



U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Pacific Islands Regional Office
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April 27, 2023

Mr. Richard V. Salas
Director, Division of Coastal Resources Management
CNMI Bureau of Environmental and Coastal Quality
P.O. Box 501304
Saipan, MP 96950

Attn: Arthur Charfauros, Federal Consistency Contact

Dear Mr. Salas:

The National Marine Fisheries Service (NMFS) proposes to extend a moratorium on harvesting deep-water gold corals in the Federal waters in the Pacific Islands Region (i.e., American Samoa, Commonwealth of the Northern Mariana Islands (CNMI), Guam, Hawaii, and the Pacific Remote Island Areas). The proposed action is consistent with a recommendation from the Western Pacific Fishery Management Council (Council) at their 194th meeting in March 2023. NMFS would implement this action pursuant to the rulemaking authority under Section 303(c) and 304(b) of the Magnuson-Stevens Fishery Conservation and Management Act.

In 2008, the Council and NMFS established a 5-year moratorium throughout the Pacific Islands Region. NMFS and the Council extended the moratorium in 2013 and again in 2018, based on information that gold corals may grow more slowly and are more susceptible to overharvest than was previously known. The current moratorium will expire on June 30, 2023, and the Council recommended that NMFS extend the moratorium for another five years, through June 30, 2028. This extension would provide additional time for the Council to review recent information on gold coral and consider a long-term management strategy that will ensure the sustainability of the gold coral stock. Prior to the establishment of the moratorium in 2008, there was no fishery for gold coral in the CNMI, and there has been no expressed interest in the fishery by stakeholders at Council meetings.

Pursuant to section 307 of the Coastal Zone Management Act (CZMA, 16 U.S.C. 1456(c)(1)(C)), I have determined that the proposed action is consistent to the maximum extent practicable with the enforceable policies of the approved Coastal Zone Management Program of the CNMI. I request your review of, and concurrence with, this determination. Under regulations at 15 CFR 930.41(a), we may presume your concurrence if we do not receive your response within 60 days from receipt of this consistency determination. So that there is no lapse in the moratorium and gold corals continue to be protected from overharvesting, we request your earliest response to this letter.



If you have any questions or comments, please contact Pua Borges of my staff at 808-725-5184 or pua.borges@noaa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah Malloy". The signature is written in a cursive, flowing style.

Sarah Malloy
Acting Regional Administrator

Encl. CZMA Determination

Coastal Zone Management Act Federal Consistency Determination

Agency: National Marine Fisheries Service (NMFS)

Relevant Authorities: Coastal Zone Management Act, or CZMA (16 U.S.C. 1451 et seq.); CZMA Federal Consistency Regulations (15 CFR 930).

Determination: Consistent to the maximum extent practicable with the enforceable policies of the Commonwealth of the Northern Mariana (CNMI) Coastal Zone Management Program (CZMP).

Description of proposed activity: NMFS proposes to extend a regulatory moratorium on harvest of gold coral in Federal waters of the Pacific Islands Region, including Federal waters around the CNMI (generally 3–200 nm). NMFS and the Western Pacific Fishery Management Council (Council) initially implemented the moratorium in 2008, based on information that gold corals may grow more slowly and are more susceptible to overharvest than was previously known. The moratorium was extended in 2013 and again in 2018, to provide time for scientists to conduct research on the gold coral growth. The current moratorium will expire on June 30, 2023. This extension would provide additional time for recent information on gold coral to be assessed, and for the Council to consider a long-term management strategy that will ensure the sustainability of the subject fishery.

NMFS and the Council manage fishing in Federal waters around the CNMI in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the fishery ecosystem plan for the Mariana Archipelago (FEP), and implementing regulations. The Council developed the proposed management measure at public meetings, using the best available scientific information for the subject fishery, and input from the public. The fishing year for precious corals is July 1 through June 30, and the proposed rule would apply from July 1, 2023 through June 30, 2028.

Expected coastal effects: The objective of implementing the proposed management measures is to prevent overfishing when adequate scientific information is not available to manage harvest. Prior to the establishment of the moratorium in 2008, there was no fishery for gold coral in the CNMI. Harvest of any precious coral in the Pacific Islands region is only allowed using selective methods such as submersibles or collection by divers, and the use of destructive or non-selective fishing practices (e.g., explosives, poisons, trawls) is prohibited, so there have been no significant effects non-target stocks, habitat, protected species, or fishing communities.

The proposed action is not expected to substantially change the behavior of the fishery with respect to species harvested, participation, effort, gear, timing, or location because it would continue an existing moratorium, so NMFS does not anticipate effects to the coastal zone management area. The community would continue to have opportunities to participate in the Council decision-making process through its representatives on the Council, its Advisory Panel members, and through opportunities for public input at both the Council's deliberations and during the comment period during the rulemaking process. We do not expect any change to the fishery that would result in any social, economic or environmental effects.

Consistency evaluation: The proposed action, which is needed to comply with federal regulations and support the sustainability of fishery resources, would not cause direct effects to CNMI's coastal zone management area, and is consistent with the policies and objectives of the Coastal Management Program. Analysis of the proposed action on each of the development and resource protection policies is provided below. The enforceable policies of CNMI's Coastal Management Program include:

- The following sections from the CNMI Coastal Resource Management Rules and Regulations, which can be found in the Northern Mariana Islands Administrative Code (NMIAC), Chapter 15-10:
 - §15-10-020: Definitions
NMFS notes these definitions and applies them in our review of effects and consistency determination.
 - §15-10-025: Conflicts with Regulations of Other CNMI Government Agencies
The proposed action does not create any new federal regulations, so does not cause a conflict with regulations of CNMI government agencies.
 - §15-10-301: General Standards for all CRM Permits
This Federal Consistency Determination summarizes our review that shows that the action does not change management of the fisheries or authorized fishing activity, so the proposed action will not have the potential for a significant adverse impact on the coastal environmental or resources.
 - §15-10-305: General Criteria for CRM Permits
The proposed action does not involve activity in the coastal zone that would require a CRM permit.
 - § 15-10-311: Specific Criteria; Areas of Particular Concern; Impact Avoidance, Minimization, and Mitigation Required
The proposed action is a continuation of existing management and is not expected to result in impacts, so avoidance, minimization and mitigation are not applicable.
 - Areas of Particular Concern (APC)
With respect to the following Specific APC identified in Title 15 of the CNMI regulations for Coastal Resources Management:
 - §15-10-315: Lagoon and Reefs
 - §15-10-320: Managaha and Anjota Islands
 - §15-10-325: Coral Reefs
 - §15-10-330: Wetlands and Mangroves
 - §15-10-335: Shorelines
 - §15-10-340: Ports and Industrial Areas
 - §15-10-345: Coastal HazardsThe proposed action does not create new regulations that would affect fishing or related activities, so the proposed action will not have the potential to cause adverse effects on nearshore habitats, specifically APC.

- §15-10-350: Height Density, Setback, Coverage, and Parking Guidelines
Not applicable: The proposed action does not involve construction.
- §15-10-501: Determination of Major Siting
Not applicable: The proposed action does not involve construction.
- §15-10-505: Specific Criteria for Major Sitings
Not applicable: The proposed action does not involve construction.
- §15-10-610: Mandatory Conditions
The proposed action does not involve activity in the coastal zone that would require a CRM permit.
- Public Law No. 3-47
 - CNMI Public Law 3-47, entitled the “Coastal Resources Management Act,” grants the Division of Coastal Resources Management regulatory authority towards activities within its jurisdictional territory that can impact coastal resources of the CNMI.
 - This Federal Consistency Determination was prepared in accordance with section 307 of the Federal CZMA and herein considers effects on the enforceable policies of the CNMI’s CZMA. NMFS is also responsible for complying with a number of laws intended for the conservation of the environment, including the National Environmental Policy Act. Our planning, coordination with the CNMI Coastal Management Program, and environmental effects analysis will help ensure the proposed action conforms with CNMI PL 3-47.
- Air and water quality standards and regulations of the CNMI, including:
 - Division of Environmental Quality (DEQ) Underground Injection Control Regulations (NMIAC, title 65, chapter 90)
Not applicable. The proposed action does not involve underground injection of wastes or fluids regulated under NMIAC, Title 65-90.
 - DEQ Drinking Water Regulations (NMIAC, title 65, chapter 20)
The proposed action does not contain regulations or other provisions that would adversely affect the CNMI public drinking water resource or system.
 - DEQ Well Drilling and Well Operations Regulations (NMIAC, §65-140-005, §65140-010)
Not applicable: The proposed action does not involve well drilling or operation and will not affect a well.
 - DEQ Wastewater Treatment and Disposal Rules and Regulations (NMIAC, §65120010, and §65-120 Part 1700)
Not applicable: The proposed action does not involve sewage or wastewater generation, treatment, or disposal.

- DEQ Water Quality Standards (NMIAC, §65-130, Part 200, Part 400, Part 500)
The proposed action does not contain regulations or other provisions that would adversely affect the CNMI public drinking water resource or system.

- Any additional policies, regulations, standards, priorities and plans that are approved by NOAA's Office for Coastal Management as enforceable policies of the CNMI Coastal Management Program for CZMA federal consistency review purposes.

Not applicable: None

As described above, the proposed action extends an existing moratorium on harvest of gold coral to support fisheries sustainable management. It would not change fishery operations or regulatory mechanisms or cause direct effects to the coastal zone management area in the CNMI. The proposed management is consistent with objectives of protecting coastal ecosystems and with the policies and objectives of the CNMI CZMP, particularly those related to the management of marine resources. Thus, NMFS has determined that the proposed action would be consistent to the maximum extent practicable with the enforceable policies and objectives of the CNMI CZMP.