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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XH020

Magnuson-Stevens Fishery Conservation and Management Act; General Provisions for Domestic Fisheries; Issuance of Exempted Fishing Permits

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

ACTION: Notice; issuance of permit.

SUMMARY: NMFS West Coast Region is announcing exempted fishing permits (EFP) issued to target highly migratory species (HMS) in Federal waters off the U.S. West Coast for 2019. NMFS renewed 21 standard deep-set buoy gear (standard DSBG) EFPs for 2019 and issued a new pelagic longline EFP valid for 24 months from the effective date. Ten linked deep-set buoy gear (linked DSBG) EFPs issued in 2018 remain valid for the 2019 calendar year. The permits are issued as exemptions from specific prohibitions under the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (HMS FMP). The general purpose of the EFPs is to allow novel fishing practices and gear types that are not otherwise authorized under a fishery management plan. Specifically, NMFS will collect data on the effects and efficacy of using these gears to fish for swordfish and other HMS off the West Coast.

DATES: See the **SUPPLEMENTARY INFORMATION** section for details on the dates that permits were issued and will expire.

ADDRESSES: Copies of supporting documents are available via the Federal eRulemaking Portal: <http://www.regulations.gov>, docket NOAA-NMFS-2019-0048, or by contacting the Highly Migratory Species Branch of NMFS West Coast Region at WCR.HMS@noaa.gov.

FOR FURTHER INFORMATION CONTACT: Chris Fanning, NMFS West Coast Region, 562-980-4198, or Chris.Fanning@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

On July 2, 2014, the Pacific Fishery Management Council (Council) solicited EFP proposals to test alternative fishing gear as a substitute in the large mesh drift net (DGN) fishery, or test new approaches or methods of fishing DGN gear (http://www.pcouncil.org/wp-content/uploads/G3a_Att1_HMS_EFP_Notice_Ltr_July2014_SEPT2014BB.pdf). Applications for EFPs were submitted on February 9, 2015, for the Council's consideration during the March 2015 Council meeting. The Council recommended that NMFS approve EFP applications to use standard and linked DSBG and an application to use deep-set and shallow-set longline gear in the exclusive economic zone (EEZ) off the West Coast of the United States. NMFS published notice of receipt of these applications, as well as the Council's recommendations, in the Federal Register on the respective dates: May 22, 2015 (80 FR 29662), October 17, 2016 (81 FR 71845), August 28, 2017 (81 FR 40751), November 16, 2017 (82 FR 53480), and June 6, 2018 (82 FR 53481).

Standard and linked DSBG are not currently authorized gear types under the HMS FMP. Standard DSBG fishing trials occurred for the past eight years under research activity (2011 to 2015) and EFPs (2015 to 2018) in the U.S. West Coast EEZ off California. Linked DSBG research fishing trials included a total of 40 fishing days from 2015 through 2017. Data collected

from these fishing activities have demonstrated that about 95 percent of fish species caught with standard DSBG and 90 percent of those caught with linked DSBG are marketable.

Longline fishing is currently prohibited within the U.S. West Coast EEZ; therefore, an EFP was needed to authorize the activity to take place in Federal waters. The longline EFP will provide data for fishery managers about the performance of the gear and the mitigation measures intended to minimize adverse environmental impacts in these waters.

Standard and Linked DSBG EFPs

NMFS considered all applicable Federal laws when issuing the standard and linked DSBG EFPs, including section 7(a)(2) of the Endangered Species Act (ESA) (16 U.S.C. 1531 *et seq.*), and determined that the proposed action is not likely to adversely affect any endangered or threatened species or result in the destruction or adverse modification of critical habitat.

Additionally, NMFS completed the appropriate analyses under the National Environmental Policy Act, in accordance with NOAA Administrative Order 216-6, prior to issuing the standard and linked DSBG EFPs. In 2018, NMFS issued 27 standard DSBG EFPs valid through December 31, 2018, and ten linked DSBG EFPs valid through December 31, 2019 (Table 1). Based on standard DSBG fishing activity in 2018 and other factors (*e.g.*, gear purchase, participation in other unrelated fisheries that precluded fishing DSBG, appeal for renewal, etc.), NMFS renewed 21 standard DSBG EFPs through 2019 (Table 2). As a result of Federal review and a growing understanding of risks with the gear, NMFS issued terms and conditions for the EFPs that include more mitigation measures than those proposed in the original applications. See the **ADDRESSES** section for more information on these supporting documents.

Table 1. Linked DSBG¹ EFPs issued in 2018 and expiring on December 31, 2019.

Applicant/Vessel Captain	Vessel Name	Vessel ID Number
Nathan Perez	Bear Flag 2	558683
John Foster	Chula	1217070
Steve Mintz	D J	550062
David Haworth	Elizabeth H	644228
Donald Krebs	Gold Coast	622026
John Hall	Kaylee H	536620
Tim Athens	Outer Banks	969797
David Haworth	Pacific Horizon	627203
Arthur Lorton	Sea Haven	635102
Kelly Fukushima	Three Boys	CF2036TJ

¹ Linked DSBG EFPs may fish a combination of linked and standard DSBG.

Table 2. Standard DSBG EFPs issued in 2018 and renewed for 2019 and expiring on December 31, 2019.

Applicant/Vessel Captain	Vessel Name	Vessel ID Number
Dan Fuller	Audax	CF8370FH
William Sutton	Aurelia	597524
Scott Brenneman	Circle Hook	1286891
Jack Stephens	DEA	CF0012HY
Ron Ellis	Defiance	40335
Stephen Greyshock	Emma Ray	CF1878ZM
Tim Perguson	Espada	624462
Michael Graves	Fishtail	1030136
Andrii Sidielnikov	Irbis	CF6266KM
John Ford	JB	550580
Lance Rienhart	Leah Gail	944172
Matt White	Lil Jack	595177
Bob Ball	Pacific Sword	CF4430GJ
Kent Jacobs	Patricia J	585405
Fred Hepp	Plumeria	599359
Raymond Kennedy	Rainman	1272816
Dustin Selck	Scorpio	918500
Anthony Makul	Spirit	611940
Andrew Rasmussen	Sundowner	628101
David Hutto	Terlingin	1223771
Ben Stephens	Tres Mujeres	1066033

Longline EFP

NMFS considered all applicable Federal laws prior to issuing the longline EFP on April 29, 2019, including completing a consultation under section 7(a)(2) of the ESA. This resulted in a biological opinion that concluded the impacts of the EFP are not likely to jeopardize the continued existence of any listed species or result in the destruction or adverse modification of critical habitat (PCTS, WCR-2018-9553). NMFS also determined that the longline EFP is not likely to adversely affect short-tailed albatross, and the U.S. Fish and Wildlife Service concurred with this determination on February 3, 2017. Additionally, NMFS completed the appropriate analyses under the National Environmental Policy Act, in accordance with NOAA Administrative Order 216-6, prior to issuing the longline EFP described in Table 3.

As a result of Federal review, NMFS issued terms and conditions for this EFP that include more mitigation measures than those proposed in the original application. For example, to monitor and lower the risk of interactions with protected species, the terms and conditions require 100 percent observer coverage of the activities, night setting of shallow-set longlines, and specify no-fishing areas (*e.g.*, the Southern California Bight and within leatherback critical habitat or 50 nautical miles from the coast, whichever is greater). The terms and conditions also mandate gear, bait and operational techniques, such as the use of a streamer line, and limits on incidents of hooking or entanglement of loggerhead and leatherback sea turtles. If two interactions with loggerhead sea turtles or three interactions with leatherback sea turtles are observed during the EFP activities, NMFS will require longline activities under the EFP to cease after any remaining gear in the water is retrieved. NMFS will also require the EFP operations to cease if one mortality of a leatherback sea turtle is observed.

See the **ADDRESSES** section for more information on these supporting documents.

Table 3. Longline EFP issued on April 29, 2019, and valid for 24 months from the effective date.

Applicant/Vessel Captain	Vessel Name	Vessel ID Number
David Haworth	Pacific Horizon	627203
John Gibbs	Southern Horizon	1052597

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

Dated: May 2, 2019.

Jennifer M. Wallace,
Acting Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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