

combination with the measures implemented in December 2003. The IATTC will meet in June 2004 and review new tuna stock assessments and fishery information and will consider that new information in evaluating the need for management measures for 2005 and future years.

The Acting Regional Administrator, Southwest Region, sent a notice October 10, 2003, to owners and agents of U.S. tuna purse seine fishing vessels of the actions that were recommended by the IATTC and have been approved by the DOS.

Classification

This action is proposed under the regulations for the Pacific Tuna Fisheries found at 50 CFR 200.29.

On December 8, 1999, NMFS prepared a biological opinion (BO) assessing the impacts of the fisheries as they would operate under the regulations (65 FR 47, January 3, 2000) implementing the International Dolphin Conservation Program Act (IDCPA) that amended the Marine Mammal Protection Act (MMPA). NMFS concluded that the fishing activities conducted under those regulations are not likely to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS or result in the destruction or adverse modification of critical habitat. This rule will not result in any changes in the fisheries such that there would be impacts beyond those considered in that BO. The IATTC has also taken action to reduce sea turtle injury and mortality from interactions in the purse seine fishery so impacts of the fisheries should be lower than in the past. Because this closure does not alter the scope of the fishery management regime analyzed in the IDCPA rule, or the scope of the impacts considered in that consultation, NMFS is relying on that analysis to conclude that this rule will not likely adversely effect any endangered or threatened species under the jurisdiction of NMFS or result in the destruction or adverse modification of critical habitat. Therefore, NMFS has determined that additional consultation is not required for this action.

The U.S. ETP tuna purse seine fisheries occasionally interact with a variety of species of dolphin, and dolphin takes are authorized and managed under the IDCPA. These conservation management measures in this proposed rule do not affect the administration of that program, which is consistent with section 303(a)(2) of the MMPA.

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866.

The Chief Counsel for 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 as substantial number of small entities as follows:

This action would prohibit the use of purse seine gear to harvest tuna in a portion of the Convention Area for a 6-week period beginning August 1, 2004, and limit the 2004 U.S. catch of bigeye tuna caught by longline in the ETP to the level reached in 2001 (approximately 100 metric tons). The proposed purse seine closure would apply to the U.S. tuna purse seine fleet, which consists of 10–20 small vessels (carrying capacity below 400 short tons (363 metric tons)) and 4–6 large vessels (carrying capacity 400 short tons (363 metric tons) or greater). The large vessels usually fish outside U.S. waters and deliver their catch to foreign ports or transship to processors outside the mainland United States. The large vessels are categorized as large business entities (revenues in excess of \$3.5 million per year). A large purse seine vessel typically generates 4,000 to 5,000 metric tons of tuna valued at between \$4 and \$5 million per year. The closure should not significantly affect their operations as they are capable of fishing in other areas that would remain open. The small vessels are categorized as small business entities (revenues below \$3.5 million per year). They fish out of California in the U.S. exclusive economic zone (EEZ) most of the year for small pelagic fish (Pacific sardine, Pacific mackerel) and for market squid in summer. Some small vessels harvest tuna seasonally when they are available. The proposed time/area closure will have no effect on small vessels because they do not have the endurance and markets to fish that far south.

The portion of the U.S. longline fleet (approximately 18 vessels) operating out of California has historically caught bigeye tuna in the swordfish fishery (now closed), so they should not be affected by the longline fishery limit. Further, the recent prohibition of swordfish targeting by this fleet has encouraged many of the vessel owners to relocate their activity to Hawaii (5 have moved or are moving to date); therefore, the likelihood that they will fish in the ETP for bigeye tuna is reduced. The portion of the fleet operating out of Hawaii has generally operated outside the boundaries of the IATTC Convention Area, and has not made significant catches in those waters. Also, with the reopening of the swordfish fishery for that fleet, effort directed at bigeye tuna (which has mainly occurred west of the Convention Area) should decrease, so there is a very low likelihood that the bigeye catch limit of 100 metric tons will be reached and trigger a closure.

As a result, a regulatory flexibility analysis is not required and none has been prepared.

Authority: 16 U.S.C. 951–961 and 971 *et seq.*

Dated: June 21, 2004.

William T. Hogarth,
Assistant Administrator for Fisheries,
National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 040617187–4187–01; I.D. 060704H]

RIN 0648–AR85

Fisheries Off West Coast States and in the Western Pacific; Western Pacific Bottomfish Fishery; Fishing Moratorium

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to extend the current moratorium on harvesting seamount groundfish from the Hancock Seamount in the Northwestern Hawaiian Islands (NWHI) for 6 years, until August 31, 2010. The fishery has been under a moratorium since 1986. This action is being taken in response to a recommendation by the Western Pacific Fishery Management Council from its Bottomfish Plan Team (Plan Team) and Scientific and Statistical Committee (SSC) that revealed that pelagic armorhead (*Pseudopentaceros wheeleri*; formerly, *Pentaceros richardsoni*), an overfished stock, has not recovered. The intent of this action is to allow the protection provided for this resource to continue.

DATES: Comments must be submitted by July 12, 2004.

ADDRESSES: You may submit comments on this proposed rule by any of the following methods:

●E-mail: 0648–AR85.PIR@noaa.gov. Include in the subject line of the e-mail comment the following document identifier: 0648–AR85.

●Federal e-Rulemaking portal: <http://www.regulations.gov> Follow the instructions for submitting comments.

●Mail: William L. Robinson, Regional Administrator, Pacific Islands Region, NOAA Fisheries, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814.

•Fax: (808) 973-2941.

FOR FURTHER INFORMATION CONTACT: Mr. Lewis Van Fossen, Resource Management Specialist, Sustainable Fisheries Division 808-973-2937.

SUPPLEMENTARY INFORMATION: When the Fishery Management Plan for the Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region (FMP) was implemented (51 FR 27413, July 31, 1986), it was determined that a 6-year moratorium on fishing at Hancock Seamount was needed to aid the recovery of the pelagic armorhead (*Pseudopentaceros wheeleri*; formerly, *Pentaceros richrdsoni*). Foreign vessels over-exploited the seamount groundfish resources before the Fishery Conservation and Management Act (Magnuson-Stevens Act) was enacted. There has never been a domestic fishery targeting these stocks. Periodic reviews since the original moratorium indicated that no recovery of the stock has occurred. Therefore, the moratorium was extended twice in 6-year increments in 1992 and 1998 (57 FR 36907, August 17, 1992; and 63 FR 35162, June 29, 1998; respectively).

The last U.S. research cruise of the Hancock Seamount was conducted in 1993. However, the Japanese trawl fleet continues to harvest pelagic armorhead on neighboring seamounts outside of the U.S. exclusive economic zone (U.S. EEZ) surrounding the NWHI. According to information provided by the Japan National Research Institute of Far Seas Fisheries, the most current (2002) spawning potential ratio (SPR) for the armorhead stock is 0.1 percent at all seamounts outside of the U.S. EEZ. These seamounts comprise 95 percent of the trawl grounds for the Japanese trawl fishery. Based on the low SPR value, it is inferred that the status of the Hancock Seamount is similarly depressed and well under the current 20 percent SPR definition of an overfished stock. At its October 2003 meeting the Council heard

reports from its Plan Team and SSC on the status of the seamount groundfish resources. On the basis of those reports, and in accordance with the framework at 50 CFR 660.67, the Council recommended a permanent closure of the Hancock Seamount to the harvest of groundfish resources. However, it is unlikely that an amendment to the FMP permanently closing Hancock Seamount to the harvesting of groundfish resources could be completed before the current moratorium expires on August 31, 2004. Therefore, at its March 2004 meeting, the Council recommended extending the current moratorium another 6 years (i.e., August 31, 2010). During the proposed moratorium an amendment to the FMP that would permanently close Hancock Seamount could be developed.

Classification

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

The Chief Counsel for 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 as follows:

The purpose of the proposed action is to enhance the recovery of a stock as overfished under the Magnuson-Stevens Act by extending the moratorium on the harvest of groundfish resources at Hancock Seamount in the U.S. EEZ around the NWHI for six years. This extension will enhance the likelihood of recovery for the pelagic armorhead (*Pseudopentaceros wheeleri*; formerly, *Pentaceros richardsoni*). Because there has never been a U.S. fishery targeting seamount groundfish stocks on the Hancock Seamount, no U.S. interests or small entities would be immediately affected. It is unlikely that any U.S. fishermen would show an interest in starting a U.S. fishery for pelagic armorhead. There is a remote possibility that a vessel employing bottom trawl gear or demersal longline gear would show an

interest in groundfish resources at Hancock Seamount. However, it is unlikely that such an effort would be ultimately profitable. Any profitability would be short-lived and, definitely, to the detriment of the resource. Use of bottom trawl gear for groundfish resources is prohibited under the current FMP. Therefore, there are no vessels so-equipped in Hawaii, and any trawl vessel targeting pelagic armorhead would need to transit from the western U.S. or Alaska or equip in Hawaii. It is unlikely that the investment in gear and fuel would be worth the likely returns on a short-lived fishery. Demersal longline fishing for pelagic armorhead would be ultimately unattractive for the same reasons as bottom trawl fishing.

As a result, an Initial Regulatory Flexibility Analysis was not prepared.

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: June 21, 2004.

William T. Hogarth,

*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 660.68 is revised to read as follows:

§ 660.68 Fishing moratorium on Hancock Seamount.

Fishing for bottomfish and seamount groundfish on the Hancock Seamount is prohibited through August 31, 2010.

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