235.7002 Applicability.

(a) Except as provided in paragraph (b) of this section, consider using the procedures in this subpart for acquisitions that—

(1) Will result in the award of a cost-reimbursement contract; and

(2) Meet the criteria for research and development as defined in 235.001 and FAR 35.001.

(b) Do not use the procedures in this subpart for—

(1) Contracts to be performed outside the United States and Puerto Rico;

(2) Contracts denominated in other than U.S. dollars;

(3) Acquisitions using simplified acquisition procedures;

(4) Acquisition of engineering and manufacturing development, management support, or operational system development, as defined in 235.001; or

(5) Acquisition of laboratory supplies and equipment, base support services, or other services identified in paragraphs (a) through (h) of the definition of ''service contract'' at FAR 37.101.

(c) Regardless of whether the RDSS is used, the RDSC may be used for any acquisition that meets the criteria in paragraph (a) of this section.

235.7003 Research and development streamlined solicitation and contract.

235.7003–1 General.

The procedures and standard format are published at the RDSS/C website. The RDSS/C Managing Committee is responsible for updating the website.

235.7003–2 RDSS process.

(a) *Synopisis.* The Commerce Business Daily synopsis required by FAR 5.203 shall include—

(1) The information required by FAR 5.207; and

(2) Statements that—

(i) A paper solicitation will not be issued; and

(ii) The solicitation will be published at the RDSS/C website.

(b) *Solicitation.* (1) The solicitation—

(i) Shall be published in its entirety at the RDSS/C website;

(ii) Shall include the applicable version number of the RDSS standard format; and

(iii) Shall incorporate by reference the appropriate terms and conditions of the RDSS standard format.

(2) To encourage preparation of better cost proposals, consider allowing a delay between the due dates for technical and cost proposals.

(c) *Amendments.* Amendments shall be published at the RDSS/C website.

235.7003–3 Proposal evaluation and contract award.

(a) Evaluate proposals in accordance with the evaluation factors set forth in the RDSS.

(b) *RDSC.* (1) The RDSC shall include—

(i) Standard Form (SF) 33, Solicitation, Offer and Award, or SF 26, Award/Contract; and

(ii) Sections B through J of the RDSS or other solicitation, with applicable fill-in information inserted.

(2) When an RDSC is awarded to an educational or nonprofit institution—

(i) Remove provisions and clauses that do not apply to educational or nonprofit institutions; and

(ii) As necessary, insert appropriate replacement provisions and clauses.

235.7003–4 Additional provisions and clauses.

Use of FAR and DFRAS provisions and clauses, and nonstandard provisions and clauses approved for agency use, that are not in the RDSS/C standard format, shall be approved in accordance with agency procedures.

[FR Doc. 98–16935 Filed 6–24–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 971208294–8154–02; I.D. 103097B]

RIN 0648–AJ20

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Restrictions on Frequency of Limited Entry Permit Transfers; Sorting Catch by Species; Retention of Fish Tickets

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement management measures that restrict the frequency of limited entry permit transfers to once every 12 months, with transfers taking effect on the first day of a cumulative landings limit period. This rule also requires the sorting of all groundfish species with trip limits, size limits, quotas, or harvest guidelines at the point of landing, and the retention of landings receipts on board the vessel that has made those landings. This rule is intended to constrain the introduction of new fishing effort into the Pacific Coast groundfish fisheries, and to improve the enforceability of Federal and state fisheries regulations.

DATES: Effective July 27, 1998.

ADDRESSES: Copies of the Environmental Assessments/Regulatory Impact Reviews (EA/RIRs) for these issues are available from Lawrence D. Six, Executive Director, Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Yvonne deReynier at 206–526–6140, Svein Fougner at 562–980–4000, or the Pacific Fishery Management Council at 503–326–6352.

SUPPLEMENTARY INFORMATION: This rule implements three separate regulatory changes: (1) Restricting the frequency of limited entry permit transfers to once every 12 months, with transfers taking effect only on the first day of a cumulative landings limit period; (2) providing Federal regulatory support for existing state requirements that require the sorting of all groundfish species with trip limits, size limits, quotas, or harvest guidelines; and (3) providing consistent regulatory requirements on the retention of landings receipts throughout the management area. These regulatory changes were recommended by the Council at its June 1995 and October 1996 meetings. The notice of proposed rulemaking for this action (62 FR 67610, December 29, 1997) fully described the background and rationale for the Council's recommendations. NMFS requested public comments on this action through February 12, 1998. NMFS received one comment during the comment period, which is addressed later in the preamble to this final rule.

Restrictions on Permit Transfer Frequency

This rule implements Council recommendations to constrain groundfish fleet effort expansion by restricting the frequency of limited entry permit transfers to once every 12 months, with transfers taking effect only on the first day of a major cumulative limit period. The major cumulative limit periods are the cumulative limit periods that govern all gears in the groundfish fishery. These are generally 1– or 2–month periods. The major cumulative limit periods will be announced each

year in the **Federal Register** with the annual specifications and management measures, or with routine management measures when the cumulative limit periods are changed. Cumulative limit periods that govern just a portion of the groundfish fisheries, such as the fixed gear regular sablefish season, are not considered ''major'' cumulative limit periods. For permit holders participating in the ''B'' delivery platoon, transfer effectiveness dates will align with ''B'' platoon cumulative limit period dates, and the new holder of the ''B'' platoon permit will be required to participate in ''B'' platoon deliveries for the remainder of the calendar year.

This action is expected to constrain effort expansion in two ways: (1) It should prevent two or more vessels from sharing a limited entry permit during a single cumulative limit period and thereby landing more than one limit on that permit, and (2) it should discourage increased fishing effort in the fishery by preventing limited entry permit holders from temporarily transferring their permits during times when the vessel is undergoing repairs, operating in other fisheries, or otherwise idle.

If a permit holder suffers one of two specified hardships, NMFS may allow transfer of a permit within 12 months of a prior transfer. Hardship exemptions for this issue are either death of the permit holder or total loss of the permitted vessel. An application for a hardship transfer must include documents demonstrating that the transfer meets the exceptions of death of the permit holder or loss of the vessel. Hardship exemptions may not be used to waive the requirement that transfers take effect only on the first day of a cumulative limit period.

Total loss of vessel is defined in the Pacific Coast groundfish regulations at § 660.302, ''Totally lost means the vessel being replaced no longer exists in specie, or is absolutely and irretrievably sunk or otherwise beyond the possible control of the owner, or the costs of repair (including recovery) would exceed the repaired value of the vessel.'' Death of a permit holder would be documented by a copy of the death certificate of the permit holder. If the permit is owned by a partnership or a corporation, a transfer within 12 months of the last transfer will be allowed if a person or persons owning 50 percent or more of the ownership interest in the partnership or corporation have died.

If a request for transfer is denied, the Sustainable Fisheries Division (SFD), NMFS Northwest Region, will explain in writing why the transfer request has been denied. Further, if the transfer is denied, the permit holder may appeal that decision within 30 days to the Regional Administrator, explaining the basis for the appeal. The Regional Administrator will decide upon the appeal within 45 days in a final agency action.

Sorting of Groundfish Catch by Species

This measure requires the sorting of all species managed by trip limits, size limits, quotas, or harvest guidelines. This requirement will facilitate enforcement because agents will not have to examine unsorted catches. Compliance should also be enhanced if fishers sort at sea because fishers will be more aware of the harvest amount of individual species.

Retaining Fish Tickets on Board the Vessel

This action requires that all West Coast groundfish fishers retain landings receipts on board their vessels throughout the cumulative trip limit period of the landings and for 15 days thereafter. This rule also clarifies that the fish tickets must be provided to an authorized officer upon request. This is a minor regulatory change that is expected to eliminate confusion among fishers as to which state's landings receipts should be kept on board for what length of time.

Changes from the Proposed Rule

NMFS has made one change from the proposed rule, which is explained under ''Comment of Clarification.''

Comments and Responses

NMFS received one comment on the proposed rule during the 45-day comment period. NMFS also received comments on the proposal to restrict the frequency of limited entry permit transfers outside the comment period and subsequent to the Council's recommendation on this issue. Because those comments spoke directly to the intent of this rule, they will be summarized and addressed in this section.

Comment of Clarification

If a permit owner leases out his permit for a period of time, and then receives the permit back from the lessee without immediately registering the permit for use with a specific vessel, the vessel registration for that permit is listed as ''Unidentified'' until the permit owner specifies the vessel that will be registered with his or her permit. The proposed changes to the regulations at § 660.333(f)(2) read in part, ''Limited entry permits may not be transferred to a different holder or registered for use with a different vessel more than once every 12 months, except in cases of death of the permit holder or if the permit is totally lost.'' How would this provision apply to cases where a permit is transferred off one vessel and from one permit holder to another permit holder and yet not registered for use with a new vessel?

Response: NMFS has clarified the regulatory language § 660.333(f)(2) to address this comment as follows: ''When a permit transferred from one holder to another holder is initially registered as 'unidentified' with regard to vessel association, or when a permit's vessel registration is otherwise —unidentified', the transaction is not considered a —transfer' for purposes of this restriction until the permit is registered for use with a specific vessel.'' Because a permit may not be used unless it is registered for use with a particular vessel, NMFS does not expect that this change will alter the effectiveness of the rule in restricting the frequency of limited entry permit transfers. The result of this clarification is that a permit may be transferred to a different owner within 12 months, but it may not be registered for use with a vessel until the end of the 12–month period. In addition, a permit owner may remove a permit from a vessel within the 12-month period, but may not register it for use with another vessel until the end of the 12-month period.

Comments Opposing the Rule

As stated in the proposed rule, some members of the at-sea component of the whiting fishery oppose this action, because their participation in Pacific coast groundfish fisheries is limited to the whiting fishery and depends upon their ability to have short-term use of limited entry permits. Some permit owners wish to retain the flexibility to transfer their permits between vessels appropriate for the whiting fishery and vessels appropriate for the cumulative limit groundfish complex fishery occurring outside the whiting fishery. At and subsequent to the October 1996 Council meeting where these changes were first proposed, interested members of the public suggested that transfers made for the purpose of operating in the whiting fishery should not be subject to the restrictions described above.

Response: When making its recommendation on this issue, the Council determined that the benefits to the groundfish fishery that could be gained from restricting the entrance of new effort into the fishery as a whole

outweighed the concerns of the at-sea whiting sector. NMFS concurs with the Council's determination. When the limited entry program was implemented in 1994, NMFS and the Council expected that requirements associated with permit ownership would change over time. Permits were viewed as allowing a permit holder to operate the permitted vessel in the Pacific coast groundfish fishery, in conformance with the Pacific Coast Groundfish Fishery Management Plan (FMP), and to use the gear(s) for which the permit is endorsed. The Council and NMFS specifically retained the right to revise the FMP in the future, and to change or abolish the requirements associated with limited entry permits. NMFS finds that the restriction on permit transfers to once every 12 months is acceptable within the scope and intentions of the FMP and the Magnuson-Stevens Fishery Conservation and Management Act.

Classification

This final rule has been determined to be not significant for the purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not prepared.

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: June 18, 1998.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Services.

For the reasons set forth in the preamble, 50 CFR part 660 is amended as follows:

PART 660 —FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

1. The authority citation for part 660 continues to read as follows:

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

2. In § 660.302, the definition of ''Fisheries Management Division'' is removed and a definition of ''Sustainable Fisheries Division'' is added to read as follows:

§ 660.302 Definitions.

* * * * *

Sustainable Fisheries Division (SFD) means the Chief, Fisheries Management Division, Northwest Regional Office, NMFS, or a designee.

3. In § 660.303, paragraph (c) is added to read as follows:

§ 660.303 Reporting and recordkeeping

* * * * *

(c) Any person landing groundfish must retain on board the vessel from which groundfish is landed, and provide to an authorized officer upon request, copies of any and all reports of groundfish landings containing all data, and in the exact manner, required by the applicable state law throughout the cumulative limit period during which a landing occurred and for 15 days thereafter.

4. In § 660.306, paragraph (h) is revised and paragraph (x) is added to read as follows:

§ 660.306 Prohibitions.

* * * * *

(h) Fail to sort, prior to the first weighing after offloading, those groundfish species or species groups for which there is a trip limit, size limit, quota, or harvest guideline, if the vessel fished or landed in an area during a time when such trip limit, size limit, harvest guideline or quota applied.

* * * * *

(x) Fail to retain on board a vessel from which groundfish is landed, and provide to an authorized officer upon request, copies of any and all reports of groundfish landings, or receipts containing all data, and made in the exact manner required by the applicable state law throughout the cumulative limit period during which such landings occurred and for 15 days thereafter.

5. In § 660.333, paragraphs (c)(1) and (c)(2) are revised; paragraphs (c)(3) and (c)(4) are redesignated as (c)(4) and (c)(5) respectively and a new (c)(3) is added; paragraph (d) introductory text is revised; paragraphs (f)(2) and (f)(3) are redesignated as (f)(3) and (f)(4) respectively and a new (f)(2) is added to read as follows:

§ 660.333 Limited entry fishery - general.

* * * * *

(c) * * *

(1) Upon transfer of a limited entry permit, the SFD will reissue the permit in the name of the new permit holder, with such gear endorsements, and, if applicable, species endorsements as are eligible for transfer with the permit. Permit transfers will take effect on the first day of the next major limited entry cumulative limit period following the date of the transfer. Transfers of permits designated as participating in the ''B'' platoon will become effective on the first day of the next ''B'' platoon major limited entry cumulative limit period following the date of the transfer. No transfer is effective until the limited entry permit has been reissued as registered with the new vessel and the permit is in the possession of the new permit holder.

(2) A limited entry permit may not be used with a vessel unless it is registered for use with that vessel. Limited entry permits will normally be registered for use with a particular vessel at the time the permit is issued, renewed, transferred, or replaced. A permit not registered for use with a particular vessel may not be used. If the permit will be used with a vessel other than the one registered on the permit, a registration for use with the new vessel must be obtained from the SFD and placed on board the vessel before it is used under the permit. Registration of a permit to be used with a new vessel will take effect on the first day of the next major limited entry cumulative limit period following the date of the transfer.

(3) The major limited entry cumulative limit periods will be announced in the **Federal Register** each year with the annual specifications and management measures, or with routine management measures when the cumulative limit periods are changed.

* * * * *

(d) Evidence and burden of proof. A vessel owner (or person holding limited entry rights under the express terms of a written contract) applying for issuance, renewal, replacement, transfer, or registration of a limited entry permit has the burden to submit evidence to prove that qualification requirements are met. A permit holder applying to register a limited entry permit has the burden to submit evidence to prove that registration requirements are met. The following evidentiary standards apply:

* * * * *

(f) * * *

(2) Limited entry permits may not be transferred to a different holder or registered for use with a different vessel more than once every 12 months, except in cases of death of the permit holder or if the permitted vessel is totally lost, as defined at § 660.302. The exception for death of a permit holder applies for a permit held by a partnership or a

corporation if the person or persons holding at least 50 percent of the ownership interest in the entity dies. When a permit transferred from one holder to another holder is initially ''unidentified'' with regard to vessel registration, or when a permit's vessel registration is otherwise ''unidentified'', the transaction is not considered a ''transfer'' for purposes of this restriction until the permit is registered for use with a specific vessel.

* * * * *

[FR Doc. 98–16789 Filed 6–24–98; 8:45 am]

BILLING CODE 3510–22–F