



# Federal Register

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**Monday,  
December 7, 2009**

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**Part IV**

**Department of  
Commerce**

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**Semiannual Regulatory Agenda**

## DEPARTMENT OF COMMERCE (DOC)

## DEPARTMENT OF COMMERCE

## Office of the Secretary

## 13 CFR Ch. III

## 15 CFR Subtitle A; Subtitle B, Chs. I, II, III, VII, VIII, IX, and XI

## 19 CFR Ch. III

## 37 CFR Chs. I, IV, and V

## 48 CFR Ch. 13

## 50 CFR Chs. II, III, IV, and VI

## Fall 2009 Semiannual Agenda of Regulations

**AGENCY:** Office of the Secretary, Commerce.

**ACTION:** Semiannual regulatory agenda.

**SUMMARY:** In compliance with Executive Order 12866, entitled "Regulatory Planning and Review," and the Regulatory Flexibility Act, as amended, the Department of Commerce (Department), in the spring and fall of each year, publishes in the **Federal Register** an agenda of regulations under development or review over the next 12 months. Rulemaking actions are grouped according to prerulemaking, proposed rules, final rules, long-term actions, and rulemaking actions completed since the spring 2009 agenda. The purpose of the agenda is to provide information to the public on regulations currently under review, being proposed, or issued by the Department. The agenda is intended to facilitate comments and views by interested members of the public.

The Department's fall 2009 regulatory agenda includes regulatory activities that are expected to be conducted during the period October 1, 2009, through September 30, 2010.

**FOR FURTHER INFORMATION CONTACT:**

*Specific:* For additional information about specific regulatory actions listed in the agenda, contact the individual identified as the contact person.

*General:* Comments or inquiries of a general nature about the agenda should be directed to Jennifer K. Nist, Chief Counsel for Regulations, Office of the Assistant General Counsel for Legislation and Regulation, U.S. Department of Commerce, Washington, DC 20230; telephone: 202-482-3151.

**SUPPLEMENTARY INFORMATION:** Executive Order 12866 requires agencies to publish an agenda of those regulations that are under consideration pursuant to this order. By memorandum of August 6, 2009, the Office of Management and Budget issued guidelines and procedures for the preparation and publication of the fall 2009 Unified Agenda of Federal Regulatory and Deregulatory Actions. The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires agencies to publish, in the spring and fall of each year, a regulatory flexibility agenda that contains a brief description of the subject of any rule likely to have a significant economic impact on a substantial number of small entities. The agenda also identifies those entries that have been selected for periodic review under section 610 of the Regulatory Flexibility Act.

For this edition of the Department of Commerce's regulatory agenda, the most important significant regulatory actions and a Statement of Regulatory Priorities are included in The Regulatory Plan, which appears in both the online Unified Agenda and in part II of the **Federal Register** that includes the Unified Agenda.

In addition, beginning with the fall 2007 edition, the Internet became the basic means for disseminating the Unified Agenda. The complete Unified Agenda will be available online at [www.reginfo.gov](http://www.reginfo.gov), in a format that offers users a greatly enhanced ability to obtain information from the Agenda database.

Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (5 U.S.C. 602), the Department of Commerce's printed agenda entries include only:

(1) Rules that are in the Agency's regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and

(2) Rules that the Agency has identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act's Agenda requirements. Additional information on these entries is available

in the Unified Agenda published on the Internet. In addition, for fall editions of the Agenda, the entire Regulatory Plan will continue to be printed in the **Federal Register**, as in past years, including the Department of Commerce's Regulatory Plan.

Within the Department, the Office of the Secretary and various operating units may issue regulations. Operating units, such as the National Oceanic and Atmospheric Administration (NOAA), the Bureau of Industry and Security, and the Patent and Trademark Office issue the greatest share of the Department's regulations.

A large number of regulatory actions reported in the agenda deal with fishery management programs of NOAA's National Marine Fisheries Service (NMFS). To avoid repetition of programs and definitions, as well as to provide some understanding of the technical and institutional elements of the NMFS programs, an "Explanation of Information Contained in NMFS Regulatory Entries" is provided below.

**Explanation of Information Contained in NMFS Regulatory Entries**

The Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (Act) governs the management of fisheries within the Exclusive Economic Zone (EEZ). The EEZ refers to those waters from the outer edge of the State boundaries, generally 3 nautical miles, to a distance of 200 nautical miles. Fishery Management Plans (FMPs) are to be prepared for fisheries that require conservation and management measures. Regulations implementing these FMPs regulate domestic fishing and foreign fishing where permitted. Foreign fishing may be conducted in a fishery in which there is no FMP only if a preliminary fishery management plan has been issued to govern that foreign fishing. Under the Act, eight Regional Fishery Management Councils (Councils) prepare FMPs or amendments to FMPs for fisheries within their respective areas. In the development of such plans or amendments and their implementing regulations, the Councils are required by law to conduct public hearings on the draft plans and to consider the use of alternative means of regulating.

The Council process for developing FMPs and amendments makes it difficult for NMFS to determine the

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significance and timing of some regulatory actions under consideration by the Councils at the time the

semiannual regulatory agenda is published.

The Department's fall 2009 regulatory agenda follows.

**Cameron F. Kerry,**  
General Counsel.

## International Trade Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
233	Commercial Availability of Fabric and Yarn .....	0625-AA59

## National Oceanic and Atmospheric Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
234	Maximize Retention and Monitoring Program in the Shore-Based Pacific Whiting Fishery .....	0648-AR63
235	American Lobster Fishery; Effort Control Measures .....	0648-AT31
236	South Atlantic Fishery Ecosystem Plan Comprehensive Amendment .....	0648-AV31
237	Collection and Use of Tax Identification Numbers From Holders of and Applicants for National Marine Fisheries Service Permits .....	0648-AV76
238	Amendment 17 to the South Atlantic Fishery Management Council Snapper Grouper Fishery Management Plan ...	0648-AW11
239	Amendment 2 to the Fishery Management Plan for the Queen Conch Fishery of Puerto Rico and the U.S. Virgin Islands .....	0648-AW15
240	Marine Mammal Protection Act Stranding Regulation Revisions .....	0648-AW22
241	Amendment 3 to the Northeast Skate Complex Fishery Management Plan .....	0648-AW30
242	Amendment 4 to the Atlantic Herring Fishery Management Plan .....	0648-AW75
243	Allowable Modifications to the Turtle Excluder Device (TED) Requirements .....	0648-AW93
244	Regulatory Amendment (t3) To Correct and Clarify Amendment 13 and Subsequent Frameworks of the Northeast Multispecies Fishery Management Plan .....	0648-AW95
245	Amendment 11 to the Atlantic Mackerel, Squid, Butterfish Fishery Management Plan .....	0648-AX05
246	Amendment 30 to the Fishery Management Plan for Bering Sea and Aleutian Islands King and Tanner Crabs Arbitration Regulations .....	0648-AX47
247	Amendment 31 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico .....	0648-AX67
248	Salmon Bycatch Reduction Management Measures for the Fishery Management Plan (FMP) 91 in the Bering Sea Aleutian Islands .....	0648-AX89
249	2010 Summer Flounder, Scup, and Black Sea Bass Recreational Management Measures .....	0648-AY04
250	Maximized Retention Monitoring Program for Catcher Vessels in the Pacific Whiting Mothership Fishery in the Pacific Coast Groundfish Fishery .....	0648-AY17
251	Generic Amendment for Annual Catch Limits .....	0648-AY22
252	Protective Regulations for Killer Whales in the Northwest Region Under the Endangered Species Act and Marine Mammal Protection Act .....	0648-AV15
253	Marine Mammal Protection Act Permit Regulation Revisions .....	0648-AV82
254	Rulemaking To Establish Take Prohibitions for the Threatened Southern Distinct Population Segment of North American Green Sturgeon .....	0648-AV94
255	Rule to Revise Leatherback Critical Habitat .....	0648-AX06

## National Oceanic and Atmospheric Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
256	Fisheries in the Western Pacific; Pelagic Fisheries; Squid Jig Fisheries .....	0648-AS71
257	Modifying Maximum Retainable Amounts (MRAs) for Selected Groundfish Species Caught by the Non-American Fishing Act Trawl Catcher Processor Sector .....	0648-AV32
258	Certification of Nations Whose Fishing Vessels Are Engaged in Illegal, Unreported or Unregulated Fishing or Bycatch of Protected Living Marine Resources ( <b>Reg Plan Seq No. 34</b> ) .....	0648-AV51
259	Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (MSRA) Environmental Review Procedure .....	0648-AV53
260	Initial Implementation of the Western and Central Pacific Fisheries Convention Implementation Act .....	0648-AV63

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## National Oceanic and Atmospheric Administration—Final Rule Stage (Continued)

Sequence Number	Title	Regulation Identifier Number
261	Amendment 15B to the South Atlantic Fishery Management Council Snapper Grouper Fishery Management Plan	0648–AW12
262	Revise Regulations Governing the North Pacific Groundfish Observer Program .....	0648–AW24
263	Fisheries in the Western Pacific; Western Pacific Pelagic Fisheries; Amendment 18 to the Pelagics Fishery Management Plan; Shallow-set Longline Swordfish Fishery .....	0648–AW49
264	Atlantic Highly Migratory Species; Atlantic Shark Management Measures .....	0648–AW65
265	Halibut Charter Vessel Moratorium .....	0648–AW92
266	Atlantic Highly Migratory Species; 2009 North and South Atlantic Commercial Quotas .....	0648–AX07
267	Amendment 29 to the Fishery Management Plan for Reef Fish Resources of the Gulf of Mexico .....	0648–AX39
268	Western and Central Pacific Fisheries for Highly Migratory Species; Implementation of the Longline Catch Limits Adopted at the Fifth Session of the Western and Central Pacific Fisheries Commission .....	0648–AX59
269	Snapper-Grouper Fishery Management Plan of the South Atlantic .....	0648–AX75
270	Amendment 10 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan .....	0648–AY00
271	Provide Regulations for Permits for Capture, Transport, Import, and Export of Protected Species for Public Display, and for Maintaining a Captive Marine Mammal Inventory .....	0648–AH26
272	Taking of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Training Operations Conducted Within the Gulf of Mexico Range Complex .....	0648–AX86

References in boldface appear in the Regulatory Plan in part II of this issue of the **Federal Register**.

## National Oceanic and Atmospheric Administration—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
273	Fishery Management Plan for Regulating Offshore Marine Aquaculture in the Gulf of Mexico .....	0648–AS65

## National Oceanic and Atmospheric Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
274	Amendment 1 to the Fishery Management Plan for the Tilefish Fishery .....	0648–AS25
275	Atlantic Highly Migratory Species (HMS); Reducing Sea Turtle Takes .....	0648–AS49
276	Amendment 10 to the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan .....	0648–AT58
277	American Lobster Data Collection and Broodstock Protection Measures .....	0648–AV77
278	Amendment 7 to the South Atlantic Shrimp Fishery Management Plan .....	0648–AW19
279	Fisheries Off West Coast States; Highly Migratory Species Fisheries .....	0648–AW50
280	Fisheries in the Western Pacific; Compensation to Northwestern Hawaiian Islands Bottomfish and Lobster Fishermen Due to Fishery Closure in the Papahānaumokuākea Marine National Monument .....	0648–AW52
281	Amendment 16 to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region ...	0648–AW64
282	Amendment 27 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs .....	0648–AW73
283	Amendment 28 to the Fishery Management Plan for Bering Sea and Aleutian Islands King and Tanner Crab .....	0648–AW97
284	Atlantic Highly Migratory Species (HMS); 2009 Atlantic Bluefin Tuna Quota Specifications and Management Measures .....	0648–AX12
285	Amendment 92 to the Fishery Management Plan for Bering Sea/Aleutian Islands Groundfish and Amendment 82 to the Fishery Management Plan for Gulf of Alaska Groundfish .....	0648–AX14
286	One-Fish Daily Bag Limit for the Guided Sport Charter Vessel Fishery for Halibut in Regulatory Area 2C .....	0648–AX17
287	Amendment 90 to the Fishery Management Plan for Bering Sea/Aleutian Islands Groundfish and Amendment 78 to the Fishery Management Plan for Gulf of Alaska Groundfish .....	0648–AX25
288	Amendment 85 to the Fishery Management Plan for Groundfish of the Gulf of Alaska .....	0648–AX42
289	2009 Atlantic Bluefish Specifications .....	0648–AX49
290	Definition of U.S. Citizen .....	0648–AX52
291	2009 Specifications and Management Measures for the Spiny Dogfish Fishery Management Plan .....	0648–AX57
292	Western and Central Pacific Fisheries for Highly Migratory Species; Implementation of Decisions of the Fifth Session of the Western and Central Pacific Fisheries Commission for Purse Seine Fisheries .....	0648–AX60
293	2009 Summer Flounder, Scup, and Black Sea Bass Recreational Management Measures .....	0648–AX69
294	Reef Fish Amendment 30B to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico: Measure To Establish the Edges Seasonal-Area Closure .....	0648–AX73

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## National Oceanic and Atmospheric Administration—Completed Actions (Continued)

Sequence Number	Title	Regulation Identifier Number
295	Establish 2009 Fishery Specifications for Pacific Whiting; Pacific Groundfish Fishery; Biennial Specifications and Management Measures .....	0648-AX77
296	Pacific Coast Groundfish Inseason Action for May 1, 2009 .....	0648-AX84
297	Establish a Control Date for the Reef Fish, Queen Conch, and Spiny Lobster Fisheries of Puerto Rico and the U.S. Virgin Islands .....	0648-AX92
298	Atlantic Pelagic Longline Take Reduction Plan .....	0648-AV65
299	Designation of Critical Habitat for the Endangered U.S. Distinct Population Segment (DPS) of Guided Smalltooth Sawfish .....	0648-AV74
300	Harbor Porpoise Take Reduction Plan Regulations .....	0648-AW51
301	Rulemaking to Designate Critical Habitat for the Gulf of Maine Distinct Population Segment of Atlantic Salmon .....	0648-AW77
302	Rulemaking To Designate Critical Habitat for the Threatened Southern Distinct Population Segment of North American Green Sturgeon .....	0648-AX04

## Patent and Trademark Office—Long-Term Actions

Sequence Number	Title	Regulation Identifier Number
303	Examination of Patent Applications That Include Claims Containing Alternative Language .....	0651-AC00
304	Fiscal Year 2009 Revision of Request for Continued Examination, 18-Month Publication, and Other Miscellaneous Cost-Recovery Patent Fees .....	0651-AC29

**Department of Commerce (DOC)**  
**International Trade Administration (ITA)**
**Long-Term Actions****233. COMMERCIAL AVAILABILITY OF FABRIC AND YARN**

**Legal Authority:** PL 106–200, sec 112(b)(5)(B); PL 106–200, sec 211; EO 13191; PL 107–210, sec 3103

**Abstract:** This rule implements certain provisions of the Trade and Development Act of 2000 (the Act), Title I of the Act (the African Growth and Opportunity Act or AGOA), title II of the Act (the United States-Caribbean Basin Trade Partnership Act or CBTPA), and title XXXI of the Trade Act of 2002 (the Andean Trade Promotion and Drug Eradication Act or ATPDEA) provide for quota- and duty-free treatment for qualifying apparel products from designated beneficiary countries. AGOA and CBTPA authorize quota- and duty-free treatment for apparel articles that are both cut (or

knit-to-shape) and sewn or otherwise assembled in one or more designated beneficiary countries from yarn or fabric that is not formed in the United States or a beneficiary country, provided it has been determined that such yarn or fabric cannot be supplied by the domestic industry in commercial quantities in a timely manner. The President has delegated to the Committee for the Implementation of Textile Agreements (the Committee), which is chaired by Commerce, the authority to determine whether yarn or fabric cannot be supplied by the domestic industry in commercial quantities in a timely manner under the AGOA, the ATPDEA, and the CBTPA, and has authorized the Committee to extend quota- and duty-free treatment to apparel of such yarn or fabric. The rule provides the procedure for

interested parties to submit a request alleging that a yarn or fabric cannot be supplied by the domestic industry in commercial quantities in a timely manner, the procedure for public comments, and relevant factors that will be considered in the Committee's determination. The rule also outlines the factors to be considered by the Committee in extending quota- and duty-free treatment.

**Timetable:**

Action	Date	FR Cite
NPRM	To Be Determined	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Janet Heinzen  
 Phone: 202 482-4006  
 Email: janet\_heinzen@ita.doc.gov

**RIN:** 0625-AA59

## Department of Commerce (DOC)

## Proposed Rule Stage

## National Oceanic and Atmospheric Administration (NOAA)

## NATIONAL MARINE FISHERIES SERVICE

## 234. MAXIMIZE RETENTION AND MONITORING PROGRAM IN THE SHORE-BASED PACIFIC WHITING FISHERY

**Legal Authority:** 16 USC 1801 et seq

**Abstract:** The Pacific Fishery Management Council (Pacific Council) at their October 21-25, 1996, meeting in San Francisco, California addressed the treatment and disposition of salmon in the groundfish trawl fisheries, specifically the shore-based whiting fishery. At that meeting, the Pacific Council discussed the retention of salmon in the shore-based whiting fishery and took action to maintain a viable shore-based whiting fishery by using exempted fishing permits (EFPs). These EFPs allowed the shore-based whiting fleet to temporarily deliver unsorted catch to processing plants and provided for the monitoring of incidentally taken salmon until a permanent monitoring program could be implemented. In keeping with the Pacific Council's recommendation, NMFS is proceeding with implementing a monitoring program for the shore-based whiting fishery. This action will aid in the sustainable management of Pacific Coast salmon and groundfish fisheries while providing an important economic opportunity to those associated with the harvest, processing, and selling of whiting taken by the shore-based whiting fleet. The need for implementing a permanent monitoring program in the shore-based Pacific whiting fishery is to provide for a full retention fishery by enabling the shore-based whiting fleet, comprised exclusively of catcher vessels, to deliver unsorted catch to processing plants. This practice is necessary to ensure that whiting landings are of market quality, while abiding by Federal groundfish regulations and those implementing the Pacific Coast salmon and groundfish fishery management plans (FMPs).

**Timetable:**

Action	Date	FR Cite
NPRM	05/00/10	
NPRM Comment Period End	07/00/10	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Barry Thom, Regional Administrator, Northwest Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., Building 1, Seattle, WA 48115-0070

Phone: 206 526-6150

Fax: 206 526-6426

Email: barry.thom@noaa.gov

**RIN:** 0648-AR63

## 235. AMERICAN LOBSTER FISHERY; EFFORT CONTROL MEASURES

**Legal Authority:** 16 USC 5101 et seq

**Abstract:** The National Marine Fisheries Service announces that it is considering, and seeking public comment on, revisions to Federal American lobster regulations for the Exclusive Economic Zone (EEZ) associated with effort control measures as recommended for Federal implementation by the Atlantic States Marine Fisheries Commission (ASFMC) as outlined in the Interstate Fishery Management Plan (ISFMP) for American Lobster. This action will evaluate effort control measures in certain Lobster Conservation Management Areas including: Limits on future access based on historic participation criteria; procedures to allow trap transfers among qualifiers and impose a trap reduction or conservation tax on any trap transfers; and a trap reduction schedule to meet the goals of the ISFMP.

**Timetable:**

Action	Date	FR Cite
ANPRM	05/10/05	70 FR 24495
ANPRM Comment Period End	06/09/05	
NPRM	12/00/09	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Way, Gloucester, MA 01930

Phone: 978 281-9200

Fax: 978 281-9117

Email: pat.kurkul@noaa.gov

**RIN:** 0648-AT31

## 236. SOUTH ATLANTIC FISHERY ECOSYSTEM PLAN COMPREHENSIVE AMENDMENT

**Legal Authority:** 16 USC 1801 et seq

**Abstract:** The purpose of this action is to develop an ecosystem-based approach to resource management. The South Atlantic Council plans to develop a Fishery Ecosystem Plan (FEP) Comprehensive Amendment, which would modify all its Fishery Management Plans (FMPs). The initial amendment would include the following actions: (1) Various actions to comply with new essential fish habitat requirements; (2) establishment of deep water coral Habitat Areas of Particular Concern, with possible gear limitations, such as the establishment of allowable trawl areas; and (3) other possible actions necessary to implement ecosystem-based fishery management.

**Timetable:**

Action	Date	FR Cite
NPRM	05/00/10	
NPRM Comment Period End	06/00/10	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Roy Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 Thirteenth Avenue South, St. Petersburg, FL 33701

Phone: 727 570-5305

Fax: 727 570-5583

Email: roy.crabtree@noaa.gov

**RIN:** 0648-AV31

## 237. COLLECTION AND USE OF TAX IDENTIFICATION NUMBERS FROM HOLDERS OF AND APPLICANTS FOR NATIONAL MARINE FISHERIES SERVICE PERMITS

**Legal Authority:** 16 USC 1361 et seq; 16 USC 1531 et seq; 31 USC 7701; 31 USC 1801 et seq

**Abstract:** In conformance with the Debt Collection Improvement Act of 1996 (Debt Collection Act), the National Marine Fisheries Service (NMFS) will issue a rule to require that each existing holder of and future applicant for a permit, license, endorsement, authorization, transfer or like instrument issued by the agency provide a Taxpayer Identification Number (TIN) (business' employer identification number or individual's

## DOC—NOAA

## Proposed Rule Stage

social security number) and Date of Incorporation or Date of Birth, as appropriate. Under the Debt Collection Act, NMFS is required to collect the TIN to report on and collect any delinquent non-tax debt owed to the Federal Government. NMFS plans to use Date of Incorporation or Date of Birth information for administrative aspects of permitting procedures with appropriate confidentiality safeguards pursuant to the Privacy Act. The rule will specify (a) the particular uses that may be made of the reported TIN, (b) the effects, if any, of not providing the required information, (c) how the information will be used to ascertain if the permit holder or applicant owes delinquent non-tax debt to the Government pursuant to the Debt Collection Act, (d) the effects on the permit holder or applicant when such delinquent debts are owed, and (e) the agency's intended communications with the permit holder or applicant regarding the relationship of such delinquent debts to its permitting process and the need to resolve such debts as a basis for completing permit issuance or renewal. The rule will amend existing agency permit regulations and contain all appropriate modified and new collections-of-information pursuant to the Paperwork Reduction Act.

**Timetable:**

Action	Date	FR Cite
NPRM	12/00/09	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Alan Risenhoover, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Room 13362, Silver Spring, MD 20910  
Phone: 301 713-2334  
Fax: 301 713-0596  
Email: alan.risenhoover@noaa.gov  
**RIN:** 0648-AV76

**238. AMENDMENT 17 TO THE SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL SNAPPER GROUPER FISHERY MANAGEMENT PLAN**

**Legal Authority:** 16 USC 1801

**Abstract:** Amendment 17 is intended to: establish management reference points (MSY, OY) for red snapper; establish a rebuilding plan (rebuilding

timeframe and rebuilding strategy) for red snapper; specify Annual Catch Limits (ACL), Annual Catch Targets (ACT), and Accountability Measures (AM) for 10 species undergoing overfishing; and modify management measures to ensure future catch is equal to or below the ACL.

**Timetable:**

Action	Date	FR Cite
NPRM	12/00/09	
NPRM Comment Period End	01/00/10	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Roy Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 Thirteenth Avenue South, St. Petersburg, FL 33701  
Phone: 727 570-5305  
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**RIN:** 0648-AW11

**239. AMENDMENT 2 TO THE FISHERY MANAGEMENT PLAN FOR THE QUEEN CONCH FISHERY OF PUERTO RICO AND THE U.S. VIRGIN ISLANDS**

**Legal Authority:** 16 USC 1801

**Abstract:** St. Croix queen conch landings by commercial fishermen alone have exceeded sustainable harvest levels since the 2000-2001 fishing season. In 2005-2006 the commercial harvest was over four times sustainable levels. Additionally, there is an unknown but significant recreational harvest. Overfishing of queen conch has led to resource collapse in other regions and in some cases, long-term resource loss. According to the NMFS Report on the Status of the U.S. Fisheries for 2006, queen conch is overfished and undergoing overfishing. Under current fishing practices, reductions in mortality are not expected to be sufficient in the queen conch fishery. Without a reduction in mortality, queen conch are not expected to achieve the rebuilding goals established in the Sustainable Fisheries Amendment of 2005. Therefore, a change in fishing practices is needed to help achieve the necessary reductions in queen conch fishing mortality.

**Timetable:**

Action	Date	FR Cite
Notice of Intent	10/11/07	72 FR 58057
NPRM	12/00/09	
NPRM Comment Period End	01/00/10	
Final Action	01/00/10	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Roy Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 Thirteenth Avenue South, St. Petersburg, FL 33701  
Phone: 727 570-5305  
Fax: 727 570-5583  
Email: roy.crabtree@noaa.gov

**RIN:** 0648-AW15

**240. MARINE MAMMAL PROTECTION ACT STRANDING REGULATION REVISIONS**

**Legal Authority:** 16 USC 1379; 16 USC 1382; 16 USC 1421

**Abstract:** The National Marine Fisheries Service (NMFS) is considering proposing changes to its implementing regulations (50 CFR 216) governing the taking of stranded marine mammals under section 109(h), section 112(c), and title IV of the Marine Mammal Protection Act and is soliciting public comment to better inform the process. NMFS intends clarify the requirements and procedures for responding to stranded marine mammals and for determining the disposition of rehabilitated marine mammals, which includes the procedures for the placement of non-releasable animals and for authorizing the retention of releasable rehabilitated marine mammals for scientific research, enhancement, or public display. This action will be analyzed under the National Environmental Policy Act with an Environmental Assessment.

**Timetable:**

Action	Date	FR Cite
ANPRM	01/31/08	73 FR 5786
ANPRM Comment Period End	03/31/08	
NPRM	12/00/09	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** David Cottingham, Department of Commerce, National Oceanic and Atmospheric

## DOC—NOAA

## Proposed Rule Stage

Administration, 1315 East-West Highway, Silver Spring, MD 20910  
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Email: david.cottingham@noaa.gov

RIN: 0648-AW22

#### 241. AMENDMENT 3 TO THE NORTHEAST SKATE COMPLEX FISHERY MANAGEMENT PLAN

**Legal Authority:** 16 USC 1801

**Abstract:** NMFS proposes regulations to implement measures in Amendment 3 to the Northeast Skate Complex Fishery Management Plan (Skate FMP). Amendment 3 was developed by the New England Fishery Management Council (Council) to rebuild overfished skate stocks (thorny and smooth skates) and implement annual catch limits (ACLs) and accountability measures (AMs) consistent with the requirements of the reauthorized Magnuson-Stevens Fishery Conservation and Management Act. Amendment 3 would establish an ACL and annual catch target (ACT) for the skate complex, total allowable landings (TAL) for the skate wing and bait fisheries, seasonal quotas for the bait fishery, reduced possession limits, in-season possession limit triggers, and other measures to improve management of the skate fisheries. This rule also includes skate fishery specifications for fishing years (FY) 2010 through 2011.

**Timetable:**

Action	Date	FR Cite
NPRM	12/00/09	
NPRM Comment Period End	01/00/10	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Way, Gloucester, MA 01930  
Phone: 978 281-9200  
Fax: 978 281-9117  
Email: pat.kurkul@noaa.gov

RIN: 0648-AW30

#### 242. AMENDMENT 4 TO THE ATLANTIC HERRING FISHERY MANAGEMENT PLAN

**Legal Authority:** 16 USC 1801 et seq

**Abstract:** The goal of Amendment 4 is to improve catch monitoring and

ensure compliance with the Reauthorized Magnuson-Stevens Fishery Conservation and Management Act (MSRA). The management measures developed in this amendment may address one or more of the following objectives: (1) To implement measures to improve the long-term monitoring of catch (landings and bycatch) in the herring fishery; (2) to implement annual catch limits and accountability measures consistent with the MSRA; (3) to implement other management measures as necessary to ensure compliance with the new provisions of the MSRA; (4) to develop a sector allocation process or other limited access privilege program for the herring fishery; and (5) in the context of objectives 1-4 (above), to consider the health of the herring resource and the important role of herring as a forage fish and a predator fish throughout its range.

The New England Fishery Management Council will develop conservation and management measures to address the issues identified above and meet the goals/objectives of the amendment. Any conservation and management measures developed in this amendment also must comply with all applicable laws.

**Timetable:**

Action	Date	FR Cite
NOI To Prepare An EIS	05/08/08	73 FR 26082
NPRM	12/00/09	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Way, Gloucester, MA 01930  
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RIN: 0648-AW75

#### 243. ALLOWABLE MODIFICATIONS TO THE TURTLE EXCLUDER DEVICE (TED) REQUIREMENTS

**Legal Authority:** 16 USC 1531 et seq

**Abstract:** NMFS proposes to revise the TED requirements to allow new materials and modifications to existing approved TED designs. Specifically, proposed allowable modifications include the use of flat bar, box pipe,

and oval pipe for use in currently-approved TED grids; an increase in mesh size on escape flaps from 1-5/8 inches to 2 inches; the use of the Boone single straight cut and triangular escape openings; specifications on the use of TED grid brace bars; and the use of the Chauvin Shrimp Kicker to improve shrimp retention.

**Timetable:**

Action	Date	FR Cite
NPRM	12/00/09	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Michael Barnette, Department of Commerce, National Oceanic and Atmospheric Administration, 263 Thirteenth Avenue South, St. Petersburg, FL 33701  
Phone: 727 551-5794

RIN: 0648-AW93

#### 244. REGULATORY AMENDMENT (●) TO CORRECT AND CLARIFY AMENDMENT 13 AND SUBSEQUENT FRAMEWORKS OF THE NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN

**Legal Authority:** 16 USC 1801 et seq

**Abstract:** This action would make corrections and clarifications to the final rule implementing Amendment 13 to the Northeast Multispecies Fishery Management Plan, as well as subsequent groundfish actions. These corrections are administrative in nature and are intended to correct inaccurate references and other inadvertent errors and to clarify specific regulations to maintain consistency with the intent of Amendment 13 and subsequent actions.

**Timetable:**

Action	Date	FR Cite
NPRM	12/00/09	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Way, Gloucester, MA 01930  
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RIN: 0648-AW95



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## Proposed Rule Stage

**245. AMENDMENT 11 TO THE ATLANTIC MACKEREL, SQUID, BUTTERFISH FISHERY MANAGEMENT PLAN****Legal Authority:** 16 USC 1801 et seq**Abstract:** Amendment 11 may consider: (1) Limited access in the Atlantic mackerel (mackerel) fishery; (2) implementation of annual catch limits (ACLs) and accountability measures (AMs) for mackerel and butterfish required under the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (MSRA); (3) updating of the description and identification of essential fish habitat (EFH) for all life stages of mackerel, Loligo squid, Illex squid, and butterfish (including gear impacts on Loligo squid egg EFH); and (4) possible limitations on at-sea processing of mackerel.**Timetable:**

Action	Date	FR Cite
Notice of Intent	08/11/08	73 FR 46590
NPRM	12/00/09	

**Regulatory Flexibility Analysis****Required:** Yes**Agency Contact:** Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Way, Gloucester, MA 01930  
Phone: 978 281-9200  
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Email: pat.kurkul@noaa.gov**RIN:** 0648-AX05**246. AMENDMENT 30 TO THE FISHERY MANAGEMENT PLAN FOR BERING SEA AND ALEUTIAN ISLANDS KING AND TANNER CRABS ARBITRATION REGULATIONS****Legal Authority:** 16 USC 1862; PL 109-241; PL 109-479**Abstract:** The proposed action would implement Amendment 30 to the Fishery Management Plan for Bering Sea and Aleutian Islands King and Tanner Crabs to make minor modifications to the arbitration system used to settle price and other disputes among harvesters and processors in the Bering Sea/Aleutian Islands crab rationalization program.**Timetable:**

Action	Date	FR Cite
NPRM	12/00/09	

**Regulatory Flexibility Analysis****Required:** Yes**Agency Contact:** Robert D. Mecum, Acting Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802  
Phone: 907 586-7221  
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Email: doug.mecum@noaa.gov**RIN:** 0648-AX47**247. AMENDMENT 31 TO THE FISHERY MANAGEMENT PLAN FOR THE REEF FISH RESOURCES OF THE GULF OF MEXICO****Legal Authority:** 16 USC 1801**Abstract:** In September 2008, NOAA's National Marine Fisheries (NMFS) released a report based on observer data that indicated the total number of loggerhead sea turtle takes by the eastern Gulf of Mexico reef fish bottom longline fishery was much greater than that authorized in the most recent biological opinion. In response, the Gulf of Mexico Fishery Management Council (Council) requested NMFS take emergency action to reduce the number of takes by the fishery during the short term while the Council develops long-term measures in Amendment 31. Measures being considered include: (1) Modifying baits; (2) area, season, and depth restrictions; (3) reducing effort through a longline endorsement program; and (4) using observers or electronic monitoring to close the fishery once a sea turtle take threshold has been met.**Timetable:**

Action	Date	FR Cite
NPRM	12/00/09	

**Regulatory Flexibility Analysis****Required:** Yes**Agency Contact:** Roy Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 Thirteenth Avenue South, St. Petersburg, FL 33701  
Phone: 727 570-5305  
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Email: roy.crabtree@noaa.gov**RIN:** 0648-AX67**248. • SALMON BYCATCH REDUCTION MANAGEMENT MEASURES FOR THE FISHERY MANAGEMENT PLAN (FMP) 91 IN THE BERING SEA ALEUTIAN ISLANDS****Legal Authority:** 16 USC 773 et seq; 16 USC 1801 et seq; 16 USC 3631 et seq; PL 108-447**Abstract:** This fishery management plan amendment and rulemaking will implement the North Pacific Fishery Management Council's recommendations for management measures to minimize to the extent practicable Chinook salmon bycatch in the Bering Sea pollock fishery. These management measures provide two options for the pollock sectors (e.g., inshore catcher vessels, offshore catcher-processors, catcher vessels delivering to motherships, or CDQ entities): fish under a lower Chinook salmon cap or participate in an incentive program and fish under a higher cap. Under the first option, the fleet as a whole may choose to fish under a transferable cap of 47,591 Chinook salmon, which would be allocated by season and sector. Once each sector reaches its specific cap, it would be prohibited from continuing to fish for pollock for the remainder of the season. Alternatively, vessels or CDQ entities may choose to participate in private contracts called incentive plan agreements (IPA) which would describe how participants would maintain low bycatch even when their bycatch levels are well below the hard cap approved. Those vessels or CDQ entities participating in an IPA would be allocated a transferable share of up to 60,000 Chinook salmon. This cap would be reduced for any vessels or CDQ entities not participating in an IPA and those vessels and CDQ entities would fish under a lower, non-transferable cap. In addition to the annual cap levels, if any sector operating under an IPA exceeds its proportion of 47,591 Chinook salmon three times in any seven-year period, the sector's maximum bycatch limit will be permanently reduced to its proportional share of the 47,591 cap. If the FMP amendments and proposed rule are approved, fishing under the new Chinook salmon bycatch management measures would start in 2011.

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**Timetable:**

Action	Date	FR Cite
FMP	12/00/09	
Final Rule FMP	08/00/10	

**Regulatory Flexibility Analysis****Required:** Yes

**Agency Contact:** Robert D. Mecum, Acting Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802  
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**RIN:** 0648-AX89

#### 249. ● 2010 SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS RECREATIONAL MANAGEMENT MEASURES

**Legal Authority:** 16 USC 1801

**Abstract:** This action will propose and implement the 2010 recreational management measures (minimum fish size, fishing seasons, and possession limits) for the summer flounder, scup, and black sea bass fisheries.

**Timetable:**

Action	Date	FR Cite
NPRM	04/00/10	

**Regulatory Flexibility Analysis****Required:** Yes

**Agency Contact:** Patricia A. Kurkul, Regional Administrator, Northeast Region, NMFS, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Way, Gloucester, MA 01930  
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**RIN:** 0648-AY04

#### 250. ● MAXIMIZED RETENTION MONITORING PROGRAM FOR CATCHER VESSELS IN THE PACIFIC WHITING MOTHERSHIP FISHERY IN THE PACIFIC COAST GROUND FISH FISHERY

**Legal Authority:** 16 USC 1801

**Abstract:** The action would implement a monitoring program for catcher vessels in the mothership sector of the Pacific whiting fishery off the coast of Washington, Oregon, and California. The monitoring program would consist

of a camera and other sensors to monitor fishing activity in order to maintain the integrity of the maximized retention requirements found at 50 CFR 660.306 (f)(7). Maximized retention encourages full retention of all catch while allowing minor discard events to occur. This ensures that unsorted catch is available for observers to monitor on board the mothership processors and thereby maintain the integrity of data collected under the observer program.

**Timetable:**

Action	Date	FR Cite
NPRM	12/00/09	
NPRM Comment	01/00/10	
Period End		

**Regulatory Flexibility Analysis****Required:** Yes

**Agency Contact:** Frank Lockhart, Program Analyst, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., Seattle, WA 98115  
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 Email: frank.lockhart@noaa.gov

**RIN:** 0648-AY17

#### 251. ● GENERIC AMENDMENT FOR ANNUAL CATCH LIMITS

**Legal Authority:** 16 USC 1801

**Abstract:** The generic amendment is intended to modify five of the Council's FMPs. These include FMPs for: Reef Fish Resources, Shrimp, Stone Crab, Coral and Coral Reef Resources, and Red Drum. NMFS and the Council will develop these ACLs in co-operation with the Scientific and Statistical Committee and the Southeast Fisheries Science Center.

**Timetable:**

Action	Date	FR Cite
NPRM	11/00/10	
NPRM Comment	12/00/10	
Period End		

**Regulatory Flexibility Analysis****Required:** Yes

**Agency Contact:** Roy Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 Thirteenth Avenue South, St. Petersburg, FL 33701  
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**RIN:** 0648-AY22

#### 252. PROTECTIVE REGULATIONS FOR KILLER WHALES IN THE NORTHWEST REGION UNDER THE ENDANGERED SPECIES ACT AND MARINE MAMMAL PROTECTION ACT

**Legal Authority:** 16 USC 1361 et seq; 16 USC 1531 to 1543

**Abstract:** The National Marine Fisheries Service (NMFS) is considering whether to propose regulations to protect killer whales (*Orcinus orca*) in the Pacific Northwest. The Southern Resident killer whale distinct population segment (DPS) was listed as endangered under the Endangered Species Act (ESA) on November 18, 2005 (70 FR 69903). In the final rule announcing the listing, NMFS identified vessel effects, including direct interference and sound, as a potential contributing factor in the recent decline of this population. Both the Marine Mammal Protection Act (MMPA) and the ESA prohibit take, including harassment, of killer whales, but these statutes do not prohibit specified acts. NMFS is now considering whether to propose regulations that would prohibit certain acts, under our general authorities under the ESA and MMPA and their implementing regulations. The Proposed Recovery Plan for Southern Resident killer whales (71 FR 69101; November 29, 2006) includes as a management action the evaluation of current guidelines and the need for regulations and/or protected areas. The scope of this ANPR encompasses the activities of any person or conveyance that may result in the unauthorized taking of killer whales and/or that may cause detrimental individual-level and population-level impacts. NMFS requests comments on whether—and if so, what type of—conservation measures, regulations, and, if necessary, other measures would be appropriate to protect killer whales from the effects of these activities.

**Timetable:**

Action	Date	FR Cite
ANPRM	03/22/07	72 FR 13464
ANPRM Comment	04/23/07	
Period End		
NPRM	07/29/09	74 FR 37674
NPRM Comment	10/19/09	74 FR 53454
Period Extended		

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Action	Date	FR Cite
NPRM Comment Period End	10/27/09	
NPRM Extended Comment Period End	12/01/09	
Final Action	05/00/10	

**Regulatory Flexibility Analysis****Required:** Yes

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**RIN:** 0648-AV15**253. MARINE MAMMAL PROTECTION ACT PERMIT REGULATION REVISIONS****Legal Authority:** 16 USC 1374

**Abstract:** The National Marine Fisheries Service (NMFS) is considering changes to its implementing regulations (50 CFR 216) governing the issuance of permits for scientific research and enhancement activities under Section 104 of the Marine Mammal Protection Act and is soliciting public comment to better inform the process. NMFS intends to streamline and clarify general permitting requirements and requirements for scientific research and enhancement permits, simplify procedures for transferring marine mammal parts, possibly apply the General Authorization (GA) to research activities involving Level A harassment of non-endangered marine mammals, and implement a “permit application cycle” for application submission and processing of all marine mammal permits. NMFS intends to write regulations for marine mammal photography permits and is considering whether this activity should be covered by the GA.

**Timetable:**

Action	Date	FR Cite
ANPRM	09/13/07	72 FR 52339
ANPRM Comment Period Extended	10/15/07	72 FR 58279
ANPRM Comment Period End	11/13/07	
ANPRM Comment Period Extended	12/13/07	72 FR 58279
NPRM	12/00/09	

**Regulatory Flexibility Analysis****Required:** Yes

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**RIN:** 0648-AV82**254. RULEMAKING TO ESTABLISH TAKE PROHIBITIONS FOR THE THREATENED SOUTHERN DISTINCT POPULATION SEGMENT OF NORTH AMERICAN GREEN STURGEON****Legal Authority:** 16 USC 1531 to 1543

**Abstract:** Under section 4(d) of the Federal Endangered Species Act (ESA), the Secretary of Commerce is required to adopt such regulations as he deems necessary and advisable for the conservation of species listed as threatened. This rulemaking would establish an ESA section 4(d) rule representing regulations that NMFS believes necessary and advisable to conserve the threatened Southern Distinct Population Segment of North American green sturgeon (Southern DPS of green sturgeon). The 4(d) rule would apply the prohibitions listed under ESA section 9(a)(1)(A) and 9(a)(1)(D) through 9(a)(1)(G) for the Southern DPS and apply ESA section 9(a)(1)(B) and (a)(1)(C) prohibitions (called the “take prohibitions”) to specific activities that take Southern DPS fish or alter its habitat in a manner detrimental to the continued existence of the species. The 4(d) rule would include exceptions to the take prohibitions for activities conducted in

a way that NMFS deems adequate to protect or conserve the Southern DPS.

**Timetable:**

Action	Date	FR Cite
NPRM	12/00/09	
NPRM Comment Period End	01/00/10	

**Regulatory Flexibility Analysis****Required:** Yes

**Agency Contact:** Marta Nammack, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910  
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**RIN:** 0648-AV94**255. RULE TO REVISE LEATHERBACK CRITICAL HABITAT****Legal Authority:** 16 USC 1531 et seq

**Abstract:** The National Marine Fisheries Service, announces a rule to revise leatherback turtle (*Dermochelys coriacea*) critical habitat under the Endangered Species Act of 1973, as amended. The leatherback is currently listed as endangered throughout its range, and critical habitat consists of Sandy Point Beach and adjacent waters, St. Croix, U.S. Virgin Islands. This rule would revise critical habitat to include waters along the U.S. West Coast.

**Timetable:**

Action	Date	FR Cite
NPRM	12/00/09	

**Regulatory Flexibility Analysis****Required:** Yes

**Agency Contact:** Therese Conant, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East West Highway, Silver Spring, MD 20910  
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**RIN:** 0648-AX06

## Department of Commerce (DOC)

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## National Oceanic and Atmospheric Administration (NOAA)

## NATIONAL MARINE FISHERIES SERVICE

## 256. FISHERIES IN THE WESTERN PACIFIC; PELAGIC FISHERIES; SQUID JIG FISHERIES

**Legal Authority:** 16 USC 1801 et seq**Abstract:** This action would designate pelagic squid as a management unit species under the Western Pacific Pelagics Fishery Management Plan, and establish permitting and reporting requirements.**Timetable:**

Action	Date	FR Cite
Notice of Availability	08/11/08	73 FR 46581
NPRM	08/28/08	73 FR 50751
Notice Comment Period End	10/10/08	
NPRM Comment Period End	10/14/08	
Final Action	11/21/08	73 FR 70600
Collection of Information Approval	12/00/09	

**Regulatory Flexibility Analysis****Required:** Yes

**Agency Contact:** Alvin Katekaru, Assistant Regional Administrator, Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Honolulu, HI 96814  
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**RIN:** 0648-AS71

## 257. MODIFYING MAXIMUM RETAINABLE AMOUNTS (MRAS) FOR SELECTED GROUND FISH SPECIES CAUGHT BY THE NON-AMERICAN FISHING ACT TRAWL CATCHER PROCESSOR SECTOR

**Legal Authority:** 16 USC 1801

**Abstract:** The National Marine Fisheries Service issues this action to amend regulations specifying the current interval of time allowed for determining the maximum retainable amount (MRA) of selected groundfish species that can be retained by non-American Fishery Act trawl catcher processors. This action would change MRA regulations located at 50 CFR 679.20(e) that establish the calculation of MRAs for groundfish species that are closed to directed fishing by increasing the interval of time each vessel in this

sector would have to retain the MRA specified in regulation for several species in the Bering Sea and Aleutian Islands. This action is intended to promote the goals and objectives of the Fishery Management Plan (FMP) for Groundfish of the Bering Sea and Aleutian Islands Management Area.

**Timetable:**

Action	Date	FR Cite
NPRM	02/13/09	74 FR 7209
NPRM Comment Period End	03/16/09	
Final Rule	12/00/09	

**Regulatory Flexibility Analysis****Required:** Yes

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**RIN:** 0648-AV32

## 258. CERTIFICATION OF NATIONS WHOSE FISHING VESSELS ARE ENGAGED IN ILLEGAL, UNREPORTED OR UNREGULATED FISHING OR BYCATCH OF PROTECTED LIVING MARINE RESOURCES

**Regulatory Plan:** This entry is Seq. No. 34 in part II of this issue of the **Federal Register**.

**RIN:** 0648-AV51

## 259. MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT REAUTHORIZATION ACT (MSRA) ENVIRONMENTAL REVIEW PROCEDURE

**Legal Authority:** 16 USC 1801

**Abstract:** Section 107 of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (MSRA) (P.L. 109-479) requires NOAA Fisheries to revise and update agency procedures for complying with the National Environmental Policy Act (NEPA) in context of fishery management actions. It further requires that NOAA Fisheries consult with the Council on Environmental Quality (CEQ) and the Regional Fishery Management Councils (Councils), and involve the public in the development of the revised procedures. The MSRA provides that the resulting procedures

will be the sole environmental impact assessment procedure for fishery management actions, and that they must conform to the time lines for review and approval of fishery management plans and plan amendments. They must also integrate applicable environmental analytical procedures, including the time frames for public input, with the procedure for the preparation and dissemination of fishery management plans, plan amendments and other actions taken or approved pursuant to this Act in order to provide for timely, clear and concise analysis that is useful to decision makers and the public, reduce extraneous paperwork, and effectively involve the public.

NOAA Fisheries is currently consulting with the councils, the public and CEQ to develop a proposed procedure.

**Timetable:**

Action	Date	FR Cite
NPRM	05/14/08	73 FR 27998
NPRM Comment Period End	06/13/08	
Final Action	12/00/09	

**Regulatory Flexibility Analysis****Required:** Yes

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**RIN:** 0648-AV53

## 260. INITIAL IMPLEMENTATION OF THE WESTERN AND CENTRAL PACIFIC FISHERIES CONVENTION IMPLEMENTATION ACT

**Legal Authority:** 44 USC 3501 et seq; PL 109-479

**Abstract:** This action will implement, in part, the Western and Central Pacific Fisheries Convention (WCPFC) Implementation Act, which authorizes the Secretary of Commerce to promulgate regulations needed to carry out the obligations of the United States under the WCPFC. The action will include regulations applicable to owners and operators of U.S. vessels used to fish for highly migratory fish stocks in the western and central Pacific ocean, possibly including requirements to, among others, obtain authorization to fish, carry position-fixing transmitters as part of a vessel

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monitoring system, accommodate observers from a regional observer program, report fishing activity, accept boarding and inspection by authorized inspectors of other members of the Commission, and to prohibit transshipping at sea from purse seine vessels.

**Timetable:**

Action	Date	FR Cite
NPRM	05/22/09	74 FR 23965
NPRM Comment Period End	06/22/09	
Final Rule	12/00/09	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Dr. Charles Karnella, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814–4700  
Phone: 808 973–2985  
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**RIN:** 0648–AV63

### 261. AMENDMENT 15B TO THE SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL SNAPPER GROUPEL FISHERY MANAGEMENT PLAN

**Legal Authority:** 16 USC 1801

**Abstract:** Amendment 15B would assess the practicability of prohibiting the sale of recreationally caught fish; assess the practicability of changes to the renewal period on commercial snapper grouper permits; assess the practicability of allowing one-to-one transfers of commercial permits from an individual to a family-held corporation; implement a plan to monitor and assess bycatch; implement measures to minimize the impacts of incidental take on sea turtles and smalltooth sawfish; update management reference points for golden tilefish; and define allocation for snowy grouper and black sea bass.

**Timetable:**

Action	Date	FR Cite
Notice of Availability	06/04/09	74 FR 26827
NPRM	06/30/09	74 FR 31225
Notice of Availability Comment Period End	08/03/09	
NPRM Comment Period End	08/04/09	
Final Action	12/00/09	

**Regulatory Flexibility Analysis Required:** Yes

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**RIN:** 0648–AW12

### 262. REVISE REGULATIONS GOVERNING THE NORTH PACIFIC GROUND FISH OBSERVER PROGRAM

**Legal Authority:** 118 Stat 110; 16 USC 773 et seq; 16 USC 1801 et seq; 16 USC 3631 et seq; PL 108–199

**Abstract:** This rulemaking would revise Federal regulations relevant to numerous administrative and procedural requirements applicable to observer providers, observers, and industry participating in the North Pacific Groundfish Observer Program. Specifically, this action would: Modify the current permit issuance process so that observer and observer provider permit issuance is a discretionary National Marine Fisheries Service (NMFS) decision; amend current Federal regulations addressing observer behavior involving drugs, alcohol, and physical sexual conduct to remove NMFS oversight of observer behavior that does not affect job performance; require that observer providers submit policies related to these activities and continue to notify NMFS upon learning of an incident; revise Federal regulations so that observer providers are allowed to provide observers or technical staff for purposes of exempted fishing permits, scientific research permits, or other scientific research activities; revise the definition of “fishing day” in Federal regulations; require observer providers to annually submit detailed economic information to NMFS; specify a date by which observers who have collected data in the previous fishing year would be required to be available for debriefing; and implement housekeeping issues related to errors or clarifications in existing regulations at 50 CFR 679.50.

**Timetable:**

Action	Date	FR Cite
NPRM	09/30/09	74 FR 50155

Action	Date	FR Cite
NPRM Comment Period End	10/30/09	
Final Action	12/00/09	

**Regulatory Flexibility Analysis Required:** Yes

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**RIN:** 0648–AW24

### 263. FISHERIES IN THE WESTERN PACIFIC; WESTERN PACIFIC PELAGIC FISHERIES; AMENDMENT 18 TO THE PELAGICS FISHERY MANAGEMENT PLAN; SHALLOW-SET LONGLINE SWORDFISH FISHERY

**Legal Authority:** 16 USC 1801

**Abstract:** Amendment 18 would remove the annual limit on the number of fishing gear deployments (sets) for the Hawaii-based pelagic longline fishery. The amendment would also revise the current maximum limit on the number of physical interactions that occur annually between loggerhead sea turtles and vessels registered for use under Hawaii longline limited access permits while shallow-setting. Other measures currently applicable to the fishery would remain unchanged. Amendment 18 is intended to increase opportunities for the shallow-set fishery to sustainably harvest swordfish and other fish species, without jeopardizing the continued existence of sea turtles and other protected resources.

**Timetable:**

Action	Date	FR Cite
Notice of Availability	03/18/09	74 FR 11518
Notice of Availability Comment Period End	05/18/09	
NPRM	06/19/09	74 FR 29158
NPRM Comment Period End	08/03/09	
Final Rule	12/00/09	

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Alvin Katekaru, Assistant Regional Administrator, Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, 1601

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RIN: 0648-AW49

**264. ATLANTIC HIGHLY MIGRATORY SPECIES; ATLANTIC SHARK MANAGEMENT MEASURES**

**Legal Authority:** 16 USC 1801 et seq

**Abstract:** This rule would evaluate the management measures for small coastal sharks (SCS) based on the results of the 2007 SCS stock assessment. This rulemaking could consider, among other things, commercial quotas and trip limits, recreational minimum size and bag limits, time/area closures, and the public display quota. In addition, this rule would implement a rebuilding plan for blacknose sharks. To the extent that blacknose sharks are caught in fisheries that are not targeted highly migratory species fisheries, the National Marine Fisheries Service (NMFS) will work with the appropriate Regional Fishery Management Council, Interstate Commission, and States to implement regulations through their processes to rebuild blacknose sharks. This action is necessary in light of recent stock assessments, which have determined that blacknose sharks are overfished with overfishing occurring. As needed, this rule may include others items to clarify existing regulations.

**Timetable:**

Action	Date	FR Cite
Notice of Intent	05/07/08	73 FR 25665
Notice of Scoping Meetings and Extension of Comment Period	07/02/08	73 FR 37932
Notice of Intent Comment Period End	08/05/08	
Notice of Intent Comment Period Extended—Second Extension	10/29/08	73 FR 64307
Notice of Intent Comment Period Extension End	10/31/08	
Second Extension Comment Period End	11/14/08	
NPRM	07/24/09	74 FR 36892
NPRM Comment Period End	09/22/09	
NPRM Comment Period Extended	08/10/09	74 FR 39914

Action	Date	FR Cite
NPRM Comment Period Extended	09/25/09	
Final Action	12/00/09	

**Regulatory Flexibility Analysis Required:** Yes

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RIN: 0648-AW65

**265. HALIBUT CHARTER VESSEL MORATORIUM**

**Legal Authority:** 16 USC 773 to 773k

**Abstract:** This action would implement a moratorium on the entry of additional charter vessels into the guided sport fishery for Pacific halibut in waters of International Pacific Halibut Commission regulatory areas 2C (Southeast Alaska) and 3A (Central Gulf of Alaska). If approved, this moratorium would limit the number of charter vessels that may participate in the guided sport fishery for halibut in these areas. NMFS would issue a moratorium permit to a licensed charter vessel fishing business owner based on his or her past participation in the charter vessel fishery for halibut and to a Community Quota Entity representing specific rural communities. All moratorium permit holders would be subject to limits on the number of permits they could hold and on the number of charter vessel anglers who could catch and retain halibut on the permitted charter vessel. This action is proposed to achieve the halibut fishery management goals of the North Pacific Fishery Management Council. The intended effect is to curtail growth of fishing capacity in the guided sport fishery for halibut.

**Timetable:**

Action	Date	FR Cite
NPRM	04/21/09	74 FR 18178
NPRM Comment Period End	06/05/09	
Final Rule	12/00/09	

**Regulatory Flexibility Analysis Required:** Yes

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RIN: 0648-AW92

**266. ATLANTIC HIGHLY MIGRATORY SPECIES; 2009 NORTH AND SOUTH ATLANTIC COMMERCIAL QUOTAS**

**Legal Authority:** 16 USC 1801 et seq

**Abstract:** This rule would establish the 2009 fishing season quotas for North and South Atlantic swordfish based on recent updated landings information and recommendations from the 2008 annual meeting of the International Commission for the Conservation of Atlantic Tunas (ICCAT). This rule is necessary to ensure that current swordfish quotas account for underharvests and reserve transfer from the 2008 fishing year, consistent with regulations at 50 CFR part 635 and ICCAT recommendations that establish the U.S. North and South Atlantic swordfish allocations. This proposed rule may also include other minor regulatory clarifications.

**Timetable:**

Action	Date	FR Cite
NPRM	08/05/09	74 FR 39032
NPRM Comment Period End	09/04/09	
Final Rule	12/00/09	

**Regulatory Flexibility Analysis Required:** Yes

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RIN: 0648-AX07

**267. AMENDMENT 29 TO THE FISHERY MANAGEMENT PLAN FOR REEF FISH RESOURCES OF THE GULF OF MEXICO**

**Legal Authority:** 16 USC 1801

**Abstract:** Grouper and tilefish species in the Gulf of Mexico are managed

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under the reef fish fishery management plan. Past management practices under the plan have contributed to overcapitalization in these fisheries, which the Council now seeks to address. The amendment creates an individual fishing quota (IFQ) program to further control effort in the commercial grouper and tilefish fisheries in the Gulf of Mexico. The IFQ program was supported by over 80% of all eligible fishermen voting in a referendum for the IFQ program. The proposed rule would implement the IFQ program, establish design elements for the program, and allow consolidation of commercial permit landings history through permit stacking.

**Timetable:**

Action	Date	FR Cite
NPRM	04/30/09	74 FR 20134
NPRM Comment Period End	06/15/09	
Final Action	08/31/09	74 FR 44732
Final Action Effective	09/30/09	
Final Action— Correction	12/00/09	

**Regulatory Flexibility Analysis****Required:** Yes

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**RIN:** 0648-AX39

### 268. WESTERN AND CENTRAL PACIFIC FISHERIES FOR HIGHLY MIGRATORY SPECIES; IMPLEMENTATION OF THE LONGLINE CATCH LIMITS ADOPTED AT THE FIFTH SESSION OF THE WESTERN AND CENTRAL PACIFIC FISHERIES COMMISSION

**Legal Authority:** 16 USC 6901 et seq

**Abstract:** This rule would implement the decisions adopted at the Fifth Session of the Western and Central Pacific Fisheries Commission (Commission) to reduce or otherwise control the fishing mortality rate from longline fishing of bigeye tuna and potentially other highly migratory fish species in the Western and Central Pacific Ocean. Pursuant to the Western and Central Pacific Fisheries

Convention Implementation Act, the Secretary of Commerce is authorized to implement regulations to carry out the obligations of the United States under the Western and Central Pacific Fisheries Convention (Convention), including the implementation of Commission decisions. At its Fifth Regular Session, in December 2008, the Commission adopted specific catch limits in longline fisheries for certain highly migratory fish species in the Convention's area of application for 2009, 2010, and 2011. This rule would fulfill the international obligations of the United States regarding these catch limits. Moreover, this rule could establish a framework for implementing future Commission decisions of a similar nature.

**Timetable:**

Action	Date	FR Cite
NPRM	07/08/09	74 FR 32521
NPRM Comment Period End	08/07/09	
Final Action	12/00/09	

**Regulatory Flexibility Analysis****Required:** Yes

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**RIN:** 0648-AX59

### 269. ● SNAPPER-GROUPER FISHERY MANAGEMENT PLAN OF THE SOUTH ATLANTIC

**Legal Authority:** 16 USC 1801

**Abstract:** On March 23, 2009, the South Atlantic Fishery Management Council requested NOAA Fisheries Service to implement a prohibition on the harvest of red snapper for 180 days to address overfishing of red snapper, through interim measures.

**Timetable:**

Action	Date	FR Cite
Interim Final Rule	07/06/09	74 FR 31906
Interim Final Rule Comment Period End	08/05/09	
Final Action	12/00/09	

**Regulatory Flexibility Analysis****Required:** Yes

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**RIN:** 0648-AX75

### 270. ● AMENDMENT 10 TO THE ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FISHERY MANAGEMENT PLAN

**Legal Authority:** 16 USC 1801 et seq

**Abstract:** The purpose of Amendment 10 is to: (1) Develop a rebuilding program that allows the butterfish stock to rebuild in the shortest amount of time possible (but not to exceed ten years) and permanently protects the long-term health and stability of the rebuilt stock; (2) minimize bycatch and the fishing mortality of unavoidable bycatch, to the extent practicable, in MSB fisheries; and (3) minimize the race to fish and promote efficient use of fishing capital in Loligo and Illex fisheries while providing a means for the industry to proactively engage in resource governance and to provide greater flexibility in developing management measures that fit localized needs through the development of sectors in the Loligo and Illex fisheries.

**Timetable:**

Action	Date	FR Cite
Notice of Availability	07/13/09	74 FR 40812
NPRM	09/03/09	74 FR 45597
NPRM Comment Period End	10/19/09	
Final Action	12/00/09	

**Regulatory Flexibility Analysis****Required:** Yes

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**RIN:** 0648-AY00

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**271. PROVIDE REGULATIONS FOR PERMITS FOR CAPTURE, TRANSPORT, IMPORT, AND EXPORT OF PROTECTED SPECIES FOR PUBLIC DISPLAY, AND FOR MAINTAINING A CAPTIVE MARINE MAMMAL INVENTORY**

**Legal Authority:** 16 USC 1372(c)  
**Abstract:** This rule will revise and simplify criteria and procedures specific to permits for taking, transporting, importing, and exporting protected species for public display and provide convenient formats for reporting marine mammal captive holdings and transports as required by amendments made in 1994 to the Marine Mammal Protection Act.

**Timetable:**

Action	Date	FR Cite
NPRM	07/03/01	66 FR 35209
NPRM Comment Period Extended	08/22/01	66 FR 44109
NPRM Comment Period End	09/04/01	
Comment Period Extended	11/02/01	
Final Action	12/00/09	

**Regulatory Flexibility Analysis Required:** Yes

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**RIN:** 0648-AH26

**272. • TAKING OF MARINE MAMMALS INCIDENTAL TO SPECIFIED ACTIVITIES; TAKING MARINE MAMMALS INCIDENTAL TO TRAINING OPERATIONS CONDUCTED WITHIN THE GULF OF MEXICO RANGE COMPLEX**

**Legal Authority:** 16 USC 1361 et seq  
**Abstract:** NMFS has received requests from the U.S. Navy (Navy) for authorizations for the take of marine mammals incidental to training and operational activities conducted by the Navy's Atlantic Fleet within Gulf of Mexico (GOMEX) Range Complex for the period beginning December 3, 2009

and ending December 2, 2014. Pursuant to the implementing regulations of the Marine Mammal Protection Act (MMPA), NMFS is proposing regulations to govern that take and requesting information, suggestions, and comments on these proposed regulations.

**Timetable:**

Action	Date	FR Cite
NPRM	07/14/09	74 FR 33960
NPRM Comment Period End	08/13/09	
Final Action	01/00/10	

**Regulatory Flexibility Analysis Required:** Yes

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**RIN:** 0648-AX86

**Department of Commerce (DOC)  
 National Oceanic and Atmospheric Administration (NOAA)**

**Long-Term Actions**

**NATIONAL MARINE FISHERIES SERVICE**

**273. FISHERY MANAGEMENT PLAN FOR REGULATING OFFSHORE MARINE AQUACULTURE IN THE GULF OF MEXICO**

**Legal Authority:** 16 USC 1801 et seq  
**Abstract:** The purpose of the amendment is to develop a regulatory permitting process for regulating and promoting environmentally sound and economically sustainable aquaculture in the Gulf Exclusive Economic Zone.

Management actions include: (1) Types of aquaculture permits required; (2) duration aquaculture permits are effective; (3) conditions for permit issuance; (4) species allowed for aquaculture; (5) allowable aquaculture systems; (6) siting requirements and conditions; (7) restricted access zones for aquaculture facilities; (8) recordkeeping and reporting requirements; and (9) biological reference points and status determination criteria; and (10) framework procedures for modifying status determination criteria and regulatory measures.

**Timetable:**

Action	Date	FR Cite
Notice of Availability	06/04/09	74 FR 26829
Notice of Availability Comment Period End	08/03/09	
NPRM	To Be Determined	

**Regulatory Flexibility Analysis Required:** Yes

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**RIN:** 0648-AS65

**Department of Commerce (DOC)  
 National Oceanic and Atmospheric Administration (NOAA)**

**Completed Actions**

**274. AMENDMENT 1 TO THE FISHERY MANAGEMENT PLAN FOR THE TILEFISH FISHERY**

**Legal Authority:** 16 USC 1801 et seq  
**Abstract:** Amendment 1 to the Fishery Management Plan for the Tilefish

Fishery would implement Individual Fishing Quotas in the tilefish fishery.

**Timetable:**

Action	Date	FR Cite
Notice of Availability	05/04/09	74 FR 20448
NPRM	05/18/09	74 FR 23147

Action	Date	FR Cite
NPRM Comment Period End	07/02/09	
Notice of Availability Comment Period End	07/06/09	
Final Action	08/24/09	74 FR 42580



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## Completed Actions

**Regulatory Flexibility Analysis****Required:** Yes

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**RIN:** 0648-AS25**275. ATLANTIC HIGHLY MIGRATORY SPECIES (HMS); REDUCING SEA TURTLE TAKES****Legal Authority:** 16 USC 971; 16 USC 1801 et seq

**Abstract:** This action would amend the regulations governing the Atlantic pelagic longline fishery based upon a June 1, 2004, Biological Opinion regarding Atlantic sea turtles. This amendment could include framework mechanisms that would allow the Agency to take action, such as partial or rolling closures or gear or effort restrictions, if the number of sea turtle interactions or mortalities exceed anticipated levels during a certain period of time. This action would not change established quotas for target species.

**Timetable:**

Action	Date	FR Cite
ANPRM	08/12/04	69 FR 49858
ANPRM Comment Period End	10/12/04	
Withdrawn	07/29/09	

**Regulatory Flexibility Analysis****Required:** Yes

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**RIN:** 0648-AS49**276. AMENDMENT 10 TO THE ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FISHERY MANAGEMENT PLAN****Timetable:**

Action	Date	FR Cite
Duplicate of 0648-AY00	08/13/09	

**RIN:** 0648-AT58**277. AMERICAN LOBSTER DATA COLLECTION AND BROODSTOCK PROTECTION MEASURES****Legal Authority:** 16 USC 5101 et seq

**Abstract:** NMFS is considering the implementation of management measures in the Federal lobster fishery, consistent with recommendations for Federal action as specified in the Atlantic States Marine Fisheries Commission's Interstate Fishery Management Plan for American Lobster. These proposed management measures include: 100 percent mandatory dealer reporting requirements for Federal lobster dealers; implementation of a maximum size limit (maximum carapace length restriction) in several Lobster Management Areas (LMA); and, revision to the definition of a V-notch for protection of egg-bearing female lobsters in several LMAs in the Federal American lobster fishery.

**Timetable:**

Action	Date	FR Cite
ANPRM	09/19/07	72 FR 53978
ANPRM Comment Period End	10/22/07	
NPRM	10/06/08	73 FR 58099
NPRM Comment Period End	11/20/08	
Final Rule	07/29/09	74 FR 37530

**Regulatory Flexibility Analysis****Required:** Yes

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**RIN:** 0648-AV77**278. AMENDMENT 7 TO THE SOUTH ATLANTIC SHRIMP FISHERY MANAGEMENT PLAN****Legal Authority:** 16 USC 1801 et seq

**Abstract:** The South Atlantic Fishery Management Council is proposing to take action to maintain a viable rock shrimp fishery in the South Atlantic region. Actions in the amendment would: (1) Remove the 15,000-pound landing requirement; (2) reinstate all endorsements lost due to not meeting the landing requirement in one of four consecutive calendar years; (3) reinstate limited access endorsements for vessel owners who renewed their open access permit in the year in which they failed to renew their limited access endorsement; (4) rename the limited access endorsement and the open access permit of the existing permit system to reduce confusion; and (5) require all South Atlantic shrimp permit holders to provide economic data if selected.

**Timetable:**

Action	Date	FR Cite
Notice of Availability NPRM	06/01/09	74 FR 26170
NPRM Comment Period End	06/24/09	74 FR 30034
Notice of Availability Comment Period End	07/24/09	
Final Action	07/31/09	
	10/01/09	74 FR 50699

**Regulatory Flexibility Analysis****Required:** Yes

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**RIN:** 0648-AW19**279. FISHERIES OFF WEST COAST STATES; HIGHLY MIGRATORY SPECIES FISHERIES****Legal Authority:** 16 USC 1801

**Abstract:** This action will establish the authority to collect permit fees under the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species. This rule will amend the FMP regulations under 50 CFR 660.707 to establish a permit fee collection framework for HMS

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commercial and recreational charter vessels operating off the West Coast. The action is consistent with and implements elements of the NMFS Permit Fee National Policy Directive 30-120.

**Timetable:**

Action	Date	FR Cite
NPRM	12/19/08	73 FR 77589
NPRM Comment Period End	01/20/09	
Final Action	07/28/09	74 FR 37177
Final Action Effective	08/27/09	

**Regulatory Flexibility Analysis**

**Required:** Yes

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**RIN:** 0648-AW50

### 280. FISHERIES IN THE WESTERN PACIFIC; COMPENSATION TO NORTHWESTERN HAWAIIAN ISLANDS BOTTOMFISH AND LOBSTER FISHERMEN DUE TO FISHERY CLOSURE IN THE PAPAHAUUMOKUAKEA MARINE NATIONAL MONUMENT

**Legal Authority:** PL 110-161

**Abstract:** The Consolidated Appropriations Act of 2008 authorizes the Secretary of Commerce to provide compensation to bottomfish and lobster fishery participants who will be displaced by the 2011 fishery closure resulting from the establishment by Presidential Proclamation of the Papahānaumokuākea Marine National Monument, Northwestern Hawaiian Islands. The National Marine Fisheries Service (NMFS) (designee of the Secretary) is required to promulgate regulations to implement a voluntary capacity reduction program that: (1) Identifies eligible participants as those individuals holding Federal fishing permits for lobster or bottomfish in the designated waters within the monument; (2) provides a mechanism to compensate eligible participants for no more than the economic value of their permits; and (3) at the option of each eligible permit holder, provides an optional mechanism for additional

compensation based on the value of the fishing vessel and gear of eligible participants who decide to receive these additional funds, provided that the vessels of such participants will not be used for fishing. For this purpose, \$6,697,500 is authorized to be appropriated to the NMFS.

**Timetable:**

Action	Date	FR Cite
NPRM	04/07/09	74 FR 15685
NPRM Comment Period End	05/04/09	
Final Action	09/15/09	74 FR 47119

**Regulatory Flexibility Analysis**

**Required:** Yes

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**RIN:** 0648-AW52

### 281. AMENDMENT 16 TO THE FISHERY MANAGEMENT PLAN FOR THE SNAPPER GROUPER FISHERY OF THE SOUTH ATLANTIC REGION

**Legal Authority:** 16 USC 1801

**Abstract:** The need for action through Amendment 16 is to end overfishing of gag and vermilion snapper. Species in the fishery management unit are assessed on a routine basis and stock status may change as new information becomes available. In addition, changes in management regulations, fishing techniques, and social/economic structure can result in shifts in the percentage of harvest between user groups over time. These amendments to the regulations for gag and vermilion snapper would: implement measures to end overfishing of gag and vermilion snapper; allow the Regional Administrator to make adjustments to commercial and recreational management measures based on the reduction in harvest needed to achieve yield at Foy pending the outcome of a new benchmark assessment for vermilion snapper; specify the total allowable catch and define interim allocations for gag and vermilion snapper; update management reference points for gag and vermilion snapper;

and reduce bycatch of snapper grouper species.

**Timetable:**

Action	Date	FR Cite
Notice of Availability NPRM	12/24/08	73 FR 79037
Notice of Availability Comment Period End	02/06/09	74 FR 6257
NPRM Comment Period End	02/23/09	
NPRM Comment Period End	03/09/09	
Final Action	06/29/09	74 FR 30964
Final Action Effective	07/29/09	

**Regulatory Flexibility Analysis**

**Required:** Yes

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**RIN:** 0648-AW64

### 282. AMENDMENT 27 TO THE FISHERY MANAGEMENT PLAN FOR BERING SEA/ALEUTIAN ISLANDS KING AND TANNER CRABS

**Legal Authority:** 16 USC 1801 et seq

**Abstract:** Amendment 27 to the Fishery Management Plan (FMP) would amend the FMP to allow processors to modify use caps that limit the amount of individual processor quota (IPQ) shares that may be used by persons processing crab. Specifically, Amendment 27 would allow persons holding IPQ shares to process their crab at processing facilities they do not own through contractual arrangements with the facility owners to have their crab custom processed at that facility. Any crab processed under such a custom processing arrangement would not be applied against the IPQ use cap of the facility owners. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and other applicable law.

**Timetable:**

Action	Date	FR Cite
NPRM	09/19/08	73 FR 54346
NPRM Comment Period End	11/03/08	
Final Rule	05/28/09	74 FR 25449
Final Action Effective	06/29/09	

## DOC—NOAA

## Completed Actions

**Regulatory Flexibility Analysis****Required:** Yes

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**RIN:** 0648-AW73**283. AMENDMENT 28 TO THE FISHERY MANAGEMENT PLAN FOR BERING SEA AND ALEUTIAN ISLANDS KING AND TANNER CRAB****Legal Authority:** 16 USC 1862; PL 109-241; PL 109-479

**Abstract:** This action would implement Amendment 28 to the Fishery Management Plan for Bering Sea and Aleutian Islands King and Tanner Crabs to allow unlimited post-delivery transfers of shares to cover overages within the crab fishing year ending June 30. Under the crab rationalization program, harvesters receive annual allocations of individual fishing quota that provide an exclusive privilege to harvest a specific number of pounds of crab from a fishery. Any harvest in excess of an individual fishing quota allocation is a regulatory violation punishable by confiscation of crab or other penalties. Precisely estimating of catch at sea during the fishery is difficult and costly due to variation in size of crab, and sorting and measurement requirements. Overages can result from inadvertent mistakes by participants attempting to accurately estimate catch. A provision allowing for post-delivery transfer of individual fishing quota to cover overages could reduce the number of inadvertent violations, allowing for more complete harvest of allocations, and reduce enforcement costs without increasing the risk of overharvest of allocations.

**Timetable:**

Action	Date	FR Cite
Notice of Availability	11/25/08	73 FR 71598
NPRM	12/12/08	73 FR 75661
Notice of Availability Comment Period End	12/25/08	
NPRM Comment Period End	01/26/09	
Final Action	08/14/09	74 FR 41092
Final Action Effective	09/14/09	

**Regulatory Flexibility Analysis****Required:** Yes

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**RIN:** 0648-AW97**284. ATLANTIC HIGHLY MIGRATORY SPECIES (HMS); 2009 ATLANTIC BLUEFIN TUNA QUOTA SPECIFICATIONS AND MANAGEMENT MEASURES****Legal Authority:** 16 USC 971 et seq; 16 USC 1801 et seq

**Abstract:** This rule would set Atlantic bluefin tuna (BFT) quota specifications and seasonal management measures for the 2009 fishing year (January 1, 2009-December 31, 2009), and amend the BFT regulations. This action would implement the U.S. annual BFT quota as recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) and allocate that quota among the domestic fishing categories. The seasonal management measures would set daily retention limits and their duration for both the General and Angling categories. The annual specification process is set forth in current regulations implemented under the Consolidated Highly Migratory Species Fishery Management Plan. Other BFT regulatory amendments would be made within the framework procedures of the FMP.

**Timetable:**

Action	Date	FR Cite
NPRM	02/18/09	74 FR 7577
NPRM Comment Period End	03/20/09	
Final Rule	06/01/09	74 FR 26110
Correction	06/17/09	74 FR 28635

**Regulatory Flexibility Analysis****Required:** Yes

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**RIN:** 0648-AX12**285. AMENDMENT 92 TO THE FISHERY MANAGEMENT PLAN FOR BERING SEA/ALEUTIAN ISLANDS GROUND FISH AND AMENDMENT 82 TO THE FISHERY MANAGEMENT PLAN FOR GULF OF ALASKA GROUND FISH****Legal Authority:** 16 USC 1801 et seq

**Abstract:** Amendments 92/82 would remove trawl gear endorsements on licenses issued under the license limitation program in specific management areas if those licenses have not been used on vessels that meet minimum recent landing requirements using trawl gear. This action would provide exemptions to this requirement for licenses that are used in trawl fisheries subject to quota-based management. This action would issue new area endorsements for trawl catcher vessels in the Aleutian Islands if minimum recent landing requirements in the Aleutian Islands were met. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMPs, and other applicable law.

**Timetable:**

Action	Date	FR Cite
Notice of Availability of Fishery Management Plan	12/12/08	73 FR 75659
NPRM	12/30/08	73 FR 79773
Notice of Availability Comment Period End	02/10/09	
NPRM Comment Period End	02/13/09	
Final Action	08/14/09	74 FR 41080

**Regulatory Flexibility Analysis****Required:** Yes

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**RIN:** 0648-AX14

## DOC—NOAA

## Completed Actions

**286. ONE-FISH DAILY BAG LIMIT FOR THE GUIDED SPORT CHARTER VESSEL FISHERY FOR HALIBUT IN REGULATORY AREA 2C****Legal Authority:** 16 USC 773 to 773K**Abstract:** The regulatory action would implement a one-fish daily bag limit to reduce the charter halibut fishery harvest in Area 2C to the guideline harvest limit.**Timetable:**

Action	Date	FR Cite
NPRM	12/22/08	73 FR 78276
NPRM Comment Period End	01/21/09	
Final Rule	05/06/09	74 FR 21194
Final Rule Effective	06/05/09	

**Regulatory Flexibility Analysis****Required:** Yes**Agency Contact:** Robert D. Mecum, Acting Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802  
Phone: 907 586-7221  
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Email: doug.mecum@noaa.gov**RIN:** 0648-AX17**287. AMENDMENT 90 TO THE FISHERY MANAGEMENT PLAN FOR BERING SEA/ALEUTIAN ISLANDS GROUND FISH AND AMENDMENT 78 TO THE FISHERY MANAGEMENT PLAN FOR GULF OF ALASKA GROUND FISH****Legal Authority:** 16 USC 1801 et seq**Abstract:** Amendments 90/78 would allow post-delivery transfers of cooperative quota to cover overages in the Amendment 80 Program and the Central Gulf of Alaska Rockfish Program. This action is necessary to mitigate potential overages, reduce enforcement costs, and provide for more precise total allowable catch management. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMPs, and other applicable law.**Timetable:**

Action	Date	FR Cite
NPRM	01/05/09	74 FR 254
NPRM Comment Period End	02/19/09	
Final Action	08/21/09	74 FR 42178
Final Action Effective	09/21/09	

**Regulatory Flexibility Analysis****Required:** Yes**Agency Contact:** James Balsiger, Department of Commerce, National Oceanic and Atmospheric Administration, 709 West Ninth Street, Juneau, AK 99801  
Phone: 907 586-7221  
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Email: jim.balisger@noaa.gov**RIN:** 0648-AX25**288. AMENDMENT 85 TO THE FISHERY MANAGEMENT PLAN FOR GROUND FISH OF THE GULF OF ALASKA****Legal Authority:** 16 USC 1801; 16 USC 3631; 16 USC 773; PL 108-199; PL 109-479**Abstract:** Amendment 85 to the FMP would remove a provision that restricts participation of Central Gulf of Alaska Rockfish Program catcher processors (CPs) in Bering Sea and Aleutian Islands (BSAI) groundfish fisheries. The participation restriction was developed to prevent rockfish program CPs from unfairly benefiting from their rockfish harvesting privileges by increasing effort in BSAI fisheries that remained subject to a race for fish. Since the implementation of the rockfish program, most BSAI groundfish target species have been allocated among participating sectors, and most CPs in the rockfish program received exclusive privileges for harvesting these BSAI species. Consequently, the July stand down may no longer be required as a protection measure for other BSAI participants and its removal would enable the rockfish program CPs to more efficiently manage their harvesting activities. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and other applicable law.**Timetable:**

Action	Date	FR Cite
Notice of Availability	03/24/09	74 FR 12300
NPRM	04/06/09	74 FR 15420
Comment Period Extension	05/13/09	74 FR 22507
NPRM Comment Period End	05/21/09	
Notice of Availability Comment Period End	05/26/09	
Final Action	11/03/09	74 FR 56728
Final Rule Effective	12/04/09	

**Regulatory Flexibility Analysis****Required:** Yes**Agency Contact:** Robert D. Mecum, Acting Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802  
Phone: 907 586-7221  
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Email: doug.mecum@noaa.gov**RIN:** 0648-AX42**289. 2009 ATLANTIC BLUEFISH SPECIFICATIONS****Legal Authority:** 16 USC 1801**Abstract:** The Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission manage the Atlantic bluefish fishery jointly through the Atlantic Bluefish Fishery Management Plan (FMP). The FMP includes a specification process that requires the Council to recommend, on an annual basis, a total allowable catch (TAC) and total allowable landings (TAL) that are consistent with the stock rebuilding program. The TAL is composed of a commercial quota (allocated to the states from Maine to Florida in specified shares) and a coastwide recreational harvest limit. The Council may also specify a research set-aside (RSA) quota. The FMP also requires the Council to recommend annual fishing measures, such as possession limits, to assure that the recommended quotas will not be exceeded. The Council has submitted proposed specifications for the 2009 Atlantic bluefish fishery. In summary, the specifications propose: (1) A TAC for bluefish of 34.081 million lb (an increase from 31.887 million lb in 2008); (2) an overall TAL of 29.356 million lb (an increase from 28.156 million lb in 2008); (3) zero transfer from the recreational sector to the commercial sector, to achieve a commercial quota of 4.991 million lb (a reduction from 7.692 million lb in 2008) and a recreational harvest limit of 24.366 million lb (an increase from 20.415 million lb in 2008); (4) an RSA quota of 97,750 lb (would further reduce quota and limit above); and (5) a recreational possession limit of 15 fish.**Timetable:**

Action	Date	FR Cite
NPRM	03/02/09	74 FR 9072

## DOC—NOAA

## Completed Actions

Action	Date	FR Cite
NPRM Comment Period End	03/17/09	
Final Action	05/04/09	74 FR 20423
Final Action Effective	06/03/09	

**Regulatory Flexibility Analysis****Required:** Yes

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**RIN:** 0648-AX49**290. DEFINITION OF U.S. CITIZEN****Legal Authority:** 16 USC 1801 et seq

**Abstract:** The current definition of "U.S. Citizen" at 50 CFR 679.2 is critical for permits and licenses, some of which are intended to be issued only to, and held only by, persons who are U.S. citizens. The current definition for general applicability refers only to individual persons and lacks reference to non-individuals, such as corporations, partnerships, or associations. For consistency and to avoid confusion among permit applicants, NMFS proposes to revise the definition of U.S. Citizen.

**Timetable:**

Action	Date	FR Cite
NPRM- 6-15-09 Withdraw AKR	06/15/09	

**Regulatory Flexibility Analysis****Required:** Yes

**Agency Contact:** Robert D. Mecum, Acting Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 21668, Juneau, AK 99802  
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**RIN:** 0648-AX52**291. 2009 SPECIFICATIONS AND MANAGEMENT MEASURES FOR THE SPINY DOGFISH FISHERY MANAGEMENT PLAN****Legal Authority:** 16 USC 1801

**Abstract:** This action would set the 2009 fishing year annual quota and

possession limit for the spiny dogfish fishery on the Atlantic coast of the U.S. consistent with the rebuilding program in the Spiny Dogfish Fishery Management Plan (FMP). The quota is divided semi-annually, with quota period 1 (May 1 through October 31) being allocated 57.9% of the annual quota, and quota period 2 (November 1 through April 30) being allocated 42.1%.

**Timetable:**

Action	Date	FR Cite
NPRM	03/19/09	74 FR 11706
NPRM Comment Period End	04/03/09	
Final Action	05/01/09	74 FR 20230

**Regulatory Flexibility Analysis****Required:** Yes

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**RIN:** 0648-AX57**292. WESTERN AND CENTRAL PACIFIC FISHERIES FOR HIGHLY MIGRATORY SPECIES; IMPLEMENTATION OF DECISIONS OF THE FIFTH SESSION OF THE WESTERN AND CENTRAL PACIFIC FISHERIES COMMISSION FOR PURSE SEINE FISHERIES****Legal Authority:** 16 USC 6901 et seq

**Abstract:** This rule would implement the decisions adopted at the Fifth Session of the Western and Central Pacific Fisheries Commission (Commission) to reduce or otherwise control the fishing mortality rate of bigeye tuna and potentially other highly migratory fish species in the Western and Central Pacific Ocean from purse seine and other commercial fishing and to mitigate the impacts of fishing on non-target species such as turtles. Pursuant to the Western and Central Pacific Fisheries Convention Implementation Act, the Secretary of Commerce is authorized to implement regulations to carry out the obligations of the United States under the Western and Central Pacific Fisheries Convention (Convention), including the implementation of Commission decisions. At its Fifth Regular Session, in December 2008, the Commission

adopted specific provisions for purse seine and other commercial fisheries that target highly migratory fish species in the Convention's area of application for 2009, 2010, and 2011. The U.S. implementation of these provisions could include (but is not limited to) the following: (1) time-area closures for fishing on fish aggregating devices; (2) requirements regarding observers on vessels; (3) closure of specific areas of high seas; (4) limits on fishing effort and/or catches; and (5) requirements aimed at reducing the capture, injury, and mortality of sea turtles.

**Timetable:**

Action	Date	FR Cite
NPRM	06/01/09	74 FR 26160
NPRM Comment Period End	06/22/09	
Final Action Effective	08/03/09	
Final Rule	08/04/09	74 FR 38544

**Regulatory Flexibility Analysis****Required:** Yes

**Agency Contact:** Dr. Charles Karnella, Pacific Islands Area Office, Department of Commerce, National Oceanic and Atmospheric Administration, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700  
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**RIN:** 0648-AX60**293. 2009 SUMMER FLOUNDER, SCUP, AND BLACK SEA BASS RECREATIONAL MANAGEMENT MEASURES****Legal Authority:** 16 USC 1801 et seq

**Abstract:** This rulemaking will propose and implement recreational management measures for the summer flounder, scup, and black sea bass 2009 recreational fisheries. The final rule will contain implementing regulations that specify the minimum fish size, possession limit, and fishing season for the three species.

**Timetable:**

Action	Date	FR Cite
NPRM	04/01/09	74 FR 14760
NPRM Comment Period End	05/01/09	
Final Action	06/24/09	74 FR 30002
Final Action Effective	07/24/09	

**Regulatory Flexibility Analysis****Required:** Yes

DOC—NOAA

Completed Actions

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**RIN:** 0648-AX69

**294. REEF FISH AMENDMENT 30B TO THE FISHERY MANAGEMENT PLAN FOR THE REEF FISH RESOURCES OF THE GULF OF MEXICO: MEASURE TO ESTABLISH THE EDGES SEASONAL-AREA CLOSURE**

**Legal Authority:** 16 USC 1801

**Abstract:** The proposed rule for Amendment 30B published on November 18, 2008 (73 FR 68390) and Amendment 30B was approved on January 23, 2009. Unfortunately, the proposed rule contained an error relative to the “The Edges” seasonal-area closure. Rather than just a 4-month closure to all Council managed fishing activity, as supported by Amendment 30B, the codified text would have also established a year-round prohibition on the position of reef fish species in the area. Therefore, this measure was removed from the final rule (RIN 0648-AV80) and a placed in this second rulemaking (RIN 0648-AX73) that would establish “The Edges” seasonal-area closure from January 1 through April 30 consistent with the contents of Amendment 30B.

**Timetable:**

Action	Date	FR Cite
NPRM	04/17/09	74 FR 17812
NPRM Comment Period End	05/04/09	
Final Action	06/24/09	74 FR 30001
Final Action Effective	07/24/09	

**Regulatory Flexibility Analysis Required:** Yes

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 Fax: 727 570-5583  
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**RIN:** 0648-AX73

**295. • ESTABLISH 2009 FISHERY SPECIFICATIONS FOR PACIFIC WHITING; PACIFIC GROUND FISH FISHERY; BIENNIAL SPECIFICATIONS AND MANAGEMENT MEASURES**

**Legal Authority:** 16 USC 1801; 16 USC 7001

**Abstract:** This final rule establishes the 2009 fishery specifications for Pacific whiting in the U.S. exclusive economic zone (EEZ) and state waters off the coasts of Washington, Oregon, and California, as authorized by the Pacific Coast Groundfish Fishery Management Plan (FMP). These specifications include the level of the acceptable biological catch (ABC), optimum yield (OY), and allocations for the non-tribal commercial sectors.

**Timetable:**

Action	Date	FR Cite
Final Action	04/30/09	
Final Specifications	05/05/09	74 FR 20620

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Frank Lockhart, Program Analyst, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way NE., Seattle, WA 98115  
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**RIN:** 0648-AX77

**296. • PACIFIC COAST GROUND FISH INSEASON ACTION FOR MAY 1, 2009**

**Legal Authority:** 16 USC 773 et seq; 16 USC 1801 et seq

**Abstract:** On March 6, 2009, NMFS published a final rule to implement the 2009-2010 West Coast groundfish harvest specifications and management measures (74 FR 9874). This action takes routine and frequent management action to modify harvest specifications and management measures to meet the mandates outlined by the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**Timetable:**

Action	Date	FR Cite
Inseason Action	04/27/09	74 FR 19011

**Regulatory Flexibility Analysis Required:** Yes

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**RIN:** 0648-AX84

**297. • ESTABLISH A CONTROL DATE FOR THE REEF FISH, QUEEN CONCH, AND SPINY LOBSTER FISHERIES OF PUERTO RICO AND THE U.S. VIRGIN ISLANDS**

**Legal Authority:** 16 USC 1801

**Abstract:** The Caribbean Fishery Management Council (Council) voted to establish a control date of March 24, 2009, for the commercial sector of the reef fish, queen conch, and spiny lobster fisheries of Puerto Rico and the U.S. Virgin Islands. This action announces that anyone entering these fisheries after the control date will not be assured of future access should a management regime that limits the number of participants in the fisheries be prepared and implemented. The Council requested that the control date be published in the Federal Register to provide timely notice to the industry.

This action would inform participants in the U.S. Caribbean reef fish, queen conch, and spiny lobster fisheries of the Council’s intentions to consider limiting access within the commercial sector of the U.S. Caribbean reef fish, queen conch, and spiny lobster fisheries. Specifically, the Council may consider requiring a permit to limit fishing in the exclusive economic zone to participants that have catch histories in excess of some minimum landings threshold or who possess a valid Territorial/Commonwealth Permit. Should the Council take future action to restrict participation in the commercial sector of the U.S. Caribbean reef fish, queen conch, or spiny lobster fisheries, it intends to use March 24, 2009, as a possible control date regarding the eligibility of catch histories. This date was announced at the Council’s March 2009 meeting.

**Timetable:**

Action	Date	FR Cite
Final Action	07/08/09	74 FR 32528
Comment Period End	08/07/09	

**Regulatory Flexibility Analysis Required:** Yes

## DOC—NOAA

## Completed Actions

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**RIN:** 0648-AX92

### 298. ATLANTIC PELAGIC LONGLINE TAKE REDUCTION PLAN

**Legal Authority:** 16 USC 1361 et seq

**Abstract:** With this action, the National Marine Fisheries Service implements the Atlantic Pelagic Longline Take Reduction Plan in order to reduce serious injuries and mortalities of long-finned pilot whales, short-finned pilot whales, and Risso's dolphins in the Atlantic pelagic longline fishery to insignificant levels approaching a zero mortality and serious injury rate, within five years of its implementation. The proposed plan is based on consensus recommendations and the draft plan was by the Atlantic Pelagic Longline Take Reduction Team (Team) and includes both regulatory and non-regulatory measures. Regulatory measures include: (1) Limiting the mainline length to 20 nautical miles or less within the Mid-Atlantic Bight; (2) designating a special research area offshore of Cape Hatteras, NC; and (3) requiring all pelagic longline vessels to post an informational placards on careful handling and release of marine mammals in the wheelhouse and working decks of the vessel. Non-regulatory measures of the plan include: (1) Providing for 12-15 percent observer coverage throughout all Atlantic pelagic longline fisheries that interact with pilot whales or Risso's dolphins; (2) encouraging vessel operators throughout the fishery to maintain daily communications with other local vessel captains; (3) updating guidelines for careful handling and release of entangled or hooked marine mammals; and (4) distributing quarterly reports of bycatch of marine mammals in the pelagic longline fishery to the Team.

**Timetable:**

Action	Date	FR Cite
NPRM	06/24/08	73 FR 35623
NPRM Comment Period End	09/22/08	

Action	Date	FR Cite
Final Action	05/19/09	74 FR 23349
Final Rule Effective	06/18/09	

**Regulatory Flexibility Analysis**

**Required:** Yes

**Agency Contact:** Kristy Long, Fisheries Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Room 13738, Silver Spring, MD 20910  
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**RIN:** 0648-AV65

### 299. DESIGNATION OF CRITICAL HABITAT FOR THE ENDANGERED U.S. DISTINCT POPULATION SEGMENT (DPS) OF GUIDED SMALLTOOTH SAWFISH

**Legal Authority:** 16 USC 1531 et seq

**Abstract:** This action would designate critical habitat for the U.S. DPS of smalltooth sawfish, which was listed as endangered on April 1, 2003. The designation would be located in Florida, within the current geographic range of the species. Comments from the public on the proposal, including information on the economic impacts, national security, and other relevant documents, as well as the benefits to the species from the designation will be solicited during a 60-day comment period. A draft economic analysis and section 4(b)(2) report will be conducted in support of this proposed rule.

**Timetable:**

Action	Date	FR Cite
NPRM	11/20/08	73 FR 70290
Notice	12/09/08	73 FR 74681
NPRM Comment Period End	01/20/09	
Reopen Comment Period	03/13/09	
Final Action	09/02/09	74 FR 45353
Final Action Effective	10/02/09	

**Regulatory Flexibility Analysis**

**Required:** Yes

**Agency Contact:** Shelley L. Norton, Smalltooth Sawfish and Johnson's Seagrass Coordinator, Department of Commerce, National Oceanic and Atmospheric Administration, 253 13th Avenue South, St. Petersburg, FL 33701  
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**RIN:** 0648-AV74

### 300. HARBOR PORPOISE TAKE REDUCTION PLAN REGULATIONS

**Legal Authority:** 16 USC 1361 et seq

**Abstract:** The National Marine Fisheries Service is preparing a proposed rule to reduce the number of harbor porpoise taken in sink gillnet fisheries in the Gulf of Maine and Mid-Atlantic. The Harbor Porpoise Take Reduction Plan of 1999 implemented measures to reduce the incidental capture of harbor porpoises in sink gillnets to below the stock's Potential Biological Removal level (PBR). Measures included: management areas in which deterrent devices (pingers) are required on gillnets; gear modifications; and seasonal closures. Between 2001 and 2005, incidental takes of harbor porpoise showed an increasing trend, and currently takes exceed PBR. The proposed rule will implement measures developed through discussions with the Harbor Porpoise Take Reduction Team, which was reconvened in 2007 when it was clear that existing measures were not sufficient to keep porpoise bycatch to below PBR. For the Gulf of Maine, this action would expand pinger use in Massachusetts Bay to include November; establish Stellwagen Bank Management Area, requiring pingers from November-May; establish Coastal Gulf of Maine Consequence Closure Area and require closure in October and November only if, after the most current two years, the average bycatch rate exceeds the trigger rate of .031, identified from observed compliant boats from the Mid-Coast, Massachusetts Bay, and Stellwagen Bank Management Areas; create Southern New England Management Area (includes current Cape Cod South Management Area); require pingers from December-May; establish Cape Cod South Expansion and Eastern Cape Cod Consequence Closure Areas; and require closure from February-April only if, after the most current two years, the average bycatch rate exceeds the trigger rate of 0.023, identified from observed compliant vessels fishing in the Southern New England Management Area. For the Mid Atlantic, this action would establish Mudhole South Management Area. Close from February 1-March 15; and modify the tie-down requirement.

**Timetable:**

Action	Date	FR Cite
NPRM	07/21/09	74 FR 36058

## DOC—NOAA

## Completed Actions

Action	Date	FR Cite
NPRM Comment Period End	08/20/09	
Correction Final Action	08/10/09	74 FR 39910

**Regulatory Flexibility Analysis Required:** Yes

**Agency Contact:** Melissa Andersen, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910  
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**RIN:** 0648-AW51

**301. RULEMAKING TO DESIGNATE CRITICAL HABITAT FOR THE GULF OF MAINE DISTINCT POPULATION SEGMENT OF ATLANTIC SALMON**

**Legal Authority:** 16 USC 1531 et seq

**Abstract:** Under section 4 of the Endangered Species Act (ESA), the Secretary of Commerce (Secretary) shall designate critical habitat for species listed as threatened or endangered. This rulemaking would designate critical habitat in 45 specific areas occupied by Atlantic salmon at the time of listing that comprise approximately 19,571 km of perennial river, stream, and estuary habitat and 800 square km of lake habitat within the range of the Gulf of Maine's distinct population segment and on which are found those physical

and biological features essential to the conservation of the species.

**Timetable:**

Action	Date	FR Cite
NPRM	09/05/08	73 FR 51747
NPRM Comment Period End	11/04/08	
Final Action	08/10/09	74 FR 39903

**Regulatory Flexibility Analysis Required:** Yes

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**RIN:** 0648-AW77

**302. RULEMAKING TO DESIGNATE CRITICAL HABITAT FOR THE THREATENED SOUTHERN DISTINCT POPULATION SEGMENT OF NORTH AMERICAN GREEN STURGEON**

**Legal Authority:** 16 USC 1531 et seq

**Abstract:** Under section 4 of the Endangered Species Act (ESA), the Secretary of Commerce (Secretary) shall designate critical habitat for species listed as threatened or endangered. This rulemaking would designate critical habitat for the threatened Southern Distinct Population Segment of North

American green sturgeon (Southern DPS), including: the Sacramento River, lower Feather River, and lower Yuba River in California; the Sacramento-San Joaquin Delta and Suisun, San Pablo, and San Francisco Bays in California; certain coastal bays and estuaries in California, Oregon, and Washington; and coastal marine waters within 110 m depth off California, Oregon, and Washington. A draft economic analysis, biological report, and ESA section 4(b)(2) analysis report in support of the proposed rulemaking will be available for public review and comment.

**Timetable:**

Action	Date	FR Cite
NPRM	09/08/08	73 FR 52084
Notice	10/07/08	73 FR 58527
NPRM Comment Period End	11/07/08	
Final Rule	10/09/09	74 FR 52300
Final Action Effective	11/09/09	

**Regulatory Flexibility Analysis Required:** Yes

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**RIN:** 0648-AX04

Department of Commerce (DOC)  
Patent and Trademark Office (PTO)

## Long-Term Actions

**303. EXAMINATION OF PATENT APPLICATIONS THAT INCLUDE CLAIMS CONTAINING ALTERNATIVE LANGUAGE**

**Legal Authority:** 35 USC 2(b)(2)

**Abstract:** The U.S. Patent and Trademark Office (Office) is considering revising the rules of practice to address Markush-type and other claims written so as to claim an invention in the alternative. The search and examination of Markush-type and other claims written in the alternative generally consume a disproportionate amount of Office resources as compared to other types of claims, because these claims can encompass multiple independent and distinct inventions and determining the patentability of such a claim may require a separate

examination of each of the alternatives within the claim. The Office anticipates that requiring applicants who choose this claim-drafting format to ensure a certain degree of relatedness among the members of a Markush group or the alternatives presented in the claims will allow the Office to do a better, more thorough and reliable examination of Markush-type and other claims written in the alternative.

**Timetable:**

Action	Date	FR Cite
NPRM	08/10/07	72 FR 44992
NPRM Comment Period End	10/09/07	
IRFA Comment Request	03/10/08	73 FR 12679

Action	Date	FR Cite
NPRM Comment Period End	04/09/08	
Next Action	Undetermined	

**Regulatory Flexibility Analysis Required:** Yes

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**RIN:** 0651-AC00



## DOC—PTO

## Long-Term Actions

**304. FISCAL YEAR 2009 REVISION OF REQUEST FOR CONTINUED EXAMINATION, 18-MONTH PUBLICATION, AND OTHER MISCELLANEOUS COST-RECOVERY PATENT FEES**

**Legal Authority:** 35 USC 2(b)(2); 35 USC 41(d); 35 USC 132(b)

**Abstract:** The USPTO is taking this action to revise the rules of practice to adjust the fee or set a fee for certain processes and services for which the USPTO is required to set a cost-

recovery fee. The USPTO is specifically adjusting the fee for a request for continued examination, eighteen-month publication, and a certificate of correction (applicant's mistake) fee, and set a fee for requesting a corrected republication of a patent application publication. The rules of practice currently do not set a fee, or do not set a fee that recovers the USPTO's costs, for these processes or services. The USPTO is adjusting or setting these fee amounts such that they more

accurately reflect the Office costs for these processes or services.

**Timetable:** Next Action Undetermined

**Regulatory Flexibility Analysis**

**Required:** Yes

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