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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 160422356-7283-02]

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), Commerce.

ACTION: Final specifications.

SUMMARY: In this final rule, NMFS specifies the 2016 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 final ACLs and
AMs are 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 final ACLs when data become
available in mid-2017. The ACL and AM specifications

support the long-term sustainability of fishery resources of the U.S. Pacific Islands.

DATES: The final specifications are effective [*insert date 30 days after date of publication in the FEDERAL REGISTER*]. The final specifications are applicable from January 1, 2016, through December 31, 2016.

ADDRESSES: Copies of the fishery ecosystem plans (FEPs) 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. Copies of the environmental assessments and findings of no significant impact for this action, identified by NOAA-NMFS-2016-0049, are available from www.regulations.gov, or from Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Region (PIR), 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818.

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

SUPPLEMENTARY INFORMATION: NMFS is specifying the 2016 ACLs for bottomfish, crustacean, precious coral, and coral reef ecosystem management unit species (MUS) in American Samoa, Guam, the CNMI, and Hawaii. NMFS proposed these specifications on January 18, 2017 (82 FR 5517), and the final specifications do not differ from those proposed. The

2016 fishing year began on January 1 and ended on December 31, except for precious coral fisheries, which began on July 1, 2016, and ends on June 30, 2017. Except for bottomfish in American Samoa, Guam, and the CNMI, and Guam jacks, Hawaii crabs, and Hawaii octopus, the final 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 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 final 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; in December 2015, NMFS and the Council received new information on the historical and projected stock status of Kona crab in Hawaii. 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. The PIFSC also noted concerns with the data used in the recent stock assessment, but found that 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 the information in the stock assessment, along with the other relevant information that they considered in recommending the 2016 Hawaii Kona crab ACL. For this reason, NMFS will not set a 2016 ACL for Hawaii Kona crab. Instead, NMFS will continue to work with the Council and other partners to

review the available data and to set a 2017 acceptable biological catch and ACL for the Hawaii Kona crab stock, consistent with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

NMFS is also not specifying 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 raftfish (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 specifying 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 specifying 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.

2016 Annual Catch Limit Specifications

Tables 1-4 list the final 2016 ACL specifications.

Table 1. American Samoa.

Fishery	Management Unit Species	ACL Specification (lb)
Bottomfish	Bottomfish multi-species stock complex	106,000
Crustacean	Deepwater shrimp	80,000
	Spiny lobster	4,845
	Slipper lobster	30
	Kona crab	3,200
Precious Coral	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

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

Fishery	Management Unit Species	ACL Specification (lb)
	Lethrinidae - emperors	53,000
	Lutjanidae - snappers	18,000
	Mollusks - octopus	23,800
	Mugilidae - mullets	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 (CNMI and Guam combined)
	<i>Cheilinus undulatus</i> - humphead (Napoleon) wrasse	1,960
	All other CREMUS combined	185,000

Table 3. Mariana Archipelago - CNMI.

Fishery	Management Unit Species	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

Fishery	Management Unit Species	ACL Specification (lb)
	Lethrinidae - emperors	53,700
	Lutjanidae - snappers	190,400
	Mollusks - turbo snail; octopus; giant clams	9,800
	Mugilidae - mullets	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 (CNMI and Guam combined)
	<i>Cheilinus undulatus</i> - Humphead (Napoleon) wrasse	2,009
	All other CREMUS combined	7,300

Table 4. Hawaii.

Fishery	Management Unit Species	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
	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

Fishery	Management Unit Species	ACL Specification (lb)
	Keahole Bed - Bamboo coral	37
	Precious corals in the Hawaii Exploratory Area	2,205
Coral Reef Ecosystem	<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 - mullets	19,200
	Mullidae - goatfishes	165,000
	Scaridae - parrotfishes	239,000
Serranidae - groupers	128,400	
All other CREMUS combined	485,000	

Accountability Measures

Federal logbook entries and required catch reporting from fisheries in Federal waters are not sufficient to monitor and track catches towards the ACL specifications accurately. 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 will apply a moving 3-year average catch to evaluate fishery performance against the ACLs. Specifically, NMFS and the Council will use the average

catch during fishing year 2014, 2015, and 2016 to evaluate fishery performance against the appropriate 2016 ACL. At the end of each fishing year, the Council will review catches relative to each ACL. If NMFS and the Council determine that the three-year average catch for the fishery exceeds the specified ACL, NMFS and the Council will reduce the ACL for that fishery by the amount of the overage in the subsequent year.

You may find additional background information on this action in the preamble to the proposed specifications published on January 18, 2017 (82 FR 5517).

Comments and Responses

The comment period for the proposed specifications ended on February 2, 2017. NMFS received three comments and responds, as follows:

Comment 1: The commenter supports annual catch limits and strict limits to end fishing practices that incur bycatch.

Response: NMFS and the Council consider the effects to target and non-target species (including bycatch) when setting ACLs and AMs. The fisheries affected by this action, in general, have very little bycatch.

Comment 2: The commenter supports ACLs because maintaining catch limits keeps the ecology in balance and sustains the financial future of catches for years to come.

Response: NMFS agrees.

Comment 3: The Natural Resources Defense Council (NRDC) questioned the NMFS interpretation of the Magnuson-Stevens Act statutory exception to the ACL requirements for fish stocks managed under international agreements. The NRDC interpretation is that the international exception was not permanent; rather the ACLs would take effect in either 2010 or 2011, depending on a stock's overfishing status. The NRDC expressed the notion that, if a stock is managed under an international agreement, then the start date could be adjusted to match the start date for hard-cap management provided by the international agreement. The NRDC requested that NMFS set ACLs for all stocks in the region, including those subject to management under international fishery agreements.

Response: NMFS disagrees with the NRDC interpretation of the statute and stands by our interpretation that confirms the ACL exception for stocks managed by international agreements, as described in previous final actions revising the National Standard guidelines (74 FR 3178, January 16, 2009; 81 FR 71858, October 18, 2016). As

the commenter observed, the text of the statute's "international exception" is vague. NMFS has considered public comment on different possible interpretations, including looking specifically at the interpretation advanced by some commenters that the exception only pertains to the 2010-2011 timing requirements. Having considered the text of the exception and other relevant provisions of the Magnuson-Stevens Act, NMFS decided in 2009, and again in 2016, not to interpret the exception as applying only to the timing of the ACL and AM requirements. Based on the NRDC comments on this proposed rule, NMFS has identified no new considerations or issues that warrant re-examination of the approach it adopted in 2009 and confirmed in 2016 when revising National Standard guidelines.

Changes from the Proposed Specifications

There are no changes in the final specifications from the proposed specifications.

Classification

The Regional Administrator, NMFS PIR, determined that this action is necessary for the conservation and management of Pacific Island fisheries, and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed specification stage that this action would not have a significant economic impact on a substantial number of small entities. NMFS published the factual basis for certification in the proposed specifications, and does not repeat it here. NMFS did not receive comments regarding this certification. As a result, a final regulatory flexibility analysis is not required, and one was not prepared.

This action is exempt from review under Executive Order 12866.

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

Dated: April 18, 2017.

Alan D. Risenhoover,
Acting Deputy Assistant Administrator for
Regulatory Programs,
National Marine Fisheries Service.

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