



## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[RTID 0648- XE064]

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

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

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

**SUMMARY:** In the spring of 2024, two exempted fishing permits (EFP) applications were submitted to NMFS to request exemption from regulations pertaining to the use of authorized gear types under the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (HMS FMP). The applicants propose to test the effects and economic viability of using alternative fishing practices to harvest swordfish and other HMS off the U.S. West Coast. Specifically, the applications propose fishing with standard and linked deep-set buoy gear (DSBG) at night, a practice otherwise known as night-set buoy gear (NSBG). During the June 2024 Pacific Fishery Management Council (Council) meeting, the Council made recommendations to NMFS regarding the two applications for EFPs. NMFS has determined that these applications warrant consideration and is requesting public comment on them.

**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-2024-0080, by any of the following methods:

*Electronic Submission:* Submit all electronic public comments via the

Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NMFS-2024-0080 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

*Mail:* Submit written comments to Chris Fanning, NMFS West Coast Region, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802. Include the identifier “NOAA-NMFS-2024-0080” 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 <https://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, [Chris.Fanning@noaa.gov](mailto:Chris.Fanning@noaa.gov).

**SUPPLEMENTARY INFORMATION:** On May 8, 2023, NMFS published a final rule implementing amendment 6 to the HMS FMP (88 FR 29545). These regulations, which became effective on June 7, 2023, authorize the use of standard and linked DSBG for targeting swordfish and other HMS in Federal waters off of California and Oregon. The regulations include various gear specification requirements and operational requirements (*e.g.*, prohibiting vessels from deploying their gear at night). See 50 CFR 660.715.

The two applications<sup>1</sup> specifically request exemption from 50 CFR 660.715(c)(3) that limits gear deployment and retrieval to daytime hours between sunrise and sunset.

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<sup>1</sup> <https://www.pcouncil.org/documents/2024/05/g-3-attachment-1.pdf/>, and <https://www.pcouncil.org/documents/2024/05/g-3-attachment-2.pdf/>

Aside from the regulatory exemptions being sought for the proposed activities in the applications described above, vessels fishing under an EFP would be subject to all other regulations implemented at 50 CFR part 660, subpart K and 50 CFR part 300, subpart C. This includes measures to protect sea turtles, marine mammals, and seabirds.

At this time, NMFS is requesting public comment on the two NSBG EFP applications discussed above. NMFS will consider the Council's recommendation, along with public comments, when determining whether to issue these EFPs.

NMFS will consider all public comments submitted in response to this **Federal Register** notice prior to issuance of any EFP. NMFS has already analyzed the effects of issuing EFPs for NSBG, in accordance with the National Environmental Policy Act and NOAA's Administrative Order 216-6A. NMFS has also evaluated the proposed fishing practices 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 endangered or threatened species or result in the destruction or adverse modification of critical habitat.

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

Dated: July 16, 2024.

**Lindsay Fullenkamp,**

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*National Marine Fisheries Service.*

[FR Doc. 2024-16004 Filed: 7/19/2024 8:45 am; Publication Date: 7/22/2024]