



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 201204-0324]

RIN 0648-BJ84

Pacific Islands Fisheries; 2020-2023 Annual Catch Limit and Accountability Measures for Hawaii Kona Crab

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

ACTION: Final rule.

SUMMARY: In this final rule, NMFS implements an annual catch limit (ACL) of 30,802 lb (13,972 kg), and an annual catch target (ACT) of 25,491 lb (11,563 kg), of Hawaii Kona crab for fishing years 2020-2023. This rule also implements, as accountability measures (AM), an in-season closure of the fishery if catch is projected to reach the ACT, and a post-season adjustment if catch exceeds the ACL. This action support the long-term sustainability of the Hawaii Kona crab fishery.

DATES: The final rule is effective [*insert date 30 days after date of publication in the FEDERAL REGISTER*]. The final rule is applicable in fishing years 2020, 2021, 2022, and 2023.

ADDRESSES: Copies of the Fishery Ecosystem Plan for the Hawaii Archipelago (Hawaii FEP) 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 are available from <https://www.regulations.gov/docket?D=NOAA-NMFS-2020-0091>, or from Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Region (PIR), 1845 Wasp Blvd. Bldg. 176, Honolulu, HI 96818.

FOR FURTHER INFORMATION CONTACT: Kate Taylor, NMFS PIRO Sustainable Fisheries, 808-725-5182.

SUPPLEMENTARY INFORMATION: NMFS is implementing an ACL of 30,802 lb (13,972 kg) and an ACT of 25,491 lb (11,563 kg) of Hawaii Kona crab for each of the 2020-2023 fishing years, as recommended by the Council. The fishing year is the calendar year, and catch from State and Federal waters will count toward the ACL and ACT.

NMFS is also implementing both an in-season and post-season AM. Under the in-season AM, when NMFS projects that the catch of Kona crab will reach the ACT, we will close the commercial and non-commercial fisheries for Kona crab in Federal waters for the remainder of the year. For the post-season AM, if NMFS and the Council determine, after the end of each fishing year, that the catch exceeded the

ACL, NMFS will reduce the ACL and ACT in the subsequent fishing year by the amount of the overage. In the event that the catch exceeds the ACT, but is below the ACL, we will not apply a post-season correction.

This final rule will make a housekeeping change in the regulations for Hawaii Kona crab and deepwater shrimp ACLs and AMs. Specifically, this rule adds a separate paragraph for each stock in 50 CFR 665.253 to distinguish between the ACLs for Hawaii Kona crab and deepwater shrimp.

Additional background information on this action is found in the preamble to the proposed specifications; we do not repeat it here.

Comments and Responses

On October 15, 2020, NMFS published a proposed rule and request for comments (85 FR 65336). The comment period for the proposed specification ended on November 5, 2020. NMFS received comments from four individuals that generally supported the action and responds below.

Comment 1: This rule is necessary to ensure the sustainability of the main Hawaiian Islands (MHI) Kona crab populations and the proposed ACL and ACT are very reasonable.

Response: NMFS agrees. This action is based upon the best available scientific information and support the long-term sustainability of the Hawaii Kona crab fishery.

Comment 2: The sustainability of MHI Kona crab populations helps to maintain a healthy marine ecosystem, including Kona crab prey or predators.

Response: NMFS agrees that a sustainably managed Kona crab fishery contributes to a healthy marine ecosystem.

Comment 3: A short term ACL is preferred since it will allow NMFS and the Council to review and adjust the ACL and ACT as needed in the future.

Response: NMFS concurs; a 4-year ACL provides stability to fishermen, businesses, and Kona crab populations.

Comment 4: It is beneficial that fishermen cannot retain female Kona crabs, per State of Hawaii regulations. There is a high survivability rate for released crabs.

Response: NMFS acknowledges that the State of Hawaii prohibits the retention of female Kona crabs.

Comment 5: It is important to include accountability measures and provide timely notification to fishermen if the ACT or ACL is exceeded.

Response: NMFS agrees. This final rule includes an accountability measure that would require NMFS to close the fishery in Federal waters when the ACT is projected to be reached to prevent the fishery from exceeding the ACL. The final rule also requires NMFS to provide fishermen timely notification of any fishery closure at least 7 days before the effective date of the closure.

Changes from the Proposed Specification

This final rule contains no changes from the proposed rule.

Classification

Pursuant to section 304(b)(3) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the Hawaii FEP, other provisions of the Magnuson-Stevens Act, and other applicable law.

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. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

This final rule has been determined to be not significant for purposes of Executive Order 12866. This rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 665

Annual catch limits, Accountability measures, Kona crab, Fisheries, Fishing, Hawaii.

Dated: December 7, 2020.

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 665 as follows:

PART 665 - FISHERIES IN THE WESTERN PACIFIC

1. The authority citation for 50 CFR part 665 continues to read as follows:

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

2. In § 665.243, add paragraph (d) to read as follows:

§ 665.243 Prohibitions.

* * * * *

(d) In Crustacean Permit Area 2, it is unlawful for any person to fish for, possess, sell, or offer for sale

any Kona crab from a closed fishery in the Federal waters of the MHI in violation of § 665.253(b).

3. Revise § 665.253 to read as follows:

§ 665.253 Annual Catch Limits (ACL) and Annual Catch

Targets (ACT).

(a) *Deepwater Shrimp*. (1) In accordance with § 665.4, the ACLs for each fishing year are as follows:

Table 1 to paragraph (a) (1)

Fishing Year	2020	2021
ACL (1b)	250,733	250,733

(2) If the average catch of the three most recent years of deepwater shrimp exceeds the specified ACL in a fishing year, the Regional Administrator will reduce the ACL for the subsequent year by the amount of the overage.

(b) *MHI Kona crab*. (1) In accordance with § 665.4, the ACLs and ACTs for each fishing year are as follows:

Table 2 to paragraph (b) (1)

Fishing Year	2020	2021	2022	2023
ACL (1b)	30,802	30,802	30,802	30,802
ACT (1b)	25,491	25,491	25,491	25,491

(2) When the ACT is projected to be reached based on analyses of available information, the Regional Administrator shall publish a document to that effect in the **Federal Register** and shall use other means to notify affected fishermen. The document will include an advisement that the fishery will be closed beginning on a specified

date, which is not earlier than 7 days after the date of filing the closure notice for public inspection at the Office of the Federal Register, until the end of the fishing year in which the ACL is reached.

(3) On and after the date specified in paragraph (b) (2) of this section, no person may fish for, possess, sell, or offer for sale any Kona crab from a closed fishery in the Federal waters of the MHI, except as otherwise allowed in this section.

(4) If landings exceed the specified ACL in a fishing year, the Regional Administrator will reduce the ACL and the ACT for the subsequent year by the amount of the overage.

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