

special management considerations or protection.

#### *How Does NMFS Intend To Proceed?*

Section 4(b)(3)(D)(ii) of the ESA requires that NMFS, within 12 months of the date a petition is received, make a determination on how it intends to proceed with the requested revision and promptly publish notification of such intention in the **Federal Register**. NMFS made its determination in the previous section of this notice that the requested revision, as specified by the petitioner, is not warranted at this time. However, NMFS intends to continue with planned research activities during 2003 and evaluate new information to determine whether physical and biological features essential to the conservation of the species exist that may warrant a revision of critical habitat. To further investigate those physical or biological features essential to the conservation of the North Atlantic right whale, and to propose any revisions to designated critical habitat that might be supported by new information and analysis, NMFS would have to complete at least the following steps:

(1) In the waters off of the Southeast U.S., continue analysis of right whale distribution data in relation to bathymetry and sea surface temperature derived from Advanced Very High Resolution Radiometer (AVHRR) imagery;

(2) In the waters off of the Northeast U.S., continue its own efforts, as well as collaborate with others working in the Gulf of Maine Ecosystem, to characterize the spatial and temporal distribution of zooplankton;

(3) Examine the available scientific information to assess whether other physical or biological features of the environment are essential to the conservation of the species;

(4) Identify those "specific areas within the geographical area occupied by the species, at the time it is listed..., on which are found" one or more of the physical or biological features determined to be essential for conservation;

(5) Evaluate the current or future special management considerations or protections relevant to the habitat features determined to be essential for conservation;

(6) Evaluate the economic and other relevant impacts of including any particular area in the designation of critical habitat, weigh these benefits and negative impacts, and determine whether exclusion of any area would lead to the extinction of the North Atlantic right whale; and

(7) Identify specific areas outside the geographical areas occupied by the North Atlantic right whale at the time it was listed, that are essential to the conservation of the species, and evaluate the impacts of designating any of these areas as critical habitat.

While NMFS intends to investigate further the nature and location of physical and biological features essential to the conservation of right whales and will evaluate new information to determine whether a proposed rule to revise critical habitat is appropriate, this notice should not be misinterpreted as a commitment to take any particular action because any such commitment would be premature at this time. If a revision of critical habitat is warranted in the future, NMFS will provide notice to the public as required by the ESA.

All references are available upon request (**see FOR FURTHER INFORMATION CONTACT**).

**Authority:** 16 U.S.C. 1531 *et seq.*

Dated: August 22, 2003.

**Rebecca Lent,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 030820209-3209-01; I.D. 081203B]

RIN 0648-AR37

#### Fisheries off West Coast States and in the Western Pacific; Western Pacific Bottomfish Fisheries; Guam and Commonwealth of the Northern Mariana Islands; Control Date

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

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

**SUMMARY:** NMFS announces that persons who enter the bottomfish fisheries in waters of the U.S. exclusive economic zone (EEZ) around Guam and the Commonwealth of the Northern Mariana Islands (CNMI) after June 13, 2003, ("control date") are not guaranteed future participation in these fisheries. 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 bottomfish fishery off Guam and/or CNMI. 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. The purpose of this action is to notify persons interested in joining these fisheries after June 13, 2003, that they may be excluded if restrictions are adopted in the future.

**DATES:** Comments must be submitted in writing by September 29, 2003.

**ADDRESSES:** Submit written comments to Kitty M. Simonds, Council Executive Director, 1164 Bishop Street, Suite 1400, Honolulu, Hawaii, 96813; or faxed to (808) 522-8226. Comments will not be accepted if submitted via E-mail or Internet.

#### FOR FURTHER INFORMATION CONTACT:

Kitty M. Simonds at 808-522-8220.

**SUPPLEMENTARY INFORMATION:** On June 13, 2003, at its 118th meeting, the Council adopted a "control date" of June 13, 2003, as a notice to persons contemplating entering the fisheries for bottomfish species in the EEZ around Guam and CNMI. This action would not impose any restrictions on the public, but is intended solely to notify persons who joined or may join these fisheries after June 13, 2003, that they might be excluded if restrictions are adopted in the future under the Magnuson-Stevens Fishery Conservation and Management Act.

This control date does not commit the Council or NMFS to any particular management regime or criteria for entry into the bottomfish fisheries off Guam and/or CNMI. Fishermen are not guaranteed future participation in either or both fisheries, 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 limited access program. Documentation of fish 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.

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

Dated: August 25, 2003.

**Rebecca Lent,**

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

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