

requirements, Superfund, Water pollution control, Water supply.

**Authority:** 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Dated: June 30, 2008.

**George Pavlou,**

*Acting Regional Administrator, Region 2.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 665

[Docket No. 080702815–8819–01]

RIN 0648–AW98

#### Fisheries in the Western Pacific; Western Pacific Pelagic Fisheries; Control Date; Hawaii Pelagic Charter Fishery

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

**ACTION:** Advance notice of proposed rulemaking; notification of control date; request for comments.

**SUMMARY:** NMFS announces that anyone who enters the Hawaii-based pelagic charter fishery after June 19, 2008, (the “control date”) is not guaranteed future participation in the fishery if the Western Pacific Fishery Management Council (Council) recommends, and NMFS approves, a program that limits entry into the fishery, or other fishery management measures. The Council is concerned about potential expansion of the Hawaii-based pelagic charter fishery and resultant impacts on billfish and other pelagic fishes.

**DATES:** Written comments must be received by September 22, 2008.

**ADDRESSES:** You may submit comments on this notice, identified by 0648–AW98, to either of the following addresses:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal [www.regulations.gov](http://www.regulations.gov); or

- *Mail:* William L. Robinson, Regional Administrator, NMFS, Pacific Islands Region (PIR), 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814–4700.

*Instructions:* All comments received are a part of the public record and will generally be posted to

[www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the commenter may be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Brett Wiedoff, NMFS PIR, 808–944–2272.

**SUPPLEMENTARY INFORMATION:** At its 142nd meeting held from June 16–19, 2008, the Council adopted a control date of June 19, 2008, applicable to persons who are contemplating entering the Hawaii-based charter fishery for pelagic fishes. The purpose of the control date is to notify fishermen that after June 19, 2008, they may not be guaranteed access to the fishery if the Council recommends, and NMFS approves, a limited entry program or other measures to manage the fishery.

Although the Council has not yet recommended limiting new entry or imposing any other management measures in this fishery, establishment of the June 19, 2008, control date responds to the Council’s concern over significant expansion of the Hawaii-based pelagic charter fishery, and its potential to impact billfish and other pelagic fishes. This concern is focused on potential expansions of the Honokohau Harbor on the island of Hawaii, and the Ewa Marina on the island of Oahu. The expansion could provide more berths for charter fishing vessels, with resulting increases in fishing effort for pelagic fishes, such as blue marlin, *Makaira nigricans*. State of Hawaii fishery data indicate that blue marlin catch per unit effort from Kona-based pelagic charter fishing has declined significantly over the past 20 years. Similar trends are also apparent for pelagic charter fishing data from the other Hawaiian Islands.

Pelagic charter fishing, conducted from small vessels that primarily target billfishes and tunas and are chartered for a fee, is a notable component of tourism in Hawaii. Total generated revenues were estimated at \$17 million in 1990 and \$16.5 million in 1992. The industry attracted an estimated 77,000 participants in 1994, and employed approximately 400 captains and crew members in 1997. Because at least a portion of the catch is typically sold, pelagic charter fishing in Hawaii is classified as a commercial fishery, requiring State of Hawaii commercial

marine licenses and catch reporting. To date in 2008, the State of Hawaii has issued approximately 128 commercial marine licenses to vessels for pelagic charter fishing. In 2006, 119 licensed fishermen submitted fishing reports that reported a total of 9,535 charter trips, an average of 81.4 trips per vessel. In 2007, some 8,797 trips were reported, an average of 68.2 trips per vessel.

The June 19, 2008, control date supersedes one of March 16, 2007, that had been adopted previously by the Council for the same fishery (72 FR 26771, May 11, 2007). The June 19, 2008, control date also complements a control date of June 2, 2005, established for non-longline commercial pelagic fisheries in Hawaii (70 FR 47781, August 15, 2005) in response to concerns about overfishing of bigeye tuna Pacific-wide and yellowfin tuna in the central and western Pacific.

The Council and NMFS seek public comment about whether or not a control date is needed, whether this is an appropriate control date, and how the control date might be applied to a future management program for the Hawaii pelagic charter fishery, if such a program is developed by the Council and NMFS.

Control dates are intended to discourage speculative entry into fisheries, as new participants entering the fisheries after the control date are put on notice that they are not guaranteed future participation in the fisheries. Establishment of this control date does not commit the Council or NMFS to any particular management regime or criteria for entry into the Hawaii-based pelagic charter fishery. Fishery participants are not guaranteed future participation in the 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 landings or sales, may be used to determine eligibility for participation in a limited access fishery. The Council or NMFS 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.

#### Classification

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 16, 2007.

**Samuel D. Rauch III,**

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

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