

on the gear being measured) less one thickness of the metal wedge, can be passed with only thumb pressure

through at least 16 of 20 sets of two meshes each of wet mesh.

MINIMUM TRAWL-MESH SIZE

[In Inches]¹

Subarea						
Trawl Type	Vancouver	Columbia	Eureka	Monterey	Conception	
Bottom	4.5	4.5	4.5	4.5	4.5	4.5
Pelagic	3.0	3.0	3.0	3.0	3.0	3.0

¹ Metric conversion: 3.0 inches = 7.6 centimeters; 4.5 inches = 11.4 centimeters.

(3) *Chafing gear.* Chafing gear may encircle no more than 50 percent of the net's circumference, except as provided in paragraph (b)(5) of this section. No section of chafing gear may be longer than 50 meshes of the net to which it is attached. Except at the corners, the terminal end of each section of chafing gear must not be connected to the net. (The terminal end is the end farthest from the mouth of the net.) Chafing gear must be attached outside any riblines and restraining straps. There is no limit on the number of sections of chafing gear on a net.

(4) *Codends.* Only single-walled codends may be used in any trawl. Double-walled codends are prohibited.

(5) *Pelagic trawls.* Pelagic trawl nets must have unprotected footropes at the trawl mouth, and must not have rollers, bobbins, tires, wheels, rubber discs, or any similar device anywhere in the net. Sweeplines, including the bottom leg of the bridle, must be bare. For at least 20 ft (6.15 m) immediately behind the footrope or headrope, bare ropes or mesh of 16-inch (40.6-cm) minimum mesh size must completely encircle the net. A band of mesh (a "skirt") may encircle the net under transfer cables, lifting or splitting straps (chokers), but must be: over riblines and restraining straps; the same mesh size and coincide knot-to-knot with the net to which it is attached; and no wider than 16 meshes.

(c) *Fixed gear.* (1) Fixed gear (longline, trap or pot, set net, and stationary hook-and-line gear, including commercial vertical hook-and-line gear) must be:

(i) Marked at the surface, at each terminal end, with a pole, flag, light, radar reflector, and a buoy except as provided in paragraph (c)(2) of this section; and

(ii) Attended at least once every 7 days.

(2) Commercial vertical hook-and-line gear that is closely tended may be marked only with a single buoy of sufficient size to float the gear. "Closely tended" means that a vessel is within

visual sighting distance or within 1/4 nautical mile (463 m) as determined by electronic navigational equipment, of its commercial vertical hook-and-line gear.

(3) A buoy used to mark fixed gear under paragraph (c)(1)(i) or paragraph (c)(2) of this section must be marked with a number clearly identifying the owner or operator of the vessel. The number may be either:

(i) If required by applicable state law, the vessel's number, the commercial fishing license number, or buoy brand number; or

(ii) The vessel documentation number issued by the U.S. Coast Guard, or, for an undocumented vessel, the vessel registration number issued by the state.

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50 CFR Part 681

[Docket No. 950224060-5060-01; I.D. 021395A]

RIN 0648-AH85

Western Pacific Crustacean Fisheries; 1995 Quota

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

ACTION: 1995 final quota for crustaceans; request for comments.

SUMMARY: NMFS announces a 1995 quota of zero lobsters for the Northwestern Hawaiian Islands (NWHI) crustacean fishery. This action is necessary to ensure protection and conservation of lobsters in this fishery. Also, fishermen who wish to participate in an Experimental Fishing Program in this fishery during 1995 are encouraged to contact the Director, Southwest

Region, NMFS (Regional Director). The purpose of any experimental fishery would be to allow for a precisely controlled harvest designed to acquire

data for assessing the status of the spiny and slipper lobster stocks.

DATES: Effective July 1, 1995. Comments are invited until April 12, 1995.

ADDRESSES: Comments about this notice and requests for information about the Experimental Fishing Program should be sent to Hilda Diaz-Soltero, Regional Director, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802-4213.

FOR FURTHER INFORMATION CONTACT: Svein Fougnier, 310-980-4034; or Alvin Z. Katekaru, 808-973-2985.

SUPPLEMENTARY INFORMATION: The crustacean fisheries of the NWHI are managed by NMFS according to the Fishery Management Plan for the Crustacean Fisheries of the Western Pacific Region (FMP), which was prepared by the Western Pacific Fishery Management Council (Council) under the authority of the Magnuson Fishery Conservation and Management Act. Regulations affecting this fishery appear at 50 CFR part 681.

Ordinarily, an annual quota for the NWHI crustacean fishery is announced in two steps. First, based on previous years' fishery data, sampling during research cruises, and other available data, the Regional Director determines an initial quota, which is announced in the **Federal Register**, usually in February each year. Next, a final quota is announced as soon as possible on or after August 15 of the fishing year. The final quota is based on actual commercial fisheries data collected during the first month of fishing, which begins July 1 (when there is a quota).

A substantial decrease in lobster landings and catch-per-unit-of-effort (CPUE) in 1990 raised concern that fishing effort was excessive. Low lobster CPUE continued into the early part of 1991, prompting an emergency closure of the fishery from May through November 1991.

Amendment 7 to the FMP, which was approved by NMFS in February 1992, created an annual 6-month closed season and an adjustable annual fleet

harvest quota determined by a formula. This quota is established as described above. The initial quota for 1992 was forecast at 750,000 lobsters; however, a research cruise to the NWHI in June 1992 indicated that recruitment had not improved. Based on the CPUE information from the first month of the commercial fishery and the data collected on the research cruise, the final quota was set at 438,000 lobsters.

In 1993, the FMP quota formula yielded an estimated quota of zero, and there was no commercial fishing in the NWHI.

In 1994, the FMP quota formula yielded an initial quota of 200,000 lobsters; however, data obtained during the first month of fishing yielded a revised quota of 20,900 lobsters. However, by the time the final quota was determined, it had been exceeded and the fishery was closed by emergency rule.

A review panel established by the Council, consisting of the Crustacean Plan Team, Advisory Panel, and reviewers with stock assessment and quota management experience, suggested a new quota system tied to overfishing guidelines rather than maximum sustainable yield, which is used in the current formula. An analysis by the Council and NMFS to evaluate the new quota proposal, as well as modification to the existing quota setting procedures, is underway, but has not been completed.

The review panel recommended that NMFS conduct additional statistical analyses to determine if use of new statistical procedures would produce more reliable results. After conducting these analyses, NMFS determined that a

new statistical procedure should be used and applied it in deriving the initial quota for 1995.

Despite the quota derived from the FMP formula, NMFS concludes that the initial and final quota should be zero, and the NWHI commercial lobster fishery should be closed in 1995. There are two reasons for this determination. First, managing the fishery to ensure that such a low quota is not exceeded would be difficult to accomplish. There are 15 permits in force for the fishery. While it is unlikely that all permit holders would gear up for the fishery, five to seven vessels might participate in a "derby" fishery, with each trying to maximize its share of the quota. Data from the 1994 fishery show that the cumulative daily catch by the five vessels that participated averaged almost 4,000 lobsters. With seven vessels, the expected cumulative daily catch would be about 5,600 lobsters. Even with daily catch reports, given the requirement that 7-day notice be given to fishermen prior to prohibiting further landings, there would be potential for exceeding the quota.

Second, the low 1995 quota is likely to result in a "derby" fishery, which would be economically inefficient and would encourage fishermen to take safety risks. Given the substantial cost to prepare a vessel for fishing, once outfitted, a vessel operator would be under pressure to maximize catch, regardless of weather and sea conditions, in order to recoup expenses and make a profit. However, since an initial quota of 38,513 lobsters would generate only about \$250,000 in total ex-vessel revenues for the entire

commercial fishery, the likelihood that all participants would benefit from fishing is small, and certainly does not outweigh the risk of a "derby" fishery.

Nevertheless, in the interest of improving the scientific basis for future management, NMFS will consider allowing controlled fishing under an Experimental Fishing Permit program, which could be authorized under § 681.26 of the regulations. Controlled fishing under an experimental fishing program could provide added information regarding rebuilding of the stocks, to the extent stock rebuilding has existed since late 1994, while ensuring that the harvest of 38,513 lobsters is not exceeded. In conjunction with the data from the planned 1995 research cruise, any information obtained from fishing under an Experimental Fishing Program could be important for deriving the initial quota for 1996. However, data obtained from any experimental fishing would not be used to modify the 1995 quota. Also, NMFS encourages fishermen who wish to participate in an Experimental Fishing Program in this fishery during 1995 to contact the Regional Director.

Classification

This action is authorized by 50 CFR part 681 and is exempt from review under E.O. 12866.

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

Dated: March 7, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

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