

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 773 *et seq.*, and 16 U.S.C. 7001 *et seq.*

Dated: April 23, 2018.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 180202114-8361-01]

RIN 0648-BH60

Pacific Island Fisheries; 5-Year Extension of Moratorium on Harvest of Gold Corals

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

ACTION: Proposed rule; request for comments.

SUMMARY: This proposed rule would extend the current region-wide moratorium on the harvest of gold corals in the U.S. Pacific Islands through June 30, 2023. NMFS intends this proposed rule to prevent overfishing and to stimulate research on gold corals.

DATES: NMFS must receive comments by May 11, 2018.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2018-0018, 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/#!docketDetail;D=NOAA-NMFS-2018-0018>, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- **Mail:** Send written comments to Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Region (PIR), 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818.

Instructions: NMFS may not consider comments sent by any other method, to any other address or individual, or received after the end of the comment period. 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.

FOR FURTHER INFORMATION CONTACT: Kate Taylor, NMFS PIR Sustainable Fisheries, 808-725-5182.

SUPPLEMENTARY INFORMATION: Jewelry designers use small amounts of precious corals to adorn their products. The precious corals fishery in the U.S. Pacific Islands includes black, pink, bamboo, and gold corals. They are slow-growing and have low rates of natural mortality and recruitment. Unexploited populations are relatively stable, and a wide range of age classes is generally present. Due to the great longevity of individuals and the associated slow population turnover rates, a long period of reduced fishing effort is required to restore a stock's ability to produce at the maximum sustainable yield if a stock has been over-exploited. Fishermen harvest precious corals by various methods, including hand-harvesting and submersibles.

Gold corals are suspension feeders, and live in deep water (100–1,500 meters (m)) on hard substrates where bottom currents are strong, such as seamounts, ledges, pinnacles, walls, and cliffs. Prior fishing effort harvested gold corals by submersible or tangle net dredges. There are several beds of gold corals (*Gerardia* spp., *Callogorgia gilberti*, *Narella* spp., and *Calyptrophora* spp.) in the U.S. Exclusive Economic Zone (EEZ, generally 3–200 nautical miles from shore) around Hawaii. Gold coral distribution and abundance are unknown in the region beyond Hawaii, but they likely occur in the EEZ around American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the Pacific Remote Island Areas (PRIA: Baker Island, Howland Island, Jarvis Island, Wake Atoll, Johnston Atoll, Kingman Reef, Midway Atoll, and Palmyra Atoll).

NMFS and the Western Pacific Fishery Management Council (Council) manage precious coral fisheries in the U.S. Pacific Islands under fishery ecosystem plans (FEPs) for American Samoa, Hawaii, the Mariana Archipelago, and the PRIA. The FEPs and associated Federal regulations at 50 CFR part 665 require permits and data reporting, and allow harvesting of precious corals only with selective gear (e.g., submersibles, remotely-operated vehicles, or by hand). There are also bed-specific quotas, refuges from fishing, and size limits. The fishery for gold corals, like most deepwater precious corals, has remained dormant since 2001.

The Council considered past and current research on gold corals growth rates and recruitment. Past research on gold corals indicated that the linear growth rate of gold corals is approximately 6.6 centimeters/year, suggesting a relatively young age for large coral colonies. However, updated research using radiocarbon dating revealed that gold corals in Hawaii could have a growth rate of 0.14–0.40 centimeters/year and that colony ages ranged from 450–2,740 years. Additional research also identified previously unknown habitat requirements for gold coral, specifically that gold corals may depend on bamboo corals to provide required substrate for gold coral larvae.

Because of these uncertainties, the Council and NMFS established a 5-year moratorium on harvesting gold corals in 2008 (73 FR 47098, August 13, 2008). They extended the moratorium for another five years in 2013 (78 FR 32181, May 29, 2013). These moratoria have prevented the potential for overharvesting gold corals from a renewed fishery and allowed for research on gold coral biology. The current moratorium is scheduled to expire on June 30, 2018.

The Council continues to be concerned about uncertainties related to the growth rates and habitat requirements for gold coral, and recognizes that fishery managers need more research to inform appropriate measures for this fishery. This proposed rule would extend the moratorium through June 30, 2023. The proposed action would prevent the potential for overfishing and allow such further research on gold corals that could inform sustainable management models and reference points for appropriate gold coral management measures.

NMFS must receive any public comments on this proposed rule by the close of business on May 11, 2018, and will not consider late comments.

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 FEPs for American Samoa, the PRIA, Hawaii, and the Mariana Archipelago, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

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.

The proposed rule would extend the current gold coral harvest moratorium for five years. The current moratorium is scheduled to expire on June 30, 2018. The Western Pacific Fishery Management Council (Council) recommended extending the moratorium through June 30, 2023.

The proposed action would potentially affect any entity possessing a Federal western Pacific precious corals permit, because those entities would be permitted to harvest or land gold corals, in addition to black, bamboo, pink, and red corals. Only one entity, based in the state of Hawaii, currently possesses a permit (http://www.fpir.noaa.gov/SFD/SFD_permits_index.html, accessed: February 2, 2018). NMFS believes that this entity would be considered a small entity because the permit holder is engaged in the business of fish harvesting, independently owned or operated, not dominant in their field of operation, and has annual gross receipts not in excess of \$11 million.

Although NMFS believes that the permit holder would be considered a small entity, it is unlikely that the permit holder would begin to harvest gold corals in the absence of a moratorium. The Pacific Islands gold coral fishery had been dormant when the current moratorium went into effect in 2008, and extended in 2013. Gold coral harvesting had occurred infrequently during the past 50 years. In the late 1970s, harvesters used a manned submersible to selectively take several thousand kilograms of gold coral off eastern Oahu, Hawaii. From 1999–2001, a second harvester took a small amount of gold coral, along with other

deepwater precious corals, from exploratory areas off Hawaii.

Extending the moratorium on gold coral harvests will not likely cause immediate economic impact to the entity permitted to harvest gold corals. Furthermore, this fishery is still characterized by high equipment and operating costs, continued safety concerns and other logistical constraints. Gold coral market prices are not high enough to offset those risks and expenses. Because of these challenges to entities wishing to harvest and land gold corals, interest in this fishery will likely remain low even without the moratorium. However, extending the moratorium for another five years would ensure that no harvesting of gold corals would occur until at least 2023.

Additional research may better inform future management decisions regarding sustainable harvest of this resource.

The proposed rule 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. There does not appear to be disproportionate economic impacts from the proposed rule based on home port, gear type, or relative vessel size. The proposed rule will not place a substantial number of small entities, or any segment of small entities, at a significant competitive disadvantage to large entities. As a result, an initial regulatory flexibility analysis is not required, and none has been prepared.

List of Subjects in 50 CFR 665

Administrative practice and procedure, American Samoa, Deep sea coral, Fisheries, Fishing, Guam, Hawaii, Northern Mariana Islands, Pacific Remote Island Areas, Precious coral.

Dated: April 23, 2018.

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. Revise § 665.169 to read as follows:

§ 665.169 Gold coral harvest moratorium.

Fishing for, taking, or retaining any gold coral in any precious coral permit area is prohibited through June 30, 2023.

- 3. In § 665.269, revise note 2 to the table in paragraph (d) to read as follows:

§ 665.269 Quotas.

* * * * *

(d) * * *

Notes:

1. No fishing for coral is authorized in refugia.
2. A moratorium on gold coral harvesting is in effect through June 30, 2023.

- 4. Revise § 665.270 to read as follows:

§ 665.270 Gold coral harvest moratorium.

Fishing for, taking, or retaining any gold coral in any precious coral permit area is prohibited through June 30, 2023.

- 5. Revise § 665.469 to read as follows:

§ 665.469 Gold coral harvest moratorium.

Fishing for, taking, or retaining any gold coral in any precious coral permit area is prohibited through June 30, 2023.

- 6. Revise § 665.669 to read as follows:

§ 665.669 Gold coral harvest moratorium.

Fishing for, taking, or retaining any gold coral in any precious coral permit area is prohibited through June 30, 2023.

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