

## Fishery Conservation and Management

## § 600.705

### § 600.625 Secretary's decision.

(a) The Secretary will, on the basis of the hearing, record the administrative law judge's recommended decision:

(1) Accept or reject any of the findings or conclusions of the administrative law judge and decide whether the factual findings exist for Federal preemption of a state's authority within its boundaries (other than in its internal waters) with respect to the fishery in question;

(2) Reserve decision on the merits or withdraw the notice of proposed preemption; or

(3) Remand the case to the administrative law judge for further proceedings as may be appropriate, along with a statement of reasons for the remand.

(b) *Notification.* (1) If the factual findings for Federal preemption are determined to exist, the Secretary will notify in writing the Attorney General of that state and the appropriate Council(s) of the preemption of that state's authority. The Secretary will also direct the Administrator to promulgate appropriate regulations proposed under § 600.615(d) and otherwise to begin regulating the fishery within the state's boundaries (other than in its internal waters).

(2) If the factual findings for Federal preemption are determined not to exist, the Secretary will notify, in writing, the Attorney General of the state and the appropriate Council(s) of that determination. The Secretary will also direct the Administrator to issue a notice withdrawing any regulations proposed under § 600.615(d).

### § 600.630 Application for reinstatement of state authority.

(a) *Application or notice.* (1) At any time after the promulgation of regulations under § 600.625(b)(1) to regulate a fishery within a state's boundaries, the affected state may apply to the Secretary for reinstatement of state authority. The Secretary may also serve upon such state a notice of intent to terminate such Federal regulation. A state's application must include a clear and concise statement of:

(i) The action taken by the State to correct the action or omission found to

have substantially and adversely affected the carrying out of the FMP; or

(ii) Any changed circumstances that affect the relationship of the state's action or omission to take action to the carrying out of the FMP (including any amendment to such plan); and

(iii) Any laws, regulations, or other materials that the state believes support the application.

(2) Any such application received by the Secretary or notice issued to the State will be published in the FEDERAL REGISTER.

(b) *Informal response.* The Secretary has sole discretion to accept or reject the application or response. If the Secretary accepts the application or rejects any responses and finds that the reasons for regulation of the fishery within the boundaries of the state no longer prevail, the Secretary will promptly terminate such regulation and publish in the FEDERAL REGISTER any regulatory amendments necessary to accomplish that end.

(c) *Hearing.* The Secretary has sole discretion to direct the Administrator to schedule hearings for the receipt of evidence by an administrative law judge. Hearings before the administrative law judge to receive such evidence will be conducted in accordance with § 600.620. Upon conclusion of such hearings, the administrative law judge will certify the record and a recommended decision to the Secretary. If the Secretary, upon consideration of the state's application or any response to the notice published under § 600.630(a)(2), the hearing record, the recommended decision, and any other relevant materials finds that the reasons for regulation of the fishery within the boundaries of the state no longer prevail, the Secretary will promptly terminate such regulation and publish in the FEDERAL REGISTER any regulatory amendments necessary to accomplish that end.

## Subpart H—General Provisions for Domestic Fisheries

### § 600.705 Relation to other laws.

(a) *General.* Persons affected by these regulations should be aware that other Federal and state statutes and regulations may apply to their activities.

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Vessel operators may wish to refer to USCG regulations found in the Code of Federal Regulations title 33—Navigation and Navigable Waters and 46—Shipping; 15 CFR part 904, subpart D—Permit Sanctions and Denials; and title 43—Public Lands (in regard to marine sanctuaries).

(b) *State responsibilities.* Certain responsibilities relating to data collection and enforcement may be performed by authorized state personnel under a state/Federal agreement for data collection and a tripartite agreement among the state, the USCG, and the Secretary for enforcement.

(c) *Submarine cables.* Fishing vessel operators must exercise due care in the conduct of fishing activities near submarine cables. Damage to the submarine cables resulting from intentional acts or from the failure to exercise due care in the conduct of fishing operations subjects the fishing vessel operator to the criminal penalties prescribed by the Submarine Cable Act (47 U.S.C. 21) which implements the International Convention for the Protection of Submarine Cables. Fishing vessel operators also should be aware that the Submarine Cable Act prohibits fishing operations at a distance of less than 1 nautical mile (1.85 km) from a vessel engaged in laying or repairing a submarine cable; or at a distance of less than 0.25 nautical mile (0.46 km) from a buoy or buoys intended to mark the position of a cable when being laid or when out of order or broken.

(d) *Marine mammals.* Regulations governing exemption permits and the recordkeeping and reporting of the incidental take of marine mammals are set forth in part 229 of this title.

(e) *Halibut fishing.* Fishing for halibut is governed by regulations of the International Pacific Halibut Commission set forth at part 300 of this title.

(f) *Marine sanctuaries.* Regulations governing fishing activities inside the boundaries of national marine sanctuaries are set forth in 15 CFR part 922.

(g) *High seas fishing activities.* Regulations governing permits and requirements for fishing activities on the high seas are set forth in 50 CFR part 300, subparts A and R. Any vessel operating on the high seas must obtain a permit

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issued pursuant to the High Seas Fishing Compliance Act.

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### § 600.710 Permits.

Regulations pertaining to permits required for certain fisheries are set forth in the parts of this chapter governing those fisheries.

### § 600.715 Recordkeeping and reporting.

Regulations pertaining to records and reports required for certain fisheries are set forth in the parts of this chapter governing those fisheries.

### § 600.720 Vessel and gear identification.

Regulations pertaining to special vessel and gear markings required for certain fisheries are set forth in the parts of this chapter governing those fisheries.

### § 600.725 General prohibitions.

It is unlawful for any person to do any of the following:

(a) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, land, import, export or re-export, any fish or parts thereof taken or retained in violation of the Magnuson-Stevens Act or any other statute administered by NOAA or any regulation or permit issued thereunder, or import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any fish taken, possessed, transported, or sold in violation of any foreign law or regulation, or any treaty or in contravention of a binding conservation measure adopted by an international agreement or organization to which the United States is a party.

(b) Transfer or attempt to transfer, directly or indirectly, any U.S.-harvested fish to any foreign fishing vessel, while such vessel is in the EEZ, unless the foreign fishing vessel has been issued a permit under section 204 of the Magnuson-Stevens Act, which authorizes the receipt by such vessel of U.S.-harvested fish.

(c) Fail to comply immediately with enforcement and boarding procedures specified in § 600.730.

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(d) Refuse to allow an authorized officer to board a fishing vessel or to enter areas of custody for purposes of conducting any search, inspection, or seizure in connection with the enforcement of the Magnuson-Stevens Act or any other statute administered by NOAA.

(e) Dispose of fish or parts thereof or other matter in any manner, after any communication or signal from an authorized officer, or after the approach by an authorized officer or an enforcement vessel or aircraft.

(f) Assault, resist, oppose, impede, intimidate, threaten, or interfere with any authorized officer in the conduct of any search, inspection, or seizure in connection with enforcement of the Magnuson-Stevens Act or any other statute administered by NOAA.

(g) Interfere with, delay, or prevent by any means, the apprehension of another person, knowing that such person has committed any act prohibited by the Magnuson-Stevens Act or any other statute administered by NOAA.

(h) Resist a lawful arrest for any act prohibited under the Magnuson-Stevens Act or any other statute administered by NOAA.

(i) Make any false statement, oral or written, to an authorized officer concerning the taking, catching, harvesting, landing, purchase, sale, offer of sale, possession, transport, import, export, or transfer of any fish, or attempts to do any of the above.

(j) Interfere with, obstruct, delay, or prevent by any means an investigation, search, seizure, or disposition of seized property in connection with enforcement of the Magnuson-Stevens Act or any other statute administered by NOAA.

(k) Fish in violation of the terms or conditions of any permit or authorization issued under the Magnuson-Stevens Act or any other statute administered by NOAA.

(l) Fail to report catches as required while fishing pursuant to an exempted fishing permit.

(m) On a scientific research vessel, engage in fishing other than recreational fishing authorized by applicable state or Federal regulations.

(n) Trade, barter, or sell; or attempt to trade, barter, or sell fish possessed

or retained while fishing pursuant to an authorization for an exempted educational activity.

(o) Harass or sexually harass an authorized officer or an observer.

(p) Fail to show proof of passing the USCG Commercial Fishing Vessel Safety Examination or the alternate NMFS safety equipment examination, or fail to maintain the vessel safety conditions necessary to pass the examination, when required by NMFS pursuant to §600.746.

(q) Fail to display a Commercial Fishing Vessel Safety Examination decal or a valid certificate of compliance or inspection pursuant to §600.746.

(r) Fail to provide to an observer, a NMFS employee, or a designated observer provider information that has been requested pursuant to §600.746, or fail to allow an observer, a NMFS employee, or a designated observer provider to inspect any item described at §600.746.

(s) Fish without an observer when the vessel is required to carry an observer.

(t) Assault, oppose, impede, intimidate, or interfere with a NMFS-approved observer.

(u)(1) Prohibit or bar by command, impediment, threat, coercion, interference, or refusal of reasonable assistance, an observer from conducting his or her duties as an observer; or

(2) Tamper with or destroy samples or equipment.

(v) The use of any gear or participation in a fishery not on the following list of authorized fisheries and gear is prohibited after December 1, 1999. A fish, regardless whether targeted, may be retained only if it is taken within a listed fishery, is taken with a gear authorized for that fishery, and is taken in conformance with all other applicable regulations. Listed gear can only be used in a manner that is consistent with existing laws and regulations. The list of fisheries and authorized gear does not, in any way, alter or supersede any definitions or regulations contained elsewhere in this chapter. A person or vessel is prohibited from engaging in fishing or employing fishing gear when such fishing gear is prohibited or restricted by regulation under an FMP or other applicable law. However, after

December 1, 1999, an individual fisherman may notify the appropriate Council, or the Director, in the case of Atlantic highly migratory species, of the intent to use a gear or participate in a fishery not already on the list. Ninety days after such notification, the indi-

vidual may use the gear or participate in that fishery unless regulatory action is taken to prohibit the use of the gear or participate in the fishery (*e.g.*, through emergency or interim regulations). The list of authorized fisheries and gear is as follows:

Fishery	Authorized gear types
<b>I. New England Fishery Management Council (NEFMC)</b>	
1. Atlantic Sea Scallop Fishery (FMP):	
A. Dredge fishery .....	A. Dredge.
B. Trawl fishery .....	B. Trawl.
C. Hand harvest fishery .....	C. Hand harvest.
D. Recreational fishery .....	D. Hand harvest.
2. Iceland Scallop Fishery (Non-FMP):	
A. Dredge fishery .....	A. Dredge.
B. Trawl fishery .....	B. Trawl.
3. Atlantic Salmon Fishery (FMP) .....	No harvest or possession in the EEZ.
4. Striped Bass Fishery (Non-FMP) .....	No harvest or possession in the EEZ.
5. Northeast (NE) Multispecies Fishery (FMP):	
A. NE multispecies sink gillnet fishery .....	A. Gillnet.
B. North Atlantic bottom trawl fishery .....	B. Trawl.
C. Groundfish hook and line fishery .....	C. Longline, handline, rod and reel.
D. Mixed species trap and pot fishery .....	D. Trap, pot.
E. Dredge fishery .....	E. Dredge.
F. Seine fishery .....	F. Seine.
G. Recreational fishery .....	G. Rod and reel, handline, spear.
6. American Lobster Fishery (FMP):	
A. Lobster pot and trap fishery .....	A. Pot, trap.
B. North Atlantic bottom trawl fishery .....	B. Trawl.
C. Dredge fishery .....	C. Dredge.
D. Hand harvest fishery .....	D. Hand harvest.
E. Gillnet fishery .....	E. Gillnet.
F. Recreational fishery .....	F. Pot, trap, hand harvest.
7. Atlantic Herring Fishery (FMP):	
A. Trawl fishery .....	A. Trawl.
B. Purse seine fishery .....	B. Purse seine.
C. Gillnet fishery .....	C. Gillnet.
D. Herring pair trawl fishery .....	D. Pair trawl.
E. Dredge fishery .....	E. Dredge.
F. Recreational fishery .....	F. Hook and line, gillnet.
8. Spiny Dogfish Fishery (FMP jointly managed by MAFMC and NEFMC):	
A. Gillnet fishery .....	A. Gillnet.
B. Trawl fishery .....	B. Trawl.
C. Hook and line fishery .....	C. Hook and line, rod and reel, spear.
D. Dredge fishery .....	D. Dredge.
E. Longline fishery .....	E. Longline.
F. Recreational fishery .....	F. Hook and line, rod and reel, spear.
9. Atlantic Bluefish Fishery (FMP managed by MAFMC):	
A. Pelagic longline and hook and line fishery .....	A. Longline, handline.
B. Seine fishery .....	B. Purse seine, seine.
C. Mixed species pot and trap fishery .....	C. Pot, trap.
D. Bluefish, croaker, flounder trawl fishery .....	D. Trawl.
E. Gillnet fishery .....	E. Gillnet.
F. Dredge fishery .....	F. Dredge.
G. Recreational fishery .....	G. Rod and reel, handline, trap, pot, spear.
10. Atlantic Mackerel, Squid and Butterfish Fishery (FMP managed by the MAFMC):	
A. Mackerel, squid, and butterfish trawl fishery .....	A. Trawl.
B. Gillnet fishery .....	B. Gillnet.
C. Longline and hook-and-line fishery .....	C. Longline, handline, rod and reel.
D. Purse seine fishery .....	D. Purse seine.
E. Mixed species pot and trap fishery .....	E. Pot, trap.
F. Dredge fishery .....	F. Dredge.
G. Dip net fishery .....	G. Dip net.
H. Bandit gear fishery .....	H. Bandit gear.
I. Recreational fishery .....	I. Rod and reel, handline, pot, spear.
11. Surf Clam and Ocean Quahog Fishery (FMP managed by the MAFMC):	
A. Commercial fishery .....	A. Dredge, hand harvest.

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Fishery	Authorized gear types
B. Recreational fishery .....	B. Hand harvest.
12. Atlantic Menhaden Fishery (Non-FMP):	
A. Purse seine fishery .....	A. Purse seine.
B. Trawl fishery .....	B. Trawl.
C. Gillnet fishery .....	C. Gillnet.
D. Commercial hook-and-line fishery .....	D. Hook and line.
E. Recreational fishery .....	E. Hook and line, snagging, cast nets.
13. Weakfish Fishery (Non-FMP):	
A. Commercial fishery .....	A. Trawl, gillnet, hook and line.
B. Recreational fishery .....	B. Hook and line, spear.
14. Atlantic Mussel and Sea Urchin Fishery (Non-FMP):	
A. Dredge fishery .....	A. Dredge.
B. Hand harvest fishery .....	B. Hand harvest.
C. Recreational fishery .....	C. Hand harvest.
15. Atlantic Skate Fishery (Non-FMP):	
A. Trawl fishery .....	A. Trawl.
B. Gillnet fishery .....	B. Gillnet.
C. Hook-and-line fishery .....	C. Longline and handline.
D. Dredge fishery .....	D. Dredge.
E. Recreational fishery .....	E. Rod and reel.
16. Crab Fishery (Non-FMP):	
A. Dredge fishery .....	A. Dredge.
B. Trawl fishery .....	B. Trawl.
C. Trap and pot fishery .....	C. Trap, pot.
17. Northern Shrimp Fishery (Non-FMP):	
A. Shrimp trawl fishery .....	A. Trawl.
B. Shrimp pot fishery .....	B. Pot.
18. Monkfish Fishery (FMP jointly managed by NEFMC and MAFMC):	
A. Trawl fishery .....	A. Trawl.
B. Gillnet fishery .....	B. Gillnet.
C. Longline fishery .....	C. Longline.
D. Dredge fishery .....	D. Dredge.
E. Trap and pot fishery .....	E. Trap, pot.
F. Recreational fishery .....	F. Rod and reel, spear.
19. Summer Flounder, Scup, Black Sea Bass Fishery (FMP managed by MAFMC):	
A. Trawl fishery .....	A. Trawl.
B. Longline and hook and line fishery .....	B. Longline, handline.
C. Mixed species pot and trap fishery .....	C. Pot, trap.
D. Gillnet fishery .....	D. Gillnet.
E. Dredge fishery .....	E. Dredge.
F. Recreational fishery .....	F. Rod and reel, handline, pot, trap, spear.
20. Hagfish Fishery (Non-FMP) .....	Trap, pot.
21. Tautog Fishery (Non-FMP):	
A. Gillnet fishery .....	A. Gillnet.
B. Pot and trap fishery .....	B. Pot, trap.
C. Rod and reel, hook and line fishery .....	C. Rod and reel, handline, hook and line.
D. Trawl fishery .....	D. Trawl.
E. Spear fishery .....	E. Spear.
F. Fyke net fishery .....	F. Fyke net.
G. Recreational fishery .....	G. Rod and reel, hook and line, handline, spear.
22. Recreational Fishery (Non-FMP) .....	Rod and reel, handline, spear, hook and line, hand harvest, bandit gear, powerhead, gillnet, cast net, pot, trap, dip net, bully net, snare.
23. Commercial Fishery (Non-FMP) .....	Trawl, pot, trap, gillnet, pound net, dredge, seine, handline, longline, hook and line, rod and reel, hand harvest, purse seine, spear, bandit gear, powerhead, dip net, bully net, snare, cast net, barrier net, slurp gun, allowable chemicals.
24. Dolphin/wahoo fishery (FMP managed by SAFMC) .....	Automatic reel, bandit gear, handline, pelagic longline, rod and reel, spear (including powerheads).

**II. Mid-Atlantic Fishery Management Council (MAFMC)**

1. Summer Flounder, Scup, Black Sea Bass Fishery (FMP):	
A. Trawl fishery .....	A. Trawl.
B. Pelagic longline and hook and line fishery .....	B. Longline, handline, rod and reel.
C. Mixed species pot and trap fishery .....	C. Pot, trap.
D. Gillnet fishery .....	D. Gillnet.
E. Dredge fishery .....	E. Dredge.
F. Recreational fishery .....	F. Rod and reel, handline, pot, trap, spear.
2. Atlantic Bluefish Fishery (FMP):	
A. Bluefish, croaker, and flounder trawl fishery .....	A. Trawl.

Fishery	Authorized gear types
B. Pelagic longline and hook and line fishery .....	B. Longline, handline, bandit gear, rod and reel.
C. Mixed species pot and trap fishery .....	C. Pot, trap.
D. Gillnet fishery .....	D. Gillnet.
E. Seine fishery .....	E. Purse seine, seine.
F. Dredge fishery .....	F. Dredge.
G. Recreational fishery .....	G. Rod and reel, handline, trap, pot, spear.
3. Atlantic Mackerel, Squid, and Butterfish Fishery (FMP):	
A. Mackerel, squid, and butterfish trawl fishery .....	A. Trawl.
B. Gillnet fishery .....	B. Gillnet.
C. Longline and hook-and-line fishery .....	C. Longline, handline, rod and reel.
D. Purse seine fishery .....	D. Purse seine.
E. Mixed species pot and trap fishery .....	E. Pot, trap.
F. Dredge fishery .....	F. Dredge.
G. Dip net fishery .....	G. Dip net.
H. Bandit gear fishery .....	H. Bandit gear.
I. Recreational fishery .....	I. Rod and reel, handline, pot, spear.
4. Surf Clam and Ocean Quahog Fishery (FMP):	
A. Commercial fishery .....	A. Dredge, hand harvest.
B. Recreational fishery .....	B. Hand harvest.
5. Atlantic Sea Scallop Fishery (FMP managed by NEFMC):	
A. Dredge fishery .....	A. Dredge.
B. Trawl fishery .....	B. Trawl.
C. Hand harvest fishery .....	C. Hand harvest.
D. Recreational fishery .....	D. Hand harvest.
6. Atlantic Menhaden Fishery (Non-FMP):	
A. Purse seine fishery .....	A. Purse seine.
B. Trawl fishery .....	B. Trawl.
C. Gillnet fishery .....	C. Gillnet.
D. Commercial hook-and-line fishery .....	D. Hook and line.
E. Recreational fishery .....	E. Hook and line, snagging, cast nets.
7. Striped Bass Fishery (Non-FMP) .....	No harvest or possession in the EEZ.
8. Northern Shrimp Trawl Fishery (Non-FMP) .....	Trawl.
9. American Lobster Fishery (FMP managed by NEFMC):	
A. Pot and trap fishery .....	A. Pot, trap.
B. Hand harvest fishery .....	B. Hand harvest.
C. Trawl fishery .....	C. Trawl.
D. Dredge fishery .....	D. Dredge.
E. Gillnet fishery .....	E. Gillnet.
F. Recreational fishery .....	F. Pot, trap, hand harvest.
10. Weakfish Fishery (Non-FMP):	
A. Commercial fishery .....	A. Trawl, gillnet, hook and line, rod and reel.
B. Recreational fishery .....	B. Hook and line, spear.
11. Whelk Fishery (Non-FMP):	
A. Trawl fishery .....	A. Trawl.
B. Pot and trap fishery .....	B. Pot, trap.
C. Dredge .....	C. Dredge.
D. Pound net, gillnet, seine .....	D. Pound net, gillnet, seine.
E. Recreational fishery .....	E. Hand harvest.
12. Monkfish Fishery (FMP jointly managed by NEFMC and MAFMC):	
A. Trawl fishery .....	A. Trawl.
B. Longline fishery .....	B. Longline, rod and reel.
C. Gillnet fishery .....	C. Gillnet.
D. Dredge fishery .....	D. Dredge.
E. Trap and pot fishery .....	E. Trap and pot.
F. Recreational fishery .....	F. Rod and reel, spear.
13. Tilefish Fishery (Non-FMP):	
A. Groundfish hook-and-line fishery .....	A. Longline, handline, rod and fishery reel.
B. Trawl fishery .....	B. Trawl.
C. Recreational fishery .....	C. Rod and reel, spear.
14. Spiny Dogfish Fishery (FMP jointly managed by MAFMC and NEFMC):	
A. Gillnet fishery .....	A. Gillnet.
B. Trawl fishery .....	B. Trawl.
C. Hook and line fishery .....	C. Hook and line, rod and reel, spear.
D. Dredge fishery .....	D. Dredge.
E. Longline fishery .....	E. Longline.
F. Recreational fishery .....	F. Hook and line, rod and reel, spear.
15. Tautog Fishery (Non-FMP):	
A. Gillnet fishery .....	A. Gillnet.
B. Pot and trap fishery .....	B. Pot, trap.
C. Rod and reel, hook and line handline fishery .....	C. Rod and reel, hook and line, handline.
D. Trawl fishery .....	D. Trawl.
E. Spear fishery .....	E. Spear.
F. Fyke net fishery .....	F. Fyke net.

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G. Recreational fishery .....	G. Rod and reel, handline, hook and line, spear.
16. Coastal Gillnet Fishery (Non-FMP) .....	Gillnet
17. Recreational Fishery (Non-FMP) .....	Rod and reel, handline, spear, hook and line, hand harvest, bandit gear, powerhead, gillnet, cast net.
18. NE Multispecies Fishery (FMP managed by NEFMC):	
A. NE multispecies sink gillnet fishery .....	A. Gillnet.
B. North Atlantic bottom trawl fishery .....	B. Trawl.
C. Groundfish hook and line .....	C. Longline, handline, rod and fishery reel.
D. Mixed species trap and pot fishery .....	D. Trap, pot.
E. Dredge fishery .....	E. Dredge.
F. Seine fishery .....	F. Seine.
G. Recreational fishery .....	G. Rod and reel, handline, spear.
19. Atlantic Skate Fishery (Non-FMP):	
A. Trawl fishery .....	A. Trawl.
B. Gillnet fishery .....	B. Gillnet.
C. Hook-and-line fishery .....	C. Longline and handline.
D. Dredge fishery .....	D. Dredge.
E. Recreational fishery .....	E. Rod and reel.
20. Crab Fishery (Non-FMP):	
A. Dredge fishery .....	A. Dredge.
B. Trawl fishery .....	B. Trawl.
C. Trap and pot fishery .....	C. Trap, pot.
21. Atlantic Herring Fishery (FMP managed by the NEFMC):	
A. Trawl fishery .....	A. Trawl.
B. Purse seine fishery .....	B. Purse seine.
C. Gillnet fishery .....	C. Gillnet.
D. Herring pair trawl fishery .....	D. Pair trawl.
E. Dredge fishery .....	E. Dredge.
F. Recreational fishery .....	F. Hook and line, gillnet.
22. South Atlantic Snapper-Grouper Fishery (FMP managed by the SAFMC):	
A. Commercial fishery .....	A. Longline, rod and reel, bandit gear, handline, spear, powerhead.
B. Black sea bass trap and pot fishery .....	B. Pot, trap.
C. Wreckfish fishery .....	C. Rod and reel, bandit gear, handline.
D. Recreational fishery .....	D. Handline, rod and reel, bandit gear, spear, powerhead.
23. South Atlantic Coastal Migratory Pelagics Fishery (FMP managed by the SAFMC):	
A. Commercial Spanish mackerel fishery .....	A. Handline, rod and reel, bandit gear, gillnet, cast net.
B. Commercial king mackerel fishery .....	B. Handline, rod and reel, bandit gear.
C. Other commercial coastal migratory pelagics fishery .....	C. Longline, handline, rod and reel, bandit gear.
D. Recreational fishery .....	D. Bandit gear, rod and reel, handline, spear.
24. Calico Scallops Fishery (Non-FMP):	
A. Trawl fishery .....	A. Trawl.
B. Dredge fishery .....	B. Dredge.
C. Recreational fishery .....	C. Hand harvest.
25. Sargassum Fishery (Non-FMP) .....	Trawl.
26. South Atlantic Shrimp Fishery (FMP) .....	Trawl.
27. Commercial Fishery (Non-FMP) .....	Trawl, pot, trap, gillnet, pound net, dredge, seine, handline, longline, hook and line, rod and reel, spear.
28. Dolphin/wahoo fishery (FMP managed by SAFMC) .....	Automatic reel, bandit gear, handline, pelagic longline, rod and reel, spear (including powerheads).

**III. South Atlantic Fishery Management Council**

1. Golden Crab Fishery (FMP) .....	Trap.
2. Crab Fishery (Non-FMP):	
A. Dredge fishery .....	A. Dredge.
B. Trawl fishery .....	B. Trawl.
C. Trap and pot fishery .....	C. Trap, pot.
3. Atlantic Red Drum Fishery (FMP) .....	No harvest or possession in the EEZ.
4. Coral and Coral Reef Fishery (FMP):	
A. Octocoral commercial fishery .....	Hand harvest.
B. Live rock aquaculture fishery .....	Hand harvest.
5. South Atlantic Shrimp Fishery (FMP) .....	Trawl.
6. South Atlantic Snapper-Grouper Fishery (FMP):	
A. Commercial fishery .....	A. Longline, rod and reel, bandit gear, handline, spear, powerhead.
B. Black sea bass pot fishery .....	B. Pot.
C. Wreckfish fishery .....	C. Rod and reel, bandit gear, handline.

Fishery	Authorized gear types
D. Recreational fishery .....	D. Handline, rod and reel, bandit gear, spear, powerhead.
7. South Atlantic Spiny Lobster Fishery (FMP):	
A. Commercial fishery .....	A. Trap, pot, dip net, bully net, snare, hand harvest.
B. Recreational fishery .....	B. Dip net, bully net, snare, hand harvest.
8. South Atlantic Coastal Migratory Pelagics Fishery (FMP):	
A. Commercial Spanish mackerel fishery .....	A. Handline, rod and reel, bandit gear, gillnet, cast net.
B. Commercial king mackerel fishery .....	B. Handline, rod and reel, bandit gear.
C. [Reserved].	
D. Recreational fishery .....	D. Bandit gear, rod and reel, handline, spear.
9. Spiny Dogfish Fishery (FMP jointly managed by NEFMC and SAFMC):	
A. Gillnet fishery .....	A. Gillnet.
B. Trawl fishery .....	B. Trawl.
C. Hook and line fishery .....	C. Hook and line, rod and reel, spear, bandit gear.
D. Dredge fishery .....	D. Dredge.
E. Longline fishery .....	E. Longline.
F. Recreational fishery .....	F. Hook and line, rod and reel, spear.
10. Smooth Dogfish Fishery (Non-FMP):	
A. Gillnet fishery .....	A. Gillnet.
B. Trawl fishery .....	B. Trawl.
C. Hook and line fishery .....	C. Hook and line, rod and reel, spear, bandit gear.
D. Dredge fishery .....	D. Dredge.
E. Longline fishery .....	E. Longline.
F. Recreational fishery .....	F. Hook and line, rod and reel, spear.
11. Atlantic Menhaden Fishery (Non-FMP):	
A. Purse seine fishery .....	A. Purse seine.
B. Trawl fishery .....	B. Trawl.
C. Gillnet fishery .....	C. Gillnet.
D. Commercial hook-and-line .....	D. Hook and line fishery.
E. Recreational fishery .....	E. Hook and line, snagging, cast nets.
12. Atlantic Mackerel, Squid, and Butterfish Trawl Fishery (Non-FMP) ....	Trawl.
13. Bait Fisheries (Non-FMP) .....	Purse seine.
14. Weakfish Fishery (Non-FMP):	
A. Commercial fishery .....	A. Trawl, gillnet, hook and line.
B. Recreational fishery .....	B. Hook and line, spear.
15. Whelk Fishery (Non-FMP):	
A. Trawl fishery .....	A. Trawl.
B. Pot and trap fishery .....	B. Pot, trap.
C. Dredge fishery .....	C. Dredge.
D. Recreational fishery .....	D. Hand harvest.
16. Marine Life Aquarium Fishery (Non-FMP) .....	Dip net, slurp gun, barrier net, drop net, allowable chemical, trap, pot, trawl.
17. Calico Scallop Fishery (Non-FMP):	
A. Dredge fishery .....	A. Dredge.
B. Trawl fishery .....	B. Trawl.
C. Recreational fishery .....	C. Hand harvest.
18. Summer Flounder Fishery (FMP managed by MAFMC):	
A. Commercial fishery .....	A. Trawl, longline, handline, rod and reel, pot, trap, gillnet, dredge.
B. Recreational fishery .....	B. Rod and reel, handline, pot, trap, spear.
19. Bluefish, Croaker, and Flounder Trawl and Gillnet Fishery (Bluefish FMP managed by MAFMC).	Trawl, gillnet.
20. Commercial Fishery (Non-FMP) .....	Trawl, gillnet, longline, handline, hook and line, rod and reel, bandit gear, cast net, pot, trap, lampara net, spear.
21. Recreational Fishery (Non-FMP) .....	Rod and reel, handline, spear, hook and line, hand harvest, bandit gear, powerhead, gillnet, cast net.
22. Sargassum Fishery (Non-FMP) .....	Trawl.
23. Octopus Fishery (Non-FMP) .....	Trap, pot.
24. Dolphin/wahoo fishery (FMP)	Automatic reel, bandit gear, handline, pelagic longline, rod and reel, spear (including powerheads).
25. Atlantic Migratory Group Cobia (Non-FMP):	
A. Commercial Fishery .....	A. Longline, handline, rod and reel, bandit gear, spear.
B. Recreational Fishery .....	B. Bandit gear, rod and reel, handline, spear.
<b>IV. Gulf of Mexico Fishery Management Council</b>	
1. Gulf of Mexico Red Drum Fishery (FMP) .....	No harvest or possession in the EEZ.
2. Coral Reef Fishery (FMP):	
A. Commercial fishery .....	A. Hand harvest.

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Fishery	Authorized gear types
B. Recreational fishery .....	B. Hand harvest.
3. Gulf of Mexico Reef Fish Fishery (FMP):	
A. Snapper-Grouper reef fish longline and hook and line fishery .....	A. Longline, handline, bandit gear, rod and reel, buoy gear.
B. Other commercial fishery .....	B. Spear, powerhead, cast net, trawl.
C. Recreational fishery .....	C. Spear, powerhead, bandit gear, handline, rod reel, cast net.
4. Gulf of Mexico Shrimp Fishery (FMP):	
A. Gulf of Mexico commercial fishery .....	A. Trawl butterfly net, skimmer, cast net.
B. Recreational fishery .....	B. Trawl.
5. Gulf of Mexico Coastal Migratory Pelagics Fishery (FMP):	
A. Large pelagics longline fishery .....	A. Longline.
B. King/Spanish mackerel gillnet fishery .....	B. Gillnet.
C. Pelagic hook and line fishery .....	C. Bandit gear, handline, rod and reel.
D. Pelagic species purse seine fishery .....	D. Purse seine.
E. Recreational fishery .....	E. Bandit gear, handline, rod and reel, spear.
Gulf of Mexico Spiny Lobster Fishery (FMP):	
A. Commercial fishery .....	A. Trap, pot, dip net, bully net, hoop net, trawl, snare, hand harvest.
C. Recreational fishery .....	C. Dip net, bully net, pot, trap, snare, hand harvest.
6. Stone Crab Fishery (FMP):	
A. Trap and pot fishery .....	A. Trap, pot
B. Recreational fishery .....	B. Trap, pot, hand harvest.
7. Blue Crab Fishery (Non-FMP) .....	Trap, pot.
8. Golden Crab Fishery (Non-FMP) .....	Trap.
9. Mullet Fishery (Non-FMP):	
A. Trawl fishery .....	A. Trawl.
B. Gillnet fishery .....	B. Gillnet.
C. Pair trawl fishery .....	C. Pair trawl.
D. Cast net fishery .....	D. Cast net.
E. Recreational fishery .....	E. Bandit gear, handline, rod and reel, spear, cast net.
10. Inshore Coastal Gillnet Fishery (Non-FMP) .....	Gillnet.
11. Octopus Fishery (Non-FMP) .....	Trap, pot.
12. Marine Life Aquarium Fishery (Non-FMP) .....	Dip net, slurp gun, barrier net, drop net, allowable chemical, trap, pot, trawl.
13. Coastal Herring Trawl Fishery (Non-FMP) .....	Trawl.
14. Butterfish Trawl Fishery (Non-FMP) .....	Trawl.
15. Gulf of Mexico Groundfish (Non-FMP):	
A. Commercial fishery .....	A. Trawl, purse seine, gillnet.
B. Recreational fishery .....	B. Hook and line, rod and reel, spear.
16. Gulf of Mexico Menhaden Purse Seine Fishery (Non-FMP) .....	Purse seine.
17. Sardine Purse Seine Fishery (Non-FMP) .....	Purse seine.
18. Oyster Fishery (Non-FMP) .....	Dredge, tongs.
19. Commercial Fishery (Non-FMP) .....	Trawl, gillnet, hook and line, longline, handline, rod and reel, bandit gear, cast net, lampara net, spear.
20. Recreational Fishery (Non-FMP) .....	Bandit gear, handline, rod and reel, spear, bully net, gillnet, dip net, longline, powerhead, seine, slurp gun, trap, trawl, harpoon, cast net, hoop net, hook and line, hand harvest.
21. Offshore aquaculture (FMP) .....	Cages, net pens

**V. Caribbean Fishery Management Council**

1. Caribbean Spiny Lobster Fishery (FMP):	
A. Trap/pot fishery .....	A. Trap/pot.
B. Dip net fishery .....	B. Dip net.
C. Hand harvest fishery .....	C. Hand harvest, snare.
D. Recreational fishery .....	D. Dip net, trap, pot.
2. Caribbean Reef Fish Fishery (FMP):	
A. Longline/hook and line fishery .....	A. Longline, hook and line.
B. Trap/pot fishery .....	B. Trap, pot.
C. Recreational fishery .....	C. Dip net, handline, rod and reel, slurp gun, spear.
D. Other commercial fishery .....	D. Spear.
3. Coral and Reef Resources Fishery (FMP):	
A. Commercial fishery .....	A. Dip net, slurp gun.
B. Recreational fishery .....	B. Dip net, slurp gun, hand harvest.
4. Queen Conch Fishery (FMP):	
A. Commercial fishery .....	A. Hand harvest.
B. Recreational fishery .....	B. Hand harvest.
5. Caribbean Pelagics Fishery (Non-FMP):	
A. Pelagics drift gillnet fishery .....	A. Gillnet.
B. Pelagics longline/hook and line fishery .....	B. Longline/hook and line.
C. Recreational fishery .....	C. Spear, handline, longline, rod and reel.

Fishery	Authorized gear types
6. Commercial Fishery (Non-FMP) .....	Trawl, gillnet, hook and line, longline, handline, rod and reel, bandit gear, cast net, spear.
7. Recreational Fishery (Non-FMP) .....	Rod and reel, hook and line, spear, powerhead, handline, hand harvest, cast net.

**VI. Pacific Fishery Management Council**

1. Pacific Coast Salmon Fisheries (FMP):	
A. Commercial .....	A. Hook and line.
B. Recreational .....	B. Hook and line.
2. Pacific Coast Groundfish Fisheries (FMP):	
A. Commercial .....	A. Trawl, hook and line, pot/trap, demersal seine, set net, spear, and hand collection.
B. Recreational .....	B. Hook and line, spear.
3. Coastal Pelagic Species Fisheries (FMP):	
A. Commercial .....	A. Purse seine, lampara net, brail net, dip net, cast net, hook and line.
B. Recreational .....	B. Hook and line, spear, pot/trap, dip net, cast net, hand harvest, rake, harpoon, bow and arrow.
4. Highly Migratory Species Fisheries (FMP):	
A. Commercial .....	A. Hook and line, gillnet, harpoon, purse seine.
B. Recreational .....	B. Hook and line, spear, harpoon, bow and arrow.
5. Pacific Halibut Fisheries (Non-FMP):	
A. Commercial .....	A. Hook and line.
B. Recreational .....	B. Hook and line, spear.
6. Dungeness Crab Fisheries (Non-FMP):	
A. Commercial .....	A. Pot/trap.
B. Recreational North of 46°15' N. lat .....	B. Pot/trap, dip net, hand harvest.
C. Recreational South of 46°15' N. lat. and North of 42° N. lat ..	C. Pot/trap, hook and line, dip net, hand harvest, rake, crab loop.
D. Recreational South of 42° N. lat .....	D. Pot/trap, hand harvest, hoop net, crab loop.
7. Crab Fisheries for Species other than Dungeness crab (Non-FMP):	
A. Commercial Pot/Trap Fisheries South of 46°15' N. lat .....	A. Pot/trap.
B. Recreational North of 46°15' N. lat .....	B. Pot/trap, dip net, hand harvest.
C. Recreational South of 46°15' N. lat. and North of 42° N. lat ..	C. Pot/trap, hook and line, dip net, hand harvest, rake, crab loop.
D. Recreational South of 42° N. lat .....	D. Pot/trap, hand harvest, hoop net, crab loop.
8. Shrimp and Prawn Fisheries (Non-FMP):	
A. Commercial spot prawn .....	A. Pot/trap.
B. Commercial pink shrimp North of 46°15' N. lat .....	B. Trawl.
C. Commercial pink shrimp South of 46°15' N. lat .....	C. Pot/trap, trawl.
D. Commercial coonstripe shrimp South of 46°15' N. lat .....	D. Pot/trap.
E. Commercial ridgeback prawn South of 42° N. lat .....	E. Trawl.
F. Recreational North of 46°15' N. lat .....	F. Pot/trap, dip net, hand harvest.
G. Recreational South of 46°15' N. lat. and North of 42° N. lat ..	G. Pot/trap, hook and line, dip net, hand harvest, rake.
H. Recreational South of 42° N. lat .....	H. Pot/trap, hand harvest, dip net.
9. Hagfish Commercial Fisheries (Non-FMP) .....	Pot/trap.
10. Squid, all spp. except market squid or not otherwise prohibited, and Octopus Fisheries (Non-FMP):	
A. Commercial .....	A. Hook and line, pot/trap, dip net, seine, trawl, set net, spear, hand harvest.
B. Recreational Squid North of 42° N. lat .....	B. Hook and line, cast net, dip net, hand harvest.
C. Recreational Octopus North of 42° N. lat .....	C. Hook and line, pot/trap, dip net, hand harvest.
D. Recreational South of 42° N. lat .....	D. Hook and line, dip net, hand harvest.
11. White Sturgeon Fisheries (Non-FMP):	
A. Commercial South of 46°15' N. lat. and North of 42° N. lat ...	A. Trawl, pot/trap, hook and line, seine, dip net, spear.
B. Recreational North of 42° N. lat .....	B. Hook and line.
C. Recreational South of 42° N. lat .....	C. Hook and line, spear.
12. Sea Cucumber Fishery (Non-FMP):	
A. Commercial hand harvest fishery South of 46°15' N. lat .....	A. Hand harvest.
B. Commercial trawl South of 42° N. lat .....	B. Trawl.
13. Minor Finfish Commercial Fisheries South of 46°15' N. lat. and North of 42° N. lat. for: Salmon shark, Pacific pomfret, slender sole, wolf-eel, eelpout species, Pacific sandfish, skiffish, and walleye pollock Fisheries (Non-FMP).	Trawl, pot/trap, hook and line, seine, dipnet, spear.
14. Weathervane Scallop Commercial Fishery South of 46°15' N. lat. and North of 42° N. lat. (Non-FMP).	Trawl.
15. California Halibut, White Seabass Commercial Fisheries South of 42° N. lat. (Non-FMP):	
A. California halibut trawl .....	A. Trawl.
B. California halibut and white seabass set net .....	B. Gillnet, trammel net.
C. California halibut hook and line .....	C. Hook and line.

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Fishery	Authorized gear types
D. White seabass hook and line .....	D. Hook and line.
16. California Barracuda, White Seabass, and Yellowtail Drift-Net Commercial Fishery South of 42° N. lat. (Non-FMP).	Gillnet.
17. Pacific Bonito Commercial Net Fishery South of 42° N. lat. (Non-FMP).	Purse seine.
18. Lobster Commercial Pot and Trap Fishery South of 42° N. lat. (Non-FMP).	Pot/trap.
19. Finfish and Invertebrate Fisheries Not Listed Above and Not Otherwise Prohibited (Non-FMP):	
A. Commercial South of 46°15' N. lat .....	A. Hook and line, pot/trap, spear.
B. Recreational .....	B. Hook and line, spear, pot/trap, dip net, cast net, hand harvest, rake, harpoon, bow and arrow.

**VII. North Pacific Fishery Management Council**

1. Alaska Scallop Fishery (FMP) .....	Dredge.
2. Bering Sea (BS) and Aleutian Islands (AI) King and Tanner Crab Fishery (FMP):	
Pot fishery .....	Pot.
3. Bering Sea (BS) and Aleutian Islands (AI) King and Tanner Crab Fishery (FMP):	
Recreational fishery .....	Pot.
4. BS and AI Groundfish Fishery (FMP):	
A. Groundfish trawl fishery .....	A. Trawl.
B. Bottomfish hook-and-line, and handline fishery .....	B. Hook and line, handline.
C. Longline fishery .....	C. Longline.
D. BS and AI pot and trap fishery .....	D. Pot, trap.
5. BS and AI Groundfish Recreational Fishery (Non-FMP) .....	Handline, rod and reel, hook and line, pot, trap.
6. Gulf of Alaska (GOA) Groundfish Fishery (FMP):	
A. Groundfish trawl fishery .....	A. Trawl.
B. Bottomfish hook-and-line and handline fishery .....	B. Hook and line, handline.
C. Longline fishery .....	C. Longline.
D. GOA pot and trap fishery .....	D. Pot, trap.
E. Recreational fishery .....	E. Handline, rod and reel, hook and line, pot, trap.
7. Pacific Halibut Fishery (Non-FMP):	
A. Commercial (IFQ and CDQ) .....	A. Hook and line, pot.
B. Recreational .....	B. Single line with no more than 2 hooks attached or spear.
C. Subsistence .....	C. Setline gear and hand held gear of not more than 30 hooks, including longline, handline, rod and reel, spear, jig, and hand-troll gear.
8. Alaska High Seas Salmon Hook and Line Fishery: (FMP) .....	Hook and line.
9. Alaska Salmon Fishery (Non-FMP):	
A. Hook-and-line fishery .....	A. Hook and line.
B. Gillnet fishery .....	B. Gillnet.
C. Purse seine fishery .....	C. Purse seine.
D. Recreational fishery .....	D. Handline, rod and reel, hook and line.
10. Finfish Purse Seine Fishery (Non-FMP) .....	Purse seine.
11. Octopus/Squid Longline Fishery (Non-FMP) .....	Longline.
12. Finfish Handline and Hook-and-line Fishery (Non-FMP) .....	Handline, hook and line.
13. Recreational Fishery (Non-FMP) .....	Handline, rod and reel, hook line.
14. Commercial Fishery (Non-FMP) .....	Trawl, gillnet, hook and line, longline, handline, rod and reel, bandit gear, cast net, spear.

**VIII. Western Pacific Fishery Management Council**

1. Western Pacific Crustacean Fishery (FMP) (Fishery Ecosystem Plan, FEP).	Trap, hand harvest, hoop net.
2. Western Pacific Crustacean Fishery (Non-FEP):	
A. Commercial fishery .....	A. Gillnet, hand harvest, hoop net, spear, snare, trap, trawl.
B. Recreational fishery .....	B. Gillnet, hand harvest, hoop net, spear, snare, trap.
C. Charter fishery .....	C. Hand harvest, spear.
3. Western Pacific Precious Corals Fishery (FEP):	
A. Tangle net dredge fishery .....	A. Tangle net dredge.
B. Submersible fishery .....	B. Submersible.
C. Dive fishery .....	C. Hand harvest.
D. Recreational fishery .....	D. Hand harvest.
4. Western Pacific Precious Corals Fishery (Non-FEP) .....	Hand harvest, submersible, tangle net dredge.
5. Western Pacific Bottomfish and Seamount Groundfish Fishery (FEP)	
A. Bottomfish hook-and-line fishery .....	A. Bandit gear, buoy gear, handline, hook and line, rod and reel, hand harvest.
B. Seamount groundfish fishery .....	B. Longline, trawl.

Fishery	Authorized gear types
C. Bottom longline fishery .....	C. Longline, hook and line.
D. Trap fishery .....	D. Trap.
E. Spear fishery .....	E. Spear, powerhead.
6. Western Pacific Bottomfish and Seamount Groundfish Fishery (Non-FEP):	
A. Commercial fishery .....	A. Bandit gear, buoy gear, gillnet, handline, hook-and-line, longline, rod and reel, spear, trap.
B. Recreational fishery .....	B. Bandit gear, buoy gear, Gillnet, handline, hook and line, longline, rod and reel, spear, trap, slurp gun, hand harvest.
C. Charter fishery .....	C. Bandit gear, buoy gear, handline, hook-and-line, rod and reel, spear.
7. Western Pacific Pelagics Fishery (FEP):	
A. Longline Fishery .....	A. Longline.
B. Hook and line fishery .....	B. Bandit gear, buoy gear, handline, hook and line, rod and reel.
C. Purse seine fishery .....	C. Lampara net, purse seine.
D. Spear fishery .....	D. Spear, powerhead.
E. Squid jig fishery .....	E. Squid jig.
8. Western Pacific Pelagics Fishery (Non-FEP):	
A. Recreational fishery .....	A. Bandit gear, buoy gear, dip net, handline, hook and line, hoop net, powerhead, rod and reel, spear.
B. Commercial fishery .....	B. Bandit gear, buoy gear, dip net, handline, hook and line, hoop net, powerhead, rod and reel, spear.
C. Charter fishery .....	C. Bandit gear, buoy gear, dip net, handline, hook and line, hoop net, powerhead, rod and reel, spear.
9. Western Pacific Coastal Pelagics Fishery (Non-FEP) .....	Bandit gear, buoy gear, dip net, gillnet, handline, hook and line, hoop net, lampara net, purse seine, rod and reel, spear.
10. Western Pacific Squid and Octopus Fishery (Non-FEP) .....	Bandit gear, hand harvest, hook and line, rod and reel, spear, trap.
11. Western Pacific Coral Reef Fishery (Non-FEP) .....	Allowable chemical, barrier net, dip net, gillnet, hand harvest, seine, slurp gun, trap, spear, rod and reel, hook and line.
12. Recreational Fishery (Non-FEP) .....	Rod and reel, hook and line, handline, hand harvest, spear.
13. Commercial Fishery (Non-FEP) .....	Trawl, gillnet, hook and line, longline, handline, rod and reel, bandit gear, cast net, spear.

**IX. Secretary of Commerce**

1. Atlantic Highly Migratory Species Fisheries (FMP):	
A. Swordfish handgear fishery .....	A. Rod and reel, harpoon, handline, bandit gear, buoy gear, green-stick gear.
B. Swordfish recreational fishery .....	B. Rod and reel, handline.
C. Pelagic longline fishery .....	C. Longline.
D. Shark gillnet fishery .....	D. Gillnet
E. Shark bottom longline fishery .....	E. Longline.
F. Shark handgear fishery .....	F. Rod and reel, handline, bandit gear.
G. Shark recreational fishery .....	G. Rod and reel, handline.
H. Tuna purse seine fishery .....	H. Purse seine.
I. Tuna recreational fishery .....	I. Speargun gear (for bigeye, albacore, yellowfin, and skipjack tunas only); Rod and reel, handline (all tunas); green-stick gear (HMS Charter/Headboat Category only).
J. Tuna handgear fishery .....	J. Rod and reel, harpoon, handline, bandit gear.
K. Tuna harpoon fishery .....	K. Harpoon.
L. Atlantic billfish recreational fishery .....	L. Rod and reel.
M. Tuna green-stick fishery .....	M. Green-stick gear.
N. Commercial Caribbean Small Boat Fishery .....	N. Rod and reel, handline, harpoon, bandit gear, green-stick gear, buoy gear.
2. Commercial Fisheries (Non-FMP) .....	Rod and reel, handline, longline, gillnet, harpoon, bandit gear, purse seine, green-stick gear.

(w) Fail to maintain safe conditions for the protection of observers including compliance with all U.S. Coast Guard and other applicable rules, regulations, or statutes applicable to the

vessel and which pertain to safe operation of the vessel.

[61 FR 32540, June 24, 1996]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 600.725, see the List of CFR

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Sections Affected, which appears in the Finding Aids section of the printed volume and at *www.govinfo.gov*.

tive Oct. 13, 2022. For the convenience of the user, the revised text is set forth as follows:

EFFECTIVE DATE NOTE: At 87 FR 56213, Sept. 13, 2022, §600.725 was amended in the table, by revising the entries under “V. Caribbean Fishery Management Council,” effective

**§ 600.725 General prohibitions.**

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(v) \* \* \*

Fishery	Authorized gear types
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**V. Caribbean Fishery Management Council**

1. Exclusive Economic Zone around Puerto Rico.
  - A. Puerto Rico Reef Fish Fishery (FMP):
    - i. Commercial fishery ..... i. Automatic reel, bandit gear, buoy gear, handline, longline, rod and reel, trap, pot, spear.
    - ii. Recreational fishery ..... ii. Dip net, handline, rod and reel, slurp gun, spear, trap, pot.
  - B. Puerto Rico Pelagic Fishery (FMP):
    - i. Commercial fishery ..... i. Automatic reel, bandit gear, buoy gear, handline, longline, rod and reel, gillnet.
    - ii. Recreational fishery ..... ii. Spear, handline, longline, rod and reel.
  - C. Puerto Rico Spiny Lobster Fishery (FMP):
    - i. Commercial fishery ..... i. Trap, pot, dip net, hand harvest, snare.
    - ii. Recreational fishery ..... ii. Trap, pot, dip net, hand harvest, snare.
  - D. Puerto Rico Coral Reef Resources Fishery (FMP):
 

No harvest or possession in the EEZ.
  - E. Puerto Rico Queen Conch Fishery (FMP):
 

No harvest or possession in the EEZ.
  - F. Puerto Rico Pelagic Fishery (Non-FMP):
    - i. Commercial fishery ..... i. Gillnet, automatic reel, bandit gear, buoy gear, handline, longline, rod and reel.
    - ii. Recreational fishery ..... ii. Spear, handline, longline, rod and reel.
  - G. Puerto Rico Commercial Fishery (Non-FMP) ..... Automatic reel, bandit gear, buoy gear, handline, longline, rod and reel, trawl, gillnet, cast net, spear.
  - H. Puerto Rico Recreational Fishery (Non-FMP) ..... Automatic reel, bandit gear, buoy gear, handline, longline, rod and reel, spear, powerhead, hand harvest, cast net.
2. Exclusive Economic Zone around St. Croix.
  - A. St. Croix Reef Fish Fishery (FMP):
    - i. Commercial fishery ..... i. Automatic reel, bandit gear, buoy gear, handline, longline, rod and reel, trap, pot, spear.
    - ii. Recreational fishery ..... ii. Dip net, handline, rod and reel, slurp gun, spear, trap, pot.
  - B. St. Croix Pelagic Fishery (FMP):
    - i. Commercial fishery ..... i. Gillnet, automatic reel, bandit gear, buoy gear, handline, longline, rod and reel.
    - ii. Recreational fishery ..... ii. Spear, handline, longline, rod and reel.
  - C. St. Croix Spiny Lobster Fishery (FMP):
    - i. Commercial fishery ..... i. Trap, pot, dip net, hand harvest, snare.
    - ii. Recreational fishery ..... ii. Trap, pot, dip net, hand harvest, snare.
  - D. St. Croix Coral Reef Resource Fishery (FMP):
 

No harvest or possession in the EEZ.
  - E. St. Croix Queen Conch Fishery (FMP):
    - i. Commercial fishery ..... i. Hand harvest.
    - ii. Recreational fishery ..... ii. Hand harvest.
  - F. St. Croix Pelagic Fishery (Non-FMP):
    - i. Commercial fishery ..... i. Gillnet, automatic reel, bandit gear, buoy gear, handline, longline, rod and reel.
    - ii. Recreational fishery ..... ii. Spear, handline, longline, rod and reel.
  - G. St. Croix Commercial Fishery (Non-FMP) ..... Automatic reel, bandit gear, buoy gear, handline, longline, rod and reel, trawl, gillnet, cast net, spear.
  - H. St. Croix Recreational Fishery (Non-FMP) ..... Automatic reel, bandit gear, buoy gear, handline, longline, rod and reel, spear, powerhead, hand harvest, cast net.
3. Exclusive Economic Zone around St. Thomas and St. John.
  - A. St. Thomas and St. John Reef Fish Fishery (FMP):
    - i. Commercial fishery ..... i. Automatic reel, bandit gear, buoy gear, handline, longline, rod and reel, trap, pot, spear.
    - ii. Recreational fishery ..... ii. Dip net, handline, rod and reel, slurp gun, spear, trap, pot.
  - B. St. Thomas and St. John Pelagic Fishery (FMP):
    - i. Commercial fishery ..... i. Automatic reel, bandit gear, buoy gear, handline, longline, rod and reel, gillnet.
    - ii. Recreational fishery ..... ii. Spear, handline, longline, rod and reel.

Fishery	Authorized gear types
C. St. Thomas and St. John Spiny Lobster Fishery (FMP):	
i. Commercial fishery .....	i. Trap, pot, dip net, hand harvest, snare.
ii. Recreational fishery .....	ii. Trap, pot, dip net, hand harvest, snare.
D. St. Thomas and St. John Coral Reef Resource Fishery (FMP):	No harvest or possession in the EEZ.
E. St. Thomas and St. John Queen Conch Fishery (FMP):	No harvest or possession in the EEZ.
F. St. Thomas and St. John Pelagic Fishery (Non-FMP):	
i. Commercial fishery .....	i. Gillnet, automatic reel, bandit gear, buoy gear, handline, longline, rod and reel.
ii. Recreational fishery .....	ii. Spear, handline, longline, rod and reel.
G. St. Thomas and St. John Commercial Fishery (Non-FMP) .....	Automatic reel, bandit gear, buoy gear, handline, longline, rod and reel, trawl, gillnet, cast net, spear.
H. St. Thomas and St. John Recreational Fishery (Non-FMP) .....	Automatic reel, bandit gear, buoy gear, handline, longline, rod and reel, spear, powerhead, hand harvest, cast net.
*           *           *           *           *	

**§ 600.730 Facilitation of enforcement.**

(a) *General.* The operator of, or any other person aboard, any fishing vessel subject to parts 622 through 699 of this chapter must immediately comply with instructions and signals issued by an authorized officer to stop the vessel and with instructions to facilitate safe boarding and inspection of the vessel, its gear, equipment, fishing record (where applicable), and catch for purposes of enforcing the Magnuson-Stevens Act or any other statute administered by NOAA and this chapter.

(1) For the purposes of this section “freeboard” means the working distance between the top rail of the gunwale of a vessel and the water’s surface. Where cut-outs are provided in the bulwarks for the purpose of boarding personnel, freeboard means the distance between the threshold of the bulwark cut-out and the water’s surface.

(2) For the purposes of this section, “pilot ladder” means a flexible ladder constructed and approved to meet the U.S. Coast Guard standards for pilot ladders at 46 CFR subpart 163.003 entitled Pilot Ladder.

(b) *Communications.* (1) Upon being approached by a USCG vessel or aircraft, or other vessel or aircraft with an authorized officer aboard, the operator of a fishing vessel must be alert for communications conveying enforcement instructions.

(2) VHF-FM radiotelephone is the preferred method for communicating between vessels. If the size of the vessel and the wind, sea, and visibility condi-

tions allow, a loudhailer may be used instead of the radio. Hand signals, placards, high frequency radiotelephone, or voice may be employed by an authorized officer, and message blocks may be dropped from an aircraft.

(3) If other communications are not practicable, visual signals may be transmitted by flashing light directed at the vessel signaled. USCG units will normally use the flashing light signal “L” as the signal to stop. In the International Code of Signals, “L” (–.) means “you should stop your vessel instantly.” (Period (.) means a short flash of light; dash (–) means a long flash of light.)

(4) Failure of a vessel’s operator promptly to stop the vessel when directed to do so by an authorized officer using loudhailer, radiotelephone, flashing light signal, or other means constitutes prima facie evidence of the offense of refusal to permit an authorized officer to board.

(5) The operator of a vessel who does not understand a signal from an enforcement unit and who is unable to obtain clarification by loudhailer or radiotelephone must consider the signal to be a command to stop the vessel instantly.

(c) *Boarding.* The operator of a vessel directed to stop must:

(1) Guard Channel 16, VHF-FM, if so equipped.

(2) Stop immediately and lay to or maneuver in such a way as to allow the authorized officer and his/her party to come aboard.

(3) Except for fishing vessels with a freeboard of 4 feet (1.25 m) or less, provide, when requested by an authorized officer or observer personnel, a pilot ladder capable of being used for the purpose of enabling personnel to embark and disembark the vessel safely. The pilot ladder must be maintained in good condition and kept clean.

(4) When necessary to facilitate the boarding or when requested by an authorized officer or observer, provide a manrope or safety line, and illumination for the pilot ladder.

(5) Take such other actions as necessary to facilitate boarding and to ensure the safety of the authorized officer and the boarding party.

(d) *Signals.* The following signals, extracted from the International Code of Signals, may be sent by flashing light by an enforcement unit when conditions do not allow communications by loudhailer or radiotelephone. Knowledge of these signals by vessel operators is not required. However, knowledge of these signals and appropriate action by a vessel operator may preclude the necessity of sending the signal "L" and the necessity for the vessel to stop instantly. (Period (.) means a short flash of light; dash (-) means a long flash of light.)

(1) "AA" repeated (-.-) is the call to an unknown station. The operator of the signaled vessel should respond by identifying the vessel by radiotelephone or by illuminating the vessel's identification.

(2) "RY-CY" (-.- -.- -.-) means "you should proceed at slow speed, a boat is coming to you." This signal is normally employed when conditions allow an enforcement boarding without the necessity of the vessel being boarded coming to a complete stop, or, in some cases, without retrieval of fishing gear which may be in the water.

(3) "SQ3" (... —.- ...—) means "you should stop or heave to; I am going to board you."

[61 FR 32540, June 24, 1996, as amended at 61 FR 37225, July 17, 1996; 63 FR 7075, Feb. 12, 1998; 73 FR 67809, Nov. 17, 2008; 81 FR 88998, Dec. 9, 2016]

**§ 600.735 Penalties.**

Any person committing, or fishing vessel used in the commission of a vio-

lation of the Magnuson-Stevens Act or any other statute administered by NOAA and/or any regulation issued under the Magnuson-Stevens Act, is subject to the civil and criminal penalty provisions and civil forfeiture provisions of the Magnuson-Stevens Act, to this section, to 15 CFR part 904 (Civil Procedures), and to other applicable law.

[61 FR 32540, June 24, 1996, as amended at 63 FR 7075, Feb. 12, 1998]

**§ 600.740 Enforcement policy.**

(a) The Magnuson-Stevens Act provides four basic enforcement remedies for violations, in ascending order of severity, as follows:

(1) Issuance of a citation (a type of warning), usually at the scene of the offense (see 15 CFR part 904, subpart E).

(2) Assessment by the Administrator of a civil money penalty.

(3) For certain violations, judicial forfeiture action against the vessel and its catch.

(4) Criminal prosecution of the owner or operator for some offenses. It shall be the policy of NMFS to enforce vigorously and equitably the provisions of the Magnuson-Stevens Act by utilizing that form or combination of authorized remedies best suited in a particular case to this end.

(b) Processing a case under one remedial form usually means that other remedies are inappropriate in that case. However, further investigation or later review may indicate the case to be either more or less serious than initially considered, or may otherwise reveal that the penalty first pursued is inadequate to serve the purposes of the Magnuson-Stevens Act. Under such circumstances, the Agency may pursue other remedies either in lieu of or in addition to the action originally taken. Forfeiture of the illegal catch does not fall within this general rule and is considered in most cases as only the initial step in remedying a violation by removing the ill-gotten gains of the offense.

(c) If a fishing vessel for which a permit has been issued under the Magnuson-Stevens Act is used in the commission of an offense prohibited by section 307 of the Magnuson-Stevens Act, NOAA may impose permit sanctions,

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whether or not civil or criminal action has been undertaken against the vessel or its owner or operator. In some cases, the Magnuson-Stevens Act requires permit sanctions following the assessment of a civil penalty or the imposition of a criminal fine. In sum, the Magnuson-Stevens Act treats sanctions against the fishing vessel permit to be the carrying out of a purpose separate from that accomplished by civil and criminal penalties against the vessel or its owner or operator.

[61 FR 32540, June 24, 1996, as amended at 63 FR 7075, Feb. 12, 1998]

**§ 600.745 Scientific research activity, exempted fishing, and exempted educational activity.**

(a) *Scientific research activity.* Nothing in this part is intended to inhibit or prevent any scientific research activity conducted by a scientific research vessel. Persons planning to conduct scientific research activities on board a scientific research vessel in the EEZ or on the high seas are encouraged to submit to the appropriate Regional Administrator or Director, 60 days or as soon as practicable prior to its start, a scientific research plan for each scientific activity. The Regional Administrator or Director will acknowledge notification of scientific research activity by issuing to the operator or master of that vessel, or to the sponsoring institution, a Letter of Acknowledgment. This Letter of Acknowledgment is separate and distinct from any permit or consultation required by the MMPA, the ESA, or any other applicable law. The Regional Administrator or Director will include text in the Letter of Acknowledgment informing the applicant that such a permit may be required and should be obtained from the agency prior to embarking on the activity. If the Regional Administrator or Director, after review of a research plan, determines that it does not constitute scientific research but rather fishing, the Regional Administrator or Director will inform the applicant as soon as practicable and in writing. In making this determination, the Regional Administrator, Director, or designee shall consider: the merits of the individual proposal and the institution(s) involved; whether the proposed

activity meets the definition of scientific research activity; and whether the vessel meets all the requirements for a scientific research vessel. The Regional Administrator or Director may also make recommendations to revise the research plan to ensure the activity will be considered to be scientific research activity or recommend the applicant request an EFP. The Regional Administrator or Director may designate a Science and Research Director, or the Assistant Regional Administrator for Sustainable Fisheries, to receive scientific research plans and issue Letters of Acknowledgment. In order to facilitate identification of the activity as scientific research, persons conducting scientific research activities are advised to carry a copy of the scientific research plan and the Letter of Acknowledgment on board the scientific research vessel and to make it available for inspection upon the request of any authorized officer. It is recommended that for any scientific research activity, any fish, or parts thereof, retained pursuant to such activity be accompanied, during any ex-vessel activities, by a copy of the Letter of Acknowledgment. Activity conducted in accordance with a scientific research plan acknowledged by such a Letter of Acknowledgment is presumed to be scientific research activity. An authorized officer may overcome this presumption by showing that an activity does not fit the definition of scientific research activity or is outside the scope of the scientific research plan.

(b) *Exempted fishing—(1) General.* A NMFS Regional Administrator or Director may authorize, for limited testing, public display, data collection, exploratory fishing, compensation fishing, conservation engineering, health and safety surveys, environmental cleanup, and/or hazard removal purposes, the target or incidental harvest of species managed under an FMP or fishery regulations that would otherwise be prohibited. Exempted fishing may not be conducted unless authorized by an EFP issued by a Regional Administrator or Director in accordance with the criteria and procedures specified in this section. Compensation fishing must be conducted under an

EFP if the activity would otherwise be prohibited by applicable regulations unless the activity is specifically authorized under an FMP or a scientific research permit. Conservation engineering that does not meet the definition of scientific research activity, but does meet the definition of fishing must be conducted under an EFP if the activity would otherwise be prohibited by applicable regulations. Data collection designed to capture and land quantities of fish for product development, market research, and/or public display must be permitted under exempted fishing procedures. An EFP exempts a vessel only from those regulations specified in the EFP. All other applicable regulations remain in effect. The Regional Administrator or Director may charge a fee to recover the administrative expenses of issuing an EFP. The amount of the fee will be calculated, at least annually, in accordance with procedures of the NOAA Handbook for determining administrative costs of each special product or service; the fee may not exceed such costs. Persons may contact the appropriate Regional Administrator or Director to determine the applicable fee.

(2) *Application.* An applicant for an EFP shall submit a completed application package to the appropriate Regional Administrator or Director, as soon as practicable and at least 60 days before the desired effective date of the EFP. Submission of an EFP application less than 60 days before the desired effective date of the EFP may result in a delayed effective date because of review requirements. The application package must include payment of any required fee as specified by paragraph (b)(1) of this section, and a written application that includes, but is not limited to, the following information:

- (i) The date of the application.
- (ii) The applicant's name, mailing address, and telephone number.
- (iii) A statement of the purposes and goals of the exempted fishery for which an EFP is needed, including justification for issuance of the EFP.
- (iv) For each vessel to be covered by the EFP, as soon as the information is available and before operations begin under the EFP:

- (A) A copy of the USCG documentation, state license, or registration of each vessel, or the information contained on the appropriate document.

- (B) The current name, address, and telephone number of the owner and master, if not included on the document provided for the vessel.

- (v) The species (target and incidental) expected to be harvested under the EFP, the amount(s) of such harvest necessary to conduct the exempted fishing, the arrangements for disposition of all regulated species harvested under the EFP, and any anticipated impacts on the environment, including impacts on fisheries, marine mammals, threatened or endangered species, and EFH.

- (vi) For each vessel covered by the EFP, the approximate time(s) and place(s) fishing will take place, and the type, size, and amount of gear to be used.

- (vii) The signature of the applicant.

- (viii) The Regional Administrator or Director, as appropriate, may request from an applicant additional information necessary to make the determinations required under this section. An incomplete application or an application for which the appropriate fee has not been paid will not be considered until corrected in writing and the fee paid. An applicant for an EFP need not be the owner or operator of the vessel(s) for which the EFP is requested.

(3) *Issuance.* (i) The Regional Administrator or Director, as appropriate, will review each application and will make a preliminary determination whether the application contains all of the required information and constitutes an activity appropriate for further consideration. If the Regional Administrator or Director finds that any application does not warrant further consideration, both the applicant and the affected Council(s) will be notified in writing of the reasons for the decision. If the Regional Administrator or Director determines that any application warrants further consideration, notification of receipt of the application will be published in the FEDERAL REGISTER with a brief description of the proposal. Interested persons will be given a 15- to 45-day opportunity to comment on the notice of receipt of the

EFP application. In addition, comments may be requested during public testimony at a Council meeting. If the Council intends to take comments on EFP applications at a Council meeting, it must include a statement to this effect in the Council meeting notice and meeting agenda. Multiple applications for EFPs may be published in the same FEDERAL REGISTER document and may be discussed under a single Council agenda item. The notification may establish a cut-off date for receipt of additional applications to participate in the same, or a similar, exempted fishing activity. The Regional Administrator or Director will also forward copies of the application to the Council(s), the U.S. Coast Guard, and the appropriate fishery management agencies of affected states, accompanied by the following information:

(A) The effect of the proposed EFP on the target and incidental species, including the effect on any TAC.

(B) A citation of the regulation or regulations that, without the EFP, would prohibit the proposed activity.

(C) Biological information relevant to the proposal, including appropriate statements of environmental impacts, including impacts on fisheries, marine mammals, threatened or endangered species, and EFH.

(ii) If the application is complete and warrants additional consultation, the Regional Administrator or Director may consult with the appropriate Council(s) concerning the permit application during the period in which comments have been requested. The Council(s) or the Regional Administrator or Director shall notify the applicant in advance of any public meeting at which the application will be considered, and offer the applicant the opportunity to appear in support of the application.

(iii) As soon as practicable after receiving a complete application, including all required analyses and consultations (e.g., NEPA, EFH, ESA and MMPA), and having received responses from the public, the agencies identified in paragraph (b)(3)(i) of this section, and/or after the consultation, if any, described in paragraph (b)(3)(ii) of this section, the Regional Administrator or Director shall issue the EFP or notify the applicant in writing of the decision

to deny the EFP and the reasons for the denial. Grounds for denial of an EFP include, but are not limited to, the following:

(A) The applicant has failed to disclose material information required, or has made false statements as to any material fact, in connection with his or her application; or

(B) According to the best scientific information available, the harvest to be conducted under the permit would detrimentally affect the well-being of the stock of any regulated species of fish, marine mammal, threatened or endangered species, or EFH; or

(C) Issuance of the EFP would have economic allocation as its sole purpose (other than compensation fishing); or

(D) Activities to be conducted under the EFP would be inconsistent with the intent of this section, the management objectives of the FMP, or other applicable law; or

(E) The applicant has failed to demonstrate a valid justification for the permit; or

(F) The activity proposed under the EFP could create a significant enforcement problem.

(iv) The decision of a Regional Administrator or Director to grant or deny an EFP is the final action of NMFS. If the permit, as granted, is significantly different from the original application, or is denied, NMFS may publish notification in the FEDERAL REGISTER describing the exempted fishing to be conducted under the EFP or the reasons for denial.

(v) The Regional Administrator or Director should attach, as applicable, terms and conditions to the EFP, consistent with the purpose of the exempted fishing and as otherwise necessary for the conservation and management of the fishery resources and the marine environment, including, but not limited to:

(A) The maximum amount of each regulated species that can be harvested and landed during the term of the EFP, including trip limitations, where appropriate.

(B) The number, size(s), name(s), and identification number(s) of the vessel(s) authorized to conduct fishing activities under the EFP.

(C) A citation of the regulations from which the vessel is exempted.

(D) The time(s) and place(s) where exempted fishing may be conducted.

(E) The type, size, and amount of gear that may be used by each vessel operated under the EFP.

(F) Whether observers, a vessel monitoring system, or other electronic equipment must be carried on board vessels operating under the EFP, and any necessary conditions, such as predeployment notification requirements.

(G) Data reporting requirements necessary to document the activities, including catches and incidental catches, and to determine compliance with the terms and conditions of the EFP and established time frames and formats for submission of the data to NMFS.

(H) Other conditions as may be necessary to assure compliance with the purposes of the EFP, consistent with the objectives of the FMP and other applicable law.

(I) Provisions for public release of data obtained under the EFP that are consistent with NOAA confidentiality of statistics procedures at set out in subpart E. An applicant may be required to waive the right to confidentiality of information gathered while conducting exempted fishing as a condition of an EFP.

(4) *Acknowledging permit conditions.* Upon receipt of an EFP, the permit holder must date and sign the permit, and retain the permit on board the vessel(s). The permit is not valid until signed by the permit holder. In signing the permit, the permit holder:

(i) Agrees to abide by all terms and conditions set forth in the permit, and all restrictions and relevant regulations; and

(ii) Acknowledges that the authority to conduct certain activities specified in the permit is conditional and subject to authorization and revocation by the Regional Administrator or Director.

(5) *Duration.* Unless otherwise specified in the EFP or a superseding notice or regulation, an EFP is valid for no longer than 1 year. EFPs may be renewed following the application procedures in this section.

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

(7) *Inspection.* Any EFP issued under this section must be carried on board the vessel(s) for which it was issued. The EFP must be presented for inspection upon request of any authorized officer. Any fish, or parts thereof, retained pursuant to an EFP issued under this paragraph must be accompanied, during any ex-vessel activities, by a copy of the EFP.

(8) *Inspection.* Any EFP issued under this section must be carried on board the vessel(s) for which it was issued. The EFP must be presented for inspection upon request of any authorized officer.

(9) *Sanctions.* Failure of a permittee to comply with the terms and conditions of an EFP may be grounds for revocation, suspension, or modification of the EFP with respect to all persons and vessels conducting activities under the EFP. Any action taken to revoke, suspend, or modify an EFP for enforcement purposes will be governed by 15 CFR part 904, subpart D.

(c) *Reports.* (1) NMFS requests that persons conducting scientific research activities from scientific research vessels submit a copy of any report or other publication created as a result of the activity, including the amount, composition, and disposition of their catch, to the appropriate Science and Research Director and Regional Administrator or Director.

(2) Upon completion of the activities of the EFP, or periodically as required by the terms and conditions of the EFP, persons fishing under an EFP must submit a report of their catches and any other information required, to the appropriate Regional Administrator or Director, in the manner and within the time frame specified in the EFP, but no later than 6 months after concluding the exempted fishing activity. Persons conducting EFP activities are also requested to submit a copy of any publication prepared as a result of the EFP activity.

(d) *Exempted educational activities—(1) General.* A NMFS Regional Administrator or Director may authorize, for educational purposes, the target or incidental harvest of species managed

under an FMP or fishery regulations that would otherwise be prohibited. The trade, barter or sale of fish taken under this authorization is prohibited. The decision of a Regional Administrator or Director to grant or deny an exempted educational activity authorization is the final action of NMFS. Exempted educational activities may not be conducted unless authorized in writing by a Regional Administrator or Director in accordance with the criteria and procedures specified in this section. Such authorization will be issued without charge.

(2) *Application.* An applicant for an exempted educational activity authorization shall submit to the appropriate Regional Administrator or Director, at least 15 days before the desired effective date of the authorization, a written application that includes, but is not limited to, the following information:

- (i) The date of the application.
- (ii) The applicant's name, mailing address, and telephone number.
- (iii) A brief statement of the purposes and goals of the exempted educational activity for which authorization is requested, including a general description of the arrangements for disposition of all species collected.
- (iv) Evidence that the sponsoring institution is a valid educational institution, such as accreditation by a recognized national or international accreditation body.
- (v) The scope and duration of the activity.
- (vi) For each vessel to be covered by the authorization:
  - (A) A copy of the U.S. Coast Guard documentation, state license, or registration of the vessel, or the information contained on the appropriate document.
  - (B) The current name, address, and telephone number of the owner and master, if not included on the document provided for the vessel.
  - (vii) The species and amounts expected to be caught during the exempted educational activity, and any anticipated impacts on the environment, including impacts on fisheries, marine mammals, threatened or endangered species, and EFH.

(viii) For each vessel covered by the authorization, the approximate time(s) and place(s) fishing will take place, and the type, size, and amount of gear to be used.

(ix) The signature of the applicant.

(x) The Regional Administrator or Director may request from an applicant additional information necessary to make the determinations required under this section. An incomplete application will not be considered until corrected in writing.

(3) *Issuance.* (i) The Regional Administrator or Director, as appropriate, will review each application and will make a determination whether the application contains all of the required information, is consistent with the goals, objectives, and requirements of the FMP or regulations and other applicable law, and constitutes a valid exempted educational activity. The applicant will be notified in writing of the decision within 5 working days of receipt of the application.

(ii) The Regional Administrator or Director should attach, as applicable, terms and conditions to the authorization, consistent with the purpose of the exempted educational activity and as otherwise necessary for the conservation and management of the fishery resources and the marine environment, including, but not limited to:

(A) The maximum amount of each regulated species that may be harvested.

(B) A citation of the regulations from which the vessel is being exempted.

(C) The time(s) and place(s) where the exempted educational activity may be conducted.

(D) The type, size, and amount of gear that may be used by each vessel operated under the authorization.

(E) Data reporting requirements necessary to document the activities and to determine compliance with the terms and conditions of the exempted educational activity.

(F) Such other conditions as may be necessary to assure compliance with the purposes of the authorization, consistent with the objectives of the FMP or regulations.

(G) Provisions for public release of data obtained under the authorization, consistent with NOAA confidentiality

of statistics procedures in subpart E. An applicant may be required to waive the right to confidentiality of information gathered while conducting exempted educational activities as a condition of the authorization.

(iii) The authorization will specify the scope of the authorized activity and will include, at a minimum, the duration, vessel(s), persons, species, and gear involved in the activity, as well as any additional terms and conditions specified under paragraph (d)(3)(ii) of this section.

(4) *Duration.* Unless otherwise specified, authorization for an exempted educational activity is effective for no longer than 1 year, unless revoked, suspended, or modified. Authorizations may be renewed following the application procedures in this section.

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

(6) *Transfer.* Authorizations issued under this paragraph (d) are not transferable or assignable.

(7) *Inspection.* Any authorization issued under this paragraph (d) must be carried on board the vessel(s) for which it was issued, or be in the possession of at least one of the persons identified in the authorization, who must be present while the exempted educational activity is being conducted. The authorization must be presented for inspection upon request of any authorized officer. Activities that meet the definition of "fishing," despite an educational purpose, are fishing. An authorization may allow covered fishing activities; however, fishing activities conducted outside the scope of an authorization for exempted educational activities are illegal. Any fish, or parts thereof, retained pursuant to an authorization issued under this paragraph must be accompanied, during any ex-vessel activities, by a copy of the authorization.

(e) *Observers.* NMFS-sanctioned observers or biological technicians conducting activities within NMFS-approved sea sampling and/or observer protocols are exempt from the requirement to obtain an EFP. For purposes of this section, NMFS-sanctioned observers or biological technicians include NMFS employees, NMFS observers, observers who are employees of

NMFS-contracted observer providers, and observers who are employees of NMFS-permitted observer providers.

[61 FR 32540, June 24, 1996, as amended at 63 FR 7075, Feb. 12, 1998; 74 FR 42794, Aug. 25, 2009; 80 FR 62500, Oct. 16, 2015]

#### § 600.746 Observers.

(a) *Applicability.* This section applies to any fishing vessel required to carry an observer as part of a mandatory observer program or carrying an observer as part of a voluntary observer program under the Magnuson-Stevens Act, MMPA (16 U.S.C. 1361 *et seq.*), the ATCA (16 U.S.C. 971 *et seq.*), the South Pacific Tuna Act of 1988 (16 U.S.C. 973 *et seq.*), or any other U.S. law.

(b) *Observer safety.* An observer will not be deployed on, or stay aboard, a vessel that is inadequate for observer deployment as described in paragraph (c) of this section.

(c) *Vessel inadequate for observer deployment.* A vessel is inadequate for observer deployment if it:

(1) Does not comply with the applicable regulations regarding observer accommodations (see 50 CFR parts 229, 285, 300, 600, 622, 635, 648, 660, and 679), or

(2) Has not passed a USCG Commercial Fishing Vessel Safety Examination, or for vessels less than 26 ft (8 m) in length, has not passed an alternate safety equipment examination, as described in paragraph (g) of this section.

(d) *Display or show proof.* A vessel that has passed a USCG Commercial Fishing Vessel Safety Examination must display or show proof of a valid USCG Commercial Fishing Vessel Safety Examination decal that certifies compliance with regulations found in 33 CFR Chapter 1 and 46 CFR Chapter 1, and which was issued within the last 2 years or at a time interval consistent with current USCG regulations or policy.

(1) In situations of mitigating circumstances, which may prevent a vessel from displaying a valid safety decal (broken window, etc.), NMFS, the observer, or NMFS' designated observer provider may accept the following associated documentation as proof of the missing safety decal described in paragraph (d) of this section:

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(i) A certificate of compliance issued pursuant to 46 CFR 28.710;

(ii) A certificate of inspection pursuant to 46 U.S.C. 3311; or

(iii) For vessels not required to obtain the documents identified in (d)(1)(i) and (d)(1)(ii) of this section, a dockside examination report form indicating the decal number and date and place of issue.

(e) *Visual inspection.* Upon request by an observer, a NMFS employee, or a designated observer provider, a vessel owner or operator must provide correct information concerning any item relating to any safety or accommodation requirement prescribed by law or regulation, in a manner and according to a timeframe as directed by NMFS. A vessel owner or operator must also allow an observer, a NMFS employee, or a designated observer provider to visually examine any such item.

(f) *Vessel safety check.* Prior to the initial deployment, the vessel owner or operator or the owner or operator's designee must accompany the observer in a walk through the vessel's major spaces to ensure that no obviously hazardous conditions exist. This action may be a part of the vessel safety orientation to be provided by the vessel to the observer as required by 46 CFR 28.270. The vessel owner or operator or the owner or operator's designee must also accompany the observer in checking the following major items as required by applicable USCG regulations:

- (1) Personal flotation devices/ immersion suits;
- (2) Ring buoys;
- (3) Distress signals;
- (4) Fire extinguishing equipment;
- (5) Emergency position indicating radio beacon (EPIRB), when required, shall be registered to the vessel at its documented homeport;
- (6) Survival craft, when required, with sufficient capacity to accommodate the total number of persons, including the observer(s), that will embark on the voyage; and
- (7) Other fishery-area and vessel specific items required by the USCG.

(g) *Alternate safety equipment examination.* If a vessel is under 26 ft (8 m) in length, and in a remote location, and NMFS has determined that the USCG cannot provide a USCG Commercial

Fishing Vessel Safety Examination due to unavailability of inspectors or to unavailability of transportation to or from an inspection station, the vessel will be adequate for observer deployment if it passes an alternate safety equipment examination conducted by a NMFS certified observer, observer provider, or a NMFS observer program employee, using a checklist of USCG safety requirements for commercial fishing vessels under 26 ft (8 m) in length. Passage of the alternative examination will only be effective for the single trip selected for observer coverage.

(h) *Duration.* The vessel owner or operator is required to comply with the requirements of this section when the vessel owner or operator is notified orally or in writing by an observer, a NMFS employee, or a designated observer provider, that his or her vessel has been selected to carry an observer. The requirements of this section continue to apply through the time of the observer's boarding, at all times the observer is aboard, and at the time the observer disembarks from the vessel at the end of the observed trip.

(i) *Effect of inadequate status.* A vessel that would otherwise be required to carry an observer, but is inadequate for the purposes of carrying an observer, as described in paragraph (c) of this section, and for allowing operation of normal observer functions, is prohibited from fishing without observer coverage.

[63 FR 27217, May 18, 1998, as amended at 67 FR 64312, Oct. 18, 2002; 72 FR 61818, Nov. 1, 2007]

**§ 600.747 Guidelines and procedures for determining new fisheries and gear.**

(a) *General.* Section 305(a) of the Magnuson-Stevens Act requires the Secretary to prepare a list of all fisheries under the authority of each Council, or the Director in the case of Atlantic highly migratory species, and all gear used in such fisheries. This section contains guidelines in paragraph (b) for determining when fishing gear or a fishery is sufficiently different from those listed in § 600.725(v) as to require notification of a Council or the Director in order to use the gear or participate in the unlisted fishery. This section also

contains procedures in paragraph (c) for notification of a Council or the Director of potentially new fisheries or gear, and for amending the list of fisheries and gear.

(b) *Guidelines.* The following guidance establishes the basis for determining when fishing gear or a fishery is sufficiently different from those listed to require notification of the appropriate Council or the Director.

(1) The initial step in the determination of whether a fishing gear or fishery is sufficiently different to require notification is to compare the gear or fishery in question to the list of authorized fisheries and gear in § 600.725(v) and to the existing gear definitions in § 600.10.

(2) If the gear in question falls within the bounds of a definition in § 600.10 for an allowable gear type within that fishery, as listed under § 600.725(v), then the gear is not considered different, is considered allowable gear, and does not require notification of the Council or Secretary 90 days before it can be used in that fishery.

(3) If, for any reason, the gear is not consistent with a gear definition for a listed fishery as described in paragraph (b)(2) of this section, the gear is considered different and requires Council or Secretarial notification as described in paragraph (c) of this section 90 days before it can be used in that fishery.

(4) If a fishery falls within the bounds of the list of authorized fisheries and gear in § 600.725(v) under the Council's or Secretary's authority, then the fishery is not considered different, is considered an allowable fishery and does not require notification of the Council or Director before that fishery can occur.

(5) If a fishery is not already listed in the list of authorized fisheries and gear in § 600.725(v), then the fishery is considered different and requires notification as described in paragraph (c) of this section 90 days before it can occur.

(c) *Procedures.* If a gear or fishery does not appear on the list in § 600.725(v), or if the gear is different from that defined in § 600.10, the proc-

ess for notification, and consideration by a Council or the Director, is as follows:

(1) *Notification.* After July 26, 1999, no person or vessel may employ fishing gear or engage in a fishery not included on the list of approved gear types in § 600.725(v) without notifying the appropriate Council or the Director at least 90 days before the intended use of that gear.

(2) *Notification procedures.* (i) A signed return receipt for the notice serves as adequate evidence of the date that the notification was received by the appropriate Council or the Director, in the case of Atlantic highly migratory species, and establishes the beginning of the 90-day notification period, unless required information in the notification is incomplete.

(ii) The notification must include:

(A) Name, address, and telephone number of the person submitting the notification.

(B) Description of the gear.

(C) The fishery or fisheries in which the gear is or will be used.

(D) A diagram and/or photograph of the gear, as well as any specifications and dimensions necessary to define the gear.

(E) The season(s) in which the gear will be fished.

(F) The area(s) in which the gear will be fished.

(G) The anticipated bycatch species associated with the gear, including protected species, such as marine mammals, sea turtles, sea birds, or species listed as endangered or threatened under the ESA.

(H) How the gear will be deployed and fished, including the portions of the marine environment where the gear will be deployed (surface, midwater, and bottom).

(iii) Failure to submit complete and accurate information will result in a delay in beginning the 90-day notification period. The 90-day notification period will not begin until the information received is determined to be accurate and complete.

(3) *Action upon receipt of notification—*  
(i) *Species other than Atlantic Highly Migratory Species.* (A) Upon signing a return receipt of the notification by certified mail regarding an unlisted fishery or gear, a Council must immediately begin consideration of the notification and send a copy of the notification to the appropriate Regional Administrator.

(B) If the Council finds that the use of an unlisted gear or participation in a new fishery would not compromise the effectiveness of conservation and management efforts, it shall:

(1) Recommend to the RA that the list be amended;

(2) Provide rationale and supporting analysis, as necessary, for proper consideration of the proposed amendment; and

(3) Provide a draft proposed rule for notifying the public of the proposed addition, with a request for comment.

(C) If the Council finds that the proposed gear or fishery will be detrimental to conservation and management efforts, it will recommend to the RA that the authorized list of fisheries and gear not be amended, that a proposed rule not be published, give reasons for its recommendation of a disapproval, and may request NMFS to publish emergency or interim regulations, and begin preparation of an FMP or amendment to an FMP, if appropriate.

(D) After considering information in the notification and Council's recommendation, NMFS will decide whether to publish a proposed rule. If information on the new gear or fishery being considered indicates it is likely that it will compromise conservation and management efforts under the Magnuson-Stevens Act, and no additional new information is likely to be gained from a public comment period, then a proposed rule will not be published and NMFS will notify the appropriate Council. In such an instance, NMFS will publish emergency or interim regulations to prohibit or restrict use of the gear or participation in the fishery. If NMFS determines that the proposed amendment is not likely to compromise conservation and management efforts under the Magnuson-Stevens Act, NMFS will publish a

proposed rule in the FEDERAL REGISTER with a request for public comment.

(ii) *Atlantic Highly Migratory Species.* (A) Upon signing a return receipt of the notification by certified mail regarding an unlisted fishery or gear for Atlantic highly migratory species (HMS), NMFS will immediately begin consideration of the notification.

(B) Based on information in the notification and submitted by the Council, NMFS will make a determination whether the use of an unlisted gear or participation in an unlisted HMS fishery will compromise the effectiveness of conservation and management efforts under the Magnuson-Stevens Act. If it is determined that the proposed amendment will not compromise conservation and management efforts, NMFS will publish a proposed rule.

(C) If NMFS finds that the proposed gear or fishery will be detrimental to conservation and management efforts in this initial stage of review, it will not publish a proposed rule and notify the applicant of the negative determination with the reasons therefor.

(4) *Final determination and publication of a final rule.* Following public comment, NMFS will approve or disapprove the amendment to the list of gear and fisheries.

(i) If approved, NMFS will publish a final rule in the FEDERAL REGISTER and notify the applicant and the Council, if appropriate, of the final approval.

(ii) If disapproved, NMFS will withdraw the proposed rule, notify the applicant and the Council, if appropriate, of the disapproval; publish emergency or interim regulations, if necessary, to prohibit or restrict the use of gear or the participation in a fishery; and either notify the Council of the need to amend an FMP or prepare an amendment to an FMP in the case of Atlantic highly migratory species.

[64 FR 4043, Jan. 27, 1999]

**§ 600.748 National Minimum Observer Provider Insurance Standard.**

(a) *Applicability.* As part of regulations for observer provider companies

to obtain approval or a permit to deploy a person in any mandatory or voluntary observer program, or regulations that specify approved or permitted observer provider responsibilities, NMFS must reference and ensure compliance with the following national minimum insurance standard.

(b) *Policies and Coverage Amounts.* (1) Marine General Liability (\$1 million any one occurrence or as provided under paragraph (d) of this section).

(2) Marine Employers Liability (\$1 million any one occurrence or as provided under paragraph (d) of this section) for an observer provider that is authorized, or has applied to be authorized, to deploy observers or monitors at-sea.

(3) State workers' compensation as required by each state in which the observer provider is authorized, or has applied to be authorized, to deploy observers or monitors at-sea or shoreside.

(4) U.S. Longshore and Harbor Workers' Act coverage, either as a stand-alone policy or as a state workers' compensation policy endorsement, if that policy or a policy endorsement is required by the respective state(s) in which the observer provider is authorized, or has applied to be authorized, to deploy observers or monitors at-sea or shoreside.

(5) Excess or umbrella coverage (\$2 million any one occurrence).

(c) *Scope of coverages.* Coverage must extend to injury, liability, and accidental death during the period of employment, including training, of observers or monitors at-sea or shoreside.

(d) *Combined coverage amounts.* Coverage amounts specified for Marine General Liability and Marine Employers Liability may be higher or lower for each respective policy so long as the combined coverage for these policies is \$2 million.

[87 FR 54909, Sept. 8, 2022]

### Subpart I—Fishery Negotiation Panels

SOURCE: 62 FR 23669, May 1, 1997, unless otherwise noted.

#### § 600.750 Definitions.

*Consensus* means unanimous concurrence among the members on a Fishery Negotiation Panel established under this rule, unless such Panel:

(1) Agrees to define such term to mean a general but not unanimous concurrence; or

(2) agrees upon another specified definition.

*Fishery negotiation panel* (FNP) means an advisory committee established by one or more Councils or the Secretary in accordance with these regulations to assist in the development of fishery conservation and management measures.

*Interest* means, with respect to an issue or matter, multiple parties that have a similar point of view or that are likely to be affected in a similar manner.

*Report* means a document submitted by an FNP in accordance with the Magnuson-Stevens Act.

[62 FR 23669, May 1, 1997, as amended at 63 FR 7075, Feb. 12, 1998]

#### § 600.751 Determination of need for a fishery negotiation panel.

A Council or NMFS may establish an FNP to assist in the development of specific fishery conservation and management measures. In determining whether to establish an FNP, NMFS or the Council, as appropriate, shall consider whether:

(a) There is a need for specific fishery conservation and management measures.

(b) There are a limited number of identifiable interests that will be significantly affected by the conservation and management measure.

(c) There is a reasonable likelihood that an FNP can be convened with a balanced representation of persons who:

(1) Can adequately represent the interests identified under paragraph (b) of this section.

(2) Are willing to negotiate in good faith to reach a consensus on a report regarding the issues presented.

(d) There is a reasonable likelihood that an FNP will reach a consensus on a report regarding the issues presented within 1 year from date of establishment of the FNP.