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Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

Issued on: April 2, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AD20

Endangered and Threatened Wildlife and Plants; Proposed Special Rule for the Conservation of the Northern Spotted Owl on Non-Federal Lands

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Extension of Public Comment Period.

SUMMARY: The Service issued a Draft Environmental Alternatives Analysis (EAA) for the proposed special rule for the conservation of the northern spotted owl on non-Federal lands in California and Washington, which is currently out for public comment. The proposed special rule was published in the Federal Register on February 17, 1995 (60 FR 9484). The comment period for both documents was scheduled to end on April 8, 1996. The intent of this document is to extend the comment period to June 3, 1996.

The Service has received numerous requests to extend the comment period for these documents from state regulatory agencies, conservation groups and industry officials in both Washington and California. In addition, the State of Washington has prepared a proposed rule under authority of the Washington Timber Practices Board that would address impacts of forest practices to the northern spotted owl. The state has asked the Service to consider their proposed state rule as a possible alternative to the current special rule proposed by the Service. The Service seeks additional comments from the interested public, agencies, and interest groups on the Draft EAA, the

proposed special rule, and on the State of Washington's proposed rule as a possible alternative to the rule currently proposed by the Fish and Wildlife.

DATES: The comment period for written comments is extended until June 3, 1996.

ADDRESSES: Comments and materials concerning this Draft Environmental Alternatives Analysis and the proposed rule should be sent to Mr. Michael J. Spear, Regional Director, Region 1, U.S. Fish and Wildlife Service, 911 N.E. 11th Avenue, Portland, Oregon 97232-4181. The complete file for this proposed rule will be available for public inspection, by appointment during normal business hours, at the U.S. Fish and Wildlife Service, Office of Technical Support for Forest Resources, 333 S.W. 1st Avenue, 4th Floor, Portland, Oregon 97204, (503/326-6218).

FOR FURTHER INFORMATION CONTACT: Mr. Curt Smith, Assistant Regional Director, Region 1, U.S. Fish and Wildlife Service, 3704 Griffin Lane S.E., Suite 102, Olympia, Washington 98501, (206/534-9330); or Ron Crete, Office of Technical Support for Forest Resources, 333 S.W. 1st Avenue, Portland, Oregon 97232-4181, (503/326-6218).

SUPPLEMENTARY INFORMATION: The Service has prepared a draft document called an Environmental Alternatives Analysis (EAA) that describes and analyzes the potential environmental effects of the proposed special rule and six alternatives for the conservation of the northern spotted owl on non-Federal lands in Washington and California. Each alternative would revise to varying degrees the Federal prohibitions and exceptions regarding the incidental take of spotted owls on non-Federal lands in California and Washington. The proposed rule, analyzed in the Draft EAA as Alternative 3, was published in the Federal Register on February 17, 1995 (60 FR, No. 33, Page 9484).

In addition, the State of Washington has prepared a proposed rule to address the impacts of forest practices on northern spotted owls in that state. The state's proposed rule is similar in many ways to the Service's proposed 4(d) rule, although there are some differences. The state has asked the Service to consider the state rule as an alternative to the Service's current proposed rule.

The Service is in the process of analyzing the state rule, and plans to publish in the Federal Register within two weeks a summary of the state's rule and a comparison of that rule with the Service's proposed rule. The state's comment period for their proposed rule has expired, however, the Service is interested in receiving comment from

the interested public regarding the possibility of the Washington state rule as an alternative to the Service's currently proposed special rule. To receive a copy of the State of Washington proposed rule and the state's Draft Environmental Impact Statement, write to Washington State Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504-7012, Attn: Judith Holter.

The Service's Draft EAA, including all maps, tables, charts, and graphs, remains available on the Internet's World Wide Web at <http://www.r1.fws.gov/4deaa/welcome.html>.

Dated: April 3, 1996.

Don Weathers,

Acting Regional Director, U.S. Fish and Wildlife Service, Region 1, Portland, Oregon.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 681

[Docket No. 960401094-6094-01; I.D. 022296D]

RIN 0648-AI32

Western Pacific Crustacean Fisheries; Amendment 9

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule to implement Amendment 9 to the Fishery Management Plan for the Crustacean Fisheries of the Western Pacific Region (FMP). The rule would establish a new annual harvest limitation program for the Northwestern Hawaiian Islands (NWHI) lobster fishery based on the status of stocks and an explicit level of risk of overfishing. This would eliminate operational problems with the current quota system. Current prohibitions on retaining juvenile lobsters and berried lobsters would be eliminated. The rule would establish framework procedures to implement regulatory changes if needed in the future. The rule is intended to maintain the productivity of the stocks while providing a reasonable opportunity for permit holders to participate in the fishery and to maintain their markets. The changes also would improve the

administration of the management program and improve enforcement efforts.

DATES: Written comments must be received by May 23, 1996.

ADDRESSES: Copies of Amendment 9 and the associated environmental assessment and Regulatory Impact Review/Initial Regulatory Flexibility Analysis (IRFA) may be obtained from Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council (Council), 1164 Bishop St., Suite 1405, Honolulu, HI 96813.

Comments on the proposed rule should be sent to Hilda Diaz-Soltero, Director, Southwest Region, NMFS (Regional Director), 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802. Send comments on the modifications to approved collection-of-information requirements to the Regional Director and to the Office of Information and Regulatory Affairs, Office of Management and Budget, ATTN: Paperwork Reduction Project 0648-0204 and 0648-0214, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds at (808) 522-8220; Svein Fougner at (310) 980-4034; or Alvin Z. Katekaru at (808) 973-2985.

SUPPLEMENTARY INFORMATION: The FMP was originally approved in 1983 and governs fishing for spiny and slipper lobster in the NWHI. The FMP originally included a variety of measures that have traditionally been used in crustacean fisheries, including size limits, a ban on retention of berried female lobsters, area closures, and escape vents for sublegal lobsters. At that time, the stock was estimated to be able to support a fishery of one million or more lobsters per year.

The FMP has been amended eight times as more information has become available and problems in the fishery have been identified. In 1992, through Amendment 7, an annual quota, closed season, and limited entry program were established (57 FR 10437, March 26, 1992) in response to a dramatic decline in lobster landings and catch-per-unit effort (CPUE) from 1990 through 1991. The annual quota is derived by a formula that reflects a "constant escapement" management goal; that is, the harvest is limited to the surplus above a given "optimum" biomass of about 1.4 million lobsters. Amendment 8 to the FMP, which NMFS approved in 1994, eliminated a landing requirement for permit renewal and modified notification and reporting procedures (Final rule, 59 FR 56004, November 10, 1994).

Amendment 9 is the result of a comprehensive review by NMFS of the quota-setting procedure established under Amendment 7. The review was prompted by the difficulties in implementing the current annual quota process and because information suggests that the overall productivity of lobster stocks might be significantly lower than estimated in the late 1970s and early 1980s. There appear to have been major environmental shifts that have reduced overall marine resource productivity in the NWHI, as declines similar to that seen in lobster stocks are seen in sea bird populations as well as in Hawaiian monk seals. Fishing mortality also is believed to have impacted lobster productivity.

Scientists from the NMFS Honolulu Laboratory, Southwest Fisheries Science Center, thoroughly reviewed the lobster stock model and analyzed three alternative harvest policies for establishing an annual quota or harvest guideline: Constant escapement, constant catch, and constant harvest rate. Details of this analysis are contained in Appendix 4 of Amendment 9.

On August 9, 1995, the Council approved Amendment 9, which was received by NMFS on February 21, 1996. NMFS will approve, disapprove, or partially disapprove Amendment 9 by May 24, 1996. See the Notice of Availability published on February 22, 1996 (61 FR 7771). Amendment 9 includes the following measures:

1. *Establish an annual harvest guideline based on a constant harvest rate and a specific level of risk of overfishing.* Under the constant harvest rate policy, the harvest guideline, which is expressed in terms of the total number of lobsters (spiny and slipper combined), would be proportional to the estimated exploitable population size. Harvest guidelines would be raised or lowered as the stock increased or decreased, capitalizing on strong years and offering greater protection during less productive periods. Under the proposed alternative, the projected average catch would be 288,000 lobsters with a CPUE of 1.2 lobsters (total) and an average Spawning Potential Ratio (SPR) of 0.5 (the overfishing level is 0.20 SPR).

The Council initially voted on a range of acceptable risk levels of overfishing (7.5-10.0 percent) on which to base the annual harvest guideline. The Council subsequently clarified its position (via fax on November 2, 1995) and selected 10 percent as the risk level to be applied by the Regional Director to determine the annual harvest guideline. The Council believes that this is consistent

with its Scientific and Statistical Committee's (SSC) view that, with the conservative nature of the harvest guideline and stock model, a 10 percent level of risk of dropping below the 0.2 SPR threshold for overfishing in any given year is biologically acceptable. The Council and its SSC believe this presents an extremely low risk of overfishing the NWHI lobster stocks. Accordingly, the Council has concluded that the constant harvest rate strategy is risk averse, which is consistent with the prevention of overfishing as mandated by the Magnuson Fishery Conservation and Management Act (Magnuson Act).

The harvest guideline would be determined by the Regional Director. The harvest guideline would be published in the Federal Register no later than March 31 each year, and the Regional Director would directly notify each permit holder of the harvest guideline by mail or by phone. The harvest guideline would be used as an objective, but the Regional Director would be expected to close the fishery as close as practicable to the date on which the harvest guideline is projected to be reached based on a continuing review of catch and effort data provided by permit holders.

2. *Allow the retention of egg-bearing ("berried") female lobsters and eliminate size limits.* The FMP and implementing regulations prohibit fishers from retaining berried lobsters or lobsters with a tail width of less than 50 mm. While definitive data are not available, there is good reason to believe that the mortality of small and berried lobsters that are caught and released is very high. The lobsters share the NWHI with large and relatively lightly fished stocks of predators including snappers, jacks, and octopus. The NMFS Honolulu laboratory has documented on videotape predation on released lobsters from a research vessel. Common fishing practices result in lobsters being out of the water for periods of 30 minutes or more. Lobsters may die from exposure on a vessel, may be injured in handling and not be able to recover after release, or may suffer mortality from predation upon release. The members of the SSC agreed that mortality is probably high, and concluded that a 75 percent mortality rate was appropriate for modeling the effects of incidental mortality under different management strategies and risk levels. The SSC noted that the retention of all lobsters was beneficial when the mortality rate was higher than 25 percent.

The Council discussed the issues and concluded it would like to minimize the waste associated with handling and release mortality by eliminating the

prohibitions on retention of small or berried lobsters. Therefore, Amendment 9 would allow, but not require, retention of small and berried lobsters. The existing escape vent requirement would remain in place to minimize the harvest of immature lobsters in the fishery.

The Council believes that the potential for highgrading (i.e., the retention of only more valuable lobsters in the total catch) is low when there are two or more permit holders competing for the harvest guideline. Since this is a derby fishery, in which the permit holders fish as quickly as possible without trip or vessel limits, a permit holder who chooses not to retain all of the catch provides a greater opportunity for competitors to increase their portion of a fixed harvest limit. Since NMFS expects that few (if any) vessels will carry observers, estimates of highgrading will be made using catch and effort data. If these data indicate that juvenile or berried lobsters are not being landed (but instead being discarded), NMFS will account for such discards in calculating the subsequent year's harvest guideline. Therefore, highgrading would result in a decrease in the following year's harvest guideline.

NMFS recognizes that the retain-all strategy is a new approach to the management of lobster. Success of this approach depends on the actual mortality of discarded lobsters and how well uncertainties about the actual mortality are taken into account. Likewise, if significant highgrading occurs, the benefits gained from a retain-all approach could be substantially reduced. In view of these uncertainties, NMFS specifically requests comments on the proposed elimination of the size limits and of the prohibition on retaining berried females. NMFS also specifically requests comments on the potential for, and possible problems resulting if, there is significant highgrading.

3. Eliminate the in-season quota adjustment. Under the current system, NMFS announces an initial quota in February and announces a final quota as soon as practicable after the first month of fishing. The in-season quota adjustment has proven to be unworkable, given the extreme sensitivity of the quota formula to changes in CPUE. For example, in 1994, the initial quota was 200,000 lobsters, but after applying the CPUE from the first month of fishing to the formula in the FMP, NMFS calculated the final quota to be only 20,000 lobsters. The fishery was closed by emergency action because the actual catch had already

exceeded the final quota by the time the final quota was determined. The formula used to derive the initial quota reduces variability through the use of a long time-series of data; however, using data from the first month of fishing to derive the final quota reintroduces variability. Under Amendment 9, the harvest guideline would be set once annually and not be adjusted during the year.

4. Authorize the Regional Director to close the fishery. The regulations do not now authorize closure of the fishery by direct notice to the permit holders. Therefore, there can be considerable delay between determination of the likely date the fishery would be expected to reach its harvest limit and the actual publication of a document in the Federal Register. The Council concluded that the fishery is sufficiently small (there are only 15 persons with limited entry permits) that direct notice to permit holders by telephone or radio would be feasible and would provide the most effective means of ensuring timely closure of the fishery with minimal likelihood of premature or late closure.

5. Establish broad framework procedures for future regulatory changes. The FMP currently has framework procedures dealing with protected species conservation, and the annual harvest guideline is set under a specific framework (i.e., formula). The Council concluded that flexibility to consider future changes in management measures under broad framework procedures would be advantageous, rather than relying on the lengthy procedures of the FMP amendment process. In the Council's view, the new framework procedures of Amendment 9 would provide a mechanism for more rapid response to new information than would the FMP amendment process.

6. Conduct a 5-year review of the new program. The Council is aware that the proposed new management approach of Amendment 9 would be a unique approach for crustacean fishery management and warrants a complete review of effectiveness. There would be an annual stock assessment and annual report on the fishery, but the overall management program should be evaluated to determine how the stocks and the permit holders have been affected. Therefore, Amendment 9 would commit the Council to a full review of the program in 5 years.

This proposed rule would eliminate the requirement that fishers notify NMFS in advance of plans to embark on each fishing trip, so that NMFS may place observers on the fishing vessel. Although the single vessel fishing in

1994 under an Experimental Fishing Permit carried a NMFS observer, NMFS lacks the resources to send observers on lobster trips on a regular basis. Therefore, NMFS proposes to relieve fishermen of the burden of reporting each trip in advance. This proposal accords with President Clinton's directive that agencies reduce public reporting requirements.

No substantive changes were made in the proposed regulations as submitted by the Council. The proposed rule includes some technical changes to the current regulations. These include changes in the definitions for clarity, eliminating the permit renewal process as permits would not have a fixed expiration date, authorizing any NMFS employee designated by the Regional Director to access sales data, and removing gender specific language.

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 the amendment and regulations. At this time, NMFS has not determined that Amendment 9 is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. In making that determination, NMFS 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 an IRFA as part of the regulatory impact review, which describes the impact this proposed rule would have on small entities, if adopted. To the extent there are impacts, they are expected to be beneficial. Under the proposed harvest guideline, there will likely be fewer years in which the fishery is closed. The proposed harvest strategy would eliminate the prohibitions on retaining small or berried lobsters. The increased harvest guideline and reduction in costs may result in a substantial increase of gross annual revenues. All vessels in this fishery (15 vessels have permits) are considered small entities. No new reporting, recordkeeping, or compliance requirements would be imposed by this rule. No Federal rules are known to duplicate, overlap, or conflict with this rule. The reasons for, objectives of, and legal basis for this rule are described elsewhere in this preamble. Multiple alternatives are analyzed in the IRFA. A copy of the IRFA is available from, and public comments on the IRFA may be sent to, the Council (see ADDRESSES).

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection-of-information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number.

This rule includes a reduction in collection-of-information requirements subject to the Paperwork Reduction Act. The current rule, which was approved by the Office of Management and Budget (OMB) under OMB Control No. 0648-0204, requires that permits be renewed annually. Under the proposed rule, permits would be effective until modified, suspended, or revoked. It would be the responsibility of the permit holder to advise NMFS of any changes in permit information such as change of ownership or the vessel covered by the permit. The estimated burden would decrease from one-half hour per year to one-half hour per 3 years. Vessel owners also would no longer be required to notify NMFS prior to departing on each fishing trip, a requirement approved by OMB under OMB Control No. 0648-0214. This would reduce the estimated burden by 5 minutes per vessel per trip, or up to 30 minutes per year. The total burden is estimated to decrease by about 10 hours per year. A request for approval of this modification is being submitted to OMB for approval. Send comments regarding these burden estimates or any other aspect of these collection-of-information requirements, including suggestions for reducing the burden, to the Regional Director and to OMB (see ADDRESSES).

The Southwest Region, NMFS, has initiated formal consultation under section 7 of the Endangered Species Act to consider the possible impacts of the fishery, as it would operate under the proposed rule, on Hawaiian monk seals and other listed species and listed critical habitat. The results of the consultation will be considered in determining whether to approve the proposed amendment.

List of Subjects in 50 CFR Part 681

Fisheries, Reporting and recordkeeping requirements.

Dated: April 4, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 681 is proposed to be amended as follows:

PART 681—WESTERN PACIFIC CRUSTACEAN FISHERIES

1. The authority citation for part 681 continues to read as follows:

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

2. In § 681.2, the definitions of “Carapace length”, “Final quota”, “Initial quota”, “Processing”, “Processor”, “Receiving Vessel”, “Tail width of slipper lobster”, “Tail width of spiny lobster”, and “U.S.-harvested lobster” are removed; the definition of “Harvest guideline” is added in alphabetical order, and the definition of “Slipper lobster” is revised to read as follows:

§ 681.2 Definitions.

* * * * *

Harvest guideline means a specified numerical harvest objective.

* * * * *

Slipper lobster means any crustacean of the family *Scyllaridae*.

* * * * *

3. In § 681.4, paragraphs (b)(2), (d), and (f) are revised, paragraph (g) is removed, paragraphs (h) through (l) are redesignated as paragraphs (g) through (k) respectively, to read as follows:

§ 681.4 Permits.

* * * * *

(b) * * *

(2) Each application must be submitted on a Southwest Region Federal Fisheries application form obtained from the Pacific Area Office containing all the necessary information, attachments, certification, signature, and fees.

* * * * *

(d) *Change in application information.* Any change in information on the permit application form submitted under paragraph (b)(2) of this section must be reported to the Pacific Area Office at least 10 days before the effective date of the change. Failure to report such change is a basis for permit sanctions.

* * * * *

(f) *Expiration.* Permits issued under this section will remain valid indefinitely unless transferred, revoked, suspended, or modified under 15 CFR part 904.

* * * * *

4. In § 681.5, paragraphs (b) and (d) are removed, paragraphs (c) and (e) are redesignated as paragraphs (b) and (c) respectively, and paragraph (a) and newly redesignated (b) are revised to read as follows:

§ 681.5 Recordkeeping and reporting.

(a) *Daily Lobster Catch Report.* The operator of any vessel engaged in commercial fishing for lobster subject to this part must maintain on board the fishing vessel, while fishing for lobster, an accurate and complete NMFS Daily Lobster Catch Report on a form provided by the Regional Director. All information specified on the form, which has been approved under the Paperwork Reduction Act, must be recorded on the form within 24 hours after the completion of the fishing day. The Daily Lobster Catch Reports for a fishing trip must be submitted to the Regional Director within 72 hours of each landing of lobsters.

(b) *Lobster Sales Report.* The operator of any vessel engaged in commercial fishing for lobster subject to this part must submit to the Regional Director, within 72 hours of off-loading of lobster, an accurate and complete Lobster Sales Report on a form provided by the Regional Director, and attach packing or weigh-out slips provided to the operator by the first-level buyer(s), unless the packing/weigh-out slips have not been provided in time by the buyer(s). The form, which has been approved under the Paperwork Reduction Act, must be signed and dated by the vessel operator.

* * * * *

5. In § 681.7, paragraphs (a)(5), (b)(2) through (b)(4) are removed, paragraphs (b)(5) through (b)(14) are redesignated as paragraphs (b)(2) through (b)(11) respectively, and paragraph (b)(1)(i) through (b)(1)(v), newly redesignated paragraphs (b)(6), (b)(7), (b)(9), and (b)(11) are revised to read as follows:

§ 681.7 Prohibitions.

* * * * *

(b) * * *

(1) * * *

(i) Without a limited access permit issued under § 681.28;

(ii) By methods other than lobster traps or by hand for lobsters, as specified in § 681.22;

(iii) From closed areas for lobsters, as specified in § 681.21;

(iv) During a closed season, as specified in § 681.27; or

(v) After the date announced by the Regional Director, as specified in § 681.29(b)(3), and until the fishery opens again in the following calendar year.

* * * * *

(6) Leave a trap unattended in the Management Area except as provided in § 681.22(f).

(7) Maintain on board the vessel or in the water, more than 1200 traps per fishing vessel, of which no more than

1100 can be assembled traps, as specified in § 681.22(e).

* * * * *

(9) Land lobsters taken in Permit Area 1 after the closure date announced by the Regional Director, as specified in § 681.29 (b)(3), until the fishery opens again the following year.

* * * * *

(11) Refuse to make available to an authorized officer and employee of NMFS designated by the Regional Director for inspection and copying any records that must be made available in accordance with § 681.11(a).

* * * * *

6. Section 681.10 is revised to read as follows:

§ 681.10 Observers.

All fishing vessels subject to this part must carry an observer when requested to do so by the Regional Director.

7. In § 681.11, paragraph (a) introductory text is revised to read as follows:

§ 681.11 Availability of records for inspection.

(a) Upon request, any first-level buyer must immediately allow an authorized officer and any employee of NMFS designated by the Regional Director, to access, inspect, and copy all records relating to the harvest, sale, or transfer of management unit species taken by vessels that have permits issued under this part or that are otherwise subject to this part, including, but not limited to information concerning:

* * * * *

8. Section 681.12 is added to subpart A to read as follows:

§ 681.12 Framework procedures.

(a) *Introduction.* New management measures may be added through rulemaking if new information demonstrates that there are biological, social, or economic concerns in Permit Areas 1, 2, or 3. The following framework process authorizes the implementation of measures that may affect the operation of the fisheries, gear, harvest guidelines, or changes in catch and/or effort.

(b) *Annual report.* By June 30 of each year, the Council-appointed Crustaceans Plan Team will prepare an annual report on the fisheries in the management area. The report shall contain, among other things, recommendations for Council action and an assessment of the urgency and effects of such action(s).

(c) *Procedure for established measures.* (1) Established measures are management measures that, at some time, have been included in regulations implementing the FMP, and for which

the impacts have been evaluated in Council/NMFS documents in the context of current conditions.

(2) Following the framework procedures of Amendment 9 to the FMP, the Council may recommend to the Regional Director that established measures be modified, removed, or re-instituted. Such recommendation shall include supporting rationale and analysis, and shall be made after advance public notice, public discussion, and consideration of public comment. NMFS may implement the Council's recommendation by rulemaking if approved by the Regional Director.

(d) *Procedure for New Measures.* (1) New measures are management measures that have not been included in regulations implementing the FMP, or for which the impacts have not been evaluated in Council/NMFS documents in the context of current conditions.

(2) Following the framework procedures of Amendment 9 to the FMP, the Council will publicize, including by Federal Register notice, and solicit public comment on, any proposed new management measure. After a Council meeting at which the measure is discussed, the Council will consider recommendations and prepare a Federal Register notice summarizing the Council's deliberations, rationale, and analysis for the preferred action, and the time and place for any subsequent Council meeting(s) to consider the new measure. At subsequent public meeting(s), the Council will consider public comments and other information received to make a recommendation to the Regional Director about any new measure. NMFS may implement the Council's recommendation by rulemaking if approved by the Regional Director.

9. In Subpart B, §§ 681.21 and 681.22 are removed and §§ 681.23 through 681.32 are redesignated as §§ 681.21 through 681.30, respectively.

10. In newly redesignated § 681.25, in paragraphs (b) and (g)(1), the words "He" and "he" are removed and the words "The Regional Director" and "the Regional Director" are added in their place, respectively.

11. In newly redesignated § 681.26, in paragraphs (a) introductory text, (b)(1), and (b)(3), the words "he", "He", and "He" are removed and the words "the Regional Director", "The Regional Director", and "The Regional Director" are added in their place, respectively.

12. In newly redesignated § 681.28, paragraphs (b) and (c) are removed, paragraphs (d), (e), and (f) are redesignated as paragraphs (b), (c) and (d), respectively, and paragraphs (a)(8)

and newly redesignated paragraph (c) are revised to read as follows:

§ 681.28 Limited access management program.

(a) * * *

(8) A limited entry permit has no fixed expiration date.

* * * * *

(c) *Replacement of a vessel covered by a limited access permit.* A limited access permit issued under this section may, without limitation as to frequency, be transferred by the permit holder to a replacement vessel owned by that person.

* * * * *

13. In newly redesignated § 681.29, the section heading is revised, and paragraph (c) is removed, paragraph (d) is redesignated as paragraph (c), and paragraphs (a) and (b) are revised to read as follows:

§ 681.29 Harvest limitation program.

(a) *General.* A harvest guideline for Permit Area 1 will be set annually for the calendar year and shall:

(1) Apply to the total catch of spiny and slipper lobsters; and

(2) Be expressed in terms of numbers of lobsters.

(b) *Harvest guideline.* (1) The Regional Director shall use information from daily lobster catch reports and lobster sales reports from previous years, and may use information from research sampling and other sources, to establish the annual harvest guideline in accordance with the FMP.

(2) NMFS shall publish a document indicating the annual harvest guideline in the Federal Register by March 31 each year, and shall use other means to notify permit holders of the harvest guideline for the year.

(3) The Regional Director shall determine, on the basis of the information reported to NMFS during the open season by the operator of each vessel fishing, when the harvest guideline will be reached. Notice of this determination, with a specification of the date after which fishing for lobster or further landings of lobster taken in Permit Area 1 is prohibited, will be announced to each permit holder and operator of each permitted vessel not less than 7 days prior to the effective date.

* * * * *

14. Newly redesignated § 681.30 is revised to read as follows:

§ 681.30 Five-year review.

Five years after the effective date of the rule implementing Amendment 9, the Council, in cooperation with the NMFS, will conduct a review of the

effectiveness and impacts of the NWHI
management program, including
biological, economic, and social aspects
of the fishery.

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