CLP or CDL privilege to the driver’s license, if permitted by State law.

(3) Reinstatement after Clearinghouse error correction. If, after the State completes and records the downgrade on the CDLIS driver record, FMCSA notifies the State that the driver was erroneously identified as prohibited from operating a commercial motor vehicle, the State shall:

(i) Reinstatethe CLP or CDL privilege to the driver’s license as expeditiously as possible; and

(ii) Expunge from the CDLIS driver record and, if applicable, the motor vehicle record, as defined in §390.5T of this chapter, any reference related to the driver’s erroneous prohibited status.

PART 384—STATE COMPLIANCE WITH COMMERCIAL DRIVER’S LICENSE PROGRAM

8. The authority citation for part 384 is revised to read as follows:


9. Amend §384.225 by adding paragraph (a)(3) to read as follows:

§384.225 CDLIS TPS recordkeeping.

(a) * * *

(3) The removal of the CLP or CDL privilege from the driver’s license in accordance with §383.73(q) of this chapter.

10. Revise §384.235 to read as follows:

§384.235 Commercial driver’s license Drug and Alcohol Clearinghouse.

Beginning November 18, 2024, the State must:

(a) Request information from the Drug and Alcohol Clearinghouse in accordance with §383.73 of this chapter and comply with the applicable provisions therein; and

(b)(1) Comply with §383.73(q) of this chapter upon receiving notification from FMCSA that, pursuant to §382.501(a) of this chapter, the driver is prohibited from operating a commercial motor vehicle; and

(2) Comply with §383.73(q) of this chapter upon receiving notification from FMCSA that, pursuant to §382.503(a) of this chapter, the driver is no longer prohibited from operating a commercial motor vehicle; or that FMCSA erroneously identified the driver as prohibited from operating a commercial motor vehicle.

11. Amend §384.301 by adding paragraph (o) to read as follows:

§384.301 Substantial compliance—general requirements.

(o) A State must come into substantial compliance with the requirements of subpart B of this part and part 383 of this chapter in effect as of November 8, 2021, as soon as practicable, but, unless otherwise specified in this part, not later than November 18, 2024.

PART 390—FEDERAL MOTOR CARRIER SAFETY REGULATIONS; GENERAL

12. The authority citation for part 390 continues to read as follows:


13. Amend §390.3 as follows:

(a) Lift the suspension of the section;

(b) Revise paragraph (f)(1); and

(c) Suspend the section indefinitely.

14. Amend §390.3T by revising paragraph (f)(1) to read as follows:

§390.3T General applicability.

(f) * * *

(1) All school bus operations as defined in §390.5, except for §§391.15(e) and (f), 392.15, 392.80, and 392.82 of this chapter; *

15. The authority citation for part 392 is revised to read as follows:


16. Add §392.15 to read as follows:

§392.15 Prohibited driving status.

No driver, who holds a commercial learner’s permit or a commercial driver’s license, shall operate a commercial motor vehicle if prohibited by §382.501(a) of this subchapter.

Issued under authority delegated in 49 CFR 1.87.

Meera Joshi,

Deputy Administrator.

[FR Doc. 2021–21928 Filed 10–6–21; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 210929–0200]

RIN 0648–BH65

Pacific Island Fisheries; Modifications to the American Samoa Longline Fishery Limited Entry Program

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

ACTION: Final rule.

SUMMARY: This final rule implements Amendment 9 to the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific (FEP). It modifies the American Samoa longline fishery limited entry program to consolidate vessel class sizes, modify permit eligibility requirements, and reduce the minimum harvest requirements for small vessels. This final rule also makes several housekeeping changes to the program’s regulations. The intent of this rule is to reduce regulatory barriers that may be limiting small vessel participation in the fishery, and provide for sustained community and American Samoan participation in the fishery.

DATES: The final rule is effective November 8, 2021.

ADDRESSES: Copies of Amendment 9, including an environmental analysis and Regulatory Impact Review, and other supporting documents for this action are available at https://www.regulations.gov/document/NOAA-NMFS-2018-0023-0001. Written comments and recommendations for the information collection contained in this final rule may be submitted to Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Region (PIR), 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818, and to www.reginfo.gov/public/do/PRAMain.
SUPPLEMENTARY INFORMATION:

FOR FURTHER INFORMATION CONTACT: Kate Taylor, NMFS PIR Sustainable Fisheries, 808–725–5182.

The American Samoa fishery management council (Council) and NMFS manage the American Samoa longline fishery under the FEP and implementing Federal regulations. The fishery is currently limited to 60 permits distributed over four vessel size classes. Permits are valid for three years, and issued only to individuals who meet specific eligibility criteria. A permit holder must also meet minimum landing requirements within three years to renew the permit. Existing requirements have created programmatic barriers that may be hampering small vessel participation in the fishery. As described in Amendment 9, the Council recommended changes to the program that will reduce complexity and provide for sustained community participation in the small vessel American Samoa deep-set longline fishery. This final rule implements the new provisions established by Amendment 9, as follows:

- Consolidate four existing vessel sizes classes into two, i.e., small (less than 50 ft (15.2 m)) and large (equal to or larger than 50 ft (15.2 m));
- Permit holders must be U.S. citizens or nationals. Applicants do not need to document a history of participation to be eligible for a permit, but if there is competition between applicants, NMFS will continue to use a priority ranking system based on earliest documented history of fishing in a vessel class size;
- Permits may be transferred only among U.S. citizens or nationals. There is no requirement for documented participation in the fishery to receive a transferred permit;
- The small vessel minimum harvest requirement is now 500 lb (227 kg) of pelagic management unit species (MUS) within a 3-year period. (The large vessel harvest requirement remains 5,000 lb (2,268 kg) over three years);
- The minimum harvest amount must be landed in American Samoa within a 3-year permit period. These required harvests need not be caught within the U.S. exclusive economic zone (EEZ) around American Samoa;
- Permits are valid for the same, fixed 3-year period as the 3-year period required to make a minimum harvest; and
- When a permit is transferred, the minimum harvest period does not restart. If the harvest amount has not been caught at the time of transfer, the new permit owner is required to meet the harvest requirement based on the following formula: The product of percentage of time left within the 3-year permit period and the minimum harvest amount.

You may find additional background information on this action in the preamble to the proposed rule (86 FR 37982, July 19, 2021).

Comments and Responses

On June 30, 2021, NMFS published the notice of availability (NOA) for Amendment 9 and request for public comments (86 FR 34711); the comment period ended August 30, 2021. The American Samoa Department of Marine and Wildlife Resources provided comments on Amendment 9 that generally supported the changes established by the Council, and offered to work with NMFS on future reporting and permitting issues in this and other fisheries.

On July 19, 2021, NMFS published a proposed rule and request for public comments (86 FR 37982); the comment period ended September 2, 2021. NMFS received comments from the Hawaii Longline Association (HLA), and responds below.

Comment 1: HLA noted that two dozen Hawaii vessels also hold American Samoa longline permits. Although the fishery is operating safely during the Covid–19 pandemic, HLA is concerned that a minimum landing requirement would force these dual-permitted vessels to land in American Samoa, possibly spreading the virus to an area that has been largely virus-free. HLA requested that NMFS delay the effectiveness of the landing requirement and associated 3-year period for large vessels until the threat caused by the pandemic has eased.

Response: The American Samoa Department of Health has health and safety protocols in place that are applicable to fishing vessels landing in the territory. During the pandemic, U.S. fishing vessels have continued to land in American Samoa under these requirements, which include proof of a negative Covid–19 test, evidence of having recovered from Covid–19 in the past six months, or proof of complete vaccination at least 14 days prior to the arrival. Anyone arriving in port must provide the documentation at least 72 hours prior to arrival. Prior approval is required for crew to disembark. Quarantine measures are also in place, as needed, for vessels entering the port.

These protocols have been effective. To date, there has been only one documented virus case in American Samoa. Based on the effective health and safety protocols in place there, NMFS does not agree that a delay in effectiveness for the minimum harvest landing requirements for large vessels is warranted.

Changes From the Proposed Rule

This final rule does not make any substantive changes from the proposed rule.

This rule makes three administrative housekeeping changes. The first revises 50 CFR 665.14 relating to observer coverage. After NMFS published the proposed rule for this action, we published a separate final rule that requires electronic reporting for American Samoa Class C and D vessels (86 FR 42744, August 5, 2021). Because this final rule replaces the former C and D classes with a single large vessel class, we are updating § 665.14 to clarify that large vessels must report electronically.

The second modifies 50 CFR 665.802(x) relating to observer coverage. In the proposed rule, we erred in using the term “large vessel,” which is a vessel equal to or greater than 50 ft long. If implemented, we would have inadvertently removed the requirement for a vessel between 40 and 50 ft to carry an observer. In Amendment 9, the Council did not recommend removal of the observer coverage requirement for vessels between 40 and 50 ft in length overall (LOA), and this final rule correctly implements the Council’s intention by replacing “large vessel” with “vessel greater than 40 ft (12.2 m) LOA” in § 665.802(x).

The third housekeeping changes are in 50 CFR 665.816, relating to permit validity. Amendment 9 established a requirement that the duration of a permit is three years from the date of issuance and that the term of the permit validity does not change or reset in the event of a permit transfer. To accurately implement the recommendations in Amendment 9, this rule adds a new § 665.816(f) that clarifies that a permit is valid for three years. The rule also clarifies in § 665.816(h)(1) and (3) the 3-year permit term and that it does not change in the event of a transfer.

Classification

Pursuant to section 304(b)(3) of the Magnuson-Stevens Fishery and Conservation Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the FEP, other provisions of the Magnuson-Stevens Act, and other applicable law.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on small entities.
impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. NMFS did not receive any comments regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

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

This final rule contains a change to a collection of information requirement for the purposes of the Paperwork Reduction Act (PRA). This rule revises the existing requirements for the collection of information under OMB Control Number 0648–0490 Pacific Islands Permit Family of Forms by modifying the type of permit issued in the American Samoa longline fishery limited entry program. Changes required under this rule applicable to the PRA include the consolidation of the four current permit size classes (Class A, B, C, and D) into two permit class sizes (small and large), the restriction of permit eligibility to U.S. citizens, U.S. nationals, and U.S. companies, partnerships, or corporations, and the elimination of the requirement to have documented history of participation in the fishery to be eligible for a permit. These changes require revising the permit application form. In the proposed rule published in the Federal Register for a 45-day comment period, NMFS indicated our intent to revise this information collection (86 FR 37982, July 19, 2021). The revision is not expected to affect the number of respondents or anticipated responses or to effect the number of burden hours and burden cost to fishermen. The public reporting burden for completing an American Samoa longline fishery permit application is estimated to average 1.25 hours per response, including the time for reviewing instructions, gathering the data needed, and submitting the permit application.

We invite the general public and other Federal agencies to comment on proposed and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public’s reporting burden. Written comments and recommendations for this information collection should be submitted on the following website: www.reginfo.gov/public/do/PRAMain.

Find this particular information collection by using the search function and entering either the title of the collection or the OMB Control Number 0648–0490.

Notwithstanding any other provisions of the law, no person is required to respond or, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

List of Subjects in 50 CFR Part 665

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Longline, Pacific Islands.


Samuel D. Rauch, III,
Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 665 as follows:

PART 665—FISHERIES IN THE WESTERN PACIFIC

§ 665.12 Definitions.

Small vessel means, as used in this part, any vessel less than 50 ft (15.2 m) in length overall.

§ 665.14 Reporting and recordkeeping.

(b) * * *

(i) * * *

(ii) * * *

(A) The operator of a fishing vessel subject to the requirements of § 665.801(b) or a large vessel subject to the requirements of § 665.801(c) must maintain on board the vessel an accurate and complete record of catch, effort, and other data electronically using a NMFS-certified electronic logbook, and must record and transmit electronically all information specified by the Regional Administrator within 24 hours after the completion of each fishing day.

§ 665.19 Vessel monitoring system.

(a) * * *

(2) American Samoa large vessel longline limited entry permit issued pursuant to § 665.801(c);

§ 665.802 Prohibitions.

(x) Fail to comply with a term or condition governing the observer program established in § 665.808, if using a vessel registered for use with a Hawaii longline limited access permit, or a vessel greater than 40 ft (12.2 m) LOA registered for use with an American Samoa longline limited access permit to fish for western Pacific pelagic MUS using longline gear.

§ 665.816 American Samoa longline limited entry program.

(a) General. Under § 665.801(c), certain U.S. vessels are required to be registered for use under a valid American Samoa longline limited access permit. Under the American Samoa Longline Limited Entry Program, the maximum number of longline fishing permits available is limited to 60 permits annually.

(b) Terminology. For purposes of this section, the following terms have these meanings:

(i) Ownership of a vessel that was used to fish in the EEZ around American Samoa;

(ii) Evidence of work on a fishing trip during which longline gear was used to harvest western Pacific pelagic MUS in the EEZ around American Samoa. If the applicant does not possess the necessary documentation of evidence of work on a fishing trip based on records available only from NMFS or the Government of American Samoa (e.g., creel survey record or logbook), the applicant may issue a request to PIRO to obtain such records from the appropriate agencies, if available. The applicant should provide sufficient information on the fishing trip to allow PIRO to retrieve the records.

(2) Family means those people related by blood, marriage, and formal or informal adoption.

(c) Vessel size classes. The Regional Administrator shall issue American Samoa longline limited access permits in the following size classes:
(1) Small vessel, which is less than 50 ft (15.2 m) LOA.
(2) Large vessel, which is equal to or over 50 ft (15.2 m) LOA.
(d) Permit eligibility. Any U.S.
national or U.S. citizen or company,
partnership, or corporation is eligible
for an American Samoa longline limited
access permit.
(e) Permit issuance. (1) If the number
of permits issued falls below the
maximum number of permits allowed,
the Regional Administrator shall
publish a notice in the Federal Register
and use other means to notify
prospective applicants of any available
permit(s) in each class. Any application
for issuance of a permit must be
submitted to PIRO no later than 120
days after the date of publication of the
notice on the availability of additional
permits in the Federal Register. The
Regional Administrator shall issue
permits to persons according to the
following priority standard:
(i) Priority accrues to the person with
the earliest documented participation in the
pelagic longline fishery in the EEZ
around American Samoa from smallest
to largest vessel.
(ii) In the event of a tie in the priority
ranking between two or more
applicants, the applicant whose second
documented participation in the pelagic
longline fishery in the EEZ around
American Samoa is first in time will be
ranked first in priority. If there is still
a tie between two or more applicants,
the Regional Administrator will select
the successful applicant by an impartial
lottery.
(2) An application must be made, and
application fees paid, in accordance
with § 665.13(c)(1), (d), and (f)(2). If the
applicant is any entity other than a sole
owner, the application must be
accompanied by a supplementary
information sheet, obtained from the
Assistant Regional Administrator for
Sustainable Fisheries, containing the
names and mailing addresses of all
owners, partners, and corporate officers
that comprise ownership of the vessel
for which the permit application is
prepared.
(3) Within 30 days of receipt of a
completed application, the Assistant
Regional Administrator for Sustainable
Fisheries shall make a decision on
whether the applicant qualifies for a
permit and will notify the successful
applicant by a dated letter. The
successful applicant must register a
vessel of appropriate size to the permit
within 120 days of the date of the letter
of notification. The successful applicant
must also submit a supplementary
information sheet, obtained from the
Assistant Regional Administrator for
Sustainable Fisheries, containing the
name and mailing address of the owner
of the vessel to which the permit is
registered. If the registered vessel is
owned by any entity other than a sole
owner, the names and mailing addresses
of all owners, partners, and corporate
officers must be included. If the
successful applicant fails to register a
vessel to the permit within 120 days of
the date of the letter of notification, the
Assistant Regional Administrator for
Sustainable Fisheries shall issue a letter
of notification to the next person on the
priority list, re-start the issuance
process pursuant to paragraph (e)(1) of
this section. Any person who fails to
register the permit to a vessel under this
paragraph (e)(3) within 120 days shall
not be eligible to apply for a permit for
6 months from the date those 120 days
expired.
(4) An appeal of a denial of an
application for a permit shall be
processed in accordance with
§ 665.801(o).
(f) Permit term. The duration of a
permit is three years from the date of
issuance by NMFS.
(g) Permit transfer. The holder of an
American Samoa longline limited access
permit may transfer the permit to another
individual, partnership, corporation, or other entity as described
in this section. The application for
permit transfer must be submitted to the
Regional Administrator within 30 days
of the transfer date. If the applicant is
any entity other than a sole owner, the
application must be accompanied by a
supplementary information sheet,
obtained from the Assistant Regional
Administrator for Sustainable Fisheries,
containing the names and mailing
addresses of all owners, partners, and
corporate officers. After such an
application has been made, the permit
is not valid for use by the new permit
holder until the Regional Administrator
has issued the permit in the new permit
holder’s name under § 665.13(c).
(1) An American Samoa
longline limited access permit may be transferred
(by sale, gift, bequest, intestate
succession, barter, or trade) to only the
following persons:
(i) A western Pacific community
located in American Samoa that meets
the criteria set forth in section 305(I)(2)
of the Magnuson-Stevens Act, 16 U.S.C.
1855(I)(2), and its implementing
regulations in this part; or
(ii) Any U.S. citizens or national.
(2) Additionally, an American Samoa
longline limited access small vessel
permit may also be transferred (by sale,
gift, bequest, intestate succession,
barter, or trade) to a family member of
the permit holder.
(h) Permit renewal. (1) An American
Samoa longline limited access permit
will not be renewed following three
years in which the vessel(s) to which it
is registered landed less than:
(i) Small vessel: A total of 500 lb (227
kg) of western Pacific pelagic MUS
harvested using longline gear; or
(ii) Large vessel: A total of 5,000 lb
(2,268 kg) of western Pacific pelagic
MUS harvested using longline gear.
(2) For all vessels, the minimum
harvest amount must be landed in
American Samoa.
(3) In the event of a transfer, the new
permit holder would be required to
meet the harvest requirement based on
the following formula: Remaining
harvest amount = product of percentage
of time left within the 3-year permit
period and the minimum harvest
amount for that size vessel. The original
permit term and duration does not
change in the event of a transfer.
(i) Concentration of permits. No more
than 10 percent of the maximum
number of permits, of both size classes
combined, may be held by the same
permit holder. Fractional interest will
be counted as a full permit for
calculating whether the 10-percent
standard has been reached.
(iii) [Reserved]