

applicable only to sablefish smaller than 22 inches, of 1,500 pounds or 3 percent of all sablefish on board, whichever is greater; and (3) a 500 pound trip limit (for sablefish of any size), in order to stretch the nontrawl quota of 3,612 metric tons (mt) to the end of the year. The date that the 500 pound trip limit would be imposed would be determined by the Council's Groundfish Management Team (GMT), based on the best available information. These recommendations were approved by the Secretary and published in the Federal Register (56 FR 645) on January 8, 1991. By a regulatory amendment effective January 18, 1991, the regular season for the nontrawl sablefish fishery begins April 1 of each year (50 CFR 663.23(b)(2); January 25, 1991, 56 FR 2865).

This notice announces the effective date of the 500 pound trip limit. The GMT has projected that the total catch of sablefish caught with nontrawl gear through May 11 was approximately 3,023 mt, and that the 500 pound trip limit would need to be imposed on May 24, 1991, to avoid reaching the nontrawl sablefish quota before the end of the year. Consequently, NOAA announces that no more than 500 pounds (round weight) of sablefish of any size caught with nontrawl gear may be taken and retained, possessed, or landed after 0001 hours (local time) on May 24, 1991. All other provisions announced at 56 FR 738 (January 8, 1991) regarding sablefish caught with nontrawl gear remain in effect.

Classification

These actions are taken under the authority of, and in accordance with, the regulations implementing Amendment 4 to the FMP at 50 CFR part 663.23(c)(1)(i)(E).

This action is authorized by Amendment 4 to the FMP for which a Supplemental Environmental Impact Statement (SEIS) was prepared in accordance with the National Environmental Policy Act (NEPA). Because this action and its impacts have not changed significantly from those considered in the SEIS, this action is categorically excluded from the NEPA requirement to prepare an environmental assessment in accordance with paragraph 5a(3) of the NOAA Directives Manual 02-10.

This action is in compliance with Executive Order 12281, and is covered by the Regulatory Flexibility Analysis prepared for the authorizing regulations.

The public has had the opportunity to comment on this action. The public participated in GMT, Groundfish Advisory Subpanel, Scientific and Statistical Committee, and Council

meetings in November 1990 that resulted in the recommendation to take this action. The intent to take this action was announced in the Federal Register on January 8, 1991, and no comments relevant to this action were received. Additional public comments will be accepted for 15 days after publication of this notice in the Federal Register.

List of Subjects in 50 CFR Part 663

Fisheries, fishing.

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

Dated: May 24, 1991.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

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50 CFR Part 685

(Docket No. 910374-1117)

RIN 0648-AD97

Pelagic Fisheries of the Western Pacific Region

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues a final rule to implement Amendment 2 to the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region (FMP). This rule requires longline and transshipping vessel owners to obtain permits for their vessels, and requires vessel operators to maintain and submit to NMFS logbook data on their fishing and transshipping activities. This applies to all operators of longline and transshipping vessels who conduct any part of their fishing activity shoreward of the outer boundary of the fishery management area. The rule also implements the amendment's application of the FMP to the fishery operating off the Commonwealth of the Northern Mariana Islands (CNMI), and for the management unit species to include tuna after 1991. The rule establishes a protected species zone in the Northwestern Hawaiian Islands (NWHI) and requires each vessel operator intending to fish in this zone to notify NMFS in advance and, if required by the Director, Southwest Region, NMFS (Regional Director), to carry an observer to record observations of protected species and incidents of interactions between the vessel or its gear and protected species. The rule also requires notification of the NMFS Southwest Regional Office in Honolulu, Hawaii, within 12 hours of return to port

after any transshipment activity or to make a landing. In addition, this rule makes minor changes in the information to be submitted in permit applications. This is part of the Southwest Region's effort to simplify the permit process by using the same permit form for all Federal fishery permits in the region. These actions are necessary to ensure adequate monitoring of conditions in the fishery by collecting data on catch and effort, and on interactions between the fishery and marine mammals and/or endangered and threatened species. Emergency regulations are now in effect to provide these data; however, the emergency rule will expire under the time limits set by the Magnuson Fishery Conservation and Management Act (Magnuson Act). This rule will continue the requirements imposed by the emergency rule with some modifications described below.

EFFECTIVE DATE: This action is effective at 0000 hours local time May 26, 1991, except for the definition of "Protected species zone" in § 685.2, § 685.4(c), § 685.5 paragraphs (i) and (l) through (n), § 685.11, and § 685.13. The effective date for the definition of "Protected species zone" in § 685.2, and § 685.11 will be at 0000 hours local time July 16, 1991. Paragraph (c) of § 685.4, paragraphs (i) and (l) through (n) of § 685.5, and § 685.13 contain, or are associated with, collection-of-information requirements subject to the Paperwork Reduction Act (PRA); when approval from the Office of Management and Budget (OMB) is obtained, an effective date for those sections will be published in the Federal Register.

ADDRESSES: Copies of Amendment 2 and the environmental assessment (EA) are available from Kitty B. Simonds, Executive Director, Western Pacific Fishery Management Council, Suite 1405, 1164 Bishop Street, Honolulu, HI 96813 (808-523-1368).

FOR FURTHER INFORMATION CONTACT: Svein Fougner, Fisheries Management Division, Southwest Region, NMFS, Terminal Island, California (213) 514-6660, or Alvin Katekaru, Pacific Area Office, Southwest Region, NMFS, Honolulu, Hawaii (808) 955-8831.

SUPPLEMENTARY INFORMATION: The FMP was prepared by the Western Pacific Fishery Management Council (Council) and approved and implemented by the Secretary of Commerce (Secretary) at a time when there were few problems in the domestic fisheries for management unit species (billfish and associated species). This is no longer the case. Due to rapid growth in the longline fishery, there are serious concerns about the

status of the stocks, the impact of increased longline catches on other fisheries, and interactions between longline fishing and protected species such as Hawaiian monk seals. Faced with these concerns and recognizing that the information base was not sufficient to address these new concerns, the Council requested that the Secretary promulgate an emergency rule establishing permit and logbook requirements for domestic longline and transshipping vessels using the fishery management area under the FMP and requiring each vessel operator intending to fish in certain parts of the management area around the NWHI to notify NMFS in advance for possible placement of an observer to document interactions between fishing activities and protected species. This was done November 27, 1990 (55 FR 49285).

The Council then developed an amendment to the FMP to continue these measures on a permanent basis. NMFS published a proposed rule (April 3, 1991, 56 FR 13511), which described in considerable detail the basis for the emergency action as well as the reasons for the conservation and management measures proposed in the FMP amendment. That discussion will not be repeated here. This final rule will implement those measures on a permanent basis, with some changes from the emergency rule. The final rule does not differ substantially from the proposed rule.

By defining management unit species to consist of certain fish stocks throughout their range, the implementing regulations are able to effectively regulate the longline fishery and support activities that occur in or use the exclusive economic zone (EEZ) in the Council's area of concern. This broad definition is necessary to ensure that management of fishing activities in the EEZ is not negated by persons proposing they are exempt from permit and reporting requirements because they claim to operate only outside the EEZ. This definition allows NMFS to collect catch and effort data from all vessels of the United States off the coasts of the islands in the Council's area of concern, if the vessels are within the EEZ or the territorial sea, and if the vessels are being used to engage in some longline fishing activity, such as fishing for management unit species, or even possessing management unit species harvested by longline regardless of where they were caught. These data are crucial for assessing the condition of the stocks, for determining the extent to which fishing affects the stocks, the interaction between fishing inside and

outside the EEZ, and the effects of potential conservation and management measures on different sectors of the pelagic species fisheries.

Any vessel of the United States using longline gear to fish for management unit species shoreward of the outer boundary of the EEZ around Hawaii or one of the other islands in the Council's area of concern, or possessing, landing, or transshipping shoreward of the outer boundary of the EEZ, around one of those islands, management unit species taken by longline gear, regardless of where the fish were caught, must obtain a permit from the Regional Director. Each operator of a permitted longline vessel must maintain and submit to the Regional Director a daily fishing logbook, recorded on forms provided by the Regional Director. Information to be recorded includes catch (by species), effort, and information on interactions with protected species. The forms must be mailed to the Pacific Area Office, Southwest Region, NMFS, within 72 hours of the end of a fishing trip unless they are picked up by an authorized agent or officer. The purpose of these requirements is to establish the potential universe of fishery participants and then monitor total effort, landings, value of landings, species composition of the landings, area of catch, and other vital information.

No longline vessel can fish within a 50-nm protected species zone around certain islands in the NWHI (Nihoa Island, Necker Island, French Frigate Shoals, Gardner Pinnacles, Maro Reef, Laysan Island, Lisianski Island, Pearl and Hermes Reef, Midway Islands, and Kure Island), unless the operator has provided the Regional Director with an opportunity to place an observer aboard the vessel to document whether there are any interactions with protected species, and if so, the specifics of the interactions. Observers can collect more detailed information than the vessel operators could be expected to record in the interactions section of the required fishing logbook. Biological samples may also be collected. Nihoa Island, Necker Island, and Maro Reef were inadvertently excluded from the protected species zone under the emergency rule. Also, in response to concerns about the potential impacts of the fishery on protected species of marine mammals, sea turtles, and marine birds, operators of fishing vessels will be required to attend an orientation meeting to be held by the Southwest Region, NMFS, prior to fishing in the protected species zone, to ensure knowledge about the species of concern and about measures that can

and should be taken to avoid any take of such species in the fishery. In addition, vessels must notify the NMFS Southwest Regional Office within 24 hours of an arrival in port after engaging in a transshipment activity or to make landing.

It should be noted that an emergency rule (April 18, 1991, 56 FR 15842) has been promulgated by the Secretary to prohibit longline fishing in the waters that would constitute the protected species zone under this rule implementing Amendment 2 to the FMP. This action was requested by the Council due to evidence that adverse impacts on monk seals had resulted from interactions with longline fishing activities. The Council has indicated will proceed with a formal amendment to effect this closure on a permanent basis. However, it is still possible that evidence will become available indicating that interactions occur beyond the area closed to longline fishing. Therefore, while the observer placement provisions of Amendment 2 are suspended during the emergency period, the rule implementing Amendment 2 is being made final to retain the authority to enlarge the size of the protected species zone beyond the 50-nm distance currently defined. The authority to place observers on vessels operating in the protected species zone is thus also retained and may be exercised in the future. These measures will not go into effect until the expiration of the current emergency rule on July 16, 1991.

Permitted vessels are required to display their official number (general or a state vessel registration number) in a highly visible manner affixed to the deckhouse or hull. The purpose of this requirement is to aid in the identification of vessels by enforcement officers. In addition, longline gear must be marked with the official number of the vessel.

The amendment makes permanent provisions of the emergency rule, and contains several additional provisions. The amendment defines the fishery management area as the EEZ around Hawaii, American Samoa, Guam, U.S. possessions in the Pacific Ocean area, and, for the first time, includes within the definition the EEZ around the CNMI. The EEZ around the CNMI had not been included in the management area previously because the Council did not want to influence negotiations then underway concerning the extent to which the CNMI government would have fishery jurisdiction under its commonwealth status. The Council n

believes it is timely to include the EEZ around the CNMI due to the migratory nature of the management unit species and the wide-ranging capabilities of the longline fleet. The final rule also provides that the Regional Director may make a determination that Federal permits and logbooks would not be required in areas where a state has in place a substantively identical permit and reporting program and agrees to share permit and logbook information with NMFS.

Amendment 2 establishes a specific requirement for receiving vessels to maintain and submit to NMFS a transshipment logbook form recording details of such transshipments. This proposed collection-of-information has been submitted to OMB for approval. This measure will become effective upon approval of the request by OMB and publication of a notice in the Federal Register. A receiving vessel is prohibited from receiving transfers of management unit species in the management area from a fishing vessel that does not have a valid permit.

Finally, the rule sets forth permit application information elements so that a single permit application form can be used for all Federal fishery permits in the western Pacific region.

Public Comments Received and Responses

Comment

The Marine Mammal Commission generally favored the rule but proposed four changes: (1) Make permanent the area closure now in place under an emergency rule to protect monk seals; (2) extend the protected species zone to 100-nm around the NWHI; (3) specify that permits will not be renewed for persons failing to comply with area closure and notification requirements; and (4) require satellite transmitters on all fishing vessels.

Response

(1) NMFS anticipates that the Council will submit an amendment to close the protected species zone before expiration of the emergency rule. (2) There are no data at this time to support extending the protected species zone to 100 miles around the NWHI. No incidents of injured seals have been reported since the events in January 1981, and no interactions were observed on longline vessels on which observers were placed under the emergency rule. However, this rule provides that the protected species zone can be expanded without an FMP amendment. NMFS will act accordingly if additional data demonstrate a need for such action. (3) Permits may be

revoked or suspended, or permit renewal may be denied, in accordance with 15 CFR 904. The potential for revoking or suspending a permit or denying renewal will be among the options considered for any serious violations of the regulations. (4) It is premature to require satellite transmitters on all vessels as it is not clear that such a system is economically feasible in the western Pacific at this time. NMFS is undertaking a test of transponders in the fishery and expects to have results available in July 1991. The results will be used by NMFS and the Council to evaluate the benefits and costs of transponders as an enforcement tool in the future.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator) has determined that Amendment 2 to the FMP and its implementing rule are necessary for the conservation and management of the pelagic fishery resources of the western Pacific region and are consistent with the Magnuson Act and other applicable law.

The Council prepared an EA for the amendment and incorporated it into the amendment document. The Assistant Administrator has determined that there will not be a significant impact on the environment. A copy of the EA is available from the Council (see ADDRESSES).

The Assistant Administrator has determined that this is not a "major rule" requiring a regulatory impact analysis under E.O. 12291. The final rule will not have a cumulative effect on the economy of \$100 million or more, nor will it result in a major increase in costs to consumers, industries, government agencies, or geographical regions. No significant adverse impacts are anticipated on competition, employment, investments, productivity, innovation, or competitiveness of U.S.-based enterprises.

The General Counsel of the Department of Commerce has certified to the Small Business Administration that this rule will not have a significant effect on a substantial number of small entities. This determination is based on the regulatory impact review (RIR), which is incorporated into the amendment. The RIR demonstrates long-term benefits to the fishery under the proposed measures. The principal burden to industry is associated with the recording and submission of information. The estimated total cost to industry is about \$55,000 per year, or less than \$400 per year per vessel. This is a low cost relative to the total

operational costs of the fishery and to the estimated exvessel revenue, which is in excess of \$25 million per year. Observer program costs (salaries, meals, insurance) are almost totally borne by NMFS. The vessels involved generally are large enough that placement of an observer should not affect fishing operations nor require displacement of a crew member. Again, it should be noted that as long as the current emergency closure is in effect, there is no cost to the industry from the observer program. Therefore, a regulatory flexibility analysis was not prepared.

As described below, this rule will maintain three current collection-of-information requirements subject to the PRA, and establish two new collection-of-information requirements.

This rule will continue the information collections relative to fishing logbooks applicable to harvesting vessels to ensure the collection, processing, and analysis of data needed for sound management decisions. Harvesting vessels' return to port will be monitored to ensure compliance with logbook recordkeeping. Fishing logbooks will provide detailed information about catch and effort needed for fishery stock assessments and for estimating the impacts of different management approaches. The public reporting burden for this collection-of-information is estimated to average 50 minutes per trip, including the time to complete the daily log sheet and submit fishing logbook forms to NMFS. This reporting requirement was approved by OMB (OMB No. 0648-0214).

The second collection-of-information requirement that will be continued by this rule stems from the establishment of an observer program. Vessel operators intending to fish within the protected species zone will be required to notify the Regional Director so that NMFS will have the opportunity to place an observer aboard the vessel. The public reporting burden for this collection-of-information is estimated at 2 minutes for the pretrip notification. This reporting requirement was approved by OMB (OMB No. 0648-0214).

A third collection-of-information requirement under the permit system is continued in this rule. Information is required to be submitted by longline fishing vessel permit applicants. The form used for this collection is the same as for other Federal fishing permit applications in the western Pacific and provides the same information on the longline fishing and transshipping vessel owner, vessel operator, and vessel as a person who applies for a permit for a vessel in the precious corals.

crustaceans, and/or bottomfish fisheries. This permit application information will enable NMFS to determine the potential number of participants in the fishery, and in subsequent economic analyses to determine the potential nature and distribution of impacts of alternative management measures. The public reporting burden for this collection-of-information is estimated to average 15 minutes per application, including the time to review the form, compile the information to complete the form, and submit it to NMFS. The permit application forms were approved by OMB in conjunction with the Southwest Region Family of Permit Forms (OMB No. 0648-0204).

Two new reporting requirements are set forth in this rule. Vessels engaged in transshipment of pelagic species taken on longline gear will be required to maintain and submit to the Regional Director a transshipment logbook form and to notify NMFS within 12 hours of each fishing trip or transshipment activity. The logbook form will indicate the name of the catcher vessel from which longline-caught fish are being transferred, the area in which the fish were harvested, and the amount, by species, of such fish transferred from the fishing vessel to the transshipping vessel. These collections of information, including the time necessary to notify NMFS of transshipment activity, are estimated to average 10 minutes. A request for approval of these information collections has been submitted to OMB as part of the Southwest Region Family of Logbook Forms (OMB No. 0648-0214). These collections will become effective upon approval from OMB and publication of a notice to that effect in the Federal Register.

Comments on the collections of information and/or suggestions on how to reduce the burden can be sent to the Regional Director, Southwest Region, NMFS (see ADDRESSES), and to the Office of Information and Regulatory Affairs, Office of Management and Budget, ATTN: Paperwork Reduction Projects 0648-0204 and 0648-0214, Washington, DC 20503.

The Council determined that this proposed rule would be implemented in a manner that is consistent, to the maximum extent practicable, with the approved coastal zone management programs of the State of Hawaii, the CNMI, and the Territories of American Samoa and Guam. This determination was submitted for review by the responsible state and territorial agencies under section 307 of the Coastal Zone

Management Act. The agencies did not respond; therefore, concurrence is inferred.

A biological opinion has been issued by NMFS after consultation with the Council under section 7 of the Endangered Species Act. The opinion concludes that the pelagic fishery as managed under the FMP and its implementing rules, as amended by this rule, would jeopardize the continued existence of the Hawaiian monk seal. It further concludes that the fishery will not jeopardize the continued existence of any other listed species, nor will it result in the destruction or adverse modification of the critical habitat of any other listed species. In regard to the Hawaiian monk seal, the opinion offers as a reasonable and prudent alternative the closure of certain waters in the NWHI to longline fishing. This has been done under an emergency rule, and the Council plans to complete a FMP amendment to continue the closures permanently. Additional conservation recommendations for future consideration are made in the opinion. These will be considered by NMFS and will be forwarded to the Council for inclusion in a subsequent FMP amendment.

The final rule to implement Amendment 2 will not violate the requirements of the Marine Mammal Protection Act.

This proposed rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

In order to afford maximum opportunity for public comment and participation, the Administrative Procedure Act (5 U.S.C. 553) requires that, generally, final rules be published not less than 30 days before they become effective. This 30-day period may be shortened or waived if the rulemaking agency publishes with the rule an explanation of what good cause justifies an earlier date. This rule, implementing Amendment 2 to the FMP, makes permanent with few changes certain management measures that were promulgated, with a request for comments, by emergency rule on November 27, 1990. The public has had opportunities to comment on that emergency rule as well as to participate in the development of Amendment 2. The emergency rule is effective until May 25, 1991. To prevent a lapse in the management regime, which includes urgent measures necessary to protect monk seals and assess conditions in and impacts of the fishery, this rule should be effective when the emergency rule expires. However, the public comment

period on the proposed rule ended on May 13, 1991, and although this final rule has been published as expeditious as possible, it is not possible to provide a full 30 days before the emergency rule will expire. Accordingly, good cause is found for making most provisions of this rule effective on May 26, 1991. Section 665.11 of this rule, which pertains to the protected species zone and observers, is currently suspended by an emergency rule that closes the entire zone to longline fishing, as discussed above. Therefore, NMFS does not foresee a need for making § 685.11 and the associated definition of protected species zone (§ 685.2) effective until the expiration of the emergency closure on July 16, 1991. If the emergency rule is extended for 90 days, as it may be upon agreement of the Council, then § 685.11 and the definition may be suspended again, in accordance with the provisions of that notice of extension.

List of Subjects in 50 CFR Part 685

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 24, 1991.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.

For the reasons stated in the preamble, 50 CFR part 685 is amended, as follows:

PART 685—PELAGIC FISHERIES OF THE WESTERN PACIFIC REGION

1. The authority citation for part 685 continues to read as follows:

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

2. In § 685.1, paragraph (a) is revised to read as follows:

§ 685.1 Purpose and scope.

(a) The regulations in this part govern the conservation and management of management unit species seaward of Hawaii, American Samoa, Guam, the Northern Mariana Islands, and U.S. possessions in the Pacific Ocean area.

3. In § 685.2, the existing definitions for "Fishery management area", "Owner", and "Receiving vessel" are revised, and new definitions for "Fishing trip", "Harassment", "Longline gear", "Management unit species", "Pacific Area Office", "Protected species", "Protected species zone", "Sexual harassment", and "Transship" are added, in alphabetical order, to read as indicated below. The definition for "Protected species zone" will not become effective until 0000 hours local time July 16, 1991.

Definitions.

Exclusive management area means the exclusive economic zone off the coasts of Hawaii, American Samoa, Guam, the Northern Mariana Islands, and U.S. possessions in the Pacific Ocean area.

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

Harassment means any verbal or physical conduct which has the purpose or effect of substantially interfering with an observer's work performance or creating an intimidating, hostile, or offensive working environment.

Longline gear means a type of fishing gear consisting of a main line that exceeds one (1) nautical mile in length, suspended horizontally in the water column either anchored, floating, or attached to a vessel and from which branch or dropper lines with hooks are attached.

Management unit species means the following species in the Pacific Ocean: Billfish, associated species, and effective January 1, 1992, tuna.

Permit as used in this part, means a permit which is identified as the current permit of the vessel as described in the Certificate of Documentation (Form CG-1270) issued by the U.S. Coast Guard for a documented vessel, or in a registration certificate issued by a state or territory or the U.S. Coast Guard for an undocumented vessel.

Pacific Area Office means the Pacific Area Office, Southwest Region, National Marine Fisheries Service, 2570 Dole Street, Honolulu, HI 96822.

Protected species means an animal protected under the Marine Mammal Protection Act of 1972, as amended, listed under the Endangered Species Act of 1973, as amended, or subject to the Migratory Bird Treaty Act, as amended.

Protected species zone means an area, designated under § 685.11, measured from the center geographical positions of certain islands and reefs in the Northwestern Hawaiian Islands, as follows: Nihoa Island 23°05' N, 161°55' W., Necker Island 23°35' N, 164°40' W., French Frigate Shoals 23°45' N, 166°15' W., Gardner Pinnacles 25°00' N, 168°00' W., Maro Reef 25°25' N, 170°35' W., Laysan Island 25°45' N, 171°45' W., Lisianski Island 26°00' N, 173°55' W., Pearl and Hermes Reef 27°50' N, 175°50' W., Pinnacles Islands 28°14' N, 177°22' W., and Phoenix Island 28°25' N, 178°20' W.

Receiving vessel means a vessel of the United States that possesses on board the vessel management unit

species and that does not have fishing gear on board the vessel.

Sexual harassment means any unwelcome sexual advance, request for sexual favors, or other verbal and physical conduct of a sexual nature that has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Transship means offloading or otherwise transferring management unit species or products thereof to a receiving vessel.

4. Section 685.4 is revised to read as indicated below. Paragraph (c) will become effective upon approval by the Office of Management and Budget and publication of a notice to that effect in the Federal Register.

§ 685.4 Recordkeeping and reporting.

(a) **State Reports.** Any person who is required to do so by applicable state law or regulation shall make and/or file all reports of management unit species landings containing all data and in the exact manner required by applicable state law or regulation.

(b) **Fishing Logbooks.** The operator of any vessel subject to § 685.9 must maintain on board the vessel an accurate and complete fishing logbook for each day of each fishing trip, which must include the following information:

(1) Name of fishing vessel;
(2) Permit number of fishing vessel;
(3) Date, time, latitude and longitude of the location at which the set of the longline is begun;

(4) Date, time, latitude and longitude of the location at which hauling of the longline is begun;

(5) Number of hooks set;
(6) Number of lightsticks used;
(7) Number of billfish, tuna, oceanic sharks, and associated fish (by species) caught and kept per day;

(8) Number of billfish, tuna, oceanic sharks, and associated fish (by species) caught and released per day;

(9) Number (by species) of protected species (not including marine birds) sighted in the area of the gear per day;

(10) Number (by species) of protected species released or lost alive and not apparently injured;

(11) Number (by species) of protected species released or lost alive but apparently injured;

(12) Number (by species) of protected species released or lost dead;

(13) Signature of the fishing vessel operator; and

(14) Date of signature.

(c) **Transshipment Logbooks.** The operator of any receiving vessel subject to the requirements of § 685.9 must maintain on board the vessel an accurate and complete transshipment logbook, which must include the following information:

(1) Name of transshipment vessel;
(2) Permit number of transshipment vessel;

(3) Name of the fishing vessel;
(4) Radio call sign of fishing vessel;
(5) Date of transshipment;
(6) Number of days fished by the fishing vessel;

(7) Average number of hooks fished per day by the fishing vessel;

(8) General area of catch;
(9) Number of billfish, tuna, oceanic sharks, and associated fish (by species) transshipped;

(10) Total weight of fish (by species) transshipped;

(11) Signature of the transshipment vessel operator; and

(12) Date of signature.

(d) Fishing and transshipment logbooks required by paragraphs (b) and (c) of this section must be:

(1) Prepared on forms supplied by the Pacific Area Office. All information specified on the forms must be recorded within 24 hours of hauling in longline gear or day of transshipment.

(2) Submitted, in original or duplicate, to the Pacific Area Office within 72 hours of the date of landing, unless the logbooks have been collected by any person authorized by the Regional Director to gather such forms.

(3) Made available for immediate inspection upon request of an authorized officer, or of any employee of NMFS authorized by the Regional Director to make such an inspection.

(e) If the Regional Director determines that a state has substantively identical logbook and reporting requirements and the state has entered into an agreement to provide these data to the Regional Director, then reporting in accordance with state requirements will satisfy the equivalent requirements of this part.

5. In § 685.5, existing paragraphs (m) through (p), which are effective through July 22, 1991, and (q) and (r), which are effective through July 15, 1991, are redesignated paragraphs (o) through (t); paragraph (d) is revised; and new paragraphs (e) through (n) are added, to read as indicated below. New paragraphs (i), (l), (m), and (n), will become effective upon approval by the Office of Management and Budget and publication of a notice to that effect in the Federal Register.

§ 685.5 Prohibitions.

(d) Falsify or fail to make and/or file all reports of management unit species landings, containing all data and in the exact manner, as required by applicable State law or regulation, as specified in § 685.4(a), provided that the person is required to do so by applicable State law or regulation.

(e) Without a valid permit on board issued under § 685.9(a), possess, receive, transship, or land shoreward of the outer boundary of the fishery management area, management unit species that were taken by longline gear, regardless of the area where the fish were caught.

(f) Without a valid permit on board issued under § 685.9(a), fish for management unit species with longline gear shoreward of the outer boundary of the fishery management area.

(g) Receive on board a vessel that is shoreward of the outer boundary of the fishery management area around Hawaii management unit species from a longline vessel that does not have a valid permit on board the vessel.

(h) Transfer any permit issued under § 685.9 to another vessel or person.

(i) Fail to notify the Pacific Area Office within 12 hours following each fishing trip or transshipment activity as required under § 685.13.

(j) Falsify or fail to make, keep, maintain, or submit any logbook or logbook form or other record or report required under §§ 685.4 and 685.13.

(k) Fail to affix or maintain vessel identification and longline float markings required under §§ 685.10 and 685.12.

(l) Fail to notify the Pacific Area Office of intent to fish for pelagic species with longline gear within the protected species zone as required under § 685.11.

(m) Fish without an observer after having been directed to do so by the Regional Director under § 685.11.

(n) Forcibly assault, impede, intimidate, interfere with, or influence or attempt to influence an observer, or to harass or sexually harass an observer.

8. In subpart A, § 685.9(l) which was added on April 12, 1991 (56 FR 14968), to be effective until July 22, 1991, is removed, and new §§ 685.9 through 685.13 are added, to read as indicated below. Section 685.11 will become effective at 0000 hours local time July 18, 1991, and § 685.13 will become effective upon approval by the Office of Management and Budget and publication of a notice to that effect in the Federal Register.

§ 685.9 Permits.

(a) Any vessel of the United States shoreward of the outer boundary of the fishery management area that uses longline gear to fish for management unit species, or that possesses, receives, transships, or lands management unit species that were taken by longline gear, must have a permit issued under this section.

(b) Application.

(1) An application for a permit under this section must be submitted to the Pacific Area Office by the vessel owner or a designee of the owner at least 15 days before the date the applicant desires to have the permit be effective. If an incomplete or improperly completed permit application is filed, the Regional Director will notify the applicant, in writing, of the deficiency. If the applicant fails to correct the deficiency within 15 days following the date of notification, the application will be considered abandoned.

(2) Each application must be submitted on a form that is obtained from the Pacific Area Office and must contain at least the following information:

(i) Type of application; whether the application is for a new permit or a renewal; and whether it is for fishing or transshipping;

(ii) Owner's name, social security number, mailing address, and telephone numbers (business and home);

(iii) Name of the partnership or corporation, if the vessel is owned by such an entity;

(iv) Primary operator's name, social security number, mailing address, and telephone numbers (business and home);

(v) Relief operator's name;

(vi) Name of the vessel;

(vii) Official number of the vessel;

(viii) Radio call sign of the vessel;

(ix) Principal port of the vessel;

(x) Length of the vessel;

(xi) Engine horsepower;

(xii) Approximate fish hold capacity;

(xiii) Number of crew;

(xiv) Construction date;

(xv) Date vessel purchased;

(xvi) Purchase price;

(xvii) Type and amount of fishing gear carried on board the vessel;

(xviii) Position of the applicant in the corporation, if the vessel is owned by such an entity;

(xix) Signature of the applicant; and

(xx) Date of signature.

(c) *Fees.* No fee is required for a permit under this section.

(d) *Change in application information.* Any change in the information specified in paragraph (b) of this section must be reported to the Pacific Area Office 10 days before the effective date of the

change. Failure to report such change may result in termination of the permit.

(e) *Issuance.* Within 15 days after receipt of a properly completed application, the Regional Director will determine whether to issue a permit to the applicant. A permit will not be valid for fishing in the protected species zone, however, until the applicant has attended an orientation meeting conducted by the Pacific Area Office regarding procedures for protecting endangered and threatened species, marine mammals, and/or seabirds.

(f) *Expiration.* Permits issued under this section expire at 2400 hours local time on December 31 following the effective date of the permit.

(g) *Renewal.* An application for renewal of a permit must be submitted to the Pacific Area Office in the same manner as described in § 685.9.

(h) *Alteration.* Any permit that has been altered, erased, or mutilated is invalid.

(i) *Replacement.* Permits may be issued to replace lost or mutilated permits. An application for a replacement permit is not considered a new application.

(j) *Transfer.* Permits issued under this section are not transferable or assignable to other vessels. A permit is valid only for the vessel for which it is issued.

(k) *Display.* Any permit issued under this section must be on board the vessel at all times while the vessel is engaged in any activity under that permit. The permit is subject to inspection upon request of any authorized officer.

(l) *Penalties.* Permits may be revoked or suspended, or renewal may be denied, in accordance with section 308(g) of the Magnuson Act.

(m) *Limited Entry Permits.* Vessels subject to a limited entry system in or part of the fishery must have a permit issued under this section, in addition to a limited entry permit.

(n) *State permit systems.* If the Regional Director determines that a state has substantively identical permit requirements and the state has entered into an agreement to provide the necessary permit information to the Regional Director, then obtaining a permit under state requirements will satisfy these Federal requirements.

§ 685.10 Vessel Identification.

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

(o) The official number must be affixed to each vessel subject to this part in block Arabic numerals at least 18 inches (45.7 cm) in height for fishing vessels of 65 feet (19.8 m) in length or longer, and at least 10 inches (25.4 cm) in height for all other vessels. Markings must be legible and of a color that contrasts with the background.

(c) The official number must be clearly legible and in good repair.

(d) No part of the vessel, its rigging, or its fishing gear shall obstruct the view of the official number from an enforcement vessel or aircraft.

§ 685.11 Observers.

(a) The operator of a fishing vessel subject to the permit requirements of § 685.9 of this part shall inform the Pacific Area Office at least 72 hours (not including weekends and holidays) before leaving port of his or her intent to fish within the protected species zone. The operator shall provide this notice by contacting the Pacific Area Office, telephone (808) 955-8831. The notice must include the name of the vessel, the name of the operator, the intended departure date and location, and a telephone number at which the operator's agent may be contacted during the business day (8 a.m. to 5 p.m. local time) to indicate whether an observer will be required on the subject fishing trip.

(b) The initial size of the protected species zone is 50 nm from the center geographical positions of Nihoa Island, Necker Island, French Frigate Shoals, Gardner Pinnacles, Maro Reef, Laysan

Island, Lisianski Island, Pearl and Hermes Reef, Midway Islands, and Kure Island. The Regional Director may enlarge or reduce the size of the protected species zone:

(1) If the Regional Director determines that a change in the size of the zone would not result in fishing for management unit species that would adversely affect any protected species;

(2) After consulting with the Council; and

(3) Through a notice in the Federal Register published at least 30 days prior to the effective date or through actual notice to the permit holders.

(c) All fishing vessels subject to this part must carry an observer when directed to do so by the Regional Director.

(d) The Regional Director shall advise the vessel operator of any observer requirement within 72 hours of receipt of the notice, and if an observer is required, shall establish with the operator the terms and conditions of observer coverage, and time and place of embarkation of the observer.

(e) All observers must be provided with sleeping, toilet, and eating accommodations at least equal to that provided to a full crew member. A mattress or futon on the floor or a cot is not acceptable in place of a regular bunk. Meal and other galley privileges must be the same for the observer as for other crew members.

(f) Female observers on a vessel with an all male crew must be

accommodated either in a single person cabin or, if reasonable privacy can be ensured by installing a curtain or other temporary divider, in a two-person cabin shared with a licensed officer of the vessel. If the cabin assigned to a female observer does not have its own toilet and shower facilities that can be provided for the exclusive use of the observer, then a schedule for time-sharing common facilities must be established and approved by NMFS prior to the vessel's departure from port.

§ 685.12 Longline float identification.

The official number of the vessel must be affixed on each of the deployed floats of the longline gear.

§ 685.13 Notification of landings and transshipments.

The operator of a vessel that is subject to the permit requirements of § 685.9 of this part shall contact the Pacific Area Office by telephone, at a number provided to permit holders, within 12 hours of the vessel's arrival at any port in Hawaii, Guam, American Samoa, the Northern Mariana Islands, or U.S. possessions in the Pacific Ocean area and report the name of the vessel, name of the vessel operator, and the date and time of each landing or transshipment of management unit species by the vessel since its previous report of landings and/or transshipments.

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