

# **PART 229—INTERIM EXEMPTION FOR COMMERCIAL FISHERIES UNDER THE MARINE MAMMAL PROTECTION ACT OF 1972**

1. The authority citation for part 229 continues to read as follows:

**Authority:** 16 U.S.C. 1361 *et seq.*, unless otherwise noted.

2. Section 229.2 paragraph (k) is revised to read as follows:

## **§ 229.2 Definitions.**

(k) *Incidental take* means the intentional nonlethal or accidental taking of a marine mammal in the course of commercial fishing operations.

3. Section 229.4 is amended by revising paragraphs (b)(2) introductory text, (b)(2)(i)(B), and by adding paragraph (b)(2)(iii) to read as follows:

## **§ 229.4 Prohibitions.**

(b) \* \* \*

(2) Under this part 229, except as provided under paragraph (b)(2)(iii) of this section, it is unlawful to:

(i)(A) \* \* \*

(B) Intentionally lethally take any marine mammal.

(iii) If a taking under paragraph (b)(2)(i)(A) of this section or paragraph (b)(2)(i)(B) of this section is imminently necessary in self-defense or to save the life of a person in immediate danger, it is not an unlawful activity, provided that the taking is reported to the appropriate Regional Office of the National Marine Fisheries Service within 48 hours after the end of the fishing trip during which the taking occurs.

4. Section 229.6 is amended by revising the last sentence of paragraph (c)(2)(i), removing paragraph (c)(6), and redesignating paragraphs (c)(7) through (c)(10) as paragraphs (c)(6) through (c)(9), respectively, to read as follows:

## **§ 229.6 Issuance of Exemption Certificates.**

(c) \* \* \*

(2) \* \* \*

(i) \* \* \* Marine mammal report/log forms require information on: The fishery, fishing effort, gear type, and fish species involved; the marine mammal species (or description of the animal(s), if species is not known), number, date, and location of marine mammal incidental takes; type of interaction and any injury to the marine mammal; a

description of any intentional takes (i.e., efforts to deter animals by nonlethal means to protect gear or catch or efforts to protect human life involving either lethal or nonlethal means); and any loss of fish or gear caused by marine mammals. \* \* \*

5. Section 229.7 is amended by revising the last sentence of paragraph (b), removing paragraph (e), and redesignating paragraph (f) as paragraph (e) to read as follows:

## **§ 229.7 Requirements for Category III Fisheries.**

(b) \* \* \* The report must include information on: The fishery, fishing effort, gear type, and fish species involved; the marine mammal species (or description of the animal(s), if species is not known), number, date, and location of all lethal incidental takes; a description of any intentional lethal take to protect human life; and any loss of fish or gear caused by marine mammals.

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## **50 CFR Part 663**

[Docket No. 950126029-5029-01; I.D. 011095A]

RIN 0648-AH80

## **Pacific Coast Groundfish Fishery; Emergency Rule to Extend the Application Period To Renew Permits for 1995**

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

**ACTION:** Emergency rule; request for comments.

**SUMMARY:** NMFS issues this emergency rule to amend the implementing regulations for the Pacific Coast Groundfish Fishery Management Plan (FMP) to provide an additional 4 months during which limited entry permit owners may apply for permit renewals for 1995. This action is necessary to rectify an administrative requirement that is overly restrictive for the first year of permit renewals in the limited entry fishery. The intended effect of this rule is to allow continued participation in the Pacific Coast groundfish fishery by permit owners who failed to apply for a permit renewal by November 30, 1994.

**DATES:** Effective January 27, 1995 through May 2, 1995. Comments will be accepted through March 3, 1995.

**ADDRESSES:** Submit comments to William Stelle, Jr., Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE, BIN-C15700, Seattle, WA 98115-0070; or Hilda Diaz-Soltero, Director Southwest Region, National Marine Fisheries Service, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213. Documentation supporting this emergency action is available at the Northwest Regional Office, NMFS, at the address above.

**FOR FURTHER INFORMATION CONTACT:** William L. Robinson at (206) 526-6140; or Rodney McInnis at (310) 980-4030. For further information on application procedures, phone (206) 526-4353.

**SUPPLEMENTARY INFORMATION:** NMFS issues this emergency rule under the authority of section 305(c)(1) of the Magnuson Fishery Conservation and Management Act (Magnuson Act). An emergency rule that changes a fishery management plan is treated as an amendment to such plan for the period during which such regulation is in effect.

The Pacific Fishery Management Council (Council) prepared, and NMFS approved and implemented, an amendment (Amendment 6) to the FMP, that established a limited entry program for the Pacific Coast groundfish fishery off the coasts of Washington, Oregon, and California. Final regulations implementing the limited entry program were published on November 16, 1992 (57 FR 54001) and the program went into effect on January 1, 1994.

The final regulations, at 50 CFR 663.41(c), require permits to be renewed each year between October 1 and November 30, in order to remain in force the following year. In addition, 50 CFR 663.41(c)(3) specifies that a limited entry permit that is allowed to expire will not be renewed unless the Northwest Region, NMFS, Fisheries Management Division determines that failure to renew was proximately caused by the illness, injury, or death of the permit holder.

Amendment 6, section 4.10, provided the following rationale as to why the administrative procedures should be so rigid:

As initially worded, the draft license limitation program of Amendment 6 provided no means by which the number of permits with 'A' endorsements might be reduced through attrition. A vessel could leave the fishery without transferring the permit to another vessel, and a number of years later the permit could be resurrected