profits, either positively or negatively, of any entity, the potential for the regulations to

reduce the profits of any small entities also does not arise.

A small organization is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. No nonprofit organization, small or large, is addressed or affected by this proposed rule. Small governmental jurisdictions are governments of cities, counties, towns, townships, villages, school districts, or special districts, with populations less than 50,000. This proposed rule does not address and would also not affect any small governmental jurisdictions.

This action is expected to have minor, if any, effects on regulated entities. All known fisheries are included on the updated List of Fisheries and NMFS does not know of any new fisheries that are likely to commence in the foreseeable future. Should a fisherman wish to start a new fishery in the future, the minor effects expected from this rule would be that the fisherman would be required by the MSA to notify the Council of his intent to begin fishing.

This action does not contain any reporting, record keeping, or any other compliance requirements for either small or large entities. No duplicative, overlapping, or conflicting federal rules have been identified.

Based on the disproportionality and profitability analysis above, this rule, if adopted, will not have a significant economic impact on a substantial number of these small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule was developed after meaningful collaboration, through the Council process, with the tribal representative on the Council. 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 does not supersede or otherwise affect exemptions that exist for Treaty Indian fisheries.

List of Subjects in 50 CFR Part 600

Administrative practice and procedure, Fisheries, Fishing vessels, Marine resources.

Dated: August 1, 2014.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons discussed in the preamble, 50 CFR part 600 is proposed to be amended as follows:

PART 600—MAGNUSON-STEVENS 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 § 600.725, in paragraph (v), Section VI of the table is revised to read as follows:

§ 600.725 General prohibitions.

\* \* \* \* \*

(v) \* \* \*

Fishery

Authorized gear types

\* \* \* \* \*

VI. Pacific Fishery Management Council

Table with 2 columns: Fishery and Authorized gear types. Rows include: 1. Pacific Coast Salmon Fisheries (FMP); 2. Pacific Coast Groundfish Fisheries (FMP); 3. Coastal Pelagic Species Fisheries (FMP); 4. Highly Migratory Species Fisheries (FMP); 5. Pacific Halibut Fisheries (Non-FMP); 6. Dungeness Crab Fisheries (Non-FMP); 7. Crab Fisheries for Species other than Dungeness crab (Non-FMP); 8. Shrimp and Prawn Fisheries (Non-FMP); 9. Hagfish Commercial Fisheries (Non-FMP).

Fishery	Authorized gear types
10. Squid, all spp. except market squid or not otherwise prohibited, and Octopus Fisheries (Non-FMP):	
A. Commercial .....	A. Hook and line, pot/trap, dip net, seine, trawl, set net, spear, hand harvest.
B. Recreational Squid North of 42° N. lat .....	B. Hook and line, cast net, dip net, hand harvest.
C. Recreational Octopus North of 42° N. lat .....	C. Hook and line, pot/trap, dip net, hand harvest.
D. Recreational South of 42° N. lat .....	D. Hook and line, dip net, hand harvest.
11. White Sturgeon Fisheries (Non-FMP):	
A. Commercial South of 46°15' N. lat. and North of 42° N. lat .....	A. Trawl, pot/trap, hook and line, seine, dip net, spear.
B. Recreational North of 42° N. lat .....	B. Hook and line.
C. Recreational South of 42° N. lat .....	C. Hook and line, spear.
12. Sea Cucumber Fishery (Non-FMP):	
A. Commercial hand harvest fishery South of 46°15' N. lat .....	A. Hand harvest.
B. Commercial trawl South of 42° N. lat .....	B. Trawl.
13. Minor Finfish Commercial Fisheries South of 46°15' N. lat. and North of 42° N. lat. for: Salmon shark, Pacific pomfret, slender sole, wolf-eel, eelpout species, Pacific sandfish, skilfish, and walleye pollock Fisheries (Non-FMP).	Trawl, pot/trap, hook and line, seine, dipnet, spear.
14. Weathervane Scallop Commercial Fishery South of 46°15' N. lat. and North of 42° N. lat. (Non-FMP).	Trawl.
15. California Halibut, White Seabass Commercial Fisheries South of 42° N. lat. (Non-FMP):	
A. California halibut trawl .....	A. Trawl.
B. California halibut and white seabass set net .....	B. Gillnet, trammel net.
C. California halibut hook and line .....	C. Hook and line.
D. White seabass hook and line .....	D. Hook and line.
16. California Barracuda, White Seabass, and Yellowtail Drift-Net Commercial Fishery South of 42° N. lat. (Non-FMP).	Gillnet.
17. Pacific Bonito Commercial Net Fishery South of 42° N. lat. (Non-FMP).	Purse seine.
18. Lobster Commercial Pot and Trap Fishery South of 42° N. lat. (Non-FMP).	Pot/trap.
19. Finfish and Invertebrate Fisheries Not Listed Above and Not Otherwise Prohibited (Non-FMP):	
A. Commercial South of 46°15' N. lat .....	A. Hook and line, pot/trap, spear.
B. Recreational .....	B. Hook and line, spear, pot/trap, dip net, cast net, hand harvest, rake, harpoon, bow and arrow.
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 [FR Doc. 2014-18677 Filed 8-6-14; 8:45 am]  
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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 635**

[Docket No. 110819516-4534-01]

RIN 0648-BB02

**Atlantic Highly Migratory Species; Smoothhound Shark and Atlantic Shark Management Measures**

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** This proposed rule to implement draft Amendment 9 to the 2006 Consolidated Highly Migratory Species (HMS) Fishery Management

Plan (FMP) considers management measures in the smoothhound and shark fisheries. In addition to the measures in draft Amendment 9, this rulemaking would establish an effective date for previously-adopted shark management measures finalized in Amendment 3 to the 2006 Consolidated HMS FMP (Amendment 3) and the 2011 HMS Trawl Rule that were delayed, and proposes to increase the smoothhound shark annual quota that was finalized in Amendment 3, using updated landings data. It also proposes to implement the smoothhound shark-specific requirements of the 2012 Shark Biological Opinion (BiOp), and considers modifying current regulations related to the use of Vessel Monitoring Systems (VMS) by Atlantic shark fishermen using gillnet gear. For purposes of this rulemaking, the term “smoothhound sharks” collectively refers to smooth dogfish (*Mustelus canis*), Florida smoothhound (*M. norrisi*), Gulf smoothhound (*M. sinusmexicanus*), small eye smoothhound (*M. higmani*), and any other *Mustelus* spp. that might be found

in U.S. waters of the Atlantic, Gulf of Mexico, and Caribbean, collectively. Finally, this action considers the implementation of the smooth dogfish-specific provisions in the Shark Conservation Act of 2010 (the “SCA”). The SCA requires that all sharks landed from federal waters in the United States be landed with their fins naturally attached to the carcass, but includes a limited exception for smooth dogfish. Throughout this document, the term “fins” includes both the tail and the fins of the shark. For the federal Atlantic shark fisheries, current HMS regulations require federally-permitted shark fishermen to land all sharks with fins naturally attached to the carcass. The SCA’s fins-attached requirement is being addressed nationwide through a separate ongoing rulemaking. Thus, regarding the SCA, this rulemaking addresses only the provision that allows fin removal at sea of Atlantic smooth dogfish.

**DATES:** Written comments must be received on or before November 14, 2014. NMFS will announce the dates