



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 240517-0139]

RIN 0648-BM76

**Pacific Island Fisheries; Annual Catch Limit and
Accountability Measure for the Commonwealth of the Northern
Mariana Islands Bottomfish in 2024-2025**

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement an annual catch limit (ACL) and annual catch target (ACT) for bottomfish in the Commonwealth of the Northern Mariana Islands (CNMI) for fishing years 2024 and 2025. This proposed action would not revise, add, or remove the most recent current accountability measure (AM) in our regulations. Under that AM, NMFS would reduce the ACL and ACT in the following fishing year by the amount of the overage if the average catch from the most recent 3 years exceeds the ACL. This proposed rule would support the long-term sustainability of the CNMI bottomfish fishery.

DATES: NMFS must receive comments by [*insert date 30 days after date of publication in the FEDERAL REGISTER*].

ADDRESSES: A plain language summary of this proposed rule is available at <https://www.regulations.gov/docket/NOAA-NMFS-2024-0002>. You may submit comments on this document, identified by NOAA-NMFS-2024-0002, 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 type NOAA-NMFS-2024-0002 in the Search box (note: copying and pasting the FDMS Docket Number directly from this document may not yield search results). Click on the "Comment" icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Sarah Malloy, Acting Regional Administrator, NMFS Pacific Islands Region (PIR), 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, may 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).

Pursuant to the National Environmental Policy Act, the Western Pacific Fishery Management Council (Council) and NMFS prepared a 2021 environmental assessment (EA) that supports this proposed action. The EA is available at <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Keith Kamikawa, NMFS Pacific Islands Regional Office, Sustainable Fisheries, 808-725-5177.

SUPPLEMENTARY INFORMATION: The CNMI bottomfish fishery targets an assemblage (*i.e.*, complex) of 13 bottomfish management unit species (BMUS), including emperors, snappers, groupers, and jacks. NMFS and the Council manage the bottomfish fishery in Federal waters (*i.e.*, the U.S. Exclusive Economic Zone, generally 3-200 nautical miles (nmi) (345 kilometers (km)) from shore) around the CNMI under the Fishery Ecosystem Plan for the Mariana Archipelago (FEP), as authorized by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). NMFS must specify ACLs and AMs for each stock and stock complex 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 proposes to implement an ACL of 82,000 pounds (lb) (37,195 kilograms (kg)) and an ACT of 75,000 lb (34,019 kg) for BMUS in the CNMI for fishing years 2024 and 2025, as was recommended by the Council. The fishing year for the CNMI BMUS fishery begins on January 1 and ends on December 31. The Council based its recommendations on a 2019 benchmark stock assessment by the NMFS Pacific Islands Fisheries Science Center, and in consideration of the best available scientific, commercial, and other information about the fishery, and in accordance with the ACL process set forth in the FEP.

NMFS also proposes to retain the most recent AM for CNMI BMUS. After the end of each fishing year, if NMFS and the Council determine that the average catch of BMUS from the most recent 3-year period exceeds the ACL, then NMFS would reduce the ACL in the subsequent fishing year by the amount of the overage. The ACT would also be subject to the same adjustment as the ACL for the subsequent fishing year. If the average catch from the most recent 3-year period exceeds the ACT, but is below the ACL, NMFS would not apply a post-season correction. If the fishery exceeds an ACL more than once in a 4-year period, the FEP requires the Council to re-evaluate the ACL process, and to adjust the

system as necessary to improve its performance and effectiveness.

Bottomfish catches from both territorial waters (*i.e.*, generally from the shoreline to 3 nautical miles (nmi) offshore) and Federal waters would be counted towards the ACT and ACL. Catch data for the CNMI bottomfish fishery are gathered through a creel survey program administered by the CNMI Division of Fish and Wildlife (DFW), and through commercial catch reports submitted to NMFS or DFW. NMFS and the Council use these data to evaluate total catch of CNMI BMUS versus the ACL and ACT.

The 2019 stock assessment concluded that in 2017, the CNMI BMUS stock was not overfished and was not experiencing overfishing. The assessment estimated the overfishing limit for CNMI BMUS to be 98,000 lb (44,452 kg). The CNMI ACL and ACT correspond to 39 percent and 34 percent probability of overfishing, respectively, which are more conservative than the 50 percent risk threshold allowed under NMFS guidelines for National Standard 1 of the Magnuson-Stevens Act. From 2020 through 2022, an average of 37 vessels made 47 bottomfish trips and landed an average annual catch of 54,258 lb (24,611 kg) of BMUS (WPFMC 2023), which is 66 percent of the proposed ACL and 72 percent of the proposed ACT. Therefore, NMFS does not anticipate that the CNMI fishery will reach the proposed ACT or ACL in any fishing

year, nor will fishing for bottomfish be constrained during the fishing year.

NMFS will consider public comments on this proposed action and will announce the final rule in the **Federal Register**.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the FEP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

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 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. A description of the proposed action, why it is being considered, and the legal

basis for it are contained in the preamble to this proposed rule.

Many people that participate in the CNMI bottomfish fishery are either subsistence or part-time commercial fishermen that generally do not sell all of their catch. The majority of fishermen operate vessels less than 25 feet long, but a few longer vessels also participate in the fishery. Commercial vessels tend to concentrate effort on deepwater bottomfish at offshore banks, but they face higher operating costs than the shallow-water fishery operating closer to shore. In addition to sales to seafood dealers, some bottomfish sales are within community social networks.

In the CNMI, catch, participation, and effort in this fishery had generally trended downward since 2005, but activity in the fishery increased during the 2020-2022 timeframe as some participants turned to fishing as an alternative source of income during the pandemic when the slowdown in the economy adversely affected their primary source of income. The number of vessels landing BMUS fluctuated from a low of two vessels in 2018 to a high of 60 vessels in 2021. In 2022, the most recent year for which a full year of BMUS catch data is available, 22 (*i.e.*, 20 bottomfish and 2 snorkel spearfishing) vessels landed 47,564 lb (21,575 kg) of BMUS. From 2020-2022, an average 37 (*i.e.*, 35 bottomfish and 2 snorkel spearfishing) vessels

landed an average annual catch of 55,916 lb (25,363 kg). This catch is 66 percent of the proposed ACL and 75 percent of the proposed ACT; therefore, the fishery is unlikely to reach these limits in future years and trigger an overage adjustment. Commercial receipts indicate that fishermen sold an estimated 32,160 lb (14,588 kg) of bottomfish in 2022 valued at \$180,672, at an average \$5.62 per lb (\$12.36 per kg). Based on this, the average revenue from BMUS sold per vessel in 2022 is estimated to be \$8,215.

NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and its combined annual receipts are not in excess of \$11 million for all of its affiliated operations worldwide. Based on available information, NMFS has determined that all vessels engaging in the CNMI commercial and non-commercial bottomfish fisheries (North American Industry Classification System (NAICS) Code: 114111) are small entities. That is, they are engaged in the business of finfish harvesting, independently owned or operated, not dominant in their field of operation, and have annual gross receipts not in excess of \$11 million. Therefore, there would be no

disproportionate economic impacts between large and small entities. Furthermore, NMFS has determined that there would be no disproportionate economic impacts among vessels engaged in the fishery based on gear, home port, or vessel length.

Even though this proposed action would apply to a substantial number of vessels, this action should not result in significant adverse economic impact to individual vessels. While the fisheries could reach or exceed the ACL or ACT, the catch data are not available until 6 months after the local resource agencies have collected the data. Therefore, the proposed rule would not subject the fisheries to an in-season AM, such as a fishery closure and, without an in-season closure, fishing activity is not likely to be constrained.

The proposed action 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. The proposed action also will not place a substantial number of small entities at a significant competitive disadvantage to large entities. For the reasons above, NMFS does not expect the proposed action to have a significant economic impact on a substantial number of small entities. As such, an initial regulatory flexibility analysis is not required and

none has been prepared.

List of Subjects in 50 CFR Part 665

Fisheries, fishing, Commonwealth of the Northern Mariana Islands, bottomfish management unit species, annual catch limit, accountability measure, Pacific Islands, Western Pacific.

Dated: May 17, 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 § 665.408, revise paragraph (a) to read as follows:

§ 665.408 CNMI Annual Catch Limits (ACL) and Annual Catch Targets (ACT).

(a) In accordance with § 665.4, the ACL and ACT for Mariana bottomfish MUS in the CNMI Management Subarea for each fishing year are as follows:

Table 1 to paragraph (a)

	2024	2025
ACL (lb)	82,000	82,000
ACT (lb)	75,000	75,000

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