

take reduction plan to protect North Atlantic right whales.

Environmental Assessments for the DAM program were prepared on December 28, 2001, and August 6, 2003. This action falls within the scope of the analyses of these EAs, which are available from the agency upon request.

NMFS provided prior notice and an opportunity for public comment on the regulations establishing the criteria and procedures for implementing a DAM zone. Providing prior notice and opportunity for comment on this action, pursuant to those regulations, would be impracticable because it would prevent NMFS from executing its functions to protect and reduce serious injury and mortality of endangered right whales. The regulations establishing the DAM program are designed to enable the agency to help protect unexpected concentrations of right whales. In order to meet the goals of the DAM program, the agency needs to be able to create a DAM zone and implement restrictions on fishing gear as soon as possible once the criteria are triggered and NMFS determines that a DAM restricted zone is appropriate. If NMFS were to provide prior notice and an opportunity for public comment upon the creation of a DAM restricted zone, the aggregated right whales would be vulnerable to entanglement which could result in serious injury and mortality. Additionally, the right whales would most likely move on to another location before NMFS could implement the restrictions designed to protect them, thereby rendering the action obsolete. Therefore, pursuant to 5 U.S.C. 553(b)(B), the AA finds that good cause exists to waive prior notice and an opportunity to comment on this action to implement a DAM restricted zone to reduce the risk of entanglement of endangered right whales in commercial lobster trap/pot and anchored gillnet gear as such procedures would be impracticable.

For the same reasons, the AA finds that, under 5 U.S.C. 553(d)(3), good cause exists to waive the 30-day delay in effective date. If NMFS were to delay for 30 days the effective date of this action, the aggregated right whales would be vulnerable to entanglement, which could cause serious injury and mortality. Additionally, right whales would likely move to another location between the time NMFS approved the action creating the DAM restricted zone and the time it went into effect, thereby rendering the action obsolete and ineffective. Nevertheless, NMFS recognizes the need for fishermen to have time to either modify or remove (if not in compliance with the required

restrictions) their gear from a DAM zone once one is approved. Thus, NMFS makes this action effective 2 days after the date of publication of this document in the **Federal Register**. NMFS will also endeavor to provide notice of this action to fishermen through other means upon issuance of the rule by the AA, thereby providing approximately 3 additional days of notice while the Office of the **Federal Register** processes the document for publication.

NMFS determined that the regulations establishing the DAM program and actions such as this one taken pursuant to those regulations are consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program of the U.S. Atlantic coastal states. This determination was submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act. Following state review of the regulations creating the DAM program, no state disagreed with NMFS' conclusion that the DAM program is consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program for that state.

The DAM program under which NMFS is taking this action contains policies with federalism implications warranting preparation of a federalism assessment under Executive Order 13132. Accordingly, in October 2001 and March 2003, the Assistant Secretary for Intergovernmental and Legislative Affairs, Department of Commerce, provided notice of the DAM program and its amendments to the appropriate elected officials in states to be affected by actions taken pursuant to the DAM program. Federalism issues raised by state officials were addressed in the final rules implementing the DAM program. A copy of the federalism Summary Impact Statement for the final rules is available upon request (**ADDRESSES**).

The rule implementing the DAM program has been determined to be not significant under Executive Order 12866.

**Authority:** 16 U.S.C. 1361 *et seq.* and 50 CFR 229.32(g)(3)

Dated: December 8, 2008.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

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**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 665

[Docket No. 070720390-81459-03]

RIN 0648-AV28

#### Fisheries in the Western Pacific; Bottomfish and Seamount Groundfish Fisheries; Management Measures for the Northern Mariana Islands

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

**ACTION:** Final rule.

**SUMMARY:** This final rule establishes Federal permitting and reporting requirements for all commercial bottomfish vessels fishing in the U.S. Exclusive Economic Zone (EEZ) around the Commonwealth of the Northern Mariana Islands (CNMI). The final rule also closes certain EEZ waters around the CNMI to bottomfish fishing by vessels over 40 ft (12.2 m) in length. Vessel monitoring system units must be installed on those larger vessels when fishing in EEZ waters around the CNMI, and the operators of those larger vessels will be required to submit Federal sales reports in addition to catch reports. This final rule is intended to ensure adequate collection of information about the CNMI commercial bottomfish fishery, provide for sustained community participation, and maintain a consistent supply of locally-caught bottomfish to CNMI markets and seafood consumers. Combined, these measures are intended to prevent the depletion of bottomfish stocks in the CNMI, and to sustain the fisheries that depend on them.

**DATES:** This final rule is effective January 12, 2009, except for the revisions to §§ 665.14, 665.19(a)(4), and 665.61, which require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). When OMB approval is received, the effective date will be announced in the **Federal Register**.

**ADDRESSES:** The Fishery Management Plan for Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region and Amendment 10 are available from the Western Pacific Fishery Management Council (Council), 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808-522-8220, fax 808-522-8226, or [www.wpcouncil.org](http://www.wpcouncil.org).

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information

requirements contained in this final rule may be submitted to William L. Robinson, Regional Administrator, NMFS, Pacific Islands Region (PIR), 1601 Kapiolani Blvd, Suite 1110, Honolulu, HI 96814-4700, and by e-mail to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov), or fax to 202-395-7285.

**FOR FURTHER INFORMATION CONTACT:** Brett Wiedoff, NMFS PIR, 808-944-2272.

**SUPPLEMENTARY INFORMATION:** This **Federal Register** notice is also accessible at the Office of the **Federal Register's** web site: [www.gpoaccess.gov/fr/](http://www.gpoaccess.gov/fr/).

Bottomfish in CNMI nearshore waters are caught in subsistence, recreational, and small-scale commercial fisheries. Vessels are typically small (less than 25 ft (7.6 m)), and fishing is more frequent in summer months when weather and sea conditions are calm. Most of these small vessels target shallow-water bottomfish, but some also target deep-water species. The catch from these small vessels is destined for local markets and consumers in the CNMI, and is usually not exported.

In addition to small vessels, several larger vessels (over 40 ft, or 12.2 m, in length) also target deep-water bottomfish at offshore seamounts and banks. Catch from these large vessels does not always enter local markets as a food supply for CNMI residents. It is also possible for large bottomfish vessels based in Guam to travel to fishing grounds within U.S. EEZ waters around the CNMI. Larger-vessel fisheries could result in excessive fishing pressure on bottomfish stocks at nearshore banks, potentially threatening both the fish stocks and the fisheries that have

historically been dependent on these resources.

Several other issues regarding bottomfish fishing in the CNMI have been noted. First, existing data collection programs in the CNMI are insufficient to monitor catches and determine the impacts of the fishery on the bottomfish stocks being harvested, or to determine the species composition and amount of discarded catch. Second, large bottomfish vessels need to harvest relatively large catches to cover operational costs, and these large catches could deplete nearshore stocks. Stock depletion would threaten the sustainability of the CNMI bottomfish fishery, and if catch rates were significantly reduced, small vessels would not be able to continue operating. Finally, because the catches from large vessels are typically exported, traditional patterns of supply and consumption of bottomfish in the local community would be disrupted.

This final rule will require the owners of all vessels commercially fishing for bottomfish management unit species (BMUS) in EEZ waters around the CNMI to obtain Federal fishing permits. Permit eligibility will not be restricted, and permits will be renewable on an annual basis.

This final rule will require the operators of all commercial bottomfish vessels to complete and submit Federal catch reports. In addition to the fishing logbook, vessels over 40 ft (12.2 m) fishing for bottomfish in the CNMI will be required to complete and submit Federal sales reports for the bottomfish that they sell.

This final rule will close certain EEZ waters around the CNMI to bottomfish

fishing by vessels over 40 ft (12.2 m). The closed areas include EEZ waters from the shoreline to 50 nm (80.5 km) around the southern islands of the CNMI, from the Guam-CNMI EEZ boundary to a line halfway between Farallon de Medinilla and Anatahan Islands, and EEZ waters from the shoreline to 10 nm (18.5 km) around the northern island of Alamagan (Fig. 1). The closed area boundaries are defined by straight lines for clarity and to facilitate enforcement.

Transshipping bottomfish will be allowed within the closed areas. This could facilitate delivery of bottomfish to local and other markets, and provide a potential revenue source other than, or in addition to, fishing. Vessels that transship their catches offshore can remain at sea for longer periods of time, thereby improving operational efficiency and reducing transit costs. Any vessel commercially receiving bottomfish fish or fish products from a fishing vessel will be required to be registered with a valid CNMI commercial bottomfish permit, and the operator will be required to report any bottomfish transshipping activity in the Federal fishing logbook forms.

Commercial CNMI bottomfish vessels over 40 ft (12.2 m) are required to be marked in compliance with current Federal vessel identification requirements, but the final rule exempts CNMI-based commercial bottomfish vessels from the Federal vessel identification requirements if the vessels are less than 40 ft (12.2 m) in length and in compliance with CNMI vessel registration and marking requirements.

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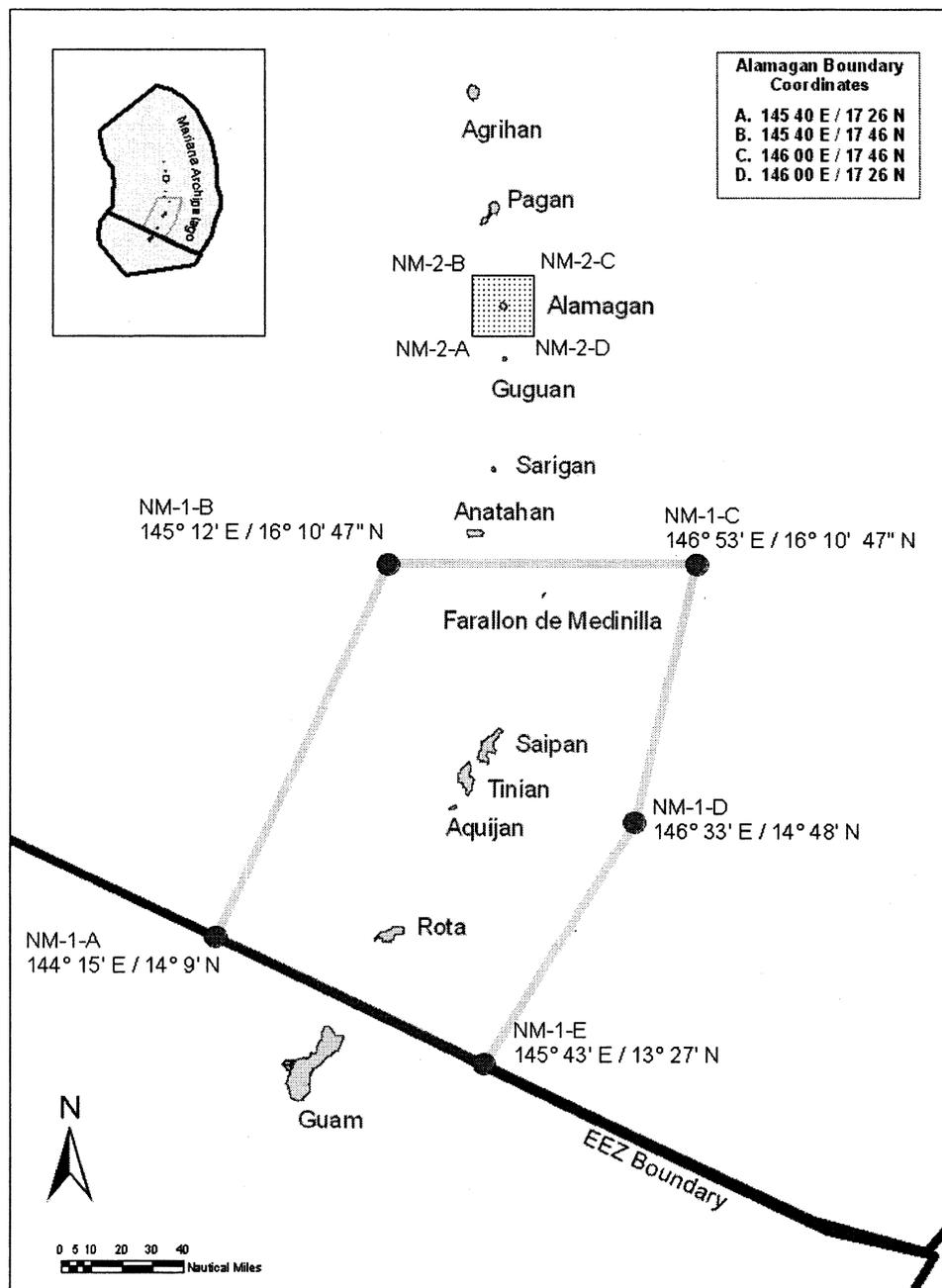


Figure 1. CNMI medium and large bottomfish vessel prohibited areas.

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Shipboard vessel monitoring system (VMS) units will be required on vessels over 40 ft (12.2 m). The VMS is an automated, satellite-based system that assists NOAA's Office for Law Enforcement and the U.S. Coast Guard in monitoring compliance with closed areas in a reliable and cost-effective manner. To date, the regional requirements for VMS in 50 CFR 665 have applied only to pelagic longline

fishing, so the requirements are located in the pelagic fisheries section of the regulations. (The VMS requirements for the Northwestern Hawaiian Islands bottomfish fishery are found in 50 CFR 404.5 and are not affected by this final rule.) Because the final rule adds VMS requirements for bottomfish fishing, the section regarding the vessel monitoring system (§ 665.25) is moved from the pelagic fishery requirements to the general requirements and renumbered

as § 665.19. Accordingly, the VMS-related prohibitions found in § 665.22 are also moved to the general prohibitions in § 665.15. The VMS-related requirements are also clarified to require that VMS units be installed and operational when vessels are at sea.

In the definition of bottomfish management unit species, the scientific name for armorhead is revised to the valid taxonomic name, and the scientific name of the pink snapper is

revised to include the species, which was inadvertently omitted from the definition. The spellings of local names of the longtail and pink snappers are also corrected. In the definition of receiving vessel permit, the cross-reference to receiving vessel permits for pelagic longlining is corrected to the proper paragraph.

Additional background information on this final rule may be found in the preamble to the proposed rule published on September 8, 2008 (73 FR 51992), and is not repeated here.

### Comments and Responses

On September 20, 2008, NMFS published a notice of availability and request for public comments on Amendment 10, including a Draft Environmental Assessment (73 FR 49157). The amendment comment period ended on October 20, 2008. On September 8, 2008, NMFS published a proposed rule (73 FR 51992) that would implement the management measures recommended by the Council in Amendment 10. The proposed rule comment period ended on October 23, 2008. NMFS received public comment regarding the EA and proposed rule, and responds as follows:

*Comment 1:* The initial permit fee should be \$100 per vessel to cover and sustain administrative costs.

*Response:* The amount of the permit fee is calculated in accordance with the procedures of the NOAA Finance Handbook for determining the administrative costs of each special product or service incurred in processing the permit. At the time the rule was proposed, NMFS had preliminarily determined that a permit fee of up to \$80 was appropriate. However, more information about the fishery and administrative costs of issuing permits indicates that the actual fee is expected to be approximately \$40, and will be specified on the permit application form.

### Changes From the Proposed Rule

There are no changes from the proposed rule.

### Classification

The Regional Administrator has determined that the Bottomfish FMP Amendment 10 is necessary for the conservation and management of bottomfish and seamount groundfish and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and other applicable laws.

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

NMFS prepared a final regulatory flexibility analysis (FRFA). The FRFA incorporates the initial regulatory flexibility analysis (IRFA) prepared in support of the proposed rule, and the analyses completed to support the action. A summary is provided, as follows. (The preamble to the proposed rule included a detailed summary of the analyses contained in the IRFA, and that discussion is not repeated in its entirety here.)

The need for agency action and the objectives of the action are explained in the preambles to the proposed rule and final rule. While no comments were received specifically on the IRFA, one comment was received on the administrative cost of the permit. NMFS responded to that comment in the preamble of the final rule, and no changes were made to the FRFA as a result of the comment.

### Description of Small Entities to Which the Rule Would Apply

The preferred alternative would apply to all vessels commercially fishing for bottomfish in EEZ waters around the CNMI. Given an annual average of 58 known commercial fish harvesting vessels from 2001–05, with an annual average fleet-wide adjusted revenue of \$136,827, it is estimated that each vessel operator realized an average of \$2,359 in annual ex-vessel gross revenues from their bottomfish fishing operations. Because each vessel has gross receipts under \$4.0 million, is independently owned and operated, and is not dominant in its field, all vessels comprising this fishery are deemed to be small entities under the Small Business Administration's definition of a small fish harvester. In 2005, 62 vessels less than 40 ft (12.2 m) participated in the CNMI bottomfish fishery. As many as eleven medium/large vessels (i.e., greater than 40 feet or 12.2 m) are believed to have participated in this fishery since 1997. Information from fisheries officials in the CNMI indicate that there were six active medium and large vessels in 2006, and one in 2007.

### Description of Alternatives with Economic Impacts on Small Businesses

#### Alternative 1 - No Action.

In the short term, fishing operations would be expected to continue their operations. In the longer-term, economic impacts (including market and non-market impacts) on small-vessel commercial, recreational and charter fishery participants could be negative if localized depletion of bottomfish occurs within their limited fishing range. Due to their larger vessel sizes, larger-scale commercial fishing operations would still have access to offshore fishing areas, but smaller vessels would not and would likely see bigger losses. Operators of smaller vessels already generally participate in more than one fishery over the course of a year and would likely shift their bottomfish fishing effort to other boat-based fisheries (e.g., pelagic troll or handline). Whether they would be able to recoup their lost bottomfish income or not is unclear, but a disruption of

the nearshore bottomfish fishery would represent a reduction in their portfolio of fishing opportunities.

*Alternative 2 - Prohibit commercial fishing for BMUS by vessels greater than 50 ft (15.2 m) within U.S. EEZ waters 3–50 nm (5.6–80.5 km) around the CNMI;* require that operators of vessels greater than 50 ft (15.2 m) that land BMUS in the CNMI have Federal fishing permits and submit Federal logbooks of their associated catch and effort.

Alternative 2 is more positive than Alternative 1 for small-vessel commercial, recreational, and charter fishery participants by somewhat maintaining the opportunity for viable catch rates at banks within their limited fishing range around the CNMI. Unlike Alternative 1, Alternative 2 could cause negative impacts on the large-vessel commercial sector of the fishery through the realization of increased operating costs necessitated by the requirement that large vessels fish on banks greater than 50 nm (80.5 km) from the CNMI, although this impact might be offset initially by higher bottomfish catch rates at more distant seamounts that remain open to large vessels. Likely areas for bottomfish fishing over 50 nm (80.5 km) from shore are a chain of seamounts, some rising to shallow depths, about 200 nm (370 km) west of the Marianas Archipelago. As these areas have not been previously fished by the CNMI fleet, there would be a high cost associated with exploring the bottomfish fishing potential of these seamounts and their catch rates are unknown.

As compared to the No Action Alternative, Alternative 2 would eliminate commercial bottomfish fishing by large vessels within waters 3–50 nm (5.6–80.5 km) around the CNMI. There may be immediate impacts to vessel operations under this alternative as there may be some large commercial bottomfish vessels active within 50 nm (80.5 km) of the Northern Islands, though none are believed to be active in waters around the Southern Islands. This alternative would eliminate the potential renewal or expansion of the large vessel fishery sector in waters around the Saipan. Thus, Alternative 2 would have greater potential than Alternative 1 for controlling the risk of local depletion of areas around Saipan that are fished by small-scale fishermen. A chain of seamounts parallels the Marianas Archipelago nearly 200 nm (370 km) to the west. Some of these seamounts rise to shallow depths, but this chain is poorly charted and the amount of associated bottomfish habitat is not known. Whether large vessels would invest time and money in exploring this chain for bottomfish fishing grounds under this alternative is unknown. In the long-term, this alternative would foreclose the opportunity for commercial bottomfish fishing using large vessels in the closed areas.

This alternative would require the operators of CNMI-based vessels larger than 50 ft (15.2 m) in length commercially fishing for bottomfish in EEZ waters around the CNMI to obtain Federal permits and to submit Federal catch reports. Permit eligibility would not be restricted in any way, and the permit would be renewable on an annual basis. It is anticipated that initial

permit applications would require 0.5 hr per applicant, with renewals requiring an additional 0.5 hr annually. The fee for Federal permits is expected to be approximately \$40 and will be specified in the permit application. This represents approximately 1.7 percent of revenues earned by individuals vessels in the 2001–05 fishery.

**Alternative 3 -** Limit onaga landings to no more than 250 lb (113 kg) per trip for any vessel fishing in U.S. EEZ waters beyond 3 nm (5.6 km) around the CNMI.

Alternative 3 would be expected to yield beneficial economic impacts for vessels less than or equal to 40 feet that target onaga. They would be expected to maintain their opportunities for viable onaga catch rates at banks within their limited fishing range, as the reduced fishing revenues expected with a per-trip limit of 250 lb (113 kg) of onaga would discourage competition from large-scale commercial onaga fishing operations. Economic impacts on these large-scale operations would be adverse as a 250 lb (113 kg) trip limit would not yield enough revenues to cover trip costs and these trips would be expected to become economically inefficient. This would be expected to discourage vessels greater than 40 ft (12.2 m) from entering the fishery.

**Alternative 4 -** Establish a limited access program with Federal permit and reporting requirements, for vessels targeting BMUS more than 3 nm (5.6 km) around the CNMI.

Alternative 4 would be likely to have a positive economic impact on catch rates and ex-vessel revenues for fishery participants with a documented history of bottomfish fishing in the EEZ, but a negative impact for undocumented or future potential participants. Limiting total fishery participation would be expected to result in increased catch rates for qualifying participants, fishing efficiency, and profits for those who qualify and continue fishing. Economic impacts on existing (and future) non-qualifiers would be highly adverse with no bottomfish catches or revenues available for this group. If limited access permits were transferable, this alternative would also create an economic value for these permits as the original qualifiers could subsequently sell (or lease) them to a new round of participants. This would represent a windfall profit to the original qualifiers.

This alternative would require the operators of all CNMI-based vessels commercially fishing for bottomfish in waters beyond 3 nm around the CNMI to obtain Federal permits and to submit Federal catch reports. Permit eligibility would not be restricted in any way, and the permit would be renewable on an annual basis. It is anticipated that initial permit applications would require 0.5 hr per applicant, with renewals requiring an additional 0.5 hr annually. The fee for Federal permits is expected to be approximately \$40 and will be specified in the permit application. This represents approximately 1.7 percent of revenues earned by individuals vessels in the 2001–05 fishery. Based on experience in other fisheries, it is expected that the time requirement for filling out Federal catch reports would be approximately 20 min per vessel per fishing day. No special skills

beyond the ability to read and write in English would be required to fill out the permit application or logbooks.

**Alternative 5 (Preferred) -** Prohibit commercial fishing for BMUS by medium and large vessels within U.S. EEZ waters 0–50 nm (0–80.5 km) around CNMI in the area from the southern boundary of the EEZ (south of Rota) to the north latitude of 16° 47' (halfway between Farallon de Medinilla to Anatahan) and within EEZ waters 0–10 nm (0–18.5 km) around Alamagan Island; require that medium and large vessels fishing commercially for BMUS in EEZ waters around the CNMI carry operating VMS units, and complete Federal sales reports for any BMUS sold in the CNMI; require that operators of all vessels fishing commercially for BMUS in EEZ waters around the CNMI have Federal fishing permits and submit Federal logbooks of their associated catch and effort.

The impacts of Alternative 5 on medium/large vessels would be similar to those of Alternative 2. However, the impacts to the catch rates and ex-vessel revenues of small vessel fishermen would be more pronounced as both medium and large commercial bottomfish vessels over 40 feet (12.2 m) in length would be prohibited from fishing around Saipan and Alamagan. The general absence of medium/large vessels from the recent fishery suggests that the area is not optimal for the profitability of these vessels and fishing in the restricted area may be more opportunistic than planned. Therefore, restricting medium/large vessels in the area may yield only a minimal adverse economic impact to individual vessels mitigated by profitable opportunities elsewhere.

This alternative would require the operators of all CNMI-based vessels commercially fishing for bottomfish in waters around the CNMI to obtain Federal permits and to submit Federal catch reports. Permit eligibility would not be restricted in any way, and the permit would be renewable on an annual basis. It is anticipated that initial permit applications would require 0.5 hr per applicant, with renewals requiring an additional 0.5 hr annually. The fee for Federal permits has not been determined, but it may be approximately \$40. This represents approximately 1.7 percent of revenues earned by individuals vessels in the 2001–05 fishery. Based on experience in other fisheries, it is expected that the time requirement for filling out Federal catch reports would be approximately 20 min per vessel per fishing day. No special skills beyond the ability to read and write in English would be required to fill out the permit application, logbooks, or sales reports.

#### **Steps Taken by the Agency to Minimize Adverse Impacts**

Choosing the no-action alternative would yield no economic impact and would be preferred by the potentially impacted vessels. However, the no-action alternative could result in excessive fishing pressure and, in the worst-case scenario, contribute to overfishing which is inconsistent with the Magnuson-Stevens Act. All other alternatives would be more restrictive and would yield more adverse economic impact than the

preferred alternative. Therefore, NMFS concludes that the preferred alternative best minimizes the economic impacts on small entities consistent with the objectives of the Magnuson-Stevens Act and this rulemaking.

#### **Small Entity Compliance Guide**

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as “small entity compliance guides.” The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a small entity compliance guide was prepared and will be provided to affected small entities. In addition, copies of this final rule and the guide are available from the William L. Robinson (see **ADDRESSES**) and from [www.fpir.noaa.gov](http://www.fpir.noaa.gov).

This final rule contains collection-of-information requirements subject to the PRA. These requirements have been submitted to OMB for approval. NMFS will publish a notice when these requirements have been approved by OMB and are effective (see **DATES**).

Permit eligibility would not be restricted in any way, and the permit would be renewable on an annual basis. The initial permit applications will require 0.5 hr per applicant, with renewals requiring an additional 0.5 hr annually. It is estimated that NMFS may receive and process up to 50 to 125 permit applications each year. Thus, the total collection-of-information burden to fishermen for permit applications is estimated at 25 to 62 hours per year. NMFS has determined that a permit fee of up to \$80 is appropriate to cover the administrative costs of the permit. The fee is expected to be approximately \$40 and will be specified in the permit application.

The final rule will require the operators of all vessels commercially fishing for bottomfish in U.S. EEZ waters around the CNMI to complete and submit Federal catch reports. The time requirement to complete Federal catch reports is approximately 20 minutes per vessel per fishing day. Assuming that the 50 to 125 vessels make 10 to 50 trips per year, and average 1.2 days per trip, the program will generate in the range of 600 to 7,500 daily fishing logbooks per year. Thus, the total collection-of-information burden estimate for fishing data reporting is estimated at 200 to 2,500 hours per year.

The final rule will also require the operators of medium and large commercial bottomfish vessels to complete and submit Federal sales

reports. The time requirement for completing Federal sales reports is approximately 35 minutes per vessel per fishing trip. Assuming six medium and large vessels make 15 trips per year, the program will generate approximately 90 sales reports per year. Thus, the total collection-of-information burden estimate for sales data reporting by fishermen is estimated at 52 hours per year. These estimates include time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the information.

For the medium and large vessel identification requirements, the burden is estimated at 45 minutes to paint each vessel (15 minutes for each of three locations on the vessel where marking is required), and about \$10 for paint and supplies. Assuming six medium and large bottomfish vessels are active, the total collection-of-information burden estimate is 4.5 hours and \$60.

For the medium and large vessel VMS requirements, the estimated time per response is four hours to install a VMS unit, and two hours per year to repair and maintain a VMS unit. Assuming six medium and large bottomfish vessels

are active, the total collection-of-information burden estimate for compliance with VMS requirements is 24 hours the first year and 12 hours annually after that.

Send comments on these or any other aspects of the collection of information to William L. Robinson (see ADDRESSES), and by email to *David\_Rostker@omb.eop.gov* or by fax to 202-395-7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to 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.

**List of Subjects in 50 CFR Part 665**

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

Dated: December 3, 2008.

**James W. Balsiger,**

*Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.*

■ For the reasons set out in the preamble, 50 CFR part 665 is amended as follows:

**PART 665—FISHERIES IN THE WESTERN PACIFIC**

■ 1. The authority citation for part 665 continues to read as follows:

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

■ 2. In § 665.12 add the definitions of “CNMI commercial bottomfish permit”, “Medium vessel”, and “Receiving vessel” in alphabetical order; in the definition of “Bottomfish management unit species” revise the entries for longtail snapper and pink snapper; in the definition of “Seamount groundfish” revise the entry for armorhead, and revise the definitions of “Receiving vessel permit” and “Vessel monitoring system unit” to read as follows:

**§ 665.12 Definitions.**

\* \* \* \* \*

*Bottomfish management unit species\**  
\* \*

Common name	Local Name	Scientific
*****		
Longtail snapper	Onaga, ula'ula (H); palu-loa (S)	<i>Etelis coruscans</i>
*****		
Pink snapper	Opakapaka (H); palu-ena'ena (S); gadao (G)	<i>Pristipomoides filamentosus</i>
*****		

*CNMI commercial bottomfish permit* means the permit required by § 665.61 (a)(5) to engage in commercial fishing for bottomfish management unit species in U.S. EEZ waters around the CNMI.

\* \* \* \* \*

*Medium vessel*, as used in §§ 665.61 through 665.72, means any vessel equal to or more than 40 ft (12.2 m) and less than 50 ft (15.2 m) in length overall.

\* \* \* \* \*

*Receiving vessel* means a vessel that receives fish or fish products from a fishing vessel, and with regard to a vessel holding a permit under § 665.21(e) that also lands Pacific Pelagic Management Unit Species taken by other vessels using longline gear.

*Receiving vessel permit* means a permit required by § 665.21(e) for a receiving vessel to transship or land Pacific pelagic management unit species

taken by other vessels using longline gear.

\* \* \* \* \*

*Seamount groundfish* means the following species:

Common name	Scientific name
Armorhead	<i>Pseudopentaceros richardsoni</i>
*****	

\* \* \* \* \*

*Vessel monitoring system unit (VMS unit)* means the hardware and software owned by NMFS, installed on vessels by NMFS, and required to track and transmit the positions of certain vessels.

\* \* \* \* \*

■ 3. In § 665.13, add a new paragraph (f)(2)(viii) to read as follows:

**§ 665.13 Permits and fees.**

\* \* \* \* \*

(f) *Fees.* \* \* \*

(2) \* \* \*

(viii) CNMI commercial bottomfish permit.

\* \* \* \* \*

■ 4. In § 665.14, revise paragraphs (a)(1), (a)(2)(i), and (c) to read as follows:

**§ 665.14 Reporting and recordkeeping.**

(a) *Fishing record forms.* (1) *Applicability.* The operator of any fishing vessel subject to the requirements of §§ 665.21, 665.41, 665.61(a)(2), 665.61(a)(3), 665.61(a)(4), 665.61(a)(5), 665.81, or 665.602 must maintain on board the vessel an accurate and complete record of catch, effort, and other data on paper report forms provided by the Regional Administrator, or electronically as specified and approved by the Regional

Administrator. All information specified by the Regional Administrator must be recorded on paper or electronically within 24 hours after the completion of each fishing day. The logbook information, reported on paper or electronically, for each day of the fishing trip must be signed and dated or otherwise authenticated by the vessel operator in the manner determined by the Regional Administrator, and be submitted or transmitted via an approved method as specified by the Regional Administrator, and as required by this paragraph (a).

(2) *Timeliness of submission.* (i) If fishing was authorized under a permit pursuant to §§ 665.21, 665.41, 665.61(a)(3), 665.61(a)(5), or 665.81, the vessel operator must submit the original logbook form for each day of the fishing trip to the Regional Administrator within 72 hours of the end of each fishing trip, except as allowed in paragraph (a)(2)(iii) of this section.

(c) *Sales report.* The operator of any fishing vessel subject to the requirements of § 665.41, or the owner of a medium or large fishing vessel subject to the requirements of § 665.61(a)(5), must submit to the Regional Administrator, within 72 hours of offloading crustacean or bottomfish management unit species, respectively, an accurate and complete sales report on a form provided by the Regional Administrator. The form must be signed and dated by the fishing vessel operator.

#### § 665.22 [Redesignated in part]

■ 5. Redesignate paragraphs (o) through (u) in § 665.22 as paragraphs (m) through (s) in § 665.15.

■ 6. In § 665.15, revise newly redesignated paragraphs (m) through (s) to read as follows:

#### § 665.15 Prohibitions.

(m) Fish for, catch, or harvest management unit species with longline gear without an operational VMS unit on board the vessel after installation of the VMS unit by NMFS, in violation of § 665.19(e)(2).

(n) Possess management unit species, that were harvested after NMFS has installed the VMS unit on the vessel, on board that vessel without an operation VMS unit, in violation of 665.19(e)(2).

(o) Interfere with, tamper with, alter, damage, disable, or impede the operation of a VMS unit or attempt any of the same; or move or remove a VMS unit without the prior permission of the SAC in violation of § 665.19(e)(3).

(p) Make a false statement, oral or written, to an authorized officer, regarding the use, operation, or maintenance of a VMS unit, in violation of § 665.19(e)(1).

(q) Interfere with, impede, delay, or prevent the installation, maintenance, repair, inspection, or removal of a VMS unit, in violation of § 665.19(e)(1).

(r) Interfere with, impede, delay, or prevent access to a VMS unit by a NMFS observer, in violation of § 665.28(f)(4).

(s) Connect or leave connected additional equipment to a VMS unit without the prior approval of the SAC, in violation of § 665.19(f).

■ 7. In § 665.16, add new paragraph (e)(2) to read as follows:

#### § 665.16 Vessel identification.

\* \* \* \* \*

(e) \* \* \*

(2) A vessel less than 40 ft (12.2 m) in length registered for use under a CNMI commercial bottomfish permit that is in compliance with CNMI bottomfish vessel registration and marking requirements.

#### § 665.25 [Redesignated as § 665.29]

■ 8. Redesignate § 665.25 as new § 665.19, and revise newly-redesignated § 665.19 to read as follows:

#### § 665.19 Vessel monitoring system.

(a) *Applicability.* The holder of any of the following permits is subject to the vessel monitoring system requirements in this part:

(1) Hawaii longline limited access permit issued pursuant to 665.21(b);

(2) American Samoa longline limited entry permit, for vessel size Class C or D, issued pursuant to 665.21(c);

(3) Vessels permitted to fish in Crustaceans Permit Area 1 VMS Subarea; or

(4) CNMI commercial bottomfish permit, if the vessel is a medium or large bottomfish vessel, issued pursuant to 665.61(a)(5).

(b) *VMS unit.* Only a VMS unit owned by NMFS and installed by NMFS complies with the requirement of this subpart.

(c) *Notification.* After a permit holder subject to this part has been notified by the SAC of a specific date for installation of a VMS unit on the permit holder's vessel, the vessel must carry and operate the VMS unit after the date scheduled for installation.

(d) *Fees and charges.* During the experimental VMS program, the holder of a permit subject to this part shall not be assessed any fee or other charges to obtain and use a VMS unit, including the communication charges related

directly to requirements under this section. Communication charges related to any additional equipment attached to the VMS unit by the owner or operator shall be the responsibility of the owner or operator and not NMFS.

(e) *Permit holder duties.* The holder of a permit subject to this part, and master of the vessel, must:

(1) Provide opportunity for the SAC to install and make operational a VMS unit after notification.

(2) Carry and continuously operate the VMS unit on board whenever the vessel is at sea.

(3) Not remove, relocate, or make non-operational the VMS unit without prior approval from the SAC.

(f) *Authorization by the SAC.* The SAC has authority over the installation and operation of the VMS unit. The SAC may authorize the connection or order the disconnection of additional equipment, including a computer, to any VMS unit when deemed appropriate by the SAC.

■ 9. In § 665.61, add new paragraph (a)(5) to read as follows:

#### § 665.61 Permits.

(a) \* \* \*

\* \* \* \* \*

(5) *Commonwealth of the Northern Mariana Islands (CNMI) commercial.* The owner of any vessel used to commercially fish for, transship, receive, or land bottomfish management unit species shoreward of the outer boundary of the CNMI management subarea must have a permit issued under this section, and the permit must be registered for use with that vessel.

\* \* \* \* \*

■ 10. In § 665.62, add new paragraphs (o) through (r) to read as follows:

#### § 665.62 Prohibitions.

\* \* \* \* \*

(o) Use a vessel to fish commercially for bottomfish management unit species shoreward of the outer boundary of the CNMI subarea without a valid CNMI commercial bottomfish permit registered for use with that vessel, in violation of § 665.61(a)(5).

(p) Use a medium or large vessel to fish for bottomfish management unit species within the CNMI medium and large vessel bottomfish prohibited areas, as defined in § 665.70(b).

(q) Retain, land, possess, sell, or offer for sale, shoreward of the outer boundary of the CNMI subarea, bottomfish management unit species that were harvested in violation of § 665.62(p), except that bottomfish management unit species that are harvested legally may be transferred to

a receiving vessel shoreward of the outer boundary of the CNMI medium and large vessel bottomfish prohibited area as defined in § 665.70(b).

(r) Falsify or fail to make, keep, maintain, or submit a Federal logbook as required under § 665.14(a) when using a vessel to engage in commercial fishing for bottomfish management unit species shoreward of the outer boundary of the CNMI subarea in violation of § 665.14(a).

■ 11. In § 665.69, remove paragraph (a)(7) and redesignate paragraph (a)(8) as paragraph (a)(7), and revise paragraphs (a) introductory text, (a)(6), and (c) to read as follows:

**§ 665.69 Management subareas.**

(a) The bottomfish fishery management area is divided into subareas with the following designations and boundaries:

\* \* \* \* \*

(6) CNMI Management Subarea means the EEZ seaward of the CNMI. The CNMI Management Subarea is further divided into subareas with the following designations and boundaries:

(i) CNMI Inshore Area means that portion of the EEZ within 3 nautical miles of the shoreline of the CNMI.

(ii) CNMI Offshore Area means that portion of the EEZ seaward of 3 nautical miles from the shoreline of the CNMI.

\* \* \* \* \*

(c) The outer boundary of each fishery management area is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured, or is coterminous with adjacent international maritime boundaries, except that the outer boundary of the CNMI Inshore Area is 3 nautical miles from the shoreline. The boundary between the fishery management areas of Guam and the CNMI extends to those points which are equidistant between Guam and the island of Rota in the CNMI.

■ 12. Revise § 665.70 to read as follows:

**§ 665.70 Bottomfish fishery area management.**

(a) *Guam large vessel bottomfish prohibited area (Area GU-1).* A large vessel of the United States may not be used to fish for bottomfish management unit species in the Guam large vessel bottomfish prohibited area, defined as the U.S. EEZ waters surrounding Guam that are enclosed by straight lines connecting the following coordinates in the order listed:

Point	N. lat.	E. long.
GU-1-A	14° 16'	144° 17'
GU-1-B	13° 50'	143° 52'
GU-1-C	13° 17'	143° 46'
GU-1-D	12° 50'	143° 54'
GU-1-E	12° 30'	144° 14'
GU-1-F	12° 25'	144° 51'
GU-1-G	12° 57'	145° 33"
GU-1-H	13° 12'	145° 43'
GU-1-I	13° 29' 44"	145° 48' 27"
GU-1-A	14° 16'	144° 17'

(b) *CNMI medium and large vessel bottomfish prohibited areas.* A medium or large vessel of the United States may not be used to fish commercially for bottomfish management unit species in the following areas:

(1) *CNMI Southern Islands (Area NM-1).* The CNMI Southern Islands prohibited area is defined as the waters of the U.S. EEZ surrounding the CNMI that are enclosed by straight lines connecting the following coordinates in the order listed:

Point	N. lat.	E. long.
NM-1-A	14° 9'	144° 15'
NM-1-B	16° 10' 47"	145° 12'
NM-1-C	16° 10' 47"	146° 53'
NM-1-D	14° 48'	146° 33'
NM-1-E	13° 27'	145° 43'
NM-1-A	14° 9'	144° 15'

(2) *CNMI Alamagan Island (Area NM-2).* The CNMI Alamagan Island prohibited area is defined as the waters of the U.S. EEZ surrounding the CNMI that are enclosed by straight lines connecting the following coordinates in the order listed:

Point	N. lat.	E. long.
NM-2-A	17° 26'	145° 40'
NM-2-B	17° 46'	145° 40'
NM-2-C	17° 46'	146° 00'
NM-2-D	17° 26'	146° 00'
NM-2-A	17° 26'	145° 40'

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 665**

**RIN 0648-AV29**

**Fisheries in the Western Pacific; Crustacean Fisheries; Deepwater Shrimp**

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

**ACTION:** Final rule; correction.

**SUMMARY:** This document contains a correction to the final regulations that were published in the **Federal Register** on November 21, 2008. This correction revises the amendatory instruction in the final rule to accurately reflect paragraph designation in the section on permit fees.

**DATES:** The amendment to § 665.13 will require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). When OMB approval is received, the effective date will be announced in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Brett Wiedoff, NMFS Pacific Islands Region, Sustainable Fisheries, 808-944-2272.

**SUPPLEMENTARY INFORMATION:** The final rule published on November 21, 2008, designated deepwater shrimp of the genus *Heterocarpus* as management unit species (MUS), and requires Federal permits and data reporting for deepwater shrimp fishing in Federal waters of the western Pacific (73 FR 70603). Also on November 21, 2008, NMFS published another final rule that designated three species of pelagic squid as management unit species, and established permitting and reporting requirements for squid jig fishing vessels (73 FR 70600). In the amendatory instruction for § 665.13 in both final rules, an identical paragraph designation was assigned for both new permits fees.

This correction makes a change to the amendatory instruction in the deepwater shrimp final rule to accurately designate the paragraphs in § 665.13. This change is necessary to prevent duplicate paragraph designation. In the amendatory instruction for § 665.13, the phrase, "...and add a new paragraph (f)(2)(vi)...", is revised to read "...and add a new paragraph (f)(2)(vii)...."