

specified by the National Coordinator and maintain such accreditation;

* * * * *

■ 4. Add § 170.575 to read as follows:

§ 170.575 Removal of the ONC-AA.

(a) *Conduct violations.* The National Coordinator may remove the ONC-AA for committing a conduct violation. Conduct violations include violations of law or permanent certification program policies that threaten or significantly undermine the integrity of the permanent certification program. These violations include, but are not limited to: false, fraudulent, or abusive activities that affect the permanent certification program, a program administered by HHS, or any program administered by the Federal government.

(b) *Performance violations.* The National Coordinator may remove the ONC-AA for failing to timely or adequately correct a performance violation. Performance violations constitute a failure to adequately perform the ONC-AA's responsibilities as specified in § 170.503(e).

(1) *Noncompliance notification.* If the National Coordinator obtains reliable evidence that the ONC-AA may no longer be adequately performing its responsibilities specified in § 170.503(e), the National Coordinator will issue a noncompliance notification with reasons for the notification to the ONC-AA requesting that the ONC-AA respond to the alleged violation and correct the violation, if applicable.

(2) *Opportunity to become compliant.* The ONC-AA is permitted up to 30 days from receipt of a noncompliance notification to submit a written response and accompanying documentation that demonstrates that no violation occurred or that the alleged violation has been corrected.

(i) If the ONC-AA submits a response, the National Coordinator is permitted up to 60 days from the time the response is received to evaluate the response and reach a decision. The National Coordinator may, if necessary, request additional information from the ONC-AA during this time period.

(ii) If the National Coordinator determines that no violation occurred or that the violation has been sufficiently corrected, the National Coordinator will issue a memo to the ONC-AA confirming this determination. Otherwise, the National Coordinator may propose to remove the ONC-AA in accordance with paragraph (c) of this section.

(c) *Proposed removal.*

(1) The National Coordinator may propose to remove the ONC-AA if the

National Coordinator has reliable evidence that the ONC-AA has committed a conduct violation; or

(2) The National Coordinator may propose to remove the ONC-AA if, after the ONC-AA has been notified of an alleged performance violation, the ONC-AA fails to:

(i) Rebut the alleged violation with sufficient evidence showing that the violation did not occur or that the violation has been corrected; or

(ii) Submit to the National Coordinator a written response to the noncompliance notification within the specified timeframe under paragraph (b)(2) of this section.

(d) *Opportunity to respond to a proposed removal notice.*

(1) The ONC-AA may respond to a proposed removal notice, but must do so within 20 days of receiving the proposed removal notice and include appropriate documentation explaining in writing why it should not be removed as the ONC-AA.

(2) Upon receipt of the ONC-AA's response to a proposed removal notice, the National Coordinator is permitted up to 60 days to review the information submitted by the ONC-AA and reach a decision.

(e) *Retention of ONC-AA status.* If the National Coordinator determines that the ONC-AA should not be removed, the National Coordinator will notify the ONC-AA in writing of this determination.

(f) *Removal.*

(1) The National Coordinator may remove the ONC-AA if:

(i) A determination is made that removal is appropriate after considering the information provided by the ONC-AA in response to the proposed removal notice; or

(ii) The ONC-AA does not respond to a proposed removal notice within the specified timeframe in paragraph (d)(1) of this section.

(2) A decision to remove the ONC-AA is final and not subject to further review unless the National Coordinator chooses to reconsider the removal.

(g) *Extent and duration of removal.*

(1) The removal of the ONC-AA is effective upon the date specified in the removal notice provided to the ONC-AA.

(2) An accreditation organization that is removed as the ONC-AA must cease all activities under the permanent certification program, including accepting new requests for accreditation under the permanent certification program.

(3) An accreditation organization that is removed as the ONC-AA is prohibited from being considered for

ONC-AA status for a period of 1 year from the effective date of its removal as the ONC-AA.

Dated: November 15, 2011.

Kathleen Sebelius,
Secretary.

[FR Doc. 2011-30177 Filed 11-23-11; 8:45 am]

BILLING CODE 4150-45-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 080225267-91393-03]

RIN 0648-XA370

Western Pacific Pelagic Fisheries; Closure of the Hawaii Shallow-Set Pelagic Longline Fishery Due To Reaching the Annual Limit on Sea Turtle Interactions

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

ACTION: Temporary rule; fishery closure.

SUMMARY: NMFS closes the shallow-set pelagic longline fishery north of the Equator for all vessels registered under the Hawaii longline limited access program. The shallow-set fishery has reached the 2011 limit on physical interactions with sea turtles, so the fishery must be closed for the remainder of the calendar year. This action is necessary to comply with regulations that govern the pelagic fisheries in the western Pacific that establish maximum annual limits on the numbers of interactions that occur between longline fishing gear and sea turtles.

DATES: Effective 9:33 a.m. (0933 hrs) Hawaii-Aleutian Standard Time (HST) on November 18, 2011, through December 31, 2011.

FOR FURTHER INFORMATION CONTACT: Brett Wiedoff, NMFS PIR, (808) 944-2272.

SUPPLEMENTARY INFORMATION: The shallow-set pelagic longline fishery for swordfish in the western Pacific is managed according to the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific Region (FEP), developed by the Western Pacific Fishery Management Council, and implemented by NMFS under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FEP

appear at 50 CFR part 665 and at subpart H of 50 CFR part 600.

The regulations at § 665.813(b)(1) establish maximum annual limits on the numbers of physical interactions that occur between longline fishing gear and sea turtles. These limits apply to physical interactions experienced by vessels registered with Hawaii longline limited access permits while engaged in shallow-set longline fishing, *i.e.*, fishing that is directed at swordfish. There are two calendar-year annual limits on physical interactions, one for leatherback sea turtles (*Dermochelys coriacea*) set at 16, and one for loggerhead sea turtles (*Caretta caretta*) set at 17. Interactions with turtles are monitored using data from scientific observers placed by NMFS aboard all vessels engaged in shallow-set longline fishing. NMFS is required to maintain 100-percent observer coverage in the Hawaii shallow-set longline fishery.

The regulations at § 665.813(b)(2) prescribe that, as soon as the interaction limit for either of the two turtle species has been determined to have been reached in a given year, the shallow-set

component of the Hawaii-based longline fishery must be closed for the remainder of the calendar year, after giving permit holders and operators actual notice of the closure. Upon receiving actual notice from NMFS, fishermen are required to immediately remove all longline fishing gear from the water. Once the shallow-set fishery is closed, all vessels registered under Hawaii longline limited-access permits are prohibited from shallow-set longline fishing north of the Equator.

In accordance with § 665.813(b)(2), the Regional Administrator, NMFS Pacific Islands Region, has determined that the 2011 interaction limit of 16 leatherback turtles has been reached. Consequently, NMFS closed the shallow-set component of the Hawaii-based longline fishery at 9:33 a.m. (0933 hrs) Hawaii-Aleutian Standard Time (HST) on November 18, 2011. This closure ends at midnight (2400 hrs) HST on December 31, 2011.

Classification

This action is required by § 665.813(b)(2) and is exempt from review under Executive Order 12866.

This action responds to the best available information obtained from the fishery. Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest. Closure of the fishery must be implemented immediately so that the number of allowable sea turtle interactions established under the Endangered Species Act is not exceeded, thereby imposing harm to the public interest in protecting these turtle species. For the same reasons, there is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in the effective date of this action.

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

Dated: November 18, 2011.

Alan D. Risenhoover,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2011-30386 Filed 11-21-11; 4:15 pm]

BILLING CODE 3510-22-P