

(iv) Remove the bill and liver of any swordfish that is caught, sever its head from the trunk and cut it in half vertically and periodically discharge the butchered heads and livers in accordance with paragraph (i) of this section;

(v) Employ a tori line system, prior to the first hook being set, that meets the following requirements:

(A) The tori line must be at least 150 m (492 ft) long for shallow-setting vessels and 75 m (246 ft) long for deep-setting vessels, and is composed of an aerial portion attached to a submerged portion. For a shallow-setting vessel, the aerial portion must extend at least 80 m (262 ft) behind the stern of the vessel, and the submerged portion must extend at least 70 m (230 ft). For a deep-setting vessel, the aerial portion must extend at least 40 m (131 ft), and the submerged portion must extend at least 35 m (115 ft);

(B) The aerial portion of the line must be composed of a line 3–6 mm (0.12–0.24 in) in diameter, and the submerged portion of the line shall be composed of twisted polypropylene or rope that is at least 5 mm (0.20) in diameter;

(C) The tori line must be fixed to a pole or vessel structure that allows the position of the line to be adjusted to achieve the requirements for aerial and submerged lengths and coverage over the area where the baited hooks are at or near the sea surface; and

(D) At least three pairs of streamers must be attached to the aerial portion of the line at regular intervals, beginning no closer than 5 m (16.4 ft) to the tori pole or vessel structure. Each pair of streamers must be fixed to a single point on the line. Each streamer must be brightly colored and made of UV-protected plastic tubing or a minimum of 10 mm (0.4 in) polyester line or material of equivalent density. Each streamer must be long enough to drag on the sea surface in the absence of wind.

(vi) When using basket-style longline gear north of 23° N. lat., ensure that the main longline is deployed slack to maximize its sink rate; and

(vii) Use completely thawed bait that has been dyed blue to an intensity level specified by a color quality control card issued by NMFS; and

(viii) Maintain a minimum of two cans (each sold as 0.45 kg or 1 lb size) containing blue dye on board the vessel; and

(ix) Follow the requirements in paragraphs (a)(3) and (a)(4) of this section, as applicable.

(3) *Deep-setting requirements.* The following additional requirements apply to vessels engaged in deep-setting using a monofilament main longline north of

23° N. lat. that do not side-set. Owners and operators of these vessels must:

(i) Employ a line shooter; and

(ii) Attach a weight of at least 45 g (1.6 oz) to each branchline within 1 m (3.3 ft) of the hook.

(4) *Shallow-setting requirement.* In addition to the requirements set forth in paragraphs (a)(1) and (a)(2) of this section, vessels engaged in shallow-setting that do not side-set must begin the deployment of longline gear at least 1 hour after local sunset and complete the deployment no later than local sunrise, using only the minimum vessel lights necessary for safety.

(b) \* \* \*

(10) Any seabird that is released, in accordance with paragraph (b)(9) of this section or under the guidance of a veterinarian, must be placed on the sea surface.

\* \* \* \* \*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 050701176–5176–01; I.D. 062405B]

RIN 0648–AT47

#### Fisheries off West Coast States and in the Western Pacific; Western Pacific Bottomfish Fisheries; Main Hawaiian Islands; Control Date

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

**ACTION:** Proposed rule; advance notice of proposed rulemaking; establishment of a control date; request for comments.

**SUMMARY:** NMFS announces that persons who enter the bottomfish fishery in the U.S. exclusive economic zone (EEZ) around the main Hawaiian Islands (MHI) after June 2, 2005, (“control date”) are not guaranteed future participation in the fishery if the Western Pacific Fishery Management Council (Council) prepares and NMFS approves a program limiting entry or effort. This action does not commit the Council or NMFS to limit entry, or prevent any other date from being selected for eligibility to participate in the MHI bottomfish fishery. The Council or NMFS may also use other criteria to limit fishing effort or participation in a limited entry program that is developed in the future.

**DATES:** Comments must be submitted in writing by August 12, 2005.

**ADDRESSES:** You may submit comments identified by I.D. 062405B by any of the following methods:

- E-mail: [AT47@NOAA.gov](mailto:AT47@NOAA.gov). Include in the subject line of the e-mail comment the following document identifier: MHI bottomfish control date. Comments sent via e-mail, including all attachments, must not exceed a 10 megabyte file size.

- Federal e-Rulemaking portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Mail: William L. Robinson, Administrator, NMFS, Pacific Islands Region (PIR), 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814.

- Fax: 808–973–2941

**FOR FURTHER INFORMATION CONTACT:**

Walter Ikehara, PIR, at 808–973–2937.

**SUPPLEMENTARY INFORMATION:** On June 2, 2005, the Council adopted a “control date” of June 2, 2005, applicable to persons intending to participate in the fishery (commercial and non-commercial) for bottomfish multi-species stock complex (bottomfish complex) operating in the U.S. EEZ around the MHI. The purpose of this action is to notify fishermen, who may be interested in participating in the fishery, that if they enter this fishery after June 2, 2005, they may not be assured of future access if the Council and/or NMFS decide to limit new entry or limit effort in the fishery. Neither the Council nor NMFS have yet decided whether to limit new entry to this fishery or how new entry might be limited.

Establishment of a control date responds to NMFS’ notification to the Council on May 27, 2005, (70 FR 34452, June 14, 2005) that overfishing is occurring in the bottomfish complex around the Hawaiian Archipelago and that management action must be taken by the Council to end this overfishing condition. Since this condition primarily occurs in the MHI, the Council tentatively determined that a limited entry permit program might be utilized to end overfishing in this fishery.

At present, 3,736 fishing vessels are registered for use with State of Hawaii bottomfish permits (commercial and non-commercial), of which 2,101 (56 percent) are classified as commercial fishing vessels. This represents an estimate of fishermen who could be affected by the control date. The MHI bottomfish fishing grounds are located predominantly in State waters (about 80 percent based on the 100–fm contour); however, it is estimated that about 65 percent of the bottomfish fishing trips

take place in Federal EEZ waters, based on State of Hawaii 2003 commercial fishing data. Also, approximately 69 percent of the commercial bottomfish landings come from Federal waters. Estimates of recreational catch and effort are unavailable.

Control dates are intended to discourage speculative entry into fisheries, as new entrants entering the fishery after the control date are forewarned that they are not guaranteed future participation in the fishery.

This control date does not commit the Council or NMFS to any particular

management regime or criteria for entry into the MHI bottomfish fishery.

Fishermen are not guaranteed future participation in this fishery, regardless of their level of participation before or after the control date. The Council may choose a different control date or it may choose a management regime that does not involve a control date. Other criteria, such as documentation of commercial landings and sales, may be used to determine eligibility for participation in a limited access fishery. The Council also may choose to take no further action to control entry or access

to the fishery, in which case the control date may be rescinded.

This advance notice of proposed rulemaking has been determined to be not significant for the purposes of Executive Order 12866.

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

Dated: July 7 2005.

**Rebecca Lent,**

*Deputy Assistant Administrator for  
Regulatory Programs, National Marine  
Fisheries Service.*

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