

**Western  
Pacific  
Regional  
Fishery  
Management  
Council  
Amendment 5  
Northwestern Hawaiian Islands Mau Zone  
Limited Access System  
Fishery Management Plan  
for the  
Bottomfish and Seamount Groundfish Fisheries  
of the Western Pacific Region**

August 1998

(Includes Environmental Assessment, Regulatory Impact Review,  
Initial Regulatory Flexibility Analysis and Proposed Regulations)

Western Pacific Regional Fishery Management Council

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Honolulu, Hawaii 96813

## **1.0 Introductory Material**

### **1.1 Summary**

The Mau Zone was intended to serve as an area where fishermen can gain experience fishing in the Northwestern Hawaiian Islands, thereby enhancing their eligibility for subsequent entry into the limited access system established for the Hoomalu Zone. Access to the Mau Zone remained unrestricted, except for excluding vessel owners permitted to fish in the Hoomalu Zone.

More than 80 permits have been issued for the Mau Zone fishery since the implementation of the FMP. An immediate concern is the low economic returns in the fishery. Long-term concerns are continued social and economic problems associated with open access and the biological overharvesting that may result from excessive effort.

This amendment will establish a limited access system for the Mau Zone. The objectives are to ensure long-term productivity of bottomfish stocks while maintaining fishing opportunities for small-scale commercial fishermen, continue to deliver high quality products to consumers and prevent excessive fishing capacity. Consistency between the existing management regime in the Hoomalu zone and the proposed measures under this amendment was also emphasized to allow for future management options for both zones.

#### Target number of vessels

Taking into account various biological and economic factors, the Council determined that the long-term target number of vessels allowed in the fishery should be 10.

#### Initial allocation of permits

The qualifying point system for the initial allocation of permits balances historic participation with current or recent fishing activity. The control date of December 17,

1991, is used with other eligibility criteria to ensure that those who have exhibited a commitment to the fishery are allowed to maintain the continuity of their economic enterprises.

Any vessel owner who is eligible for three or more points according to the following point system shall be awarded a permit under the limited access system:

Was the owner of a vessel that was used to make at least one landing of bottomfish management unit species (BMUS) from the Mau Zone on or before December 17, 1991 - 1.5 points.

Was the owner of a vessel that was used to make at least one landing of BMUS from the Mau Zone in 1996 - 3.0 points; 1995 - 2.5 points; 1994 - 2.0 points; 1993 - 1.5 points; 1992 - 1.0 point; 1991 - 0.5 point.

A landing is defined for this purpose as any amount of BMUS caught in the Mau Zone and off-loaded for sale. Documentation of qualifying landings must be from properly submitted State of Hawaii landing reports. The reported landings for any given year may not be used to accumulate points unless an applicant held a valid Mau Zone permit during that year.

In addition, approximately one-fifth of the target number of permits will be reserved for use by a community development program. The Council, in consultation with National Marine Fisheries Service (NMFS), will develop criteria for community eligibility. In addition, the Council, in consultation with NMFS, will establish principles, procedures and process for soliciting, evaluating and selecting community development plans describing how the permits will be used. The number of permits allocated to the program may be periodically reviewed and changed.

The initial allocation of permits under a limited access system for the Mau Zone fishery may result in a number of participants that exceeds the long-term target number. For this reason, various permit restrictions (described below) are imposed that are expected to gradually reduce the number of fishery participants to achieve the target number.

#### Vessel ownership restrictions

Permit holders must be an individual, partnership or corporation. The holders must retain at least 50% ownership in the permitted vessel or its replacement. A permit holder whose vessel is unseaworthy or who does not currently own a vessel may lease or charter a vessel for up to 12 months.

#### Use-it-or-lose-it requirement

Permits for the Mau Zone fishery will be issued on an annual calendar basis.

Participants must meet annual trip and landing criteria in order to qualify for a permit the following year. Participants must make 5 trips to the Mau Zone and land a minimum of 500 pounds per trip of BMUS from the Mau Zone in order to qualify for a permit the following calendar year. The absence of a vessel does not exempt a permit holder from the use-it-or-lose-it requirement. The Council may adjust the annual trip and landing criteria of the use-it-or-lose-it permit requirement and/or impose other requirements.

#### Permit transfer, lease, charter and sale restrictions

Permit recipients can not transfer, lease, charter or sell their permit.

#### Annual review

The Council shall undertake an annual review of the Mau Zone limited access system to determine whether adequate attrition has taken place. In the event that it has not, the

Council may adjust the use-it-or-lose-it permit requirement and/or impose other requirements. If the current number of fishery participants is less than the target number, the Council may develop opportunities for new vessels to enter the fishery.

#### Five-year review

The Council shall undertake a comprehensive review of the effectiveness of the limited access system five years after implementation.

#### Entry by new vessels

When the number of permitted vessels falls below the target number an opportunity for new participants to enter the fishery will be provided. At this time, the Council is considering establishing a lottery or qualifying point system to allow new entrants into the fishery. The lottery or point system may take into account historical participation in the Northwestern Hawaiian Islands or main Hawaiian Islands bottomfish fishery.

When the number of permitted vessels is equal to or falls below the target number the Council may also combine the Mau and Hoomalu Zones into one limited access system, and/or it may implement identical systems of permit transfer in both zones. If the two zones are combined, the Council may consider establishing other systems of transfer, including direct transfers of permits from one fisherman to another through a market mechanism subject to anti-monopoly and certain other constraints.

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## **1.3 Introduction**

### **1.3.1 Existing Regulations**

The fishery management plan (FMP) for bottomfish and seamount groundfish fisheries in the western Pacific region became effective on August 27, 1986, as published in Federal Register Notice 51FR27413, July 31, 1986. The FMP prohibits certain destructive fishing techniques, including explosives, poisons, trawl nets and bottom-set gillnets, establishes a moratorium on the commercial harvest of seamount groundfish stocks at the Hancock Seamounts and implements a permit system for fishing for bottomfish in the exclusive economic zone (EEZ) around the Northwestern Hawaiian Islands (NWHI). The plan also establishes a management framework that includes adjustments, such as catch limits, size limits, area or seasonal closures, fishing effort limitation, fishing gear restrictions, access limitation, permit and/or catch reporting requirements and a rules-related notice system.

Amendment 1 includes the establishment of limited access systems for bottomfish fisheries in the EEZ surrounding American Samoa and Guam within the framework measures of the FMP.

Amendment 2 was developed in 1988 to diminish the risk of biological overfishing and improve the economic health and stability of the bottomfish fishery in the NWHI. The amendment divides Federal waters of the NWHI into two zones: the Hoomalu Zone and the Mau Zone. A limited access system was established for the Hoomalu Zone. Access to the Mau Zone remained unrestricted, except for excluding vessel owners permitted to fish in the Hoomalu Zone. The Mau Zone is intended to serve as an area where fishermen can gain experience fishing in the NWHI, thereby enhancing their eligibility for subsequent entry into the Hoomalu Zone.

Amendment 3 defines recruitment overfishing as a condition in which the ratio of the spawning stock biomass per recruit at the current level of fishing to the spawning stock biomass per recruit that would occur in the absence of fishing is equal to or less than 20 percent. Amendment 3 also delineates the process by which overfishing is monitored and evaluated.

Amendment 4 requires vessel owners or operators to notify the NMFS at least 72 hours before leaving port if they would be fishing in a 50-mile study zone around the NWHI. This notification allows Federal observers to be placed on board bottomfish vessels to record interactions with protected species if this action is deemed necessary.

### **1.3.2 Responsible Agencies**

The Council was established by the Magnuson Fishery Conservation and Management Act to develop management plans for fisheries operating in the U.S. EEZ around American Samoa, Guam, Hawaii, the Northern Mariana Islands and the U.S. possessions in the Pacific. Once an FMP is approved by the Secretary of Commerce, it is implemented by Federal regulations that are enforced by the NMFS and the U.S. Coast Guard, in cooperation with state, territorial and commonwealth agencies. For further information, contact:

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|---|---|
| <u>Kitty M. Simonds</u><br>Executive Director<br>Western Pacific Fishery Management<br>Council<br>1164 Bishop Street, Suite 1400<br>Honolulu, HI 96813<br>Telephone: (562) 980-4001 | <u>Charles Karnella</u><br>Pacific Islands Area Office Administrator<br>NMFS Pacific Island Area Office<br>2570 Dole Street<br>Honolulu, Hawaii 96822-2396<br>Telephone: (808) 522-8220 |
|---|---|

### **1.3.3 List of Preparers**

This amendment was prepared by (listed alphabetically within agencies):

|  |  |
|--|--|
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|--|--|

The Council would like to thank the members of the Mau Zone Task Force for their time and commitment in helping the Council develop this amendment. Task Force members included: Gary Dill, Robert Gomes, Donald Heacock, Walter Ikehara, David Kalthoff (Chair), Alvin Katekaru, Kurt Kawamoto, Reginald Kokubun, Charles Lesniak, Samuel Pooley, Craig Severance, Clayward Tam, Timm Timony and William Wakefield.

### **1.3.4 Public review and comment**

This amendment was developed with the assistance of a Mau Zone task force established by the Council and was reviewed by the bottomfish and seamount groundfish Plan Team, fishing industry Advisory Panel and the Scientific and Statistical Committee. A draft of this amendment was distributed for comments to all holders of Federal permits for the Northwestern Hawaiian Islands bottomfish fishery and holders of State of Hawaii Commercial Marine Licenses. Notice of the availability of a draft amendment for public review and comment was published in the Federal Register on June 3, 1998. Public meetings and hearings regarding this amendment are listed below.

| Date          | Meeting (Location)  | Published Notice                                     |
|---------------|---|--|
| 29 July 1998  | 97 <sup>th</sup> Council, pubic hearing (Kona)            | *FR, **HNA, Hawaii Tribune Herald, West Hawaii Today |
| 16 April 1998 | 95 <sup>th</sup> Council, public meeting (American Samoa) | FR, HNA, American Samoa News                         |

|                   |  |                                       |
|-------------------|--|---------------------------------------|
| 5 April 1998      | Task Force, public meeting (Honolulu)  | FR, HNA                               |
| 25 March 1998     | Scientific and Statistical Committee (Honolulu)  | FR, HNA                               |
| 11 March 1998     | Bottomfish Plan Team, public meeting (Honolulu)  | FR, HNA                               |
| 29 January 1998   | Pubic Hearing, Kauai   | FR, HNA, The Garden Isle, Kauai Times |
| 28 January 1998   | Public Hearing, Oahu   | FR, HNA                               |
| 27 January 1998   | Public Hearing, Maui   | FR, HNA, Maui News                    |
| 14 November 1997  | 94 <sup>th</sup> Council, public meeting (Honolulu)                                    | FR, HNA                               |
| 11 November 1997  | Scientific and Statistical Committee, public meeting (Honolulu)                        | FR, HNA                               |
| 2 October 1997    | Task Force, public meeting (Honolulu)  | FR, HNA                               |
| August 21, 1997   | 93 <sup>rd</sup> Council, public meeting (Honolulu)                                    | FR, HNA                               |
| August 6, 1997    | Scientific and Statistical Committee, public meeting (Kona)                            | FR, HNA                               |
| July 28, 1997     | Task Force, Bottomfish Plan Team, Bottomfish Advisory Panel, public meeting (Honolulu) | FR, HNA                               |
| 15 May 1997       | Bottomfish Plan Team, public meeting (Honolulu)  | FR, HNA                               |
| 25 April 1997     | 92 <sup>nd</sup> Council, pubic meeting (Honolulu)                                     | FR, HNA                               |
| 23 April 1997     | Bottomfish Advisory Panel, public meeting (Honolulu)                                   | FR, HNA                               |
| 1 April 1997      | Task Force, public meeting (Honolulu)  | FR, HNA                               |
| 9 April 1997      | SSC, public meeting (Honolulu)   | FR, HNA                               |
| 28 February 1997  | Task force, public meeting (Honolulu)  | FR, HNA                               |
| 21 November 1996  | 91 <sup>st</sup> Council, public meeting (Honolulu)                                    | FR, HNA                               |
| 24 September 1996 | Task Force, public meeting (Honolulu)  | FR, HNA                               |
| 9 August 1996     | 90 <sup>th</sup> Council, public meeting (Molokai)                                     | FR, HNA, Molokai Dispatch             |
| 23 July 1996      | Task Force, public meeting (Honolulu)  | FR, HNA                               |
| 17 June 1996      | Task Force, public meeting   | FR, HNA                               |



|               |  |         |
|---------------|--|---------|
|               | (Honolulu)   |         |
| 26 April 1996 | 89 <sup>th</sup> Council, public meeting<br>(Honolulu) | FR, HNA |

\*Federal Register

\*\*Hawaii Newspaper Agency (Honolulu Advertiser and Honolulu Star Bulletin)

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