

Dated: August 10, 2000.

**Karen H. Brown,**

*Deputy Director, NIST.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 080900B]

#### Fisheries off West Coast States and in the Western Pacific; Western Pacific Pelagic Fisheries; Notice of Court Order Requiring Actions to Reduce the Incidental Catch of Sea Turtles in the Hawaii Pelagic Longline Fishery

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

**ACTION:** Notice of Requirements of the Order of August 4, 2000, of the United States District Court for the District of Hawaii.

**SUMMARY:** This document announces the terms of the August 4, 2000, Order of the United States District Court for the District of Hawaii. This Order amends the Court's earlier Orders Of Injunction. This Order will remain in effect until NMFS completes an Environmental Impact Statement (EIS) analyzing the effect of fishing activities regulated under the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region (FMP). The Order requires that NMFS complete the EIS by April 1, 2001. Under this Order, certain areas are closed year-round to fishing by vessels engaged in the Hawaii-based pelagic longline fishery and other areas are seasonally closed. In certain areas, limitations have been placed on fishing effort and 100 percent observer coverage is required. In the remaining area, fishing for swordfish is prohibited, observer coverage must be increased to 10 percent by September 21, 2000, and to 20 percent by November 2, 2000, and vessel operators are required to submit written reports to NMFS within 5 days of returning to port of any swordfish taken during that trip.

NMFS must make observer reports available to the Court by the first of each month, continue to require Hawaii longline vessels to carry and use NMFS-approved line clippers and dip nets, and continue its research into the effects of several different gear modifications to reduce or eliminate the incidental catch of sea turtles.

#### FOR FURTHER INFORMATION CONTACT:

Alvin Katekaru, Fishery Management Specialist, PIAO, 808-973-2937.

#### SUPPLEMENTARY INFORMATION:

Background information on actions taken to implement an earlier Order of the United States District Court for the District of Hawaii was published in the **Federal Register** on December 27, 1999 (64 FR 72290) and on June 19, 2000 (65 FR 37917) and is not repeated here. In the near future, NMFS anticipates publishing regulations implementing the requirements of the Court's Order of August 4, 2000. This document is published to provide the public with notification of the requirements of that Order.

On August 4, 2000, Judge David A. Ezra, U.S. District Court for the District of Hawaii, (Court) issued an Order Further Amending the Order Modifying Provisions of Order of Injunction (Order) in *CMC v. NMFS*. The Court ordered that:

1. All Hawaii-based longline fishing activities, authorized under the FMP, are prohibited in an area north of the Hawaiian Islands bounded by 28° N. lat. and 44° N. lat., and between 150° W. long. and 168° W. long. This area, designated as "Area A", is essentially the current longline closed area (see 64 FR 72290, December 27, 1999; 65 FR 37917, June 19, 2000).

2. Effective August 10, 2000, all Hawaii-based longline fishing activities authorized under the FMP are restricted in two geographically separate areas north of the Hawaiian Islands bounded by (a) 28° N. lat. and 44° N. lat., and between 137° W. long. and 150° W. long.; and (b) 28° N. lat. and 44° N. lat., and between 168° W. long. and 173° E. long. In both these areas, which are collectively designated as "Area B", Hawaii-based longline fishing vessels are limited to a fleet-wide maximum of 154 longline sets between August 10, 2000 and December 31, 2000, and a maximum of 77 longline sets between January 1, 2001 and March 14, 2001. All Hawaii-based longline fishing is prohibited in Area B from the time period between March 15, 2001, and May 31, 2001.

3. All Hawaii-based longline fishing vessels must have a NMFS-approved observer on board while longline fishing in Area B. If 100 percent observer coverage is not achieved, NMFS must immediately suspend all longline fishing activities in the area until full observer coverage is attained.

4. Effective August 10, 2000, all Hawaii-based longline fishing vessels are prohibited from using longline gear to target Pacific broadbill swordfish

(*Xiphias gladius*) (swordfish) in the area bounded by 28° N. lat. and 0° N. lat. (the equator), and between 137° W. long. and 173° E. long. In this area, designated as "Area C", longline fishing is restricted to tuna fishing only. In addition, longline fishing in Area C is prohibited from March 15 through May 31. Furthermore, the landing in any port within the territory of the United States, or sale by any longline permit-holder or its agents, of any swordfish caught by a Hawaii longline vessel in Area C is limited, whereby any "profits" from the landing and sale of swordfish landed in this area must be donated to charity.

5. All vessel operators must submit to NMFS, within 5 days from returning to port, a written report of any swordfish taken in Area C during that trip.

6. By September 21, 2000, NMFS is required to achieve a 10 percent level of observer coverage for the longline fishery in Area C. By November 5, 2000, NMFS must attain a minimum observer coverage level of 20 percent in the area. If at any time during these periods the observer coverage falls below the court-specified coverage levels, longline fishing must be suspended in Area C until the required coverage level is attained.

7. On the first day of each month, NMFS must provide the Court and attorneys for the U.S. Government, plaintiffs, and Defender-Intervener copies of all observer reports prepared by NMFS approved observers.

8. NMFS is directed to complete the EIS by April 1, 2001. NMFS may apply for a reasonable extension of the completion deadline upon a showing of good cause; however, if an extension is granted by the Court, all provisions of this Order will remain in effect until the EIS is completed.

9. NMFS will continue to require every vessel registered with a Hawaii longline limited entry permit to carry and use NMFS-approved line clippers and dip nets to disengage any hooked or entangled sea turtles (final rule: 65 FR 16346, March 28, 2000); and

10. NMFS will continue its research into the effects of several different gear modifications.

The Order states that it shall remain in effect until further order of the Court or until the completion of the EIS.

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

Dated: August 10, 2000.

**Bruce C. Morehead,**

*Acting Director, Office of Sustainable Fisheries Service.*

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