



**BILLING CODE 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 665**

**[Docket No. 170330338-7470-01]**

**RIN 0648-XF335**

**Pacific Island Fisheries; 2017-18 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 306,000 lb for Deep 7 bottomfish in the main Hawaiian Islands (MHI) for the 2017-18 fishing year, which will begin on September 1, 2017, and end on August 31, 2018. If NMFS projects that the fishery will reach the ACL, 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). 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 the proposed 2017-18 ACL, identified by NOAA-NMFS-2017-0033, 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-2017-0033>, 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](http://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).

NMFS prepared an environmental analysis that describes

the potential impacts on the human environment that could result from the proposed specification. The environmental analysis and other supporting documents are available at [www.regulations.gov](http://www.regulations.gov).

**FOR FURTHER INFORMATION CONTACT:** Sarah Ellgen, NMFS PIR Sustainable Fisheries, 808-725-5173.

**SUPPLEMENTARY INFORMATION:** NMFS and the Western Pacific Fishery Management Council (Council) manage the bottomfish fishery in Federal waters around Hawaii under the Fishery Ecosystem Plan for the Hawaiian Archipelago (FEP), as authorized by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). 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*). The regulations at Title 50, Code of Federal Regulations, part 665 (50 CFR 665.4) requires NMFS to specify an ACL for MHI Deep 7 bottomfish each fishing year, based on a recommendation from the Council.

NMFS proposes to specify an ACL of 306,000 lb of Deep 7 bottomfish in the MHI for the 2017-18 fishing year. The Council recommended the proposed ACL, based on a 2011 bottomfish stock assessment updated in 2015 with three

additional years of data, and taking into consideration the risk of overfishing, past fishery performance, the acceptable biological catch recommendation from its Scientific and Statistical Committee, and input from the public. This update to the 2011 NMFS bottomfish stock assessment estimated the overfishing limit for the MHI Deep 7 bottomfish stock complex to be 352,000 lb, which is 31,000 lb less than the estimated overfishing limit in the 2011 stock assessment. Based on this update, the Council recommended a three-year phased reduction of the ACL. NMFS prepared an environmental assessment, dated March 17, 2016 (available at [www.regulations.gov](http://www.regulations.gov)), of the Council's three-year phased reduction of the ACL (entitled "Specification of Annual Catch Limits and Accountability Measures for Main Hawaiian Islands Deep 7 Bottomfish Fisheries in Fishing Years 2015-16, 2016-17, and 2017-18"). The proposed ACL of 306,000 lb for 2017-18 is the third annual reduction in this phased approach, and is 12,000 lb less than the ACL that NMFS specified last year (82 FR 5429, January 18, 2017).

The ACL is associated with a 39-percent probability of overfishing, and is more conservative than the 50-percent risk threshold allowed under NMFS guidelines for National Standard 1 of the Magnuson-Stevens Act. 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). As an additional AM, in the event that NMFS and the Council determine that the final 2017-18 Deep 7 bottomfish catch exceeds the ACL, NMFS would reduce the Deep 7 bottomfish ACL for the 2018-19 fishing year by the amount of the overage.

The fishery has not caught the specified limit in any year since 2011. NMFS does not expect the proposed ACL and AM specifications for 2017-18 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.

**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 ACL of 306,000 lb for MHI Deep 7 bottomfish, as recommended by the Council, for the 2017-18 fishing year, which will begin on September 1, 2017, and end on August 31, 2018. NMFS monitors MHI Deep 7 bottomfish catches based on data provided by commercial fishermen to the State of Hawaii. If NMFS projects that 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 AM. The proposed ACL is 12,000 lb less than the ACL that NMFS implemented for the 2016-17 fishing year, 20,000 lb less than the ACL that NMFS implemented for the 2015-16 fishing

year, and 40,000 lb less than the ACL that NMFS implemented in each of the four fishing years, 2011-12, 2012-13, 2013-14, and 2014-15. The AM would remain the same. Over the past five fishing seasons, the highest reported annual landings, 309,485 lb, occurred during the 2013-14 fishing year. NMFS does not expect that the fishery would reach the limit during the 2017-18 fishing year. Additionally, the proposed AM would allow NMFS to close the fishery to prevent the fishery from exceeding the proposed ACL. NMFS is preparing a new stock assessment that would account for fishery performance in previous years, which NMFS and the Council would consider in recommending an ACL for fishing year 2018-2019.

This rule would affect commercial and non-commercial fishermen who catch MHI Deep 7 bottomfish. Specifically, during the 2015-16 fishing year, 368 fishermen reported landing 259,530 lb of MHI Deep 7 bottomfish. With regard to the 2016-17 fishing year, which is currently underway, as of March 28, 2017, 302 fishermen have caught 180,951 lb of Deep 7 bottomfish, which represents 57% of the 2016-17 ACL for Deep 7 bottomfish. For Regulatory Flexibility Act purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2).

A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11 million or all its affiliated operations worldwide.

Based on available information, NMFS has determined that all affected entities - vessels in the commercial and non-commercial fisheries for MHI Deep 7 bottomfish - are small entities under the NMFS standard, as 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 \$11 million. Therefore, there would be no disproportionate economic impacts between large and small entities. Furthermore, there 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 MHI Deep 7 bottomfish, State of Hawaii records report that 328 of the 368 fishermen sold their MHI Deep 7 bottomfish catch during the 2015-16 fishing year. These 328 individuals sold a combined total of 240,183 lb (92.5 percent of reported catch) at a value of \$1,716,313. Based on these revenues,

the average price for MHI Deep 7 bottomfish in 2015-16 was approximately \$7.15/lb. NMFS assumed that either the remaining 40 commercial fishermen sold no Deep 7 bottomfish, or the State of Hawaii reporting program did not capture their sales. With regard to the 2016-17 fishing year currently underway, as of March 28, 2016, revenues from sales of Deep 7 bottomfish totaled \$1,138,531 from 147,274 lb sold, yielding an average price of \$7.73 per lb.

Assuming the fishery attains the ACL of 306,000 in 2017-18, and using the 2015-16 average price of \$7.15/lb, NMFS expects the potential fleet wide revenue during 2017-18 to be \$2,187,900 (or approximately \$2,023,808 under the assumption that 92.5 percent of catch is sold). If Deep 7 bottomfish catch reached the ACL during the 2017-18 fishing year and all catch were to be sold by the same number of fishermen with sales during 2015-16, each of these 328 commercial fishermen could potentially earn on average \$6,671 from the sale of 933 lb of Deep 7 bottomfish. If the fishery reaches the ACL, with 92.5 percent of all Deep 7 bottomfish catch to be sold, then these 328 commercial fishermen would sell an average of 863 lb of Deep 7 bottomfish valued at about \$6,171, which is well below the \$11 million threshold.

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.

Even though this proposed specification would apply to a substantial number of vessels, i.e., 100 percent of the bottomfish fleet, as NMFS does not expect this rule to have a significantly adverse economic impact on individual vessels. Landings information from the past five fishing years suggest that Deep 7 bottomfish landings are not likely to exceed the ACL proposed for 2017-18. 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: May 19, 2017

Alan D. Risenhoover,  
Acting Deputy Assistant Administrator for Regulatory  
Programs,  
National Marine Fisheries Service.

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