

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301-3062. Telefax number (703) 602-0350. Please cite DFARS Case 95-D022 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, (703) 602-0131.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed rule amends language in the Defense Federal Acquisition Regulation Supplement (DFARS) to change the valuation basis for the purpose of meeting thresholds under the North American Free Trade Agreement (NAFTA) and the Trade Agreements Act (TAA) to the estimated combined value of all line items subject to the acts, rather than valuing each line item separately. The purpose of the change is to comply with the requirements of NAFTA. For consistency, since all acquisitions subject to the Trade Agreements Act are also subject to NAFTA, this valuation method is made applicable to the Trade Agreements Act threshold as well.

B. Regulatory Flexibility Act

The proposed rule may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the proposed rule changes the valuation method used by contracting officers to determine whether a procurement is subject to a trade agreement. The proposed rule will not diminish existing preferences for small businesses because purchases under small and small disadvantaged business preference programs are exempted from the trade agreements. An initial Regulatory Flexibility Analysis has been prepared and may be obtained from the address stated herein. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected subpart will be considered in accordance with Section 610 of the Act. Such comments must be submitted separately and cite DFARS Case 95-D022 in correspondence.

C. Paperwork Reduction Act

This rule does not impose any additional information collection requirements which require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 225

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Part 225 is proposed to be amended as follows:

PART 225—FOREIGN ACQUISITION

1. The authority citation for 48 CFR Part 225 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

2. Section 225.402 is amended by revising paragraph (a) to read as follows:

225.402 Policy.

(a) To estimate the value of the acquisition, use the total estimated value of end products subject to trade agreement acts (see 225.403-70).

(1) See 225.105 for evaluation of eligible products and U.S. made end products.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 670

[Docket No. 950825218-5218-01; I.D. 073195A]

RIN 0648-AE47

Coral Reef Resources of Puerto Rico and the U.S. Virgin Islands; Initial Regulations

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to implement the Fishery Management Plan for Corals and Reef Associated Plants and Invertebrates of Puerto Rico and the U.S. Virgin Islands (FMP). This rule proposes restrictions on the taking of coral reef resources in or from the exclusive economic zone (EEZ) around Puerto Rico and the U.S. Virgin Islands. NMFS, based on a preliminary evaluation of the FMP, has disapproved two measures involving the adoption of state permit and reporting requirements because the state permit systems are not yet fully developed, and the state regulations authorizing these

permits, where they exist, do not satisfy the requirements of the Administrative Procedure Act, the Magnuson Fishery Conservation and Management Act (Magnuson Act), and other applicable laws. The proposed rule would implement the remaining measures in the FMP. The intended effect is to protect important marine resources.

DATES: Written comments must be received on or before October 16, 1995.

ADDRESSES: Comments on the proposed rule must be sent to the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Requests for copies of the FMP, which includes a regulatory impact review and an environmental impact statement, should be sent to the Caribbean Fishery Management Council, 268 Muñoz Rivera Avenue, Suite 1108, San Juan, PR 00918-2577.

Comments regarding the collection-of-information requirement contained in this proposed rule should be sent to Edward E. Burgess, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Georgia Cranmore, 813-570-5305.

SUPPLEMENTARY INFORMATION: The FMP was prepared by the Caribbean Fishery Management Council (Council) under the authority of the Magnuson Act.

Background

The FMP addresses corals and reef-associated plants and invertebrates (coral reef resources) in the waters of the Commonwealth of Puerto Rico and the Territory of the U.S. Virgin Islands (states) and the waters of the adjoining EEZ. The proposed regulations would govern conservation and management of coral reef resources in or from the adjoining EEZ. The FMP was developed to address general concern for the effects of man's activities on coral reef resources, including pollution resulting from coastal development, and the new and rapidly expanding fishery for the marine aquarium industry, especially in Puerto Rico.

The waters off Puerto Rico could become the principal source of live coral reef resources for the U.S. marine aquarium market, because other areas of the Caribbean and Florida have restricted commercial harvest operations by gear regulations and some quotas. The Council is concerned about the potential impacts of the aquarium

fishery on targeted organisms and the reef habitat where they are collected, because of increasing demand and current harvesting methods, including the use of chemicals and the removal of substrate.

The Council has noted the current rate of degradation of coral reef resources, their limited distribution and the consequent potential for overexploitation, and the growing demand for reef-associated invertebrates for aquariums. The FMP, in association with corresponding state laws, is expected to provide consistent protection for coral reef resources throughout the U.S. Caribbean.

The FMP proposes to: (1) Prohibit the use of chemicals, plants, plant-derived toxins, and explosives to take coral reef resources in the EEZ; (2) limit allowable harvest in the EEZ to dip nets and slurp guns or by hand; and (3) prohibit the possession or sale of stony corals, gorgonians, and live rock (prohibited species) taken from the EEZ.

Additionally, the FMP proposes the adoption of state permit systems for harvesters and dealers of coral reef resources and for the taking of prohibited species for scientific, educational, or restoration purposes. However, these portions of the FMP are being disapproved because the state permit systems for coral reef resources are not yet fully developed and state regulations authorizing such permits, where the regulations exist, do not meet the requirements of the Administrative Procedure Act, the Magnuson Act and other applicable laws, as discussed below.

Gear Restrictions

A ban on the use of chemicals and explosives to take coral reef resources, and the specification of hand-held slurp guns and dip nets as the only allowable gear, are designed to increase survival of targeted species and to protect non-targeted species from incidental mortality. Quinaldine, the most commonly used chemical agent, is a coal tar derivative used in the manufacture of dyes and explosives. Quinaldine anesthetizes reef fish, lobsters, and other invertebrates, and makes them easier to collect, but reportedly also decreases their survival rates and damages surrounding organisms including coral.

The prohibition on the use of a plant or a plant-derived toxin to harvest coral reef resources would eliminate the historical practice of using plants native to the U.S. Caribbean, such as *Sapindus saponaria*, or their products to stun fish. Harvest by hand in a non-habitat destructive manner would ensure that

no coral heads, or other reef habitats, are overturned or otherwise disturbed during harvest to allow access to targeted organisms sheltered beneath them. The proposed gear restrictions are not expected to adversely affect experienced harvesters of coral reef resources. The restrictions are designed to allow the harvest of these species without bycatch or increased capture mortality.

Protected Species

Current scientific research indicates that corals and live rock are relatively slow-growing and may be considered nonrenewable fishery resources. Although certain of the soft coral species, such as gorgonians, are faster-growing, the Council determined that there are insufficient data on growth and replacement rates to propose safe harvest levels for these species. Consequently, the FMP proposes a prohibition on taking: (1) Stony coral, which includes fire corals, hydrocorals, and black corals; (2) gorgonians, including sea fans; and (3) live rock, except when such taking can be authorized for scientific, educational, or restoration purposes. Live rock means coral reef resources attached to a hard substrate, including dead coral or rock. Live rock is collected by scuba divers and sold to the marine aquarium industry for use in minireef tanks. NMFS will continue to monitor relevant scientific data and will revisit the issue if and when the data show that these corals may be sustainably harvested.

Current harvest of stony coral in the U.S. Caribbean appears to be negligible. However, pressure to exploit gorgonians and live rock is expected to grow rapidly as market demand for live marine invertebrates increases and as regulations elsewhere (e.g., Florida) become increasingly restrictive. In Puerto Rico, about 40 individuals harvest live fish and invertebrates for the aquarium trade. About 25 percent of the exports, by number, are invertebrates, especially anemones and starfish. Less than 4 percent is live rock or corals. The wholesale (exvessel) value of the approximately 45,500 live coral reef resources reported exported annually is about \$114,000; therefore, the reported export of stony corals, gorgonians, and live rock is valued at less than \$5,000 annually.

Restriction on Sale

Since harvest of prohibited species would be allowed only for a scientific, educational, or restoration purpose, sale of prohibited species in or from the EEZ would not be allowed. Harvest of these species in state waters is also

prohibited. To put a limitation on sale into effect, it is necessary to be able to distinguish between prohibited species from the EEZ or adjoining state waters and prohibited species harvested elsewhere and imported for sale in Puerto Rico or the U.S. Virgin Islands. Such distinction cannot be made by appearance or test. Accordingly, the FMP proposes that a species prohibited for sale in Puerto Rico or the U.S. Virgin Islands will be presumed to have been harvested from the EEZ or from adjoining state waters unless it is accompanied by documentation showing that it was harvested elsewhere.

The proposed documentation of having been harvested elsewhere would consist of (1) information specified in 50 CFR Part 246 for marking containers or packages of organisms that are imported, exported, or transported in interstate commerce; (2) the name and home port of the vessel or the name and address of the individual harvesting the prohibited species; (3) the date and port of landing of the species; and (4) a statement signed by the person holding the prohibited species for sale attesting that, to the best of his or her knowledge, information and belief, the species was harvested from an area other than the EEZ or adjoining state waters. If approved, the requirement for documentation of prohibited species that were harvested elsewhere would become effective approximately 3 months after publication of the final rule implementing the FMP. Thus, dealers would have a period during which they could sell existing stocks or obtain the required documentation.

Permit Requirements/Partial Disapproval of the FMP

Because most of the fishery for coral reef resources occurs in state waters, the FMP anticipates that permits for harvesters and dealers, and permits exempting certain activities for scientific, educational, or restoration purposes, in or from the EEZ, would be issued by state agencies. For example, a harvest permit currently required by each state for its waters would be valid for the harvest of coral reef resources from the adjoining EEZ. State permit requirements would encompass all species in the approved Federal management unit.

On August 9, 1995, the Regional Director, Southeast Region, NMFS (Regional Director), disapproved the permit and reporting requirements contained in the FMP, because the state permit systems on which the FMP permit provisions depend cannot satisfy the requirements of the Magnuson Act

and other applicable law. Puerto Rico has no harvest permit requirement for coral reef resources. The U.S. Virgin Islands has a system for reporting catch, but it does not currently include all the species in the Federal management unit. A dealer's permit is not currently required in either state.

The FMP suggests that the state permit and reporting procedures could provide additional information on landings, gear, capture mortality, and trade, but it does not appear that current state systems could provide this information. In addition, the FMP envisions that state permit systems can provide exceptions to certain gear restrictions and the taking of prohibited species for scientific, educational, or restoration purposes. However, research permit provisions of state regulations are largely discretionary, and the FMP does not provide details of application requirements, conditions, and criteria for issuance that could allow for meaningful public comment. Also, any state authorities that apply in the EEZ would have to be consistent with the Magnuson Act and other applicable law. These determinations cannot be made until complete state systems are in effect.

Since the most easily accessible reef formations are found in state waters, it is unlikely that any significant number of requests will need to be made for activities in the EEZ for scientific, educational, or restoration purposes. Consequently, the proposed rule merely provides a mechanism to authorize such exceptions on a case-by-case basis should the need arise. Such authorizations would not relieve individuals of the obligation to comply with other legal or regulatory requirements, such as those that may apply in a national marine sanctuary. (See § 670.24.)

When the state permit and reporting systems for coral reef resources are fully developed and sufficient detail on their operations is available, the Council may resubmit these disapproved provisions, incorporating the state permit systems by an amendment to the FMP.

Additional background and rationale for the measures discussed above are contained in the FMP, the availability of which was announced in the **Federal Register** on August 8, 1995, (60 FR 40340).

Classification

Section 304(a)(1)(D) of the Magnuson Act requires NMFS to publish regulations proposed by a council within 15 days of receipt of an FMP and implementing regulations. At this time NMFS has not determined that the FMP

is consistent with the national standards, other provisions of the Magnuson Act, and other applicable laws, except for those parts of the FMP specifically disapproved, as discussed above. NMFS, in making that determination with respect to the remaining parts of the FMP, will take into account the data, views, and comments received during the comment period.

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

The Council prepared a final environmental impact statement (FEIS) for the FMP that will be filed with the Environmental Protection Agency for public review and comment. A notice of its availability for public comment for 30 days will be published in the **Federal Register**. According to the FEIS, the proposed actions would benefit the natural environment by prohibiting activities that damage live bottom habitat areas.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed rule would restrict the taking of coral reef resources in or from the EEZ of the U.S. Caribbean. There are about 16 small businesses in the U.S. Caribbean which are potentially involved in the collection, sale and export of coral reef resources. These firms employ less than 100 workers in all phases of the business (harvesters, packers, shippers). In addition, to firms involved in the commercial aspects of harvest, there are an estimated 65 businesses which provide recreational diving services. Since the FMP can affect collecting for personal use, there is the chance that these businesses could be marginally affected by the rule. However, of the total of about 81 businesses identified, less than 20 percent are expected to be affected by the proposed rule because the volume of current harvest is quite low.

Since neither the substantial number nor significant impact criteria are expected to be met, a determination has been made that the proposed rule will not result in a significant impact on a substantial number of small entities. As a result, a regulatory flexibility analysis was not prepared.

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act—namely, documentation of origin of prohibited species that are for sale in Puerto Rico

or the U.S. Virgin Islands. This requirement has been submitted to OMB for approval. The public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this reporting burden estimate or any other aspect of the collection of information, including suggestions for reducing the burden, to NMFS and OMB (see ADDRESSES).

List of Subjects in 50 CFR Part 670

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: September 1, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR is proposed to be amended by adding part 670 as follows:

PART 670—CORAL REEF RESOURCES OF PUERTO RICO AND THE U.S. VIRGIN ISLANDS

Subpart A—General Provisions

Sec.

- 670.1 Purpose and scope.
- 670.2 Definitions.
- 670.3 Relation to other laws.
- 670.4 Permits. [Reserved]
- 670.5 Recordkeeping and reporting.
- 670.6 Vessel identification.
- 670.7 Prohibitions.
- 670.8 Facilitation of enforcement.
- 670.9 Penalties.

Subpart B—Management Measures

- 670.20 Fishing year.
- 670.21 Harvest limitations.
- 670.22 Gear restrictions.
- 670.23 Restrictions on sale or purchase.
- 670.24 Specifically authorized activities.

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

Subpart A—General Provisions

§ 670.1 Purpose and scope.

(a) The purpose of this part is to implement the Fishery Management Plan for Corals and Reef Associated Plants and Invertebrates of Puerto Rico and the U.S. Virgin Islands prepared by the Caribbean Fishery Management Council under the Magnuson Act.

(b) This part governs conservation and management of coral reef resources in or from the EEZ around Puerto Rico and the U.S. Virgin Islands. "EEZ" in this part refers to the EEZ in those geographical areas, unless the context clearly indicates otherwise.

§ 670.2 Definitions.

In addition to the definitions in the Magnuson Act and in § 620.2 of this chapter, the terms used in this part have the following meanings:

Coral reef resource means one or more of the following, or a part thereof, whether living or dead:

Sponges—Class Demospongiae

Aphimedon compressa, Erect rope sponge

Chondrilla nucula, Chicken liver sponge

Cynachirella alloclada

Geodia neptuni, Potato sponge

Haliclona sp., Finger sponge

Myriastr sp.

Niphates digitalis, Pink vase sponge

N. erecta, Lavender rope sponge

Spinoseella policifera

S. vaginalis

Tethya crypta

Hydrocorals—Class Hydrozoa

Hydroids—Order Hydroida

Fire Corals—Order Milleporina

Millepora sp.

Lace Corals—Order Stylasterina

Stylaster roseus, Rose lace corals

Anthozoans—Class Anthozoa

Soft corals—Order Alcyonacea

Family Anthothelidae

Erythropodium caribaeorum,

Encrusting gorgonian

Iciligorgia schrammi, Deepwater sea fan

Family Briareidae

Briareum asbestinum, Corky sea finger

Family Telestacea

Telesto riisei, Telesto

Gorgonians—Order Gorgonacea

Family Gorgoniidae

Gorgonia flabellum, Venus sea fan

G. mariae, Wide-mesh sea fan

G. ventalina, Common sea fan

Pseudopterogorgia acerosa, Sea plume

P. albatrossae

P. americana, Slimy sea plume

P. bipinnata, Bipinnate plume

P. rigida

Pterogorgia anceps, Angular sea whip

P. citrina, Yellow sea whip

Family Plexauridae

Eunicea calyculata, Warty sea rod

E. clavigera

E. fusca, Doughnut sea rod

E. knighti

E. laciniata

E. laxispica

E. mammosa, Swollen-knob

E. succinea, Shelf-knob sea rod

E. touneforti

Muricea atlantica

M. elongata, Orange spiny rod

M. laxa, Delicate spiny rod

M. muricata, Spiny sea fan

M. pinnata, Long spine sea fan

Muriceopsis sp.

M. flavida, Rough sea plume

M. sulphurea

Plexaura flexuosa, Bent sea rod

P. homomalla, Black sea rod

Pseudoplexaura crucis

P. flagellosa

P. porosa, Porous sea rod

P. wagnaari

Plexaurella dichotoma, Slit-pore sea rod

P. fusifera

P. grandiflora

P. grisea

P. nutans, Giant slit-pore

Family Ellisellidae

Ellisella spp., Sea whips

Hard Corals—Order Scleractinia

Family Astrocoeniidae

Stephanocoenia michelinii, Blushing star

Family Pocilloporidae

Madracis decactis, Ten-ray star coral

M. mirabilis, Yellow pencil

Family Acroporidae

Acropora cervicornis, Staghorn coral

A. palmata, Elkhorn coral

A. prolifera, Fused staghorn

Family Agaricidae

Agaricia agaricities, Lettuce leaf coral

A. fragilis, Fragile saucer

A. lamarcki, Lamarck's sheet

A. tenuifolia, Thin leaf lettuce

Leptoseris cucullata, Sunray lettuce

Family Siderastreaeidae

Siderastrea radians, Lesser starlet

S. siderea, Massive starlet

Family Poritidae

Porites astreoides, Mustard hill coral

P. branneri, Blue crust coral

P. divaricata, Small finger coral

P. porites, Finger coral

Family Faviidae

Cladocora arbuscula, Tube coral

Colpophyllia natans, Boulder coral

Diploria clivosa, Knobby brain coral

D. labyrinthiformis, Grooved brain

D. strigosa, Symmetrical brain

Favia fragum, Golfball coral

Manicina areolata, Rose coral

M. mayori, Tortugas rose coral

Montastrea annularis, Boulder star

coral

M. cavernosa, Great star coral

Solenastrea bournoni, Smooth star

coral

Family Rhizangiidae

Astrangia solitaria, Dwarf cup coral

Phyllangia americana, Hidden cup

coral

Family Meandrinidae

Dendrogyra cylindrus, Pillar coral

Dichocoenia stellaris, Pancake star

D. stokesi, Elliptical star

Meandrina meandrites, Maze coral

Family Mussidae

Isophyllastrea rigida, Rough star coral

Isophyllia sinuosa, Sinuous cactus

Mussa angulosa, Large flower coral

Mycetophyllia aliciae, Thin fungus coral

M. danae, Fat fungus coral

M. ferox, Grooved fungus

M. lamarckiana, Fungus coral

Scolymia cubensis, Artichoke coral

S. lacera, Solitary disk

Family Caryophyllidae

Eusmilia fastigiata, Flower coral

Tubastrea aurea, Cup coral

Family Oculinidae

Oculina diffusa, Ivory bush coral

Black Corals—Order Antipatharia

Antipathes spp., Bushy black coral

Stichopathes spp., Wire coral

Anemones—Order Actiniaria

Aiptasia tagetes, Pale anemone

Bartholomea annulata, Corkscrew anemone

Condylactis gigantea, Giant pink-tipped anemone

Hereractis lucida, Knobby anemone

Lebrunia spp., Staghorn anemone

Stichodactyla helianthus, Sun

anemone

Colonial Anemones—Order

Zoanthidea

Zoanthus spp., Sea mat

False Corals—Order Corallimorpharia

Ricordia florida, Florida false coral

Discosoma spp. (formerly *Rhodactis*), false coral

Polychaetes—Class Polychaeta

Family Sabellidae, Feather duster worms

Sabellastarte spp., Tube worms

S. magnifica, Magnificent duster

Family Serpulidae

Spirobranchus giganteus, Christmas

tree worm

Gastropods—Class Gastropoda

Family Strombidae, Winged conchs

Strombus spp. (except Queen conch, *S. gigas*)

Family Oculidae

Cyphoma gibbosum, Flamingo tongue

Charonia tritonis, Atlantic triton

trumpet

Family Olividae

Oliva reticularis, Netted olive

Family Elysiidae

Tridachia crispata, Lettuce sea slug

Bivalves—Class Bivalvia

Family Limidae

Lima spp., Fileclams

L. scabra, Rough fileclam

Family Spondylidae

Spondylus americanus, Atlantic

thorny oyster

Cephalopods—Class Cephalopoda

Octopuses—Order Octopoda
Family Octopodidae
Octopus spp. (except the Common octopus, *O. vulgaris*)

Crustaceans—Class Crustacea

Decapods—Order Decapoda
Family Stenopodidae, Coral shrimp
Stenopus hispidus, Banded shrimp
S. scutellatus, Golden shrimp
Family Hippolytidae
Lysmata spp., Peppermint shrimp
Thor amboinensis, Anemone shrimp
Family Palaemonida
Periclimenes spp., Cleaner shrimp
Family Alpheidae
Alpheus armatus, Snapping shrimp
Family Diogenidae
Paguristes spp., Hermit crabs
P. cadenati, Red reef hermit
Family Majidae, Coral crabs
Mithrax spp., Clinging crabs
M. cinctimanus, Banded clinging
M. sculptus, Green clinging
Stenorhynchus seticornis, Yellowline

arrow

Family Grapsidae
Percnon gibbesi, Nimble spray crab
Family Squillidae, Mantis crabs
Gonodactylus spp.
Lysiosquilla spp.

Bryozoans—Phylum Bryozoa**Starfish—Class Stelleroidea**

Analcidometra armata, Swimming crinoid
Astropecten spp., Sand stars
Astrophyton muricatum, Giant basket star
Davidaster spp., Crinoids
Linckia guildingii, Common comet star
Nemaster spp., Crinoids
Ophidiaster guildingii, Comet star
Ophiocoma spp., Brittlestars
Ophioderma spp., Brittlestars
O. rubicundum, Ruby brittlestar
Oreaster reticulatus, Cushion sea star

Sea Urchins—Class Echinoidea

Diadema antillarum, Long-spined urchin
Echinometra spp., Purple urchin
Eucidaris tribuloides, Pencil urchin
Lytechinus spp., Pin cushion urchin
Triploneustes ventricosus, Sea egg

Sea Cucumbers—Class Holothuroidea

Holothuria spp., Sea cucumbers

Tunicates—Subphylum Urochordata**Green Algae—Phylum Chlorophyta**

Caulerpa spp., Green grape algae
Halimeda spp., Watercress algae
Penicillus spp., Neptune's brush
Udotea spp., Mermaid's fan
Ventricaria ventricosa, Sea pearls

Red Algae—Phylum Rhodophyta**Sea grasses—Phylum Angiospermae**

Halodule wrightii, Shoal grass
Halophila spp., Sea vines
Ruppia maritima, Widgeon grass
Syringodium filiforme, Manatee grass
Thalassia testudium, Turtle grass
Gorgonian means a coral reef resource of the Class Anthozoa, Subclass Octocorallia, Order Gorgonacea.

Live rock means a coral reef resource attached to a hard substrate, including dead coral or rock (excluding individual mollusk shells).

Prohibited species means a gorgonian, a live rock, or a stony coral, or a part thereof.

Regional Director means the Director, Southeast Region, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702, telephone: 813-570-5301; or a designee.

Science and Research Director means the Science and Research Director, Southeast Fisheries Science Center, NMFS, 75 Virginia Beach Drive, Miami, FL 33149, telephone 305-361-5761; or a designee.

Scientific, educational, or restoration purpose means the objective of gaining knowledge for the benefit of science, humanity, or management of coral reef resources or restoring a disturbed habitat as closely as possible to its original condition.

Stony coral means a coral reef resource—

- (1) Of the Class Hydrozoa (fire corals and hydrocorals); or
- (2) Of the Class Anthozoa, Subclass Hexacorallia, Orders Scleractinia (stony corals) and Antipatharia (black corals).

§ 670.3 Relation to other laws.

The relation of this part to other laws is set forth in § 620.3 of this chapter.

§ 670.4 Permits. [Reserved]**§ 670.5 Recordkeeping and reporting.**

A person possessing a coral reef resource in or from the EEZ is required upon request to make such coral reef resource available for inspection by the Science and Research Director or an authorized officer.

§ 670.6 Vessel identification.

(a) *Official number.* A vessel that fishes for or possesses coral reef resources in or from the EEZ must display its official number—

(1) On the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck, so as to be clearly visible from an enforcement vessel or aircraft;

(2) In block arabic numerals in contrasting color to the background;

(3) At least 18 inches (45.7 cm) in height for fishing vessels over 65 ft (19.8 m) in length and at least 10 inches (25.4 cm) in height for all other vessels; and
(4) Permanently affixed to or painted on the vessel.

(b) *Duties of operator.* The operator of a vessel that fishes for or possesses coral reef resources in or from the EEZ must—

(1) Keep the official number clearly legible and in good repair; and

(2) Ensure that no part of the fishing vessel, its rigging, fishing gear, or any other material on board obstructs the view of the official number from an enforcement vessel or aircraft.

§ 670.7 Prohibitions.

In addition to the general prohibitions specified in § 620.7 of this chapter, it is unlawful for any person to do any of the following:

(a) Fail to make a coral reef resource in or from the EEZ available for inspection, as specified in § 670.5.

(b) Falsify or fail to display and maintain vessel identification, as required by § 670.6.

(c) Fish for or possess a prohibited species in or from the EEZ, as specified in § 670.21.

(d) Use an explosive to harvest a coral reef resource in the EEZ or possess dynamite or a similar explosive substance on board a vessel, as specified in § 670.22(a).

(e) Use a chemical, plant, or plant derived toxin to harvest a coral reef resource in the EEZ, as specified in § 670.22(b).

(f) Harvest a coral reef resource in the EEZ other than as specified in § 670.22(c).

(g) Purchase, barter, trade, or sell, or attempt to purchase, barter, trade, or sell a prohibited species harvested in the EEZ, as specified in § 670.23(a).

(h) Make any false statement, oral or written, to an authorized officer concerning the taking, catching, harvesting, landing, purchase, sale, possession, or transfer of a coral reef resource.

(i) Interfere with, obstruct, delay, or prevent by any means an investigation, search, seizure, or disposition of seized property in connection with enforcement of the Magnuson Act.

§ 670.8 Facilitation of enforcement.

See § 620.8 of this chapter.

§ 670.9 Penalties.

See § 620.8 of this chapter.

Subpart B—Management Measures**§ 670.20 Fishing year.**

The fishing year for coral reef resources begins on January 1 and ends on December 31.

§ 670.21 Harvest limitations.

No person may fish for or possess a prohibited species in or from the EEZ. The taking of a prohibited species in the EEZ as incidental catch will not be considered unlawful possession of a prohibited species provided it is returned immediately to the sea in the general area of fishing.

§ 670.22 Gear restrictions.

(a) An explosive may not be used to harvest a coral reef resource in the EEZ. Dynamite or a similar explosive substance may not be possessed on board a vessel that possesses a coral reef resource in or from the EEZ.

(b) No person may use a chemical, plant, or plant derived toxin to harvest a coral reef resource in the EEZ.

(c) A coral reef resource in the EEZ may be harvested only with a hand-held dip net or slurp gun, or by hand in a manner that does not injure or destroy a coral reef resource or its habitat. For the purposes of § 670.7(f) and this paragraph (c), a hand-held slurp gun is a device that rapidly draws seawater containing fish into a self-contained chamber.

§ 670.23 Restrictions on sale or purchase.

(a) No person may purchase, barter, trade, or sell, or attempt to purchase, barter, trade, or sell a prohibited species harvested in the EEZ.

(b) A prohibited species that is sold or exchanged, or offered for sale or exchange, in Puerto Rico or the U.S. Virgin Islands will be presumed to have been harvested in the EEZ unless it is accompanied by documentation showing that it was harvested elsewhere. Such documentation must contain:

(1) The information specified in 50 CFR part 246 for marking containers or packages of fish or wildlife that are imported, exported, or transported in interstate commerce;

(2) The name and home port of the vessel, or the name and address of the individual, harvesting the prohibited species;

(3) The port and date of landing the prohibited species; and

(4) A statement signed by the person selling or exchanging, or offering for sale or exchange, the prohibited species attesting that, to the best of his or her knowledge, information, and belief, such prohibited species was harvested other than in the EEZ or the waters of Puerto Rico or the U.S. Virgin Islands.

§ 670.24 Specifically authorized activities.

The Regional Director may authorize the harvest and possession of a prohibited species in or from the EEZ

for a scientific, educational, or restoration purpose and may authorize activities otherwise prohibited by the regulations in this part for the acquisition of information and data.

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50 CFR Part 675

[Docket No. 950830223-5223-01; I.D. 082395C]

RIN 0648-AE97

Groundfish of the Bering Sea and Aleutian Islands Area; Chinook Salmon Savings Areas

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations that would implement Amendment 21b to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP). This amendment proposes to prohibit the use of trawl gear in specified areas of the Bering Sea and Aleutian Islands (BSAI) management area through April 15 of each fishing year once a chinook salmon bycatch of 48,000 fish has been reached in the BSAI management area trawl fisheries. This action is necessary to limit chinook salmon bycatch in the BSAI management area and is intended to promote the goals and objectives of the FMP.

DATES: Comments on the FMP amendment must be received by October 20, 1995.

ADDRESSES: Comments may be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK, 99802, Attention: Lori Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. Copies of Amendment 21b and the environmental assessment/regulatory impact review/initial regulatory flexibility analysis (EA/RIR/IRFA) prepared for Amendment 21b are available from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone: 907-271-2809.

FOR FURTHER INFORMATION CONTACT: Sally Bibb, 907-586-7228.

SUPPLEMENTARY INFORMATION: Fishing for groundfish by U.S. vessels in the exclusive economic zone of the BSAI management area is managed by NMFS according to the FMP. The FMP was

prepared by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (Magnuson Act), and is implemented by regulations governing the U.S. groundfish fisheries at 50 CFR parts 675 and 676. General regulations that also pertain to U.S. fisheries are codified at 50 CFR part 620.

This action proposes regulations to implement Amendment 21b to the FMP. If approved by NMFS, this amendment would prohibit the use of trawl gear in specified areas of the BSAI management area that historically contributed to relatively high chinook salmon bycatch rates during winter months.

Chinook salmon are caught incidentally in trawl fisheries in the BSAI management area. They are a prohibited species in the trawl fisheries and must be discarded after being counted by a NMFS-certified observer.

During the foreign fisheries, the estimated chinook salmon bycatch reached a high of 115,000 salmon in 1980. As a result, the foreign fleet was put on a bycatch reduction schedule starting at 65,000 chinook salmon and decreasing to 16,500 chinook by 1986. According to reported bycatch, the foreign fleet did not exceed the reduction schedule bycatch level in any year.

The domestic groundfish trawl fleet has caught the majority of the chinook salmon bycatch since 1987. Chinook salmon bycatch exceeded 20,000 fish in 1987, 1988, and 1989 and exceeded 40,000 fish in 1991, 1992, 1993, and 1994. Estimated chinook salmon bycatch in the domestic trawl fisheries from 1990 to the present is summarized below:

Year	No. of Chinook
1990	13,990
1991	48,821
1992	41,903
1993	45,964
1994	44,437
¹ 1995	17,701

¹ Preliminary through 7/29/95.

Observer data from the foreign, joint-venture, and domestic trawl fisheries for pollock and Pacific cod were examined for seasonal and spacial patterns in chinook salmon bycatch and groundfish catch. The pollock and Pacific cod fisheries were selected because nearly all chinook salmon bycatch occurs in these fisheries (92 percent in 1994). These data showed that chinook salmon bycatch was largely associated with groundfish catches along the 200-m contour (continental shelf break), in the