



U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Pacific Islands Regional Office
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August 29, 2014

Mr. Arnold Palacios
Chair
Western Pacific Fishery Management Council
1164 Bishop St., Suite 1400
Honolulu, HI 96813

Dear Mr. Palacios:

By this letter, I am notifying the Council that its recommendation of an annual catch limit (ACL) of 346,000 lb of main Hawaiian Islands (MHI) Deep 7 bottomfish for the 2014-15 fishing year is inconsistent with National Standards 1 and 2 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

National Standard 1 requires that conservation and management measures prevent overfishing while achieving optimum yield on a continuing basis. The most important limitation on the specification of optimum yield is that the choice of optimum yield and the conservation and management measures proposed to achieve it must prevent overfishing. In terms of the Council's action, this means that the SSC's recommendation of the acceptable biological catch (ABC) must have at least a 50 percent chance of preventing overfishing, and the Council's recommended ACL may not exceed the ABC.

National Standard 2 requires that conservation and management measures be based on the best scientific information available, and be founded on comprehensive analyses. Although such do not require *perfect* scientific information, the Council must base decisions on a thorough consideration of all the available scientific evidence in the current record.

At the June 2014 SSC and Council meetings, staff from the NMFS Pacific Islands Fisheries Science Center (PIFSC) presented the results of a draft 2014 stock assessment update for the SSC and Council's use in setting the 2014-15 fishing level recommendations. The assessment update uses the previous 2011 stock assessment's methods for data analysis, modeling, and stock projections, with one improvement--it includes fishermen's skill as a new variable to standardize catch per unit effort (CPUE), allowing the assessment model to account for the effects of individual fishermen. This improvement is highly significant, resulting in a two-fold increase in the explanatory power (R-squared) of the CPUE standardization and a substantial decrease in the Akaike information criterion value of the CPUE standardization, which now explains over 50% of the variation in observed CPUE. Additionally, in the three additional years (2011-13) covered by the 2014 assessment, the biomass of the Deep 7 species and the exploitation rate were about the same as in the preceding three years. Therefore, the updated estimates of the values for management are not a result of any significant change in biomass or exploitation rate, but are due to better estimation of their values provided by the previous assessment.



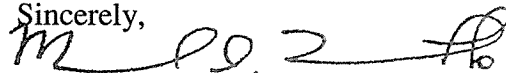
Although the 2011 stock assessment indicates that an ACL of 346,000 lb has a 41 percent probability of overfishing MHI Deep 7 bottomfish, the results of the draft 2014 assessment update indicate that this level of catch has a probability of overfishing greater than 50 percent. Because the Council's recommendation does not have at least a 50 percent chance of preventing overfishing in 2014-15, it is inconsistent with National Standard 1.

The SSC advised the Council to rely on the 2011 assessment pending resolution to the SSC's questions and comments regarding the CPUE standardization procedures used in the draft 2014 stock assessment update. I understand that the PIFSC responded to these issues during its presentation to the Council in June, and subsequently provided the Council with its response in writing. Although the 2014 assessment update was not final at the time of the Council's ACL recommendation, NMFS considers it superior to the 2011 assessment. Because the Council did not have access to the complete written response from the PIFSC to the SSC's concerns at the time the Council made its ACL recommendation in June 2014, the Council could not adequately consider information in the 2014 stock assessment that indicated that its ACL recommendation would not prevent overfishing. Because the Council's recommendation did not consider all of the available scientific information to support fisheries management, it is inconsistent with National Standard 2.

Pursuant to Magnuson-Stevens Act section 304(b), I advise the Council to provide a revised ACL recommendation that is consistent with these national standards at the October 2014 Council meeting. Appropriate revisions might include, for example, requesting the SSC to recalculate ABC relying on the 2014 stock assessment upon which the Council would recommend a new ACL, or other recommendations that would account for all the available scientific evidence in the current record and likely prevent overfishing. If the Council does not provide a recommendation at its October 2014 meeting, or if the recommendation is inconsistent with the national standards or other provisions of the Magnuson-Stevens Act or other applicable laws, NMFS would need to take Secretarial action under section 305(d) of the Magnuson-Stevens Act to carry out the ACL requirements of the Hawaii Fishery Ecosystem Plan.

My staff stands ready to assist the Council in preparing for this action.

Sincerely,

A handwritten signature in black ink, appearing to read "M. D. Tosatto", with a stylized flourish at the end.

Michael D. Tosatto
Regional Administrator

cc: Kitty Simonds, Western Pacific Fishery Management Council
Fred Tucher, NOAA General Council, Pacific Islands Section
Sam Pooley, NMFS Pacific Islands Fisheries Science Center