

twine (point cuts). For example, sequentially cutting through the lengths of twine on opposite sides of a mesh, leaving an uncut edge of twines all lying in the same line, produces a relatively strong taper called “all-bars”; making a sequence of 4-bar cuts followed by 1-point cut produces a more gradual taper called “4 bars to 1 point” or “4b1p”; similarly, making a sequence of 2-bar cuts followed by 1-point cut produces a still more gradual taper called “2b1p”; and making a sequence of cuts straight aft does not reduce the width of the panel and is called a “straight” or “all-points” cut.

Taut means a condition in which there is no slack in the net webbing.

Test net, or *try net*, means a net pulled for brief periods of time just before, or during, deployment of the primary net(s) in order to test for shrimp concentrations or determine fishing conditions (e.g., presence or absence of bottom debris, jellyfish, bycatch, seagrasses, etc.).

Tongue means any piece of webbing along the top, center, leading edge of a trawl, whether lying behind or ahead of the headrope, to which a towing bridle can be attached for purposes of pulling the trawl net and/or adjusting the shape of the trawl.

Transportation means to ship, convey, carry or transport by any means whatever, and deliver or receive for such shipment, conveyance, carriage, or transportation.

Triple-wing trawl means a trawl with a tongue on the top, center, leading edge of the trawl and an additional tongue along the bottom, center, leading edge of the trawl.

Two-seam trawl means a design of shrimp trawl in which the main body of the trawl is formed from a top and a bottom panel of webbing that are directly attached to each other down the sides of the trawl.

Underway with respect to a vessel, means that the vessel is not at anchor, or made fast to the shore, or aground.

Unforeseen circumstances means changes in circumstances affecting a species or geographic area covered by a conservation plan that could not reasonably have been anticipated by plan developers and NMFS at the time of the conservation plan's negotiation

and development, and that result in a substantial and adverse change in the status of the covered species.

Vessel means a vehicle used, or capable of being used, as a means of transportation on water which includes every description of watercraft, including nondisplacement craft and seaplanes.

Vessel restricted in her ability to maneuver has the meaning specified for this term at 33 U.S.C. 2003(g).

Wildlife means any member of the animal kingdom, including without limitation any mammal, fish, bird (including any migratory, nonmigratory, or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof.

Wing net (butterfly trawl) means a trawl that is fished along the side of the vessel and that is held open by a four-sided, rigid frame attached to the outrigger of the vessel.

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§ 222.103 Federal/state cooperation in the conservation of endangered and threatened species.

(a) *Application for and renewal of cooperative agreements.* (1) The Assistant Administrator may enter into a Cooperative Agreement with any state that establishes and maintains an active and adequate program for the conservation of resident species listed as endangered or threatened. In order for a state program to be deemed an adequate and active program, the Assistant Administrator must find, and annually reconfirm that the criteria of either sections 6(c)(1) (A) through (E) or sections 6(c)(1) (i) and (ii) of the Act have been satisfied.

(2) Following receipt of an application by a state for a Cooperative Agreement with a copy of a proposed state program, and a determination by the Assistant Administrator that the state

program is adequate and active, the Assistant Administrator shall enter into an Agreement with the state.

(3) The Cooperative Agreement, as well as the Assistant Administrator's finding upon which it is based, must be reconfirmed annually to ensure that it reflects new laws, species lists, rules or regulations, and programs and to demonstrate that it is still adequate and active.

(b) *Allocation and availability of funds.*

(1) The Assistant Administrator shall allocate funds, appropriated for the purpose of carrying out section 6 of the Act, to various states using the following as the basis for the determination:

(i) The international commitments of the United States to protect endangered or threatened species;

(ii) The readiness of a state to proceed with a conservation program consistent with the objectives and purposes of the Act;

(iii) The number of federally listed endangered and threatened species within a state;

(iv) The potential for restoring endangered and threatened species within a state; and

(v) The relative urgency to initiate a program to restore and protect an endangered or threatened species in terms of survival of the species.

(2) Funds allocated to a state are available for obligation during the fiscal year for which they are allocated and until the close of the succeeding fiscal year. Obligation of allocated funds occurs when an award or contract is signed by the Assistant Administrator.

(c) *Financial assistance and payments.*

(1) A state must enter into a Cooperative Agreement before financial assistance is approved by the Assistant Administrator for endangered or threatened species projects. Specifically, the Agreement must contain the actions that are to be taken by the Assistant Administrator and/or by the state, the benefits to listed species expected to be derived from these actions, and the estimated cost of these actions.

(2) Subsequent to such Agreement, the Assistant Administrator may further agree with a state to provide financial assistance in the development

and implementation of acceptable projects for the conservation of endangered and threatened species. Documents to provide financial assistance will consist of an application for Federal assistance and an award or a contract. The availability of Federal funds shall be contingent upon the continued existence of the Cooperative Agreement and compliance with all applicable Federal regulations for grant administration and cost accounting principles.

(3)(i) The payment of the Federal share of costs incurred when conducting activities included under a contract or award shall not exceed 75 percent of the program costs as stated in the agreement. However, the Federal share may be increased to 90 percent when two or more states having a common interest in one or more endangered or threatened resident species, the conservation of which may be enhanced by cooperation of such states, jointly enter into an agreement with the Assistant Administrator.

(ii) The state share of program costs may be in the form of cash or in-kind contributions, including real property, subject to applicable Federal regulations.

(4) Payments of funds, including payment of such preliminary costs and expenses as may be incurred in connection with projects, shall not be made unless all necessary or required documents are first submitted to and approved by the Assistant Administrator. Payments shall only be made for expenditures reported and certified by the state agency. Payments shall be made only to the state office or official designated by the state agency and authorized under the laws of the state to receive public funds for the state.

Subpart B—Certificates of Exemption for Pre-Act Endangered Species Parts

§ 222.201 General requirements.

(a) The Assistant Administrator may exempt any pre-Act endangered species part from the prohibitions of sections 9(a)(1)(A), 9(a)(1)(E), or 9(a)(1)(F) of the Act.

(1) No person shall engage in any activities identified in such sections of