

(2) A quota of one million pounds (453,597 kilograms) is available on July 16; and

(3) A quota of one million pounds (453,597 kilograms) is available on October 16, unless the fishery is closed for the remainder of the fishing year by notice in the *Federal Register*.

(b) When a quota specified in paragraph (a) of this section is reached, or is projected to be reached, the Secretary will publish a notice to that effect in the *Federal Register*. After the effective date of such notice, until an additional quota is available, wreckfish may not be harvested or possessed in or from the EEZ and the purchase, barter, trade, offer for sale, and sale of wreckfish taken from the EEZ is prohibited. This prohibition does not apply to trade in wreckfish that were harvested, landed, and bartered, traded, or sold prior to the effective date of the notice in the *Federal Register* and where held in cold storage by a dealer or processor.

[FR Doc. 91-11295 Filed 5-10-91; 8:45 am]

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## 50 CFR Part 681

[Docket No. 910494-1094]

### Western Pacific Crustacean Fisheries

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Emergency interim rule; closure of lobster fishery in the Northwestern Hawaiian Islands.

**SUMMARY:** The Secretary of Commerce (Secretary) issues this emergency interim rule amending current regulations promulgated under the Fishery Management Plan for the Crustacean Fisheries of the Western Pacific Region (FMP). This rule is needed to provide immediate protection to the lobster stocks in the Northwestern Hawaiian Islands (NWHI) from heavy fishing pressure. An immediate closure will protect the spawning population before and during the summer peak spawning period and delay the opening of the fishery until after the FMP can be amended to establish a limited-entry plan and an annual harvest quota.

**EFFECTIVE DATE:** This emergency rule is effective from May 8, 1991, through 2400 hours local time August 12, 1991.

**ADDRESSES:** Copies of the environmental assessment may be obtained from, and comments should be addressed to, E.C. Fullerton, Director, NMFS Southwest Region, 300 South Ferry Street, Terminal Island, CA 90731.

**FOR FURTHER INFORMATION CONTACT:** Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, (808) 523-1368 or (FTS) 551-1974, or E.C. Fullerton, Director, NMFS Southwest Region, (213) 514-6196 or (FTS) 795-6196.

**SUPPLEMENTARY INFORMATION:** The FMP was developed by the Council and implemented under the Magnuson Fishery Conservation and Management Act (Magnuson Act) by regulations appearing at 50 CFR part 681.

Responding to concerns voiced by members of the NWHI lobster fishery about falling catch rates and lobster tail sizes, the Council directed its advisory committees to meet with industry representatives to work out solutions to the problem. At the same time, the NMFS Honolulu Laboratory analyzed data from commercial fishing logbooks and research cruises. The research and discussions indicated that the NWHI fishery could be in jeopardy, and that immediate action was required to protect and rebuild the lobster stocks.

A detailed analysis of the status of lobster stocks in the NWHI for 1990 is presented in a NMFS report (Polovina, J.J. Draft Report, March 1991. Status of lobster stocks in the Northwestern Hawaiian Islands, 1990. Honolulu Laboratory, Southwest Fisheries Science Center, NMFS, NOAA. Admin. Rept. H-91-04. 16 pp.). Preparation of this report was accelerated at the Council's request, due to concern about the status of the stocks. The main findings of the report are:

1. Fishing effort in 1990 was 1.2 million trap-hauls, a 10 percent increase over 1989. The catch per unit of effort (CPUE) for slipper and spiny lobsters combined, however, was 0.66 lobsters/trap-haul, a 38 percent decrease from 1989, the lowest CPUE since the inception of the fishery in the late 1970s;

2. The current low population level is due to poor recruitment to the fishery beginning in late 1989, combined with heavy fishing pressure; and

3. Most significantly, the index of spawning stock biomass indicates that the 1990 spawning stock biomass was about 22 percent of the pre-exploitation level.

The recent poor recruitment to the fishery has resulted in a current spawning stock biomass that is close to 20 percent of the biomass in the absence of fishing, the threshold level of overfishing defined in amendment 6 to the FMP. There is no evidence that recruitment to the fishery has returned to normal levels. The Council agrees with its Crustacean Planning Team, its Scientific and Statistical Committee, and

with members of the lobster industry that the fishery should be closed as soon as possible.

The closure will serve two purposes. The first is to protect the spawning population before and during the summer peak spawning period. The second is to delay the opening of the fishery until after amendment 7 to the FMP can be implemented. Amendment 7 will establish a limited entry program and a process to set an annual harvest quota. These actions are intended to rebuild the lobster stocks and maintain them at maximum sustainable yield levels.

### Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has determined that this rule is necessary to respond to an emergency situation and is consistent with the Magnuson Act and other applicable laws. This emergency rule is implemented for 90 days under section 305(c) of the Magnuson Act and may be extended for an additional 90 days with the agreement of the Council. The Assistant Administrator has determined that continuing the regulations now in force for the NWHI would result in serious reduction in the lobster resource and considerable economic loss to the fishery.

The Council prepared an environmental assessment (EA) for this action. The Assistant Administrator concluded that there will be no significant impact on the human environment. A copy of the EA is available (see ADDRESSES).

The Assistant Administrator finds that the reasons justifying promulgation of this rule on an emergency basis make it impractical and contrary to the public interest to provide notice and opportunity for comment, or to delay for any period the effective date of these emergency regulations, under the provisions of 553 (b) and (d) of the Administrative Procedure Act.

This emergency rule is exempt from the normal review procedures of Executive Order (E.O.) 12291 as provided in section 8(a)(1) of that order. This rule is being reported to the Director of the Office of Management and Budget with an explanation of why it is not possible to follow the regular procedures of that order.

The Council requested that the State of Hawaii concur with its finding that the proposed action is consistent with the State's approved coastal zone management program. The State of Hawaii has concurred with this determination.

This rule does not contain a collection-of-information requirement subject to the Paperwork Reduction Act.

This rule is exempt from the Regulatory Flexibility Act because the rule is issued without opportunity for prior public comment.

This emergency rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

List of Subjects in 50 CFR Part 681

Fisheries, Fishing.

Dated: May 7, 1991.

Michael F. Tillman,  
Acting Assistant Administrator for Fisheries,  
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 681 is amended as follows:

**PART 681—WESTERN PACIFIC  
CRUSTACEAN FISHERIES**

1. The authority citation for part 681 continues to read as follows:

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

2. In § 681.7, effective from May 8, 1991, through 2400 hours local time August 12, 1991, paragraph (b)(1) is suspended, and new paragraphs (b)(7) and (b)(8) are added, to read as follows:

**§ 681.7 Prohibitions.**

\* \* \*

(b) \* \* \*

(7) Possess on a fishing vessel any gear (trap) for the fishing or taking of lobsters.

(8) Fish for, take, or retain lobsters.

\* \* \* \* \*

[FR Doc. 91-11298 Filed 5-8-91; 4:23 p.m.]

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