

This correction will not impose or relax any substantive requirements or burdens on manufacturers. Therefore, NHTSA finds for good cause that any notice and opportunity for comment on these correcting amendments are not necessary.

**List of Subjects in 49 CFR Part 571**

Imports, Incorporation by reference, Motor vehicle safety; Reporting and recordkeeping requirements, Tires.

■ Accordingly, 49 CFR part 571 is corrected by making the following correcting amendment:

**PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS**

■ 1. The authority citation for part 571 continues to read as follows:

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

■ 2. Paragraph S5.3.1 of 571.205 is revised to read as follows:

**§ 571.205 Glazing materials.**

\* \* \* \* \*  
S5.3 *Shade Bands.* \* \* \*

S5.3.1 Shade bands for windshields shall comply with SAE J100 JUNE 1995.  
\* \* \* \* \*

Issued: October 26, 2006.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 665**

[Docket No. 060724200-6275-02; I.D. 071106G]

RIN 0648-AT94

**Fisheries in the Western Pacific; Western Pacific Bottomfish and Seamount Groundfish Fisheries; Guam Bottomfish Management Measures**

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to implement Amendment 9 to the Fishery Management Plan for Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region (FMP) that prohibits large vessels, i.e., those 50 ft

(15.2 m) or longer, from fishing for bottomfish in Federal waters within 50 nm (92.6 km) around Guam, and establishes Federal permitting and reporting requirements for these large bottomfish fishing vessels. This final rule is intended to maintain viable participation and bottomfish catch rates by small vessels in the fishery, to maintain traditional patterns of the bottomfish supply to local Guam markets, to provide for the collection of adequate fishery information for effective management, and to reduce the risk of local depletion of deepwater bottomfish stocks near Guam.

**DATES:** This final rule is effective December 4, 2006, except for the revisions to § 665.14 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:** Copies of the FMP amendment, including an Environmental Assessment (EA), regulatory impact review (RIR) and final regulatory flexibility analysis (FRFA) may be obtained from William L. Robinson, Administrator, NMFS Pacific Islands Region (PIR), 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700. 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 (see **ADDRESSES**), or to David Rostker, OMB, by e-mail to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov), or by fax to 202-395-7285.

**FOR FURTHER INFORMATION CONTACT:** Robert Harman, NMFS PIR, 808-944-2271.

**SUPPLEMENTARY INFORMATION:**

**Electronic Access**

This **Federal Register** document is also accessible via the Internet at the web site of the Office of the Federal Register: [www.gpoaccess.gov/fr/index.html](http://www.gpoaccess.gov/fr/index.html).

**Background**

The bottomfish fishery that operates in Federal waters around Guam is managed under the Fishery Management Plan for the Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region (FMP). Aside from restrictions on the use of certain destructive fishing methods, such as bottom trawling, bottom set nets, poisons, and explosives, that apply to the bottomfish fisheries throughout the western Pacific, the fishery is mostly

unregulated at this time. Potential developments in the fishery, however, led the Western Pacific Fishery Management Council to recommend the management measures in this final rule.

The Guam-based bottomfish fishery is a mix of subsistence, recreational, and limited commercial fishing from primarily small boats on nearshore slopes. There is a potential component of the fishery, however, in which fishermen in relatively large vessels (i.e., greater than 50 ft or 15.2 m in length) target deep-slope fish species, particularly onaga (longtail red snapper, or flame snapper, *Etelis coruscans*). This fishery is currently inactive, but several vessels have operated in the past. The fish were caught on offshore banks in Federal waters, landed at Guam's commercial port and, rather than entering the local market, were exported by air to foreign markets. The activity occurred on some or all of Guam's southern banks, including Galvez, 11-Mile, Santa Rosa, White Tuna, and Baby Banks. Most of the vessels fishing on these southern banks targeted the shallow-water bottomfish complex, but some targeted the deep-water complex. The banks to the north of Guam, including Rota Bank, and far to the west of Guam, including Bank A, appear not to have been fished.

The potential for renewed large-vessel bottomfish fishing activity prompted concerns about fishery information being inadequate for effective management, about the potential for small-vessel catch rates declining to non-viable levels, about threats to sustained participation by smaller vessels in the fishery, about disruptions to traditional patterns of supply of bottomfish products to the local market, and about localized depletion of bottomfish stocks.

Based on the current FMP reporting and management requirements, existing data collection programs can provide adequate information about Guam's inshore bottomfish fisheries that are conducted by smaller vessels. Thus, this final rule does not establish additional data collection requirements on smaller vessels.

There is no evidence, to date, that the bottomfish stocks around Guam are currently subject to overfishing or are being overfished. Deepwater bottomfish species, however, have life history characteristics (slow growth, relatively low productivity and limited migration ranges) that make local fish stocks sensitive to fishing pressure, and severe local depletion can result in reduced productivity of the stock as a whole.

Closing areas to potential large vessel bottomfish fishing reduces the risk of

local depletion of deepwater bottomfish stocks in those areas. This final rule redirects possible large-vessel bottomfish fishing to areas greater than 50 nm (92.6 km) from Guam, displacing some potential fishing pressure on the nearshore slope and banks to areas that have higher bottomfish abundance and experience lower fishing pressure from smaller boats.

This final rule intends to ensure that adequate information is routinely collected from the large-vessel, export-oriented bottomfish fishery that might take place in Federal waters around Guam, to maintain adequate opportunities for small-scale commercial, recreational, and subsistence bottomfish fishermen in Federal waters around Guam, to provide for sustained community participation by smaller vessels in the Guam bottomfish fishery, to encourage consistent availability of fresh, locally-caught deepwater bottomfish products to Guam consumers, and to reduce the potential risk of local depletion of deepwater bottomfish stocks near Guam.

Additional background information on this final rule may be found in the preamble to the proposed rule published on August 14, 2006 (71 FR 46441), and is not repeated here.

#### Comments and Responses

On July 24, 2006, NMFS published in the **Federal Register** an announcement on the availability of the subject FMP amendment (71 FR 41770), and on August 14, 2006, NMFS published a notice of the proposed rule (71 FR 46441). The public comment period for both notices ended on September 22, 2006. NMFS received one comment from the public, and responds to this comment, as follows:

*Comment 1:* The commentor expressed support for the proposed rule out of a concern for the impact of large vessels fishing in the area, and for marine resources.

*Response.* Comment noted; NMFS is also concerned about the potential for large bottomfish vessels to locally deplete bottomfish stocks. The final rule establishes an area closed to large bottomfish vessels. This measure is intended to prevent overfishing of bottomfish around Guam.

#### Changes to the Proposed Rule

In this final rule, several minor editorial changes were made to the proposed rule. In the time since the proposed rule for this action was published on August 14, 2006, another final rule, referred to as the "omnibus" rule, was published. The omnibus rule, published on September 12, 2006 (71 FR

53605), made changes under three western Pacific FMPs to the regulatory text in several sections of 50 CFR Part 665. Those changes necessitated minor adjustments in the regulatory text contained in this final rule. Specifically, the instructions for § 665.14(a) were modified in this final rule to include omnibus rule requirements for fishing record forms for the Pacific Remote Island Areas (PRIA). The instructions for § 665.61(a)(1) were modified in this final rule to include omnibus rule requirements for PRIA permits. Finally, the instructions for § 665.62 were modified in this final rule to renumber the new paragraphs to account for omnibus rule prohibitions.

In the proposed rule, the coordinates for the closed area boundary contained several errors. Proposed Point GU-1-A (14°23'43" N., 144°27'36" E.) was incorrectly positioned within EEZ waters around the CNMI, and was moved to coincide with the boundary separating the EEZ waters around Guam from those waters around the CNMI. The new point GU-1-A is located at 14°16' N., 144°17' E. Moving point GU-1-A to coincide with the boundary put it very close to proposed point GU-1-B (14°10' N., 144°11' E.), removing the need for point GU-1-B in defining the closed area. Thus, point GU-1-B was eliminated. Proposed point H (12° 35' N., 144°15' E.) introduced an unintended and unnecessary jog in the boundary, and was removed to straighten the boundary. The final coordinates were renumbered, and they accurately define the area that is approximately 50 nm from Guam's shoreline, and take into account the boundary between Guam and the CNMI.

Other instructions are unchanged from the proposed rule.

#### Classification

The NOAA Assistant Administrator for Fisheries (AA) determined that this FMP amendment is necessary for the conservation and management of the affected fisheries, and that the amendment is consistent with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and other applicable laws.

NMFS prepared an EA for this FMP amendment, and the AA concluded that there will be no significant impact on the human environment as a result of this rule. NMFS determined that the preferred management alternative has the greatest likelihood of achieving the purpose and need for this Federal action. In addition, all beneficial and adverse impacts of the proposed action have been addressed to reach the

conclusion of no significant impacts. A copy of the EA is available from William L. Robinson (see **ADDRESSES**).

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

Consistent with section 604 of the Regulatory Flexibility Act, NMFS prepared a FRFA for Amendment 9, as described below. This FRFA incorporates the initial regulatory flexibility analysis (IRFA) prepared for Amendment 9. 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.

A statement of the need for, and objectives of, the rule is provided in the preambles to the proposed rule and to this final rule, and is not repeated here. There were no comments received on the IRFA.

The Small Business Administration defines a commercial fishing business as a small entity if annual gross receipts are less than \$4.0 million. All bottomfish vessels impacted by this rulemaking are considered to be small entities under this definition. Therefore, there are no economic impacts resulting from disproportionality between large and small vessels.

#### Number of Affected Small Entities

This final rule is expected to adversely impact as many as 13 bottomfish vessels of length greater than 50 ft (15.2 m) (large vessels) that have previously operated, but are not currently operating, in Federal waters within 50 nm (92.6 km) of Guam. Alternative 3, which would implement a trip limit on onaga, and alternative 4, which would implement limited access, would impact 100-300 bottom fish vessels operating in Federal waters around Guam, regardless of their size.

#### Recordkeeping and Reporting Requirements

This final rule would implement permitting, recordkeeping, and reporting requirements for large vessels engaged in the fishery. The costs associated with obtaining permits and keeping and reporting information in logbooks would be minimal. The annual personnel cost for potential respondents is estimated at \$62 per year. This was derived by multiplying the number of hours of burden per year (2.5 hr) times an hourly cost rate of \$25, the estimated range of hourly wage rates for fishermen harvesting bottomfish in the western Pacific. There is no "start up" capital cost for complying with the reporting requirement. The estimated cost to potential respondents, other than

personnel cost, is about \$20 per respondent per year. This cost includes telephone charges and other incidental costs associated with sending the logbook forms to NMFS after each trip.

**Minimizing Economic Impacts on Small Entities**

NMFS rejected alternatives imposing trip limits for onaga or a limited access system, in addition to the permitting, recordkeeping and reporting requirements for large vessels, because these alternatives would have had economic impacts on all participants in the fishery and were not necessary to meet the objectives of FMP Amendment 9. NMFS instead chose the alternative that would best achieve the objectives of FMP Amendment 9, including the continued economic viability of the small boat fishery, an alternative which focused on large vessel participants. Because data on costs and revenues for large vessels are not available, the economic impacts to the profitability of the 13 vessels that could potentially be impacted by this rulemaking cannot be directly estimated. Implementation of the rule would require the affected vessels to search elsewhere for new bottomfish grounds, or to change gear and enter another fishery. Regardless of their choice, it is likely that these vessels would experience adverse economic impacts in the form of reductions in potential profitability under this final rule. The extent of the impacts would depend on the opportunity costs of each individual vessel relative to the profits previously earned in the bottomfish fishery off of Guam.

**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. The guide will be sent to all large vessels that have historic landings in this fishery. In addition, copies of this final rule and guide will be made available by William L. Robinson (see ADDRESSES), and at the following web site: <http://swr.nmfs.noaa.gov/pir/index.htm>.

This final rule contains revisions to collection-of- information requirements

subject to the PRA under OMB control numbers 0648–0214 and 0648–0490. The revisions to these collection-of-information requirements have not yet been approved, but OMB approval is expected in the near future. NMFS will publish a notice when these requirements are cleared by OMB and are, therefore, effective (see DATES). The public reporting burden for these requirements is estimated to be 30 min for a new permit application, and 5 min for completing a fishing logbook each day. It is estimated that up to three vessels may be subject to the reporting requirement at any given time, and that each vessel will fish, on average, no more than 50 days/yr, resulting in a total paperwork burden of approximately 14 hr/yr. These estimates include time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding these burden estimates or any other aspect of this data collection, including suggestions for reducing the burden, to William L. Robinson, NMFS PIR (see ADDRESSES), or by e-mail to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov), or 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, Pacific Remote Island Areas, Reporting and recordkeeping requirements.

Dated: October 27, 2006.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, 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 definition of “Guam bottomfish permit” and revise the definition of “Large vessel” as follows:

**§ 665.12 Definitions.**

\* \* \* \* \*

*Guam bottomfish permit* means the permit required by § 665.61(a)(4) to use a large vessel to fish for, land, or transship bottomfish management unit species shoreward of the outer boundary of the Guam subarea of the bottomfish fishery management area.

\* \* \* \* \*

*Large vessel* means, as used in §§ 665.22, 665.37, 665.38, 665.61, 665.62, and 665.70, any vessel equal to or greater than 50 ft (15.2 m) in length overall.

\* \* \* \* \*

■ 3. In § 665.13, revise paragraph (f)(1) to read as follows:

**§ 665.13 Permits and fees.**

\* \* \* \* \*

(f) *Fees.* (1) PIRO will not charge a fee for a permit issued under subpart D or F of this part, for a Ho’omaluu Zone limited access permit, or for a Guam bottomfish permit issued under § 665.61.

\* \* \* \* \*

■ 4. In § 665.14, revise paragraph (a) to read as follows:

**§ 665.14 Reporting and recordkeeping.**

(a) *Fishing record forms.* The operator of any fishing vessel subject to the requirements of §§ 665.21, 665.41, 665.61(a)(4), 665.81, or 665.602 must maintain on board the vessel an accurate and complete record of catch, effort, and other data on report forms provided by the Regional Administrator. All information specified on the forms must be recorded on the forms within 24 hr after the completion of each fishing day. Each form must be signed and dated by the fishing vessel operator. For the fisheries managed under § 665.21, 665.41, 665.61(a)(4), and 665.81, the original logbook form for each day of the fishing trip must be submitted to the Regional Administrator within 72 hr of each landing of MUS, unless the fishing was authorized under a PRIA troll and handline permit, a PRIA crustaceans fishing permit, or a PRIA precious corals fishing permit, in which case the original logbook form for each day of fishing within the PRIA EEZ waters must be submitted to the Regional Administrator within 30 days of each landing of MUS. For fisheries managed under § 665.602, the original logbook form for each day of the fishing trip must be submitted to the Regional Administrator within 30 days of each landing of MUS.

\* \* \* \* \*

■ 5. In § 665.61, revise paragraph (a)(1) and add paragraph (a)(4) to read as follows:

**§ 665.61 Permits.**

(a) *Applicability.* (1) The owner of any vessel used to fish for bottomfish management unit species in the Northwestern Hawaiian Islands Subarea, Pacific Remote Island Areas Subarea, or Guam Subarea must have a permit issued under this section and the permit must be registered for use with that vessel.

\* \* \* \* \*

(4) A fishing vessel of the United States must be registered for use under a Guam bottomfish permit if that vessel is a large vessel and is used to fish for, land, or transship bottomfish management unit species shoreward of the outer boundary of the Guam subarea of the bottomfish fishery management area.

\* \* \* \* \*

■ 6. In § 665.62, add paragraphs (g), (h), and (i) to read as follows:

**§ 665.62 Prohibitions.**

\* \* \* \* \*

(g) Use a large vessel that does not have a valid Guam bottomfish permit

registered for use with that vessel to fish for, land, or transship bottomfish management unit species shoreward of the outer boundary of the Guam subarea of the bottomfish fishery management area in violation of § 665.61(a).

(h) Use a large vessel to fish for bottomfish management unit species within the Guam large vessel bottomfish prohibited area, as defined in § 665.70(b).

(i) Land or transship, shoreward of the outer boundary of the Guam subarea of the bottomfish fishery management area, bottomfish management unit species that were harvested in violation of § 665.62(h).

■ 7. Under subpart E, add a new § 665.70 to read as follows:

**§ 665.70 Bottomfish fishery area management.**

(a) *Large vessel bottomfish prohibited area.* A large vessel of the United States may not be used to fish for bottomfish management unit species in any large vessel bottomfish prohibited area as defined in paragraph (b) of this section.

(b) *Guam large vessel bottomfish prohibited area (Area GU-1).* The large vessel bottomfish prohibited area around Guam means the waters of the US EEZ 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'

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