



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 240501-0123]

RIN 0648-BM65

**Pacific Island Fisheries; Annual Catch Limits and
Accountability Measures for Main Hawaiian Islands Kona Crab
for Fishing Years 2024-2026**

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

ACTION: Final Rule.

SUMMARY: This final rule implements an annual catch limit (ACL), annual catch target (ACT), and accountability measures (AM) for main Hawaiian Islands (MHI) Kona crab for fishing years 2024, 2025, and 2026. NMFS will close Federal waters to Kona crab fishing for the remainder of the fishing year if NMFS projects the fishery will reach the ACT. NMFS will reduce the ACT and ACL in the subsequent fishing year by the overage amount if landings exceed the ACL in a fishing year. NMFS intends this final rule to support the long-term sustainability of MHI Kona crab.

DATES: This rule is effective [insert date 30 days after date of publication in the *FEDERAL REGISTER*].

ADDRESSES: Background information on main Hawaiian Island Kona crab fishery is found in the Fishery Ecosystem Plans

for the Hawaii Archipelago (FEP) available from the Western Pacific Fishery Management Council (Council), 1164 Bishop St., Suite 1400, Honolulu, HI 96813, telephone 808-522-8220, fax 808-522-8226, or <https://www.wpcouncil.org>.

Copies of supporting documents for this action are available from <https://www.regulations.gov/docket/NOAA-NMFS-2023-0071>, or from Sarah Malloy, Acting Regional Administrator, NMFS Pacific Islands Regional Office (PIRO), 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818.

FOR FURTHER INFORMATION CONTACT: Savannah Lewis, NMFS Pacific Islands Regional Office (PIRO) Sustainable Fisheries, 808-725-5144.

SUPPLEMENTARY INFORMATION:

NMFS and the Council manage the Kona crab fishery in the U.S. Exclusive Economic Zone (Federal waters) around Hawaii under the Fishery Ecosystem Plan for the Hawaiian Archipelago (FEP), as authorized by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (50 CFR Part 665). The FEP contains a process for the Council and NMFS to specify ACLs, ACTs, and AMs (see 50 CFR 665.4). NMFS must specify ACLs and AMs for each stock and stock complex of each management unit species (MUS) in an FEP, as recommended by the Council, and must consider 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 (e.g.,

an AM reducing the ACL for the subsequent fishing year by the amount of the overage). ACTs can be used as an additional management measure to help ensure catch does not exceed the ACL.

NMFS is implementing for the MHI Kona crab, an ACL of 30,802 pounds (lb; 13,972 kilograms (kg)) and an ACT of 25,491 lb (11,563 kg). The fishing year begins on January 1 and ends on December 31, and catch from both State (generally from the shoreline to three nautical miles, or 5.6 kilometers (km), offshore) and Federal waters are counted towards catch limits.

Table 1 – Annual Catch Limits and Annual Catch Targets for Main Hawaiian Islands Kona Crab

| Fishing year | 2024 | 2025 | 2026 |
|---------------------|-------------|-------------|-------------|
| ACL (lb) | 30,802 | 30,802 | 30,802 |
| ACT (lb) | 25,491 | 25,491 | 25,491 |

The rule will not change the current AM for the MHI Kona crab fishery (50 CFR 665.253(b)). As an in-season AM, NMFS will close Federal waters to commercial and non-commercial fishing for Kona crab for the remainder of the fishing year if NMFS projects that the fishery will reach the ACT. If a closure occurs, NMFS will publish a document to that effect in the **Federal Register** at least 7 days in advance of the closure. We will also request the State of Hawaii notify Commercial Marine License holders of any changes in the fishery, including an in-season closure or a post-season correction. The State of Hawaii does not

currently require closure of state waters when the federal ACT is reached. Catch from state waters will continue to be attributed to the ACT and ACL. As a post-season AM, NMFS will reduce the ACT and ACL in the subsequent fishing year by the overage amount if the landings exceed the ACL in a fishing year. If catch exceeds the ACT, but is below the ACL, NMFS will not apply a post-season correction.

This rule is consistent with recommendations made by the Council at its 195th meeting in June 2023, and the 2024-2026 catch limits are identical to those implemented in 2020 for fishing years 2020-2023.

Additional background information on this action is in the preamble to the proposed rule (89 FR 7658, February 04, 2024).

Comments and Responses

On February 04, 2024, NMFS published a proposed rule and request for public comments (89 FR 7658). The comment period ended March 05, 2024. NMFS received two comments from the interested public generally supporting the action. One of these comments also expressed concern for effects on local businesses that may result if NMFS implements the AMs and closes the fishery early. NMFS summarizes the comments and responds below.

Comment 1: I support the analysis and rationale of the proposed ACL and ACT.

Response: NMFS agrees, and we will continue to manage the Kona crab fishery in Federal waters to perpetuate sustainable fisheries resources for communities in Hawaii, consistent with the Magnuson-Stevens Act, the FEP and implementing regulations.

Comment 2: The effect of the proposed regulations on small island businesses cannot be overlooked. Cutting off the season prematurely may disproportionately affect the locals who rely upon the Crabs for their livelihood. More investigation into these effects seems necessary.

Response: With respect to potential impacts to small businesses, NMFS quantitatively evaluated potential economic and social effects of all proposed management actions and determined this action would not cause significant social or economic effects. During the proposed rule stage, the Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that the rule will not have a significant economic impact on a substantial number of small business entities.

NMFS and the Council monitor the fishery in collaboration with the State of Hawaii based on monthly catch reports. This consistent data stream ensures that the fishery would not be closed prematurely, and would be closed only if necessary to prevent overfishing. NMFS does not anticipate the fishery will reach the ACT or ACL based

on recent performance. Average catch of Kona crab over the last 3 years was 3,581 lb (1,624 kg), only 12 percent of the ACL and 14 percent of the ACT, and the fishery has not caught over 25,000 lb (11,340 kg) since 1998. Further, the Kona crab fishery has been managed under the same ACL, ACT and AM since 2020, and catch has not reached the ACT since in any year since 2020. Based on this information, we do not anticipate that we will need to apply the in-season AM to close the fishery in Federal waters. Should catch in the fishery reach the ACT and NMFS implement the AM to close the fishery in Federal waters, fishers could continue to operate in State waters, minimizing the potential socio-economic effects of the closure. Nevertheless, closing the fishery in Federal waters would provide enhanced protection of Kona crab stock in Federal waters to prevent overfishing of the stock and perpetuate the Kona crab fishery for communities in Hawaii. Therefore, NMFS does not anticipate the rule will result in significant environmental, social, or economic impacts.

Changes from the Proposed Rule

This final rule contains no changes from the proposed rule.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the FEP,

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

List of Subjects in 50 CFR Part 665

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

Dated: May 1, 2024.

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. In § 665.253, revise paragraph (b) (1) to read as follows:

§ 665.253 Annual Catch Limits (ACL) and Annual Catch Targets (ACT).

* * * * *

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

Table 1 to Paragraph (b) (1)

| Fishing year | 2024 | 2025 | 2026 |
|---------------------|-------------|-------------|-------------|
| ACL (1b) | 30,802 | 30,802 | 30,802 |
| ACT (1b) | 25,491 | 25,491 | 25,491 |

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