



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 230918-0221]

RIN 0648-BM34

Pacific Island Fisheries; 5-Year Extension of Moratorium on Harvest of Gold Corals

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

ACTION: Proposed rule; request for comments.

SUMMARY: This proposed rule would extend the current region-wide moratorium on the harvest of gold corals in the U.S. Pacific Islands through June 30, 2028. NMFS intends this proposed rule to prevent overfishing and to stimulate research on gold corals.

DATES: NMFS must receive comments by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2023-0071, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NMFS-2023-0071 in the Search box. Click on the "Comment" icon, complete the required fields, and enter or attach your comments.

- *Mail:* Send written comments to Sarah Malloy, Acting Regional Administrator, NMFS Pacific Islands Regional Office (PIRO), 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, will not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://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 will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Pua Borges, NMFS PIRO Sustainable Fisheries, 808-725-5184.

SUPPLEMENTARY INFORMATION:

Jewelry designers use small amounts of precious corals to adorn their products. The precious corals fishery in the U.S. Pacific Islands include black, pink, bamboo, and gold corals. They are slow-growing and have low rates of natural mortality and recruitment. Unexploited populations are relatively stable, and a wide range of age classes is generally present in those populations. Due to the great

longevity of individuals and the associated slow population turnover rates, a long period of reduced fishing effort is required to restore a stock's ability to produce at the maximum sustainable yield if a stock has been over-exploited. Fishermen harvest precious corals by various methods, including by hand-harvesting and by submersible.

Gold corals are suspension feeders and live in deep water (100-1,500 meters (m)) on hard substrates where bottom currents are strong, such as seamounts, ledges, pinnacles, walls, and cliffs. Prior fishing effort harvested gold corals by submersible or tangle net dredges. There are several beds of gold corals (*Gerardia* spp., *Callogorgia gilberti*, *Narella* spp., and *Calyptrophora* spp.) in the U.S. Exclusive Economic Zone (EEZ; generally 3-200 nautical miles (6-370 kilometers) from shore) around Hawaii. Gold coral distribution and abundance are unknown in the region beyond Hawaii, but they likely occur in the EEZ around American Samoa, the Mariana Archipelago (Commonwealth of the Northern Mariana Islands (CNMI) and Guam), and the Pacific Remote Island Areas (PRIA; Baker Island, Howland Island, Jarvis Island, Wake Atoll, Johnston Atoll, Kingman Reef, Midway Atoll, and Palmyra Atoll).

NMFS and the Western Pacific Fishery Management Council (Council) manage precious coral fisheries in the U.S. Pacific Islands under fishery ecosystem plans (FEPs) for American Samoa, Hawaii, the Mariana Archipelago, and the

PRIA. The FEPs and associated Federal regulations at 50 CFR part 665 require permits and data reporting, and allow harvesting of precious corals only with selective gear (e.g., submersibles, remotely-operated vehicles, or by hand). There are also bed-specific quotas, refuges from fishing, and size limits. The fishery for gold corals, like most deepwater precious corals other than black corals in Hawaii, has remained dormant since 2001.

The Council considered past and current research on gold corals growth rates and recruitment. Past research on gold corals indicated that the linear growth rate of gold corals is approximately 6.6 centimeters/year, suggesting a relatively young age for large coral colonies of up to 70 years. However, updated research using radiocarbon dating revealed that gold corals in Hawaii may live much longer than previously believed, from 450 - 2,740 years. Because of these uncertainties, the Council and NMFS established a 5-year moratorium on harvesting gold corals in 2008 (73 FR 47098, August 13, 2008).

Subsequently, additional research offered new but potentially conflicting information about gold coral growth. A study in 2009 estimated that linear growth of gold coral could be 2.2 cm/year but was unable to measure discernable growth during repeated measurements of live colonies with submersibles. This research also identified previously unknown habitat requirements for gold coral, specifically

that gold corals may depend on bamboo corals to provide required substrate for gold coral larvae. In light of these additional uncertainties, the Council and NMFS extended the moratorium for another 5 years in 2013 (78 FR 32181, May 29, 2013) and in 2018 (83 FR 27716, June 14, 2018). These moratoria have prevented the potential for overharvesting gold corals if a fishery had re-emerged, and they have allowed for research on gold coral biology. The current moratorium expired on June 30, 2023.

Uncertainties in scientific data have not been satisfactorily resolved, and NMFS has not incorporated new information into estimates of sustainable harvest rates. Research in 2019 provided information on the slow development of Pacific deep-water precious coral communities, highlighting the limited recovery potential of gold coral if overharvested and the need to better understand the life history of the species and deep-sea coral ecology. The Council continues to be concerned about uncertainties related to the growth rates and habitat requirements for gold coral, and recognizes that fishery managers need more research to inform appropriate measures for this fishery. This proposed rule, if adopted, would extend the moratorium through June 30, 2028. The proposed action would prevent the potential for overfishing and allow time for further research on gold corals that could inform sustainable management models and for the Council to

consider a long-term management strategy that will ensure the sustainability of the fishery.

NMFS must receive any public comments on this proposed rule by the close of business on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*], and will not consider late comments.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator has determined that this proposed rule is consistent with the FEPs for American Samoa, the PRIA, Hawaii, and the Mariana Archipelago, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

Regulatory Flexibility Act (RFA) Certification of Finding of No Significant Impact on Substantial Number of Small Entities

The RFA of 1980, as amended (5 U.S.C. 601 et seq), required Federal agencies to determine to the extent feasible, the economic impact of their regulations on small entities and explore alternatives for reducing any significant economic impacts on a substantial number of such entities. The Chief Counsel for Regulation of the Department

of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

The proposed rule would extend the current gold coral harvest moratorium for 5 years. The current moratorium expired on June 30, 2023. The Western Pacific Fishery Management Council (Council) recommended extending the moratorium through June 30, 2028. Extending the moratorium for another 5 years would ensure that no harvesting of gold corals takes place and would allow time for additional research that could inform future management decisions regarding sustainable harvest of this resource.

The proposed action could potentially affect an entity possessing a Federal Western Pacific precious corals permit, because, without the moratorium, these entities could obtain a permit to harvest or land gold corals in addition to black, bamboo, pink, and red corals. Only one entity, based in the State of Hawaii, possessed a precious corals permit from 2013 until 2019 and no entity possessed a precious coral permit after 2019. NMFS believes that this entity would be considered a small entity under the small business size standard that NMFS established, for RFA purposes only, for businesses, including their affiliates, whose primary industry is commercial fishing, because the permit holder is engaged in the commercial fishing industry (NAICS 11411), is

independently owned or operated, is not dominant in their field of operation, and has annual gross receipts not in excess of \$11 million (50 CFR 200.2).

It is unlikely that the permit holder would begin to harvest gold corals in the absence of a moratorium. The Pacific Islands gold coral fishery had already been dormant when the moratorium initially went into effect in 2008. The moratorium had been extended every five years thereafter, so the gold coral fishery has remained closed. Historically, gold coral harvesting had occurred infrequently. In the late 1970s, one company used a manned submersible to selectively take several thousand kilograms of gold coral off Eastern Oahu, Hawaii. From 1999-2001, a second company used a submersible to take a small amount of gold coral, along with other deepwater precious corals, from exploratory areas off Hawaii. The final year of gold coral harvest was in 2001. Furthermore, this fishery is still characterized by high equipment and operating costs, continued safety concerns and other logistical constraints, and gold coral market prices are not high enough to offset those risks and expenses. Because of these challenges, interest in this fishery will likely remain low even without the moratorium. Therefore, extending the moratorium on gold coral harvests will not likely cause immediate economic impact to any potential Western Pacific precious corals permit holder.

The proposed rule 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. There does not appear to be disproportionate economic impacts from the proposed rule based on home port, gear type, or relative vessel size.

For the reasons described above, this proposed rule would not have a significant economic impact on a substantial number of small entities. Therefore, an initial regulatory flexibility analysis is not required, and none has been prepared.

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

List of Subjects in 50 CFR Part 665

Administrative practice and procedure, American Samoa, Deep sea coral, Fisheries, Fishing, Guam, Hawaii, Northern

Mariana Islands, Pacific Remote Island Areas, Precious coral.

Dated: September 18, 2023.

Samuel D. Rauch, III,

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

For the reasons set out in the preamble, NMFS proposes to amend 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. Revise § 665.169 to read as follows:

§ 665.169 Gold coral harvest moratorium.

Fishing for, taking, or retaining any gold coral in any precious coral permit area is prohibited through June 30, 2028.

3. Revise Note 2 to § 665.269 to read as follows:

§ 665.269 Annual Catch Limits (ACL).

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Note 2 to § 665.269: A moratorium on gold coral harvesting is in effect through June 30, 2028.

4. Revise § 665.270 to read as follows:

§ 665.270 Gold coral harvest moratorium.

Fishing for, taking, or retaining any gold coral in any precious coral permit area is prohibited through June 30, 2028.

5. Revise § 665.469 to read as follows:

§ 665.469 Gold coral harvest moratorium.

Fishing for, taking, or retaining any gold coral in any precious coral permit area is prohibited through June 30, 2028.

6. Revise § 665.669 to read as follows:

§ 665.669 Gold coral harvest moratorium.

Fishing for, taking, or retaining any gold coral in any precious coral permit area is prohibited through June 30, 2028.

[FR Doc. 2023-20511 Filed: 9/21/2023 8:45 am; Publication Date: 9/22/2023]