

including weekends and Federal holidays) before the vessel leaves port on a fishing trip, any part of which occurs in the EEZ around the Hawaiian Archipelago or American Samoa. The vessel operator will be presumed to be an agent designated by the permit holder unless the Regional Administrator is otherwise notified by the permit holder. The permit holder or designated agent for a vessel registered for use under Hawaii longline limited access permits must also provide notification of the trip type (either deep-setting or shallow-setting).

(b) The permit holder, or designated agent, for any vessel registered for use under a Western Pacific squid jig fishing permit that is greater than 50 ft (15.4 m) in length overall, shall provide a notice to the Regional Administrator at least 72 hours (not including weekends and Federal holidays) before the vessel leaves port on a fishing trip, any part of which occurs in western Pacific EEZ waters. The vessel operator will be presumed to be an agent designated by the permit holder unless the Regional Administrator is otherwise notified by the permit holder.

(c) For purposes of this section, the notice must be provided to the office or telephone number designated by the Regional Administrator. The notice must provide the official number of the vessel, the name of the vessel, the intended departure date, time, and location, the name of the operator of the vessel, and the name and telephone number of the permit holder or designated agent to be available between 8 a.m. and 5 p.m. (local time) on weekdays for NMFS to contact to arrange observer placement.

* * * * *

[FR Doc. E8-27775 Filed 11-20-08; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 070719388-81445-03]

RIN 0648-AV29

Fisheries in the Western Pacific; Crustacean Fisheries; Deepwater Shrimp

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

ACTION: Final rule.

SUMMARY: This final rule implements Amendment 13 to the Fishery Management Plan for Crustacean Fisheries of the Western Pacific Region (Crustacean FMP). The rule designates deepwater shrimp of the genus *Heterocarpus* as management unit species (MUS), and requires Federal permits and data reporting for deepwater shrimp fishing in Federal waters of the western Pacific. The final rule is intended to improve information on deepwater shrimp fisheries and their ecosystem impacts, and to provide a basis for future management of the fisheries, if needed.

DATES: This final rule is effective December 22, 2008, except for the amendments to §§ 665.13, 665.41, and 665.42, which require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). When OMB approval is received, the effective date will be announced in the **Federal Register**.

ADDRESSES: The Fishery Management Plan for Crustacean Fisheries of the Western Pacific Region and Amendment 13 are available from the Western Pacific Fishery Management Council (Council), 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808-522-8220, fax 808-522-8226, or www.wpcouncil.org.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to William L. Robinson, Regional Administrator, NMFS, Pacific Islands Region (PIR), 1601 Kapiolani Blvd, Suite 1110, Honolulu, HI 96814-4700, and by e-mail to David_Rostker@omb.eop.gov, or fax to 202-395-7285.

FOR FURTHER INFORMATION CONTACT: Brett Wiedoff, NMFS PIR Sustainable Fisheries Division, 808-944-2272.

SUPPLEMENTARY INFORMATION: This final rule is accessible at the Office of the **Federal Register's** web site: www.gpoaccess.gov/fr/.

Crustacean fisheries in the western Pacific are Federally-managed within the waters of the U.S. Exclusive Economic Zone (EEZ) around American Samoa, the Commonwealth of the Northern Mariana Islands (CNMI), Guam, Hawaii, and the Pacific Remote Island Areas (PRIA, comprising Palmyra Atoll, Kingman Reef, Jarvis Island, Baker Island, Howland Island, Johnston Atoll, Wake Island, and Midway Atoll). The EEZ around the CNMI and PRIA extends from the shoreline seaward to 200 nautical miles (nm), and the EEZ around the other islands extends from three to 200 nm offshore. Currently, the

crustaceans FMP management unit species include the spiny lobsters *Panulirus marginatus* and *P. penicillatus*, slipper lobsters of the family Scyllaridae, and Kona (spanner) crab, *Ranina ranina*.

Western Pacific commercial trap fisheries for deepwater shrimp are intermittent. There have been sporadic operations in Hawaii since the 1960s, small-scale fisheries in Guam during the 1970s, and some activity in the CNMI during the mid-1990s. The fisheries have been unregulated, and there has been no comprehensive collection of information about the fisheries. Most of these fishing ventures have been short-lived, probably as a result of sometimes-frequent loss of traps, a shrimp product with a short shelf life and history of inconsistent quality, and the rapid localized depletion of deepwater shrimp stocks leading to low catch rates. Despite these hurdles, interest in deepwater shrimp fisheries continues.

Amendment 13 designates deepwater shrimp of the genus *Heterocarpus* as management unit species under the FMP, and requires Federal permits and reporting for deepwater shrimp fishing in the U.S. EEZ. The species complex includes all eight species of deepwater shrimp in the western Pacific (*Heterocarpus ensifer*, *H. laevigatus*, *H. sibogae*, *H. gibbosus*, *H. lepidus*, *H. dorsalis*, *H. tricarinatus* and *H. longirostris*). The monitoring program (permits and logbooks) is intended to improve understanding of these fisheries and their impact on marine ecosystems. Although currently there are no resource concerns regarding western Pacific deepwater shrimp, the designation of these shrimp as management unit species provides a basis for management of the fisheries, if warranted in the future.

In addition to the final rule, Amendment 13 designates Essential Fish Habitat (EFH) for *Heterocarpus* spp., as required under the Magnuson-Stevens Act. EFH was designated for the complete assemblage of adult and juvenile *Heterocarpus* as the outer reef slopes between 300 and 700 meters surrounding all islands and submerged banks in EEZ waters of the western Pacific.

In addition to adding deepwater shrimp to the management unit, this final rule reorganizes some existing regulations relating to the Northwestern Hawaiian Islands (NWHI) lobster limited access permit program. These regulations, now in paragraphs § 665.41(a)(1), (a)(3), (a)(4), and 665.41(d), are consolidated into paragraph § 665.41(d). The regulations also clarify that the harvest of

crustacean management unit species within the NWHI Marine National Monument is subject to the requirements of 50 CFR part 404.

Additional background information on this final rule may be found in the preamble to the proposed rule published on August 22, 2008 (73 FR 49638), and is not repeated here.

Comments and Responses

On August 14, 2008, NMFS published a notice of availability and request for public comment on Amendment 13, including a Draft Environmental Assessment (73 FR 47577). The amendment comment period ended on October 14, 2008. On August 28, 2008, NMFS published a proposed rule (73 FR 50751) that would implement the management measures recommended by the Council in Amendment 13. The proposed rule comment period ended on October 6, 2008. NMFS received comments from the public, and responds as follows:

Comment 1: "Ghost fishing," or harvesting by traps that are lost and left on the fishing grounds, can be a problem when traps are lost, and modifications to trap design can lessen or eliminate the problem of ghost fishing by lost traps. Is trap design considered in this rule?

Response: The final rule does not specify trap design or fishing operations to reduce the potential for ghost fishing. The rule establishes deepwater shrimp as a management unit species, and implements permitting and data collection programs. These measures will ensure that quality information is collected about the fishery, including gear loss, and will establish a foundation for regulating the fishery, if needed in the future. If the information indicates that gear loss and resulting ghost fishing are significant problems, the Council and NMFS could consider measures to mitigate the problem, as necessary.

Comment 2: If these deepwater shrimp are found as deep as 800 m, and if the highest catches of deepwater shrimp in the NWHI were made at 500–800 m, why is Essential Fish Habitat (EFH) being established by Amendment 13 only to a lower depth limit of 700 m?

Response: Certain habitat is being designated as "essential" for the complete assemblage of adults and juveniles of all eight species; there may be individuals or species that are found and harvested shallower or deeper. As new information about these species and the fishery that targets them becomes available, the Council and NMFS may reconsider the EFH designations.

Changes From the Proposed Rule

There are no changes from the proposed rule.

Classification

The Regional Administrator, Pacific Islands Region, NMFS, determined that Crustaceans FMP Amendment 13 is necessary for the conservation and management of the deepwater shrimp fishery, and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

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

The Chief Council for Regulation of the Department of Commerce certified to the Chief Council for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

This final rule contains collection-of-information requirements subject to the PRA. These requirements have not yet been approved by OMB, but such approval is expected in the near future. NMFS will publish a notice when these requirements are cleared by OMB and are, therefore, effective (see DATES).

NMFS anticipates that initial permit applications would require 0.5 hours per applicant, with renewals requiring an additional 0.5 hours annually. It is estimated that NMFS may receive and process up to 10 permit applications each year. Thus, the total collection-of-information burden to fishermen for permit applications is estimated at five (5) hours per year. The cost for individual Federal permits has not been determined, but would represent only the administrative cost and is anticipated to be approximately \$30 per permit.

NMFS anticipates the time requirement to complete Federal catch reports to be approximately 10 minutes per vessel per fishing day. Assuming that 10 vessels fish up to 100 days per year, the total collection-of-information burden estimate for fishing data reporting is estimated at 167 hours per year. Send comments regarding these burden estimates or any other aspect of this data collection, including suggestions for reducing the burden, to William L. Robinson (see ADDRESSES), and by e-mail to

David_Rostker@omb.eop.gov or fax to 202–395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to 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.

List of Subjects in 50 CFR Part 665
Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaii, Hawaiian Natives, Northern Mariana Islands, Pacific remote island areas, Reporting and recordkeeping requirements.

Dated: November 17, 2008.

Samuel D. Rauch III,

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

■ For the reasons set out in the preamble, 50 CFR part 665 is amended as follows:

PART 665—FISHERIES IN THE WESTERN PACIFIC

■ 1. The authority citation for 50 CFR part 665 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

■ 2. In § 665.12, revise the definition of "Crustaceans management unit species" to read as follows:

§ 665.12 Definitions.

* * * * *

Crustaceans management unit species means the following crustaceans:

Common Name	Scientific Name
Spiny lobsters	<i>Panulirus marginatus</i>
Slipper lobsters	<i>P. penicillatus</i> .
Kona crab	family <i>Scyllaridae</i> .
Deepwater shrimp	<i>Ranina ranina</i> .
	<i>Heterocarpus</i> spp..

* * * * *

■ 3. In § 665.13, revise paragraphs (f)(2)(i) through (f)(2)(v), and add a new paragraph (f)(2)(vi) to read as follows:

§ 665.13 Permits and fees.

* * * * *

(f) * * *

(2) * * *

(i) Hawaii longline limited access permit.

(ii) Mau Zone limited access permit.

(iii) Coral reef ecosystem special permit.

(iv) American Samoa longline limited access permit.

(v) Main Hawaiian Islands non-commercial bottomfish permit.

(vi) Crustaceans permit.

* * * * *

- 4. In § 665.41, revise paragraphs (a) and (d) to read as follows:

§ 665.41 Permits.

(a) *Applicability.* (1) The owner of any vessel used to fish for lobster in Crustaceans Permit Area 1 must have a lobster limited access permit issued for such vessel.

(2) The owner of any vessel used to fish for lobster in Crustaceans Permit Areas 2, 3, or 4 must have a permit issued for that vessel.

(3) The owner of any vessel used to fish for deepwater shrimp in Crustaceans Permit Areas 1, 2, 3, or 4 must have a permit issued for that vessel.

(4) Harvest of crustacean management unit species within the Northwestern Hawaiian Islands Marine National Monument is subject to the requirements of 50 CFR part 404.

* * * * *

(d) *Lobster Limited Access Permit Requirements.*

(1) A lobster limited access permit is valid for fishing only in Crustaceans Permit Area 1.

(2) Only one permit will be assigned to any vessel.

(3) No vessel owner will have permits for a single vessel to harvest lobsters in Permit Areas 1 and 2 at the same time.

(4) A maximum of 15 limited access permits can be valid at any time.

* * * * *

- 5. In § 665.42, add a new paragraph (c) to read as follows.

§ 665.42 Prohibitions.

* * * * *

(c) In any Crustaceans Permit Area, it is unlawful for any person to:

(1) Fish for, take, or retain deepwater shrimp without a permit issued under § 665.41.

(2) Falsify or fail to make, keep, maintain, or submit Federal reports and records of harvests of deepwater shrimp as required under § 665.14.

[FR Doc. E8-27773 Filed 11-20-08; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 071106671-8010-02]

RIN 0648-XL92

Fisheries of the Exclusive Economic Zone Off Alaska; Northern Rockfish in the Gulf of Alaska

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

ACTION: Temporary rule; modification of a closure.

SUMMARY: NMFS is opening directed fishing for northern rockfish in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to fully use the 2008 total allowable catch (TAC) of northern rockfish in the Western Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), November 18, 2008, through 2400 hrs, A.l.t., December 31, 2008. Comments must be received at the following address no later than 4:30 p.m., A.l.t., December 3, 2008.

ADDRESSES: Send comments to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by "RIN 0648-XL92," by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal website at <http://www.regulations.gov>.

- Mail: P. O. Box 21668, Juneau, AK 99802.

- Fax: (907) 586-7557.

- Hand delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK.

All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe portable document file (pdf) formats only.

FOR FURTHER INFORMATION CONTACT:

Steve Whitney, 907-586-7269.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

NMFS closed the directed fishery for northern rockfish in the Western Regulatory Area of the GOA on October 6, 2008 (73 FR 58899, October 8, 2008).

NMFS has determined that approximately 258 mt of the 2008 TAC of northern rockfish in the Western Regulatory Area of the GOA remain in the directed fishing allowance. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully utilize the 2008 TAC of northern rockfish in the Western Regulatory Area of the GOA, NMFS is terminating the previous closure and is reopening directed fishing for northern rockfish in the Western Regulatory Area of the GOA. The opening is effective 1200 hrs, A.l.t., November 18, 2008, through 2400 hrs, A.l.t., December 31, 2008.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA) finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of the northern rockfish fishery in the Western Regulatory Area of the GOA. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet and processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of November 13, 2008.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C.