

that the sea turtle is right side up and its hindquarters elevated at least 6 inches (15.24 cm) for a period of no less than 4 hours and no more than 24 hours. The amount of the elevation varies with the size of the sea turtle; greater elevations are needed for larger sea turtles;

(ii) Administer a reflex test at least once every 3 hours. The test is to be performed by gently touching the eye and pinching the tail of a sea turtle to determine if the sea turtle is responsive;

(iii) Keep the sea turtle shaded and damp or moist (but under no circumstances place the sea turtle into a container holding water). A water-soaked towel placed over the eyes, carapace and flippers is the most effective method of keeping a sea turtle moist; and

(iv) Return to the sea any sea turtle that revives and becomes active in the manner described in paragraph (b)(4) of this section. Sea turtles that fail to revive within the 24-hour period must also be returned to the sea in the manner described in paragraph (b)(4) of this section.

(4) *Sea turtle release.* After handling a sea turtle in accordance with the requirements of paragraphs (b)(2) and (b)(3) of this section, the sea turtle must be returned to the ocean after identification unless NMFS requests the retention of a dead sea turtle for research. In releasing a sea turtle the vessel owner or operator must:

(i) Place the vessel engine in neutral gear so that the propeller is disengaged and the vessel is stopped, and release the sea turtle away from deployed gear; and

(ii) Observe that the turtle is safely away from the vessel before engaging the propeller and continuing operations.

(5) Other sea turtle requirements. No sea turtle, including a dead turtle, may be consumed or sold. A sea turtle may be landed, offloaded, transhipped or kept below deck only if NMFS requests the retention of a dead sea turtle for research.

**§ 665.813 Western Pacific longline fishing restrictions.**

(a) [Reserved]

(b) *Limits on sea turtle interactions in the shallow-set longline fishery*—(1) *Fleet Limits.* There are limits on the maximum number of allowable physical interactions that occur each year between leatherback sea turtles and vessels registered for use under Hawaii longline limited access permits while engaged in shallow-set fishing.

(i) The annual fleet limit for leatherback sea turtles (*Dermochelys coriacea*) is 16.

(ii) Upon determination by the Regional Administrator that the shallow-set fleet has reached the limit during a given calendar year, the Regional Administrator will, as soon as practicable, file for publication at the Office of the Federal Register a notification that the fleet reached the limit, and that shallow-set fishing north of the Equator will be prohibited beginning at a specified date until the end of the calendar year in which the limit was reached.

(2) *Trip limits.* There are limits on the maximum number of allowable physical interactions that occur during a single fishing trip between leatherback and North Pacific loggerhead sea turtles and individual vessels registered for use under Hawaii longline limited access permits while engaged in shallow-set fishing. For purposes of this section, a shallow-set fishing trip commences when a vessel departs port, and ends when the vessel returns to port, regardless of whether fish are landed. For purposes of this section, a calendar year is the year in which a vessel reaches a trip limit.

(i) The trip limit for leatherback sea turtles is 2, and the trip limit for North Pacific loggerhead sea turtles (*Caretta caretta*) is 5.

(ii) Upon determination by the Regional Administrator that a vessel has reached either sea turtle limit during a single fishing trip, the Regional Administrator will notify the permit holder and the vessel operator that the vessel has reached a trip limit, and that the vessel is required to immediately retrieve all fishing gear and stop fishing.

(iii) Upon notification, the vessel operator shall immediately retrieve all fishing gear, stop fishing, and return to port.

(iv) A vessel that reaches a trip limit for either turtle species during a calendar year shall be prohibited from engaging in shallow-set fishing during the 5 days immediately following the vessel's return to port.

(v) A vessel that reaches a trip limit a second time during a calendar year, for the same turtle species as the first instance, shall be prohibited from engaging in shallow-set fishing for the remainder of that calendar year. Additionally, in the subsequent calendar year, that vessel shall be limited to an annual interaction limit for that species, either 2 leatherback or 5 North Pacific loggerhead sea turtles. If that subsequent annual interaction limit is reached, that vessel shall be prohibited from engaging in shallow-set fishing for the remainder of that calendar year.

(vi) Upon determination by the Regional Administrator that a vessel has reached an annual interaction limit, the Regional Administrator will notify the permit holder and the vessel operator that the vessel has reached the limit, and that the vessel is required to immediately stop fishing and return to port.

(vii) Upon notification, the vessel operator shall immediately retrieve all fishing gear, stop fishing, and return to port.

(c) [Reserved]

(d) Vessels registered for use under a Hawaii longline limited access permit may not have on board at any time during a trip for which notification to NMFS under § 665.803(a) indicated that deep-setting would be done any float lines less than 20 meters in length, longline gear with metal wire line within 1 meter of the hook, or light sticks. As used in this paragraph "float line" means a line used to suspend the main longline beneath a float, and "light stick" means any type of light emitting device, including any fluorescent "glow bead," chemical, or electrically powered light that is affixed underwater to the longline gear.

(e) [Reserved]

(f) Any owner or operator of a vessel registered for use under any longline permit issued under § 665.801 must use only circle hooks sized 18/0 or larger, with an offset not to exceed 10 degrees,

when shallow-setting north of the Equator (0° lat.). As used in this paragraph, an offset circle hook sized 18/0 or larger is one with an outer diameter at its widest point no smaller than 1.97 inches (50 mm) when measured with the eye of the hook on the vertical axis (y-axis) and perpendicular to the horizontal axis (x-axis). As used in this paragraph, the allowable offset is measured from the barbed end of the hook, and is relative to the parallel plane of the eyed-end, or shank, of the hook when laid on its side.

(g) Any owner or operator of a vessel registered for use under any longline permit issued under § 665.801 must use only mackerel-type bait when shallow-setting north of the Equator (0° lat.). As used in this paragraph, mackerel-type bait means a whole fusiform fish with a predominantly blue, green or gray back and predominantly gray, silver or white lower sides and belly.

(h) Owners and operators of vessels registered for use under a Hawaii longline limited access permit may make sets only of the type (shallow-setting or deep-setting) indicated in the notification to NMFS pursuant to § 665.803(a).

(i) A vessel registered for use under a Hawaii longline limited access permit may not be used to engage in shallow-setting north of the Equator any time during which shallow-set fishing is prohibited pursuant to paragraphs (b)(1) or (2) of this section.

(j) *Swordfish limits.* When fishing north of the Equator (0° lat.), owners and operators of vessels registered for use under a Hawaii longline limited access permit, on a trip for which the permit holder notified NMFS under § 665.803(a) that the vessel would deep-set, may possess or land no more than the following number of swordfish for such trip:

(1) If an observer is on board, there is no limit.

(2) If there is no observer on board, and if only circle hooks are used, the limit is 25.

(3) If there is no observer on board, and if any type of hook other than a circle hook is used, the limit is 10.

(k) *South Pacific longline requirements.* When fishing south of the Equator (0° lat.) for western Pacific pelagic MUS,

## Fishery Conservation and Management

## § 665.815

owners and operators of vessels longer than 40 ft (12.2 m) registered for use with any valid longline permit issued pursuant to § 665.801 must use longline gear that is configured according to the requirements in paragraphs (k)(1) through (4) of this section.

(1) Each float line must be at least 30 m long.

(2) At least 15 branch lines must be attached to the mainline between any two float lines attached to the mainline.

(3) Each branch line must be at least 10 meters long.

(4) No branch line may be attached to the mainline closer than 70 meters to any float line.

[75 FR 2205, Jan. 14, 2010, as amended at 76 FR 13299, Mar. 11, 2011; 76 FR 52889, Aug. 24, 2011; 77 FR 43722, July 26, 2012; 77 FR 60649, Oct. 4, 2012; 83 FR 49496, Oct. 2, 2018; 85 FR 57997, Sept. 17, 2020; 85 FR 71579, Nov. 10, 2020; 87 FR 25156, Apr. 28, 2022]

### § 665.814 Protected species workshop.

(a) Each year, both the owner and the operator of a vessel registered for use under any longline permit issued under § 665.801 must attend and be certified for completion of a workshop conducted by NMFS on interaction mitigation techniques for sea turtles, 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 owner of a vessel registered for use under any longline permit issued under § 665.801 must have a valid protected species workshop certificate issued by NMFS to the owner of the vessel, in order to maintain or renew their vessel registration.

(d) An owner and an operator of a vessel registered for use under any longline permit issued under § 665.801 must have on board the vessel a valid protected species workshop certificate issued by NMFS to the operator of the vessel, or a legible copy thereof.

### § 665.815 Pelagic longline seabird mitigation measures.

(a) *Seabird mitigation techniques.* When deep-setting or shallow-setting north of 23° N. lat. or shallow-setting south of 23° N. lat., owners and operators of ves-

sels registered for use under a Hawaii longline limited access permit, must either side-set according to paragraph (a)(1) of this section, or fish in accordance with paragraph (a)(2) of this section.

(1) Side-setting. Owners and operators of vessels opting to side-set under this section must fish according to the following specifications:

(i) The mainline must be deployed as far forward on the vessel as practicable, and at least 1 m (3.3 ft) forward from the stern of the vessel;

(ii) The mainline and branch lines must be set from the port or the starboard side of the vessel;

(iii) If a mainline shooter is used, the mainline shooter must be mounted as far forward on the vessel as practicable, and at least 1 m (3.3 ft) forward from the stern of the vessel;

(iv) Branch lines must have weights with a minimum weight of 45 g (1.6 oz);

(v) One weight must be connected to each branch line within 1 m (3.3 ft) of each hook;

(vi) When seabirds are present, the longline gear must be deployed so that baited hooks remain submerged and do not rise to the sea surface; and

(vii) A bird curtain must be deployed. Each bird curtain must consist of the following three components: a pole that is fixed to the side of the vessel aft of the line shooter and which is at least 3 m (9.8 ft) long; at least three main streamers that are attached at regular intervals to the upper 2 m (6.6 ft) of the pole and each of which has a minimum diameter of 20 mm (0.8 in); and branch streamers attached to each main streamer at the end opposite from the pole, each of which is long enough to drag on the sea surface in the absence of wind, and each of which has a minimum diameter 10 mm (0.4 in).

(2) Alternative to side-setting. Owners and operators of vessels that do not side-set must do the following:

(i) Discharge fish, fish parts (offal), or spent bait while setting or hauling longline gear, on the opposite side of the vessel from where the longline gear is being set or hauled, when seabirds are present;

(ii) Retain sufficient quantities of fish, fish parts, or spent bait between