responsibilities among the various levels of government, as specified in the Order. Thus, Executive Order 13132 does not apply to this final rule. Nor does it have "tribal implications" as specified in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 22951, November 9, 2000). EPA is not aware of any tribal governments which are pesticide registrants. Thus, Executive Order 13175 does not apply to this action.

Since this action is not economically significant under Executive Order 12866, it is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), and Executive Order 13211, entitled *Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). In addition, EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern health or safety risks, which is not the case in this final rule.

This action does not involve technical standards that would require the consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272).

This action does not have an adverse impact on the environmental and health conditions in low-income and minority communities. Therefore, this action does not involve special consideration of environmental justice related issues as specified in Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

VI. FIFRA Mandated Reviews

In accordance with FIFRA section 25(a) and (d), the Agency submitted a draft of this final rule to the Committee on Agriculture in the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry in the United States Senate, the Secretary of Agriculture, and the FIFRA Scientific Advisory Panel (SAP). The SAP and the Secretary of Agriculture waived review of this final rule.

VII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* generally provides that before a rule may take effect, the Agency promulgating the rule must submit a rule report to each House of the Congress and the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 156

Environmental protection, Labeling, Pesticides and pests.

Dated: September 29, 2010.

Lisa P. Jackson,

Administrator.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 156—[AMENDED]

■ 1. The authority citation for part 156 continues to read as follows:

Authority: 7 U.S.C. 136 through 136y.

■ 2. Revise § 156.159 to read as follows:

§ 156.159 Compliance date.

Any pesticide product released for shipment by a registrant after August 16, 2011 must bear a label that complies with §§ 156.10(d)(7), 156.10(f), 156.10(i)(2)(ix), 156.140, 156.144, 156.146 and 156.156.

[FR Doc. 2010–25425 Filed 10–7–10; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 100330171–0388–02]

RIN 0648–AY79

Magnuson-Stevens Act Provisions; Fishing Capacity Reduction Framework

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

ACTION: Final rule.

SUMMARY: NMFS amends the framework regulations specifying procedures for implementing fishing capacity reduction programs (reduction programs) in accordance with the Magnuson-Stevens Fishery Conservation and Management (Magnuson-Stevens) Reauthorization Act of 2007. A reduction program pays harvesters in a fishery that has more vessels than capacity either to surrender their fishing permits including relevant fishing histories for that fishery, or surrender all their fishing permits and cancel their fishing vessels' fishing endorsements by permanently withdrawing the vessel from all fisheries. The cost of the program can be paid by post-reduction harvesters, taxpayers, or others. The intent of a program is to decrease the number of harvesters in the fishery, increase the economic efficiency of harvesting, and facilitate the conservation and management of fishery resources in each fishery in which NMFS conducts a reduction program.

DATES: This final rule is effective November 8, 2010.

ADDRESSES: Copies of the Regulatory Impact Review prepared for this action may be obtained from Michael A. Sturtevant, Financial Services Division, NMFS–MB5, 1315 East-West Highway, Silver Spring, MD 20910.

Send comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule to Michael A. Sturtevant at the above address and also to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (*Attention:* NOAA Desk Officer) or e-mail to *OIRA_Submission@omb.eop.gov,* or fax to (202) 395–7825.

FOR FURTHER INFORMATION CONTACT: Michael A. Sturtevant at 301–713–2390 or *michael.a.sturtevant@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Electronic Access

This **Federal Register** document is also accessible via the Internet at *http://www.gpoaccess.gov/fr.*

I. Statutory and Regulatory Background

Many U.S. fisheries have excess fishing capacity. Excess fishing capacity decreases earnings, complicates management, and imperils conservation. To provide for fishing capacity reduction programs, in 1996 Congress amended the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by adding section 312(b)–(e) (16 U.S.C. 1861a(b)–(e)). The framework regulations to conduct these reduction programs were published as an interim final rule on May 18, 2000 (65 FR 31430) and codified as subpart L to 50 CFR part 600. To finance reduction costs, Congress amended Title XI of the Merchant Marine Act, 1936 (Title XI), by adding new sections 1111 and 1112. The Title XI provisions involving

fishing capacity reduction loans have been codified at 46 U.S.C. § 53735.

This action amends subpart L to 50 CFR part 600 to implement the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (Pub. L. 109–479) amendments for requesting and conducting fishing capacity reduction programs.

II. Magnuson-Stevens Reauthorization Act Changes

The Magnuson-Stevens Reauthorization Act requires several modifications to the framework regulations.

First, the Magnuson-Stevens Reauthorization Act contained a provision that states that, in addition to the appropriate fishery management Council or Governor of a State, a majority of permit holders in the fishery may request a buyback program. Such a program may be conducted if the Secretary determines that the program is necessary to prevent or end overfishing, rebuild stocks of fish, or achieve measurable and significant improvements in the conservation and management of the fishery. As a result of this change, NMFS is amending the definition of "Requester" and the regulations outlining the process for submission requests to allow permit holders, if they constitute a majority, to request a buyback program.

Second, the Magnuson-Stevens Reauthorization Act clarified that a permit holder relinquishes any future limited access system claims associated with the permit or vessel participating in a reduction program and that (if not scrapped) the vessel will be effectively prevented from fishing in Federal or state waters, or fishing on the high seas or in the waters of a foreign nation. The Magnuson-Stevens Reauthorization Act revised section 312(b)(2)(A) to recognize that the owner of a fishing vessel may be different from the permit holder. As a result of this change, NMFS is amending the regulations to require that, along with surrendering the permit authorizing the participation of the vessel in the fishery, for permanent revocation, both the vessel owner and the permit holder, if different from the vessel owner, relinquish any claim associated with the vessel or permit that could qualify such owner or permit holder for any present or future limited access system permit in the fishery for which the program is established or in any other fishery.

Third, the Magnuson-Stevens Reauthorization Act added Section 312(b)(5) regarding payment conditions stating that if a vessel is not scrapped, the Secretary of Commerce (Secretary) must certify that the vessel will not be used for fishing in the waters of a foreign nation or fishing on the high seas. As a result of this change, NMFS is amending the regulations so that the Secretary must make such certification before making payment. Because each program is different, and would need to include fishery-specific information and requirements, NMFS is not proposing at this time specific details that must be included in the certification plans, but will provide the requirements for the certification process on a case-by-case basis for each reduction fishery program when the regulations for that program is published in the **Federal Register**.

Fourth, the Magnuson-Stevens Reauthorization Act also changed the approval threshold for the capacity reduction referendum. The reauthorized Act now states that a fee system shall be considered approved if the referendum votes which are cast in favor of the proposed system constitute "at least a majority of the permit holders in the fishery, or 50 percent of the permitted allocation of the fishery, who participate in the fishery". Previously, a referendum was approved with a two-thirds majority of the participating voters. As a result of this amendment, NOAA amends the referendum procedure accordingly.

On June 14, 2010, NMFS published proposed regulations in the **Federal Register** (75 FR 33570) to implement the program's industry fee system. This final rule implements the changes as originally proposed and will be effective on November 8, 2010.

III. Summary of Comments and Responses

NMFS received four comments in response to the proposed rule. Three were from individuals and one from the U.S. Department of the Interior (DOI). DOI reviewed the proposed rule and acknowledged that because it addresses the framework process it would not have any immediate effect on National Park Service fishery resources.

Comment 1: The commenter expressed concern about the potential Southeast Alaska Purse Seine Salmon Buyback Program, specifically that future comment periods be open when stakeholders are available to participate.

Response: This action affects the framework buyback rule. Each specific buyback program undergoes a separate rulemaking process. NMFS strives to get the most public input possible. Thus, for an individual fishery program with a finite season, NMFS would attempt to avoid holding open public comment periods solely while the fleet is fishing.

Comment 2: The commenter expressed concern about charter boat participation in a buyback program.

Response: This rule implements changes to the existing buyback framework rule. The framework rule establishes parameters for developing a buyback program for commercial fisheries. It does not apply to the charter fishing industry.

Comment 3: The commenter expressed concern about future rule making and claimed that many of the vessels in question were built using tax payer money and implied that the government paying to scrap them was inefficient. The commenter also expressed concern about the implications of this action on small fishing entities and harbor based communities.

Response: NMFS notes that this rule implements changes to the existing buyback framework rule. The framework provides a process to implement fishing capacity reduction programs which remove fishing permits and may or may not remove fishing vessels. This action does not directly remove any fishing permits or vessels. Specific rulemaking for each fishery would be necessary before a program could be implemented. NMFS would consider any impacts on such fishing at that time.

Comment 4: The commenter expressed concern about the environmental impacts of fishing trawlers and other gear upon the ocean bottom and suggested that fishing capacity reduction programs be restricted to certain gear types.

Response: This action only addresses the buyback framework rule process. This comment may be appropriate and relevant to the development of a specific fishing capacity reduction program in an individual fishery and would be considered when such programs are developed.

Comment 5: The commenter expressed concern that fishing capacity reduction programs could increase the proliferation of fish farms which would cause negative environmental impacts.

Response: This action affects the framework buyback rule and will not directly impact any fishery. Each specific buyback program undergoes a separate rulemaking process and consideration of environmental impacts at that time, which may include the impacts of aquaculture.

Comment 6: The commenter expressed concerns that the Regulatory Flexibility Act considerations were insufficient and that small entities would be adversely affected.

Response: NMFS disagrees. The framework modifications implemented by this rule impact only the process under which fishery capacity reduction programs are created and implemented, and would not directly implement changes to specific fisheries. Each program will be individually evaluated and analyzed at the appropriate time including its impact on small businesses. The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this will not have a significant economic impact on a substantial number of small entities.

IV. Summary of Revisions

NMFS revises the following sections of the regulations of subpart L to 50 CFR part 600:

(1) *Section 600.1000.* This section is revised to amend the definition of "Requester" to include the majority of permit holders in a fishery.

(2) *Section 600.1001(a).* This section is amended to provide for authority that a majority of permit holders in the fishery may initiate a voluntary fishing capacity reduction program.

(3) *Section 600.1002(c).* This new provision states the Secretary may not make a fishing capacity reduction program payment with respect to a reduction vessel that will not be scrapped unless the Secretary certifies that the vessel will not be used for fishing in the waters of the U.S., a foreign nation, or on the high seas.

(4) *Section 600.1009(a)(5)(ii).* This section is revised to clarify title restrictions on any reduction vessel that is not scrapped.

(5) *Section 600.1010(a).* This section is revised to reflect the new industry fee system approval threshold to at least a majority of the permit holders in the fishery who participated in the fishery.

V. Classification

The Administrator for Fisheries, NMFS, determined that this rule is consistent with the Magnuson-Stevens Act, the Magnuson-Stevens Reauthorization Act (Pub. L. 109–479), and other applicable laws.

The revisions to the framework regulations do not propose any major new programs. The framework modifications implemented by this rule impact only the process under which fishery capacity reduction programs are created and implemented, and would not directly implement changes to specific fisheries. Therefore, the rulemaking does not lend itself to quantitative or qualitative analysis. For example, the analysis of impacts on vessels, vessel revenues, port revenues, fish stock impacts, etc. are not possible in the absence of identifying specific fisheries and buyback program fishery components. Each individual program will be implemented through the rulemaking process in accordance with 5 U.S.C. 553, and thus, each program will be individually evaluated and appropriately analyzed under NEPA at the appropriate time. This action is categorically excluded from the requirement to prepare an environmental assessment in accordance with NOAA Administrative Order (NAO) 216–6.

The Office of Management and Budget determined that this proposal is not significant pursuant to Executive Order 12866. NMFS prepared a Regulatory Impact Review which is available upon request (*see* **ADDRESSES**).

Section 605 of the Regulatory Flexibility Act (RFA) provides that if an agency determines that a rule will not have a significant impact on a substantial number of small entities, it may certify that finding to the Small Business Administration in lieu of preparing an analysis. Although one commenter expressed concern that the RFA considerations were insufficient and small entities would be adversely affected, NMFS disagrees. The framework modifications implemented by this rule impact only the process under which fishery capacity reduction programs are created and implemented, and would not directly implement changes to specific fisheries. Each program will be individually evaluated and analyzed at the appropriate time including its impact on small businesses. The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this will not have a significant economic impact on a substantial number of small entities.

This final rule does not contain any new collection of information requirements subject to the PRA. The estimates of the public reporting burden that have been previously approved by OMB, under OMB Control No. 0648–0376 remain valid. Send comments regarding the collection of information requirements contained in this final rule, including the burden hour estimates, and suggestions for reducing the burdens to NMFS (*see* **ADDRESSES**) and to OMB (*see* **ADDRESSES**).

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 600

Fisheries, Fishing capacity reduction, Fishing permits, Fishing vessels, Intergovernmental relations, Loan programs—business, Reporting and recordkeeping requirements.

Dated: October 5, 2010.

Samuel D. Rauch III,

Deputy Assistant Administrator For Regulatory Programs, National Marine Fisheries Service.

■ For the reasons set out in the preamble, NMFS amends 50 CFR part 600 as follows:

PART 600—MAGNUSON-STEVENS ACT PROVISIONS

■ 1. The authority citation for 50 CFR part 600 continues to read as follows:

Authority: 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

■ 2. In § 600.1000, the definition of "Requester" is revised to read as follows:

§ 600.1000 Definitions.

* * * * *

Requester means a Council for a fishery identified in § 600.1001(c) or a state governor for a fishery identified in § 600.1001(d), or a majority of permit holders in the fishery.

* * * * *

■ 3. In § 600.1001, paragraph (a) is revised to read as follows:

§ 600.1001 Requests.

(a) A Council, the Governor of a State under whose authority a proposed reduction fishery is subject, or a majority of permit holders in the fishery may request that NMFS conduct a program in that fishery. Each request shall be in writing. Each request shall satisfy the requirements of § 600.1003 or § 600.1005, as applicable, and enable NMFS to make the determinations required by § 600.1004 or § 600.1006, as applicable.

* * * * *

■ 4. In § 600.1002, paragraph (c) is added to read as follows:

§ 600.1002 General requirements.

* * * * *

(c) The Secretary may not make a fishing capacity reduction program payment with respect to a reduction vessel that will not be scrapped unless the Secretary certifies that the vessel will not be used for fishing in the waters of the U.S., a foreign nation, or on the high seas.

■ 5. In § 600.1009, paragraph (a)(5)(ii) is revised to read as follows:

§ 600.1009 Bids.

(a) * * *

(5) * * *

(ii) Where the program also involves the withdrawal of reduction vessels from fishing:

(A) Title restrictions imposed by the U.S. Coast Guard on any reduction vessel that is Federally documented to forever prohibit and effectively prevent any future use of the reduction vessel for fishing:

(*1*) In any area subject to the jurisdiction of the United States, or any state, territory, commonwealth, or possession of the United States, or

(*2*) On the high seas, or

(*3*) In the waters of a foreign nation; or

(B) Scrapping of all reduction vessels involved in a fishing capacity reduction program, unless the reduction program vessel has been certified by the Secretary, and the requirements established under § 600.1002(c) are met. Where reduction vessel scrapping is involved and the reduction vessel's owner does not comply with the owner's obligation under the reduction contract to scrap the reduction vessel, the Secretary may take such measures as necessary to cause the reduction vessel's prompt scrapping. The scrapping will be at the reduction vessel owner's risk and expense. Upon completion of scrapping, NMFS will take such action as may be necessary to recover from the reduction vessel owner any cost, damages, or other expense NMFS incurred in the scrapping of the reduction vessel.

* * * * *

■ 6. In § 600.1010 paragraph (a) is revised to read as follows:

§ 600.1010 Referenda.

(a) *Referendum success.* A referendum is successful if at least a majority of the permit holders in the fishery who participate in the fishery cast ballots in favor of an industry fee system.

* * * * *

[FR Doc. 2010–25437 Filed 10–7–10; 8:45 am]

BILLING CODE 3510–22–P