



**U.S. DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
**NATIONAL MARINE FISHERIES SERVICE**  
Pacific Islands Regional Office  
1845 Wasp Blvd. Bldg. 176  
Honolulu, Hawaii 96818  
(808) 725-5000 • Fax (808) 725-5215

December 18, 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 implement an annual catch limit (ACL) of 82,000 lb and annual catch target (ACT) of 75,000 lb of bottomfish management unit species (BMUS) in the Commonwealth of the Northern Mariana Islands (CNMI) for fishing years 2024 and 2025. Each fishing year begins January 1 and ends on December 31. NMFS also proposes to implement a post-season accountability measure (AM). If NMFS determines that the average catch from the most recent three-year period exceeded the ACL, then NMFS would reduce the ACL and ACT in the following fishing year by the amount of the overage. If the average bottomfish catch from the most recent three-year period exceeds the ACT but is less than the ACL, there will be no overage adjustment the following fishing year. The ACL and ACT maintain the same risk of overfishing as those implemented May 7, 2021 for fishing years 2020–2023 (86 FR 24511). The AM is identical to those implemented for fishing years 2020–2023. Average catch from 2020–2022 was 54,258 lb, so NMFS does not anticipate the fishery will attain the limit in any fishing year covered by the proposed rule. The proposed management action would implement the requirements of the Magnuson-Stevens Fishery Conservation and Management Act, in accordance with the procedures described in the Fishery Ecosystem Plan for the Mariana Archipelago, and implementing Federal regulations at 50 CFR 665.

Pursuant to section 307 of the Coastal Zone Management Act (33 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 have enclosed a consistency determination that includes the information required by 15 CFR 930.39, and request your concurrence with our 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 determination. Please contact [keith.kamikawa@noaa.gov](mailto:keith.kamikawa@noaa.gov) and [heather.nelson@noaa.gov](mailto:heather.nelson@noaa.gov) if you have any questions or need additional information.

Sincerely,

Sarah Malloy  
Acting Regional Administrator

Encl. CZMA Determination



## **Coastal Zone Management Act Federal Consistency Determination**

**Agency:** National Marine Fisheries Service (NMFS)

**Relevant Authorities:** The Coastal Zone Management Act of 1972 (CZMA, 16 U.S.C. 1451, et seq.); CZMA Federal Consistency Regulations (15 CFR Part 930).

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

**Description of proposed activity:** The National Marine Fisheries Service (NMFS) and the Western Pacific Fishery Management Council (Council) manage bottomfish fishing in Federal waters around CNMI in accordance with the Fishery Ecosystem Plan for the Mariana Archipelago (FEP). NMFS proposes to implement an annual catch limit (ACL) of 82,000 lb, an annual catch target (ACT) of 75,000 lb, and a post-season accountability measure (AM) for the bottomfish fishery in the CNMI for fishing years 2024 and 2025. The proposed ACL is associated with a 39% risk of overfishing and the proposed ACT is associated with a 34% risk of overfishing. Both of these values are below the 50% threshold as required in the National Standard 1 guidelines (74 FR 3178, January 11, 2009). While the proposed ACL and ACT represent a slight reduction to those implemented May 7, 2021 for fishing years 2020–2023 (86 FR 24511, May 7, 2021), they both maintain the same risk of overfishing to CNMI bottomfish. The fishing year begins January 1 and ends on December 31 each year. The proposed action would continue management of the CNMI fishery consistent with 50 CFR 665.819.

Catch data for CNMI bottomfish are gathered through creel surveys conducted by the CNMI Division of Fish and Wildlife and reported to NMFS. NMFS would count bottomfish catches from territorial waters (generally from the shoreline to 3 nm offshore) and Federal waters around CNMI (i.e., the Exclusive Economic Zone (EEZ)) towards the ACL and ACT. Additionally, only catches of species listed as bottomfish management unit species (BMUS) in the FEP will be counted toward the ACL and ACT. If NMFS determines that the average catch from the most recent three-year period exceeded the ACL, then NMFS would reduce the ACL and ACT in the following fishing year by the amount of the overage. NMFS would conduct a subsequent rulemaking action to implement the overage adjustment. If the average bottomfish catch from the most recent three-year period exceeds the ACT but is less than the ACL, there will be no overage adjustment the following fishing year. In-season AMs for this fishery are not possible because catch statistics are available only about six months after local management agencies collect the data and have a higher level of uncertainty than the post-season catch totals.

If the fishery exceeds an ACL more than once in a four-year period, the Council is required to re-evaluate the ACL process, and adjust the system, as necessary, to improve its performance and effectiveness. The Council recommended the proposed ACL, ACT, and AM in consideration of the risk of overfishing based on the best scientific information available, past fishery

performance, uncertainty of in-season catch estimates, acceptable biological catch recommendations from its Scientific and Statistical Committee, and public input.

**Expected coastal effects:** The objective of implementing the proposed management measures is to prevent overfishing and to provide for long-term sustainability of fishery resources while allowing fishery participants to continue to benefit from their utilization. The CNMI bottomfish fishery consists primarily of small-scale local boats engaged in commercial and subsistence fishing, although a few (<5) larger vessels (30–60 ft) also participate in the fishery. A Federal bottomfish fishing permit is required for any vessel used in commercially fishing for bottomfish in the EEZ around the CNMI. From 2020 through 2022, there was an estimated average of 37 vessels fishing for bottomfish and they made 47 trips and landed an average catch of 54,258 lb.

The proposed specifications for the 2024 and 2025 fishing years are based on the 2019 benchmark stock assessment for bottomfish in American Samoa, Guam, and the CNMI and in consideration of the best available scientific, commercial, and other information about the fishery. The 2019 assessment found that the CNMI bottomfish complex was not overfished and was not experiencing overfishing and projected catch through fishing year 2025.

The proposed action is not expected to substantially change the behavior of the subject fishery with respect to species caught, participation, effort, gear, timing, or location, so NMFS does not anticipate effects to the coastal zone area. Because recent catch history indicates the fishery would not be constrained by the ACL, the proposed ACL and ACT are not expected to result in any change to the operation of, or participation in, the fishery. Ongoing monitoring of catch relative to the ACL would benefit people who rely on fishing by providing review of fishing and catch levels, which, in turn, should enhance the management and sustainability of the fishery. The community would continue to have opportunities 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 notice-and-comment rulemaking. The proposed ACL, ACT, and AM are intended to support the long-term availability of bottomfish resources to the fishing community in CNMI, and we do not expect any change to the fishery that would result in any large environmental, social, or economic effects.

**Consistency evaluation:** The proposed action would not cause direct effects to the coastal zone management area, and the proposed action, which is needed to ensure that FEPs are consistent with Federal fisheries regulations, is consistent with the policies and objectives of the CZMP. 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 administrative in nature 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 Hazards

The 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)

Not applicable: The proposed action is administrative in nature, and 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

Overall, the proposed action would not cause any effects to the coastal zone management area in the CNMI. The proposed action would not change fishery operations or regulatory mechanisms, but would provide for continued operation of socially, culturally, and economically important fisheries in a manner that is sustainable and does not affect biological or physical features of the nearshore marine environment. Thus, NMFS has determined that the proposed action would be

consistent to the maximum extent practicable with the enforceable policies and objectives of CNMI's CZMP.