

§ 600.1405

Spearfishing means fishing for, attempting to fish for, catching or attempting to catch fish in tidal waters by any person with a spear or a powerhead (see 50 CFR 600.10).

State has the same meaning as in 16 U.S.C. 1802.

Tidal waters means waters that lie below mean high water and seaward of the first upstream obstruction or barrier to tidal action and that are subject to the ebb and flow of the astronomical tides under ordinary conditions.

[77 FR 42191, July 18, 2012]

§ 600.1405 Angler registration.

(a) Effective January 1, 2010, the requirements of this section apply to any person who does any of the following:

(1) Engages in angling or spearfishing for:

- (i) Fish in the EEZ;
- (ii) Anadromous species in any tidal waters; or
- (iii) Continental Shelf fishery resources beyond the EEZ.

(2) Operates a for-hire fishing vessel in the EEZ.

(3) Operates a for-hire fishing vessel that engages in angling or spearfishing for:

- (i) Anadromous species in any tidal waters; or
- (ii) Continental shelf fishery resources beyond the EEZ.

(4) Possesses equipment used for angling or spearfishing and also possesses:

- (i) Fish in the EEZ;
- (ii) Anadromous species in any tidal waters; or
- (iii) Continental shelf fishery resources beyond the EEZ.

(b) No person may engage in the activities listed in paragraph (a) of this section unless that person:

(1) Has registered annually with NMFS in accordance with § 600.1410 of this part;

(2) Holds a valid fishing license issued by, or is registered by, an exempted state;

(3) Is a resident of an exempted state, but is not required to hold a fishing license, or to be registered to fish, under the laws of that state;

(4) Holds a permit issued by NMFS for for-hire fishing under 50 CFR

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622.4(a)(1), 635.4(b), 648.4(a), or 660.707(a)(1);

(5) Is under the age of 16;

(6) Is angling aboard a for-hire fishing vessel that is in compliance with NMFS and state for-hire vessel permit, license or registration requirements;

(7) Holds a commercial fishing license or permit issued by NMFS or a state and is lawfully fishing or in possession of fish taken under the terms and conditions of such license or permit;

(8) Holds an HMS Angling permit under 50 CFR 635.4(c) or a MHI Non-commercial Bottomfish permit under 50 CFR 665.203(a)(2);

(9) Holds a subsistence fishing license or permit issued by NMFS or a state and is lawfully fishing or in possession of fish taken under the terms and conditions of such license or permit; or

(10) Is angling or spearfishing for, or operating a for-hire fishing vessel that engages in fishing for, anadromous species or Continental Shelf fishery resources, in waters under the control of a foreign nation.

(c) Any angler or spear fisher or operator of a for-hire vessel must, on request of an authorized officer, produce the NMFS registration number and certificate or evidence that such person or for-hire vessel operator is exempt from the registration requirement pursuant to § 600.1405(b)(2) through § 600.1405(b)(10).

[73 FR 79717, Dec. 30, 2008, as amended at 77 FR 42191, July 18, 2012]

§ 600.1410 Registry process.

(a) A person may register through the NMFS web site at www.nmfs.noaa.gov or by calling a toll-free telephone number available by contacting NMFS or at the NMFS website.

(b) Individuals must submit their name; address; telephone number; date of birth; region(s) of the country in which they intend to fish in the upcoming year; and additional information necessary for the issuance or administration of the registration.

(c) To register a for-hire fishing vessel, the vessel owner or operator must submit vessel owner name, address, date of birth, and telephone number;

vessel operator (if different) name, address, date of birth and telephone number; vessel name; vessel's state registration or U.S. Coast Guard documentation number; home port or principal area of operation; and additional information necessary for the issuance or administration of the registration.

(d) NMFS will issue a registration number and certificate to registrants. A registration number and certificate will be valid for one year from the date on which it is issued.

(e) It shall be unlawful for any person to submit false, inaccurate or misleading information in connection with any registration request.

(f) *Fees.* Effective January 1, 2011, persons registering with NMFS must pay an annual fee. The annual schedule for such fees will be published in the FEDERAL REGISTER. Indigenous people engaging in angling or spear fishing must register, but are not required to pay a fee.

§ 600.1415 Procedures for designating exempted states-general provisions.

(a) States with an exempted state designation must:

(1) Submit state angler and for-hire vessel license holder data to NMFS for inclusion in a national or regional registry database; or

(2) Participate in regional surveys of recreational catch and effort and make the data from those surveys available to NMFS.

(b) Process for getting an exempted state designation:

(1) To apply for exempted state designation, a state must submit:

(i) A complete description of the data it intends to submit to NMFS;

(ii) An assessment of how the data conforms to the requirements of §§ 600.1416 or 600.1417;

(iii) A description of the database in which the data exists and will be transmitted; and

(iv) The proposed process, schedule and frequency of submission of the data.

(2) If NMFS determines the submitted material meets the requirements of §§ 600.1416 or 600.1417, NMFS will initiate negotiations with the state on a Memorandum of Agreement. The Memorandum of Agreement must

include the terms and conditions of the data-sharing program. The Memorandum of Agreement and state designation may be limited to data-sharing related to only anglers or only for-hire fishing vessels.

(3) Following execution of a Memorandum of Agreement, NMFS will publish a notice of the exempted state designation in the FEDERAL REGISTER.

§ 600.1416 Requirements for exempted state designation based on submission of state license holder data.

(a) A state must annually update and submit to NMFS, in a format consistent with NMFS guidelines, the name, address and, to the extent available in the state's database, telephone number and date of birth, of all persons and for-hire vessel operators, and the name and state registration number or U.S. Coast Guard documentation number of for-hire vessels that are licensed to fish, or are registered as fishing, in the EEZ, in the tidal waters of the state, or for anadromous species. The Memorandum of Agreement developed in accordance with § 600.1415(b)(2) will specify the timetable for a state to compile and submit complete information telephone numbers and dates of birth for its license holders/registrants. The waters of the state for which such license-holder data must be submitted will be specified in the Memorandum of Agreement.

(b) A state is eligible to be designated as an exempted state even if its licensing program excludes anglers who are:

(1) Under 17 years of age;

(2) Over age 59 (see § 600.1416(d)(1));

(3) Customers on licensed for-hire vessels;

(4) Customers on state-licensed fishing piers, provided that the pier license holder provides to the state complete angler contact information or angler effort information for users of the pier;

(5) On active military duty while on furlough; or

(6) Disabled or a disabled Veteran as defined by the state.

(7) Fishing on days designated as "free fishing days" by states. "*Free fishing days*" means fishing promotion programs by which states allow new anglers to fish for a specified day without a license or registration.