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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 130904784-4999-02]

RIN 0648-BD67

Fisheries off West Coast States; List of Authorized Fisheries and Gear

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

ACTION: Final rule.

SUMMARY: This action updates the Federal list of authorized fisheries and gear issued under section 305(a) of the Magnuson-Stevens Fishery Conservation and Management Act (“List of Fisheries”). The List of Fisheries includes a description of fisheries that operate in the U.S. West Coast Exclusive Economic Zone (EEZ), the Pacific Fishery Management Council’s (Council’s) geographic area of authority. This action is necessary because the current list is outdated and either includes several fisheries that no longer occur, or does not include fisheries that do occur, within the U.S. West Coast EEZ. This rule would bring the list up to date with current West Coast fisheries and fishery management plans (FMPs).

DATES: Effective [Insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: Additional requests for information regarding this action may be obtained by contacting the Sustainable Fisheries Division, NMFS West Coast Region, 7600 Sand Point Way NE., Seattle, WA 98115. This final rule also is accessible via the Internet at the Federal eRulemaking portal at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Yvonne deReynier, 206-526-6129, (fax) 206-526-6736, [Yvonne.deReynier@noaa.gov](mailto:Yvonne.deReynier@noaa.gov); Joshua Lindsay, 562-980-4034, 562-980-4047, [Joshua.Lindsay@noaa.gov](mailto:Joshua.Lindsay@noaa.gov).

SUPPLEMENTARY INFORMATION:

Section 305(a) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) requires that the Secretary of Commerce maintain a list of all fisheries operating in the U.S. EEZ and all fishing gear used in such fisheries (16 U.S.C. 1855(a)). This section of the MSA further prohibits any person or vessel from employing fishing gear or engaging in a fishery not included on the List of Fisheries “without giving 90 days advance written notice to the appropriate Council.” Fishery management councils are authorized to submit changes to the list to the Secretary of Commerce as each council deems appropriate, after which the Secretary must publish a revised list after providing notice of the changes to the public and after providing an opportunity for public comment on those changes (16 U.S.C. 1855(a)(4)). On August 7, 2014 (79 FR 46214), NMFS published a proposed rule to update 50 CFR 600.725(v), Section VI, the section of the List of Fisheries that applies to fisheries occurring within the U.S. West Coast EEZ. The Council recommended revising and updating the List of Fisheries at its September 2013 meeting, after reviewing all of the fisheries occurring within the West Coast EEZ and after taking comments from West Coast states, tribes and members of the public. Through this final rule, NMFS implements the Council’s recommended revisions to the List of Fisheries, with no changes or edits. The regulatory text published in the proposed rule for this action has not been changed for this final rule.

Comments and Responses

In the proposed rule, NMFS solicited public comment through September 8, 2014.

During the comment period, NMFS received two letters of comment. One letter of comment, received from a member of the public, requested that the Council update the northern anchovy stock assessment. The proposed rule to update the List of Fisheries does not address the northern anchovy stock assessment; therefore, that letter is not relevant to this action.

Comment: NMFS received a letter from an environmental non-government entity providing qualified support for the rule, but expressing concern that with the proposed revisions, the List of Fisheries is still not narrow enough to ensure that the Council will be notified if anyone attempts to develop a new fishery on currently unfished squid species (Line 10 of Section VI at 50 CFR 600.725(v)) or on those finfish and invertebrate not explicitly listed in Lines 1-18 of Section VI (See Line 19 of Section VI at 50 CFR 600.725(v)). This commenter also suggested that the Council review and update the List of Fisheries on a regular basis, as part of its reviews of its Fishery Ecosystem Plan.

Response: The Council's recommended revisions to the List of Fisheries, published in the proposed rule and implemented in this final rule, update the previously broad and outdated List of Fisheries. NMFS disagrees with the commenter's assertion that the revised List of Fisheries is overly broad at Lines 10 and 19. Line 10, which addresses squid species other than market squid (*Doryteuthis opalescens*) and octopus, is intended to include all existing fisheries for those species groups. There are some West Coast cephalopod harvests other than in the market squid fishery, particularly in those years that populations of certain squid species (e.g. *Dosidicus gigas*, Humboldt squid) appear in the EEZ in unpredictably significant quantities. Without Line 10 of Section VI at 50 CFR 600.725(v), the List of Fisheries could exclude existing cephalopod fisheries, which would be contrary to the purpose of the List of Fisheries to include existing fisheries.

Line 19 of Section VI at 50 CFR 600.725(v) covers all finfish and invertebrate fisheries not listed in the rest of the table at Section VI and not otherwise prohibited. Line 19 is to be read in the context of the rest of Section VI of the List of Fisheries, which details all of the major federal and state fisheries that occur within the West Coast EEZ. To prepare this rulemaking, the Council, NMFS, and West Coast states and tribes, carefully reviewed recent and historic commercial landings data from the Pacific States Marine Fisheries Commission's Pacific Fisheries Information Network (PacFIN), as well as Federal and state recreational fisheries gear requirements and data. As explained in the preamble to the proposed rule for this action, the Council's intent in developing its revisions to the List of Fisheries was to define existing fisheries in as narrow terms as possible, but the Council did not intend to eliminate any existing fisheries, including fisheries that might only occur during years when West Coast climate conditions were conducive to certain species occurring in greater than usual amounts. Lines 1 through 18 of the table at Section VI provide a significantly detailed list of West Coast existing commercial and recreational fisheries. Line 19 ensures that existing small or intermittent commercial and recreational fisheries are not unintentionally thwarted by failure to include them on the List of Fisheries.

The MSA does not intend the List of Fisheries as a tool to prohibit fishing, but rather as a tool to ensure that the Council is formally notified by fisheries participants intending to begin new fisheries. The Council is in the process of developing a comprehensive, multi-FMP amendment to prohibit the development of commercial fisheries for a broad group of currently unfished forage fish species, including those squid species mentioned by the commenter. Should anyone begin targeting and landing currently unfished forage species between now and the completion of the comprehensive FMP amendment, the West Coast state, tribal, and federal

agencies and the Council will be notified via PacFIN landings data.

NMFS appreciates the commenter's suggestion that Section VI of the List of Fisheries be reviewed and updated on a regular basis and as a part of the Council's FEP review process. The Council is next scheduled to begin reviewing and updating the FEP in 2018 and NMFS will both pass that suggestion on to the Council and will preserve the commenter's suggestion in the agency's planning file for that review process

#### Classification

Pursuant to section 304(b)(1)(A) of the MSA, the NMFS Assistant Administrator has determined that this final rule is consistent with the four U.S. West Coast FMPs, other provisions of the MSA, and other applicable law.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

This final rule was developed after meaningful collaboration, through the Council process, with the tribal representative on the Council. NMFS is not aware of any Treaty Indian tribe or subsistence fisheries in the EEZ other than those listed in § 600.725(v). This action does not supersede or otherwise affect exemptions that exist for Treaty Indian fisheries.

List of Subjects in 50 CFR Part 600

Administrative practice and procedure, Fisheries, Fishing vessels, Marine resources.

Dated: December 16, 2014.

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Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons discussed in the preamble, 50 CFR part 600 is amended as follows:

PART 600—MAGNUSON-STEVENSON ACT PROVISIONS

1. The authority citation for part 600 continues to read as follows:

Authority: 5 U.S.C. 561 and 16 U.S.C. 1801 et seq.

2. In § 600.725, in paragraph (v), Section VI of the table is revised to read as follows:

§ 600.725 General prohibitions.

\* \* \* \* \*

(v) \* \* \*

Fishery	Authorized gear types
* * * * *	
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, eel-pout species, Pacific sandfish, skilfish, and walleye pollock Fisheries (Non-FMP)	Trawl, pot/trap, hook and line, seine, dip-net, 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
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
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