

catch histories. This date was announced at the Council's January 2009 meeting, and was chosen because it coincides with the end of the immediately preceding fishing year in which landings would be documented. Publication of the control date in the **Federal Register** informs participants of the Council's considerations, and gives notice to anyone entering the fishery after the control date they would not be assured of future access should a management regime be implemented using the control date as a means to restrict participation. Implementation of any such program would require preparation of an amendment to the FMP and subsequent rulemaking with appropriate public comment periods.

Consideration of a control date does not commit the Council or NMFS to any particular management regime or criteria for eligibility in the commercial sector of the Gulf reef fish fishery. The Council may or may not make use of this control date as part of the qualifying criteria for participation in that sector of the fishery. Fishermen are not guaranteed future participation in a fishery regardless of their entry date or intensity of participation in the fishery before or after the control date under consideration. The Council subsequently may choose a different control date or a management regime that does not make use of a control date. The Council also may choose to take no further action to control entry or access to the fishery, in which case the control date may be rescinded.

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

Dated: March 12, 2009.

**James W. Balsiger,**

*Acting Assistant Administrator for Fisheries,  
National Marine Fisheries Service.*

[FR Doc. E9-5864 Filed 3-17-09; 8:45 am]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 665

RIN 0648-AW49

#### Fisheries in the Western Pacific; Pelagic Fisheries; Hawaii-based Shallow-set Longline Fishery

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

**ACTION:** Notice of availability of fishery management plan amendment; request for comments.

**SUMMARY:** NMFS announces that the Western Pacific Fishery Management Council (Council) proposes to amend the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region (FMP). If approved by the Secretary of Commerce (Secretary), Amendment 18 would remove the annual limit on the number of fishing gear deployments (sets) for the Hawaii-based pelagic longline fishery. The amendment would also revise the current maximum limit on the number of physical interactions that occur annually between loggerhead sea turtles and vessels registered for use under Hawaii longline limited access permits while shallow-setting. Other measures currently applicable to the fishery would remain unchanged. Amendment 18 is intended to increase opportunities for the shallow-set fishery to sustainably harvest swordfish and other fish species, without jeopardizing the continued existence of sea turtles and other protected resources.

**DATES:** Comments on Amendment 18 must be received by May 18, 2009.

**ADDRESSES:** You may send comments on Amendment 18, identified by 0648-AW49, to either of the following addresses:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal [www.regulations.gov](http://www.regulations.gov); or
- **Mail:** Mail written comments to William L. Robinson, Regional Administrator, NMFS, Pacific Islands Region (PIR), 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814-4700.

Instructions: All comments received are a part of the public record and will generally be posted to [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the commenter may be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter "N/A" in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

Copies of Amendment 18 (which includes a final supplemental environmental impact statement) are available from [www.regulations.gov](http://www.regulations.gov), and the Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808-522-8220, fax 808-522-8226, [www.wpcouncil.org](http://www.wpcouncil.org).

**FOR FURTHER INFORMATION CONTACT:** Adam Bailey, Sustainable Fisheries Division, NMFS PIR, 808-944-2248.

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access

This proposed rule is also accessible at [www.gpoaccess.gov/fr](http://www.gpoaccess.gov/fr).

##### Background

The Hawaii-based shallow-set pelagic longline fishery primarily targets swordfish in the western Pacific north of the Hawaiian Archipelago. The fishery is carefully regulated through a management program intended, among other goals, to reduce the number and severity of unintended bycatch interactions, particularly between longline fishing gear and sea turtles. Management measures include the mandatory use of large (18/0) offset circle hooks and mackerel-type bait, and 100 percent observer coverage. The required use of circle hooks and mackerel-type bait has reduced the sea turtle interaction rate by approximately 90 percent for loggerheads, and 83 percent for leatherbacks, compared to the period 1994-2002 when the fishery was operating without such requirements.

Because the use of circle hooks and mackerel-type bait have proven effective in reducing sea turtle interaction rates, the Council has recommended in Amendment 18 changes to the management program that would enable the shallow-set fishery to increase and sustainably harvest swordfish and other fish, without jeopardizing the continued existence and recovery of threatened and endangered sea turtles and other protected resources.

Amendment 18 would remove the annual limit on the number of longline shallow sets. The shallow-set certificate program, which is used to monitor and control the number of sets, with the elimination of set limits. Amendment 18 would also increase the number of allowable incidental interactions between longline fishing gear to 46 for loggerhead sea turtles (from the current limit of 17). The allowable interaction limit for leatherback sea turtles would remain unchanged at 16.

All other measures currently applicable to the fishery would remain unchanged, including, but not limited to, limited access permits, vessel and gear marking requirements, vessel length restrictions, Federal catch and effort logbooks, 100 percent observer coverage, large longline restricted areas around the Hawaiian Archipelago, vessel monitoring system (VMS), annual protected species workshops, and the use of sea turtle, seabird, and marine

mammal handling and mitigation gear and techniques.

The proposed management changes are intended to further the intent of the Magnuson-Stevens Fishery Conservation and Management Act by fostering optimum yield from the shallow-set longline fishery, while minimizing bycatch and associated bycatch mortality.

Public comments on proposed Amendment 18 must be received by May 18, 2009 to be considered by NMFS in the decision to approve, partially approve, or disapprove the amendment. A proposed rule to implement the measures recommended in Amendment 18 has been prepared for Secretarial review and approval, and NMFS expects

to publish and request public comment on the proposed rule in the near future.

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

Dated: March 13, 2009.

**Emily H. Menashes,**  
*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
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