

administered by the HMS Management Division.

Based on the 1998 revised stock assessment, parties at the 1998 meeting of the International Commission for the Conservation of Atlantic Tunas (ICCAT) adopted a 20-year west Atlantic BFT rebuilding program, beginning in 1999 and continuing through 2018. ICCAT has adopted an annual total allowable catch (TAC) of 2,500 mt whole weight (ww) of west Atlantic BFT inclusive of dead discards, to be applied annually until such time as the TAC is changed based on advice from the Standing Committee on Research and Statistics. The annual landing quota allocated to the United States was increased by 43 mt ww to 1,387 mt ww.

Regulations at 50 CFR 635.27, subdivide the U.S. BFT quota recommended by ICCAT among the various domestic fishing categories.

On May 28, 1999, NMFS published in the **Federal Register** (64 FR 29090) final regulations, effective July 1, 1999, implementing the FMP that was adopted and made available to the public in April 1999. The FMP and the implementing regulations establish percentage quota shares for the ICCAT recommended U.S. BFT landing quota for each of the domestic fishing categories. For the Purse Seine category, NMFS adopted a cap on the amount of quota the category could be allocated, establishing a quota percentage share for the Purse Seine category of 18.6 percent of the overall U.S. BFT landings quota, or 250 mt, whichever is less. If the percentage of the total ICCAT recommended annual landings quota allocated to the Purse Seine category exceeds 250 mt, the amount over 250 mt shall be allocated to the Reserve.

The ICCAT recommended 1999 U.S. BFT landings quota is 1,387 mt, 18.6 percent of which is 258 mt. Thus, for 1999, the Purse Seine category was allocated 250 mt of the 18.6 percent of the overall U.S. BFT landings quota, and the additional 8 mt were allocated to the Reserve. An additional 2 mt Purse Seine category under-harvest from 1998 was added to the category's quota for 1999, for a total 1999 Purse Seine category quota of 252 mt (64 FR 29806, June 3, 1999).

In both the FMP, and the final HMS consolidated regulations, NMFS noted that the AP had not had an opportunity to fully address the Purse Seine category cap in light of the 1999 BFT quota increase from ICCAT. Therefore, NMFS indicated it would hold the additional 8 mt for 1999 in the Reserve until after the AP had discussed the issue. NMFS also indicated that if the agency decided, after receiving input from the

AP, that it would not retain the cap, the FMP would be modified through its framework provisions.

The AP met in Silver Spring, MD on June 10 and June 11, 1999, and discussed the Purse Seine category cap. After extensive discussion, a clear majority favored removal of the cap. The AP provided information and advice to NMFS on the issue of fairness in the context of allocation to the Purse Seine category. Among the points used by the AP in support of removing the cap were the following: (1) Adopting a cap on one category and not others is not fair and equitable, (2) adopting a cap on the only category in the fishery which is managed using limited access does not promote limited access, and (3) adopting a cap on the Purse Seine category's BFT quota allocation may cause purse seine vessels to increase fishing effort on yellowfin tuna, which is an important commercial and recreational species for vessels in other Atlantic tunas permit categories, and for which there is an ICCAT recommendation in place to limit effective fishing effort.

As part of NMFS' consideration of the issue of transferring quota from the reserve, NMFS must also consider the quota transfer criteria as described at 50 CFR 635.27(a)(7), which state that NMFS has the authority to allocate any portion of the Reserve to any category or categories of the fishery after considering the following factors: (1) The usefulness of information obtained from catches of the particular category of the fishery for biological sampling and monitoring the status of the stock, (2) the catches of the particular gear segment to date and the likelihood of closure of that segment of the fishery if no allocation is made, (3) the projected ability of the particular gear segment to harvest the additional amount of BFT tuna before the anticipated end of the fishing season, (4) the estimated amounts by which quotas established for other gear segments of the fishery might be exceeded, (5) the effects of the transfer on BFT rebuilding and overfishing, and (6) the effects of the transfer on accomplishing the objectives of the FMP.

NMFS has determined that the transfer of the 8 mt from the Reserve to the Purse Seine category is consistent with the quota transfer criteria, especially since the Purse Seine category targets and lands BFT of a larger size than the other domestic fishing categories to which the Reserve may be allocated, and, thus, would not have a negative impact of stock rebuilding. In addition, the FMP established a separate School Reserve

for the Angling category (18 additional mt for 1999), which, along with strict quota monitoring in the commercial fisheries, means that a Reserve of 35 mt for the 1999 fishing year is sufficient.

After considering the AP's input and the quota transfer criteria described here, NMFS has decided to immediately transfer the 8 mt from the Reserve to the Purse Seine category, and is preparing a proposed rule to address the Purse Seine category cap issue under the framework authority of the FMP.

#### Quota Adjustment

NMFS is transferring 8 mt of the Reserve to the Purse Seine category. Following this transfer, the Reserve is reduced to 35 mt, and the Purse Seine category quota is increased to 260 mt for the 1999 fishing year.

#### Classification

This action is taken under 50 CFR 635.27(a)(7). This action is exempt from review under E.O. 12866.

**Authority:** 16 U.S.C. 971 et seq. and 1801 et seq.

Dated: July 2, 1999.

**Gary C. Matlock,**

*Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 99-17322 Filed 7-2-99; 4:01 pm]

BILLING CODE 3510-22-F

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 990630178-9178-01; I. D. 062499A]

RIN 0648-XA31

#### Fisheries Off West Coast States and in the Western Pacific; Western Pacific Crustacean Fisheries; 1999 Bank-Specific Harvest Guidelines

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

**ACTION:** Bank-specific harvest guidelines for the Northwestern Hawaiian Islands (NWHI) crustacean fishery for 1999.

**SUMMARY:** NMFS announces the 1999 bank-specific harvest guidelines for the NWHI crustacean fisheries. The previously announced total NWHI-wide harvest guideline of 243,100 lobsters (spiny and slipper lobster combined) is allocated among the four NWHI lobster fishing grounds as follows: Necker Island, 54,600 lobsters; Gardner

Pinnacles, 27,690 lobsters; Maro Reef, 89,570 lobsters; and the other remaining lobster banks combined, 71,240 lobsters. The intent of this action is to prevent overfishing and achieve the objectives of the Fishery Management Plan for the Crustacean Fisheries of the Western Pacific Region (FMP).

**DATES:** Effective July 2, 1999.

**ADDRESSES:** Copies of background material pertaining to this action may be obtained from Alvin Z. Katekaru, Fishery Management Specialist, Pacific Islands Area Office (PIAO), NMFS, 2570 Dole St., Honolulu, HI 96822 or Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813.

**FOR FURTHER INFORMATION CONTACT:** Alvin Katekaru at 808-973-2937.

**SUPPLEMENTARY INFORMATION:** During 1998, the Western Pacific Fishery Management Council (Council) and NMFS, under FMP framework procedures, implemented a bank-specific harvest guideline program for the NWHI lobster fishery to prevent the potential risk of fishermen over-exploiting the lobster resources at Necker Island, Gardner Pinnacles, and Maro Reef. That program was for only one season, July 1 through December 31, 1998. At its meeting in December 1998, the Council recommended the establishment of four NWHI lobster fishing grounds consisting of Necker Island, Gardner Pinnacles, Maro Reef, and the other remaining NWHI lobster banks combined. Also, the Council recommended that the Regional Administrator, in consultation with the Council, be authorized to allocate the annual NWHI-wide harvest guideline among the four fishing grounds. On April 8, 1999, the Council requested the Regional Administrator to initiate rulemaking to establish a permanent bank-specific harvest allocation program for the NWHI lobster fishery.

Under a separate rule, appearing in today's **Federal Register**, NMFS established a permanent bank-specific harvest allocation program. On March 11, 1999, NMFS announced in the **Federal Register** (64 FR 12092) the 1999 NWHI-wide harvest guideline of 243,100 lobsters, spiny and slipper lobsters combined, based on an estimated total exploitable lobster population of 1,870,000. Subsequently, NMFS Southwest Fisheries Science Center scientists calculated exploitable population estimates for Necker Island, Gardner Pinnacles, Maro Reef, and the other remaining lobster banks combined. By applying the FMP-specified constant harvest rate of 13

percent to the exploitable population estimates for each of the four fishing grounds, the Regional Administrator determined the 1999 harvest guideline for Necker Island to be 54,600 lobsters; Gardner Pinnacles, 27,690 lobsters; Maro Reef, 89,570 lobsters; and all the other remaining NWHI lobster banks combined, 71,240 lobsters. The Regional Administrator will close each fishing ground when its harvest guideline is estimated to be reached.

The PIAO will monitor landings and issue timely reports of the level of cumulative catch information and of the amount of the harvest guideline remaining for each fishing ground. Fishermen are advised to contact the PIAO (see **ADDRESSES**) periodically to stay abreast of any changes and of the progress of the fishery toward attaining the bank-specific harvest guideline of each of the fishing grounds. When the harvest guidelines of all the fishing grounds are attained, the Regional Administrator will close the entire NWHI lobster fishery. Under the procedures in 50 CFR 660.50(b), NMFS will announce the date upon which the harvest guideline will be reached and when the fishery will be closed.

#### Classification

This action is authorized by 50 CFR part 660 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA, (AA) finds that because this action merely announces bank-specific harvest guidelines resulting from nondiscretionary application of the objective harvest guideline formula in Amendment 9 to the FMP, no useful purpose would be served by providing prior notice and opportunity for public comment. Accordingly, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive as unnecessary the requirement to provide prior notice and opportunity for public comment. The AA also finds that there is good cause to waive the 30-day delay in effectiveness for this rule under 5 U.S.C. 553 (d)(3). In order to insure the health of the lobster resources in the NWHI by preventing the potential for overexploiting those resources at any of the major fishing grounds (Necker Island, Gardner Pinnacles, or Maro Reef) this fishing season, this action must be in effect as soon as practicable after the season opening on July 1, 1999. Therefore, delaying this action would be contrary to the public interest and unnecessary.

Because prior notice and opportunity for public comment are not required for this action by 5 U.S.C. 553, or any other law, the analytical requirements of the

Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

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

Dated: July 2, 1999.

**Andrew A. Rosenberg,**

*Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.*

[FR Doc. 99-17324 Filed 7-2-99; 4:15 pm]

BILLING CODE 3510-22-F

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 990630177-9177-01; I.D. 051099A]

RIN 0648-AK61

#### Fisheries Off West Coast States and in the Western Pacific; Western Pacific Crustacean Fisheries; Bank-specific Harvest Guidelines

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to implement a regulatory amendment under the framework procedures of the Fishery Management Plan for the Crustacean Fisheries of the Western Pacific Region. This rule divides the Northwestern Hawaiian Islands (NWHI) lobster fishery into four fishing grounds and allows the Southwest Regional Administrator, NMFS (Regional Administrator) to allocate the annual NWHI harvest guideline among these grounds for the 1999 season and beyond. Also, this final rule allows a lobster vessel carrying an operational NMFS-certified vessel monitoring system (VMS) unit to be within the boundary of a fishing grounds immediately after it is closed, provided the vessels is making steady progress to an open fishing grounds or back to port. This rule is intended to protect the lobster resources at each fishing ground, to provide better data on stocks, and to conserve the resource.

**DATES:** Effective July 2, 1999.

**ADDRESSES:** Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) and the Final Regulatory Flexibility Analysis (FRFA) for this action are available from Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1400, Honolulu, HI 96813. Send comments