

harvesting squid with respect to economic dependence. NMFS found that almost all of the originally permitted vessels also had squid permits from the State of California. Thus, NMFS chose not to issue permits to all holders of squid permits because the fleet would have been too large.

Implementation of Amendment 10 will allow permits to be transferable to another individual or to another vessel. Permits will have a cost, but the cost of a permit is expected to reflect the value of the permit. Therefore, those individuals needing to improve their business opportunities through the purchase of a permit will be able to assess the value of making the purchase by considering future potential harvests and the prevailing market for permits.

Comment 2: Amendment 10 does not present information as required under section 303(a)(4)(C) of the Magnuson-Stevens Act to provide data on the extent to which U.S. processors, on an annual basis, will process CPS landed by the CPS fleet.

Response: Harvesting capacity not processing capacity as it relates to overcapitalization is the subject of Amendment 10. Nevertheless, the FMP assumed that landings and processing capacity would increase as the biomass increased. Processing capacity has increased, and it continues to increase.

Comment 3: Amendment 10 does not discuss an option based on grandfathered permits as provided in California law.

Response: California law requires that any California fisherman with 20 years of participating in any fishery and 1 year in the fishery slated for limited entry be given a preference. While experience was considered in Amendment 10, only participation in the CPS fishery was considered in an effort to determine those individuals that depend on CPS and to prevent overcapitalization.

Comment 4: The provision to issue new permits is not fair and equitable. Amendment 10 requires new permits to be issued from the original list of vessels. The list of potentially qualifying vessels was developed under Amendment 8, before a fishery began off Oregon and Washington, which is a bias toward California fishermen. If fisheries off Oregon and Washington had existed when Amendment 8 was implemented, many Oregon and Washington fishermen would have received a permit.

Response: The decision was made by the Council to rely on the existing window period and required landings, which continues the Council's preference for historical participation.

Before the FMP was implemented, some fishermen from other states entered the squid fishery, landed CPS, and qualified for a limited entry permit, an option open to anyone, regardless of state residency. New entrants in the fishery who have benefitted from participating in the open access fishery may also enter the limited entry fishery by purchasing a permit under the rules established by Amendment 10.

Classification

The Administrator, Southwest Region, NMFS, determined that the FMP Amendment 10 is necessary for the conservation and management of the coastal pelagic species fishery and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

Because the rule relieves a restriction on the sale to other individuals and/or transfer to other vessels of limited entry permits, it is not necessary to delay the effective date of this final rule for 30 days under 5 U.S.C. 553(d)(1), except for § 660.512(h). This rule will give individuals flexibility in managing their business affairs by allowing them to invest in the fishery through the purchase of a permit or to sell a permit on the open market.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed rule for this action would not have a significant economic impact on a substantial number of small entities. No comments were received regarding this certification. However, several comments addressed the economic impact of the rule. Responses to these comments are presented above. None of these comments resulted in a change to the determination that the rule would not have a significant economic impact. As a result, a regulatory flexibility analysis was not prepared.

This final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by OMB under control number 0648-0204. Public reporting burden for an application for transfer of a limited entry permit is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for

reducing the burden, to NMFS (See ADDRESSES) and to OMB at the Office of Information and Regulatory Affairs, OMB, Washington, D.C. 20503 (Attention: NOAA Desk Officer).

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

There have been no changes to the regulatory text in the proposed rule.

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: January 21, 2003.

Rebecca Lent,

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

For the reasons set out in the preamble, NMFS amends 50 CFR part 660 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 § 660.502, definitions for “comparable capacity”, and “gross tonnage” are added, in alphabetical order, to read as follows:

§ 660.502 Definitions.

* * * * *

Comparable capacity means gross tonnage plus 10 percent of the vessel's calculated gross tonnage.

* * * * *

Gross tonnage (GT) means gross tonnage as determined by the formula in 46 CFR 69.209(a) for a vessel not designed for sailing (.67 x length x breadth x depth/100). A vessel's length, breadth, and depth are those specified on the vessel's certificate of documentation issued by the U.S. Coast Guard or State.

* * * * *

3. In § 660.512, a new paragraph (h) is added to read as follows:

§ 660.512 Limited entry fishery.

* * * * *

(h) *Issuance of new permits.* (1) When the aggregate gross tonnage of all vessels participating in the limited entry fishery