

Section 305(c)(2) of the Magnuson-Stevens Act provides the Council the authority to request interim measures, if necessary, to reduce overfishing. The Council sent a letter to NMFS, dated June 18, 2022, requesting that NMFS implement interim measures to immediately reduce overfishing of gag while long-term management measures were developed to end overfishing of gag. Section 305(c)(3)(B) of the Magnuson-Stevens Act allows for interim measures to be extended for one additional period of 186 days provided that the public has had an opportunity to comment on the interim measures and that the Council is actively preparing an FMP amendment to address the overfishing on a permanent basis. NMFS published in the **Federal Register** a proposed temporary rule on February 3, 2023, and requested public comments on these interim measures (88 FR 7388). NMFS responded to public comments in the final temporary rule that was published in the **Federal Register** on May 3, 2023 (88 FR 27701).

Classification

This action is issued pursuant to section 305(c) of the Magnuson-Stevens Act, 16 U.S.C. 1855(c). The NMFS Assistant Administrator has determined that this temporary rule extension is consistent with the Magnuson-Stevens Act and other applicable law.

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

This temporary rule extension is exempt from the procedures of the RFA, because this temporary rule extension is issued without the opportunity for prior notice and public comment.

NMFS prepared an EA for the interim measures contained in the January 2, 2018, final temporary rule (83 FR 65). The EA analyzed the impacts of reduced commercial and recreational harvest and the change to the 2023 recreational season through the 2023 fishing year, which includes the impacts related to extending the interim measures. If additional management measures are not implemented after the extension expires, the recreational season would open on June 1, 2024, and the commercial and recreational catch limits would increase to the levels in place prior to the final temporary rule. Impacts during the 2024 fishing year would be a result of the implementation of the management measures included in Amendment 56, which are considered in the EA supporting that

amendment. Therefore, the impacts of extending the interim measures through this temporary rule have already been considered. An electronic copy of the EA supporting the interim measures is available from NMFS (see the **ADDRESSES** section).

This temporary rule extension contains no information collection requirements under the Paperwork Reduction Act of 1995.

Pursuant to the authority set forth in 5 U.S.C. 553(b)(B), there is good cause to waive the requirements to provide prior notice and opportunity for public comment on this action as such procedures for this temporary rule extension are unnecessary and contrary to the public interest. Such procedures are unnecessary because NMFS already published a proposed temporary rule on February 3, 2023, and requested public comments on these interim measures, including their potential extension. NMFS responded to public comments in the final temporary rule published on May 3, 2023. This temporary rule extension continues the interim measures unchanged for up to an additional 186 days.

Additional notice and opportunity for public comment are contrary to the public interest because of the need to continue these interim measures without interruption to protect the gag stock until NMFS can implement management measures to end overfishing and rebuild the Gulf gag stock. Prior notice and opportunity for public comment would require additional time and could result in an interruption of the interim measures and, therefore, allow harvest in excess of the catch limits implemented by this temporary rule extension. Increased harvest of gag would be inconsistent with the purpose of implementing the interim measures under section 305(c) of the Magnuson-Stevens Act, which is to reduce overfishing while permanent measures can be developed and implemented.

For the reasons just stated, there is also good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: September 29, 2023.

Samuel D. Rauch, III,
Deputy Assistant Administrator for
Regulatory Programs, National Marine
Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[RTID 0648-XD434]

Pacific Island Fisheries; 2023 Northwestern Hawaiian Islands Lobster Harvest Guideline

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

ACTION: Notification of lobster harvest guideline.

SUMMARY: NMFS establishes the annual harvest guideline for the commercial lobster fishery in the Northwestern Hawaiian Islands (NWHI) for calendar year 2023 at zero lobsters.

DATES: October 6, 2023.

FOR FURTHER INFORMATION CONTACT: Keith Kamikawa, NMFS PIRO Sustainable Fisheries, 808-725-5177.

SUPPLEMENTARY INFORMATION: NMFS manages the NWHI commercial lobster fishery under the Fishery Ecosystem Plan for the Hawaiian Archipelago. The regulations at 50 CFR 665.252(b) require NMFS to publish an annual harvest guideline for lobster Permit Area 1, comprised of Federal waters around the NWHI.

Regulations governing the Papahānaumokuākea Marine National Monument in the NWHI prohibit the unpermitted removal of monument resources (50 CFR 404.7), and establish a zero annual harvest guideline for lobsters (50 CFR 404.10(a)). Accordingly, NMFS establishes the harvest guideline for the NWHI commercial lobster fishery for calendar year 2023 at zero lobsters. Harvest of NWHI lobster resources is not allowed.

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

Dated: October 3, 2023.

Jennifer M. Wallace,
Acting Director, Office of Sustainable
Fisheries, National Marine Fisheries Service.

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