

Act and will not have an adverse effect on the interests of any person, this action will be deemed to be effective as of January 1, 1996.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1314

Railroads, Tariffs.

Decided: February 15, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,
Secretary.

For the reasons set forth in the preamble and under the authority of 49 U.S.C. 721(a), title 49, chapter X of the Code of Federal Regulations is amended by removing part 1314.

[FR Doc. 96-4514 Filed 2-27-96; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 960220037-6037-01; I.D. 112895B]

RIN 0648-XX45

Taking and Importing of Marine Mammals; Consolidation of Regulations; Removal of Expired General Permit Requirements

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

ACTION: Final rule; technical amendment.

SUMMARY: NMFS issues this technical amendment to remove outdated regulations governing the issuance of general permits. This technical amendment is intended to provide uniform, updated, and streamlined regulations. This action is consistent with the President's Regulatory Reform Initiative.

EFFECTIVE DATE: This rule is effective February 28, 1996.

FOR FURTHER INFORMATION CONTACT: Wanda L. Cain, Fishery Biologist; telephone: 301-713-2055, or fax: 301-713-0376.

SUPPLEMENTARY INFORMATION: On August 30, 1995 (60 FR 45086), NMFS published a final rule implementing the new management regime for the taking

of marine mammals incidental to commercial fishing operations established by section 118 of the Marine Mammal Protection Act (MMPA). The provisions of 50 CFR part 229, rather than 50 CFR § 216.24, govern the incidental taking of marine mammals in the course of commercial fishing operations by persons using vessels of the United States, other than vessels used in the eastern tropical Pacific Ocean yellowfin tuna purse seine fishery. Because the only general permit for U.S. vessels operating in the yellowfin tuna purse seine fishery in the eastern tropical Pacific Ocean is that issued to the American Tunaboat Association (ATA), NMFS is removing other general permit requirements from 50 CFR § 216.24. In addition, a correction is made to the Harmonized Tariff Schedule Item Numbers found at § 216.24(e)(2)(i)(A). A definition for the Regional Director, Southwest Region, NMFS, is added to § 216.3. In the reporting requirements for ATA certificate holders, NMFS is removing the obsolete requirement that masters of certificated vessels allow observers to make coded radio reports to NMFS. Finally, minor editorial corrections are made.

Classification

This final rule is exempt from review under E.O. 12866. Because this rule only makes technical amendments, the Assistant Administrator for Fisheries, NOAA, under section 553(b)(B) and (d) of the Administrative Procedure Act, for good cause finds that it is unnecessary to provide prior notice and opportunity for public comment on this rule or to delay for 30 days its effective date. Because this rule is being issued without prior notice and opportunity for public comment, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, and none has been prepared.

This action is categorically excluded from the requirement to prepare an environmental assessment by section 6.02b.3(b)(ii)(aa) of NOAA Administrative Order 216-6 as revised.

List of Subjects in 50 CFR Part 216

Administrative practice and procedure, Imports, Indians, Marine mammals, Penalties, Reporting and recordkeeping requirements, Transportation.

Dated: February 21, 1996.

Gary C. Matlock,
Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 216 is amended as follows:

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

1. The authority citation for part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*, unless otherwise noted.

§ 216.3 [Amended]

2. In § 216.3, a definition for "Regional Director" is added in alphabetical order to read as follows:

* * * * *

Regional Director means the Director, Southwest Region, NMFS, 501 W. Ocean Blvd., Long Beach, CA 90802, or his/her designee.

* * * * *

3. In § 216.24, paragraphs (b), (d)(l), (d)(2)(i)(A)(l) through (d)(2)(i)(A)(2), (d)(2)(iii)(B), and (e)(7) are removed and reserved, and paragraphs (c), (d)(2)(ii)(C), (d)(2)(iii)(A), the second sentence of paragraph (d)(2)(v)(B), (e)(2)(i)(A), and (e)(5)(v)(B) are revised to read as follows:

§ 216.24 Taking and related acts incidental to commercial fishing operations.

* * * * *

(c) *Certificates of inclusion*—(1) *Vessel certificates of inclusion.* The owner or managing owner of a vessel that participates in commercial fishing operations under the ATA permit must hold a valid vessel certificate of inclusion. Such certificates are not transferable and must be renewed annually. If a vessel certificate holder surrenders his/her certificate to the Regional Director, the certificate shall not be returned nor shall a new certificate be issued before the end of the calendar year. This provision does not apply when a change of vessel ownership occurs.

(2) *Operator's certificate of inclusion.* The person in charge of and actually controlling fishing operations (hereinafter referred to as the operator) on a vessel engaged in commercial fishing operations under the ATA permit, must hold a valid operator's certificate of inclusion. Such certificates are not transferable, and must be renewed annually. In order to receive a certification of inclusion, the operator must have satisfactorily completed all required training.

(3) A vessel certificate issued pursuant to paragraph (c)(1) of this

section must be on board the vessel while it is engaged in fishing operations and the operator's certificate issued pursuant to paragraph (c)(2) of this section must be in the possession of the operator to whom it was issued. Certificates must be shown upon request to an enforcement agent or other National Marine Fisheries Service (NMFS) designated agent. Vessels and operators at sea on a fishing trip on the expiration date of their certificate of inclusion, to whom or to which a certificate of inclusion for the next year has been issued, may take marine mammals under the terms of the new certificate. A vessel owner or operator is obligated to obtain or place the new certificate on board, as appropriate, when the vessel next returns to port.

(4) *Applications.* Owners or managing owners of purse seine vessels should make application for vessel certificates of inclusion to the Regional Director. Applications for vessel certificates of inclusion must contain:

(i) The name of the vessel that is to appear on the certificate(s) of inclusion;

(ii) The category of the general permit under which the applicant wishes to be included;

(iii) The species of fish sought and general area of operations;

(iv) The identity of state and local commercial fishing licenses, if applicable, under which vessel operations are conducted, and dates of expiration;

(v) The name of the operator and date of training, if applicable; and

(vi) The name and signature of the applicant, whether owner or managing owner, address, and if applicable, the organization acting on behalf of the vessel.

(5) *Fees.* (i) Applications for certificates of inclusion under paragraph (c)(1) of this section must include a fee of \$200.00 for each vessel named in the application, unless the applicant's income is below Federal poverty guidelines and the applicant shows in the application that his/her income is

below such guidelines, in which case a fee of \$20.00 must be included.

(ii) The Assistant Administrator may change the amount of the fee required at any time a different fee is determined to be reasonable, and notification of such change shall be published in the Federal Register.

(6) The Regional Director shall determine the adequacy and completeness of applications, and upon said determination that such applications are adequate and complete, shall approve such applications and issue the certificate(s).

(7) Failure to comply with provisions of the ATA permit, certificates of inclusion, or these regulations may lead to suspension, revocation, modification, or denial of a certificate of inclusion. It may also subject the certificate holder, vessel, vessel owner, operator, or master to the penalties provided under the MMPA. Procedures governing permit sanctions and denials are found at subpart D of 15 CFR part 904.

(8) By using an operator or vessel certificate of inclusion under the ATA permit, the certificate holder authorizes the release to NMFS of all data collected by observers aboard purse seine vessels during fishing trips under the Inter-American Tropical Tuna Commission observer program or any other international observer program in which the United States may participate. The certificate holder must furnish the international observer program all release forms required to provide the observer data to NMFS. Data obtained under such releases will be used for the same purposes as data collected directly by observers placed by the NMFS and will be subject to the same standards of confidentiality.

(d) * * *

(2) * * *

(ii) * * *

(C) The vessel certificate holder shall notify the Regional Director of any change of vessel operator within at least 48 hours prior to departing on the next scheduled trip.

(iii) * * *

(A) The vessel certificate holder of each certificated vessel, who has been notified via certified letter from NMFS that his/her vessel is required to carry an observer, shall notify the Regional Director at least 5 days in advance of the vessel's departure on a fishing voyage to allow for observer placement. After a fishing voyage is initiated, the vessel is obligated to carry an observer until the vessel returns to port and one of the following conditions is met:

* * * * *

(v) * * *

(B) * * * The vessel certificate holder shall notify the Regional Director of any net modification at least 5 days prior to departure of the vessel in order to determine whether a reinspection or trial set is required.

* * * * *

(e) * * *

(2) * * *

(i) * * *

(A) Tuna, frozen whole or in the round:

0303.42.00.20.0 Tuna, yellowfin, whole frozen.

0303.42.00.40.6 Tuna, yellowfin, eviscerated head-on, frozen.

0303.42.00.60.1 Tuna, yellowfin, eviscerated head-off, frozen.

0303.49.00.40.9 Tuna, non-specific, frozen.

* * * * *

(5) * * *

(v) * * *

(B) The nation's regulatory program is comparable to the regulatory program of the United States as described in paragraphs (a), (c), (d)(2), and (f) of this section and the nation has incorporated into its regulatory program such additional prohibitions as the United States may apply to its own vessels within 180 days after the prohibition applies to U.S. vessels;

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