

HAPCs, and establish or modify spawning SMZs.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 160422356-7026-01]

RIN 0648-XE587

Pacific Island Fisheries; 2016 Annual Catch Limits and Accountability Measures

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

ACTION: Proposed specifications; request for comments.

SUMMARY: NMFS proposes annual catch limits (ACLs) for Pacific Island bottomfish, crustacean, precious coral, and coral reef ecosystem fisheries, and accountability measures (AMs) to correct or mitigate any overages of catch limits. The proposed ACLs and AMs would be effective for fishing year 2016. The fishing year for each fishery begins on January 1 and ends on December 31, except for precious coral fisheries, which begin July 1 and end on June 30 the following year. Although the 2016 fishing year has ended for most stocks, we will evaluate 2016 catches against these proposed ACLs when data become available in mid-2017. The proposed ACLs and AMs support the long-term sustainability of fishery resources of the U.S. Pacific Islands.

DATES: NMFS must receive comments by February 2, 2017.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2016-0049, by either of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0049>, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- **Mail:** Send written comments to Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Region (PIR), 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818.

Instructions: NMFS may not consider comments sent by any other method, to

any other address or individual, or received after the end of the comment period. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible.

NMFS prepared environmental analyses that describe the potential impacts on the human environment that would result from the proposed ACLs and AMs. NMFS provided additional background information in the 2015 proposed and final specifications (80 FR 43046, July 21, 2015; 80 FR 52415, August 31, 2015). Copies of the environmental analyses and other documents are available at www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Matt Dunlap, NMFS PIR Sustainable Fisheries, 808-725-5177.

SUPPLEMENTARY INFORMATION: Fisheries in the U.S. Exclusive Economic Zone (EEZ, or Federal waters) around the U.S. Pacific Islands are managed under archipelagic fishery ecosystem plans (FEPs) for American Samoa, Hawaii, the Pacific Remote Islands, and the Mariana Archipelago (Guam and the Commonwealth of the Northern Mariana Islands (CNMI)). A fifth FEP covers pelagic fisheries. The Western Pacific Fishery Management Council (Council) developed the FEPs, and NMFS implemented them under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act, 16 U.S.C. 1801, *et seq.*).

Each FEP contains a process for the Council and NMFS to specify ACLs and AMs; that process is codified at Title 50, Code of Federal Regulations, Section 665.4 (50 CFR 665.4). The regulations require NMFS to specify, every fishing year, an ACL for each stock and stock complex of management unit species (MUS) included in an FEP, as recommended by the Council and considering the best available scientific, commercial, and other information about the fishery. If a fishery exceeds an ACL, the regulations require the Council to take action, which may include reducing the ACL for the subsequent fishing year by the amount of the overage, or other appropriate action.

NMFS proposes to specify ACLs for bottomfish, crustacean, precious coral, and coral reef ecosystem fishery MUS in American Samoa, Guam, the CNMI, and Hawaii. NMFS based the proposed

specifications on recommendations from the Council at its 164th meeting held October 21-22, 2015, and at its 166th meeting held June 6-10, 2016. In all, the Council recommended 112 ACLs: 26 in American Samoa, 26 in Guam, 26 in the CNMI, and 34 in Hawaii. The Council also recommended that NMFS specify multi-year ACLs and AMs in fishing years 2015-2018. NMFS proposes to implement the specifications for 2017 and 2018 separately, prior to each fishing year.

Except for bottomfish in American Samoa, Guam, and the CNMI, and Guam jacks, Hawaii crabs, and Hawaii octopus, the proposed 2016 ACLs are identical to those that NMFS specified for 2015 (80 FR 52415, August 31, 2015).

For bottomfish in American Samoa, Guam, and the Northern Mariana Islands, the 2016 ACLs are based on new estimates of maximum sustainable yield (MSY) contained in a 2016 stock assessment updated by the NMFS Pacific Islands Fisheries Science Center (PIFSC). This stock assessment update represents the best scientific information available for specifying ACLs.

For Guam jacks, Hawaii crabs, and Hawaii octopus, NMFS and the Council determined that the average 2013-2015 catch for each of these three stock complexes exceeded their respective 2015 ACLs. Specifically, average 2013-2015 catch for Guam jacks was 37,399 lb and exceeded the 2015 ACL of 29,300 lb by 8,099 lb. For Hawaii crabs, average 2013-2015 catch was 40,363 lb and exceeded the 2015 ACL of 33,500 lb by 6,863 lb. For Hawaii octopus, average 2013-2015 catch was 40,237 lb and exceeded the 2015 ACL of 35,700 lb by 4,537 lb. In accordance with the 2015 AMs (80 FR 52415, August 31, 2015), and in consideration of the best available scientific information available, NMFS proposes to reduce the 2016 ACLs from the 2015 ACL by the amount of the 2015 overages for each of the three stocks. As a result, the proposed ACL for Guam jacks is 21,201 lb, 26,637 lb for Hawaii crabs, and 31,163 lb for Hawaii mollusks.

In addition, NMFS prepared an updated environmental assessment for Pacific Island crustacean and precious coral fisheries to account for new information on the fisheries. In December 2015, NMFS and the Council received new information on the historical and projected stock status of Hawaii Kona crab. The information indicates that the Hawaii Kona crab stock was likely to be overfished as of 2006. However, an independent review identified data gaps and methodological

concerns with the 2015 stock assessment. NMFS PIFSC also noted concerns with the data used in the recent stock assessment, but found the assessment provided useful information regarding stock status within the last decade. Because of the uncertainty in the projected stock status and structure of Hawaii Kona crab after 2006, the Council did not account for this information with other relevant information in recommending the 2016 Hawaii Kona crab ACL. For this reason, NMFS will not set an ACL for Hawaii Kona crab for fishing year 2016. Instead, NMFS will continue to work with the Council and other partners to review the available data and to set an acceptable biological catch and an ACL for the Hawaii Kona crab stock, consistent with the Magnuson-Stevens Act, for fishing year 2017.

NMFS is also not proposing ACLs for MUS that are currently subject to Federal fishing moratoria or

prohibitions. These MUS include all species of gold coral (78 FR 32181, May 29, 2013), the three Hawaii seamount groundfish (pelagic armorhead, alfonsin, and rafffish (75 FR 69015, November 10, 2010), and deepwater precious corals at the Westpac Bed Refugia (75 FR 2198, January 14, 2010). The current prohibitions on fishing for these MUS serve as the functional equivalent of an ACL of zero.

Additionally, NMFS is not proposing ACLs for bottomfish, crustacean, precious coral, or coral reef ecosystem MUS identified in the Pacific Remote Islands Area (PRIA) FEP. This is because fishing is prohibited in the EEZ within 12 nm of emergent land, unless authorized by the U.S. Fish and Wildlife Service (USFWS) (78 FR 32996, June 3, 2013). To date, NMFS has not received fishery data that would support any such approvals. In addition, there is no suitable habitat for these stocks beyond the 12-nm no-fishing zone, except at

Kingman Reef, where fishing for these resources does not occur. Therefore, the current prohibitions on fishing serve as the functional equivalent of an ACL of zero. However, NMFS will continue to monitor authorized fishing within the Pacific Remote Islands Monument in consultation with the U.S. Fish and Wildlife Service, and may develop additional fishing requirements, including monument-specific catch limits for species that may require them.

NMFS is also not proposing ACLs for pelagic MUS at this time, because NMFS previously determined that pelagic species are subject to international fishery agreements or have a life cycle of approximately one year and, therefore, are statutorily excepted from the ACL requirements.

Proposed Annual Catch Limit Specifications

The following four tables list the proposed ACL specifications for 2016.

TABLE 1—AMERICAN SAMOA

Fishery	Management unit species	Proposed ACL specification (lb)
Bottomfish	Bottomfish multi-species stock complex	106,000
	Deepwater shrimp	80,000
Crustacean	Spiny lobster	4,845
	Slipper lobster	30
Precious Coral	Kona crab	3,200
	Black coral	790
	Precious corals in the American Samoa Exploratory Area	2,205
Coral Reef Ecosystem	<i>Selar crumenophthalmus</i> —atule, bigeye scad	37,400
	Acanthuridae—surgeonfish	129,400
	Carangidae—jacks	19,900
	Carcharhinidae—reef sharks	1,615
	Crustaceans—crabs	4,300
	Holocentridae—squirrelfish	15,100
	Kyphosidae—rudderfishes	2,000
	Labridae—wrasses	16,200
	Lethrinidae—emperors	19,600
	Lutjanidae—snappers	63,100
	Mollusks—turbo snail; octopus; giant clams	18,400
	Mugilidae—mulletts	4,600
	Mullidae—goatfishes	11,900
	Scaridae—parrotfish	272,000
	Serranidae—groupers	25,300
	Siganidae—rabbitfishes	200
	<i>Bolbometopon muricatum</i> —bumphead parrotfish	235
<i>Cheilinus undulatus</i> —Humphead (Napoleon) wrasse	1,743	
All other CREMUS combined	18,400	

TABLE 2—MARIANA ARCHIPELAGO—GUAM

Fishery	Management unit species	Proposed ACL specification (lb)
Bottomfish	Bottomfish multi-species stock complex	66,000
	Deepwater shrimp	48,488
Crustaceans	Spiny lobster	3,135
	Slipper lobster	20
Precious Coral	Kona crab	1,900
	Black coral	700
	Precious corals in the Guam Exploratory Area	2,205
Coral Reef Ecosystem	<i>Selar crumenophthalmus</i> —atulai, bigeye scad	50,200

TABLE 2—MARIANA ARCHIPELAGO—GUAM—Continued

Fishery	Management unit species	Proposed ACL specification (lb)
	Acanthuridae—surgeonfish	97,600
	Carangidae—jacks	21,201
	Carcharhinidae—reef sharks	1,900
	Crustaceans—crabs	7,300
	Holocentridae—squirrelfish	11,400
	Kyphosidae—chubs/rudderfish	9,600
	Labridae—wrasses	25,200
	Lethrinidae—emperors	53,000
	Lutjanidae—snappers	18,000
	Mollusks—octopus	23,800
	Mugilidae—mulletts	17,900
	Mullidae—goatfish	15,300
	Scaridae—parrotfish	71,600
	Serranidae—groupers	22,500
	Siganidae—rabbitfish	18,600
	<i>Bolbometopon muricatum</i> —bumphead parrotfish	* 797
	<i>Cheilinus undulatus</i> —humphead (Napoleon) wrasse	1,960
	All other CREMUS combined	185,000

* CNMI and Guam combined.

TABLE 3—MARIANA ARCHIPELAGO—CNMI

Fishery	Management unit species	Proposed ACL specification (lb)
Bottomfish	Bottomfish multi-species stock complex	228,000
Crustacean	Deepwater shrimp	275,570
	Spiny lobster	7,410
	Slipper lobster	60
	Kona crab	6,300
Precious Coral	Black coral	2,100
	Precious corals in the CNMI Exploratory Area	2,205
Coral Reef Ecosystem	<i>Selar crumenophthalmus</i> —Atulai, bigeye scad	77,400
	Acanthuridae—surgeonfish	302,600
	Carangidae—jacks	44,900
	Carcharhinidae—reef sharks	5,600
	Crustaceans—crabs	4,400
	Holocentridae—squirrelfishes	66,100
	Kyphosidae—rudderfishes	22,700
	Labridae—wrasses	55,100
	Lethrinidae—emperors	53,700
	Lutjanidae—snappers	190,400
	Mollusks—turbo snail; octopus; giant clams	9,800
	Mugilidae—mulletts	4,500
	Mullidae—goatfish	28,400
	Scaridae—parrotfish	144,000
	Serranidae—groupers	86,900
	Siganidae—rabbitfish	10,200
	<i>Bolbometopon muricatum</i> —Bumphead parrotfish	* 797
	<i>Cheilinus undulatus</i> —Humphead (Napoleon) wrasse	2,009
	All other CREMUS combined	7,300

* CNMI and Guam combined.

TABLE 4—HAWAII

Fishery	Management unit species	Proposed ACL specification (lb)
Bottomfish	Non-Deep 7 bottomfish	178,000
Crustacean	Deepwater shrimp	250,773
	Spiny lobster	15,000
	Slipper lobster	280
	Kona crab	None
Precious Coral	Auau Channel black coral	5,512
	Makapuu Bed—Pink coral	2,205
	Makapuu Bed—Bamboo coral	551
	180 Fathom Bank—Pink coral	489

TABLE 4—HAWAII—Continued

Fishery	Management unit species	Proposed ACL specification (lb)
Coral Reef Ecosystem	180 Fathom Bank—Bamboo coral	123
	Brooks Bank—Pink coral	979
	Brooks Bank—Bamboo coral	245
	Kaena Point Bed—Pink coral	148
	Kaena Point Bed—Bamboo coral	37
	Keahole Bed—Pink coral	148
	Keahole Bed—Bamboo coral	37
	Precious corals in the Hawaii Exploratory Area	2,205
	<i>Selar crumenophthalmus</i> —akule, bigeye scad	988,000
	<i>Decapterus macarellus</i> —opelu, mackerel scad	438,000
	Acanthuridae—surgeonfishes	342,000
	Carangidae—jacks	161,200
	Carcharhinidae—reef sharks	9,310
	Crustaceans—crabs	26,637
	Holocentridae—squirrelfishes	148,000
	Kyphosidae—rudderfishes	105,000
	Labridae—wrasses	205,000
	Lethrinidae—emperors	35,500
	Lutjanidae—snappers	330,300
	Mollusks—octopus	31,163
	Mugilidae—mulletts	19,200
Mullidae—goatfishes	165,000	
Scaridae—parrotfishes	239,000	
Serranidae—groupers	128,400	
All other CREMUS combined	485,000	

Accountability Measures

Each year, NMFS and local resource management agencies in American Samoa, Guam, the CNMI, and Hawaii collect information about MUS catches and apply them toward the appropriate ACLs. Pursuant to 50 CFR 665.4, when the available information indicates that a fishery is projected to reach an ACL for a stock or stock complex, NMFS must notify permit holders that fishing for that stock or stock complex will be restricted in Federal waters on a specified date. The restriction serves as the AM to prevent an ACL from being exceeded, and may include closing the fishery, closing specific areas, changing to bag limits, or restricting effort.

However, local resource management agencies do not have the resources to process catch data in near-real time, so fisheries statistics are generally not available to NMFS until at least six months after agencies collect and analyze the data. Additionally, Federal logbook information and other reporting from fisheries in Federal waters is not sufficient to monitor and track catches for the evaluation of fishery performance against the proposed ACL specifications. This is because most fishing for bottomfish, crustacean, precious coral, and coral reef ecosystem MUS occurs in state waters, generally 0–3 nm from shore. For these reasons, NMFS proposes to continue to specify the Council’s recommended AM, which is to apply a three-year average catch to

evaluate fishery performance against the proposed ACLs. Specifically, NMFS and the Council would use the average catch of fishing years 2014, 2015, and 2016 to evaluate fishery performance against the 2016 ACL for a particular fishery. At the end of each fishing year, the Council would review catches relative to each ACL. If NMFS and the Council determine the three-year average catch for any fishery exceeds the specified ACL, NMFS would reduce the ACL in the subsequent year for that fishery by the amount of the overage.

NMFS will consider public comments on the proposed ACLs and AMs and will announce the final specifications in the **Federal Register**. NMFS must receive any comments by the date provided in the **DATES** heading, not postmarked or otherwise transmitted by that date. Regardless of the final ACL specifications and AMs, all other management measures will continue to apply in the fisheries.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator for Fisheries has determined that these proposed specifications are consistent with the applicable FEPs, other provisions of the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

Certification of Finding of No Significant Impact on Substantial Number of Small Entities

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that these proposed specifications, if adopted, would not have a significant economic impact on a substantial number of small entities. A description of the proposed action, why it is being considered, and the legal basis for it are contained in the preamble to these proposed specifications.

The proposed action would specify annual catch limits (ACLs) and accountability measures (AMs) for Pacific Island bottomfish, crustacean, precious coral, and coral reef ecosystem fishery management unit species (MUS) for 2016. Except for Hawaii kona crab, the 2016 ACLs and AMs for all crustaceans, spiny lobster, Hawaii non-Deep 7 bottomfish, and precious corals MUS are identical to those NMFS specified for the 2015 fishing year (80 FR 52415, August 31, 2015). The proposed ACL for bottomfish MUS in American Samoa is 106,000 lb, which is 5,000 lb higher than the 2015 ACL. The proposed ACL for Guam bottomfish MUS is 66,000 lb, which is 800 lb lower than the 2015 ACL. The proposed ACL for CNMI bottomfish MUS would remain the same as the 2015 ACL of 228,000 lb.

The proposed ACLs and AMs for coral reef ecosystem MUS are identical to those implemented in 2015 (80 FR 52415, August 31, 2015), with three exceptions. For Guam jacks, Hawaii crabs and Hawaii octopus, NMFS determined that the average 2013–2015 catch for each of these three stock complexes exceeded their respective 2015 ACLs. Specifically, average 2013–2015 catch for Guam jacks was 37,399 lb and exceeded the 2015 ACL of 29,300 lb by 8,099 lb. For Hawaii crabs, average 2013–2015 catch was 40,363 lb and exceeded the 2015 ACL of 33,500 lb by 6,863 lb. For Hawaii octopus, average 2013–2015 catch was 40,237 lb and exceeded the 2015 ACL of 35,700 lb by 4,537 lb. In accordance with the 2015 AMs (80 FR 52415, August 31, 2015), and in consideration of the best available scientific information, NMFS proposes to reduce the 2016 ACLs from the 2015 ACL by the amount of the 2015 overages for each of the three stocks. As a result, the proposed ACL for Guam jacks is 21,201 lb, 26,637 lb for Hawaii crabs and 31,163 lb for Hawaii mollusks.

The vessels impacted by this action are federally permitted to fish under the FEPs for American Samoa, the Marianas Archipelago (Guam and the CNMI), and Hawaii. The numbers of vessels permitted under these Fishery Ecosystem Plans affected by this action are as follows: American Samoa (0), Marianas Archipelago (19), and Hawaii (8). For Regulatory Flexibility Act purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial

fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide. Based on available information, NMFS has determined that all impacted entities are small entities under the SBA definition of a small entity, *i.e.*, they are engaged in the business of fish harvesting, are independently owned or operated, are not dominant in their field of operation, and have annual gross receipts not in excess of \$11 million. Therefore, there would be no disproportionate economic impacts between large and small entities. Furthermore, there would be no disproportionate economic impacts among the universe of vessels based on gear, home port, or vessel length.

Even though this proposed action would apply to a substantial number of vessels, the implementation of this action should not result in significant adverse economic impact to individual vessels. The Council and NMFS are not considering in-season closures in any of the fisheries to which these ACLs apply because fishery management agencies are not able to track catch relative to the ACLs during the fishing year. As a result, fishermen would be able to fish throughout the entire year. In addition, the ACLs, as proposed, would not change the gear types, areas fished, effort, or participation of the fishery during the 2016 fishing year. A post-season review of the catch data is

required to determine whether any fishery exceeded its ACL by comparing the ACL to the most recent three-year average catch for which data is available. If an ACL is exceeded, the Council and NMFS would take action in future fishing years to correct the operational issue that caused the ACL overage. NMFS and the Council would evaluate the environmental, social, and economic impacts of future actions, such as changes to future ACLs or AMs, after the required data are available. Specifically, if NMFS and the Council determine that the three-year average catch for a fishery exceeds the specified ACL, NMFS would reduce the ACL in the subsequent year for that fishery by the amount of the overage.

The proposed action does not duplicate, overlap, or conflict with other Federal rules, and is not expected to have significant impact on small entities (as discussed above), organizations, or government jurisdictions. The proposed action also will not place a substantial number of small entities, or any segment of small entities, at a significant competitive disadvantage to large entities. As such, an initial regulatory flexibility analysis is not required and none has been prepared.

This action has been determined to be exempt from review under E.O. 12866.

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

Dated: January 11, 2017.

Samuel D. Rauch III,

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

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