

Registry Team Meeting Summary: Monday, September 15, 2008

The National Saltwater Angler Registry Team met by telephone conference call at 11:00 EDT on September 15, 2008. Members present were: Gordon Colvin (Chair); Ron Regan; Brad Spear; George Lapointe; Bob Clark; Dick Brame; Mark Robson; Ed Ebisui. Also participating were: Josh DeMello (WPFMC); Preston Pate (Chair, Operations Team); Forbes Darby (Chair, Communication and Education Team)

The purpose of the meeting was to discuss the comments received by NMFS on the proposed rule to establish the National Saltwater Angler Registry program. Set forth below is a list of the principal comments that was distributed to the Team and, highlighted, a summary of the discussion by the Team members.

Principal Registry Rule Comments/Registry Team Review

September 15, 2008

1. A number of comments expressed opposition to the registration fees proposed to be adopted in 2011.

The Registry Team members discussed the basis of the fee requirement. Providing for a registration fee is required by NOAA policy and is consistent with the provisions of the MSA and other NMFS permits and registrations. Section 401(g)(1) of the MSA expressly authorizes charging a fee for registration beginning in 2011. A registry fee also establishes an incentive for states to take necessary action to be designated as exempt. The team members generally support maintaining the fee requirement.

2. If a registration fee is charged, fee revenue should be dedicated to marine fishery conservation.
3. The estimated fee of \$15 to \$25 is too high. An analysis of cost to administer the program should be conducted and the fee should not exceed the cost of administering registrations.

The Registry Team members reviewed the basis for determining the fee and noted that the proposed rule does not set the registration fee. Per current NMFS policy, the fee will be determined annually, beginning in 2010 for the 2011 registration year, based on the assessed cost of administering the registration program. The actual fee will be based on an annual assessment of registry-related costs, and will not exceed the cost of actually administering the program. Team members suggested that NMFS consider the distinction between administrative and operational costs when making future determination of registry fees.

4. Persons who hold HMS angling permits under 50 CFR 635.4(c) should be exempt from the registration requirement: NMFS already has contact information for these individuals.

The Registry Team members did not express concerns regarding exempting persons who hold HMS angling category permits.

5. Registration fees should be waived or reduced for: senior anglers; disabled persons; active-duty military; indigent persons.

Some of the Team members expressed support for the concept of reduced fee or free registration for individuals in the same categories as individuals who receive such consideration from state license fees. However, it was noted that NMFS does not provide any reduced fee or fee waiver for other kinds of permits, particularly for HMS angling category permits. It was also noted that, since the cost of the registry program is to be paid by the fees, the cost recovery would result in higher fees to those who would have to pay them if large numbers of persons are exempt. In some regions (Hawaii and Alaska were cited as examples), there are very high numbers of active-duty military personnel; generally, the states allow military personnel to purchase licenses as residents, but do not waive fees. It was also noted that seniors constitute a large and growing segment of the angling public. Military and senior fee exemptions could result in a significant impact on cost recovery. There is also the question of at what age a senior would qualify for a reduced fee registration.

6. Opposes registration fee exemption for indigenous people.

The Team's discussion noted that the fee waiver is based on the inclusion of non-recreational fishing in the registration requirement (see # 54 below). Some Registry Team members expressed concern that the fee waiver for indigenous people has served to provoke proposals for other categories of fee exemptions. Also, it was noted that exempting indigenous people from registration fees is not consistent with most states' license requirements. Generally, states require members of treaty tribes to purchase state licenses unless they are fishing pursuant to treaty rights, in which case no license is required. The Team member from the western Pacific maintains strong support for the waiver, and the support from other stakeholders in the region was noted.

7. How will indigenous people provide proof of their eligibility for a fee waiver? The proposed definition is not sufficient for this purpose.

The Registry Team's discussion centered on the portion of the definition that covers the western Pacific region. Representatives from the region noted that there is an existing (voluntary) native Hawaiian registry that could be used as a basis of qualifying person from Hawaii. It was suggested that there should be no change to the rule to include a quantum requirement regarding a qualifying persons' ancestry.

8. Oppose registration/licensing as: an unwelcome imposition on unrestricted access to marine fisheries; an unnecessary burden on anglers; an unwelcome federal government intrusion in people's lives.
9. Commercial fishing is not adequately regulated and is responsible for fishery stock conditions, rather than recreational fishing. It is not necessary to regulate recreational fishing because recreational fishers catch too few fish to affect marine fish populations.
10. Do not implement a registry. Utilize other methods to obtain the necessary data rather than a registry-based telephone survey.
11. NMFS should use data provided voluntarily by anglers rather than survey-based data.
12. NMFS should accept a state's or all states' license data base(s), and not require federal registration in the state(s)..
13. NMFS is authorized in § 401(g)(1) of the MSA to require federal registration of anglers only in the EEZ or, in state waters, only if they are fishing for anadromous species. NMFS should clarify the basis for the rule's provisions that require states to license or register all anglers fishing in state waters, including those who fish only from shore, in order to qualify for exempted state status.
14. Since NMFS is only concerned with fisheries in the EEZ, NMFS should allow for a vessel registry in those areas that have no anadromous fisheries.
15. The Western Pacific Region should be divided into at least two regions for purposes of consideration of regional survey-based exemptions, one for the Hawaiian archipelago and one for the western Pacific Island territories.

The Registry Team members did not express concerns regarding separation of the western Pacific into two regions, one for the state of Hawaii and one for the U.S. territories and commonwealths.

16. In § 600.1404, delete sections (1)(iii); (3)(ii) and (4)(iii). This will limit the registration requirement to persons fishing for salmon to those who are fishing in tidal waters, consistent with other anadromous species.

The Registry Team noted that the geographic scope of MRIP is not expected to include fishing in the non-tidal freshwater sections of rivers and watersheds in which anadromous fish, including salmon, migrate. Accordingly, the Team members did not express concerns regarding treating salmon consistently with other anadromous species, and limiting the federal registration requirement to angling and spear fishing for salmon in tidals.

17. Revise the text in § 600.1417(2) to allow for effort data collection methods other than use of registries.

The Registry Team members noted that, for approved regional surveys, methods for collecting angler effort data other than registry-based telephone surveys may be appropriate and conform to acceptable survey standards and practices. The intent of this provision in the proposed rule was to ensure that, where telephone surveys are part of regional survey designs, they utilize complete license-based registries rather than telephone directory-based sample frames. Accordingly, the Team members did not express concerns regarding revising the rule consistent with the comment.

18. Section 600.1417 should provide that a state exempted via the regional survey method will not be required to submit registry data to NMFS. The Registry Team members did not express concerns regarding making submission of angler registry data voluntary for a state that is exempted based on its participation in a regional survey.

19. Add a definition of “tidal waters”. Consider a definition that defines tidal water as those lying seaward of a line established in each coastal state’s laws or regulations to delineate the boundary between state freshwater and saltwater licensing requirements or management zones.

Several Registry Team members supported the concept of defining “tidal waters” based on each state’s statutory boundary. There was discussion of whether NMFS could acquire citations of state statutes from each coastal state, and then incorporate those references in the rule, or even import the text of each state’s statute into the rule. The Team recognized that it would be at best cumbersome and very time consuming to do this. Also, some state’s boundaries (Alaska’s, for example) are very complex. It was also suggested that the U.S. Fish and Wildlife Service’s regulations that set waterfowl management zones could be looked at for ideas of how to address state regulatory boundaries in federal regulations.

It was pointed out that the primary concern of states regarding this definition is that, in exempted states that have a single combination or all-waters fishing license, the state will have two years in which to separate salt water from fresh water anglers in their data base or they will face losing their exempted state status. If NMFS establishes a registry program boundary that is different than the boundary set in state law, the state may not be able to separate their anglers as required by the registry rule. At best, the different boundaries would be very confusing to anglers. One solution to this problem could be to use the “tidal waters’ definition only to determine in which waters anglers/spear fishers fishing for anadromous species would need to be registered in non-exempt states. In exempt states, the issue of the boundary between fresh water and salt water fisheries would be specified in the MOA, and could utilize state-established boundaries. Most Team members expressed support for this approach.

20. In those states that do not currently license or register anglers, or which have license exemptions that will preclude designation as exempted states, the state legislatures must pass legislation that adopt the changes necessary for the states to qualify for exemptions. The state legislatures will not have time to introduce and pass legislation that conforms to the requirements of the final rule in the brief period between the time the final rule is adopted and the January, 2009, implementation of the federal registration requirement. States request that NMFS delay the implementation date of the registration requirement for a sufficient period to enable their legislatures to pass the necessary legislation.

In general, the Registry Team members expressed the position that NMFS should bend over backwards toward the states which are making efforts to amend their laws to comply with the rule. The members expressed that it would be unfortunate, confusing and an unnecessary expenditure of time, effort and funding to require people to register in a state and then tell them a few months later they no longer need the federal registration, but instead need a state license.

At the same time, the discussion acknowledged that a hard deadline, and the certainty that federal registration requirements will go into effect, is necessary to assure state action.

Two options were identified. The first would be a simple delay in the federal registration requirement for a period not to exceed one year. The final rule would need to be adopted as scheduled, but the rule would include an effective date for section 600.1405 (Angler Registration) of 1/1/10 (or another date).

The second option would be to give states which have a license, but which have license exemptions that must be eliminated for permanent exempted state designation (probably, FL, SC, VA, MD, DE), interim exempted state status for one year to enable the states to implement programs or legislation to identify the exempted anglers.

Also, a hybrid of the two options could be adopted (for example, a 6-month delay in the effective date of Sec. 600.1405 and interim designation of FL, SC, VA, MD and DE until 1/1/10).

21. Clarify the intent of § 600.1417(b). Is it intended that a state must fully qualify for a license-based exemption in order to also qualify for a survey-based exemption?
22. Amend § 600.1410(f) so that anglers' federal registration term coincides with the angler's state license term.
23. Provide a reduced fee or free registration for those categories of anglers which receive reduced fee or free state licenses.

24. Amend § 600.1405(a)(4)(i) to provide a transit exemption for anglers who transit the EEZ to fish in state waters adjacent to offshore islands.

The Registry Team members note that adding a transit exemption would significantly hinder effective enforcement of the registration requirement in areas with offshore islands. The Team members did not advocate making this revision to the final rule.

25. Define “continental shelf fishery resources beyond the EEZ.”
26. Include a citation defining “licensed fishing piers.”

The Team members agreed that, in general, licensed piers are those which are licensed by a state and on which anglers may be allowed to fish without a state fishing license, and that the final rule should allow exempted state designation for states which exempt fishing on such licensed piers from their license requirements only if the permit holder supplies effort information or angler contact information to the state. (See also comment # 48 below.)

27. Amend § 600.1415 to automatically exempt states that are currently partnering with NMFS in regional recreational surveys.
28. Amend the definition of “for hire” fishing vessel to exclude fishing guides that operate in inland fresh waters.
29. NMFS should explain more fully why anadromous fish managed by states are included.
30. NMFS should explain how the production-on-demand requirement will improve surveys.
31. The requirement for a registrant to state where they intend to fish may be perceived as limiting where a person may fish. Anglers may regard such a limitation as draconian.
32. Section 600.1416(c) forces a state to prove a negative.
33. The proposed rule does not estimate costs for states to educate anglers regarding registry program requirements.
34. There is a need for the rule to address states’ free fishing days.
35. NMFS should clarify the issue of who needs to register when fishing in state waters (i.e. clarify what is meant by “angling for anadromous species”).

36. NMFS should acknowledge the role of states in enforcing the rule and provide training and resources.
37. It is suggested that states submit data on a bimonthly schedule.
38. The rule should provide more information and clarify requirements for the regional survey exemption.
39. The public burden hours estimate is low. The telephone burden is closer to 5-10 minutes. A state license purchased at a store is about a 30 minute transaction.
40. Date of birth should also be collected from registrants.

The Registry Team members did not express concerns regarding incorporating this recommendation.

41. The Background, paragraph 6, page 3, refers to “marine” anglers and vessels. This should be revised to reflect applicability to anadromous fish in fresh waters, including tidal fresh waters.
42. More detail is needed regarding the timing of exempted state designation following adoption of the final rule.
43. Privately-owned fishing piers are small entities that may be affected by the rule.
44. NMFS should clarify whether states can be exempted separately for anglers and for-hire vessels.
45. The state does not get telephone numbers for all licensees. If required by § 600.1416(a), states may not qualify for exempted state status.

The Registry Team members agreed that states should qualify for exempted state designation if they provide names, addresses and date of birth of licensees/registrants and agree via the MOA to assist NOAA in developing telephone numbers for their licensees/registrants.

46. In § 600.1416(b)(4), add “gig” to the gears used to spearfish.
47. The updates required after two years for lifetime and combination licenses will be expensive for states to produce.
48. NMFS should clarify the difference between licensed piers in § 600.1416(b)(4) and public piers in § 600.1416(c)(3)..

49. § 600.1400: The definition of angler/spear fisher does not include other recreational gear types (nets, traps, hand harvest).

The Registry Team members generally accepted that the scope of surveys that NMFS will conduct using registry data will be limited to angling and spear fishing.

50. § 600.1405(b)(7): In CNMI, Guam and American Samoa, there are no commercial licenses. How would commercial fishing in these waters be excluded in order to prevent duplication?

The Team members discussed the comment and acknowledged the issue. The Team noted that a regional survey-based exemption for this region would be the most effective way to resolve this question.

51. If NMFS does not conduct surveys in certain areas (e.g. telephone surveys in Guam, CNMI, American Samoa), citizens of those areas will be required to register, but the registry will not be used for data collection.

The Team acknowledged that a regional survey-based exemption for this region would be the most effective way to resolve this question.

52. § 600.1416: Seniors exempted from state licensing requirements in exempted states would have to register federally.

53. How would exempted states get information on seniors exempt from state license requirements?

54. To prevent a mismatch in intercept vs. telephone coverage, NMFS should either: expand intercepts to all tidal waters; or, confine registration requirements to marine waters in which intercepts are conducted.

55. Anadromous species should be defined as per 50 CFR 600.10. Alternatively, add the following species to the list in §600.1400: Dolly Varden and sheefish.

The Registry Team members generally supported the option of adding Dolly Varden and sheefish to the definition.

56. Apply the registration requirement to recreational fishing as per 16 USC 1802 Sec. 3(37) as fishing for sport or pleasure. Using angling and spear fishing as proposed broadens the applicability of the rule to include certain subsistence and non-recreational uses.

The Registry Team generally agreed that it is necessary to retain the rule's applicability to angling and spear fishing to assure that compliance can be easily communicated to and

interpreted by the affected public and to assure enforceability. However, the Team also acknowledged that, in regions with well-defined subsistence fisheries (e.g. Alaska), the registration requirement for all non-commercial angling and spear fishing may lead to considerable confusion among persons who participate in subsistence fisheries, and to possible duplication of harvest reporting. The Team members discussed adding a registry exemption for individuals who are enrolled in a state or federal subsistence fishery program and who are fishing under the terms of that program.

57. Broaden the definition of a for-hire vessel to conform to the charter fishing vessel definition in the MSA: “The term "charter fishing" means fishing from a vessel carrying a passenger for hire (as defined in section 2101(21a) of title 46, United States Code) who is engaged in recreational fishing”

The Registry Team members did not express concerns regarding making this suggested definition change.

58. § 600.1416(b)(2). The reference to 600.1415(c)(4)(i) is incorrect. It should be to 600.1415(d)(1).
59. The proposed registry program does not address the needs of the state within its waters.
60. The registry requirement may drive anglers inshore, affecting what is measured. Further, the federal waters-only registration requirement may shift fishing effort to state waters, increasing fishing impact on state waters fishery resources and burden state programs. This is mainly an issue after the fee is required in 2011.
61. Decreasing fishing effort in federal waters would decrease federal dollars the state receives for recreational programs.
62. The registration requirement may result in mis-reporting of fishing location.
63. Registration exemptions are inconsistent with the NRC recommendations and may create a “multi-class” system.
64. The registry program may result in over-coverage.
65. The state licenses guides, not their vessels. Notwithstanding, the state is able to fully participate in the ongoing For-Hire survey. Accordingly, the requirements of vessel identification information in § 600.1416(a) should not disqualify the state for a for-hire exemption.
66. NMFS should assist states in accessing data bases that will help update lifetime license holder data.

67. The rule should include a clear statement that anglers fishing in state waters would only have to abide by state licensing regulation and not have to register federally.
68. NMFS should review the data elements to be required from states to assure they are necessary.
69. The rule should address confidentiality of state license data.

The Registry Team members agreed the final rule should address confidentiality of state data.

70. Will federal registrants be subject to the fishing regulations in the waters in which they are fishing?
71. Will NMFS maintain the current federal permits required in certain for-hire fisheries?
72. Clarification is needed re acceptability of lifetime licenses, military personnel exemptions and interstate license reciprocity in order for a state to be exempted.
73. A person should have to register only once. No annual renewal should be required.

The Registry Team noted that annual state license addresses/telephone numbers change as much as 30%. The Team members agreed with the need to require annual registration.

74. There should be no exemptions to the registration requirement.

The Registry Team members agreed with the appropriateness of maintaining the proposed registration exemptions.