

Dated: August 25, 2010.

**Will Shafroth,**

*Acting Assistant Secretary for Fish and Wildlife and Parks.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 665

[Docket No. 100630283-0388-02]

RIN 0648-XX15

#### Fisheries in the Western Pacific; Bottomfish and Seamount Groundfish Fisheries; 2010-11 Main Hawaiian Islands Bottomfish Total Allowable Catch

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

**ACTION:** Final specification.

**SUMMARY:** In this rule, NMFS specifies a total allowable catch (TAC) of 254,050 lb (115,235 kg) of Deep 7 bottomfish in the main Hawaiian Islands (MHI) for the 2010-11 fishing year. The expected impact of the TAC is long-term sustainability of Hawaii bottomfish.

**DATES:** This final specification is effective October 1, 2010.

**ADDRESSES:** Copies of the Fishery Ecosystem Plan for the Hawaiian Archipelago and associated Environmental Impact Statement are available from the Western Pacific Fishery Management Council (Council), 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808-522-8220, fax 808-522-8226, or [www.wpcouncil.org](http://www.wpcouncil.org).

A supplemental environmental assessment (EA), was prepared that describes the impact of this final specification on the human environment. Based on the environmental impact analysis presented in the EA, NMFS prepared a finding of no significant impact (FONSI). Copies of the EA and FONSI are available from [www.regulations.gov](http://www.regulations.gov), or Michael D. Tosatto, Acting Regional Administrator, NMFS Pacific Islands Region (PIR), 1601 Kapiolani Blvd. 1110, Honolulu, HI 96814.

**FOR FURTHER INFORMATION CONTACT:** Jarad Makaiau, Sustainable Fisheries Division, NMFS PIR, 808-944-2108.

**SUPPLEMENTARY INFORMATION:** NMFS hereby specifies a TAC of Deep 7 bottomfish in the MHI for the 2010-11

fishing year of 254,050 lb (115,235 kg), as recommended by the Council, based on the best available scientific, commercial, and other information, taking into account the associated risk of overfishing. The MHI Management Subarea is the portion of U.S. Exclusive Economic Zone around the Hawaiian Archipelago lying to the east of 161° 20' W. longitude. 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 (*Epinephelus quernus*).

When the TAC is projected to be reached, NMFS will close the non-commercial and commercial Deep 7 bottomfish fisheries until the end of the fishing year (August 31, 2010). During a fishery closure for Deep 7 bottomfish, no person may fish for, possess, or sell any of these fish in the MHI, except as otherwise authorized by law. Specifically, fishing for, and the resultant possession or sale of, Deep 7 bottomfish by vessels legally registered to Pacific Remote Island Areas bottomfish fishing permits, and conducted in compliance with all laws and regulations, are not affected by the closure. There is no prohibition on fishing for or selling other non-Deep 7 bottomfish species throughout the year.

All other management measures continue to apply in the MHI bottomfish fishery. The MHI bottomfish fishery reopens on September 1, 2010, and will continue until August 31, 2010, unless the fishery is closed prior to August 31 as a result of the TAC being reached.

Additional background information on this final specification may be found in the preamble to the proposed specification published on August 2, 2010 (75 FR 45085), and is not repeated here.

#### Comments and Responses

On August 2, 2010, NMFS published a proposed specification and request for public comments on the MHI Deep 7 bottomfish TAC (75 FR 45085). The comment period ended on August 17, 2010. NMFS did not receive any public comments.

#### Changes from the Proposed Specification

There are no changes in the final specification.

#### Classification

The Regional Administrator, NMFS PIR, determined that this final specification is necessary for the conservation and management of MHI bottomfish, and that it is consistent with

the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required, and none was prepared.

This action is exempt from review under Executive Order 12866.

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

Dated: August 27, 2010.

**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 679

[Docket No. 0910131363-0087-02]

RIN 0648-XY62

#### Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Bering Sea and Aleutian Islands Management Area

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

**ACTION:** Temporary rule; closures and openings.

**SUMMARY:** NMFS is prohibiting directed fishing for Atka mackerel in the Eastern Aleutian District and the Bering Sea subarea of the Bering Sea and Aleutian Islands management area (BSAI) by vessels participating in the BSAI trawl limited access fishery. This action is necessary to prevent exceeding the 2010 total allowable catch (TAC) of Atka mackerel in these areas by vessels participating in the BSAI trawl limited access fishery. NMFS is also announcing the opening and closing dates of the first and second directed fisheries within the harvest limit area (HLA) in areas 542 and 543. These actions are necessary to conduct