

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 600**

[Docket No. 030128024-5027-02; I.D. 121002A]

RIN 0648-AQ63

Magnuson-Stevens Act Provisions; National Standard Guidelines

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

ACTION: Proposed rule; extension of comment period.

SUMMARY: NMFS extends the public comment period on the proposed rule containing revisions to the National Standard 1 (NS1) guidelines. NMFS has received various requests to extend the comment period for the proposed rule beyond its current 60-day comment period. The extension of the comment period for another 60 days is intended to ensure that NMFS provides adequate time for various stakeholders and members of the public to comment on the proposed revisions to the NS1 guidelines. The comment period is extended from August 22, 2005, to October 21, 2005.

DATES: Comments must be received on or before October 21, 2005.

ADDRESSES: You may submit comments by any of the following methods:

- E-mail: nationalstandard1@noaa.gov.

“Comments on proposed rule for National Standard 1.”

- Mail: Mark R. Millikin, National Marine Fisheries Service, NOAA, Office of Sustainable Fisheries, 1315 East-West Highway, Room 13357, Silver Spring, MD 20910 (Mark the outside of the envelope “Comments on National Standard 1 proposed rule”).

- Federal e-Rulemaking Portal: <http://www.regulations.gov>. Include in the subject line the following:

Copies of the Environmental Assessment/Regulatory Impact Review (EA/RIR) for this proposed rule are available from Mark R. Millikin at the address listed above. The EA/RIR document is also available on the internet at: http://www.nmfs.noaa.gov/sfa/domes_fish/index.htm.

FOR FURTHER INFORMATION CONTACT:

Mark R. Millikin, Senior Fishery Management Specialist, 301-713-2341, e-mail mark.millikin@noaa.gov.

SUPPLEMENTARY INFORMATION: A proposed rule that covers NMFS’

proposed revisions to the NS1 guidelines was published on June 22, 2005 (70 FR 36240), with a comment period ending date of August 22, 2005. After receiving several requests to extend the comment period, NMFS has decided to extend it for another 60 days through October 21, 2005.

This action extends the comment period for a proposed rule that the Office of Management and Budget determined to be significant under Executive Order 12866.

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

Dated: August 5, 2005.

James W. Balsiger,

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

[FR Doc. 05-16119 Filed 8-12-05; 8:45 am]

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 660**

[Docket No. 050801214-5214-01; I.D. 072105B]

RIN 0648-AQ91

Fisheries Off West Coast States and in the Western Pacific; Western Pacific Pelagic Fisheries; Sea Turtle Mitigation Measures

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

ACTION: Proposed rule; request for comments.

SUMMARY: This proposed rule would set requirements for attending protected species workshops, for handling, resuscitating, and releasing sea turtles that are hooked or entangled in fishing gear, and for fishing gear configuration. The proposed rule is intended to reduce and mitigate interactions between sea turtles and vessels managed under the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region (Pelagics FMP). This action is being taken to comply with the terms and conditions of a 2004 Biological Opinion resulting from a section 7 consultation under the Endangered Species Act (ESA) on interactions between sea turtles and fisheries managed under the Pelagic FMP.

DATES: Comments on the proposed rule must be received by September 14, 2005.

ADDRESSES: You may submit comments on this proposed rule or its Initial Regulatory Flexibility Analysis (IRFA), identified by 0648-AQ91 by any of the following methods:

- E-mail: AQ91-Turtles@noaa.gov. Include in the subject line of the e-mail comment the following document identifier: Turtle Measures. Comments sent via e-mail, including all attachments, must not exceed a 10 megabyte file size.

- Federal e-Rulemaking portal: www.regulations.gov. Follow the instructions for submitting comments.

- Mail: William L. Robinson, Administrator, NMFS, Pacific Islands Region (PIR), 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814-4700.

- Fax: 808-973-2941.

Copies of the regulatory amendment document, which includes an Environmental Assessment (EA) and an IRFA, may be obtained from Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council (WPFMC), 1164 Bishop Street, Suite 1400, Honolulu, HI 96813, or on the internet at www.wpcouncil.org.

FOR FURTHER INFORMATION CONTACT:

Robert Harman, NMFS PIR, 808-944-2271.

SUPPLEMENTARY INFORMATION: NMFS conducted a section 7 consultation under the Endangered Species Act (ESA) on interactions between sea turtles and fisheries managed under the Pelagic FMP. The result of this consultation was a Biological Opinion that was issued on February 23, 2004 (2004 Opinion). The 2004 Opinion concluded that the fisheries managed under the Pelagics FMP were not likely to jeopardize the continued existence of sea turtles or other species listed as threatened or endangered under the ESA. Included in the actions considered under the 2004 Opinion were several measures required by a previous (15 November 2002) Biological Opinion (2002 Opinion) on the Pelagics FMP fisheries. These measures were vacated on 1 April 2004, by a Federal Court order. The requirements for general longline permits were additional to those pre-existing requirements for Hawaii-based longline limited access permit holders. Terms and conditions of the 2004 Opinion required: (a) owners and operators of vessels registered for use under longline general permits to attend protected species workshops annually; (b) owners and operators of vessels registered for use under longline general permits to carry and use dip nets, line clippers, and bolt cutters, and follow sea turtle handling, resuscitation, and release requirements for

incidentally hooked or entangled sea turtles; and (c) operators of non-longline vessels using hooks to target pelagic management unit species to follow sea turtle handling, resuscitation, and release requirements, as well as to remove the maximum amount of the gear possible from incidentally hooked or entangled sea turtles.

At its 122nd meeting (March 22–25, 2004), the (Western Pacific Fishery Management Council (WPFMC) took initial action on the three measures listed above by indicating its preliminarily preferred alternatives and recommending the development and analysis of a full range of alternatives for final action. The WPFMC also requested alternatives to be developed and analyzed for a fourth measure that would require operators of vessels registered for use under longline general permits (including those that will be registered for use under American Samoa limited access longline permits) to use 18/0 or larger circle hooks with a 10 offset, mackerel-type bait, and dehookers, when shallow-setting north of the Equator. These requirements had previously been implemented in the Hawaii-based limited access longline fishery in April 2004.

The WPFMC recommended the inclusion of this fourth measure for two reasons: (a) to extend the conservation benefits derived from the use of circle hooks, mackerel-type bait, and dehookers, to all longline vessels managed under the Pelagics FMP that may shallow-set north of the Equator, and (b) to remove incentives for owners of Hawaii-based longline vessels to shed their permits in favor of general permits, to avoid using circle hooks, mackerel bait, etc., when shallow-setting north of the Equator. The combination of large (size 18/0) circle hooks and mackerel bait were shown to reduce catches of loggerhead sea turtles by 92 percent and leatherback turtles by 67 percent, and improve swordfish catches 30 percent, when used on Atlantic longline vessels making shallow sets to target swordfish. Circle hooks have also been found to hook turtles predominantly in the mouth rather than the delicate tissues of the esophagus, thus minimizing trauma and increasing survival rates for those turtles that are unavoidably hooked.

Logbook data indicate that longline fishing under longline general permits has been concentrated south of the Equator in U.S. exclusive economic zone (EEZ) waters around American Samoa, where most vessels target deep-swimming albacore tuna to sell to canneries in Pago Pago, American Samoa. There are no domestic longline fisheries in Guam and the

Commonwealth of the Northern Mariana Islands, although there is local interest in developing such fisheries. To date, no longline general permit holders have elected to target swordfish (or other species) north of the Equator using shallow sets. The main reason for this is that the principal market for swordfish in the western Pacific is Hawaii, and to land longline caught fish directly into Honolulu or other ports in the State requires a Hawaii longline limited access permit.

Vessels with longline general permits, however, could potentially land in other ports within and beyond the western Pacific region. In the past, for example, some longline vessels from the western Pacific landed swordfish in California ports, but this opportunity is now closed to vessels that are not permitted under the Pacific Fishery Management Council's West Coast Highly Migratory Species Fishery Management Plan. No western Pacific longline vessels have opted to land fish at ports outside the U.S.A. in Central or South America, as the economics of doing so weigh against this. Nonetheless, the WPFMC believed it was prudent to anticipate the possibility of shallow-setting north of the Equator by vessels that are registered for use under longline general permits, no matter how unlikely this seems at present. Thus, the WPFMC recommended that owners and operators of such vessels should be required to employ the same sea turtle mitigation measures as their Hawaii-based counterparts.

At its 123rd meeting (June 21–24, 2005), the WPFMC took final action and recommended that NMFS approve and implement regulations to require owners and operators of vessels registered for use under longline general permits to: (a) attend annual protected species workshops; (b) carry and use dip nets, line clippers, and bolt cutters, and follow sea turtle handling, resuscitation, and release requirements for incidentally-hooked or entangled sea turtles (vessels with a freeboard of 3 ft (0.91 m) or less are exempted from carrying dipnets or long-handled line clippers); and (c) use 18/0 or larger circle hooks with a 10 offset, mackerel-type bait, and dehookers, when shallow-setting north of the Equator (vessels with a freeboard of 3 ft (0.91 m) or less are exempted from carrying long-handled dehookers). The WPFMC also recommended that owners and operators of other (non-longline) vessels, managed under the Pelagics FMP and using hooks to target PMUS, remove trailing gear from incidentally hooked and entangled sea turtles, and

follow sea turtle handling, resuscitation, and release requirements.

Classification

At this time, NMFS has not determined that this proposed rule is consistent with the national standards of the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The WPFMC prepared an IRFA that describes the economic impact this proposed rule, if adopted, would have on small entities. A copy of the IRFA is available from Kitty M. Simonds, WPFMC (see **ADDRESSES**). A description of the action, why it is being considered, its objectives, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A summary of the analysis follows.

Most fishing vessels operating in the western Pacific region under the Pelagics FMP are owner-operated, with few individuals holding permits for more than one vessel. There are estimated to be between 9,416 and 15,816 of these fishing operations (these estimated totals may include vessels that do not operate in EEZ waters), all of which are believed to be small businesses, i.e., they have gross revenues of less than \$3.5 million annually.

Previously, all operators of longline vessels managed under the Pelagics FMP were required to attend protected species workshops. This requirement was removed when several regulations were vacated by a U.S. District Court on April 1, 2004 (D.D.C., Civ. No. 01–0765). Requiring both the owners and operators of vessels registered for use under longline general permits to annually attend protected species workshops will have a minimal cost for those who reside in Hawaii or American Samoa, where the training workshops are conducted. Some 15 percent of the vessels that fish in American Samoa and Hawaii under longline permits, however, have owners that reside outside of those two areas. A substantial travel cost to attend the workshops would be incurred by those people. NMFS is currently accommodating the owners and operators of Hawaii-based vessels that live outside Hawaii by providing interim protected species training via computer disk, mailed to the owner or operator. This type of remote training and certification

relieves potential travel costs, and may be further developed and implemented for other owners and operators who are not able to attend the workshops in person.

Owners and operators of the vessels that are registered for use under longline general permits were previously required to carry and use dipnets, long-handled line clippers, and bolt cutters, so most vessels with longline general permits already have this gear. However, these measures were also removed when several regulations were vacated in the same April 1, 2004, case cited above. If these vessels need to re-equip themselves, the costs are not expected to exceed \$100 per vessel. The WPFMC recommended that small longline vessels such as alias (American Samoa-based catamaran longline vessels generally less than 40 ft (12.2 m) in length) not be required to carry a dip net or long-handled line clippers because, due to the low freeboard on these boats, operators can simply retrieve and release the turtle from the side of the vessel without risk of additional injury to the animal.

The WPFMC's recommendation to require vessels registered under a longline general permit to use 18/0 or larger circle hooks with a 10 offset, mackerel-type bait, and dehookers when shallow-setting north of the Equator would incur the following costs: Re-equipping longlines with 18/0 circle hooks plus swivels would cost approximately \$1.50/hook, and a large (≤ 75 ft) longline vessel generally deploys 2,000–2,500 hooks/set, so the cost per vessel of that size would be \$3,000 to \$3,750. American Samoa-based longline vessels already use mackerel-type bait (sardine or saury (sanma)), so there would be no additional cost for the bait requirement for these vessels. Obtaining approved dehookers and associated equipment would cost about \$500 per vessel. The WPFMC recommended that small longline vessels with a freeboard of less than or equal to three feet not be required to carry long-handled dehookers because operators can more effectively and safely use short-handled dehookers to release sea turtles without risk of additional injury to the animal.

Under this proposed rule, the total cost to equip a vessel registered for use with a longline general permit to shallow-set north of the Equator is estimated to be between \$3,500 and \$4,250. An ongoing additional annual replacement cost of \$0.20 per hook would also be required as circle hooks are slightly more expensive than typical "J" hooks.

The WPFMC recommendation to require operators of all vessels that use

hooks to target PMUS to follow sea turtle handling, resuscitation, and release requirements, including removing trailing gear, is not expected to exact any economic burden on these fishery participants because there no gear requirements are being proposed for non-longline vessels, and interactions are rare.

For each of the four measures recommended by the WPFMC, three alternatives were developed, so altogether, 12 alternatives were considered. The alternatives considered for the measure regarding protected species workshop attendance by owners and of operators vessels registered for use under longline general permits were: (a) no action maintaining the status quo; (b) requiring annual attendance by only vessel operators; and (c) requiring annual attendance by both vessel owners and operators.

The alternatives considered for the measure regarding sea turtle mitigation gear (i.e., dip nets, line clippers, bolt cutters) and handling, resuscitation, and release requirements were: (a) no action maintaining the status quo; (b) requiring owners and operators of vessels registered under a longline general permit to carry and use dip nets, line clippers, and bolt cutters, as well as follow handling, resuscitation, and release requirements for hooked or entangled sea turtles (vessels with 3 ft (0.91 m) of freeboard or less would be exempt from carrying dip nets or long-handled line clippers;) and (c) requiring owners and operators of vessels registered under a longline general permit to carry and use dip nets, line clippers, and bolt cutters, as well as follow handling, resuscitation, and release requirements for hooked or entangled sea turtles with no exemptions for longline vessels with freeboard less than three ft (0.91 m).

The alternatives for the measure regarding vessels that use hooks to target pelagic management unit species were: (a) no action maintaining the status quo; (b) requiring vessel owners and operators to follow sea turtle handling, resuscitation, and release requirements, including the removal of trailing gear from a hooked or entangled sea turtle when fishing in the EEZ of the western Pacific region; and (c) requiring vessel owners and operators to follow sea turtle handling, resuscitation, and release requirements, including the removal of trailing gear, wherever they fish.

The alternatives for the measure regarding gear and bait requirements for owners and operators of vessels registered for use under a longline general permit that may shallow-set

north of the Equator were: (a) no action maintaining the status quo; (b) requiring owners and operators to use 18/0 or larger circle hooks with 10 offset, mackerel-type bait, and dehookers when shallow-setting north of the Equator; and (c) prohibiting shallow-setting north of the Equator by vessels registered under longline general permits.

The following alternative was preferred in the IRFA because it best complied with the terms and conditions of the 2004 Biological Opinion: (a) requiring annual workshop attendance by both owners and operators; (b) requiring owners and operators of vessels registered for use under a longline general permit to carry and use dip nets, line clippers, and bolt cutters, as well as to follow handling, resuscitation, and release requirements for hooked or entangled sea turtles (vessels with 3 ft (0.91 m) of freeboard or less would be exempted from carrying dip nets or long-handled line clippers); (c) requiring longline vessel owners and operators to follow sea turtle handling, resuscitation, and release requirements, including the removal of trailing gear wherever they fish; and (d) requiring longline vessels owners and operators to use 18/0 or larger circle hooks with 10 offset, mackerel-type bait, and dehookers when shallow-setting north of the Equator (vessels with 3 ft (0.91 m) of freeboard or less would not be required to carry long handled dehookers).

The inclusion of existing text on turtle handling requirements from 50 CFR 660.32 (c) and (d), which is largely duplicative of text in 50 CFR 223.206, is necessary because 50 CFR 223.206 only applies to threatened species of sea turtles. This proposed rule would extend those handling requirements to interactions between Pelagics FMP fishing vessels and all species of sea turtles. To the extent practicable, it has been determined that there are no other Federal rules that may duplicate, overlap or conflict with this proposed rule.

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

James W. Balsiger,

Acting 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 § 660.22, paragraphs (ff), (gg), (ii), (ll), (nn), and (oo) are revised to read as follows:

§ 660.22 Prohibitions.

* * * * *

(ff) Own or operate a vessel registered for use under any longline permit issued under § 660.21 while engaged in longline fishing for Pelagic Management Unit Species and fail to be certified for completion of a NMFS protected species workshop, in violation of § 660.34(a).

(gg) Own or operate a vessel registered for use under any longline permit issued under § 660.21 while engaged in longline fishing for Pelagic Management Unit Species without having on board a valid protected species workshop certificate issued by NMFS or a legible copy thereof, in violation of § 660.34(d).

* * * * *

(ii) Fail to carry, or fail to use, a line clipper, dip net, or dehooker on a vessel registered for use under any longline permit issued under § 660.21, in violation of § 660.32.

* * * * *

(ll) When operating a vessel registered for use under any longline permit issued under § 660.21 or operating a vessel using hooks to target Pelagic Management Unit Species while fishing under the Pelagics FMP, fail to comply with the sea turtle handling requirements, in violation of § 660.32(b).

(nn) Engage in shallow-setting from a vessel registered for use under any longline permit issued under § 660.21 north of the Equator (0° lat.) with hooks other than offset circle hooks sized 18/0 or larger, with a 10 offset, in violation of § 660.33(f).

(oo) Engage in shallow-setting from a vessel registered for use under any longline permit issued under § 660.21 north of the Equator (0° lat.) with bait other than mackerel-type bait, in violation of § 660.33(g).

* * * * *

3. In § 660.32, paragraphs (a)(2) through (a)(4) are redesignated as paragraphs (a)(4) through (a)(6); introductory text is added to paragraph (a); paragraphs (a)(1) and (b) are revised; new paragraphs (a)(2) and (a)(3) are added; and paragraphs (c) and (d) are removed to read as follows:

§ 660.32 Sea turtle mitigation measures.

(a) *Possession and use of required mitigation gear.* The gear required in

paragraph (a) of this section must be used according to the sea turtle handling requirements set forth in paragraph (b) of this section.

(1) *Hawaii longline limited access permits.* Any owner or operator of a vessel registered for use under a Hawaii longline limited access permit must carry aboard the vessel line clippers meeting the minimum design standards specified in paragraph (a)(5) of this section, dip nets meeting the minimum design standards specified in paragraph (a)(6) of this section, and dehookers meeting the minimum design and performance standards specified in paragraph (a)(4) of this section.

(2) *Other longline vessels with a freeboard of more than 3 ft (0.91m).* Any owner or operator of a longline vessel with a permit issued under § 660.21 other than a Hawaii limited access longline permit and that has a freeboard of more than 3 ft (0.91 m) must carry aboard the vessel line clippers meeting the minimum design standards specified in paragraph (a)(5) of this section, dip nets meeting the minimum design standards specified in paragraph (a)(6) of this section, and dehookers meeting this minimum design and performance standards specified in paragraph (a)(7) of this section.

(3) *Other longline vessels with a freeboard of 3 ft (0.91 m) or less.* Any owner or operator of a longline vessel with a permit issued under § 660.21 other than a Hawaii limited access longline permit and that has a freeboard of more than 3 ft (0.91 m) 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.

(4) *Handline, troll, pole-and-line, and other vessels using hooks other than longline vessels.* Any owner or operator of a vessel fishing under the Pelagics FMP with hooks other than longline gear are not required to carry specific mitigation gear, but must comply with the handling requirements set forth in paragraph (b) of this section.

* * * * *

(b) *Handling requirements.* If a sea turtle is observed to be hooked or entangled in fishing gear from any vessel fishing under the Pelagics FMP, vessel owners and operators must use the required mitigation gear set forth in subsection (a) to comply with these handling requirements. Any hooked or entangled sea turtle must be handled in a manner to minimize injury and promote survival.

(1) *Sea turtles that cannot be brought aboard.* In instances where a sea turtle

is too large to be brought aboard or the sea turtle cannot be brought aboard without causing further injury to the sea turtle, the vessel owner or operator must disentangle and remove the gear, or cut the line as close as possible to the hook or entanglement, to remove the maximum amount of the gear from the sea turtle.

(2) *Sea turtles that can be brought aboard.* In instances where a sea turtle is not too large to be brought aboard, or the sea turtle can be brought aboard without causing further injury to the turtle, the vessel owner or operator must take the following actions:

(i) Immediately bring the sea turtle aboard;

(ii) Handle the sea turtle in accordance with the procedures in paragraphs (b)(3) and (b)(4) of this section; and

(iii) Disentangle and remove the gear, or cut the line as close as possible to the hook or entanglement, to remove the maximum amount of the gear from the sea turtle.

(3) *Sea turtle resuscitation.* If a sea turtle appears dead or comatose, the following actions must be taken:

(i) Place the sea turtle on its belly (on the bottom shell or plastron) so 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.

4. In § 660.33, paragraphs (f) and (g) are revised to read as follows:

§ 660.33 Western Pacific longline fishing restrictions.

* * * * *

(f) Any owner or operator of a vessel registered for use under any longline permit issued under § 660.21 must use only offset circle hooks sized 18/0 or larger, with a 10° offset, 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 is 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, a 10° 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 § 660.21 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.

* * * * *

5. In § 660.34, paragraphs (a), (c) and (d) are revised to read as follows:

§ 660.34 Protected species workshops.

(a) Each year, both the owner and the operator of a vessel registered for use under any longline permit issued under § 660.21 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.

* * * * *

(c) An owner of a vessel registered for use under any longline permit issued under § 660.21 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 § 660.21 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.

* * * * *

[FR Doc. 05-16117 Filed 8-12-05; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 050801212-5212-01; I.D. 072805A]

RIN 0648-AT52

Fisheries off West Coast States and in the Western Pacific; Western Pacific Pelagic Fisheries; Control Date for Non-Longline Commercial Pelagic Fisheries in EEZ around Hawaii

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

ACTION: Proposed rule; advance notice of proposed rulemaking; notification of control date.

SUMMARY: NMFS announces that persons who enter the non-longline commercial pelagic fisheries (e.g., troll, handline, pole and line, etc.) in the U.S. exclusive economic zone (EEZ) around the Hawaiian Islands after June 2, 2005 ("control date") are not guaranteed future participation in the fishery if the Western Pacific Fishery Management Council (WPFMC) recommends, and NMFS approves, a program limiting entry or effort. This action does not commit the WPFMC or NMFS to limit entry, or prevent any other date from being selected for eligibility to participate in the non-longline commercial pelagic fisheries. The WPFMC or NMFS may also use other criteria to limit fishing effort or participation in a limited entry program that is developed in the future.

DATES: Comments must be submitted in writing by October 14, 2005.

ADDRESSES: You may submit comments on this document identified by I.D. 072805A by any of the following methods:

- E-mail: *AT52-HawaiiDate@noaa.gov*. Include I.D. 072805A in the subject line of the e-mail

comment following document identifier: Hawaii non-longline control date. Comments sent via e-mail, including all attachments, must not exceed a 10 megabyte file size.

- Federal e-Rulemaking portal: *www.regulations.gov*. Follow the instructions for submitting comments.

- Mail: William L. Robinson, Administrator, NMFS Pacific Islands Region (PIR), 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814.

- Fax: 808-973-2941

FOR FURTHER INFORMATION CONTACT:

Robert Harman, NMFS PIR, at 808-944-2271.

SUPPLEMENTARY INFORMATION: On June 2, 2005, at its 127th meeting, the WPFMC recommended a "control date" of June 2, 2005, applicable to persons who are contemplating entering the non-longline commercial fisheries for pelagic species (i.e., troll, handline, pole and line, other) in the U.S. exclusive economic zone (EEZ) around Hawaii. The WPFMC requested that this control date be published in the **Federal Register** to notify fishermen that if they enter these fisheries after June 2, 2005, they may not be assured of future access if the WPFMC and/or NMFS decide to limit entry or impose other measures to manage these fisheries.

Establishment of a control date responds to NMFS' notice to the WPFMC, dated December 30, 2004 (69 FR 78397), that overfishing is occurring Pacific-wide on bigeye tuna, and that management action must be taken by the WPFMC to end this overfishing. The WPFMC tentatively has determined that a limited access program in the U.S. EEZ around Hawaii might be one of the viable mechanisms to reduce fishing mortality in Pacific bigeye tuna, as a step toward ending overfishing in the pelagic fisheries.

The State of Hawaii maintains a registry of commercial pelagic fishermen, as required by state regulations. In 2003, some 2,037 people were registered as commercial pelagic fishermen. Of these, 1,681 (83 percent) were non-longline fishermen. Most of these non-longline pelagic fishermen were active in the EEZ and, thus, represent an estimate of fishermen who could be affected by this control date. Based on the state's 2003 commercial fishing data reported by fishermen, the total catch of pelagic species in Hawaii was 22.6 million lb (10,251 mt), of which 5.2 million lb (2,359 mt) (23 percent) was made by non-longline small-boat pelagic methods. The entire pelagic fishery landed fish with an ex-vessel value of \$47.9 million, of which