

Executive Order 12866 or the Department's regulatory policies and procedures. In terms of the Regulatory Flexibility Act, our preliminary conclusion is that the action on which the ANPRM seeks comment would not have a significant economic impact on a substantial number of small entities. This is because the entities that the proposal would affect are nationwide certifying organizations that are not small entities. The members of these organizations are primarily individuals, rather than entities. Because the proposal would make ODAPC's consideration of SAP certification organizations speedier and more efficient, many of the effects of the proposal would likely be positive. In any event, the Department requests comments on any small entity impacts the proposal might have.

There are no Federalism impacts sufficient to warrant a Federalism assessment. If the Department decides to include this item in the forthcoming overall part 40 NPRM, it may be viewed as involving an information collection requirement under the Paperwork Reduction Act (PRA). If so, consideration of any information collection burdens for this provision will be included in the PRA documentation for the part 40 NPRM. The authority for this ANPRM is the same as for the part 40 rulemaking in general (i.e., 49 U.S.C. 102, 301, 322, 5331, 20140, 31306, and 45101, *et seq.*).

List of Subjects in 49 CFR Part 40

Drug testing, alcohol testing, reporting and recordkeeping requirements, safety, transportation.

Issued this 10th day of May 1999, at Washington, D.C.

Rodney E. Slater,

Secretary of Transportation.

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 192 and 195

[Docket No. RSPA-98-3783]

RIN 2137-AB38

Qualification of Pipeline Personnel

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of availability of draft environmental assessment.

SUMMARY: This proposed rule would require pipeline operators to develop

and maintain a written qualification program for individuals performing covered tasks on pipeline facilities. The intent of the rule is to ensure a qualified workforce and reduce the probability and consequences of incidents caused by human error. A draft environmental assessment of this proposed rule is available in the docket.

DATES: Interested persons may submit written comments on the Draft Environmental Assessment until July 6, 1999.

ADDRESSES: Send comments in duplicate to Dockets Facility, U.S. Department of Transportation, Plaza 401, 400 Seventh Street, SW, Washington, DC 20590-0001. Identify the docket and notice number stated in the heading of this notice. Persons should send the original plus one (1) copy. Comments may be filed electronically by e-mail at ops.comments@rspa.dot.gov. All comments and docketed material will be available for inspection and copying at the Dockets Facility between 8:30 a.m. and 5 p.m. each business day. Comments can also be reviewed over the Internet at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: Marvin Fell at (202)366-6205 or by e-mail at marvin.fell@rspa.dot.gov.

SUPPLEMENTARY INFORMATION: Although no regulatory program is capable of completely eliminating human error, the objective of this proposed rule is to reduce the risk of accidents on pipeline facilities attributable to human error. In a notice of proposed rulemaking (NPRM) published October 27, 1998 (63 FR 57269), RSPA proposed to require pipeline operators to develop and maintain a written qualification program for individuals performing covered tasks. This proposed rule for qualification of individuals is intended to provide additional levels of safety. The proposed rule would require operators of pipelines to develop a qualification program to evaluate an individual's ability to perform covered tasks and to recognize and react to abnormal operating conditions that may occur while performing covered tasks.

We have analyzed the proposed rule for purposes of the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*). The proposed rule should not significantly impact the environment. It should provide some improvement to the environment by reducing the probability and consequences of incidents on pipelines caused by human error. Therefore, we have determined that the proposed rule would not significantly affect the quality of the human environment. A

draft environmental assessment document is available for review in the docket.

Issued in Washington, DC, on May 26, 1999.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 99-14079 Filed 6-2-99; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 990304061-9150-02; I.D. 051099A]

RIN 0648-AL63

Fisheries off West Coast States and in the Western Pacific; Western Pacific Crustaceans Fisheries; Bank-Specific Harvest Guidelines

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes a rule that would divide the Northwestern Hawaiian Islands (NWHI) lobster fishery into four fishing grounds and allow the Southwest Regional Administrator, NMFS (Regional Administrator) to allocate the annual NWHI harvest guideline among these grounds for the 1999 season and beyond. The four lobster fishing grounds would be: Necker Island, Maro Reef, Gardner Pinnacles, and the remaining NWHI lobster fishing grounds combined. Also, the proposed rule would allow lobster vessels carrying a NMFS-certified vessel monitoring system (VMS) unit to be within the boundary of a fishing grounds immediately after it is closed, provided the vessels are 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: Written comments must be received on or before June 18, 1999.

ADDRESSES: Written comments should be sent to the Regional Administrator, 2570 Dole Street, Honolulu, Hawaii 96822 (attn: Al Katekaru). Copies of the regulatory impact review/initial regulatory flexibility analysis (RIR/IRFA) (revised May 1999) and environmental assessment are available

from Kitty Simonds, Executive Director, Western Pacific Fishery Management Council (Council), 1164 Bishop St. Suite 1400, Honolulu, HI 96814. Comments regarding the collection-of-information requirements contained in this rule should be sent to the Regional Administrator and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, D.C. 20503 (Attention: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT:

Kitty Simonds at 808-522-8220 or Alvin Katekaru, Fishery Management Specialist, Pacific Islands Area Office, NMFS, at 808-973-2985.

SUPPLEMENTARY INFORMATION: Under the framework procedures of the Fishery Management Plan for the Crustaceans Fisheries of the Western Pacific Region (FMP) and its implementing regulations (50 CFR 660.53), the Council, at its 98th meeting, requested that the Regional Administrator initiate rulemaking to define the above four fishing grounds for the purpose of allocating the annual NWHI lobster harvest guideline among them.

The procedure for determining the annual NWHI lobster harvest guideline, which was also employed during the 1998 lobster season, follows the methodology described in FMP Amendments 7 and 9. NMFS estimates the NWHI exploitable population of lobsters (spiny and slipper lobsters combined) at the beginning of the lobster season, which opens on July 1. The exploitable lobster population is the total number of lobsters, regardless of lobster size or reproductive condition, that are vulnerable to commercial fishing gear. Commercial logbook catch and effort data, provided by fishermen and augmented by NMFS scientific/observer and dealer pack-out information, are used to estimate the exploitable lobster population for the NWHI and the four fishing grounds.

Under procedures established by this proposed rule, the Regional Administrator would be authorized to allocate the annual NWHI lobster harvest guideline between the four fishing grounds by applying the FMP-specified constant harvest rate of 13 percent to the exploitable lobster population estimates for each of the four fishing grounds. The 13-percent harvest rate is associated with a 10-percent risk of overfishing. NMFS would announce the annual total lobster harvest guideline, including the bank-specific harvest allocations, in the **Federal Register** by February 28 of each year (50 CFR 660.50). During the lobster season, NMFS would monitor the amount of

lobsters harvested on a daily basis and, when the bank-specific harvest guideline for a lobster fishing ground is taken or projected to be taken, the Regional Administrator would announce, at least 24 hours in advance, closure of that fishing ground via electronic communication to each of the vessels participating in the fishery. The entire NWHI lobster fishery would close when all four fishing grounds are closed or on December 31 of that year, whichever occurs first.

Under the proposed rule, the harvest of lobster and the possession of lobster traps on board a permitted lobster vessel would be prohibited within a lobster fishing ground when the harvest guideline allocation is determined to have been taken, unless the vessel has on board an operational NMFS-certified VMS unit and makes steady progress to another fishing ground that is open, or returns to port. This proposed provision, which was implemented on a trial basis during the 1998 lobster season, is intended to encourage lobster vessels to carry a VMS unit to allow NMFS to monitor their location on a real-time basis. Also, vessels with a VMS unit would not be subject to a specified time by which their lobsters must be landed. Vessels not carrying an operational VMS unit would be required to land their lobsters within a specified time period, determined by the Regional Administrator, following closure of the fishery, as provided by current regulations (50 CFR 660.50).

At its meeting on December 3, 1998, the Council considered a number of alternatives for permanently allocating the NWHI harvest guideline between fishing grounds (or banks). These were: (1) No action (return to a pre-1998, NWHI-wide harvest guideline program); (2) Necker Island, Maro Reef, Gardner Pinnacles, and all other grounds combined (Preferred, Partial and Bank-Specific Alternative), with the option of further defining subareas as new information becomes available; (3) Necker-Maró-Gardner-other grounds, which is similar to alternative 2, but with no option for defining new areas; (4) General area where several banks are combined into broad areas, i.e., combining Nihoa-Necker-French Frigate Shoals-Gardner Pinnacles into one area, and NMFS would allocate a portion of the NWHI harvest guideline to each area; and (5) Full bank, with each of the 16 lobster banks assigned a harvest guideline to the extent data are available to estimate the exploitable lobster population for a bank. The Council concluded that the preferred alternative (Necker-Gardner-Maró-General Area lobster grounds with the option of

establishing additional fishing grounds) would best meet the management objectives of the FMP and would enhance lobster resource conservation because it would help prevent local depletion at the Necker Island, Gardner Pinnacles, and Maro Reef fishing grounds and promote a broader distribution of fishing effort in other areas of the NWHI (General Area fishing grounds). Also, this action would provide more information about the lobster resource in the NWHI, because lobster fishing effort would be more widely distributed than it was in the past several years and would allow for the specification of additional fishing grounds as new information becomes available. This information, combined with a NMFS scientific data collection/observer program, should result in more effective management of the fishery. Most important, the proposed allocation system would respond to the concern that, unless lobster harvest at Necker Island, Gardner Pinnacles, and Maro Reef is limited, the lobster populations in those areas may be at risk.

If a final rule is issued after the public comment period, it is NMFS intention to make it effective before or as close as possible to the July 1, 1999, season opening and to announce bank-specific allocations of the 1999 harvest guideline concurrently, or soon thereafter as possible.

Classification

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

NMFS has prepared a regulatory impact review/initial regulatory flexibility analysis (RIR/IRFA) in compliance with the Regulatory Flexibility Act. This analysis describes the impact this proposed rule would have on small entities. The proposed rule would apply to the 12 permit holders, who own the 15 vessels in this limited entry fishery; however, typically only about half of the permitted vessels are expected to participate in each annual fishery. All participants in the fishery are small entities. No new reporting or record keeping requirements would be imposed by this proposed rule. No Federal rules are known to duplicate, overlap, or conflict with this rule. The reasons for, objectives of, and legal basis for this rule are described elsewhere in this preamble. The five alternative actions the Council considered regarding permanent allocation of the NWHI harvest guideline are discussed previously in the preamble to this rule, and in the RIR/IRFA. The IRFA compares annual revenues and costs per

vessel under the following four scenarios: (1) No allocations among fishing grounds; (2) 1998 allocation of the NWHI-wide harvest guideline among four fishing grounds, i.e., Necker Island, Maro Reef, Gardner Pinnacles, and Other Grounds; (3) 50-percent increase in the 1998 harvest allocation for each of the fishing grounds that have historically produced the majority of the lobster landings from the NWHI (i.e., Necker Island, Maro Reef, and Gardner Pinnacles); and (4) 50-percent decrease in the 1998 harvest allocation for the Necker Island, Maro Reef, and Gardner Pinnacles fishing grounds. The impact of each of the four scenarios in terms of gross revenue, operating costs, return on operations, fixed costs, net revenue, and return on investment is presented in Table 2 to the IRFA.

Based on the experience of the 1998 fishery, which was managed under a nearly identical 1-year rule on a trial basis, participants are expected to fish at the Necker Island, Maro Reef, and Gardner Pinnacles fishing grounds until each closes. Some fishing on the Other Grounds in the NWHI will take place. However, average catch per unit effort rates are expected to be lower than those on the other three fishing grounds, and the entire NWHI harvest guideline may not be taken (22 percent of the total harvest guideline was not taken in 1998). This will lead to lower average gross revenues, as well as to slightly higher travel costs compared to the same harvest guidelines unallocated among banks. However, the proposed action should result in long-term economic benefits to the fishery as the resource increases with improved fisheries management. A copy of the RIR/IRFA is available for public review and comment (see ADDRESSES).

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a 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. This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) that has been approved by OMB under OMB Control Number 0648-0307. This rule's collection-of-information burden is only for those persons who wish to voluntarily use a VMS unit in the fishery. The collection is to query through the VMS system a vessel to learn of its location before and after the start of the season or closure of a fishing ground, which is automatic with no action required by the vessel operator, except to verify the VMS unit is

operating. The burden associated with this collection is estimated to require a response time of .033 seconds. Permit holders whose vessels are not equipped with VMS would have the option of installing new VMS in order to participate under this regulatory option for the opening and closing of the lobster season and transiting between fishing grounds. Send comments regarding the collection-of-information burden or any other aspect of the information collection to NMFS and OMB (see ADDRESSES).

A formal section 7 consultation under the Endangered Species Act was concluded for Amendment 9, which established the harvest guideline system. On February 20, 1999, NMFS initiated an informal section 7 consultation to determine whether the effect on Hawaiian monk seals from the fishery managed under the proposed action is likely to be adverse. During the consultation NMFS will consider the Marine Mammal Commission's recommendation to prohibit lobster fishing at French Frigate Shoals, Kure Atoll, Pearl and Hermes Reef, and Lisianski Island because of their proximity to major Hawaiian monk seal breeding colonies. This consultation is expected to be concluded soon.

List of Subjects in 50 CFR Part 660

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

Dated: May 28, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is proposed to be 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. Section 660.12 is amended by adding the definition of "Lobster grounds", in alphabetical order, to read as follows:

§ 660.12 Definitions.

* * * * *

Lobster grounds refers, singularly or collectively, to the following four areas in Crustaceans Permit Area 1 that shall be used to manage the lobster fishery:

(1) *Necker Island Lobster Grounds*—waters bounded by straight lines

connecting the following coordinates in the order presented: 24°00' N. lat., 165°00' W. long.; 24°00' N. lat., 164°00' W. long.; 23°00' N. lat., 164°00' W. long.; and 23°00' N. lat., 165°00' W. long.

(2) *Gardner Pinnacles Lobster Grounds*—waters bounded by straight lines connecting the following coordinates in the order presented: 25°20' N. lat., 168°20' W. long.; 25°20' N. lat., 167°40' W. long.; 24°20' N. lat., 167°40' W. long.; and 24°20' N. lat., 168°20' W. long.

(3) *Maro Reef Lobster Grounds*—waters bounded by straight lines connecting the following coordinates in the order presented: 25°40' N. lat., 171°00' W. long.; 25°40' N. lat., 170°20' W. long.; 25°00' N. lat., 170°20' W. long.; and 25°00' N. lat., 171°00' W. long.

(4) *General NWHI Lobster Grounds*—all waters within Crustaceans Permit Area 1 except for the Necker Island, Gardner Pinnacles, and Maro Reef Lobster Grounds.

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3. Section 660.42 is amended by adding new paragraphs (a)(1)(vi) and (a)(13) to read as follows:

§ 660.42 Prohibitions.

* * * * *

(a) * * *

(1) * * *

(vi) In a lobster grounds after closure of that grounds as specified in § 660.50(b).

* * * * *

(13) Possess, on a fishing vessel that has a limited access permit issued under this subpart, any lobster trap in a lobster grounds that is closed under § 660.50(b), unless the vessel has an operational VMS unit, certified by NMFS, on board.

* * * * *

4. Section 660.48 is amended by revising paragraph (a)(7) 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 on board an operational VMS unit certified by NMFS, may transit Crustaceans Permit Area 1, including Crustaceans Permit Area 1 VMS Subarea, with lobster traps on board for the purpose of moving to another lobster grounds or returning to port following the closure date, as specified in § 660.50, providing the vessel does not stop or fish and is making steady progress to another lobster grounds or back to port as determined by NMFS.

* * * * *

5. Section 660.50 is amended by revising paragraph (a) introductory text,

paragraphs (b)(1), (b)(3) and (b)(4), and adding new paragraph (b)(5) to read as follows:

§ 660.50 Harvest limitation program.

(a) *General.* Harvest guidelines for the Necker Island Lobster Grounds, Gardner Pinnacles Lobster Grounds, Maro Reef Lobster Grounds, and General NWHI Lobster Grounds for Permit Area 1 will be set annually for the calendar year and shall:

* * * * *

(b) *Harvest guideline.* (1) The Regional Administrator shall use information from daily lobster catch reports and lobster sales reports from previous years, and may use information from research sampling and other sources to establish the annual harvest guideline in accordance with the FMP after consultation with the Council.

* * * * *

(3) The Regional Administrator shall determine, on the basis of the information reported to NMFS by the operator of each vessel fishing, when the harvest guideline for each lobster ground will be reached.

(4) Notice of the date when the harvest guideline for a lobster ground is expected to be reached and specification of the closure date of the lobster grounds will be provided to each permit holder and/or operator of each permitted vessel at least 24 hours in advance of the closure. After a closure, the harvest of lobster in that lobster ground is prohibited, and the possession of lobster traps on board the vessel in that lobster ground is prohibited unless allowed under § 660.48(a)(7).

(5) With respect to the notification in paragraph (b)(4) of this section, NMFS shall provide each permit holder and operator of each permitted vessel with

the following information, as appropriate:

(i) Determination of when the over-all harvest guideline for Crustaceans Permit Area 1 will be reached;

(ii) Closure date after which harvest of lobster or possession of lobster traps on board the vessel in a lobster grounds is prohibited;

(iii) Closure date after which the possession of lobster traps on board the vessel in Crustaceans Permit Area 1 is prohibited by any permitted vessel that is not operating a VMS unit certified by NMFS; and

(iv) Specification of when further landings of lobster will be prohibited by permitted vessels not carrying an operational VMS unit, certified by NMFS, on board.

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