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## Title 50 –Wildlife and Fisheries

### Chapter VI –Fishery Conservation and Management, National Oceanic and Atmospheric Administration, Department of Commerce

#### Part 665 –Fisheries in the Western Pacific

#### Subpart F –Western Pacific Pelagic Fisheries

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

Source: 75 FR 2205, Jan. 14, 2010, unless otherwise noted.

#### § 665.815 Pelagic longline seabird mitigation measures.

- (a) **Seabird mitigation techniques.** When deep-setting or shallow-setting north of lat. 23° N or shallow-setting south of lat. 23° N, owners and operators of vessels 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 paragraphs (a)(2) through (4) of this section, as applicable.
- (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 when shallow-setting.** Owners and operators of vessels engaged in shallow-setting 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 the setting of longline gear for the purpose of strategically discharging it in accordance with paragraph (a)(2)(i) of this section;
  - (iii) Remove all hooks from fish, fish parts, or spent bait prior to its discharge in accordance with paragraph (a)(2)(i) of this section;
  - (iv) Remove the bill and liver of any swordfish that is caught, sever its head from the trunk and cut it in half vertically and periodically discharge the butchered heads and livers in accordance with paragraph (a)(2)(i) of this section;
  - (v) Begin the deployment of longline gear at least 1 hour after local sunset and complete the deployment no later than local sunrise, using only the minimum vessel lights to conform with navigation rules and best safety practices;
  - (vi) Use completely thawed bait that has been dyed blue to an intensity level specified by a color quality control card issued by NMFS;
  - (vii) Maintain a minimum of two cans (each sold as 0.45 kg or 1 lb size) containing blue dye on board the vessel; and
  - (viii) Follow the requirements in paragraph (a)(4) of this section, as applicable.
- (3) **Alternative to side-setting when deep-setting.** Owners and operators of vessels engaged in deep-setting using a monofilament main longline north of lat. 23° N that do not side-set must do the following:
- (i) Employ a tori line system, prior to the first hook being set, that meets the following specifications:
    - (A) **Length and material.** The tori line must have an aerial section with a minimum length of 50 m (164 ft) and be made of ultra-high molecular weight polyethylene, or other NMFS-approved material that is light-weight, water resistant, low stretch, and floats in water. The tori line must have a drag section made of a 6 millimeters or larger braided material that is water resistant and floats in water. Monofilament nylon is prohibited for use in the aerial or drag sections of the tori line. The tori line must have a minimum total length of 100 m (328 ft).
    - (B) **Streamer configuration.** The aerial section of the tori line must have light-weight material (hereafter referred to as streamers) that are attached to the aerial section at intervals less than 1 m (3.3 ft) apart. Each streamer must have a length of at least 30 cm (11.8 in) from its attachment point to the tori line so that it hangs and moves freely/flutter in the wind. Where a single streamer is either threaded through or tied to the tori line, each length must measure at least 30 cm (11.8 in). Streamers are not required for the last 20 m (65.6 ft) of the aerial section to minimize entanglements with buoys and fishing gear.
    - (C) **Number.** Two tori lines meeting the specifications in paragraphs (a)(3)(i)(A) and (B) of this section must be present on the vessel at the start of every trip.
    - (D) **Attachment point and material.** The aerial section of the tori line must be attached to the vessel or a fixed structure on the vessel made of rigid material. A weak link must be placed between the tori line and the point of attachment so that the tori line will break away from the point of attachment if gear entanglement creates tension on the tori line.

The attachment point must have a minimum height of 5 m (16.4 ft) above the water when the attachment point is located within 2 m (6.6 ft) of the vessel stern. When the attachment point is more than 2 m (6.6 ft) from the stern, the attachment point height must be increased by 0.5 m (1.6 ft) for every 5 m (16.4 ft) distance from the stern.

- (E) **Attachment point height exemption.** If the structure used to attach the tori line breaks during a trip, the operator may use an alternative attachment point at the highest possible point on the vessel that is lower than the height specified in paragraph (a)(3)(i)(D) of this section to continue fishing north of lat. 23° N. The exemption is only valid during the trip in which the structure broke.
  - (ii) Employ a line shooter.
  - (iii) Attach a weight of at least 45 g (1.6 oz) to each branch line within 1 m (3.3 ft) of the hook.
- (4) **Basket-style longline gear requirement.** When using basket-style longline gear north of lat. 23° N, owners and operators of vessels that do not side-set must ensure that the main longline is deployed slack to maximize its sink rate.
- (b) Short-tailed albatross handling techniques. If a short-tailed albatross is hooked or entangled by a vessel registered for use under a Hawaii longline limited access permit, owners and operators must ensure that the following actions are taken:
  - (1) Stop the vessel to reduce the tension on the line and bring the bird on board the vessel using a dip net;
  - (2) Cover the bird with a towel to protect its feathers from oils or damage while being handled;
  - (3) Remove any entangled lines from the bird; and
  - (4) Determine if the bird is alive or dead.
    - (i) If dead, freeze the bird immediately with an identification tag attached directly to the specimen listing the species, location and date of mortality, and band number if the bird has a leg band. Attach a duplicate identification tag to the bag or container holding the bird. Any leg bands present must remain on the bird. Contact NMFS, the USCG, or the USFWS at the numbers listed on the Short-tailed Albatross Handling Placard distributed at the NMFS protected species workshop, inform them that you have a dead short-tailed albatross on board, and submit the bird to NMFS within 72 hours following completion of the fishing trip.
    - (ii) If alive, handle the bird in accordance with paragraphs (b)(5) through (11) of this section.
  - (5) Place the bird in a safe enclosed place;
  - (6) Immediately contact NMFS, the USCG, or the USFWS at the numbers listed on the Short-tailed Albatross Handling Placard distributed at the NMFS protected species workshop and request veterinary guidance;
  - (7) Follow the veterinary guidance regarding the handling and release of the bird;
  - (8) If the bird is externally hooked and no veterinary guidance is received within 24-48 hours, handle the bird in accordance with paragraphs (c)(4) and (c)(5) of this section, and release the bird only if it meets the following criteria:
    - (i) Able to hold its head erect and respond to noise and motion stimuli;

- (ii) Able to breathe without noise;
  - (iii) Capable of flapping and retracting both wings to normal folded position on its back;
  - (iv) Able to stand on both feet with toes pointed forward; and
  - (v) Feathers are dry.
- (9) Any seabird that is released in accordance with paragraph (b)(8) of this section or under the guidance of a veterinarian must be placed on the sea surface;
- (10) If the hook has been ingested or is inaccessible, keep the bird in a safe, enclosed place and submit it to NMFS immediately upon the vessel's return to port. Do not give the bird food or water; and
- (11) Complete the short-tailed albatross recovery data form issued by NMFS.
- (c) Non-short-tailed albatross seabird handling techniques. If a seabird other than a short-tailed albatross is hooked or entangled by a vessel registered for use under a Hawaii longline limited access permit owners and operators must ensure that the following actions are taken:
- (1) Stop the vessel to reduce the tension on the line and bring the seabird on board the vessel using a dip net;
  - (2) Cover the seabird with a towel to protect its feathers from oils or damage while being handled;
  - (3) Remove any entangled lines from the seabird;
  - (4) Remove any external hooks by cutting the line as close as possible to the hook, pushing the hook barb out point first, cutting off the hook barb using bolt cutters, and then removing the hook shank;
  - (5) Cut the fishing line as close as possible to ingested or inaccessible hooks;
  - (6) Leave the bird in a safe enclosed space to recover until its feathers are dry; and
  - (7) After recovered, release seabirds by placing them on the sea surface.

[75 FR 2205, Jan. 14, 2010, as amended at 89 FR 15064, Mar. 1, 2024]