(2) Applications to use any frequency or frequency band exclusively allocated to the passive services (including the radio astronomy service) must include an explicit justification of why nearby bands that have non-passive allocations are not adequate for the experiment. Such applications must also state that the applicant acknowledges that long term or multiple location use of passive bands is not possible and that the applicant intends to transition any long-term use to a band with appropriate allocations.

* * * * *

■ 6. Section 5.402 is amended by adding paragraph (c) to read as follows:

§ 5.402 Eligibility and usage.

* * * * *

(c) Marketing of devices (as defined in § 2.803(a) of this chapter) is permitted under this license as provided in § 5.602.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 141009847–5746–02]

RIN 0648–XD558

Pacific Island Fisheries; 2015 Annual Catch Limits and Accountability Measures

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

ACTION: Final specifications.

SUMMARY: In this final rule, NMFS specifies the 2015 annual catch limits (ACLs) for Pacific Island bottomfish, crustacean, precious coral, and coral reef ecosystem fisheries, and accountability measures (AMs) to correct or mitigate any overages of catch limits. The ACLs and AMs support the long-term sustainability of fishery resources of the U.S. Pacific Islands.

DATES: The final specifications are effective September 30, 2015, through December 31, 2015.

ADDRESSES: Copies of the fishery ecosystem plans 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 assessments and findings of no significant impact for this action, identified by NOAA–NMFS–2013–0156, are available from *www.regulations.gov,* or from Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Region (PIR), 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818.

FOR FURTHER INFORMATION CONTACT: Jarad Makaiau, NMFS PIRO Sustainable Fisheries, 808–725–5176.

SUPPLEMENTARY INFORMATION: NMFS is specifying the 2015 ACLs and AMs for bottomfish, crustacean, precious coral, and coral reef ecosystem fishery management unit species (MUS) in American Samoa, Guam, the CNMI, and Hawaii. NMFS proposed these specifications on July 21, 2015 (80 FR 43046), and the final specifications do not differ from those proposed. The 2015 fishing year began on January 1 and ends on December 31, except for precious coral fisheries, for which the fishing year began on July 1, 2015, and ends on June 30, 2016.

NMFS is not specifying ACLs for MUS that are currently subject to Federal fishing moratoria or prohibitions. These MUS include all species of gold coral, the three Hawaii seamount groundfish (pelagic armorhead, alfonsin, and raftfish), and deepwater precious corals at the Westpac Bed Refugia. The current prohibitions on fishing for these MUS serve as the 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 of the PRIA, unless authorized by the U.S. Fish and Wildlife Service (USFWS), in consultation with NMFS and the Council. Additionally, there is 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. To date, the USFWS has not consulted with NMFS for any fishing that the USFWS may authorize within 12 nm of the PRIA. NMFS will continue to monitor authorized fishing within 12 nm of the PRIA in consultation with the USFWS, and may develop additional fishing requirements, including catch limits for species that may require them.

NMFS is also not specifying ACLs for pelagic MUS at this time, because NMFS previously determined that pelagic species are subject to international fishery agreements or have a life cycle of approximately 1 year and are, therefore, statutorily excepted from the ACL requirements.

2015 Annual Catch Limit Specifications

Tables 1–4 list the ACL specifications for 2015.

TABLE 1—AMERICAN SAMOA

Fishery	Management unit species	ACL Specification (lb)
Bottomfish	Bottomfish multi-species stock complex	101,000
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
Coral Reef Ecosystem	*Selar crumenophthalmus*—atule, bigeye scad	37,400
	Acanthuridae—surgeonfish	129,400
	Carangidae—jacks	19,900
	Carcharhinidae—reef sharks	1,615
	Crustaceans—crabs	4,300
	Holocentridae—squirrelfish	15,100
	Kyphosidae—rudderfishes	2,000
	Labridae—wrasses	16,200

TABLE 1—AMERICAN SAMOA—Continued

Fishery	Management unit species	ACL Specification (lb)
	Lethrinidae—emperors	19,600
	Lutjanidae—snappers	63,100
	Mollusks—turbo snail; octopus; giant clams	18,400
	Mugilidae—mullets	4,600
	Mullidae—goatfishes	11,900
	Scaridae—parrotfish	272,000
	Serranidae—groupers	25,300
	Siganidae—rabbitfishes	200
	Bolbometopon muricatum—bumphead parrotfish	235
	Cheilinus undulatus—Humphead (Napoleon) wrasse	1,743
	All other CREMUS combined	18,400

TABLE 2—MARIANA ARCHIPELAGO—GUAM

Fishery	Management unit species	ACL Specification (lb)
Bottomfish	Bottomfish multi-species stock complex	66,800
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
Coral Reef Ecosystem	*Selar crumenophthalmus*—atulai, bigeye scad	50,200
	Acanthuridae—surgeonfish	97,600
	Carangidae—jacks	29,300
	Carcharhinidae—reef sharks	1,900
	Crustaceans—crabs	7,300
	Holocentridae—squirrelfish	11,400
	Kyphosidae—chubs/rudderfish	9,600
	Labridae—wrasses	25,200
	Lethrinidae—emperors	53,000
	Lutjanidae—snappers	18,000
	Mollusks—octopus	23,800
	Mugilidae—mullets	17,900
	Mullidae—goatfish	15,300
	Scaridae—parrotfish	71,600
	Serranidae—groupers	22,500
	Siganidae—rabbitfish	18,600
	Bolbometopon muricatum—bumphead parrotfish	797
	Cheilinus undulatus—humphead (Napoleon) wrasse	1,960
	All other CREMUS combined	185,000

(CNMI and Guam combined)

TABLE 3—MARIANA ARCHIPELAGO—CNMI

Fishery	Management unit species	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
Coral Reef Ecosystem	*Selar crumenophthalmus*—Atulai, bigeye scad	77,400
	Acanthuridae—surgeonfish	302,600
	Carangidae—jacks	44,900
	Carcharhinidae—reef sharks	5,600
	Crustaceans—crabs	4,400
	Holocentridae—squirrelfishes	66,100
	Kyphosidae—rudderfishes	22,700
	Labridae—wrasses	55,100
	Lethrinidae—emperors	53,700
	Lutjanidae—snappers	190,400

TABLE 3—MARIANA ARCHIPELAGO—CNMI—Continued

Fishery	Management unit species	ACL Specification (lb)
	Mollusks—turbo snail; octopus; giant clams	9,800
	Mugilidae—mullets	4,500
	Mullidae—goatfish	28,400
	Scaridae—parrotfish	144,000
	Serranidae—groupers	86,900
	Siganidae—rabbitfish	10,200
	Bolbometopon muricatum—Bumphead parrotfish	797
	Cheilinus undulatus—Humphead (Napoleon) wrasse	2,009
	All other CREMUS combined	7,300

(CNMI and Guam combined)

TABLE 4—HAWAII

Fishery	Management unit species	ACL Specification (lb)
Bottomfish	Non-Deep 7 bottomfish	178,000
Crustacean	Deepwater shrimp	250,773
	Spiny lobster	15,000
	Slipper lobster	280
	Kona crab	27,600
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
	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
Coral Reef Ecosystem	*Selar crumenophthalmus*—akule, bigeye scad	988,000
	Decapterus macarellus—opelu, mackerel scad	438,000
	Acanthuridae—surgeonfishes	342,000
	Carangidae—jacks	161,200
	Carcharhinidae—reef sharks	9,310
	Crustaceans—crabs	33,500
	Holocentridae—squirrelfishes	148,000
	Kyphosidae—rudderfishes	105,000
	Labridae—wrasses	205,000
	Lethrinidae—emperors	35,500
	Lutjanidae—snappers	330,300
	Mollusks—octopus	35,700
	Mugilidae—mullets	19,200
	Mullidae—goatfishes	165,000
	Scaridae—parrotfishes	239,000
	Serranidae—groupers	128,400
	All other CREMUS combined	485,000

Accountability Measures

Federal logbook and reporting from fisheries in Federal waters is not sufficient to monitor and track catches towards the proposed 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-yr average catch to evaluate fishery performance against the proposed ACLs. Specifically, NMFS and the Council will use the average catch during fishing year 2013, 2014, and 2015 to evaluate fishery performance against the appropriate 2015 ACL. At the end of each fishing year, the Council will review catches relative to each ACL. If NMFS and the Council determine 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 the subsequent year.

You may find additional background information on this action in the preamble to the proposed specifications published on July 21, 2015 (80 FR 43046).

Comments and Responses

The comment period for the proposed specifications ended on August 5, 2015. NMFS received comments from a commercial bottomfish fisherman on the proposed specifications for non-Deep 7 bottomfish in the main Hawaiian Islands (MHI), and from the U.S. Air

Force on the applicability of annual catch limits for recreational fishing at Wake Atoll in the Pacific Remote Island Areas. NMFS responds to these comments as follows:

Comment 1: The proposed ACL should account for changes in the historical landings of non-Deep 7 bottomfish in the MHI that resulted from changes in market conditions and regulatory actions. The commenter suggested that, in the past, MHI fishermen limited their catch of certain non-Deep 7 bottomfish species because they were associated with ciguatera (a toxin) and because fishermen received low prices for their catch due to higher volume of fish provided by the bottomfish fishery in the Northwestern Hawaiian Islands (NWHI). The commenter noted, however, that the closure of the NWHI fishery in 2010 and restrictions on landing MHI Deep 7 bottomfish upon reaching the annual catch limit in past fishing season have resulted in MHI fishermen targeting non-Deep 7 bottomfish, and landing more fish in recent years.

Response: NMFS and the Council considered changes in the historical landing when specifying the ACL and AMs for MHI non-Deep 7 bottomfish. The Biomass Augmented Catch Maximum Sustainable Yield (MSY) model, which generates the estimate of MSY which is used as the basis for the overfishing limit, acceptable biological catch, and ACL, uses the historical catch record for MHI non-Deep 7 bottomfish from 1966–2013. Thus, in estimating MSY, the model includes the period of time when changes occurred in the landings of MHI non-Deep 7 bottomfish. NMFS and the Council continue to work on improving the scientific, commercial, and other information that provide the basis for management decisions, and are exploring fishery-independent methods and technologies for assessing bottomfish resources. As information becomes available, NMFS will accommodate such data in future models and stock assessments.

Comment 2: The commenter asserts that, because the ACL for MHI non-Deep 7 bottomfish is based on imperfect data, NMFS should allow more leeway in applying the AMs if the fishery exceeds the ACL.

Response: Under federal regulations at 50 CFR 600.310 implementing the ACL requirement, the ACL serves as the basis for invoking the AM. AMs are management controls to prevent a fishery from exceeding an ACL and to correct or mitigate any overage of the ACL. While the data may be imperfect, the Council and NMFS established the ACLs using the best available information, and NMFS must adhere to the established ACL and AM process. See 50 CFR 665.4 and 50 CFR 600.310.

Comment 3: The U.S. Air Force requested confirmation that the proposed ACLs and AMs for Pacific Island bottomfish, crustacean, precious coral and coral reef fisheries at Wake Island take into account the annual recreational harvest levels described in the Air Force Fishing Management Plan for Wake Atoll.

Response: In the proposed specifications (80 FR 43046, July 21, 2015), NMFS explained that we did not propose ACLs for bottomfish, crustacean, precious coral, or coral reef ecosystem MUS regulated under the PRIA FEP. In the Supplementary section of this final rule, NMFS again clarifies that it is not specifying ACLs for PRIA bottomfish, crustacean, precious coral, or coral reef ecosystem MUS. This is because fishing is currently prohibited within 12 nm of emergent land, unless authorized by the USFWS in consultation with NMFS and the Council (See 50 CFR 665.933). Also, there is no coral reef habitat seaward of the 12-nm prohibited fishing area. To date, the USFWS has not consulted with NMFS for any fishing that the USFWS may authorize within 12 nm of the PRIA. Consultation with the USFWS would provide information that NMFS and the Council need to monitor catch and effort in the PRIA, and to develop any future catch limits that would be necessary.

Classification

The Regional Administrator, NMFS PIR, determined that this action is necessary for the conservation and management of Pacific Island fishery resources, 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 the certification in the proposed rule and does not repeat it here. NMFS received no comments on this certification; as a result, a regulatory flexibility analysis is not required, and none has been prepared.

This action is exempt from review under E.O. 12866 because it contains no implementing regulations.

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

Dated: August 25, 2015.

Eileen Sobeck,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

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