

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 665****RIN 0648–XN78****Fisheries in the Western Pacific; Bottomfish and Seamount Groundfish Fisheries; Fishery Closure**

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is closing the commercial and non-commercial fisheries in the Main Hawaiian Islands fishery for seven deepwater bottomfish species (“Deep 7” bottomfish) as a result of reaching the total allowable catch (TAC) for the 2008–09 fishing year.

DATES: Effective July 6, 2009, through August 31, 2009.

FOR FURTHER INFORMATION CONTACT: Bob Harman, Sustainable Fisheries Division, NMFS Pacific Islands Region, 808–944–2271.

SUPPLEMENTARY INFORMATION:

Bottomfish fishing in Hawaii is managed under the Fishery Management Plan for Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region (Bottomfish FMP), 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. Regulations governing fishing by U.S. vessels in accordance with the Bottomfish FMP appear at 50 CFR part 665 and at subpart H of 50 CFR part 600.

The regulations at § 665.72 authorize NMFS and the Council to set a TAC limit for Deep 7 bottomfish for the fishing year, based on the best available scientific, commercial, and other information, and taking into account the associated risk of overfishing. The Deep 7 bottomfish are onaga (*Etelis coruscans*), ehu (*E. carbunculus*), gindai (*Pristipomoides zonatus*), kalekale (*P. sieboldii*), opakapaka (*P. filamentosus*), lehi (*Aphareus rutilans*), and hapu‘upu‘u (*Epinephelus quernus*).

When the TAC limit for the year is projected to be reached, the Regional Administrator is required to publish notification that the fishery will be closed beginning on a specified date, not earlier than 14 days after the date of filing the closure notice for public inspection at the Office of the **Federal Register**, until the end of the fishing year in which the TAC is reached. During the closure, no person may fish for, possess, or sell any Deep 7 bottomfish in the Main Hawaiian Islands, except as otherwise authorized by law. Specifically, fishing for, and the resultant possession or sale of, Deep 7 bottomfish by vessels legally permitted to fish in the Mau and Ho omalu Zones or Pacific Remote Island Areas, and conducted in compliance with all other laws and regulations, are not affected by

this closure. There is no prohibition on fishing for or selling non-Deep 7 bottomfish species throughout the year.

The TAC limit for the 2008–09 fishing year was recommended by the Council, and specified by NMFS, as 241,000 lb (109,316 kg) of Deep 7 bottomfish (74 FR 6998; February 12, 2009). Progress toward the 2008–09 TAC is monitored using information reported by holders of State of Hawaii commercial marine licenses through monthly catch reports submitted to the State. Based on this information, the TAC for the 2008–09 fishing year is projected to be reached on or before July 6, 2009.

In accordance with § 665.72(c), this document serves as advance notification to fishermen, the fishing industry, and the general public that the Main Hawaiian Islands Deep 7 bottomfish fishery will be closed from July 6, 2009, through the remainder of the fishing year. The 2009–10 fishing year is scheduled to open on September 1, 2009. The TAC for the 2009–10 fishing year will be published in the **Federal Register** by August 31, 2009.

This action is required by § 665.72(c) and is exempt from review under Executive Order 12866.

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

Dated: June 3, 2009.

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Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
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