

review and approval by the Secretary of Commerce. Amendment 10 addresses the two unrelated subjects of the transferability of limited entry permits and maximum sustainable yield (MSY) for market squid. Only the provisions regarding limited entry permits require regulatory action. The primary purpose of this final rule is to establish the procedures by which limited entry permits can be transferred to other vessels and/or individuals so that the holders of the permits have maximum flexibility in their fishing operations while the goals of the FMP are achieved.

DATES: Effective January 27, 2003, except for § 660.512(h), which is effective February 26, 2003.

ADDRESSES: Copies of Amendment 10, which includes an environmental assessment/regulatory impact review, and determination of the impact on small businesses may be obtained from Donald O. McIssac, Executive Director, Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220. Comments regarding the collection-of-information requirements contained in this rule should be sent to Rodney R. McInnis, Acting Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802-4213, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (ATTN: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: James Morgan, Sustainable Fisheries Division, NMFS, at 562-980-4036.

SUPPLEMENTARY INFORMATION: The Council distributed a draft of Amendment 10 for public review on April 22, 2002. At its June 2002 meeting, the Council reviewed written comments, received comments from its advisory bodies, and heard public comments. On October, 3, 2002, a notice of availability of Amendment 10 and the associated documents was published in the **Federal Register** (67 FR 62001). A proposed rule was published in the **Federal Register** on October 30, 2002 (67 FR 66103), requesting public comment. The comment period ended on December 16, 2002. Two letters were received. Amendment 10 was approved by NMFS on December 30, 2002.

Background

On June 10, 1999, Amendment 8 to the Northern Anchovy Fishery Management Plan, which was renamed the Coastal Pelagic Species Fishery Management Plan, was partially approved by the Secretary of Commerce. Two of the provisions of Amendment 8

were disapproved. However, these two provisions addressed matters required by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) to be included in all fishery management plans. As such, the Council was required to revisit these issues in subsequent actions. First, bycatch provisions of Amendment 8 were disapproved because they did not contain a standardized reporting methodology to assess the amount and type of bycatch in the fishery. Bycatch requirements of the Magnuson-Stevens Act were eventually addressed in Amendment 9, which was approved on March 22, 2001. Second, optimum yield for market squid (*Loligo opalescens*) was disapproved because Amendment 8 did not provide an estimate of MSY. The Council is addressing MSY through submission of Amendment 10.

Market Squid

Various approaches to determine an MSY proxy for market squid have been attempted. With little knowledge of the biology of squid and inadequate data available, other than landings, results from all methods used to determine an or proxy for MSY proved to be ineffective for monitoring the resource. Amendment 10, which contains a description of these methods, examines such things as historical landings, the range of the species, and the manner in which the fishery is conducted.

Additional data on squid became available from research conducted by the California Department of Fish and Game through a program implemented by State legislation establishing permit fees to fund squid research. With new information on growth, maturity, and fecundity, the Council implemented a scientific review, which resulted in the development of a proxy for MSY that came to be known as the egg escapement (EE) method. A discussion of the approach the Council used was published in the proposed rule and will not be repeated here.

The EE method is based on a modeling approach that addresses the life history of the species, with a focus on the mortality and spawning rates of sexually mature females and is based on determining a sustainable level of egg escapement. A sustainable level of egg escapement can be practically interpreted as a level of reproductive (egg) escapement that is believed to be at or near a minimum level necessary to allow the population to maintain its level of abundance into the future, that is, allow for sustainable reproduction year after year.

With the approval of Amendment 10, the FMP now uses the EE method to

monitor the market squid fishery. The adoption of the EE method for this purpose does not require implementing rules because it sets a policy for monitoring the fishery and has no direct effect on the conduct of the fishery.

Capacity Goal

Amendment 10 establishes a capacity goal for the fleet and sets conditions for the transfer of permits to maintain the capacity goal. The purpose of the capacity goal is to ensure that fishing capacity in the CPS limited entry fishery is in balance with resource availability. Measuring the actual harvesting capacity of a vessel and monitoring each vessel's capacity can be complicated because the amount of fish a vessel can carry depends on many factors; therefore, Amendment 10 uses an aggregate gross tonnage (GT) of 5,650.9 mt as a proxy for fleet capacity. The aggregate gross tonnage level of 5,650.9 mt results in a fleet that is larger than necessary solely to harvest available CPS; however, the CPS finfish fleet also relies on other fishing opportunities such as fishing for squid and tuna. The current fleet of 65 vessels, which totals 5,650.9 mt GT, meets the necessity of controlling the size of the CPS fleet while taking in consideration the economic needs of the fishery. Estimated normal harvesting capacity for the current fleet, which was determined by reviewing historical average and maximum landings per trip, ranged from 60,000 mt to 111,000 mt per year. The physical harvesting capacity of the current fleet ranged from 361,000 to 539,000 mt per year. Physical capacity is a technological or engineering measure of the maximum potential output per unit of time.

Permit Transfers

As long as aggregate fleet GT is not above 5,933.5 mt (fleet GT plus 5 percent) limited entry permits can be transferred with the following restrictions: (1) Full transferability of permits only to vessels of comparable capacity (vessel GT +.10 (GT) or less), and (2) permits can be combined up to a greater level of capacity in cases where the vessel to which the permits would be transferred to is of greater harvesting capacity than the vessel from which the permit originated.

NMFS will endorse each limited entry permit based on the currently permitted vessel's calculated GT as defined by the formula in 46 CFR 69.209 for ship-shaped hulls. This formula is used by the U.S. Coast Guard ($GT = 0.67 \times \text{length} \times \text{breadth} \times \text{depth}/100$). Records of length, breadth, and depth used for determining GT will be those recorded