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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 170120106-7999-01]

RIN 0648-XF186

**Pacific Island Fisheries; 2017 Annual Catch Limits and
Accountability Measures**

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

ACTION: Final specifications.

SUMMARY: In this final rule, NMFS specifies annual catch limits (ACLs) for Pacific Island crustacean, precious coral, and territorial bottomfish fisheries, and accountability measures (AMs) to correct or mitigate any overages of catch limits. The ACLs and AMs will be effective for fishing year 2017. Although the 2017 fishing year has nearly ended for most stocks, we will evaluate 2017 catches against these final ACLs when data become available in mid-2018. The proposed ACLs and AMs 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, 2017, through December 31, 2017, except for precious coral fisheries, which are applicable from July 1, 2017, through June 30, 2018.

ADDRESSES: Copies of the Fishery Ecosystem Plans for the Hawaiian Archipelago, American Samoa, and the Northern Mariana Islands 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 analyses and other supporting documents for this action, identified by NOAA-NMFS-2017-0012, are available at <http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0012>, or from Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Region (PIR), 1845 Wasp Blvd. Bldg. 176, Honolulu, HI 96818.

FOR FURTHER INFORMATION CONTACT: Sarah Ellgen, NMFS PIR Sustainable Fisheries, 808-725-5173.

SUPPLEMENTARY INFORMATION: NMFS is specifying ACLs and AMS for the crustacean and precious corals MUS in American Samoa, Guam, the CNMI, and Hawaii, and the bottomfish MUS in American Samoa, Guam, and the CNMI for fishing year

2017. NMFS proposed these specifications on October 30, 2017 (82 FR 50112), and the final specifications do not differ from those proposed. The 2017 fishing year began on January 1 and ended on December 31, except for precious coral fisheries, which began on July 1, 2017, and ends on June 30, 2018. The final 2017 ACLs and AMs are identical to those that NMFS specified for 2016 (82 FR 18716, April 21, 2017).

The 2017 ACL for CNMI slipper lobsters is identical to the 2016 ACL, even though 2016 fishery data indicate that catch exceeded the 2016 ACL. For these lobsters, there is no estimate of the overfishing limit or maximum sustainable yield. Prior to 2016, there were only three years (2007-2009) of available catch information, so in 2014, the Council's Scientific and Statistical Committee recommended a proxy for calculating the ACL for CNMI slipper lobsters. Using a catch-to-habitat proxy with data from the Hawaii slipper lobster fishery (the only area that has specifically documented harvesting of slipper lobsters) the Council recommended setting an ACL for CNMI slipper lobsters in 2016-2018 at the allowable biological catch (60 lb). At its June 2017 meeting, the Council reviewed the 2016 CNMI slipper lobster catch and noted that the 304 lb reported catch, combined with zero reported catch in the

previous two years, resulted in a three-year average catch of 101 lb, which exceeded the ACL. The Council determined that the increase in reported catch was due to the Territory Science Initiative (a pilot program to improve commercial vendor reporting in the CNMI) and the associated improvements in catch reporting, not due to actual increase in harvest. The Council also concluded that, based on current stock data, the overage was not likely to have had an impact on stock sustainability or result in overfishing. The Council concluded that applying the 2016 AM (which would have reduced the 2017 ACL by the amount of the overage) was not necessary and, instead, recommended maintaining the 2017 CNMI slipper lobster ACL at 60 lb. The three-year average catch of the other fisheries identified in this action did not exceed their respective ACLs.

In this action, NMFS is not specifying 2017 ACLs for Hawaii Kona crab and Hawaii non-Deep 7 bottomfish, or coral reef ecosystem MUS in any island area. This is because NMFS has new information that requires additional environmental analyses to support the Council's ACL recommendations for those MUS. NMFS may propose those ACL specifications in a separate action(s). In addition, NMFS has already specified the 2017-2018 ACL and AM for Hawaii Deep 7 bottomfish (82 FR 29778, June 30, 2017).

NMFS is also not specifying ACLs for MUS that are currently subject to Federal fishing moratoria or prohibitions. They include all species of gold coral (78 FR 32181, May 29, 2013), the three Hawaii seamount groundfish, that is pelagic armorhead, alfonsin, and raftfish (75 FR 69015, November 10, 2010), and all species of deep-water precious corals at the Westpac Bed Refugia (75 FR 2198, January 14, 2010). The current prohibitions on fishing for these MUS serve as a 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), pending the USFWS sending NMFS fishery data during consultation with NMFS and the Council (78 FR 32996, June 3, 2013). To date, NMFS has not received fishery data that would support any such approvals. There is also 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 PRIA 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 not specifying ACLs for pelagic MUS because we previously determined that pelagic species are subject to international fishery agreements or have a life cycle of approximately one year and, therefore, have statutory exceptions to the ACL requirements. In addition, NMFS specified the 2017-2018 ACL and AM for Hawaii Deep 7 bottomfish earlier this year (82 FR 29778, June 30, 2017).

2017 Annual Catch Limits

Tables 1-4 specify the 2017 ACLs.

Table 1. American Samoa.

Fishery	Management Unit Species	Proposed 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

Table 2. Guam.

Fishery	Management Unit Species	Proposed 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

Table 3. 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

Table 4. Hawaii.

Fishery	Management Unit Species	Proposed ACL Specification (lb)
Crustacean	Deepwater shrimp	250,773
	Spiny lobster	15,000
	Slipper lobster	280
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

Fishery	Management Unit Species	Proposed ACL Specification (lb)
	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

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 2015, 2016, and 2017 to evaluate fishery performance against the appropriate 2017 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 2018.

You may review additional background information on this action in the preamble to the proposed specifications (82 FR 50112; October 30, 2017); we do not repeat that information here.

Comments and Responses

The comment period for the proposed specifications ended on November 14, 2017. NMFS received no public comments. NMFS specifically invited public comments addressing the impact, if any, of the proposed specifications on cultural fishing practices in American Samoa. NMFS received no comments for these specifications regarding cultural fishing practices or impacts to such fishing practices in American Samoa. NMFS has no information that these ACLs and AMs will have any impact on American Samoa cultural fishing practices.

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 Fishery Conservation and Management 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 rule 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 the certification and has no reason to think that anything has changed to affect it. 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: December 6, 2017.

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

