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Chapter VI –Fishery Conservation and Management, National Oceanic and Atmospheric Administration, Department of Commerce

Part 660 –Fisheries off West Coast States

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Subpart K—Highly Migratory Fisheries

Source: 69 FR 18453, Apr. 7, 2004, unless otherwise noted.

§ 660.701 Purpose and scope.

This subpart implements the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (FMP). These regulations govern commercial and recreational fishing for HMS in the U.S. EEZ off the coasts of Washington, Oregon, and California and in adjacent high seas waters.

§ 660.702 Definitions.

Basket-style longline gear means a type of longline gear that is divided into units called *baskets*, each consisting of a segment of main line to which 10 or more branch lines with hooks are spliced. The mainline and all branch lines are made of multiple braided strands of cotton, nylon, or other synthetic fibers impregnated with tar or other heavy coatings that cause the lines to sink rapidly in seawater.

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.

Closure, when referring to closure of a fishery, means that taking and retaining, possessing, or landing the particular species or species group is prohibited.

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.

Council means the Pacific Fishery Management Council, including its Highly Migratory Species Management Team (HMSMT), Scientific and Statistical Committee (SSC), Highly Migratory Species Advisory Subpanel (HMSAS), and any other committee established by the Council.

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.

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

Fishing year is the year beginning at 0801 GMT (0001 local time) on April 1 and ending at 0800 GMT on March 31 (2400 local time) of the following year.

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.

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

Highly Migratory Species (HMS) means species managed by the FMP, specifically:

Billfish/Swordfish:

striped marlin (*Tetrapturus audax*)

swordfish (*Xiphias gladius*)

Sharks:

common thresher shark (*Alopias vulpinus*)

shortfin mako or bonito shark (*Isurus oxyrinchus*)

blue shark (*Prionace glauca*)

Tunas:

north Pacific albacore (*Thunnus alalunga*)

yellowfin tuna (*Thunnus albacares*)

bigeye tuna (*Thunnus obesus*)

skipjack tuna (*Katsuwonus pelamis*)

Pacific bluefin tuna (*Thunnus orientalis*)

Other:

dorado or dolphinfish (*Coryphaena hippurus*)

Highly Migratory Species Advisory Subpanel (HMSAS) means the individuals comprised of members of the fishing industry and public appointed by the Council to review proposed actions for managing highly migratory species fisheries.

Highly Migratory Species Fishery Management Plan (FMP) means the Fishery Management Plan for the U.S. West Coast Fisheries for Highly Migratory Species developed by the Pacific Fishery Management Council and approved by the Secretary of Commerce and amendments to the FMP.

Highly Migratory Species Management Team (HMSMT) means the individuals appointed by the Council to review, analyze, and develop management measures for highly migratory species fisheries.

Incidental catch or incidental species means HMS caught while fishing for the primary purpose of catching other species with gear not authorized by the FMP.

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.

Injury, when referring to marine mammals and sea turtles, means the animal has been released with obvious physical injury or with attached fishing gear.

Land or landing means offloading fish from a fishing vessel or arriving in port to begin offloading fish or causing fish to be offloaded from a fishing vessel.

Mesh size means the opening between opposing knots in a net. Minimum mesh size means the smallest distance allowed between the inside of one knot to the inside of the opposing knot when the mesh is stretched, regardless of twine size.

Offloading means removing HMS from a vessel.

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

Permit holder means a permit owner.

Permit owner means a person who owns an HMS permit for a specific vessel fishing with specific authorized fishing gear.

Person, as it applies to fishing conducted under this subpart, means any individual, corporation, partnership, association or other entity (whether or not organized or existing under the laws of any state), and any Federal, state, or local government, or any entity of any such government that is eligible to own a documented vessel under the terms of 46 U.S.C. 12102(a).

Processing or to process means the preparation or packaging of HMS to render it suitable for human consumption, industrial uses or long-term storage, including, but not limited to, cooking, canning, smoking, salting, drying, filleting, freezing, or rendering into meal or oil, but does not mean heading and gutting or freezing at sea unless additional preparation is done.

Prohibited species means any highly migratory species for which quotas or catch limits under the FMP have been achieved and the fishery closed; salmon; great white shark; basking shark; megamouth shark; and Pacific halibut.

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

Recreational charter vessel means a vessel that carries fee-paying passengers for the purpose of recreational fishing.

Recreational fishing means fishing with authorized recreational fishing gear for personal use only and not for sale or barter.

Regional Administrator means the Regional Administrator for the West Coast Region, National Marine Fisheries Service, or a designee.

Special Agent-In-Charge (SAC) means the Special Agent-In-Charge, NMFS, Office of Enforcement, West Coast Division, or a designee of the Special Agent-In-Charge.

Sustainable Fisheries Division (SFD) means the Assistant Regional Administrator for Sustainable Fisheries, West Coast Region, NMFS, or his or her designee.

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.

Tranship means offloading or otherwise transferring HMS or products thereof to a receiving vessel.

Vessel monitoring system unit (VMS unit) means an automated, remote system and mobile transceiver unit that is approved by NMFS and provides information about a vessel's identity, location, and activity for the purposes of routine monitoring, control, surveillance and enforcement of area and time restrictions and other fishery management measures.

[69 FR 18453, Apr. 7, 2004, as amended at 76 FR 56328, Sept. 13, 2011; 80 FR 10394, Feb. 26, 2015; 80 FR 46520, Aug. 5, 2015; 83 FR 11150, Mar. 14, 2018; 85 FR 7250, Feb. 7, 2020; 88 FR 29548, May 8, 2023]

§ 660.703 Management area.

The fishery management area for the regulation of fishing for HMS has the following designations and boundaries:

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

32°35'22" N. lat. 117°27'49" W. long.

32°37'37" N. lat. 117°49'31" W. long.

31°07'58" N. lat. 118°36'18" W. long.

30°32'31" N. lat. 121°51'58" W. long.

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

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

48°30'11" N. lat. 124°47'13" W. long.

48°30'22" N. lat. 124°50'21" W. long.

48°30'14" N. lat. 124°54'52" W. long.

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

(c) Adjacent waters on the high seas in which persons subject to this subpart may fish.

§ 660.704 Vessel identification.

(a) **Applicability.** This section only applies to commercial fishing vessels that fish for HMS off, or land HMS in the States of California, Oregon, and Washington. This section does not apply to recreational charter vessels that fish for HMS off or land HMS in the States of California, Oregon, and Washington. Each fishing vessel must be marked for identification purposes, as follows:

- (1) A vessel used to fish on the high seas within the Convention Area as defined in § 300.211 of this title must be marked in accordance with the requirements at §§ 300.14 and 300.217 of this title.
- (2) A vessel not used to fish on the high seas within the Convention Area as defined in § 300.211 of this title must be marked in accordance with either:
 - (i) Sections 300.14 and 300.217 of this title, or
 - (ii) The vessel's official number must be affixed to the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck so as to be visible from enforcement vessels and aircraft. The official number must be affixed to each vessel subject to this section in block Arabic numerals at least 10 inches (25.40 cm) in height for vessels more than 25 ft (7.62 m) but equal to or less than 65 ft (19.81 m) in length; and 18 inches (45.72 cm) in height for vessels longer than 65 ft (19.81 m) in length. Markings must be legible and of a color that contrasts with the background.

(b) [Reserved]

[76 FR 73520, Nov. 29, 2011]

§ 660.705 Prohibitions.

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

- (a) Fish for HMS in the U.S. EEZ off the Pacific coast without a permit issued under § 660.707 for the use of authorized fishing gear.
- (b) Fish with gear in any closed area specified in this subpart that prohibits the use of such gear.
- (c) Land HMS at Pacific coast ports without a permit issued under § 600.707 for the use of authorized fishing gear.
- (d) Sell HMS without an applicable commercial state fishery license.
- (e) When fishing for HMS, fail to return a prohibited species to the sea immediately with a minimum of injury, except under the following circumstances:
 - (1) Any prohibited species may be retained for examination by an authorized observer or to return tagged fish as specified by the tagging agency.
 - (2) Salmon may be retained if harvested in accordance with subpart H of this part, and other applicable law.
 - (3) Great white sharks, basking sharks, and megamouth sharks may be retained if incidentally caught and subsequently sold or donated to a recognized scientific or educational organization for research or display purposes.
 - (4) Pacific halibut may be retained if harvested in accordance with part 300, subpart E of this Title, and other applicable law.
- (f) Falsify or fail to affix and maintain vessel markings as required by § 660.704.
- (g) Fish for HMS in violation of any terms or conditions attached to an exempted fishing permit issued under § 600.745 of this chapter.
- (h) When a directed fishery has been closed for a specific species, take and retain, possess, or land that species after the closure date.
- (i) Refuse to submit fishing gear or fish subject to such person's control to inspection by an authorized officer, or to interfere with or prevent, by any means, such an inspection.
- (j) Falsify or fail to make and/or file any and all reports of fishing, landing, or any other activity involving HMS, containing all data, and in the exact manner, required by the applicable state law, as specified in § 660.708(b).
- (k) Fail to carry aboard a vessel that vessel's permit issued under § 660.707 or exempted fishing permit issued under § 660.718, except if the permit was issued while the vessel was at sea.
- (l) Fail to install, activate, repair, replace, carry, operate or maintain a VMS unit as required under § 660.712 and § 660.713.
- (m) Interfere with, tamper with, alter, damage, disable, or impede the operation of a VMS unit or to attempt any of the same; or to move or remove a VMS unit without the prior permission of the SAC.

- (n) Make a false statement, oral or written, to an authorized officer, regarding the use, operation, or maintenance of a VMS unit.
- (o) Fish for, catch, or harvest HMS with longline or drift gillnet gear without an operating VMS unit on board the vessel after installation of the VMS unit.
- (p) Possess on board a vessel without an operating VMS unit HMS harvested with longline or drift gillnet gear after installation of the VMS unit.
- (q) Direct fishing effort toward the harvest of swordfish (*Xiphias gladius*) using longline gear deployed west of 150° W. long. and north of the equator (0° lat.) on a vessel registered for use of longline gear in violation of § 660.712(a)(1).
- (r) Possess a light stick on board a longline vessel when fishing west of 150° W. long. and north of the equator (0° lat.) in violation of § 660.712(a)(6)
- (s) If no observer is on the vessel and J-type fishing hooks are used, possess more than 10 swordfish; if no observer on the vessel and only circle-type fishing hooks are used, possess more than 25 swordfish on board a longline vessel from a fishing trip where any part of the trip included fishing west of 150° W. long. and north of the equator (0° lat.) in violation of § 660.712(a)(9).
- (t) Interfere with, impede, delay, or prevent the installation, maintenance, repair, inspection, or removal of a VMS unit.
- (u) Interfere with, impede, delay, or prevent access to a VMS unit by a NMFS observer.
- (v) Connect or leave connected additional equipment to a VMS unit without the prior approval of the SAC.
- (w) Fish for HMS with a vessel registered for use of longline gear within closed areas or by use of unapproved gear configurations in violation of § 660.712(a)(2), (a)(3), (a)(7), (a)(8), or (a)(9).
- (x) Fail to use a line setting machine or line shooter, with weighted branch lines, to set the main longline when operating a vessel that is registered for use of longline gear and equipped with monofilament main longline, when making deep sets north of 23° N. lat. in violation of § 660.712(c)(1)(i) and (c)(1)(ii).
- (y) Fail to employ basket-style longline gear such that the mainline is deployed slack when operating a vessel registered for use of longline gear north of 23° N. lat. in violation of § 660.712 (c)(1)(iii).
- (z) Fail to maintain and use blue dye to prepare thawed bait when operating a vessel registered for use of longline gear that is fishing north of 23° N. lat., in violation of § 660.712(c)(2) and (c)(3).
- (aa) Fail to retain, handle, and discharge fish, fish parts, and spent bait strategically when operating a vessel registered for use of longline gear that is fishing north of 23° N. lat. in violation of § 660.712 (c)(4) through (c)(7).
- (bb) Fail to handle short-tailed albatrosses that are caught by pelagic longline gear in a manner that maximizes the probability of their long-term survival, in violation of § 660.712(c)(8).
- (cc) Fail to handle seabirds other than short-tailed albatross that are caught by pelagic longline gear in a manner that maximizes the probability of their long-term survival in violation of § 660.712(c)(17).
- (dd) Own a longline vessel registered for use of longline gear that is engaged in longline fishing for HMS without a valid protected species workshop certificate issued by NMFS or a legible copy thereof in violation of § 660.712(e)(3).

- (ee) Fish for HMS on a vessel registered for use of longline gear without having on board a valid protected species workshop certificate issued by NMFS or a legible copy thereof in violation of § 660.712(e).
- (ff) Fail to carry line clippers, dip nets, and wire or bolt cutters on a vessel registered for use as a longline vessel in violation of § 660.712(b).
- (gg) Fail to comply with sea turtle handling, resuscitation, and release requirements specified in § 660.712(b)(4) through (7) when operating a vessel.
- (hh) Fail to comply with seabird take mitigation or handling techniques required under § 660.712(c).
- (ii) Fish for HMS with a vessel registered for use as a longline vessel without being certified by NMFS for completion of an annual protected species workshop as required under § 660.712(e).
- (jj) Fail to notify the Regional Administrator at least 24 hours prior to departure on a fishing trip using longline gear as required under § 660.712(f).
- (kk) Except when fishing under a western Pacific longline limited entry permit issued under § 660.21, direct fishing effort toward the harvest of swordfish or fail to have and use gear in waters west of 150° W. long. in violation of § 660.720.
- (ll) Except when fishing under a western Pacific longline limited entry permit issued under § 660.21, possess a light stick on board a longline vessel on the high seas of the Pacific Ocean west of 150° W. long. north of the equator in violation of § 660.720 (a)(ii).
- (mm) Except when fishing under a western Pacific longline limited entry permit issued under § 660.21, possess more than 10 swordfish on board a longline vessel from a fishing trip where any part of the trip included fishing on the high seas of the Pacific Ocean west of 150° W. long. north of the equator in violation of § 660.720(a)(3).
- (nn) Except when fishing under a western Pacific longline limited entry permit issued under § 660.21, fail to employ basket-style longline gear such that the mainline is deployed slack when fishing on the high seas of the Pacific Ocean west of 150° W. long. north of the equator, in violation of § 660.720 (a)(iv).
- (oo) Except when fishing under a western Pacific longline limited entry permit issued under § 660.21, when a conventional monofilament longline is deployed by a vessel subject to this section, deploy fewer than 15 branch lines between any two floats, in violation of § 660.720 (a)(v). Vessel operators using basket-style longline gear may not set less than 10 branch lines between any 2 floats when fishing in waters west of 150° W. long. north of the equator.
- (pp) Except when fishing under a western Pacific longline limited entry permit issued under § 660.21, fail to deploy longline gear such that the deepest point of the main longline between any two floats, *i.e.*, the deepest point in each sag of the main line, is at a depth greater than 100 m (328.1 ft or 54.6 fm) below the sea surface, in violation of § 660.720 (a)(vi).
- (qq) Take and retain, possess on board, or land, fish in excess of any bag limit specified in § 660.721.
- (rr) Fail to notify NMFS or the NMFS-designated observer provider at least 48 hours prior to departure on a fishing trip using drift gillnet gear as required under § 660.713.
- (ss) Fail to submit a declaration report to the NMFS Office of Law Enforcement prior to departure on a fishing trip using drift gillnet gear as required under § 660.713.
- (tt) Fish with a large-mesh drift gillnet (mesh size \geq 14 inches) in the U.S. West Coast Exclusive Economic Zone during the time the fishery is closed pursuant to § 660.713(h)(2)(ii).

- (uu) Retain on board, transship, or land any fish caught with a large-mesh drift gillnet (mesh size \geq 14 inches) later than 4 days after the effective date of a drift gillnet fishery closure and before the drift gillnet fishery re-opens pursuant to § 660.713(h)(2)(ii).
- (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.

[69 FR 18453, Apr. 7, 2004, as amended at 72 FR 58259, Oct. 15, 2007; 77 FR 15975, Mar. 19, 2012; 80 FR 10395, Feb. 26, 2015; 80 FR 46520, Aug. 5, 2015; 85 FR 7250, Feb. 7, 2020; 88 FR 29548, May 8, 2023]

§ 660.706 Pacific Coast Treaty Indian rights.

- (a) Pacific Coast treaty Indian tribes have treaty rights to harvest HMS in their usual and accustomed (U&A) fishing areas in the EEZ.
- (b) Pacific Coast treaty Indian tribes means the Hoh, Makah, and Quileute Indian Tribes and the Quinault Indian Nation.
- (c) The Pacific Coast treaty Indian tribes' U&A fishing areas within the EEZ are set forth in § 660.4 of this chapter.
- (d) **Procedures.** The rights referred to in paragraph (a) of this section will be implemented by the Secretary of Commerce, after consideration of the tribal request, the recommendation of the Council, and the comments of the public. The rights will be implemented either through an allocation of fish that will be managed by the tribes, or through regulations that will apply specifically to the tribal fisheries. An allocation or a regulation specific to the tribes shall be initiated by a written request from a Pacific Coast treaty Indian tribe to the NMFS West Coast Regional Administrator, at least 120 days prior to the time the allocation is desired to be effective, and will be subject to public review through the Council process. The Secretary of Commerce recognizes the sovereign status and co-manager role of Indian tribes over shared Federal and tribal fishery resources. Accordingly, the Secretary of Commerce will develop tribal allocations and regulations in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.

- (e) **Identification.** A valid treaty Indian identification card issued pursuant to 25 CFR part 249, subpart A, is prima facie evidence that the holder is a member of the Pacific Coast treaty Indian tribe named on the card.
- (f) Fishing (on a tribal allocation or under a Federal regulation applicable to tribal fisheries) by a member of a Pacific Coast treaty Indian tribe within that tribe's U&A fishing area is not subject to provisions of the HMS regulations applicable to non-treaty fisheries.
- (g) Any member of a Pacific Coast treaty Indian tribe must comply with any applicable Federal and tribal laws and regulations, when participating in a tribal HMS fishery implemented under paragraph (d) of this section.
- (h) Fishing by a member of a Pacific Coast treaty Indian tribe outside that tribe's U&A fishing area, or for a species of HMS not covered by a treaty allocation or applicable Federal regulation, is subject to the HMS regulations applicable to non-treaty fisheries.

[69 FR 18453, Apr. 7, 2004, as amended at 81 FR 36808, June 8, 2016]

§ 660.707 Permits.

- (a) **General.** This section applies to vessels that fish for HMS off or land HMS in the States of California, Oregon, and Washington.
 - (1) A commercial fishing vessel of the United States must be registered for use under a general HMS permit that authorizes the use of specific gear, and a recreational charter vessel must be registered for use under a HMS permit if that vessel is used:
 - (i) To fish for HMS in the U.S. EEZ off the States of California, Oregon, and Washington; or
 - (ii) To land or transship HMS shoreward of the outer boundary of the U.S. EEZ off the States of California, Oregon, and Washington.
 - (2) The permit must be on board the vessel and available for inspection by an authorized officer, except that if the permit was issued while the vessel was at sea, this requirement applies only to any subsequent trip.
 - (3) A permit is valid only for the vessel for which it is registered. A permit not registered for use with a particular vessel may not be used.
 - (4) Only a person eligible to own a documented vessel under the terms of 46 U.S.C. 12102(a) may be issued or may hold (by ownership or otherwise) a general HMS permit.
- (b) **Application.**
 - (1) Following publication of the final rule implementing the FMP, NMFS will issue general HMS permits to the owners of those vessels on a list of vessels obtained from owners previously applying for a permit under the authority of the High Seas Fishing Compliance Act, the Tuna Conventions Act of 1950, the Marine Mammal Protection Act, and the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region, or whose vessels are listed on the vessel register of the Inter-American Tropical Tuna Commission.
 - (2) All permits issued by NMFS in accordance with paragraph (b)(1) of this section will authorize the use of specific fishing gear by the identified commercial fishing vessels.

- (3) An owner of a vessel subject to these requirements who has not received a permit under this section from NMFS and who wants to engage in the fisheries must apply to the SFD for the required permit in accordance with the following:
 - (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.
 - (ii) A minimum of 15 days should be allowed for processing a permit application. If an incomplete or improperly completed application is filed, the applicant will be sent a notice of deficiency. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.
 - (iii) A permit will be issued by the SFD. If an application is denied, the SFD will indicate the reasons for denial.
 - (iv)
 - (A) Any applicant for an initial permit may appeal the initial issuance decision to the Regional Administrator. To be considered by the Regional Administrator, such appeal must be in writing and state the reasons for the appeal, and must be submitted within 30 days of the action by the Regional Administrator. The appellant may request an informal hearing on the appeal.
 - (B) Upon receipt of an appeal authorized by this section, the Regional Administrator will notify the permit applicant, or permit holder as appropriate, and will request such additional information and in such form as will allow action upon the appeal.
 - (C) Upon receipt of sufficient information, the Regional Administrator will decide the appeal in accordance with the permit provisions set forth in this section at the time of the application, based upon information relative to the application on file at NMFS and the Council and any additional information submitted to or obtained by the Regional Administrator, the summary record kept of any hearing and the hearing officer's recommended decision, if any, and such other considerations as the Regional Administrator deems appropriate. The Regional Administrator will notify all interested persons of the decision, and the reasons for the decision, in writing, normally within 30 days of the receipt of sufficient information, unless additional time is needed for a hearing.
 - (D) If a hearing is requested, or if the Regional Administrator determines that one is appropriate, the Regional Administrator may grant an informal hearing before a hearing officer designated for that purpose after first giving notice of the time, place, and subject matter of the hearing to the applicant. The appellant, and, at the discretion of the hearing officer, other interested persons, may appear personally or be represented by counsel at the hearing and submit information and present arguments as determined appropriate by the hearing officer. Within 30 days of the last day of the hearing, the hearing officer shall recommend in writing a decision to the Regional Administrator.

- (E) The Regional Administrator may adopt the hearing officer's recommended decision, in whole or in part, or may reject or modify it. In any event, the Regional Administrator will notify interested persons of the decision, and the reason(s) therefore, in writing, within 30 days of receipt of the hearing officer's recommended decision. The Regional Administrator's decision will constitute the final administrative action by NMFS on the matter.
 - (F) Any time limit prescribed in this section may be extended for a period not to exceed 30 days by the Regional Administrator for good cause, either upon his or her own motion or upon written request from the appellant stating the reason(s) therefore.
- (4) General HMS permits issued under this subpart will remain valid until the first date of renewal, and permits may be subsequently renewed for 2-year terms. The first date of renewal will be the last day of the vessel owner's birth month in the second calendar year after the permit is issued (e.g., if the birth month is March and the permit is issued on October 3, 2007, the permit will remain valid through March 31, 2009).
 - (5) Replacement permits may be issued without charge to replace lost or mutilated permits. Replacement permits may be obtained by submitting to the SFD c/o the Regional Administrator a complete, signed vessel permit application. An application for a replacement permit is not considered a new application.
 - (6) Any permit that has been altered, erased, or mutilated is invalid.
- (c) **Display.** Any permit issued under this subpart, or a facsimile of the permit, must be on board the vessel at all times while the vessel is fishing for, taking, retaining, possessing, or landing HMS shoreward of the outer boundary of the fishery management area unless the vessel was at sea at the time the permit was issued. Any permit issued under this section must be displayed for inspection upon request of an authorized officer.
 - (d) **Sanctions.** Procedures governing sanctions and denials are found at subpart D of 15 CFR part 904.
 - (e) **Fees.** An application for a permit, or renewal of an existing permit under this section will include a fee for each vessel. The fee amount required will be calculated in accordance with the NOAA Finance Handbook and specified on the application form.
 - (f) **Federal limited entry drift gillnet permit –**
 - (1) **General.** This section applies to individuals fishing with large-mesh (14 inch or greater stretched mesh) drift gillnet (DGN) gear. Individuals who target, retain, transship, or land fish captured with a large-mesh DGN must possess a valid Federal limited entry DGN permit. Federal limited entry DGN permits are issued to an individual, and a vessel must be specified on the permit.
 - (2) **Initial qualification.** Upon publication of NMFS' final rule to establish the Federal limited entry DGN permit, all State of California limited entry DGN permit holders are eligible to obtain a Federal limited entry DGN permit. If a 2017-2018 California state DGN permit renewal application is not received by the California Department of Fish and Wildlife or postmarked by March 31, 2018, the permit holder is not eligible to receive a 2018-2019 Federal limited entry DGN permit.
 - (3) **Documentation and burden of proof.** An individual applying for issuance, renewal, transfer, or assignment of a Federal limited entry DGN permit must prove that they meet the qualification requirements by submitting the following documentation, as applicable: A certified copy of the assigned vessel's documentation as a fishing vessel of the United States (U.S. Coast Guard or state)

is the best evidence of vessel identification; a copy of a current State of California limited entry DGN permit is the best evidence of initial qualification for a Federal limited entry DGN permit; a copy of a written contract reserving or conveying limited entry rights is the best evidence of reserved or acquired rights; and other relevant, credible evidence that the applicant may wish to submit or that the SFD may request or require.

- (4) **Fees.** Any processing fee will be determined by the service costs needed to process a permit request. If a fee is required, it would cover administrative expenses related to issuing limited entry permits, as well as renewing, transferring, assigning, and replacing permits. The amount of any fee will be calculated in accordance with the procedures of the NOAA Finance Handbook for determining the administrative costs of each special product or service. A fee may not exceed such costs and is specified with each application form. The appropriate fee must accompany each application.
- (5) **Initial decisions.**
 - (i) The SFD will make initial decisions regarding issuing, renewing, transferring, and assigning limited entry permits.
 - (ii) Adverse decisions shall be in writing and shall state the reasons for the adverse decision.
 - (iii) The SFD may decline to act on an application for issuing, renewing, transferring, or assigning a limited entry permit and will notify the applicant, if the permit sanction provisions of the Magnuson-Stevens Act at 16 U.S.C. 1858(a) and implementing regulations at 15 CFR part 904, subpart D, apply.
- (6) **Issuance.** Federal limited entry DGN permits will be issued by the SFD. If an application is denied, the SFD will indicate the reasons for denial. A DGN permit will be issued to an individual and assigned to a specific vessel. A permit holder may assign the permit to another vessel once per permit year (April 1 to March 31).
- (7) **Appeals.** Any applicant for an initial permit may appeal the initial issuance decision to the Regional Administrator. Appeals will be made and processed following procedures as described at paragraph (b)(3)(iv) of this section.
- (8) **Transfers.** Federal limited entry DGN permits may be transferred to another individual only if the current permit holder has held the Federal DGN permit for a minimum of three consecutive years (counted April 1 to March 31 of the following year). At the time of the establishment of the Federal limited entry DGN permit system, the length of time an individual has held a State of California limited entry DGN permit carries over (e.g., if an individual has held a California DGN permit for two years, they are eligible to transfer the Federal DGN permit after holding the Federal DGN permit for one year). Exceptions to this limitation on permit transfer may be made under the following circumstances:
 - (i) The permit holder suffers from a serious illness or permanent disability that prevents the permit holder from earning a livelihood from commercial fishing.
 - (ii) If a deceased permit holder's estate or heirs submit a transfer request within six months of the permit holder's death.
 - (iii) Upon dissolution of marriage if the permit is held as community property.
- (9) **Renewals.**

- (i) The SFD will send notices to renew limited entry permits to the most recent address of the permit holder on file.
 - (ii) The permit owner is responsible for renewing a limited entry permit.
 - (iii) The deadline for receipt or postmark of a Federal DGN permit renewal application is April 30 of the permit year (*i.e.*, April 30, 2019 for 2019-2020 fishing season). Federal DGN permits must be renewed yearly.
 - (iv) A DGN permit that is allowed to expire will not be renewed unless the permit owner requests reissuance by July 31 (three 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 the permit expires, it will be forfeited and NMFS will not reissue the permit to anyone.
- (10) *Owner on-board requirement.*
- (i) Except as provided in paragraphs (f)(10)(ii) through (v) of this section, the DGN permit holder must be on-board the vessel and in possession of a valid Federal limited entry DGN permit when engaged in DGN fishing activity.
 - (ii) A permit holder may designate another individual to fish under their permit for up to 15 days per fishing year (April 1 to March 31 of the following year); the substitute must comply with all other Federal permitting requirements. A permit holder shall notify NMFS of a substitution at least 24 hours prior to the commencement of the trip.
 - (iii) If the person who owns a Federal DGN permit is prevented from being on-board a fishing vessel because the person died, is ill, or is injured, NMFS may allow an exemption to the owner on-board requirement for more than 15 days. The person requesting the exemption must send a letter to NMFS requesting an exemption from the owner on-board requirements, with appropriate evidence as described at paragraph (f)(10)(iv) or (v) of this section. All exemptions for death, injury, or illness will be evaluated by NMFS and a decision will be made in writing to the permit owner (or, in the case of the death of the permit owner, to the estate or heirs of the permit owner) within 60 calendar days of receipt of the original exemption request.
 - (iv) Evidence of death of the permit owner shall be provided to NMFS in the form of a copy of a death certificate. In the interim before the estate is settled, if the deceased permit owner was subject to the owner on-board requirements, the estate of the deceased permit owner may send a letter to NMFS with a copy of the death certificate, requesting an exemption from the owner-on-board requirements. An exemption due to death of the permit owner will be effective only until such time that the estate of the deceased permit owner has registered the deceased permit owner's permit to a beneficiary, transferred the permit to another owner, or three years after the date of death as proven by a death certificate, whichever is earliest. An exemption from the owner-on-board requirement will be conveyed in a letter from NMFS to the estate of the permit owner and is required to be on the vessel during DGN fishing operations.
 - (v) Evidence of illness or injury that prevents the permit owner from participating in the fishery shall be provided to NMFS in the form of a letter from a certified medical practitioner. This letter must detail the relevant medical conditions of the permit owner and how those conditions prevent the permit owner from being on-board a fishing vessel during DGN fishing. An exemption due to injury or illness will be effective only for the fishing year of the request for exemption. In order to extend a medical exemption for a succeeding year, the permit owner

must submit a new request and provide documentation from a certified medical practitioner detailing why the permit owner is still unable to be on-board a fishing vessel. An exemption from the owner-on-board requirement will be conveyed in a letter from NMFS to the permit owner and is required to be on the vessel during DGN fishing operations.

(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.

[69 FR 18453, Apr. 7, 2004, as amended at 72 FR 10937, Mar. 12, 2007; 74 FR 37178, July 28, 2009; 83 FR 11150, Mar. 14, 2018; 88 FR 29549, May 8, 2023]

§ 660.708 Reporting and recordkeeping.

- (a) **Logbooks.** The operator of any commercial fishing vessel and any recreational charter vessel fishing for HMS in the management area must maintain on board the vessel an accurate and complete record of catch, effort, and other data on report forms provided by the Regional Administrator or a state agency. All information specified on the forms must be recorded on the forms within 24 hours after the completion of each fishing day. The original logbook form for each day of the fishing trip must be submitted to either the Regional Administrator or the appropriate state management agency within 30 days of each landing or transshipment of HMS. Each form must be signed and dated by the fishing vessel operator.
- (1) Logbooks that meet the logbook reporting requirement may be found at <http://swr.nmfs.noaa.gov/logbooks.htm> and include:
- (i) The logbook required under 50 CFR 300.21 implementing the Tuna Conventions Act of 1950;
 - (ii) The logbook required under § 660.14 implementing the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region;
 - (iii) Any logbook required by the fishery management agency of the States of California, Oregon, or Washington.
- (2) Any holder of a permit who does not submit logbooks under any of the above authorities must submit a written request to the SFD for the appropriate logbook. The applicant must provide his or her name and address, the name of the vessel, and the type of fishing gear used.
- (3) The Regional Administrator may, after consultation with the Council, act to modify the information to be provided on the fishing record forms.
- (b) Any person who is required to do so by the applicable state law must make and/or file, retain, or make available any and all reports of HMS containing all data, and in the exact manner, required by the applicable state law.

[69 FR 18453, Apr. 7, 2004, as amended at 80 FR 62501, Oct. 16, 2015]

§ 660.709 Annual specifications.

- (a) **Procedure.**
- (1) Each year, the HMSMT will deliver a stock assessment and fishery evaluation report to the Council for all HMS with any necessary recommendations for harvest guidelines, quotas or other management measures to protect HMS, including updated maximum sustainable yield (MSY) and optimum yield (OY) estimates based on the best available science. The Council's Scientific and Statistical Committee may review the estimates and make a recommendation on their suitability for management. As described in the fishery management plan, the Council will periodically review

these recommendations and decide whether to adopt updated numerical estimates of MSY and OY, which are then submitted as recommendations for NMFS to review as part of the management measures review process.

- (2) Based on recommendations of the Council, the Regional Administrator will approve or disapprove any harvest guideline, quota, or other management measure including updated MSY and OY estimates after reviewing such recommendations to determine compliance with the FMP, the Magnuson Act, and other applicable law. The Regional Administrator will implement through rulemaking any approved harvest guideline, quota, or other management measure adopted under this section.
- (b) Fishing seasons for all species will begin on April 1 of each year at 0001 hours local time and terminate on March 31 of each year at 2400 hours local time.
- (c) Harvest guidelines, quotas, and other management measures announced for a particular year will be in effect the following year unless changed through the public review process described in paragraph (a) of this section.
- (d) Irrespective of the normal review process, the Council may propose management action to protect HMS at any time. The Council may adopt a management cycle different from the one described in the fishery management plan provided that such change is made by a majority vote of the Council and a 6-month notice of the change is given.

[69 FR 18453, Apr. 7, 2004, as amended at 76 FR 56328, Sept. 13, 2011; 83 FR 19982, May 7, 2018]

§ 660.710 Closure of directed fishery.

- (a) When a quota has been taken, the Regional Administrator will announce in the FEDERAL REGISTER the date of closure of the fishery for the species of concern.
- (b) When a harvest guideline has been taken, the Regional Administrator will initiate review of the species of concern according to section 8.4.8 of the FMP and publish in the FEDERAL REGISTER any necessary and appropriate regulations following Council recommendations.

§ 660.711 General catch restrictions.

- (a) **Incidental landings.** HMS caught by gear not authorized by this subpart may be landed in incidental amounts as follows:
 - (1) Drift gillnet vessels with stretched mesh less than 14 inches may land up to 10 HMS per trip, except that no swordfish may be landed.
 - (2) Bottom longline vessels may land up to 20 percent by weight of management unit sharks in landings of all species, or 3 individual sharks of the species in the management unit, whichever is greater.
 - (3) Trawl and pot gear vessels may land up to 1 percent by weight of management unit sharks in a landing of all species or 2 individual sharks of the species in the management unit, whichever is greater.
- (b) **Marlin prohibition.** The sale of striped marlin by a vessel with a permit under this subpart is prohibited.
- (c) **Sea turtle handling and resuscitation.** All sea turtles taken incidentally in fishing operations by any HMS vessel other than vessels subject to § 660.712 must be handled in accordance with 50 CFR 223.206(d)(1).

[69 FR 18453, Apr. 7, 2004, as amended at 80 FR 46520, Aug. 5, 2015]

§ 660.712 Longline fishery.

(a) Gear and fishing restrictions.

- (1) Owners and operators of vessels registered for use of longline gear may not use longline gear to fish for or target HMS within the U.S. EEZ.
- (2) Owners and operators of vessels registered for use of longline gear may not make shallow sets with longline gear to fish for or target swordfish (*Xiphias gladius*) west of 150° W. long. and north of the equator (0° N. lat.).
- (3) A person aboard a vessel registered for use of longline gear fishing for HMS west of 150° W. long. and north of the equator (0° N. lat.) may not possess or deploy any float line that is shorter than or equal to 20 m (65.6 ft or 10.9 fm). As used in this paragraph, float line means a line used to suspend the main longline beneath a float.
- (4) From April 1 through May 31, owners and operators of vessels registered for use of longline gear may not use longline gear in waters bounded on the south by 0° lat., on the north by 15° N. lat., on the east by 145° W. long., and on the west by 180° long.
- (5) From April 1 through May 31, owners and operators of vessels registered for use of longline gear may not receive from another vessel HMS that were harvested by longline gear in waters bounded on the south by 0° lat., on the north by 15° N. lat., on the east by 145° W. long., and on the west by 180° long.
- (6) From April 1 through May 31, owners and operators of vessels registered for use of longline gear may not land or transship HMS that were harvested by longline gear in waters bounded on the south by 0° lat., on the north by 15° N. lat., on the east by 145° W. long., and on the west by 180° long.
- (7) No light stick may be possessed on board a vessel registered for use of longline gear during fishing trips that include any fishing west of 150° W. long. and north of the equator (0° N. lat.). A light stick as used in this paragraph is any type of light emitting device, including any fluorescent glow bead, chemical, or electrically powered light that is affixed underwater to the longline gear.
- (8) When a conventional monofilament longline is deployed in waters west of 150° W. long. and north of the equator (0° N. lat.) by a vessel registered for use of longline gear, no fewer than 15 branch lines may be set between any two floats. Vessel operators using basket-style longline gear must set a minimum of 10 branch lines between any 2 floats when fishing in waters north of the equator.
- (9) Longline gear deployed west of 150° W. long. and north of the equator (0° N. lat.) by a vessel registered for use of longline gear must be deployed such that the deepest point of the main longline between any two floats, *i.e.*, the deepest point in each sag of the main line, is at a depth greater than 100 m (328.1 ft or 54.6 fm) below the sea surface.
- (10) If no observer is on board the vessel, owners and operators of longline vessels registered for use of longline gear may land or possess no more than 10 swordfish from a fishing trip when using any J-type fishing hooks, and no more than 25 swordfish from a fishing trip when using only circle hook-type fishing hooks. If a NMFS-approved observer is on board the vessel for the duration of the fishing trip, there is no limit on the amount of swordfish retained.

- (11) Owners and operators of longline vessels registered for use of longline gear are subject to the provisions at 50 CFR part 223 prohibiting shallow sets to target swordfish in waters beyond the U.S. EEZ and east of 150° W. long.

(b) *Sea turtle take mitigation measures.*

- (1) Owners and operators of vessels registered for use of longline gear must carry aboard their vessels line clippers meeting the minimum design standards specified in paragraph (b)(2) of this section, dip nets meeting minimum standards specified in paragraph (b)(3) of this section, and wire or bolt cutters capable of cutting through the vessel's hooks. These items must be used to disengage any hooked or entangled sea turtles with the least harm possible to the sea turtles and as close to the hook as possible in accordance with the requirements specified in paragraphs (b)(4) through (b)(7) of this section.
- (2) Line clippers are intended to cut fishing line as close as possible to hooked or entangled sea turtles. NMFS has established minimum design standards for line clippers. The Arceneaux line clipper (ALC) is a model line clipper that meets these minimum design standards and may be fabricated from readily available and low-cost materials (see figure 1 to § 660.32). The minimum design standards are as follows:
 - (i) The cutting blade must be curved, recessed, contained in a holder, or otherwise afforded some protection to minimize direct contact of the cutting surface with sea turtles or users of the cutting blade.
 - (ii) The blade must be capable of cutting 2.0-2.1 mm monofilament line and nylon or polypropylene multistrand material commonly known as braided mainline or tarred mainline.
 - (iii) The line clipper must have an extended reach handle or pole of at least 6 ft (1.82 m).
 - (iv) The cutting blade must be securely fastened to the extended reach handle or pole to ensure effective deployment and use.
- (3) Dip nets are intended to facilitate safe handling of sea turtles and access to sea turtles for purposes of cutting lines in a manner that minimizes injury and trauma to sea turtles. The minimum design standards for dip nets that meet the requirements of this section are:
 - (i) The dip net must have an extended reach handle of at least 6 ft (1.82 m) of wood or other rigid material able to support a minimum of 100 lbs (34.1 kg) without breaking or significant bending or distortion.
 - (ii) The dip net must have a net hoop of at least 31 inches (78.74 cm) inside diameter and a bag depth of at least 38 inches (96.52 cm). The bag mesh openings may be no more than 3 inches × 3 inches (7.62 cm × 7.62 cm).
- (4) All incidentally taken sea turtles brought aboard for dehooking and/or disentanglement must be handled in a manner to minimize injury and promote post-hooking survival.
 - (i) When practicable, comatose sea turtles must be brought on board immediately, with a minimum of injury, and handled in accordance with the procedures specified in paragraphs (b)(5) and (b)(6) of this section.

- (ii) If a sea turtle is too large or hooked in such a manner as to preclude safe boarding without causing further damage/injury to the turtle, line clippers described in paragraph (b)(2) of this section must be used to clip the line and remove as much line as possible prior to releasing the turtle.
 - (iii) If a sea turtle is observed to be hooked or entangled by longline gear during hauling operations, the vessel operator must immediately cease hauling operations until the turtle has been removed from the longline gear or brought on board the vessel.
 - (iv) Hooks must be removed from sea turtles as quickly and carefully as possible. If a hook cannot be removed from a turtle, the line must be cut as close to the hook as possible.
- (5) If the sea turtle brought aboard appears dead or comatose, the sea turtle must be placed on its belly (on the bottom shell or plastron) so that the turtle is right side up and its hindquarters elevated at least 6 inches (15.24 cm) for a period of no less than 4 hours and no more than 24 hours. The amount of the elevation depends on the size of the turtle; greater elevations are needed for larger turtles. A reflex test, performed by gently touching the eye and pinching the tail of a sea turtle, must be administered by a vessel operator, at least every 3 hours, to determine if the sea turtle is responsive. Sea turtles being resuscitated must be shaded and kept damp or moist but under no circumstance may be placed into a container holding water. A water-soaked towel placed over the eyes, carapace, and flippers is the most effective method to keep a turtle moist. Those that revive and become active must be returned to the sea in the manner described in paragraph (b)(6) of this section. Sea turtles that fail to revive within the 24-hour period must also be returned to the sea in the manner described in paragraph (b)(6)(i) of this section.
- (6) Live turtles must be returned to the sea after handling in accordance with the requirements of paragraphs (b)(4) and (b)(5) of this section:
- (i) By putting the vessel engine in neutral gear so that the propeller is disengaged and the vessel is stopped, and releasing the turtle away from deployed gear; and
 - (ii) Observing that the turtle is safely away from the vessel before engaging the propeller and continuing operations.
- (7) In addition to the requirements in paragraphs (b) and (c) of this section, a vessel operator shall perform sea turtle handling and resuscitation techniques consistent with 50 CFR 223.206(d)(1), as appropriate.

(c) ***Longline Seabird mitigation measures.***

- (1) Seabird mitigation techniques. Owners and operators of vessels registered for use of longline gear must ensure that the following actions are taken when fishing north of 23° N. lat.:
- (i) Employ a line setting machine or line shooter to set the main longline when making deep sets west of 150° W. long. using monofilament main longline;
 - (ii) Attach a weight of at least 45 g to each branch line within 1 m of the hook when making deep sets using monofilament main longline;
 - (iii) When using basket-style longline gear, ensure that the main longline is deployed slack to maximize its sink rate;
- (2) Use completely thawed bait that has been dyed blue to an intensity level specified by a color quality control card issued by NMFS;

- (3) Maintain a minimum of two cans (each sold as 0.45 kg or 1 lb size) containing blue dye on board the vessel;
- (4) Discharge fish, fish parts (offal), or spent bait while setting or hauling longline gear, on the opposite side of the vessel from where the longline gear is being set or hauled;
- (5) Retain sufficient quantities of fish, fish parts, or spent bait, between the setting of longline gear for the purpose of strategically discharging it in accordance with paragraph (a)(6) of this section;
- (6) Remove all hooks from fish, fish parts, or spent bait prior to its discharge in accordance with paragraph (c)(4) of this section; and
- (7) Remove the bill and liver of any swordfish that is caught, sever its head from the trunk and cut it in half vertically, and periodically discharge the butchered heads and livers in accordance with paragraph (a)(6) of this section.
- (8) If a short-tailed albatross is hooked or entangled by a vessel registered for use of longline gear, owners and operators must ensure that the following actions are taken:
 - (i) Stop the vessel to reduce the tension on the line and bring the bird on board the vessel using a dip net;
 - (ii) Cover the bird with a towel to protect its feathers from oils or damage while being handled;
 - (iii) Remove any entangled lines from the bird;
 - (iv) Determine if the bird is alive or dead.
 - (A) If dead, freeze the bird immediately with an identification tag attached directly to the specimen listing the species, location and date of mortality, and band number if the bird has a leg band. Attach a duplicate identification tag to the bag or container holding the bird. Any leg bands present must remain on the bird. Contact NMFS, the Coast Guard, or the U.S. Fish and Wildlife Service at the numbers listed on the Short-tailed Albatross Handling Placard distributed at the NMFS protected species workshop, inform them that you have a dead short-tailed albatross on board, and submit the bird to NMFS within 72 hours following completion of the fishing trip.
 - (B) If alive, handle the bird in accordance with paragraphs (c)(9) through (c)(14) of this section.
- (9) Place the bird in a safe enclosed place;
- (10) Immediately contact NMFS, the Coast Guard, or the U.S. Fish and Wildlife Service at the numbers listed on the Short-tailed Albatross Handling Placard distributed at the NMFS protected species workshop and request veterinary guidance;
- (11) Follow the veterinary guidance regarding the handling and release of the bird.
- (12) Complete the short-tailed albatross recovery data form issued by NMFS.
- (13) If the bird is externally hooked and no veterinary guidance is received within 24-48 hours, handle the bird in accordance with paragraphs (c)(17)(iv) and (v) of this section, and release the bird only if it meets the following criteria:
 - (i) Able to hold its head erect and respond to noise and motion stimuli;

- (ii) Able to breathe without noise;
 - (iii) Capable of flapping and retracting both wings to normal folded position on its back;
 - (iv) Able to stand on both feet with toes pointed forward; and
 - (v) Feathers are dry.
- (14) If released under paragraph (c)(13) of this section or under the guidance of a veterinarian, all released birds must be placed on the sea surface.
- (15) If the hook has been ingested or is inaccessible, keep the bird in a safe, enclosed place and submit it to NMFS immediately upon the vessel's return to port. Do not give the bird food or water.
- (16) Complete the short-tailed albatross recovery data form issued by NMFS.
- (17) If a seabird other than a short-tailed albatross is hooked or entangled by a vessel registered for use of longline gear, owners and operators must ensure that the following actions are taken:
- (i) Stop the vessel to reduce the tension on the line and bring the seabird on board the vessel using a dip net;
 - (ii) Cover the seabird with a towel to protect its feathers from oils or damage while being handled;
 - (iii) Remove any entangled lines from the seabird;
 - (iv) Remove any external hooks by cutting the line as close as possible to the hook, pushing the hook barb out point first, cutting off the hook barb using bolt cutters, and then removing the hook shank;
 - (v) Cut the fishing line as close as possible to ingested or inaccessible hooks;
 - (vi) Leave the bird in a safe enclosed space to recover until its feathers are dry; and
 - (vii) After recovered, release seabirds by placing them on the sea surface.

(d) ***Vessel monitoring system.***

- (1) Only a VMS unit owned by NMFS and installed by NMFS complies with the requirement of this subpart.
- (2) After the holder of a permit to use longline gear has been notified by the SAC of a specific date for installation of a VMS unit on the permit holder's vessel, the vessel must carry the VMS unit after the date scheduled for installation.
- (3) A longline permit holder will not be assessed any fee or other charges to obtain and use a VMS unit, including the communication charges related directly to requirements under this section. Communication charges related to any additional equipment attached to the VMS unit by the owner or operator shall be the responsibility of the owner or operator and not NMFS.
- (4) The holder of a longline permit and the master of the vessel operating under the permit must:
- (i) Provide opportunity for the SAC to install and make operational a VMS unit after notification.
 - (ii) Carry the VMS unit on board whenever the vessel is at sea.
 - (iii) Not remove or relocate the VMS unit without prior approval from the SAC.

(5) The SAC has authority over the installation and operation of the VMS unit. The SAC may authorize the connection or order the disconnection of additional equipment, including a computer, to any VMS unit when deemed appropriate by the SAC.

(e) **Protected species workshop.**

(1) Each year both the owner and the operator of a vessel registered for use of longline gear must attend and be certified for completion of a workshop conducted by NMFS on mitigation, handling, and release techniques for turtles and seabirds and other protected species.

(2) A protected species workshop certificate will be issued by NMFS annually to any person who has completed the workshop.

(3) An owner of a vessel registered for use of longline gear must have on file a valid protected species workshop certificate or copy issued by NMFS in order to maintain or renew their vessel registration.

(4) An operator of a vessel registered for use of longline gear must have on board the vessel a valid protected species workshop certificate issued by NMFS or a legible copy thereof.

(f) An operator of a vessel registered for use of longline gear must notify the Regional Administrator at least 24 hours prior to embarking on a fishing trip regardless of the intended area of fishing.

(g) An operator of a vessel registered for use of longline gear in waters east of 150° W. long. and beyond the EEZ is subject to the requirements at 50 CFR part 223.

[69 FR 18453, Apr. 7, 2004, as amended at 77 FR 15975, Mar. 19, 2012]

§ 660.713 Drift gillnet fishery.

(a) **Take Reduction Plan gear restrictions.** Gear restrictions resulting from the Pacific Offshore Cetacean Take Reduction Plan established under the authority of the Marine Mammal Protection Act of 1972 can be found at 50 CFR 229.31.

(b) **Other gear restrictions.**

(1) The maximum length of a drift gillnet on board a vessel shall not exceed 6,000 ft (1828 m).

(2) Up to 1,500 ft (457 m) of drift gillnet in separate panels of 600 ft (182.88 m) may be on board the vessel in a storage area.

(c) **Protected Resource Area closures.**

(1) Pacific leatherback conservation area. No person may fish with, set, or haul back drift gillnet gear in U.S. waters of the Pacific Ocean from August 15 through November 15 in the area bounded by straight lines connecting the following coordinates in the order listed:

(i) Pt. Sur at 36°18.5' N. lat., to

(ii) 34°27' N. lat. 123°35' W. long., to

(iii) 34°27' N. lat. 129° W. long., to

(iv) 45° N. lat. 129° W. long., thence to

(v) the point where 45° N. lat. intersects the Oregon coast.

- (2) **Pacific loggerhead conservation area.** No person may fish with, set, or haul back drift gillnet gear in U.S. waters of the Pacific Ocean east of the 120° W. meridian from June 1 through August 31 during a forecasted, or occurring, El Nino event off the coast of southern California.
 - (i) **Notification of an El Nino event.** The Assistant Administrator will publish in the FEDERAL REGISTER a notification that an El Nino event is occurring, or is forecast to occur, off the coast of southern California and the requirement of a closure under this paragraph (c)(2). Furthermore, the Assistant Administrator will announce the requirement of such a closure by other methods as are necessary and appropriate to provide actual notice to the participants in the California/Oregon drift gillnet fishery.
 - (ii) **Determination of El Nino conditions.** The Assistant Administrator will rely on information developed by NOAA offices which monitor El Nino events, such as NOAA's Climate Prediction Center and the West Coast Office of NOAA's Coast Watch program, in order to determine whether an El Nino is forecasted or occurring for the coast of southern California. The Assistant Administrator will use the monthly sea surface temperature anomaly charts to determine whether there are warmer than normal sea surface temperatures present off of southern California during the months prior to the closure month for years in which an El Nino event has been declared by the NOAA Climate Prediction Center. Specifically, the Assistant Administrator, will use sea surface temperature data from the third and second months prior to the month of the closure for determining whether El Nino conditions are present off of southern California.
 - (iii) **Reopening.** If, during a closure as described within this paragraph (c)(2), sea surface temperatures return to normal or below normal, the Assistant Administrator may publish a FEDERAL REGISTER notice announcing that El Nino conditions are no longer present off the coast of southern California and may terminate the closure prior to August 31.
- (d) **Mainland area closures.** The following areas off the Pacific coast are closed to driftnet gear:
 - (1) Within the U.S. EEZ from the United States-Mexico International Boundary to the California-Oregon border from February 1 through April 30.
 - (2) In the portion of the U.S. EEZ within 75 nautical miles from the mainland shore from the United States-Mexico International Boundary to the California-Oregon border from May 1 through August 14.
 - (3) In the portion of the U.S. EEZ within 25 nautical miles of the coastline from December 15 through January 31 of the following year from the United States-Mexico International Boundary to the California-Oregon border.
 - (4) In the portion of the U.S. EEZ from August 15 through September 30 within the area bounded by line extending from Dana Point to Church Rock on Santa Catalina Island, to Point La Jolla, CA.
 - (5) In the portion of the U.S. EEZ within 12 nautical miles from the mainland shore north of a line extending west of Point Arguello, CA, to the California-Oregon border.
 - (6) In the portion of the U.S. EEZ within the area bounded by a line from the lighthouse at Point Reyes to Noonday Rock, to Southeast Farallon Island to Pillar Point, CA.
 - (7) In the portion of the U.S. EEZ off the Oregon coast east of a line approximating 1000 fathoms as defined by the following coordinates:

42°00'00" N. lat. 125°10'30" W. long.
42°25'39" N. lat. 124°59'09" W. long.
42°30'42" N. lat. 125°00'46" W. long.
42°30'23" N. lat. 125°04'14" W. long.
43°02'56" N. lat. 125°06'57" W. long.
43°01'29" N. lat. 125°10'55" W. long.
43°50'11" N. lat. 125°19'14" W. long.
44°03'23" N. lat. 125°12'22" W. long.
45°00'06" N. lat. 125°16'42" W. long.
45°25'27" N. lat. 125°16'29" W. long.
45°45'37" N. lat. 125°15'19" W. long.
46°04'45" N. lat. 125°24'41" W. long.
46°16'00" N. lat. 125°20'32" W. long.

(8) In the portion of the U.S. EEZ north of 46°16' N. latitude (Washington coast).

(e) **Channel Islands area closures.** The following areas off the Channel Islands are closed to driftnet gear:

(1) **San Miguel Island closures.**

- (i) Within the portion of the U.S. EEZ north of San Miguel Island between a line extending 6 nautical miles west of Point Bennett, CA, and a line extending 6 nautical miles east of Cardwell Point, CA.
- (ii) Within the portion of the U.S. EEZ south of San Miguel Island between a line extending 10 nautical miles west of Point Bennett, CA, and a line extending 10 nautical miles east of Cardwell Point, CA.

(2) **Santa Rosa Island closure.** Within the portion of the U.S. EEZ north of San Miguel Island between a line extending 6 nautical miles west from Sandy Point, CA, and a line extending 6 nautical miles east of Skunk Point, CA, from May 1 through July 31.

(3) **San Nicolas Island closure.** In the portion of the U.S. EEZ within a radius of 10 nautical miles of 33°16'41" N. lat., 119°34'39" W. long. (west end) from May 1 through July 31.

(4) **San Clemente Island closure.** In the portion of the U.S. EEZ within 6 nautical miles of the coastline on the easterly side of San Clemente Island within a line extending 6 nautical miles west from 33°02'16" N. lat., 118°35'27" W. long. and a line extending 6 nautical miles east from the light at Pyramid Head, CA.

(f) **Pre-trip notification requirements.**

(1) Drift gillnet 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. The vessel owners or operators 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 562-980-4025.

- (2) Drift gillnet vessel owners or operators must provide the NMFS Office of Law Enforcement for the West Coast Region (OLE) with a declaration report before the vessel leaves port to fish for thresher shark/swordfish with large-mesh drift gillnet gear in state and federal waters between 0 and 200 nautical miles offshore of California, Oregon, or Washington. Declaration reports will include: The vessel name and/or identification number, and gear type.
 - (i) Upon receipt of a declaration report, OLE will provide a confirmation code or receipt to confirm that a valid declaration report was received for the vessel. Retention of the confirmation code or receipt to verify that a valid declaration report was filed and the declaration requirement was met is the responsibility of the vessel owner or operator.
 - (ii) The vessel operator must send a new declaration report before leaving port on a trip during which the fishing gear that will be used is different from the gear type most recently declared for the vessel. A declaration report will be valid until another declaration report revising the existing gear declaration is received by OLE.
 - (iii) OLE's declaration hotline is 1-888-585-5518. The business hours for the OLE are Monday through Friday, except Federal holidays, 8 a.m. to 4:30 p.m., Pacific Time; voice messages left on the hotline will be retrieved at the start of the next business day.
- (g) **Vessel Monitoring System (VMS) requirements.** Drift gillnet vessel owners are required to install an OLE type-approved VMS mobile transceiver unit (VMS unit) and to arrange for a OLE type-approved communications service provider to receive and relay transmissions to the OLE prior to fishing for thresher shark/swordfish with large-mesh drift gillnet gear.
 - (1) **What is a VMS?** A VMS consists of an OLE type-approved VMS unit that automatically determines the vessel's position and transmits it to an OLE type-approved communications service provider. The communications service provider receives the transmission and relays it to the OLE.
 - (2) **What vessels are required to have a VMS?** Any vessel registered for use with both a limited-entry California state large-mesh thresher shark/swordfish drift gillnet permit and a federal highly migratory species permit that fishes in state or federal waters off the coasts of California, Oregon, or Washington (0-200 nm offshore).
 - (3) **How are VMS units and communications service providers approved by OLE?**
 - (i) VMS unit manufacturers or communication service providers will submit products or services to the OLE for evaluation based on the published specifications.
 - (ii) The OLE will publish a list of OLE type-approved VMS units and communication service providers for the DGN fishery in the FEDERAL REGISTER or notify the public through other appropriate media; and the OLE may publish amendments to the list as necessary.
 - (4) **What are the vessel owner's responsibilities?** If you are a vessel owner that must participate in the VMS program, you or the vessel operator on your behalf must:

- (i) Obtain an OLE type-approved VMS unit and have it installed on board your vessel in accordance with the instructions provided by the OLE. You may obtain a copy of the VMS installation and operation instructions from the Special-Agent-In-Charge (SAC).
- (ii) Activate the VMS unit, submit an activation report and an initial declaration report, and receive confirmation from the OLE that the VMS transmissions are being received at least 72 hours prior to leaving port on a fishing trip for which VMS is required. Instructions for submitting an activation report may be obtained from the SAC. An activation report must again be submitted to the OLE following reinstallation of a VMS unit or change in service provider before the vessel may be used to fish in a fishery requiring the VMS.
 - (A) **Activation reports.** If you are a vessel owner who must use VMS and you are activating a VMS unit for the first time, or reactivating a VMS unit following a reinstallation or change in service provider, you or the vessel operator on your behalf must fax to the OLE an activation report that includes: vessel name, vessel owner's name, address and telephone number, vessel operator's name, address and telephone number, USCG vessel documentation number/state registration number; and, if applicable, the relevant state and federal permit numbers for which vessel or owner is registered, VMS unit manufacturer, VMS communications service provider, VMS unit identification, and a statement signed and dated by the vessel owner confirming compliance with the installation procedures provided by the SAC and identifying whether the VMS unit is primary or backup. Immediately following submission of an activation report, submit an initial declaration report as described in paragraph (f)(2) of this section using the OLE's declaration hotline included in paragraph (f)(2)(iii) of this section.
 - (B) **Transferring ownership of the VMS unit.** Ownership of the VMS unit may be transferred from one vessel owner to another vessel owner if all of the following documents are provided to the OLE: a new activation report, which identifies that the VMS unit was previously registered to another vessel, a notarized bill of sale showing proof of ownership of the VMS unit, and documentation from the communications service provider showing proof that the service agreement for the previous vessel was terminated and that a service agreement was established for the new vessel.
- (iii) Continuously operate and maintain the VMS unit in good working order 24 hours a day throughout the fishing year. The VMS unit must accurately transmit a signal indicating the vessel's position at least once every hour, 24 hours a day throughout the year, unless a valid exemption report, as described in paragraph (g)(4)(iv)(F) of this section, has been confirmed by the OLE. A reduced signal transmission rate, at least once every 4 hours, may be authorized by the OLE when a vessel remains in port for an extended period of time.
- (iv) Submit an exemption report to be confirmed by the OLE as valid, as described at paragraph (g)(4)(iv)(F) of this section, and comply with all conditions and requirements of the VMS exemption identified in this section and specified in the exemption report for a vessel to be exempted from the requirement of continuously operating and maintaining the VMS unit 24 hours a day throughout the fishing year.
 - (A) **Haul out exemption.** When it is anticipated that a vessel will be continuously out of the water for more than 7 consecutive days and the OLE has confirmed a valid exemption report has been received for the vessel, electrical power to the VMS unit may be removed

and transmissions may be discontinued. Under this exemption, VMS transmissions can be discontinued from the time the vessel is removed from the water until the time that the vessel is placed back in the water.

- (B) **Outside areas exemption.** When the vessel will be continuously operating seaward of the U.S. exclusive economic zone (EEZ; beyond 200 nm) off the coasts of California, Oregon, or Washington for more than 7 consecutive days and the OLE has confirmed a valid exemption report has been received for the vessel, the VMS unit transmissions may be reduced or discontinued from the time the vessel leaves the EEZ off the coasts of California, Oregon, or Washington until the time that the vessel re-enters the EEZ off the coasts of California, Oregon, or Washington. If the vessel is equipped with a VMS unit that OLE has approved for this exemption and after the OLE has received an exemption report for the vessel, the vessel owner or operator can request that the OLE reduce or discontinue the VMS transmissions.
- (C) **Long-term departure exemption.** A vessel participating in the DGN fishery that is required to have VMS under paragraph (g) of this section may be exempted from VMS provisions after the end of the fishing season in which it fished, provided that a completed exemption report including a statement signed by the vessel owner indicating that the vessel will not be used to take and retain or possess or land swordfish taken in state or federal waters off the coasts of California, Oregon, or Washington during the upcoming fishing year is submitted to the OLE.
- (D) **Emergency exemption.** Vessels required to have VMS under paragraph (g) of this section may be exempted from VMS provisions in emergency situations that are beyond the vessel owner's control, including but not limited to: fire, flooding, or extensive physical damage to critical areas of the vessel. A vessel owner may request an emergency exemption from the VMS requirements specified in paragraph (g) of this section for his/her vessel by contacting the OLE and submitting the following information in writing: the reasons for seeking an exemption including any supporting documents (e.g., repair invoices, photographs showing damage to the vessel, insurance claim forms, etc.), the time period for which the exemption is requested, and the location of the vessel while the exemption is in effect. The OLE will issue a written determination granting or denying the emergency exemption request. A vessel will not be covered by the emergency exemption until the OLE issues a determination granting the exemption. If an exemption is granted, the duration of the exemption will be specified in the OLE determination.
- (E) **Submission of exemption reports.** Long-term departure exemption reports must be signed by the vessel owner and submitted by fax or by emailing an electronic copy of the actual report to the OLE. If an emergency exemption request will be submitted, initial contact with the OLE must be made by telephone, fax or email within 24 hours from when the emergency incident occurred. All emergency exemption requests must be submitted in writing within 72 hours from when the incident occurred. Submission methods for exemption reports, except long-term departures and emergency exemption requests, may include email, facsimile, or telephone. The OLE will provide, through appropriate media, instructions to the public on submitting exemption reports. Instructions and other information needed to make exemption reports may be mailed to the vessel owner's address of record. Owners of vessels required to use the VMS who do not receive instructions by mail are responsible for contacting OLE during business hours at least 3 days before the exemption is needed to obtain information necessary for exemption

reports. The OLE must be contacted during business hours (Monday through Friday, except federal holidays, between 8 a.m. to 4:30 p.m., Pacific Time). Any other categories of exemptions that have not been specified in paragraph (g) of this section may be submitted to the OLE through the VMS unit or another method deemed appropriate by the OLE. Before a request for a new category of exemption can be approved by OLE, it must be announced in the FEDERAL REGISTER.

- (F) **Valid exemption reports.** For an exemption report to be valid, the OLE must receive and confirm it at least 2 hours and not more than 24 hours before the exempted activities defined at paragraphs (g)(4)(iv)(A) through (D) of this section. An exemption report is valid until NMFS receives a report canceling the exemption. An exemption cancellation must be received at least 2 hours before the vessel re-enters the EEZ following an outside areas exemption; at least 2 hours before the vessel is placed back in the water following a haul-out exemption; or at least 2 hours before a vessel resumes fishing with a large-mesh drift gillnet after a long-term departure exemption. If a vessel is required to submit an activation report under paragraph (g)(4)(ii) of this section before returning to fish, that report may substitute for the exemption cancellation. After an emergency situation occurs that disrupts the VMS transmission, initial contact must be made with the OLE within 24 hours and a written emergency exemption request submitted within 72 hours from when the incident occurred. If the emergency situation, upon which an emergency exemption is based, is resolved before the exemption expires, an exemption cancellation must be received by OLE at least 2 hours before the vessel resumes fishing.
- (v) When aware that transmission of automatic position reports has been interrupted, or when notified by OLE that automatic position reports are not being received, contact OLE and follow the instructions provided to you. Such instructions may include, but are not limited to, manually communicating the vessel's position to a location designated by the OLE or returning to port until the VMS unit is operable.
- (vi) After a fishing trip during which interruption of automatic position reports has occurred, the vessel's owner or operator must replace or repair the VMS unit prior to the vessel's next fishing trip. Repair or reinstallation of a VMS unit or installation of a replacement unit, including any changes in communications service providers shall be in accordance with the instructions provided by the OLE.
- (vii) Make the VMS units available for inspection by OLE personnel, USCG personnel, state enforcement personnel or any authorized officer.
- (viii) Ensure that the VMS unit is not tampered with, disabled, destroyed, operated, or maintained improperly.
- (ix) Pay all charges levied by the communication service provider as necessary to ensure continuous operation of the VMS units.
- (5) **What is the contact information for the OLE SAC?** For issues related to day-to-day operation of VMS units, including declaration reports, activation reports and exemption reports, the SAC's designee is the OLE VMS Program Manager's office located at 7600 Sand Point Way NE., Seattle, WA 98115-6349; phone: (888) 585-5518; fax: (206) 526-6528); and email: wcd.vms@noaa.gov.
- (h) **Limits on protected species mortalities and injuries.**

- (1) Maximum 2-year hard caps are established on the number of sea turtle and marine mammal mortalities and injuries that occur as a result of observed interactions with large-mesh drift gillnets (mesh size \geq 14 inches) deployed by vessels registered for use under HMS permits. Mortalities and injuries during the current fishing season (May 1 through January 31) and the previous fishing season are counted towards the hard caps. The mortality and injury hard caps are as follows:

TABLE 1 TO PARAGRAPH (h)

Species	Rolling 2-year hard cap
Fin Whale	2
Humpback Whale	2
Sperm Whale	2
Leatherback Sea Turtle	2
Loggerhead Sea Turtle	2
Olive Ridley Sea Turtle	2
Green Sea Turtle	2
Short-fin Pilot Whale (CA/OR/WA stock)	4
Bottlenose Dolphin (CA/OR/WA stock)	4

- (2) Upon determination by the Regional Administrator that, based on data from NMFS observers or a NMFS Electronic Monitoring program, the fishery has reached any of the protected species hard caps during a given 2-year period:
- (i) As soon as practicable, the Regional Administrator will file for publication at the Office of the Federal Register a notification that the fishery has reached a protected species hard cap. The notification will include an advisement that the large-mesh drift gillnet (mesh size \geq 14 inches) fishery shall be closed, and that drift gillnet fishing in the U.S. West Coast Exclusive Economic Zone by vessels registered for use under HMS permits will be prohibited beginning at a specified date and ending at a specified date. Drift gillnet fishing will then be allowed beginning May 1 of the year when observed mortality and injury of each species during the previous two May 1 through January 31 fishing seasons is below its hard cap value. Coincidental with the filing of the notification, the Regional Administrator will also provide actual notice that the large-mesh drift gillnet (mesh size \geq 14 inches) fishery shall be closed, and that drift gillnet fishing in the U.S. West Coast Exclusive Economic Zone by vessels registered for use under HMS permits will be prohibited beginning at a specified date, to all holders of HMS permits with a drift gillnet endorsement via VMS communication, postal mail, and a posting on the NMFS regional website.
 - (ii) Beginning on the fishery closure date published in the FEDERAL REGISTER and indicated by the Regional Administrator in the notification provided to vessel operators and permit holders under paragraph (h)(2)(i) of this section, and until the specified ending date, the large-mesh drift gillnet (mesh size \geq 14 inches) fishery shall be closed. During the closure period

commercial fishing vessels registered for use under HMS permits may not be used to target, retain on board, transship, or land fish captured with a large-mesh drift gillnet (mesh size \geq 14 inches), with the exception that any fish already on board a fishing vessel on the effective date of the document may be retained on board, transshipped, and/or landed, to the extent authorized by applicable laws and regulations, provided such fish are landed within 4 days after the effective date published in the fishing closure document.

[69 FR 18453, Apr. 7, 2004, as amended at 72 FR 31757, June 8, 2007; 78 FR 54551, Sept. 4, 2013; 80 FR 10395, Feb. 26, 2015; 85 FR 7250, Feb. 7, 2020]

§ 660.714 Purse seine fishery. [Reserved]

§ 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 $\frac{3}{8}$ 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

Point ID	Latitude	Longitude
32	42.748993	-124.751655
33	42.520896	-124.747080
34	42.463017	-124.822607
35	41.824611	-124.517470
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

Point ID	Latitude	Longitude
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

[88 FR 29552, May 8, 2023]

§ 660.716 [Reserved]

§ 660.717 Framework for revising regulations.

- (a) **General.** NMFS will establish and adjust specifications and management measures in accordance with procedures and standards in the FMP.
- (b) **Annual actions.** Annual specifications are developed and implemented according to § 660.709.
- (c) **Routine management measures.** Consistent with section 3.4 of the FMP, management measures designated as routine may be adjusted during the year after recommendation from the Council, approval by NMFS, and publication in the FEDERAL REGISTER.
- (d) **Changes to the regulations.** Regulations under this subpart may be promulgated, removed, or revised. Any such action will be made according to the framework measures in section 8.3.4 of the FMP and will be published in the FEDERAL REGISTER.

§ 660.718 Exempted fishing.

- (a) In the interest of developing an efficient and productive fishery for HMS, the Regional Administrator may issue exempted fishing permits (EFP) for the harvest of HMS that otherwise would be prohibited.
- (b) No exempted fishing for HMS may be conducted unless authorized by an EFP issued for the participating vessel in accordance with the criteria and procedures specified in 50 CFR 600.745.

§ 660.719 Scientific observers.

- (a) All fishing vessels with permits issued under this subpart and operating in HMS fisheries, including catcher/processors, at-sea processors, and vessels that embark from a port in Washington, Oregon, or California and land catch in another area, may be required to accommodate an NMFS certified observer on board to collect scientific data.
- (b) All vessels with observers on board must comply with the safety regulations at 50 CFR 600.746.
- (c) NMFS shall advise the permit holder or the designated agent of any observer requirement in response to any pre-trip notification in this subpart.
- (d) When NMFS notifies the permit holder or designated agent of the obligation to carry an observer in response to a notification under this subpart or as a condition of an EFP issued under 50 CFR 660.718, the vessel may not engage in the fishery without taking the observer.
- (e) A permit holder must accommodate a NMFS observer assigned under this section. The Regional Administrator's office, and not the observer, will address any concerns raised over accommodations.
- (f) The permit holder, vessel operator, and crew must cooperate with the observer in the performance of the observer's duties, including:
 - (1) Allowing for the embarking and debarking of the observer.
 - (2) Allowing the observer access to all areas of the vessel necessary to conduct observer duties.
 - (3) Allowing the observer access to communications equipment and navigation equipment as necessary to perform observer duties.
 - (4) Allowing the observer access to VMS units to verify operation, obtain data, and use the communication capabilities of the units for official purposes.
 - (5) Providing accurate vessel locations by latitude and longitude or loran coordinates, upon request by the observer.
 - (6) Providing sea turtle, marine mammal, or sea bird specimens as requested.
 - (7) Notifying the observer in a timely fashion when commercial fishing operations are to begin and end.
- (g) The permit holder, operator, and crew must comply with other terms and conditions to ensure the effective deployment and use of observers that the Regional Administrator imposes by written notice.
- (h) The permit holder must ensure that assigned observers are provided living quarters comparable to crew members and are provided the same meals, snacks, and amenities as are normally provided to other vessel personnel.

§ 660.720 Interim protection for sea turtles.

- (a) Until the effective date of §§ 660.707 and 660.712 (d) and (e), it is unlawful for any person who is not operating under a Hawaii longline limited access permit under § 660.21(b) to do any of the following:
 - (1) Direct fishing effort toward the harvest of swordfish (*Xiphias gladius*) using longline gear deployed on the high seas of the Pacific Ocean west of 150° W. long. and north of the equator (0° lat.).

- (2) Possess a light stick on board a longline vessel on the high seas of the Pacific Ocean west of 150° W. long. north of the equator. A light stick as used in this paragraph is any type of light emitting device, including any fluorescent glow bead, chemical, or electrically powered light that is affixed underwater to the longline gear.
- (3) An operator of a longline vessel subject to this section may land or possess no more than 10 swordfish from a fishing trip where any part of the trip included fishing west of 150° W. long. and north of the equator (0° N. lat.).
- (4) Fail to employ basket-style longline gear such that the mainline is deployed slack when fishing on the high seas of the Pacific Ocean west of 150° W. long. north of the equator.
- (5) When a conventional monofilament longline is deployed by a vessel subject to this section, no fewer than 15 branch lines may be set between any two floats. Vessel operators using basket-style longline gear must set a minimum of 10 branch lines between any 2 floats when fishing in waters west of 150° W. long. north of the equator.
- (6) Longline gear deployed by a vessel subject to this section must be deployed such that the deepest point of the main longline between any two floats, *i.e.*, the deepest point in each sag of the main line, is at a depth greater than 100 m (328.1 ft or 54.6 fm) below the sea surface.

(b) [Reserved]

§ 660.721 Recreational fishing bag limits and filleting requirements.

This section applies to recreational fishing for albacore tuna in the U.S. EEZ off the coast of California, Oregon, and Washington and for bluefin tuna in the U.S. EEZ off the coast of California. In addition to individual fishermen, the operator of a U.S. sportsfishing vessel that fishes for albacore or bluefin tuna is responsible for ensuring that the bag and possession limits of this section are not exceeded. The bag limits of this section apply on the basis of each 24-hour period at sea, regardless of the number of trips per day. The provisions of this section do not authorize any person to take and retain more than one daily bag limit of fish during 1 calendar day. Federal recreational HMS regulations are not intended to supersede any more restrictive state recreational HMS regulations relating to federally-managed HMS.

- (a) **Albacore Tuna Daily Bag Limit.** Except pursuant to a multi-day possession permit referenced in paragraph (c) of this section, a recreational fisherman may take and retain, or possess onboard no more than:
 - (1) Ten albacore tuna if any part of the fishing trip occurs in the U.S. EEZ south of a line running due west true from 34°27' N. latitude (at Point Conception, Santa Barbara County) to the U.S.-Mexico border.
 - (2) Twenty-five albacore tuna if any part of the fishing trip occurs in the U.S. EEZ north of a line running due west true from 34°27' N. latitude (at Point Conception, Santa Barbara County) to the California-Oregon border.
- (b) **Bluefin Tuna Daily Bag Limit.** A recreational fisherman may take and retain, or possess on board no more than two bluefin tuna during any part of a fishing trip that occurs in the U.S. EEZ off California south of a line running due west true from the California—Oregon border [42°00' N. latitude].
- (c) **Possession Limits.** If the State of California requires a multi-day possession permit for albacore or bluefin tuna harvested by a recreational fishing vessel and landed in California, aggregating daily trip limits for multi-day trips would be deemed consistent with Federal law.

- (d) **Boat Limits** Off the coast of California, boat limits apply, whereby each fisherman aboard a vessel may continue to use recreational angling gear until the combined daily limits of HMS for all licensed and juvenile anglers aboard has been attained (additional state restrictions on boat limits may apply). Unless otherwise prohibited, when two or more persons are angling for HMS species aboard a vessel in the EEZ, fishing may continue until boat limits are reached.
- (e) **Restrictions on Filleting of Tuna South of Point Conception.** South of a line running due west true from Point Conception, Santa Barbara County (34°27' N. latitude) to the U.S.-Mexico border, any tuna that has been filleted must be individually bagged as follows:
 - (1) The bag must be marked with the species' common name; and
 - (2) The fish must be cut into the following six pieces with all skin attached: the four loins, the collar removed as one piece with both pectoral fins attached and intact, and the belly cut to include the vent and with both pelvic fins attached and intact.

[72 FR 58259, Oct. 15, 2007, as amended at 80 FR 44891, July 28, 2015]