

proposed action are contained in the proposed rule, published April 10, 2002 (67 FR 17349), and are not repeated here. Copies of the proposed rule may be obtained by writing (see **ADDRESSES**) or by calling the listed contact person (see **FOR FURTHER INFORMATION CONTACT**).

The proposed rule addressing CHB and recreational HMS permits will publish in the **Federal Register** on April 26, 2002. Upon publication, copies of the proposed rule may be obtained by writing (see **ADDRESSES**) or by calling the listed contact person (see **FOR FURTHER INFORMATION CONTACT**).

#### Hearing Dates, Times, and Locations

The hearings for these proposed rules will be conducted jointly at the identified locations. NMFS intends to dedicate half of the hearing time to each proposed rule. The public hearing schedule is as follows:

*Wednesday, May 8, 2002—Panama City, FL, 7–9 p.m.*—NMFS Panama City Laboratory, 3500 Delwood Beach Road, Panama City, FL 32408

*Monday, May 13, 2002—Barnegat Light, NJ, 7–9 p.m.*—Barnegat Light Fire House, 10th and Boulevard Street, Long Beach Island, Barnegat Light, NJ 08006

*Wednesday, May 15, 2002—Riverhead, NY, 7–9 p.m.*—Riverhead Town Hall, 200 Howell Avenue, Riverhead, NY 11901

*Friday, May 17, 2002—Silver Spring, MD, 2–4 p.m.*—NOAA Science Center, 1301 East-West Highway, Silver Spring, MD 20910

#### Public Hearings Code of Conduct

The public is reminded that NMFS expects participants at the public hearings to conduct themselves appropriately. At the beginning of each public hearing, a representative of NMFS will explain the ground rules (e.g., alcohol is prohibited from the hearing room; attendees will be called to give their comments in the order in which they registered to speak; each attendee will have an equal amount of time to speak; and attendees should not interrupt one another). The NMFS representative will attempt to structure the hearing so that all attending members of the public will be able to comment, if they so choose, regardless of the controversial nature of the subject(s). Attendees are expected to respect the ground rules, and, if they do not, they will be asked to leave the hearing.

#### Special Accommodations

The hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to

Tyson Kade (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days prior to the hearing.

**Authority:** 16 U.S.C. 971 *et seq.*, and 16 U.S.C. 1801 *et seq.*

Dated: April 24, 2002.

**Bruce C. Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
[FR Doc. 02–10487 Filed 4–24–02; 3:20 pm]  
**BILLING CODE 3510–22–S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 020311051–2051–01; I.D. 022002C]

RIN 0648–AN75

#### Fisheries Off West Coast States and in the Western Pacific; Western Pacific Pelagic Fisheries; Pelagic Longline Gear Restrictions, Seasonal Area Closure, and Other Sea Turtle Take Mitigation Measures

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS issues this proposed rule that would implement the reasonable and prudent alternatives of the March 29, 2001, Biological Opinion (BiOp) issued by NMFS under the Endangered Species Act (ESA). This proposed rule is intended to reduce interactions between endangered and threatened sea turtles and pelagic fishing gear and to mitigate the harmful effects of interactions that occur. This proposed rule would apply to the owners and operators of all vessels fishing for pelagic species under Federal western Pacific limited access longline permits (longline vessels) within the exclusive economic zone (EEZ) and the high seas around Hawaii, as well as those fishing for pelagic species with other types of hook and line gear (non-longline pelagic vessels) within the EEZ around Hawaii, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Midway, Johnston or Palmyra Atolls, Kingman Reef, and Wake, Jarvis, Baker, or Howland Islands (the western Pacific region). This proposed rule would prohibit the targeting of swordfish north of the equator by longline vessels, close all longline fishing to longline vessels

during April and May in waters south of the Hawaiian Islands (from 15° N. lat. to the equator, and from 145° W. long. to 180° long.), prohibit the landing or possessing of more than 10 swordfish per fishing trip by longline vessels fishing north of the equator, allow the re-registration of vessels to Hawaii longline limited access permits only during the month of October, require all longline vessel operators to annually attend a protected species workshop and, impose sea turtle handling and resuscitation measures on both longline vessels, and non-longline pelagic vessels.

**DATES:** Comments on this proposed rule must be received no later than 5 p.m., Hawaiian standard time, on May 14, 2002.

**ADDRESSES:** Written comments on this proposed rule or its Initial Regulatory Flexibility Analysis (IRFA) must be mailed to Dr. Charles Karnella, Administrator, NMFS, Pacific Islands Area Office (PIAO), 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI, 96814–4700; or faxed to 808–973–2941. Comments will not be accepted if submitted via e-mail or the Internet. Copies of the Environmental Impact Statement (EIS), Regulatory Impact Review, and IRFA prepared for this action may be obtained from Dr. Charles Karnella, PIAO. See also <http://swr.nmfs.noaa.gov> to view the EIS.

**FOR FURTHER INFORMATION CONTACT:** Alvin Katekaru, PIAO, at 808–973–2937.

**SUPPLEMENTARY INFORMATION:** The BiOp concluded that the ongoing operations of the pelagic fisheries of the western Pacific region managed under the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region (FMP), particularly the Hawaii-based longline fishery, were likely to jeopardize the continued existence of green, leatherback, and loggerhead sea turtles. This conclusion was based on the status of these sea turtle populations, as well as the types and numbers of fishery interactions that occur annually. The majority of interactions are believed to involve Hawaii-based longline vessels and typically are the result of hookings or entanglements with fishing gear that is soaking in the water column. A percentage of these turtles die and others are released alive. Of those released alive, some are injured and released with embedded hooks or trailing gear while others are released unharmed. Historic data (1994–1999) indicate that, on average, this fishery was annually involved in 40 interactions with green sea turtles, 112

interactions with leatherback sea turtles, and 418 interactions with loggerhead sea turtles. For this reason, the BiOp included a series of non-discretionary measures within its reasonable and prudent alternatives that are applicable to Hawaii-based longline vessels and which NMFS implemented as an emergency rule effective June 12, 2001, and subsequently extended on December 10, 2001. Because the Magnuson-Stevens Fishery Conservation and Management Act authorizes the implementation of emergency rules for no more than two consecutive 180-day periods, that emergency rule will expire on June 8, 2002. The entire suite of measures contained in the BiOp's reasonable and prudent alternatives have now been recommended for implementation by the Western Pacific Fishery Management Council, and comprise the measures contained in this proposed rule.

The BiOp also examined the impact of non-longline FMP pelagic hook and line fisheries in the western Pacific region. The known level of effort and the selectivity of gear used in these fisheries led NMFS to conclude that few interactions have historically occurred in these fisheries. However, the BiOp includes non-discretionary measures applicable to these non-longline pelagic fisheries to provide for the protection of sea turtles in any interaction with this fishing gear. These measures require the operators of all hook and line vessels to carry line cutters and bolt cutters on their vessels and to use them to release any hooked turtle or entangled turtle with the least harm possible.

The entire suite of non-discretionary measures contained in the BiOp's reasonable and prudent alternatives was also included in the preferred alternative identified in a final EIS issued by NMFS on March 30, 2001. That EIS provides a comprehensive assessment of the environmental impacts of fishing activities conducted under the FMP on the human environment and provides detailed analysis of a range of management alternatives (see **ADDRESSES**).

The measures in this proposed rule are intended to directly mitigate interactions between sea turtles and longline fishing vessels by ensuring that longline gear used north of the equator is set deeply where it is less likely to be encountered by sea turtles, and by preventing Hawaii-based vessel operators from moving their operations to California or other areas during swordfish season, de-registering their vessels from their Hawaii limited access longline permits, fishing without

employing the mitigation measures specified here, and then moving back to Hawaii and re-registering their vessels to take advantage of the Hawaii tuna season. These measures are also intended to indirectly mitigate interactions with sea turtles by requiring all longline vessel operators to be educated on the status of sea turtles, as well as to follow handling, resuscitation, and release procedures. Finally, aspects of this rule that apply to non-longline pelagic fishing vessels will mitigate interactions with sea turtles by ensuring that they are handled, resuscitated, and released in a manner that promotes their long term survival.

This proposed rule would implement the following restrictions governing the owners and operators of all vessels registered for use under either a Hawaii longline limited access permit or a longline general permit (longline vessels): (a) Prohibit longline vessels from using longline gear to target swordfish north of the equator; (b) require longline gear to be deployed such that the deepest point of the main longline between any 2 floats, (i.e., the deepest point in each sag of the main line), is at a depth greater than 100 m (328.1 ft or 54.6 fm) below the sea surface when fishing north of the equator; (c) require that a minimum of 15 branch lines are used between any 2 floats on vessels using monofilament gear when fishing north of the equator; (d) require that a minimum of 10 branch lines are deployed between any 2 floats on vessels using basket-style longline gear when fishing north of the equator; (e) require that longline vessel operators possess and employ float lines of at least 20 m (65.6 ft) to suspend the mainline beneath any float on fishing trips north of the equator; (f) prohibit possession of a lightstick on board a longline vessel on fishing trips north of the equator; (g) prohibit the landing or possessing of more than 10 swordfish per trip by longline vessels fishing north of the equator; (h) prohibit fishing by longline vessels from April 1 through May 31 in the area bounded on the south by the equator, on the west by 180° long., on the east by 145° W. long., and on the north by 15° N. lat.; (i) discourage the practice of de-registering a boat in the Hawaii longline fisheries in order to fish out of non-Hawaii-based ports and avoid turtle catch mitigation requirements, allow the processing of applications for the re-registration of a vessel that has been de-registered from a Hawaii longline limited access permit after March 29, 2001, only during the month of October and require that

applications must be received or post-marked between September 15 and October 15 to allow sufficient time for processing; and (j) require operators of longline vessels to annually attend a protected species workshop conducted by NMFS. This proposed rule would use slightly different wording from the current emergency rule in place for the requirement (see § 660.33(b)) that float lines used to suspend the mainline beneath floats be longer than 20 m (65.6 ft) when longlining north of the equator. The revision clarifies that vessel operators may not maintain on board the vessel multiple shorter float lines and claim the lines will be fastened together to form a line exceeding 20 m when or if deployed. The revised wording clarifies that the restriction applies not just to float lines when actually deployed, but also to float lines that are merely possessed on board a permitted vessel. Also, the prohibition on the use of lightsticks would be clarified to mean any type of light emitting device, including any fluorescent "glow bead," chemical, or electrically powered light that is affixed underwater to the longline gear.

This proposed rule would also: (k) Require gear retrieval to cease if a sea turtle is discovered hooked or entangled on a longline during gear retrieval, until the turtle has been removed from the gear or brought onto the vessel's deck; (l) require operators of all "large" longline vessels (those with a working platform 3 ft (0.9 m) or more above the sea surface) to, if practicable, use a dip net meeting NMFS' specifications as prescribed in 50 CFR 660.32 to hoist a sea turtle onto the deck to facilitate the removal of the hook or to revive a comatose sea turtle. Operators of all "small" longline vessels (those with a working platform less than 3 ft (0.9 m) above the sea surface) would be required to, if practicable, ease a sea turtle onto the deck by grasping its carapace (shell) or flippers.

In addition, the operators of all longline vessels within the EEZ and the high seas around Hawaii, and non-longline pelagic fishing vessels fishing with hooks within EEZ waters of the western Pacific region, would be required to: (m) Carry and use line-clippers to cut fishing line from hooked or entangled sea turtles. Operators of "large" vessels (those with working platforms more than 3 ft (0.9 m) above the sea surface) would be required to use line clippers meeting NMFS' performance standard as prescribed in 50 CFR 660.32. Operators of "small" vessels (those with working platforms 3 ft (0.9 m) or less above the sea surface) could carry and use either a line cutter

that meets NMFS' performance standard, or one that is more appropriate to the size and configuration of the fishing vessel, but in either case this line clipper must be capable of cutting the vessel's fishing line or leader within approximately 1 ft of the eye of an embedded hook; (n) carry and use wire or bolt cutters capable of cutting through fishing hooks to facilitate cutting of hooks embedded in sea turtles; (o) remove all hooks from sea turtles as quickly and carefully as possible; however, if a hook cannot be removed, cut the line as close to the hook as possible; (p) handle all incidentally taken sea turtles brought aboard for dehooking and/or disentanglement in a manner to minimize injury and promote post-hooking survival. If a sea turtle is too large or hooked in such a manner to preclude safe boarding without causing further damage/injury to the turtle, use line-clippers to clip the line and remove as much line as possible prior to releasing the turtle; and (q) where practicable, bring comatose sea turtles on board the vessel and perform resuscitation as prescribed in 50 CFR 223.206 (d)(1), 660.22, and 660.32.

This proposed rule would define Basket-style longline gear as a type of longline gear that is divided into units called "baskets" each consisting of a segment of mainline to which 10 or more branch lines with hooks are spliced. The lines are made of multiple braided strands of cotton, nylon, or other synthetic fibers impregnated with tar or other heavy coatings that cause the lines to sink rapidly in seawater.

### Classification

This proposed rule has been determined to be significant for purposes of Executive Order 12866.

On March 30, 2001, NMFS issued an EIS that analyzes the environmental impacts of U.S. pelagic fisheries in the western Pacific region. The EIS was filed with the Environmental Protection Agency; a Notice of Availability was published on April 6, 2001 (66 FR 18243). See the preamble of this proposed rule for a discussion of the portions of the preferred alternative of the EIS that would be implemented by this rule. See the EIS for a discussion of the other alternatives considered by NMFS.

NMFS estimates that these measures would result in interactions between the Hawaii-based longline fishery and 11 green sea turtles (including 7 mortalities), 29 leatherback sea turtles (including 16 mortalities), and 0–5 interactions with loggerhead sea turtles (including 0–2 mortalities) each year.

The EIS also estimated that these measures would result in annual interactions between all western Pacific regional pelagic handline, troll, and pole and line fisheries of 1 sea turtle per fishery (not specified by species) with no mortalities. The EIS found these measures are also expected to result in annual interactions between domestic longline fisheries based in American Samoa, Guam, and the Northern Mariana Islands of 3 hardshell turtles (not specified by species) and 1 leatherback turtle, per fishery (with 1 hardshell turtle mortality per fishery). Impacts of these measures on seabirds are anticipated to be positive due to the prohibition on shallow setting which is known to have a higher seabird interaction rate. Impacts on target and non-target fish stocks are anticipated to be minimal as these measures are not expected to significantly increase exploitation of these species. Broad social impacts of these measures are anticipated to be positive in that they are intended to mitigate sea turtle and seabird interactions. However, these measures may negatively impact individual fishery related workers, as well as consumers of fishery products.

A formal section 7 consultation under the ESA was concluded for the FMP. In a BiOp dated March 29, 2001, NMFS determined that fishing activities conducted under the FMP and its implementing regulations were likely to jeopardize the continued existence of the green sea turtle, leatherback turtle, and loggerhead turtle under the jurisdiction of NMFS and prescribed non-discretionary reasonable and prudent alternatives for this FMP to mitigate that determination. As described previously in this preamble, this proposed rule would implement those non-discretionary reasonable and prudent alternatives.

NMFS reinitiated consultation on the Pelagics FMP on December 12, 2001, based on new information which may improve NMFS' ability to quantify and evaluate the effects of the U.S. pelagic fisheries under the FMP and the reasonable and prudent alternative in the March 29, 2001, BiOp on listed sea turtle populations.

An IRFA that describes the impact this proposed rule, if adopted, would have on small entities was prepared and is available from the PIAO office for public review and comment (see **ADDRESSES**). A summary of the IRFA follows.

The need for and objectives of this proposed rule are stated in the **SUMMARY** and **SUPPLEMENTARY INFORMATION** sections of this document and are not repeated here. This action does not

contain reporting and record keeping requirements that would impact small entities. It will not duplicate, overlap, or conflict with any other Federal rules. This action is taken under authority of the Magnuson-Stevens Fishery Conservation and Management Act and regulations at 50 CFR part 660.

Both large and small vessels affected by this proposed rule are considered to be "small entities" under guidelines issued by the Small Business Administration because they are independently owned and operated, and have annual receipts not in excess of \$3.5 million. Only the Hawaii-based longline fleet is expected to experience significant direct effects from this proposed rule. This fishery averaged annual ex-vessel gross revenues of \$40.7 million between 1994–1998 (the focus of the BiOp and the last full years prior to the implementation of a sequence of measures to protect sea turtles).

Assuming that fishing effort that is displaced as a result of the swordfish targeting prohibition or seasonal area closure is transferred into allowable effort in open areas, the anticipated annual loss of ex-vessel gross revenues from this fishery is estimated to be 11 percent (\$4.3 million). At the other end of the extreme is a scenario in which all displaced effort is removed from the western Pacific longline fishery, resulting in an estimated annual decline of 42 percent (\$17.2 million) in ex-vessel gross revenues.

Impacts on the American Samoa-based pelagic longline fisheries (the only active non-Hawaii longline fishery in the western Pacific region) are anticipated to be minimal, as these vessels generally fish below the equator and thus will not be affected by either the targeting restrictions or the seasonal area closure. The only direct cost for this fleet is that of acquiring bolt cutters and line clippers, for the smaller vessels, and bolt cutters, line clippers, and dip nets for the larger vessels. Assuming that these items are purchased from businesses in Hawaii and are useable for several years, the average cost per vessel is anticipated to be approximately \$20 per vessel for bolt cutters, \$30 per vessel for line clippers, and \$75 per vessel for dip nets. The impact on fishing operations of using these items is anticipated to be minor because the likelihood of encountering a turtle is low, and in the event that a turtle is hooked or entangled, it is not a time-consuming procedure to free it.

Impacts on non-longline pelagic vessels throughout the region are also anticipated to be minimal, as the proposed rule will not affect the operations of these vessels beyond the

requirement that vessel operators purchase and use bolt cutters and line clippers to free hooked or entangled sea turtles. Because the use of long handled line clippers is optional on these small vessels, it is believed that the majority of these vessel operators will employ their bolt cutters to cut their fishing line if necessary. The impact on fishing operations of using these items is anticipated to be minor because the likelihood of encountering a turtle is low, and in the event that a turtle is hooked or entangled, it should not be a time-consuming procedure to free it.

A range of alternatives was also considered in the IRFA. The first alternative was the no action alternative, which was rejected because it would not provide any additional protection to sea turtles. A second alternative would have prohibited shallow setting by longline vessels in the western Pacific region, required longline fishing vessel operators to carry and use line clippers and dip nets and to employ specific handling techniques to mitigate interactions with sea turtles. This alternative was rejected because, although it would have mitigated longline interactions with sea turtles, it would not have provided sufficient mitigation to avoid jeopardizing their continued existence. A third alternative would have closed waters north of 29° N. lat. to longline fishing from July through January of each year, and required longline fishing vessel operators to carry and use line clippers and dip nets and to employ specific handling techniques to mitigate interactions with sea turtles. This alternative was also rejected because, although it would have mitigated longline interactions with sea turtles, it would not have provided sufficient mitigation to avoid jeopardizing their continued existence. A fourth alternative would have closed all western Pacific EEZ waters to longline fishing and prohibited the landing of longline caught fish in all domestic western Pacific ports. This alternative was also rejected because, although it would have provided increased protection to sea turtles as compared to the preferred alternative, it would also have eliminated western Pacific longline fisheries. NMFS believes that the preferred alternative balances the ongoing harvest of pelagic fish in the western Pacific region with necessary protection to endangered and threatened sea turtles.

#### List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives,

Indians, Northern Mariana Islands, and Reporting and recordkeeping requirements.

Dated: April 19, 2002.

**Rebecca Lent,**

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

For the reasons set out in the preamble, 50 CFR part 660 is proposed to be amended as follows:

#### **PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC**

1. The authority citation for part 660 continues to read as follows:

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

2. In § 660.21, paragraph (l) is revised to read as follows (Note: This proposed revision would supersede the addition of paragraph (l), at 66 FR 31564, June 12, 2001, originally effective June 12, 2001, through December 10, 2001, and later extended to June 8, 2002, at 66 FR 63630, December 10, 2001):

##### **§ 660.21 Permits.**

\* \* \* \* \*

(l) Applications for the re-registration of any vessel that was de-registered from a Hawaii longline limited access permit after March 29, 2001, must be received at PIAO or postmarked, between September 15 and October 15.

3. In § 660.22, paragraphs (mm) through (uu) are removed, and paragraphs (z) through (ll) are revised to read as follows (Note: The proposed removal of paragraphs (mm) through (uu), and the revision of paragraphs (z) through (ll) would supersede the suspension of paragraphs (ee) through (ll), at 66 FR 31564, June 12, 2001, originally effective June 12, 2001, through December 10, 2001, and later extended to June 8, 2002, at 66 FR 63630, December 10, 2001):

##### **§ 660.22 Prohibitions.**

\* \* \* \* \*

(z) Fail to carry line clippers, dip nets, and wire or bolt cutters on a vessel registered for use under a Hawaii longline limited access permit or a longline general permit, that has a working platform more than 3 ft (0.9 m) above the sea surface in violation of § 660.32 (a).

(aa) Fail to carry line clippers and wire or bolt cutters on a vessel fishing with hooks for Pacific pelagic management unit species within EEZ waters around Hawaii, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Midway, Johnston or Palmyra Atolls, Kingman

Reef, and Wake, Jarvis, Baker, or Howland Islands that has a working platform more than 3 ft (0.9 m) above the sea surface in violation of § 660.32 (a)(2).

(bb) Fail to carry line clippers and wire or bolt cutters on a vessel registered for use under a Hawaii longline limited access permit or a longline general permit or on a vessel fishing with hooks for Pacific pelagic management unit species within EEZ waters around Hawaii, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Midway, Johnston or Palmyra Atolls, Kingman Reef, and Wake, Jarvis, Baker, or Howland Islands, that has a working platform less than 3 ft (0.9 m) above the sea surface, in violation of § 660.32 (a)(3).

(cc) Fail to comply with the sea turtle handling, resuscitation, and release requirements when operating a vessel registered for use under a Hawaii longline limited access permit or a longline general permit, or fishing with hooks for Pacific pelagic management unit species within EEZ waters around Hawaii, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Midway, Johnston or Palmyra Atolls, Kingman Reef, and Wake, Jarvis, Baker, or Howland Islands in violation of § 660.32(b).

(dd) Direct fishing effort toward the harvest of swordfish (*Xiphias gladius*) using longline gear deployed north of the equator on a vessel registered for use under a Hawaii longline limited access permit or a longline general permit in violation of § 660.33(a).

(ee) Fish for Pacific pelagic management unit species with a vessel registered for use under a Hawaii longline limited access permit or a longline general permit within closed areas or by use of unapproved gear configurations in violation of § 660.33 (b), (c), (g), or (h).

(ff) Use a receiving vessel registered for use under a receiving vessel permit to receive, land, or tranship from another vessel, Pacific pelagic management unit species harvested from closed areas with longline gear in violation of § 660.33 (d).

(gg) Land or tranship shoreward of the outer boundary of the EEZ around Hawaii, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Midway, Johnston or Palmyra Atolls, Kingman Reef, and Wake, Jarvis, Baker, or Howland Islands, Pacific pelagic management unit species that were harvested from closed areas with longline gear in violation of § 660.33 (e).

(hh) Possess a light stick on board a vessel registered for use under either a

Hawaii longline limited access permit or a longline general permit, on fishing trips that include any fishing north of the equator (0° lat.) in violation of § 660.33 (f).

(ii) Possess or land more than 10 swordfish on board a vessel registered for use under either a Hawaii longline limited access permit or a longline general permit, from a fishing trip where any part of the trip included fishing north of the equator (0° lat.) in violation of § 660.33 (i).

(jj) Operate a vessel registered for use under a Hawaii longline limited access permit or a longline general permit to fish for Pacific pelagic management unit species without having onboard a valid protected species workshop certificate issued by NMFS or a legible copy thereof in violation of § 660.34 (c).

(kk) Fail to comply with seabird take mitigation or handling techniques required under § 660.35(a) and (b).

(ll) Use a large vessel to fish for Pacific pelagic management unit species within an American Samoa large vessel prohibited area except as allowed pursuant to an exemption issued under § 660.38.

4. In § 660.32 paragraphs (a)(1) and (a)(2) are redesignated as paragraphs (a)(4) and (a)(5) respectively, new paragraphs (a)(1), and (a)(2) are added, and paragraph (a)(3) is revised to read as follows (Note: This proposed revision would supersede the addition of paragraph (a)(3), at 66 FR 31564, June 12, 2001, originally effective June 12, 2001, through December 10, 2001, and later extended to June 8, 2002, at 66 FR 63630, December 10, 2001):

#### § 660.32 Sea turtle take mitigation measures.

(a) *Possession and use of required mitigation gear*—(1) Owners and operators of vessels registered for use under a Hawaii longline limited access permit or a longline general permit that have working platforms more than 3 ft (0.9 m) above the sea surface must carry aboard their vessels line clippers meeting the minimum design standards as specified in paragraph (a)(4) of this section, dip nets meeting minimum standards prescribed in paragraph (a)(5) of this section, and wire or bolt cutters capable of cutting through the vessel's hooks. These items must be used to disengage any hooked or entangled sea turtles with the least harm possible to the sea turtles and as close to the hook as possible in accordance with the requirements specified in paragraphs (b) through (d) of this section.

(2) Owners and operators of vessels using hooks to target Pacific pelagic management unit species within EEZ

waters around Hawaii, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Midway, Johnston or Palmyra Atolls, Kingman Reef, and Wake, Jarvis, Baker, or Howland Islands, that have working platforms more than 3 ft (0.9 m) above the sea surface must carry aboard their vessels line clippers meeting the minimum design standards as specified in paragraph (a)(4) of this section, and wire or bolt cutters capable of cutting through the vessel's hooks. These items must be used to disengage any hooked or entangled sea turtles with the least harm possible to the sea turtles and as close to the hook as possible in accordance with the requirements specified in paragraphs (b) through (d) of this section.

(3) Owners and operators of vessels registered for use under a Hawaii longline limited access permit or a longline general permit, or using hooks to target Pacific pelagic management unit species within EEZ waters around Hawaii, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Midway, Johnston or Palmyra Atolls, Kingman Reef, and Wake, Jarvis, Baker, or Howland Islands, that have working platforms 3 ft (0.9 m) or less above the sea surface must carry aboard their vessels line clippers capable of cutting the vessels fishing line or leader within approximately 1 ft (0.3 m) of the eye of an embedded hook as well as wire or bolt cutters capable of cutting through the vessel's hooks. These items must be used to disengage any hooked or entangled sea turtles with the least harm possible to the sea turtles and as close to the hook as possible in accordance with the requirements specified in paragraphs (b) through (d) of this section.

\* \* \* \* \*

5. Section 660.33 is revised to read as follows (Note: This proposed revision would supersede the suspension of § 660.33 at 66 FR 31564, June 12, 2001, originally effective from June 12, 2001, through December 10, 2001, and later extended to June 8, 2002, at 66 FR 63630, December 10, 2001):

#### § 660.33 Western Pacific longline fishing restrictions.

(a) Owners and operators of vessels registered for use under a Hawaii longline limited access permit or a longline general permit may not use longline gear to fish for or target swordfish (*Xiphias gladius*) north of the equator (0° lat.).

(b) A person aboard a vessel registered for use under a Hawaii longline limited access permit or a western Pacific general longline permit that is fishing

for Pacific pelagic management unit species north of the equator (0° lat.) may not possess or deploy any float line that is shorter than or equal to 20 m (65.6 ft or 10.9 fm). As used in this paragraph "float line" means a line used to suspend the main longline beneath a float.

(c) From April 1 through May 31, owners and operators of vessels registered for use under a Hawaii longline limited access permit or a longline general permit may not use longline gear in waters bounded on the south by 0° lat., on the north by 15° N. lat., on the east by 145° W. long., and on the west by 180° long. (see Figure 1 to this section).

(d) From April 1 through May 31, owners and operators of vessels registered for use under a receiving vessel permit may not receive from another vessel Pacific pelagic management unit species that were harvested by longline gear in waters bounded on the south by 0° lat., on the north by 15° N. lat., on the east by 145° W. long., and on the west by 180° long. (see Figure 1 to this section).

(e) From April 1 through May 31, owners and operators of vessels registered for use under a Hawaii longline limited access permit, a longline general permit, or a receiving vessel permit, may not land or transship shoreward of the outer boundary of the EEZ around Hawaii, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Midway, Johnston or Palmyra Atolls, Kingman Reef, and Wake, Jarvis, Baker, or Howland Islands, Pacific pelagic management unit species that were harvested by longline gear in waters bounded on the south by 0° latitude, on the north by 15° N. lat., on the east by 145° W. long., and on the west by 180° long. (see Figure 1 to this section).

(f) No light stick may be possessed on board a vessel registered for use under either a Hawaii longline limited access permit or a longline general permit, during fishing trips that include any fishing north of the equator (0° lat.). A light stick as used in this paragraph is any type of light emitting device, including any fluorescent "glow bead," chemical, or electrically powered light that is affixed underwater to the longline gear.

(g) When a conventional monofilament longline is deployed in the water north of 0° lat. by a vessel registered for use under a Hawaii longline limited access permit or a longline general permit, no fewer than 15 branch lines may be set between any 2 floats when fishing north of the equator. Vessel operators using basket-

style longline gear must set a minimum of 10 branch lines between any 2 floats when fishing north of the equator.

(h) Longline gear deployed north of 0° lat. by a vessel registered for use under a Hawaii longline limited access permit or a longline general permit must be

deployed such that the deepest point of the main longline between any 2 floats, i.e., the deepest point in each sag of the main line, is at a depth greater than 100 m (328.1 ft or 54.6 fm) below the sea surface.(i) Owners and operators of longline vessels registered for use under

a Hawaii longline limited access permit or a longline general permit may land or possess no more than 10 swordfish from a fishing trip where any part of the trip included fishing north of the equator (0° lat.).

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Figure 1 to § 660.33—Longline Fishing Restricted Area

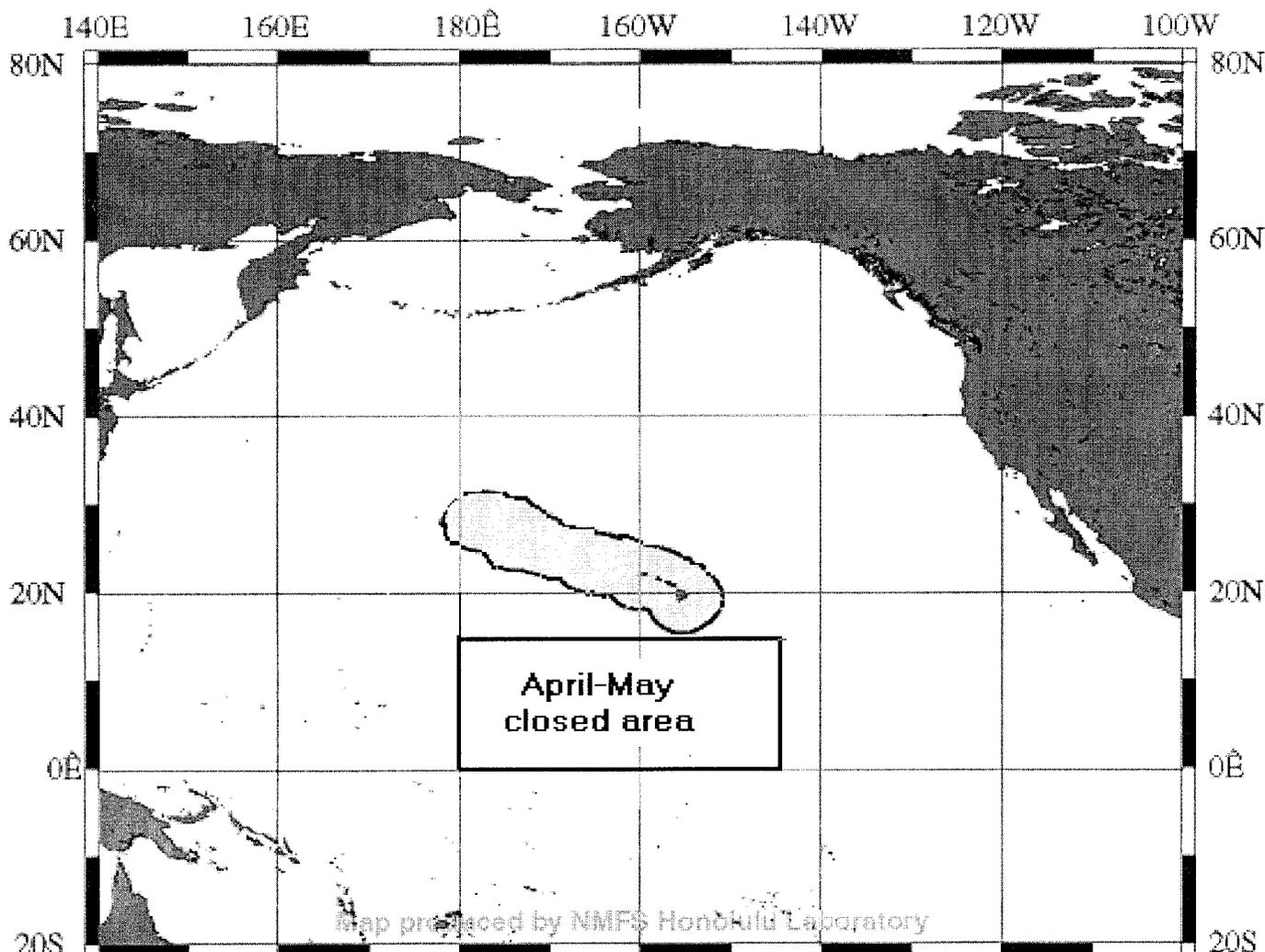


Figure 1 to § 660.33 - Longline Fishing Restricted Area

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6. Section 660.36 is redesignated as § 660.34 and revised to read as follows (Note: This redesignation and revision supersedes the addition to § 660.34 and Figure 3 to § 660.34, at 66 FR 31564, June 12, 2001, effective June 12, 2001, through Dec. 10, 2001, and the effective date was extended to June 8, 2002, at 66 FR 63630, Dec. 10, 2001):

**§ 660.34 Protected species workshop.**

(a) Each year the operator of a vessel registered for use under a Hawaii longline limited access permit or a longline general permit must attend and be certified for completion of a workshop conducted by NMFS on mitigation, handling, and release techniques for turtles and seabirds and other protected species.

(b) A protected species workshop certificate will be issued by NMFS

annually to any person who has completed the workshop.

(c) An operator of a vessel registered for use under Hawaii longline limited access permit or a longline general permit and engaged in longline fishing, must have on board the vessel a valid protected species workshop certificate issued by NMFS or a legible copy thereof.

[FR Doc. 02-10081 Filed 4-26-02; 8:45 am]

**BILLING CODE 3510-22-S**