

period of the *Bureau Waiver Order* and the additional waivers granted within the *Order*. The *Payphone Orders* concluded that the primary economic beneficiaries of a subscriber 800 and access code call are the carriers that carry the call. The *Bureau Waiver Order* required that IXC's pay per-call compensation during the coding digit waiver period as required by the *Payphone Orders*. During that period, IXC's and their customers continued to use payphones to make calls that must be compensated pursuant to the *Payphone Orders* and the *Second Report and Order*. Moreover, IXC's already have implemented surcharges for per-call compensation and they would be benefiting unreasonably if the Bureau were to grant them a waiver of the payphone compensation obligations so that they do not have to pay per-call compensation when payphone-specific coding digits are not available.

27. In the *Order*, the Bureau denies ITA's petition for reconsideration of the obligation to pay compensation during the waiver period, and AirTouch's petition for waiver seeking similar relief, both of which were filed in response to the *Bureau Waiver Order*. The Bureau also denies the requests of ITA and AirTouch that they be granted relief from the payment obligations of the *Payphone Order* and the *Second Report and Order* until they can block calls. In denying AirTouch's petition, the Bureau notes that AirTouch has not shown special circumstances or that a waiver is in the public interest. The Bureau also declined to reconsider, in response to ITA's Petition, its decision in the *Bureau Waiver Order* to waive payphone-specific coding digit requirements while maintaining, and not waiving, the per-call compensation requirements during the waiver period.

28. Accordingly, pursuant to authority contained in Sections 1, 4, 201–205, 218, 226, and 276 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 201–205, 218, 226, and 276, that the policies and requirements set forth herein are adopted.

29. It is further ordered that this Order is effective immediately upon release thereof, and that the waivers included in this order are effective March 9, 1998.

30. It is further ordered that pursuant to Section 203 of the Communications Act, 47 U.S.C. 203, each of the LECs, absent a waiver, shall FILE tariff revisions to their interstate access tariffs to reflect the availability of FLEX ANI for IXC's for the purpose of payphone compensation no later than March 31, 1998, with a scheduled effective date of April 15, 1998, if FLEX ANI is available

for 25% or more of the smart payphones in its service area. Thereafter, within the waiver period it is granted in this order, a LEC must file its tariff revision to provide FLEX ANI to IXC's no later than when it provides FLEX ANI to 25% or more of the smart payphones in its service area.

31. It is further ordered that pursuant to Section 203 of the Communications Act, 47 U.S.C. 203, each of the LECs providing FLEX ANI shall FILE tariffs to recover the cost of implementing FLEX ANI as required herein no later than 30 days after full implementation of FLEX ANI.

32. It is further ordered that LECs are granted a waiver of Part 69 of the Commission's rules to develop a rate element for recovery of costs incurred to implement FLEX ANI from PSPs for the requirements of this order to provide FLEX ANI to IXC's.

33. It is further ordered that the ITA Petition for Reconsideration and the AirTouch Petition for Waiver of the *Bureau Waiver Order* are denied.

34. It is further ordered that the waiver requests of USTA, the LEC Coalition, and TDS are granted to the extent described herein, and otherwise are denied.

Federal Communications Commission.

A. Richard Metzger, Jr.,

Chief, Common Carrier Bureau.

[FR Doc. 98–11163 Filed 4–24–98; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 980415098–8098–01;
I.D.031998A]

RIN 0648–AK22

Fisheries Off West Coast States and in the Western Pacific; Western Pacific Crustacean Fisheries; Vessel Monitoring System; Harvest Guideline; Closed Season

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement three management measures governing the crustacean fisheries in the Exclusive Economic Zone around Hawaii. The first measure allows fishing vessels in the Northwestern Hawaiian Islands (NWHI) lobster fishery with

vessel monitoring system (VMS) units to transit the prohibited Crustaceans Permit Area 1 VMS Subarea while returning to port following closure of the fishery. Because these vessels are under surveillance by NMFS, they are allowed to traverse the permit subarea. Lobster vessels without VMS units must be outside the permit area when the closure takes effect and be back in port as specified by the Administrator, Southwest Region, NMFS. The second measure changes the deadline by which NMFS must announce the NWHI lobster harvest guideline for the following fishing season from March 31 to February 28. This action gives fishermen additional lead time to prepare their vessels for the lobster season which opens on July 1. The third measure, which pertains to the main Hawaiian Islands crustacean fishery, adds another month (May) to the existing closed lobster season (June through August), which makes Federal regulations for the lobster closed season consistent with the State of Hawaii's closed season for State waters. This rule also contains a nonsubstantive clarification of the definition of Crustaceans Permit Area 1 VMS Subarea.

DATES: Effective May 27, 1998.

ADDRESSES: Copies of background material pertaining to this action may be obtained from Kitty Simonds, Executive Director, Western Pacific Fishery Management Council (Council), 1164 Bishop St., Suite 1400, Honolulu, HI 96813, or Alvin Katekaru, Resource Management Specialist, Pacific Islands Area Office, Southwest Region, NMFS, 2570 Dole Street, Honolulu, HI 96822, **FOR FURTHER INFORMATION CONTACT:** Alvin Katekaru at (808) 973–2985 or Kitty Simonds at (808) 522–8220.

SUPPLEMENTARY INFORMATION: Following the 1997 NWHI lobster season, lobster fishermen reviewed the program and identified two issues that needed to be addressed. First, the requirement that VMS-carrying lobster vessels be outside the Crustaceans Permit Area 1 VMS Subarea when the fishery is closed (50 CFR 660.48), causes these vessels to take an indirect route back to port adding approximately 50 nautical miles to their return trip. Second, fishermen also requested more lead time to prepare (i.e., purchase and outfit lobster traps) for the lobster season and recommended that NMFS announce the next season's harvest guideline no later than 90 days following closure of the previous season.

These issues were initially discussed at the 92nd Council meeting held in April 1997. In August 1997, at its 93rd

meeting, the Council requested that a background document and proposed regulations be prepared for its next meeting. At its 94th meeting (November 1997), the Council heard fishermen reiterate their concern that the existing requirement of no transit through the permit subarea increased the distance traveled on their return to port and, hence, increased fuel costs. The fishermen also stated that only VMS-carrying vessels should be exempt from this requirement, because they are under surveillance by NMFS Enforcement and monitored for any prohibited lobster fishing. With respect to the issue of an early announcement of the harvest guideline, fishermen recommended that the announcement be made no later than 90 days after the end of each season. NMFS scientists indicated that it was not feasible to compile, verify, prepare for electronic data processing, analyze lobster catch data, and develop a harvest guideline within 90 days. However, 180 days appeared to be reasonable. Currently, NMFS is required to publish the harvest guideline in the **Federal Register** by March 31 each year (50 CFR 660.50). The Council believed that a February 28 deadline for the harvest guideline announcement would provide fishermen adequate time to prepare for the coming season and would provide NMFS with adequate time to calculate the guideline.

The Council also discussed the State of Hawaii's administrative rule which currently prohibits lobster fishing in State waters from May through August. Current regulations implementing the Fishery Management Plan for the Crustacean Fisheries of the Western Pacific Region prohibit lobster fishing in Federal waters off the main Hawaiian islands from June through August (50 CFR 660.45), which is inconsistent with the State's closed season and poses potential enforcement problems for the State. The Hawaii Division of Aquatic Resources requested that the Federal and State closed lobster season off the main Hawaiian Islands be made consistent.

Based on the discussions, the Council voted to request that NMFS initiate final rulemaking under framework procedures to adjust established management measures governing the NWHI lobster VMS requirements, the harvest guideline program, and the main Hawaiian Islands lobster closed season. NMFS has approved the Council's request for the three actions mentioned above. The revision to the definition for Crustacean Permit Area 1 VMS Subarea does not make a substantive change, but

merely clarifies the description of the outer boundary of the Subarea.

Classification

The Assistant Administrator, for good cause, finds under 5 U.S.C. 553(b) that prior notice and opportunity for public comment for this rule is unnecessary. There has been substantial opportunity for public comment on this rule, and, opportunity for additional public comment would serve no useful purpose. This action has received review during numerous public meetings under a review process at 50 CFR 660.53(c). It was discussed by the Council at three meetings (April 25, August 19, November 12, 1997); Crustacean Plan Team (July 1997); Scientific and Statistical Committee (August 1997); and by industry at an informal meeting (September 18, 1997).

This final rule has been determined to be not significant for purposes of E.O. 12866.

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

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: April 20, 1998.

Rolland A. Schmitten,
Assistant Administrator for Fisheries,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

1. The authority citation for part 660 continues to read as follows:

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

2. In § 660.12, the definition of "Crustaceans Permit Area 1 VMS Subarea" is revised to read as follows:

§ 660.12 Definitions.

* * * * *

Crustaceans Permit Area 1 VMS Subarea means an area within the EEZ off the NWHI 50 nm from the center geographical positions of the islands and reefs in the NWHI as follows: Nihoa Island 23°05' N. lat., 161°55' W. long.; Necker Island 23°35' N. lat., 164°40' W. long.; French Frigate Shoals 23°45' N.

lat., 166°15' W. long.; Garner Pinnacles 25°00' N. lat., 168°00' W. long.; Maro Reef 25°25' N. lat., 170°35' W. long.; Laysan Island 25°45' N. lat., 171°45' W. long.; Lisianski Island 26°00' N. lat., 173°55' W. long.; Pearl and Hermes Reef 27°50' N. lat., 175°50' W. long.; Midway Islands 28°14' N. lat., 177°22' W. long.; and Kure Island 28°25' N. lat., 178°20' W. long. The remainder of the VMS subarea is delimited by parallel lines tangent to and connecting the 50-nm areas around the following: from Nihoa Island to Necker Island; from French Frigate Shoals to Gardner Pinnacles; from Gardner Pinnacles to Maro Reef; from Laysan Island to Lisianski Island; and from Lisianski Island to Pearl and Hermes Reef.

* * * * *

3. In § 660.42, paragraphs (a)(9) and (b)(5) are revised to read as follows:

§ 660.42 Prohibitions.

* * * * *

(a) * * *

(9) Possess on a fishing vessel that has a limited access permit issued under this subpart any lobster trap in Crustaceans Permit Area 1 VMS Subarea when fishing for lobsters is prohibited as specified in §§ 660.45(a), 660.50, 660.51, and 660.52, except as allowed under § 660.48(a)(8).

* * * * *

(b) * * *

(5) Possess on a fishing vessel that has a permit for Permit Area 2 issued under this subpart any lobster trap in Permit Area 2 when fishing for lobster in the main Hawaiian Islands is prohibited during the months of May, June, July, and August.

4. In § 660.45, paragraph (b) is revised to read as follows:

§ 660.45 Closed seasons.

* * * * *

(b) Lobster fishing is prohibited in Permit Area 2 during the months of May, June, July, and August.

5. In § 660.48, paragraph (a)(7) is revised, paragraph (a)(8) is redesignated as (a)(9) and new paragraph (a)(8) is added to read as follows:

§ 660.48 Gear restrictions.

(a) * * *

(7) A vessel whose owner has a limited access permit issued under this subpart and has an operating VMS unit certified by the NMFS may enter Crustaceans Permit Area 1 with lobster traps on board on or after June 25, but must remain outside the Crustaceans Permit Area 1 VMS Subarea until the NWHI lobster season opens on July 1.

(8) A vessel whose owner has a limited access permit issued under this subpart and has an operating VMS unit certified by the NMFS may transit the Crustaceans Permit Area 1, including the Crustaceans Permit Area 1 VMS Subarea, with lobster traps on board for the purpose of returning to port following the closure date, as specified in § 660.50, providing the vessel does not stop and is making steady progress back to port as determined by NMFS.

* * * * *

6. In § 660.50, paragraph (b)(2) is revised to read as follows:

§ 660.50 Harvest limitation program.

* * * * *

(b) * * *

(2) NMFS shall publish a document indicating the annual harvest guideline in the **Federal Register** by February 28 of each year and shall use other means to notify permit holders of the harvest guideline for the year.

* * * * *

[FR Doc. 98-11017 Filed 4-24-98; 8:45]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 971208298-8055-02; I.D. 042198A]

Fisheries of the Exclusive Economic Zone Off Alaska; Species in the Rock Sole/Flathead Sole/"Other Flatfish" Fishery Category by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands

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

ACTION: Closure.

SUMMARY: NMFS is closing directed fishing for species in the rock sole/flathead sole/"other flatfish" fishery category by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the second seasonal apportionment of the 1998 Pacific halibut bycatch allowance specified for the trawl rock sole/flathead sole/"other flatfish" fishery category.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), April 21, 1998, until 1200 hrs, A.l.t., July 1, 1998.

FOR FURTHER INFORMATION CONTACT: Andrew Smoker, 907-586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

The second seasonal apportionment of the prohibited species bycatch mortality allowance of halibut for the BSAI trawl rock sole/flathead sole/"other flatfish" fishery category, which is defined at § 679.21(e)(4)(iv)(B)(2), was established as 120 mt by the Final 1998 Harvest Specifications of Groundfish for the BSAI (63 FR 12689, March 16, 1998).

In accordance with § 679.21(e)(8)(v), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the second seasonal apportionment of the 1998 halibut bycatch allowance specified for the trawl rock sole/flathead sole/"other flatfish" fishery in the BSAI has been caught. Consequently, the Regional Administrator is closing directed fishing for species in the rock sole/flathead sole/"other flatfish" fishery category by vessels using trawl gear in the BSAI.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent exceeding the second seasonal apportionment of the 1998 Pacific halibut bycatch allowance specified for the trawl rock sole/flathead sole/"other flatfish" fishery category. Providing prior notice and an opportunity for public comment on this action is impracticable and contrary to the public interest. The fleet will soon take the apportionment. Further delay would only result in the second seasonal apportionment of the 1998 Pacific halibut bycatch allowance being exceeded and disrupt the FMP's objective of limiting trawl Pacific halibut mortality. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.21 and is exempt from review under E.O. 12866.

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

Dated: April 21, 1998.

Bruce Morehead,

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

[FR Doc. 98-11016 Filed 4-21-98; 4:42 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 971208297-8054-02; I.D. 042098A]

Fisheries of the Economic Exclusive Zone Off Alaska; Deep-water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the deep-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA). This action is necessary because the second seasonal bycatch allowance of Pacific halibut apportioned to the deep-water species fishery in the GOA has been caught.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), April 21, 1998, until 1200 hrs, A.l.t., July 1, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907-586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS 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. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

The prohibited species bycatch mortality allowance of Pacific halibut for the GOA trawl deep-water species fishery, which is defined at § 679.21(d)(3)(iii)(B), was established by the Final 1998 Harvest Specifications of Groundfish for the GOA (63 FR 12027, March 12, 1998) for the second season,