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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 150715616-6097-01]

RIN 0648-XE062

**Pacific Island Fisheries; 2015-16 Annual Catch Limit and
Accountability Measures; Main Hawaiian Islands Deep 7**

Bottomfish

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

ACTION: Proposed specifications; request for comments.

SUMMARY: NMFS proposes to specify an annual catch limit (ACL) of 326,000 lb for Deep 7 bottomfish in the main Hawaiian Islands (MHI) for the 2015-16 fishing year, which began on September 1, 2015, and ends on August 31, 2016. If the ACL is projected to be reached, as an accountability measure (AM), NMFS would close the commercial and non-commercial fisheries for MHI Deep 7 bottomfish for the remainder of the fishing year. The proposed ACL and AM support the long-term sustainability of Hawaii bottomfish.

DATES: NMFS must receive comments by [*insert date 15 days after date of publication in the **FEDERAL REGISTER***].

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2015-0090, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0090>, 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 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. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Matt Dunlap, NMFS PIR Sustainable Fisheries, 808-725-5177.

SUPPLEMENTARY INFORMATION: The bottomfish fishery in Federal waters around Hawaii is managed under the Fishery Ecosystem Plan for the Hawaiian Archipelago (Hawaii FEP), developed by the Western Pacific Fishery Management Council (Council) and implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The regulations at Title 50, Code of Federal Regulations, Part 665 (50 CFR 665.4) require NMFS to specify an ACL for MHI Deep 7 bottomfish each fishing year, based on a recommendation from the Council. The Deep 7 bottomfish are onaga (*Etelis coruscans*), ehu (*E. carbunculus*), gindai (*Pristipomoides zonatus*), kalekale (*P. sieboldii*), opakapaka (*P. filamentosus*), lehi (*Aphareus rutilans*), and hapuupuu (*Hyporthodus quernus*).

NMFS proposes to specify an ACL of 326,000 lb of Deep 7 bottomfish in the MHI for the 2015-16 fishing year. The Council recommended the ACL at its 163rd meeting held in June 2015. The proposed specification is 20,000 lb less than the ACL that NMFS specified for the past four consecutive fishing years (i.e., 2011-12, 2012-13, 2013-14, and 2014-15). NMFS monitors Deep 7 bottomfish catches based

on data provided by commercial fishermen to the State of Hawaii. If NMFS projects the fishery will reach this limit, NMFS would close the commercial and non-commercial fisheries for MHI Deep 7 bottomfish for the remainder of the fishing year, as an accountability measure (AM). In addition, if NMFS and the Council determine that the final 2015-16 Deep 7 bottomfish catch exceeds the ACL, NMFS would reduce the Deep 7 bottomfish ACL for the 2015-16 fishing year by the amount of the overage. The fishery did not attain the specified ACL in fishing years from September 2011 to August 2015, and NMFS does not anticipate the fishery will attain the limit in the current fishing year, which began on September 1, 2015, and ends on August 31, 2016.

The Council recommended the ACL and AMs based on a 2011 NMFS bottomfish stock assessment updated with three additional years of data, and in consideration of the risk of overfishing, past fishery performance, the acceptable biological catch (ABC) recommendation from its Scientific and Statistical Committee (SSC), and input from the public. The 2011 NMFS bottomfish stock assessment updated with three additional years of data estimates the overfishing limit (OFL) for the MHI Deep 7 bottomfish stock complex to be 352,000 lb. The proposed ACL of 326,000 lb is equal to

the SSC's ABC recommendation, and is associated with a 44-percent probability of overfishing. This risk level is more conservative than the 50-percent risk threshold allowed under NMFS guidelines for National Standard 1 of the Magnuson-Stevens Act.

NMFS does not expect the proposed ACL and AM specifications for 2015-16 to result in a change in fishing operations or other changes to the conduct of the fishery that would result in significant environmental impacts. After considering public comments on the proposed ACL and AMs, NMFS will publish the final specifications.

To be considered, NMFS must receive any comments on these proposed specifications by [*insert date 15 days after date of publication in the FEDERAL REGISTER*], not postmarked or otherwise transmitted by that date.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator for Fisheries has determined that this proposed specification is consistent with the Hawaii FEP, other provisions of the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

This action is exempt from review under 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 these proposed specifications, if adopted, would not have a significant economic impact on a substantial number of small entities. A description of the action, why it is being considered, and the legal basis for it are contained in the preamble to these proposed specifications.

NMFS proposes to specify an annual catch limit (ACL) of 326,000 lb for Main Hawaiian Islands (MHI) Deep 7 bottomfish for the 2015-16 fishing year, as recommended by the Western Pacific Fishery Management Council (Council). NMFS monitors MHI Deep 7 bottomfish catches based on data provided by commercial fishermen to the State of Hawaii. If and when the fishery is projected to reach this limit, NMFS, as an accountability measure (AM), would close the commercial and non-commercial fisheries for MHI Deep 7 bottomfish for the remainder of the fishing year. The proposed ACL is 20,000 lb less than those that NMFS implemented for the previous four fishing years, while the AM will remain the same. Over the past four fishing seasons, the highest reported annual landings, 309,485 lb,

occurred during the 2013-2014 fishing year. NMFS does not expect the fishery to reach the proposed ACL in the 2015-16 fishing year, which began on September 1, 2015, and will end on August 31, 2016.

This rule would affect participants in the commercial and non-commercial fisheries for MHI Deep 7 bottomfish. During the 2014-15 fishing year, 405 fishermen reported landing 303,738 lb of Deep 7 bottomfish (http://www.wpcouncil.org/wp-content/uploads/2013/04/MHI201500904_1415_Sum.pdf, accessed September 11, 2015). Based on available information, NMFS has determined that all vessels in the commercial and non-commercial fisheries for MHI Deep 7 bottomfish are small entities under the Small Business Administration's definition of a small entity. That is, they are engaged in the business of fish harvesting, independently owned or operated, not dominant in their field of operation, and have annual gross receipts not in excess of \$20.5 million, the small business size standard for finfish fishing (NAICS Code: 114111). Therefore, there would be no disproportionate economic impacts between large and small entities. Furthermore, there are would be no disproportionate economic impacts among the universe of vessels based on gear, home port, or vessel length.

As for revenues earned by fishermen from Deep 7 bottomfish, State of Hawaii records report 341 of the 405 fishermen sold their Deep 7 bottomfish catch. These 341 individuals sold a combined total of 267,997 lb (88.2% of reported catch) at a value of \$1,815,332. Based on these revenues, the average price for MHI Deep 7 bottomfish in 2014-15 was approximately \$6.77/lb. NMFS assumes the remaining 64 commercial fishermen either sold no Deep 7 bottomfish or that the State of Hawaii reporting program did not capture their sales.

Assuming the fishery attains the ACL of 326,000 in 2015-16, using the 2014-15 average price of \$6.77/lb, the potential fleet wide revenue during 2015-16 is expected to be \$2,207,020 (\$1,946,592 under the assumption that 88.2% of catch is sold). If the same number of fishermen sell MHI Deep 7 bottomfish in 2015-16 as in 2014-15, each of these 341 commercial fishermen could potentially sell an average of 956 lb of Deep 7 bottomfish valued at \$6,472, if all Deep 7 bottomfish caught were sold. If 88.2% of all Deep 7 bottomfish that had been caught had been sold, then these 341 commercial fishermen could potentially sell an average of 843 lb of Deep 7 bottomfish valued at \$5,708.

In general, the relative importance of MHI bottomfish to commercial participants as a percentage of overall

fishing or household income is unknown, as the total suite of fishing and other income-generating activities by individual operations across the year has not been examined.

In terms of scenarios immediately beyond the 2015-16 fishing year, three possible outcomes may occur. First, in the event that 2015-16 catch does not reach 326,000 lb, the ACL will decrease by 8,000 lb for the 2016-2017 fishing year, as set by the multi-year specification. Second, if the fishery exceeds the ACL for the 2015-16 fishing year, NMFS would reduce the Deep 7 bottomfish ACL for the 2016-17 fishing year by the amount of the overage, in addition to the 8,000 lb reduction for the 2016-17 fishing year. The last possible scenario is one where NMFS would prepare a new stock assessment or update that NMFS and the Council would use to set a new 2016-2017 ACL (without inclusion of any overage, even if catch exceeds ACL for the 2015-16 fishing year), although this is unlikely, because NMFS plans to undertake the next stock assessment in 2018.

Even though this proposed specification would apply to a substantial number of vessels, i.e., 100 percent of the bottomfish fleet, NMFS does not expect the rule will have a significantly adverse economic impact to individual vessels. Landings information from the past four fishing

years, suggest that Deep 7 bottomfish landings are not likely to exceed the ACL proposed for 2015-16.

Therefore, pursuant to the Regulatory Flexibility Act, this proposed action would not have a significant economic impact on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

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

Dated: February 12, 2016.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory
Programs,

National Marine Fisheries Service.

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