



**U.S. DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
**NATIONAL MARINE FISHERIES SERVICE**  
Pacific Islands Regional Office  
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July 13, 2021

Mr. Edwin Reyes, Administrator  
Guam Coastal Management Program  
Bureau of Statistics and Plans  
Government of Guam  
P.O. Box 2950  
Hagatna, GU 96932

Dear Mr. Reyes:

The most recent stock assessment indicated that the Guam bottomfish multi-species stock complex is overfished (but not experiencing overfishing). Section 304(e) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and implementing regulations at 50 CFR 600.310(j) require the Western Pacific Fishery Management Council to develop a long-term plan to rebuild the stock. Accordingly, the Council proposes to amend the Fishery Ecosystem Plan for the Mariana Archipelago (FEP). If approved by the Secretary of Commerce, Amendment 6 would establish a rebuilding plan with an annual catch limit (ACL) of 31,000 lb starting in 2022. The Council expects the bottomfish stock to be rebuilt within eight years. If NMFS determines that the fishery reaches the annual limit, we would close Federal waters to bottomfish fishing until NMFS and Guam develop a coordinated management strategy that ensures that the catch in both Federal and territorial waters is maintained at levels that allow the stock to rebuild.

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 practicable with the enforceable policies of the approved Coastal Zone Management Program of the Territory of Guam. I request your review of and concurrence with this determination (attached). 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. Because this is a time-sensitive action, however, we request your earliest response to this letter.

If you have any questions or comments, or if you would like to review draft documents that provide additional information that supports this determination, please contact Kate Taylor at 808-725-5182 or [kate.taylor@noaa.gov](mailto:kate.taylor@noaa.gov).

Sincerely,

Michael D. Tosatto  
Regional Administrator

Encl.



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

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

**Relevant Authorities:** 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 Guam's Coastal Zone Management Program.

**Description of proposed activity:** NMFS and the Council manage bottomfish fishing in Federal waters around Guam in accordance with the FEP. On February 10, 2020, NMFS notified the Council that the Guam bottomfish fishery is overfished, and that the Council must amend the FEP to rebuild the stock. In response, the Council developed Amendment 6 to establish a rebuilding plan in coordination with NMFS, Guam Division of Aquatic and Wildlife Resources (DAWR), fishermen, and others. Consistent with Section 304(e) of the Magnuson-Stevens Act and implementing regulations at 50 CFR 600.310(j), NMFS must implement the Council's rebuilding plan within two years of the overfished determination, that is, by early 2022. We would consider the Guam bottomfish stock as rebuilt when the biomass reaches a level that is capable of producing maximum sustainable yield.

Amendment 6 would establish an ACL of 31,000 lb for each fishing year (calendar year). NMFS would monitor the fishery through the Guam DAWR voluntary boat-based creel survey and commercial receipt book program to count bottomfish catches from territorial and Federal waters around Guam toward the ACL. If we determine that the fishery reaches an annual limit, we would close Federal waters to bottomfish fishing until NMFS and Guam develop a coordinated management strategy that ensures that the catch in both Federal and territorial waters is maintained at levels that allow the stock to rebuild. We would implement the rebuilding plan in 2022 and it would remain in place until we determine that the Guam bottomfish stock complex is rebuilt, which is expected to take eight years. Annual catches have exceeded the proposed ACL in only three of the past 10 years, and the recent three-year average catch of 27,306 lb comprises approximately 88% of the proposed ACL. Given the relatively high ACL in comparison to recent catch, we expect that the proposed action would not have a negative effect on the fishery.

**Expected coastal effects:** While more than 300 vessels participate in the Guam fishery, there are currently no federally permitted vessels. Fishing occurs primarily on vessels smaller than 25 ft due to the lower expenditure and relative ease of fishing closer to shore, although some larger vessels make trips to the offshore banks around Guam to harvest deep-water bottomfish. The fishery is highly seasonal, with effort notably increasing during the summer months when weather and sea conditions are relatively calm. The fishery is monitored using data that fishermen provide voluntarily to DAWR through the boat-based and shore-based creel surveys. Additionally, DAWR receives voluntary commercial sales data from the commercial receipt book program. The average amount of bottomfish sold is 17.5% of the total catch, so the Guam bottomfish fishery is predominantly non-commercial, primarily providing fish for recreation and sustenance.

The most recent three-year average catch of bottomfish in Guam from 2018 to 2020 was 27,306 lb, most recently landing 18,933 lb in 2020. Therefore, the proposed ACL represents approximately a 14% increase over the recent three-year average catch, or 64% over the 2020 catch. If catches remain similar to recent years throughout the rebuilding plan, we do not expect the fishery to exceed the proposed ACL, and Federal waters would remain open.

All other applicable fishing regulations would remain in force. We do not expect the fishery to make any significant changes to gear, effort, participation, or intensity over the course of the rebuilding plan. There may be small changes in the total amount of catch and areas fished if NMFS closes Federal waters. Much of the bottomfish habitat around Guam is in territorial waters, so during a closure of Federal waters, NMFS expects a displacement of bottomfish fishing activity to territorial waters (without complementary management in territorial waters), but have no data indicating the level of displacement that could occur. Additionally, during a closure of Federal waters, deepwater bottomfish populations at the offshore banks could have a chance to rebuild, while shallow-water bottomfish populations in territorial waters could experience continued or increased fishing pressure.

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 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 rebuilding plan is intended to support the long-term availability of bottomfish resources to the Guam fishing community, and we do not expect any disruption to the fishery that would result in any large social or economic effects. Additionally, the fishery has not been shown to have other significant effects on non-target stocks, protected species, or habitat.

**Consistency evaluation:** Guam's entire land area is included in its coastal zone. Guam's Coastal Management Program is a network program involving existing government agencies established to guide the use, protection, and development of land and ocean resources. The common interests of the Coastal Management Program and its networking agencies are linked through policies for development and resource protection established in Executive Order 78-37. Development policies include 1) shore area, urban, and rural development, 2) major facility siting, 3) hazardous areas, 4) housing, 5) transportation, and 6) erosion. Resource protection policies include 1) air, water and visual quality, 2) fragile areas, 3) living marine resources, 4) recreation areas, 6) public access, and 7) agricultural lands.

The proposed action would not cause direct effects to Guam's coastal zone management area and the proposed action, which is needed to ensure the sustainability of bottomfish resources, 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.

*Agricultural Lands:* The proposed action will not include development on agricultural land.

*Shore area, urban, and rural development:* The Guam Seashore Reserve includes the land and water extending seaward to the ten-fathom contour and extending inland either 10 m from the

mean high-water mark or to the nearest public right-of-way. Urban areas include those zoned as commercial, multi-family, industrial, or resort-hotel. Rural areas include those zoned for residential use (one-family dwellings) and farming and fisheries. The proposed action does not involve development of any kind within the Seashore Reserve or areas zoned as urban or rural.

*Major facility siting:* The proposed activity does not involve the siting for major utilities, fuel, and transport facilities including those associated with electric power production and transmission, petroleum refining and transmission, port and air installations, solid waste disposal, sewage treatment, and major reservoir sites.

*Hazardous areas:* The proposed activity does not include any development in hazardous areas, including flood plains, erosion-prone areas, air installations' crash and sound zones and major fault lines.

*Housing:* The proposed activity does not include the design of community or residential areas.

*Transportation:* The proposed activity does not include the development of any transportation systems.

*Erosion and siltation:* The proposed activity does not include development on areas where erosion and siltation damage is likely to occur.

*Air quality:* The proposed action will not discharge pollution into or degrade Guam's drinking, recreational, and ecologically sensitive waters.

*Fragile areas:* The proposed action will not take place in any fragile areas including Guam's Marine Protected Areas.

*Living Marine Resources:* The purpose of the proposed action is to rebuild the bottomfish stock complex, an important living resources within the waters of Guam. The proposed ACL of 31,000 lb would prevent overfishing and provide a 50% probability that the Guam bottomfish stock would rebuild from its overfished state in eight years. To achieve rebuilding in the shortest timeframe possible, NMFS would prohibit fishing in Federal waters if the fishery exceeds the ACL in any given year. Given the relatively high ACL in comparison to recent annual catches, however, we do not expect the proposed action to affect fishery operations. If the fishery exceeds the ACL and we close Federal waters, NMFS must develop a complementary management strategy with the territorial government. Without a complementary plan, the timeframe for rebuilding may extend beyond the anticipated eight years.

*Visual Quality:* The proposed action will not degrade views from scenic overlooks, highways, and trails.

*Recreation Areas:* The proposed action will not include the development of any type of recreational facility.

*Public Access:* The proposed action will not restrict access to any non-federally owned beaches, recreation areas, parks, scenic overlooks, conservation areas, or public lands.

*Agricultural Lands:* The proposed action will not include development on agricultural land.

Based on the above, NMFS has determined that the activity would be consistent to the maximum extent practicable with the enforceable policies and objectives of Guam's Coastal Management Program.