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Federal Communications Commission.
Marlene Dortch,
Secretary.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 230502–0118]

RIN 0648–BK09

Fisheries Off West Coast States; Highly Migratory Fisheries; Amendment 6 to the Fishery Management Plan for West Coast Fisheries for Highly Migratory Species; Authorization of Deep-Set Buoy Gear

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

ACTION: Final rule.

SUMMARY: This rule implements Amendment 6 to the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (HMS FMP), which authorizes deep-set buoy gear (DSBG) as a legal gear type for targeting swordfish and catching other highly migratory species (HMS) off the U.S. West Coast. The rule establishes a limited entry (LE) permitting regime for use of DSBG in the Southern California Bight (SCB). DSBG fishing will be permitted on an open-access basis outside of the SCB, in Federal waters off of California and Oregon, for all vessels possessing a general HMS permit with a DSBG endorsement. DSBG fishing will not be permitted in Federal waters off of Washington. This final rule includes definitions for two configurations of DSBG—standard and linked—and specifies the LE management area, permitting process, and requirements for use of the gear.

DATES: This rule is effective June 7, 2023.

ADDRESSES: Copies of the Regulatory Impact Review (RIR) and other supporting documents are available via the Federal eRulemaking Portal: <https://www.regulations.gov>, docket NOAA–NMFS–2022–0141, or contact Highly Migratory Species Branch Staff, Karter Harmon, Karter.Harmon@noaa.gov, or WCR.HMS@noaa.gov.

FOR FURTHER INFORMATION CONTACT: Amber Rhodes, NMFS, (202) 936–6162,

Amber.Rhodes@noaa.gov, or Karter Harmon, NMFS, (317) 517–7783, Karter.Harmon@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On January 9, 2023, NMFS published a notice of availability of Amendment 6 to the Fishery Management Plan for West Coast Highly Migratory Species Fisheries (HMS FMP), which would authorize fishing using deep-set buoy gear (DSBG) in Federal waters offshore of California and Oregon (88 FR 1171). A proposed rule with implementing regulations was published in the **Federal Register** on February 6, 2023 (88 FR 7661). Public comment on the proposed rule closed on March 8, 2023. Public comment on the Amendment closed on March 10, 2023. On April 7th, 2023, NMFS approved the amendment.

Following on NMFS' approval of Amendment 6, this final rule contains the implementing regulations to authorize DSBG consistent with the permitting regimes described in the amendment and the management measures described in the proposed rule. Additional management measures contained in 50 CFR part 300, subpart C (applicable to eastern Pacific tuna fisheries), and 50 CFR part 660, subpart K (applicable to all HMS fisheries off the West Coast States, which apply to fishing under HMS permits more broadly (*i.e.*, annual catch limits on HMS and monitoring provisions)), may also apply to DSBG fishing under the final rule.

Following submission of the proposed rule for publication, Congress passed, and the President signed, the Driftnet Modernization and Bycatch Reduction Act. The law revises the definition of “large-scale driftnet fishing” to include the drift gillnet (DGN) gear currently permitted under the HMS FMP. The law directs the Secretary of Commerce to phase out DGN fishing in Federal waters within 5 years of enactment and to implement a transition program to facilitate that phase-out that includes permitting of alternative fishing practices and issuance of grant awards to eligible permit holders.

The legislated closure of the DGN fishery affects the overall U.S. West Coast-based swordfish fishery. As discussed in the proposed rule, swordfish supply to the U.S. West Coast is dominated by foreign imports and drift gillnet has been the primary commercial gear type used to catch swordfish in Federal waters off the West Coast. Though the majority of domestic swordfish landings to the West Coast come from the Hawaii-based longline fishery, that fishery operates outside of

Federal waters off the West Coast due to existing restrictions on the use of longline gear inside Federal waters. This rule would authorize DSBG as an alternative commercial gear type under the FMP. However, the Council did not recommend that the drift gillnet fishery be phased-out or transitioned to alternative gear types prior to recommending authorization of DSBG. Therefore, the supporting analyses examine impacts of authorizing DSBG as an additional legal gear type for commercially harvesting swordfish from Federal waters off the U.S. West Coast; however, NOAA Fisheries does address the potential cumulative impacts of this action and the Federal legislation in a final Environmental Impact Statement (88 FR 13443, March 3, 2023).

Additional background information on DSBG, Council processes and recommendations, as well as detailed discussion of the regulations were provided in the preamble of the proposed rule and are not repeated here.

However, the points of contacts, included in the preamble of the proposed rule, for obtaining or addressing concerns with state and Federal records are updated as follows:

(1) NMFS—Karen Palmigiano (562–980–4043 or wcr-permits@noaa.gov) for WCR Observer Program, logbook, and EFP records.

(2) California—Elizabeth Hellmers (619–871–2231 or Elizabeth.Hellmers@wildlife.ca.gov) for California Department of Fish and Wildlife (CDFW) license, DGN buyback, and marine landing receipt records.

II. Final Regulations

This final rule authorizes DSBG as a legal gear type under the HMS FMP, and enables permitting of an open access fishery in Federal waters south of the Oregon-Washington border (46°16' N latitude) outside of the SCB, and a LE fishery in the SCB.

The new regulations in this rule revise the current definition in § 660.702 of “commercial fishing” to make a minor grammatical change, and of “commercial fishing gear,” to include DSBG. Several new definitions are also applicable to the rule.

This rule updates prohibitions listed in § 660.705 to require possession of a valid general HMS permit in order to deploy DSBG or have DSBG aboard a vessel, along with prohibitions on the use of DSBG inside the SCB without possession of a valid LE DSBG permit, prohibitions on the use of DSBG north of the Oregon-Washington border (46°16' N latitude), and other corresponding prohibitions.

This rule adds DSBG permitting procedures in § 660.707. These include LE DSBG permit possession, renewal, eligibility, and transfer requirements, and procedures related to ranking of LE DSBG applicants and issuance of permits to applicants. Applicants will be ranked in a one-time process along eight tiers, based on swordfish fishing experience as evidenced in state and Federal fisheries data. After the initial ranking and issuance of permits to qualifying applicants in these eight tiers, permits may be issued to additional qualifying applicants on a first-come, first-served basis.

Finally, this rule amends the section header and adds DSBG gear specifications and management measures in § 660.715. Specifications on the gear include standards for the buoy array of both standard and linked DSBG configurations, weights, hook size, and the number of individual pieces of gear used. Management measures include regulations on active tending, gear deployment and retrieval timing, use of multiple gears on a single trip, species retention, and fishery monitoring. Additional regulations include requirements for pre-trip notifications, protected species workshops, and a prohibition on linked DSBG operations shoreward of a line approximating the 400 meter depth contour (see § 660.715(d)(3)).

The preamble to the proposed rule (88 FR 7661) contains a more detailed explanation of the regulatory procedures for DSBG gear endorsements, the LE permitting process, gear specifications, management measures, and additional regulations. This information is not repeated here.

III. Public Comments and Responses

NMFS received three comments during the 30-day comment period on the proposed rule, which closed on March 8, 2023. One comment was from a DSBG Exempted Fishing Permit (EFP) fisherman, one was from an environmental non-governmental organization, and one was anonymous. All commenters were generally supportive of the action, though all raised suggestions and concerns with the proposed management measures. These issues and NMFS responses are described below.

Issue #1: A commenter raised a concern that some fishermen may cross over the Oregon/Washington border in order to fish in Washington State waters where DSBG is not authorized.

NMFS Response: NMFS included reference to 46°16' North latitude in the final regulations as a seaward line from the Oregon/Washington border. This

addresses the concern about DSBG fishing occurring in Washington waters by explicitly defining the line northward of which DSBG fishing may not occur.

Issue #2: A commenter raised a concern that the stipulation that DSBG “will not be permitted to be deployed until local sunrise and will be required to be onboard the vessel no later than 3 hours after local sunset” could result in fishermen being penalized for fighting a fish after the 3-hour cutoff time. Proposed solutions included requiring that any deployed gear be “attached” to the vessel after the 3-hour cutoff time but not necessarily “retrieved,” or to mandate that the gear must be retrieved unless there is a fish on the line.

NMFS Response: The requirement to retrieve DSBG gear after local sunset is consistent with Council recommendations. During Council deliberations, 3 hours was considered as a reasonable amount of flexibility for fighting fish after sunset. The large majority of data and analysis supporting this action comes from daytime DSBG fishing, and the intent of this action is to authorize a daytime fishery. This follows from the Council’s intent as well as the terms and conditions of DSBG EFPs issued to date. NMFS has been issuing separate EFPs for testing night-set DSBG for future consideration, and is concerned that adjustments to the management measure could be perceived as allowing nighttime fishing under this action. DSBG fishing as authorized in this final rule is intended as a daytime fishery, and 3 hours after local sunset should provide adequate operational flexibility in the event that a fish is hooked but not yet landed at sunset. NMFS will continue to consider and evaluate information derived from EFPs engaged in night-setting.

Issue #3: A commenter suggested NMFS should consider edits or corrections to the Background section of the rule, including a broader discussion of swordfish gear types taking into account restrictions on longlining and recent legislation impacting the future use of DGN in Federal waters off the U.S. West Coast with respect to a reliance on imports and the need to balance fishing opportunity with bycatch mitigation, a revised description of DSBG from “a hook and buoy system” to “a hook and line gear that utilizes a system of buoys,” a different method of calculating average DSBG swordfish catch, and not using quotations to describe standard and linked gear configurations.

NMFS Response: Some discussion of these points is included in the

Background section of this final rule. In particular, we address the passage of the Federal law to sunset the DGN fishery with respect to this action and the broader context of the U.S. West Coast swordfish fishery. “Hook and buoy system” is our preferred terminology for describing DSBG in the abstract, in part to avoid confusion with “hook and line gear,” which is currently defined in Federal regulations. Regarding the dataset used to calculate average swordfish catch, this calculation is based only on days when DSBG was fished and the average presented does not include inactive EFPs. Finally, the use of quotations or lack thereof to describe standard and linked configurations does not alter the meaning of these terms.

Issue #4: A commenter pointed out that in the section on vessel registration, a definition is provided for a ‘family member’ in the event of a one-time allowable transfer. The definition outlined is the same as that used for ‘immediate family member’ in the California Labor code. The commenter suggested NMFS may want to consider revising for consistency.

NMFS Response: The definition of “family member” introduced in the regulations includes a detailed description of the specific relations who qualify. The provided definition is unambiguous about who can or cannot be the recipient of a one-time transfer. Additionally, the definition established in the regulations only applies for the purposes of change in ownership of limited entry DSBG permits. Therefore, we find that no change is needed.

Issue #5: A commenter suggested NMFS should clarify language around its ability to charge fees for permits to “fully or partially” cover administrative costs (the current language simply says “to cover administrative costs”).

NMFS Response: We find that the current language is already inclusive of fully or partially covering administrative costs through the permit fees.

Issue #6: A commenter stated that NMFS should make it clear that participants can fish a combination of standard and linked buoy gear on a single trip, and clarify the explanatory language on this point.

NMFS Response: We agree with the commenters’ interpretation that a combination of standard and linked buoy gear can be fished so long as no more than 10 pieces total are fished. However, NMFS views the current regulations as not precluding a combination of standard and linked buoy gear, so we find no change to the regulations are needed.

Issue #7: A commenter encouraged NMFS to ensure that monitoring resources (e.g., observers) are apportioned in accordance with the expected impact of various fisheries, and explore the use of electronic monitoring for the DSBG fleet.

NMFS Response: Observer coverage requirements are established under the general HMS permit, and this final rule does not create any new or additional observer coverage requirements for DSBG vessels. NMFS maintains discretion to place observers based on operational needs and available resources. Nothing in the regulations precludes testing of electronic monitoring aboard DSBG vessels.

NMFS also received three comments during the 45-day comment period on the draft Amendment language, which closed on March 10, 2023. One comment was from an albacore fisherman, and two were from environmental non-governmental organizations. All comments expressed support for the Amendment. One commenter expressed particular support for the open access component of the proposed DSBG permitting regime. No commenters on the Amendment requested changes to the rule.

IV. Changes From the Proposed Rule

The regulatory text of this final rule includes minor changes from the proposed rule. These changes, which are discussed below, are intended to make minor corrections and clarify the regulatory text; NMFS does not consider these substantive changes.

NMFS has elected to change the beginning date of the application period for LE DSBG permits from the publication date of the final rule to the effective date. In § 660.707(g)(11)(ii), the beginning date of the application period is now clarified as the effective date of the final rule. Also, in § 660.707(g)(11)(ii), (g)(11)(iii)(C) introductory text, and (g)(11)(v), the end date of the application period was changed from 60 days after final rule publication in the **Federal Register** to 60 days after the effective date of the final rule. This change allows an additional 30 days of preparation and data review before the one-time ranking of applicants occurs, and provides the fishermen with additional notice of the rule and application process before the application period begins. This will also change the date on which NMFS will “freeze” the databases used to rank LE DSBG permit applicants, which we describe in the preamble of the proposed rule. NMFS now intends to extract a dataset from NMFS and CDFW databases 60 days after the effective date

of the final rule, and use that dataset for the Tier 1–8 qualification for LE DSBG permits. This change is also intended to allow sufficient time for stakeholders to access LE permit applications following on the effectiveness of record keeping and reporting requirements pursuant to the Paperwork Reduction Act.

NMFS added clarification in the regulatory text that “a line extending seaward of the Oregon/Washington border” is at 46°16' N latitude. NMFS also added clarification to the regulatory text at § 660.715(b)(1)(ii) regarding gear marking requirements.

Additionally, the table describing the points used to define a generalized boundary for a 400 meter depth contour in § 660.715(d), shoreward of which fishing with linked buoy gear (LBG) is prohibited, has been updated with a column to denote the sequence of points. Some of the points were listed out of sequence in the proposed rule and have been corrected in this final rule. Shapefiles will be made available on the NMFS website at: <https://www.fisheries.noaa.gov/action/regulations-authorize-deep-set-buoy-gear-under-fishery-management-plan-us-west-coast>. NMFS also added clarification in the regulatory text that the southern boundary of the 400 meter depth contour is a line extending seaward at 34°16'8.331" N latitude.

V. Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), the NMFS Assistant Administrator has determined that this final rule is consistent with the HMS FMP, Amendment 6 to the HMS FMP, the MSA, and other applicable laws. In making the final determination, NMFS considered the data, views, and comments received during the public comment period on the proposed rule.

NMFS prepared a Final Environmental Impact Statement (FEIS) for this action, which addresses the requirements of the National Environmental Policy Act. The FEIS, which describes the full suite of alternatives analyzed by the Council and NMFS, can be found on the NMFS website at: <https://www.fisheries.noaa.gov/bulletin/final-eis-available-public-review-proposed-amendment-6-fishery-management-plan-west>.

This 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 during

the proposed rule stage that, for purposes of the Regulatory Flexibility Act, this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No information received during the public comment period on the proposed rule changes the action from the proposed rule, nor does it change NMFS' analysis of the action described in the proposed rule. Therefore, the initial certification published with the proposed rule—that this rule is not expected to have a significant economic impact on a substantial number of small entities—remains unchanged. As a result, a regulatory flexibility analysis was not required and none was prepared.

This final rule contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This final rule revises the existing requirements for three collections of information associated with the following OMB Control Numbers: (1) 0648–0204, (2) 0648–0223, and (3) 0648–0498. Collection of information 0648–0204 is being revised to include the addition of a DSBG endorsement to the Open Access HMS Permit, as well the addition of a separate and entirely new LE DSBG permit for the commercial fishery, which will increase the number of respondents for this collection. Public reporting burden for the Open Access HMS permit is not anticipated to increase. Public reporting burden for the initial Federal LE DSBG application is estimated to average 30 minutes per respondent. There is a requirement to report Ownership Interest Information for applicants seeking a permit as an entity, business, or corporation, which is estimated to average 10 minutes per respondent. Federal LE DSBG renewals are also estimated to average 10 minutes per respondent, and transfers are estimated to average 30 minutes per respondent. Collection of information 0648–0223 is being revised to add a Federal LE DSBG logbook for the commercial fishery. This change is not anticipated to impact the number of respondents nor the costs of this collection. Collection of information 0648–0498 is being revised to add a pre-trip notification for vessels fishing with DSBG when requested by NMFS, increasing the total number of anticipated respondents. Public reporting burden for pre-trip notifications is estimated to average 5 minutes per respondent. The estimated

total number of respondents for this collection is 95; the estimated total annual burden hours are 191 hours; and the estimated total annual cost to the public for recordkeeping and reporting costs is \$105,808.

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.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Indians—lands, Recreation and recreation areas, Reporting and record keeping requirements, Treaties.

Dated: May 2, 2023.

Samuel D. Rauch, III

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

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

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

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 773 *et seq.*, and 16 U.S.C. 7001 *et seq.*

Subpart K—Highly Migratory Species Fisheries

- 2. In § 660.702:

- a. Add the definition for “Change in ownership” in alphabetical order;
- b. Revise the definitions for “Commercial fishing” and “Commercial fishing gear”; and
- c. Add the definitions for “Family member”, “Force majeure”, “Initial administrative determination (IAD)”, “Ownership interest”, and “Totally lost” in alphabetical order.

The additions and revisions read as follows:

§ 660.702 Definitions.

* * * * *

Change in ownership means the addition of a new shareholder or partner to the membership of the corporation, partnership, or other entity. A change in ownership is not considered to have occurred if a member dies or becomes legally incapacitated and a trustee is appointed to act on their behalf, nor if the ownership of shares among existing members changes, nor if a member leaves the corporation or partnership or other entity and is not replaced. A change in ownership is not considered

to have occurred if only the name of the entity changes.

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Commercial fishing means:

(1) Fishing by a person who possesses a commercial fishing license or is required by law to possess such license issued by one of the states or the Federal Government as a prerequisite to taking, retaining, possessing, landing and/or selling of fish; or

(2) Fishing that results in or can be reasonably expected to result in sale, barter, trade, or other disposition of fish for other than personal consumption.

Commercial fishing gear includes the following types of gear and equipment used in the highly migratory species fisheries:

(1) *Deep-set buoy gear.* Line fishing gear which consists of vertical mainlines suspended from a buoy array, with gangions with hooks attached to either a vertical line or a horizontal line connected to the terminal ends of two vertical lines. All configurations must be set at or below a minimum depth and actively tended;

(2) *Drift gillnet.* A panel of netting, 14 inch (35.5 cm) stretched mesh or greater, suspended vertically in the water by floats along the top and weights along the bottom. A drift gillnet is not stationary or anchored to the bottom;

(3) *Harpoon.* Gear consisting of a pointed dart or iron attached to the end of a pole or stick that is propelled only by hand and not by mechanical means;

(4) *Pelagic longline.* A main line that is suspended horizontally in the water column and not stationary or anchored, and from which dropper lines with hooks (gangions) are attached. Legal longline gear also includes basket-style longline gear;

(5) *Purse seine.* An encircling net that may be closed by a purse line threaded through the bottom of the net. Purse seine gear includes ring net, drum purse seine, and lampara nets; and

(6) *Surface hook-and-line.* Fishing gear, other than longline gear, with one or more hooks attached to one or more lines (includes troll, rod and reel, handline, albacore jig, live bait, and bait boat). Surface hook and line is always attached to the vessel.

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Family member for the purposes of change in ownership of limited entry deep-set buoy gear permits means spouse, domestic partner, cohabitant, child, stepchild, grandchild, parent, stepparent, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent, great-grandparent, brother, sister, half-brother, half-sister,

stepsibling, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, or first cousin.

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Force majeure means an event of extraordinary circumstances including the death of a vessel owner or operator, or when a designated vessel at sea (except while transiting between ports on a trip during which no fishing operations occur) is disabled by mechanical or structure failure, fire, or explosion, or the designated vessel is totally lost.

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Initial administrative determination (IAD) means a formal, written determination made by National Marine Fisheries Service (NMFS) on an application or permit request that is subject to an appeal within NMFS.

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Ownership interest means participation in ownership of a corporation, partnership, or other entity that owns a limited entry deep-set buoy gear permit.

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Totally lost means the vessel being replaced no longer exists in specie, or is absolutely and irretrievably sunk, or the costs of repair (including recovery) will exceed the value of the vessel after repairs.

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- 3. In § 660.705, add paragraphs (vv) through (bbb) to read as follows:

§ 660.705 Prohibitions.

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(vv) Deploy or have onboard a vessel, deep-set buoy gear (DSBG) in contravention of gear configuration specifications described at § 660.715(a) and (b).

(ww) Own or operate a vessel used to fish with DSBG in contravention of operational requirements specified at § 660.715(c)(1) and (2).

(xx) When required under § 660.715(c)(3), fail to notify NMFS or the NMFS-designated observer provider at least 48 hours prior to departure on a fishing trip during which DSBG is deployed.

(yy) Own or operate a vessel that is engaged in DSBG fishing without record of the operator's participation in a protected species workshop as required under § 660.715(c)(4).

(zz) Own or operate a vessel used to fish with DSBG in Federal waters north of a line extending seaward of the Oregon/Washington border at 46°16' N latitude.

(aaa) Own or operate a vessel used to fish with DSBG in the Southern California Bight (as defined at

§ 660.715(d)(2)) while not in possession of a valid DSBG limited entry permit.

(bbb) Own or operate a vessel used to fish a linked configuration of DSBG shoreward of a line approximating the 400 meter depth contour (according to coordinates specified at § 660.715(d)(3)) in waters between a line extending seaward at 34°16'8.331" N latitude and a line extending seaward from the Oregon/Washington border at 46°16' N latitude.

■ 4. In § 660.707, revise paragraph (b)(3)(i) and add paragraph (g) to read as follows:

§ 660.707 Permits.

* * * * *

(b) * * *

(3) * * *

(i) A West Coast Region Federal Fisheries application form may be obtained from the West Coast Region Fisheries Permits Office or downloaded from the West Coast Region website to apply for a permit under this section. A completed application is one that contains all the necessary information, and required fees, documentation, and signatures.

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(g) *Limited entry deep-set buoy gear (DSBG) permit*—(1) *General*. This paragraph (g) applies to persons (as defined at § 660.702) owning a limited entry permit to fish with DSBG (as defined at § 660.702) inside the Southern California Bight (as defined at § 660.715(d)(2)) and to vessels registered to such permits. For a vessel to be used to fish with DSBG in the Southern California Bight, that vessel must be registered for use with a limited entry DSBG permit.

(2) *Basic requirements*. Limited entry DSBG permits are issued to a person, and a vessel must be specified on the permit.

(i) *Persons*. Any “person” as defined at § 660.702 may own a limited entry DSBG permit, subject to the ownership requirements and limitations at paragraph (g)(3) of this section.

(ii) *Vessels*. A vessel registered to a limited entry DSBG permit must also be registered to a valid general HMS permit with a DSBG endorsement issued pursuant to paragraphs (a) and (b) of this section. The designated vessel need not be owned by the limited entry DSBG permit owner. The same vessel may be registered to multiple limited entry DSBG permits, but only one permit may be fished at a time.

(3) *Ownership requirements and limitations*—(i) *Limitation on permit ownership*. No person may own more than one limited entry DSBG permit, in

whole or in part, including through ownership interest in a partnership, corporation, or other entity.

(ii) *DSBG identification of ownership interest form*. Any person that owns a limited entry DSBG permit and that is applying for or renewing a limited entry DSBG permit shall document those persons that have an ownership interest in the limited entry DSBG permit. This ownership interest must be documented with NMFS via the DSBG Identification of Ownership Interest Form.

(iii) *Transferability*. Limited entry DSBG permits are not transferable, except for a one-time transfer to a family member, as defined at § 660.702, upon the death or legal incapacitation of the individual or a member of the corporation, partnership, or other entity that owns the permit, following the procedures at paragraph (g)(7) of this section. The limited entry DSBG permit owner cannot change or add additional individuals or entities as owners of the permit, or otherwise change ownership of the permit as defined at § 660.702. A transfer may not occur if such a transfer will result in a person holding more than one limited entry DSBG permit as described in paragraph (g)(3)(i) of this section.

(iv) *Divestiture, surrender, and revocation*. If NMFS discovers that a person owns or has an ownership interest in more than one limited entry DSBG permit (including any person who has ownership interest in the entities listed as owners on the permit), NMFS will notify the permit owner that they have 90 days to divest of the excess ownership interest. During this 90-day period, the person may surrender permit(s) in excess of the permit ownership limit to NMFS by submitting a request in writing. After the 90-day divestiture period, NMFS will revoke all limited entry DSBG permits held by that person in excess of the permit ownership limit. Surrendered and revoked permits, with vessel status as “unidentified,” will be issued to the next eligible applicant following the procedures at paragraphs (g)(11) and (12) of this section.

(4) *Renewal*. Limited entry DSBG permits are valid for 1 year (May 1–April 30). Permits expire April 30 of each year and must be renewed between February 1 and March 31 of each year to remain in force the following permit year.

(i) *Renewal notices*. NMFS will send notices to renew limited entry DSBG permits to the permit owner's most recent email address on record with NMFS. The permit owner is responsible for notifying the Fisheries Permits Office of any email address change.

(ii) *Renewal packages*. A complete limited entry DSBG permit renewal package must be received by NMFS by March 31 of each year. If a complete renewal package is not received by March 31, NMFS will not renew the limited entry DSBG permit, except under the circumstances described in paragraph (g)(4)(iii) of this section. A complete renewal package consists of a completed renewal application form, a completed DSBG Identification of Ownership Interest Form as required under paragraph (g)(3)(ii) of this section, and payment of required fees. NMFS may require additional documentation as it deems necessary to make a determination on the application. The renewal package will be considered incomplete until the required information is submitted. NMFS will decline to act on an incomplete application.

(iii) *Forfeited permits*. A limited entry DSBG permit for which renewal is not requested will be considered expired unless the permit owner requests reissuance of the permit by June 30 (3 months after the renewal application deadline) and NMFS determines that failure to renew was proximately caused by illness, injury, or death of the permit owner. If a permit is allowed to expire, it will be forfeited and NMFS may reissue the permit to another qualified applicant following the procedures at paragraphs (g)(11) and (12) of this section.

(iv) *Renewal determinations*. Based on a complete application for renewal of a limited entry DSBG permit, if NMFS determines that the applicant has met the requirements of this section and is in compliance with any other applicable regulations, NMFS will approve the renewal and issue the permit. If the application is not approved, NMFS will issue an initial administrative decision (IAD) that will explain the denial in writing. The applicant may appeal NMFS' determination following the process at paragraph (b)(3)(iv) of this section.

(5) *Permit replacement*. Replacement permits may be issued without charge to replace lost or mutilated permits. Replacement permits may be obtained by submitting a complete permit replacement application to NMFS. An application for a replacement permit is not considered a new application. Any permit that has been altered, erased, or mutilated is invalid.

(6) *Change in vessel registration*. Limited entry DSBG permits will normally be registered for use with a particular vessel at the time the permit is issued, renewed, or replaced. A permit may not be used with any vessel

other than the vessel registered for use with that permit. If the permit will be used with a vessel other than the one registered for use with the permit, the permit owner must request a change in vessel registration in accordance with paragraphs (g)(6)(ii) through (iv) of this section.

(i) *Limits on changes in vessel registration.* The registered vessel may be changed no more than once per calendar year, except in cases of a *force majeure* event as defined at § 660.702. A permit owner may also designate the vessel registration for a permit as “unidentified,” meaning that no vessel has been identified as registered for use with that permit. Changing a permit’s designated vessel to “unidentified” is not considered a change in vessel registration for purposes of this section, but the permit is not authorized for use until a subsequent change of registration out of “unidentified” status occurs. Any subsequent change in registration out of “unidentified” status to a vessel will be considered a change in vessel registration and subject to a once-per-calendar-year limit.

(ii) *Request for change in vessel registration.* To request a change in vessel registration, a permit owner must fill out a vessel transfer application online through the NOAA Fisheries Permits website with appropriate fields completed and must submit the application to the West Coast Region Fisheries Permits Office. A complete change in vessel registration package consists of a transfer application form with appropriate fields completed, a current copy of the United States Coast Guard Documentation Form or state registration form, and payment of required fees. NMFS may require additional documentation as it deems necessary to make a determination on the application. The change in vessel registration package will be considered incomplete until the required information is submitted. NMFS will decline to act on an incomplete application. A permit owner may designate the vessel registration for a permit as “unidentified,” meaning that no vessel has been identified as registered for use with that permit. No vessel is authorized to use a permit with the vessel registration designated as “unidentified.”

(iii) *Agency determination on an application.* Based on a complete application for a change in vessel registration, if NMFS determines that the applicant has met the requirements of this section, NMFS will approve the change in vessel registration and issue the permit. Changes in vessel registration will take effect on the date

that the change is approved by NMFS. If the application for a change in vessel registration is not approved, NMFS will issue an initial administrative determination that will explain the denial in writing. The applicant may appeal NMFS’ determination following the process at paragraph (b)(3)(iv) of this section.

(7) *Permit ownership transfer—(i) Request for change in permit ownership.* A permit owner may request change in ownership of a permit, in compliance with the limits at paragraph (g)(3) of this section, by submitting a complete transfer application package with appropriate fields completed to NMFS. A complete transfer application package consists of all of the following:

(A) A transfer application form with appropriate fields completed;

(B) For a request to change a permit’s ownership where the current permit owner is a corporation, partnership or other business entity, a corporate resolution that authorizes the conveyance of the permit to a new owner and authorizes the individual applicant to request the conveyance on behalf of the corporation, partnership, or other business entity;

(C) For a request to change a permit’s ownership that is necessitated by the death of the permit owner(s), a death certificate of the permit owner(s) and appropriate legal documentation that either: Specifically registers the permit to a designated individual(s); or provides legal authority to the transferor to convey the permit ownership; and

(D) Payment of required fees.

(ii) *Incomplete application.* NMFS may require additional documentation as it deems necessary to make a determination on the application for change in ownership. The renewal package will be considered incomplete until the required information is submitted. NMFS will decline to act on an incomplete application.

(iii) *Agency determination on an application.* Based on a complete application for change in ownership, if NMFS determines that the applicant has met the requirements of this section, NMFS will approve the change in ownership and issue the permit. Changes in permit ownership will take effect on the date that the change is approved by NMFS. If the application is not approved, NMFS will issue an initial administrative decision (IAD) that will explain the denial in writing. The applicant may appeal NMFS’ determination following the process at paragraph (b)(3)(iv) of this section.

(8) *Fees.* The Regional Administrator may charge fees to cover administrative expenses related to processing initial

issuance, renewal, change in ownership, change in vessel registration, divestiture, and appeals of permits. The amount of the fee is determined in accordance with the procedures of the NOAA Finance Handbook for determining administrative costs. A fee may not exceed administrative costs and is specified with each application form. The appropriate fee must accompany each application.

(9) *Sanctions.* NMFS may decline to act on an application for initial issuance, renewal, replacement, change in ownership, divestiture, or change in vessel registration, 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.

(10) *Appeals.* In cases where the applicant disagrees with NMFS’ decision on a permit application for initial issuance, renewal, replacement, change in ownership, divestiture, or change in vessel registration, the applicant may file an appeal following the procedures described at paragraph (b)(3)(iv) of this section.

(11) *Initial issuance for Tiers 1 through 8.* This section describes the process for initial issuance of limited entry DSBG permits to applicants that qualify under Tiers 1 through 8 as defined at paragraphs (g)(11)(iii)(C)(1) through (8) of this section.

(i) *Exempted fishing permit (EFP) holder.* For purposes of paragraph (g)(11) of this section only, *exempted fishing permit (EFP) holder* means any individual with NMFS approval to captain a commercial vessel and use DSBG under the authority of a DSBG EFP or any individual who is identified by NMFS as having managed a DSBG EFP, including vessel owners whose vessel fished under the authority of a DSBG EFP.

(ii) *Initial applications.* Persons may apply for a limited entry DSBG permit by completing and submitting an initial issuance application package to NMFS, beginning on June 7, 2023. The completed application package must be submitted on the National Permit System website, or by another method approved by NMFS, no later than 11:59 p.m. on August 7, 2023. If an applicant fails to submit a completed application by the deadline date, they forgo the opportunity to receive a limited entry DSBG permit under Tiers 1 through 8 and their permit will be issued to the next eligible applicant following the procedures at paragraphs (g)(11) and (12) of this section. A complete initial issuance application package consists of the following: a completed initial

issuance application form; a completed DSBG Identification of Ownership Interest Form, as required under paragraph (g)(3)(ii) of this section; a current copy of the United States Coast Guard Documentation Form or state registration form for the vessel that will be registered to the permit; and payment of required fees. NMFS may require additional documentation as it deems necessary to make a determination on the application. The initial issuance application package will be considered incomplete until the required information is submitted. NMFS will decline to act on an incomplete application.

(iii) *Eligibility criteria for Tiers 1 through 8.* To qualify for a permit under Tiers 1 through 8, as defined at paragraphs (g)(11)(iii)(C)(1) through (8) of this section, an applicant must meet all of the following criteria:

(A) The applicant is eligible to own a limited entry DSBG permit in accordance with paragraph (g)(2)(i) of this section;

(B) The applicant is in compliance with the ownership requirements and limitations of paragraph (g)(3) of this section. Applicants found to have qualified for more than one permit will be notified by NMFS in writing and will have 30 days to divest of the excess permit ownership interest and resubmit their application package; and

(C) The applicant meets the criteria of one of the qualification tiers in paragraphs (g)(11)(iii)(C)(1) through (8) of this section based on data as of August 7, 2023. Permits will be issued by ranking applicants according to the tiered criteria in paragraphs (g)(11)(iii)(C)(1) through (8) of this section, beginning with Tier 1 and ending with Tier 8. NMFS will qualify applicants that meet the criteria of multiple tiers based on their highest tier, with Tier 1 being the highest, Tier 2 the second highest, and so on.

(1) Tier 1 consists of EFP holders with at least 10 documented calendar days of DSBG fishing effort by December 31, 2018, based on NMFS West Coast Region Observer Program records indicating either that the EFP holder was the vessel captain for that fishing day or that fishing effort for that day was conducted on a vessel owned by or under the EFP managed by that individual.

(2) Tier 2 consists of California Limited Entry Drift Gill Net (DGN) Shark and Swordfish permit holders who made at least one large-mesh DGN swordfish landing between the 2013–2014 and 2017–2018 fishing seasons and surrendered their state or Federal limited entry DGN permit as part of a

DGN permit trade-in or buy-back program, based on California Department of Fish and Wildlife (CDFW) marine landing receipt and buyback records and NMFS and CDFW permit information.

(3) Tier 3 consists of EFP holders approved by the Pacific Fishery Management Council prior to April 1, 2021, who conducted at least 10 calendar days of DSBG fishing effort or with 10 days of DSBG effort on their vessel or by vessels they manage under the EFP by June 7, 2023, based on a NMFS West Coast Regional Observer Program record or a properly submitted NMFS DSBG EFP logbook indicating either that the EFP holder was vessel captain for that fishing day or that the fishing effort for that day was conducted on a vessel owned by or under the EFP managed by that individual.

(4) Tier 4 consists of California Swordfish permit holders who possessed a permit during the 2018–2019 fishing season and made at least one swordfish landing using harpoon gear between the 2013–2014 or 2017–2018 fishing seasons, based on California Department of Fish and Wildlife (CDFW) permit and marine landing receipt records.

(5) Tier 5 consists of California Limited Entry Drift Gill Net (DGN) Shark and Swordfish permit holders who have made at least one large-mesh DGN swordfish landing between the 2013–2014 and 2017–2018 fishing seasons and who did not surrender their state or Federal limited entry DGN permit as part of a trade-in or buy-back program, based on California Department of Fish and Wildlife (CDFW) marine landing receipts and buyback records and NMFS and CDFW permit information.

(6) Tier 6 consists of California Limited Entry Drift Gill Net (DGN) Shark and Swordfish permit holders who have not made a swordfish landing with large-mesh DGN gear since March 31, 2013, and who surrendered their state or Federal limited entry DGN permit as part of a permit trade-in or buy-back program, based on California Department of Fish and Wildlife (CDFW) marine landing receipts and buyback records and NMFS and CDFW permit information.

(7) Tier 7 consists of state or Federal limited entry drift gillnet (DGN) permit holders who have not made a swordfish landing with DGN gear since March 31, 2013, and did not surrender their limited entry DGN permit as part of a state or Federal limited entry DGN permit trade-in or buy-back program, based on California Department of Fish and Wildlife (CDFW) marine landing

receipts and buyback records and NMFS and CDFW permit information.

(8) Tier 8 consists of any individual with documented commercial swordfish fishing experience between January 1, 1986, and June 7, 2023, on a first come, first served basis, based on California Department of Fish and Wildlife (CDFW) permit records showing possession of a valid commercial fishing license on that date and one of the following:

(i) A valid CDFW marine landing receipt identifying the individual as the fisherman of record;

(ii) A valid state or Federal logbook where swordfish were taken and identifying the individual as captain or crew on that day; and

(iii) A signed affidavit from a vessel owner or captain identifying the individual as vessel captain or crew on the day that swordfish were taken.

(iv) *Agency determination on an application.* Based on a complete application for an initial permit under Tiers 1 through 8, as defined at paragraphs (g)(11)(iii)(C)(1) through (8) of this section, if NMFS determines that the applicant has met the requirements of this section, NMFS will issue an initial administrative determination (IAD). If the application is approved, the applicant will receive a permit according to the permit issuance procedures in paragraph (g)(11)(v) of this section. If the application is denied, the IAD will provide an explanation of the denial in writing. The applicant may appeal NMFS' determination following the process at paragraph (b)(3)(iv) of this section.

(v) *Permit issuance.* NMFS will issue permits to approved applicants in priority order according to the qualification tiers in paragraphs (g)(11)(iii)(C)(1) through (8) of this section, with qualified applicants in Tier 1 receiving permits first, then qualified applicants in Tier 2, and so on. Qualified applicants will be further ranked within a tier based on their total swordfish landings for the time period and gear type specified for that tier for Tiers 1 through 5, according to California Department of Fish and Wildlife (CDFW) marine landing receipts as of August 7, 2023, or by the date and time their application is received for Tiers 6 through 8. NMFS will issue up to 50 permits in 2023, and up to 25 permits each year after, up to a total of 300 valid permits. Permits issued to the next eligible applicant as a result of surrender, revocation, or expiration will not count toward the annual permit issuance limits. Permits will be mailed on or about April 1 for the upcoming May 1 permit year to the

address of record. Permit holders are responsible for keeping their contact information current with NMFS to receive their permit. If a permit is returned to NMFS as undeliverable, NMFS will make further attempts to contact the permit holder using the contact information on file. If NMFS is not able to contact the permit holder within 30 days, the permit will be revoked and issued to the next eligible applicant following the procedures at paragraphs (g)(11) and (12) of this section.

(12) *Initial issuance for Tier 9.* When the list of permit qualifiers from the initial issuance for Tiers 1 through 8, as defined at paragraphs (g)(11)(iii)(C)(1) through (8) of this section, is exhausted, NMFS will begin accepting applications for additional limited entry DSBG permits on a first come, first served basis. In January of the year NMFS anticipates accepting Tier 9 applications, NMFS will publish a notice in the **Federal Register** to notify the public of the application opportunity. NMFS will accept applications for initial issuance of limited entry DSBG permits under Tier 9 on an annual basis until a total of 300 limited entry DSBG permits are issued.

(i) *Initial applications.* Persons may apply for a limited entry DSBG permit under Tier 9 by completing and submitting an initial issuance application package to NMFS via the National Permit System website during the annual application period February 1–March 31. The completed application package must be submitted no later than 11:59 p.m. Pacific Daylight Time on March 31st of the relevant year. A complete initial issuance application package consists of the following: a completed initial issuance application form; a completed DSBG Identification of Ownership Interest Form, as required under paragraph (g)(3)(ii) of this section; a current copy of the United States Coast Guard Documentation Form or state registration form for the vessel that will be registered to the permit; and payment of required fees. NMFS may require additional documentation as it deems necessary to make a determination on the application. The initial issuance application package will be considered incomplete until the required information is submitted. NMFS will decline to act on an incomplete application.

(ii) *Eligibility criteria for Tier 9.* To qualify for a permit under Tier 9, an applicant must meet all of the following criteria:

(A) The applicant is eligible to own a limited entry DSBG permit in

accordance with paragraph (g)(2)(i) of this section; and

(B) The applicant is in compliance with the ownership requirements and limitations of paragraph (g)(3) of this section.

(iii) *Agency determination on an application.* Based on a complete application, if NMFS determines that the applicant for an initial permit under Tier 9 has met the requirements of this section, NMFS will issue an initial administrative determination (IAD). If the application is approved, the IAD will say so and the applicant will receive a permit according to the permit issuance procedures in paragraph (g)(11)(iv) of this section. If the application is denied, the IAD will provide an explanation of the denial in writing. The applicant may appeal NMFS' determination following the process at paragraph (b)(3)(iv) of this section.

(iv) *Permit issuance.* NMFS will issue permits to approved applicants under Tier 9 on a first come, first served basis, according to the date and time that their application was submitted through the National Permit System. NMFS will issue up to 25 permits each year, up to a total of 300 valid permits. If NMFS approves more than 25 applications in a single year, the approved applicants above 25 will receive priority for permit issuance the following year according to the date and time that their complete applications were received. Permits issued to the next eligible applicant as a result of surrender, revocation, or expiration will not count toward the annual permit issuance limits.

■ 5. Revise § 660.715 to read as follows:

§ 660.715 Deep-set buoy gear fishery.

(a) *Gear configurations.* Deep-set buoy gear (DSBG) configurations must conform to the following specifications:

(1) *Standard buoy gear (SBG).* An individual piece of SBG must consist of a vertical monofilament mainline suspended from a buoy-array with a terminal weight. No more than three gangions with hooks may be attached to the mainline. No gangions with hooks may be attached at a depth shallower than 90 meters.

(2) *Linked buoy gear (LBG).* An individual piece (section) of LBG must consist of a monofilament mainline that extends vertically from a buoy-array (either directly or from a minimum 50-foot (15.24-meter) extender) to a weight; then horizontally to a second weight; then vertically to a minimum 50-foot (15.24-meter) extender attached to a second buoy-array. No more than three gangions with hooks may be connected to each horizontal section of the

mainline. No gangions with hooks may be attached at a depth shallower than 90 meters. Individual pieces may be linked together by the mainline. The links between each piece of LBG must be serviceable.

(b) *Additional gear configuration specifications.* Use of SBG and LBG must conform with the following requirements:

(1) *Surface buoy flotation and strike detection array requirements.* The surface buoy flotation and strike detection array must include a minimum of three buoys (a minimum 45-pound (20.41 kilogram) buoyancy non-compressible hard ball, a minimum 6-pound (2.72 kilogram) buoyancy buoy, and a strike detection buoy), with no more than 6 feet (1.83 meters) of line between adjacent buoys, all connected in-line by a minimum of 3/8 inch (9.53 millimeter) diameter line.

(i) Buoys must be free of tether attachments (e.g., non-streamlined gear with loops and/or dangling components).

(ii) SBG and terminal LBG buoy-arrays must include a locator flag, a radar reflector, and the buoy must be marked with a number clearly identifying the owner or operator of the vessel. The number may be either:

(A) If required by applicable state law, the vessel's number, the commercial fishing license number, or buoy brand number; or

(B) The vessel documentation number issued by the United States Coast Guard (USCG), or, for an undocumented vessel, the vessel registration number issued by the state.

(2) *Weight requirements.* Weights must be a minimum of 3.6 kilograms.

(3) *Circle hook requirements.* Circle hooks must be used that are a minimum size 16/0 with not more than 10 degrees offset.

(4) *Gear pieces and hook limitations.* No more than 10 pieces of SBG or LBG, in total, may be deployed at one time, with no more than three hooks per piece.

(c) *Operational requirements.* SBG and LBG must be fished in accordance with the following operational requirements.

(1) *Active tending.* All pieces of gear must remain within 5 nautical miles (9.26 kilometers) of the vessel at all times, and the vessel may be no more than 3 nautical miles (5.56 kilometers) from the nearest piece of gear.

(2) *Fishing multiple gear types.* Gear types other than DSBG may be used on the same trip when DSBG is used, as long as the requirement to actively tend DSBG (as described at paragraph (c)(1) of this section) is met. If multiple gear

types, including gear other than DSBG, are used on the same trip as DSBG, catch must be tagged or marked to identify the gear used, including differentiating whether caught with SBG or LBG.

(3) *Timing of gear deployment and retrieval.* Gear may not be deployed until local sunrise and must be onboard the vessel no later than 3 hours after local sunset.

(4) *Pre-trip notification.* When requested by NMFS, DSBG vessel owners or operators are required to notify NMFS or the NMFS-designated observer provider at least 48 hours prior to departing on each fishing trip during which DSBG will be fished. The vessel owner or operator must communicate to the observer provider: the owner's or operator's name, contact information, vessel name, port of departure, estimated date and time of departure, and a telephone number at which the owner or operator may be contacted during the business day (Monday through Friday between 8 a.m. to 4:30 p.m., Pacific Time) to indicate whether an observer will be required on the subject fishing trip. Contact information for the current observer provider can be obtained by calling the NMFS West Coast Region Sustainable Fisheries Division at (562) 980-4238.

(5) *Protected species workshops.* When requested by NMFS, the operator of a vessel either registered to a limited entry DSBG permit or planning to fish under a DSBG endorsement must attend a workshop conducted by NMFS on mitigation, handling, and release techniques for protected species.

(d) *Geographic area restrictions.* DSBG fishing is permitted throughout the management area defined in § 660.703 with the following area restrictions:

(1) *Federal waters offshore of California and Oregon only.* Fishing with DSBG may not occur in Federal waters north of a line extending seaward from the Oregon/Washington border at north of 46°16' N latitude.

(2) *Limited entry-only area.* Except for vessels registered to a valid DSBG limited entry permit, fishing with DSBG

may not occur in Federal waters within the Southern California Bight, which for this purpose is defined with a northern boundary of 34°26'54.96" N latitude (i.e., Point Conception), a southern boundary of the U.S.-Mexico maritime border, and a western boundary of 120°28'18" W longitude.

(3) *Linked buoy gear area restriction.* Fishing with DSBG in a LBG configuration in waters north of the Northern Channel Islands to a line extending seaward from the Oregon/Washington border at 46°16' N latitude may not occur shoreward of a line approximating the 400 meter depth contour, which is defined by straight lines connecting all of the following points in the order stated in the following table.

TABLE 1 TO PARAGRAPH (d)(3)

Point ID	Latitude	Longitude
1	46.274388	– 124.410349
2	46.075505	– 124.813587
3	45.968227	– 124.739233
4	45.785378	– 124.721611
5	45.731988	– 124.755707
6	45.676058	– 124.662448
7	45.635778	– 124.733532
8	45.627501	– 124.621223
9	45.421342	– 124.428881
10	45.368012	– 124.524815
11	45.219954	– 124.426593
12	45.169315	– 124.502340
13	45.192831	– 124.640233
14	45.073777	– 124.601143
15	45.122584	– 124.728187
16	45.063305	– 124.719824
17	45.012240	– 124.512643
18	44.827950	– 124.645508
19	44.789368	– 124.722827
20	44.703649	– 124.815421
21	44.529842	– 124.804136
22	44.507522	– 124.883072
23	44.415352	– 124.858176
24	44.208665	– 124.994868
25	43.942293	– 124.974502
26	43.795680	– 124.685260
27	43.579894	– 124.645446
28	43.232513	– 124.799284
29	43.226291	– 124.883682
30	42.905163	– 124.913752
31	42.753934	– 124.866742
32	42.748993	– 124.751655
33	42.520896	– 124.747080
34	42.463017	– 124.822607
35	41.824611	– 124.517470

TABLE 1 TO PARAGRAPH (d)(3)—Continued

Point ID	Latitude	Longitude
36	41.428980	– 124.513482
37	41.156773	– 124.396132
38	40.801184	– 124.492790
39	40.681958	– 124.550870
40	40.602740	– 124.480125
41	40.622580	– 124.645995
42	40.546989	– 124.700835
43	40.400783	– 124.585363
44	40.370014	– 124.431174
45	40.344876	– 124.507828
46	40.269847	– 124.446270
47	40.279429	– 124.657027
48	40.117493	– 124.304705
49	40.041456	– 124.285170
50	40.042494	– 124.155198
51	39.965786	– 124.231615
52	39.808303	– 124.097017
53	39.540607	– 123.943484
54	39.528835	– 123.992885
55	38.911050	– 123.982148
56	38.491136	– 123.647679
57	38.256021	– 123.526302
58	38.228410	– 123.438852
59	38.073446	– 123.533062
60	37.844809	– 123.404954
61	37.740079	– 123.192427
62	37.623812	– 123.050253
63	37.394689	– 122.920853
64	37.323790	– 122.940568
65	37.189284	– 122.863927
66	36.968232	– 122.527184
67	37.005852	– 122.408848
68	36.945123	– 122.425076
69	36.781748	– 122.055455
70	36.806676	– 121.905280
71	36.680249	– 122.025454
72	36.531101	– 121.993385
73	36.371824	– 122.014963
74	36.315554	– 122.101240
75	36.166525	– 121.760807
76	36.033982	– 121.623149
77	35.584240	– 121.366349
78	35.165706	– 121.033163
79	34.865218	– 120.993335
80	34.929599	– 121.074138
81	34.693224	– 120.962686
82	34.541665	– 120.838291
83	34.315659	– 120.541578
84	34.268981	– 120.379230

§ 660.716 [Removed and Reserved]

■ 8. Remove and reserve § 660.716.

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