



**BILLING CODE 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**RIN 0648-XF785**

**Magnuson-Stevens Fishery Conservation and Management Act; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permit**

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

**ACTION:** Notice; request for comments.

**SUMMARY:** NMFS has determined that twelve exempted fishing permit (EFP) applications warrant further consideration and is requesting public comment on the applications. All EFP applicants request an exemption from a single prohibition (the use of unauthorized gear to harvest HMS) under the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (HMS FMP) to test the effects and efficacy of using deep-set buoy gear (DSBG) and deep-set linked buoy gear (DSLBG) to harvest swordfish and other highly migratory species (HMS) off of the U.S. West Coast.

**DATES:** Comments must be submitted in writing by *[Insert date 30 days after date of publication in the FEDERAL REGISTER]*.

**ADDRESSES:** You may submit comments on this document, identified by NOAA-NMFS-2017-0130, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0130](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0130), click the

“Comment Now!” icon, complete the required fields, and enter or attach your comments. EFP applications will be available under Relevant Documents through the same link.

- Mail: Attn: Chris Fanning, NMFS West Coast Region, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802. Include the identifier “NOAA-NMFS-2017-0130” in the comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

**FOR FURTHER INFORMATION CONTACT:** Chris Fanning, NMFS, West Coast Region, 562-980-4198.

**SUPPLEMENTARY INFORMATION:** DSBG fishing trials have occurred for the past seven years (2011-2015, research years; 2015-2017, EFP years) in the U.S. West Coast Exclusive Economic Zone (EEZ) off California. The data collected from this fishing activity have demonstrated DSBG to achieve about a 95% marketable catch composition (75% swordfish, 3% opah, and 17% marketable sharks). Non-marketable catch rates have remained low and all non-marketable catch were released alive. Due to DSBG being actively tended, strikes are capable of being detected within minutes of a hook on the line; as a result, all catches can be tended quickly, with catch brought onboard the vessel in good condition. To date, DSBG has had two

interactions with protected species, both elephant seals which were not seriously injured and were released alive due to the strike detection of the gear. These species are protected by the Marine Mammal Protection Act, but are not listed as threatened or endangered under the Endangered Species Act.

DSLBG trials produced similar data to DSBG activities with DSLBG fishing activity occurring over a 40-day period in 2015-2016. Swordfish and other marketable species have represented about 90% of the catch (68% swordfish, 2% opah, 5% escolar, and 16% marketable sharks). Non-marketable species are released alive due to quick DSLBG strike detection and active gear tending. Fishing is still occurring with DSLBG; however, no reports have been submitted from the 2016-2017 year. To date, there have been no interactions with protected species using DSLBG.

At its September 2017 meeting, the Pacific Fishery Management Council (Council) received twelve additional applications for EFPs in time for review and recommended that NMFS consider issuing these EFPs to authorize use of DSBG and/or DSLBG (see Table 1).

NMFS is requesting public comment on the twelve applications recommended for issuance by the Council. If all applications were approved, the EFPs would allow up to thirteen vessels to fish with DSBG and four vessels to fish with DSLBG, throughout the duration of each EFP, in the U.S. West Coast EEZ with permitted exemption from the prohibitions of the HMS FMP pertaining to non-authorized gear types. Aside from the exemption described above, vessels fishing under an EFP would be subject to all other regulations implemented in the HMS FMP, including measures to protect sea turtles, marine mammals, and seabirds. For up-to-date information on HMS EFPs, please visit NMFS West Coast Region's "Status of Exempted Fishing Permits" webpage

([http://www.westcoast.fisheries.noaa.gov/fisheries/migratory\\_species/status\\_exempted\\_permits.html](http://www.westcoast.fisheries.noaa.gov/fisheries/migratory_species/status_exempted_permits.html)).

**Table 1. EFP applications recommended for issuance by the Council.**

Council Recommended EFPs		
Name	Date of Council Recommendation	Number of Vessels
<b>Deep-Set Buoy Gear Applicants</b>		
Lutoshkin, Aleksandr	September 2017	1
Rynkevic, Ramunas	September 2017	1
Sokolova, Tetyana	September 2017	1
Ellis, Ron	September 2017	1
Foster, John	September 2017	1
Hall, John & Crivello, Frank III <sup>1</sup>	September 2017	2
Porter, Joshua	September 2017	1
Porter, Justin	September 2017	2
Rasmussen, Andrew	September 2017	1
Sidenko, Alexander	September 2017	1
Tafoya, Mark	September 2017	1
<b>Deep-Set Linked Buoy Gear Applicants</b>		
Smith, Michael	September 2017	2
Hall, John & Crivello, Frank III	September 2017	2

NMFS will consider all public comments submitted in response to this Federal Register Notice prior to issuance of any EFP. Additionally, NMFS will analyze the effects of issuing EFPs in accordance with the National Environmental Policy Act and NOAA’s Administrative Order 216-6, as well as for compliance with other applicable laws, including Section 7(a)(2) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*), which requires the agency to consider whether the proposed action is likely to jeopardize the continued existence and recovery of any

<sup>1</sup> One application with both DSBG and DSLBG gear configurations and activities requested.

endangered or threatened species or result in the destruction or adverse modification of critical habitat.

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

Dated: November 13, 2017.

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