

will make a reapportionment to the “designated species B” endorsement catch limit. The amount of the annual limited entry fleet commitment, “designated species B” endorsement catch limit, and the amounts and timing of any reapportionments to the “designated species B” endorsement catch limit will be announced in the FEDERAL REGISTER.

(3) *Procedure for issuance.* Owners of vessels applying for “designated species B” endorsements must apply on or before November 1 of each year for a “designated species B” endorsement for the following year. Applications are available from the FMD. Applicants are required to specify their commitments for delivery of the designated species for the coming year. On or about November 1 of each year, the FMD will establish a prioritized list of applicants based on seniority (number of years the vessel has fished for the designated species). A vessel which replaces a lost vessel, consistent with the standards in the PCGFMP, has the same seniority status as the replaced vessel. Vessels with equal seniority will be ranked equally. “Designated species B” endorsements will be issued first to all vessels with the highest seniority, then to those with the next highest seniority, and so on down the list. No further endorsements will be issued when it is estimated that the commitments of applicants receiving endorsements is sufficient to take the “designated species B” catch limit. If there are insufficient commitments by senior applicants to take the “designated species B” catch limit, additional applications will be ranked by lottery and a number of endorsements sufficient to take the catch limit will be issued.

(b) *Attributes.* (1) A limited entry permit with a “designated species B” endorsement entitles the permit recipient to fish only for the species, and only with the gear, specified in the endorsement.

(2) A “designated species B” endorsement is not transferable to another person, and may not be used with a different vessel under the same ownership, unless the vessel has been totally lost and replaced consistent with the provisions of the PCGFMP, in which

case the replacement vessel has the same seniority as the lost vessel for purposes of a “designated species B” endorsement.

(3) A “designated species B” endorsement is valid only for the fishing year for which it is issued.

§660.338 Limited entry permits—new permits.

(a) Small limited entry fisheries that are controlled by a local government, are in existence as of July 11, 1991, and have negligible impacts on the groundfish resource, may be certified as consistent with the goals and objectives of the limited entry program and incorporated into the limited entry fishery. Permits issued under this subsection will be issued according to the standards and procedures set out in the PCGFMP and will carry the rights explained therein. Window period is that period from July 11, 1984, through August 1, 1988.

(b) If, after the window period, an exempt gear is prohibited by Washington, Oregon, or California or NMFS, the owners of vessels using such gear, who would not otherwise qualify for an “A” or “provisional A” endorsement, may qualify for a “provisional A” endorsement for only one of the three limited entry gears, if the vessel used the prohibited gear to make sufficient landings of groundfish during the window period to meet the MLR for the limited entry gear. If a vessel would qualify for an endorsement for more than one limited entry gear, the owner must choose the type of gear for which the endorsement will be issued. If an “A” or “provisional A” endorsement was previously issued for the vessel, and the endorsement was subsequently transferred or expired, no “provisional A” endorsement will be issued. Permits issued under this section will be issued according to the procedures and standards set out in the PCGFMP and will carry the rights explained therein.

(c) An owner of a vessel that qualifies under this section must apply to the FMD for a permit within 180 days of incorporation of the limited entry fleet of which the vessel is a part or within 180 days of the effective date of the prohibition of that vessel’s gear. Untimely applications will be rejected unless the

applicant demonstrates that circumstances beyond the applicant's control prevented submission of the application during the specified period. Illness, injury, or death of the potential applicant are the primary grounds on which untimely applications may be accepted.

§ 660.339 Limited entry permit fees.

The Regional Director will charge fees to cover administrative expenses related to issuance of limited entry permits, including initial issuance, renewal, transfer, vessel registration, replacement, and appeals. The appropriate fee must accompany each application.

§ 660.340 Limited entry permit appeals.

(a) Decisions on appeals of initial decisions regarding issuance, renewal, transfer, and registration of limited entry permits, and endorsement upgrade, will be made by the Regional Director.

(b) Appeals decisions shall be in writing and shall state the reasons therefor.

(c) Within 30 days of an initial decision by the FMD denying issuance, renewal, transfer, or registration of a limited entry permit, or endorsement upgrade, on the terms requested by the applicant, an appeal may be filed with the Regional Director.

(d) The appeal must be in writing, and must allege facts or circumstances to show why the criteria in this subpart have been met, or why an exception should be granted.

(e) At the appellant's discretion, the appeal may be accompanied by a request that the Regional Director seek a recommendation from the Council as to whether the appeal should be granted. Such a request must contain the appellant's acknowledgement that the confidentiality provisions of the Magnuson Act at 16 U.S.C. 1853(d) and part 600 of this chapter are waived with respect to any information supplied by the Regional Director to the Council and its advisory bodies for purposes of receiving the Council's recommendation on the appeal. In responding to a request for a recommendation on appeal, the Council will apply the provi-

sions of the PCGFMP in making its recommendation as to whether the appeal should be granted.

(f) Absent good cause for further delay, the Regional Director will issue a written decision on the appeal within 45 days of receipt of the appeal, or, if a recommendation from the Council is requested, within 45 days of receiving the Council's recommendation. The Regional Director's decision is the final administrative decision of the Department as of the date of the decision.

§ 660.341 Limited entry permit sanctions.

Limited entry permits issued or applied for under this subpart are subject to sanctions pursuant to the Magnuson Act at 16 U.S.C. 1858(g) and 15 CFR part 904, subpart D.

EFFECTIVE DATE NOTE: At 63 FR 36617, July 7, 1998, § 660.350 was added, effective July 1, 1998 through Jan. 4, 1999.

§ 660.350 Compensation with fish for collecting resource information—exempted fishing permits off Washington, Oregon, and California.

In addition to the reasons stated in § 600.745(b)(1) of this chapter, an EFP may be issued under this subpart G for the purpose of compensating the owner or operator of a vessel for collecting resource information according to a protocol approved by NMFS. The EFP would allow a vessel to retain fish as compensation in excess of trip limits, or to be exempt from other specified management measures for the Pacific coast groundfish fishery.

(a) *Compensation EFP.* A compensation EFP may be issued to the owner or operator of a vessel that conducted a resource survey according to a contract with NMFS. A vessel's total compensation from all sources (in terms of dollars or amount of fish and including fish from survey samples or compensation fish) will be determined through normal Federal procurement procedures. The compensation EFP will specify the maximum amount or value of fish that may be retained by the vessel after the resource survey is completed.

(1) *Competitive offers.* NMFS may initiate a competitive solicitation (request for proposals or RFP) to select