

TABLE 2.—LOLIGO QUOTA PERIOD ALLOCATIONS

Quota Period	Per- cent	Metric Tons
I (Jan-Apr) .....	42	5,460
II (May-Aug) .....	18	2,340
III (Sep-Dec) .....	40	5,200
Total .....	100	13,000

Section 648.22 requires NMFS to close the directed *Loligo* squid fishery in the EEZ when 90 percent of the DAH for *Loligo* squid is harvested in either Period I or II, or 95 percent is harvested in Period III. NMFS is further required to notify, in advance of the closure, the Executive Directors of the Mid-Atlantic, New England, and South Atlantic Fishery Management Councils; mail notification of the closure to all holders of *Loligo* squid permits at least 72 hours before the effective date of the closure; provide adequate notice of the closure to recreational participants in the fishery; and publish notification of the closure in the **Federal Register**. NMFS has determined, based on vessel and dealer logbook data, that 90 percent of the DAH for *Loligo* squid in Period I has been harvested. Therefore, effective 0001 hours, March 25, 2000, the directed fishery for *Loligo* squid is closed and vessels issued Federal permits for *Loligo* squid may not retain or land more than 2,500 lb (1.13 mt) per trip. The directed fishery will reopen effective 0001 hours, May 1, 2000, which marks the beginning of Quota Period II.

**Classification**

This action is required by 50 CFR part 648 and is exempt from review under E.O. 12866.

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

Dated: March 22, 2000.

**Gary C. Matlock,**

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

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 660**

[Docket No. 000214041-0081-02; I.D. 012100C]

RIN 0648-AN50

**Fisheries off West Coast States and in the Western Pacific; Western Pacific Pelagic Fisheries; Hawaii-based Pelagic Longline Fishery Line Clipper and Dipnet Requirement; Guidelines for Handling of Sea Turtles Brought Aboard Hawaii-based Pelagic Longline Vessels**

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

**ACTION:** Final rule; gear requirements.

**SUMMARY:** NMFS issues a final rule to require the possession and use of line clippers and dip nets aboard vessels registered for use under a Hawaii pelagic longline limited access permit to disengage sea turtles hooked or entangled by longline fishing gear. The final rule requires the use of specific methods for the handling, resuscitating, and releasing of sea turtles. The intended effect of the measures is to minimize the mortality of, and injury to, sea turtles hooked or entangled by longline fishing gear.

**DATES:** Effective April 27, 2000.

**ADDRESSES:** Copies of the environmental assessment (EA) and final regulatory flexibility analysis (FRFA) prepared for this action may be obtained from Charles Karnella, Administrator, NMFS, Pacific Islands Area Office (PIAO), 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814-4700, and from Alvin Katekaru or Marilyn Luipold, PIAO.

**FOR FURTHER INFORMATION CONTACT:** Margaret Dupree or Marilyn Luipold, 808-973-2937.

**SUPPLEMENTARY INFORMATION:** The Hawaii-based pelagic longline fishery is managed under the Fishery Management Plan for the Pelagics

Fisheries of the Western Pacific Region (FMP). The FMP was prepared by the Western Pacific Fishery Management Council (Council) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 660.

On November 26, 1999, the United States District Court, District of Hawaii, entered an Order in *CMC v. NMFS* directing NMFS to require, within 4 months of the date of entry of the Order, "every vessel with a Hawaii longline limited entry permit to carry and use line clippers and dip nets to disengage any hooked or entangled sea turtles with the least harm possible to the turtles." NMFS published a proposed rule on February 17, 2000 (65 FR 8107), that provided background. That background is not repeated here.

**Comments and Responses**

**Comment:** One commenter objected to the requirement that all vessels registered for use under a Hawaii pelagic longline limited access permit carry and use a line clipper and dip net. The commenter believes longline fishermen targeting tuna south of 24° N. lat. should be exempt from the requirements because they do not experience major interactions with sea turtles or sea birds.

**Response:** Sea turtles may interact with longline gear set for tuna, as well as swordfish, and in areas south of 24° N. lat. Embedded hooks or entangled line left on a turtle may seriously injure it and result in mortality once the turtle is released. Vessels registered under a Hawaii longline limited access permit deploy longline gear, and therefore, NMFS considers it necessary to require such vessels to possess gear intended to assist with disengaging sea turtles hooked or entangled by longline fishing gear. NMFS continues to explore and consider other appropriate mitigation measures.

The final rule is unchanged from the proposed rule, with the exception of one change to increase the clarity of the rule text. The phrase "comply with" has been substituted for the term "follow" in 50 CFR 660.22(dd).

## Classification

This final rule has been determined to be not significant for purposes of E.O. 12866.

NMFS prepared an environmental assessment/regulatory impact review/initial regulatory flexibility analysis (EA/RIR/IRFA). No public comments were received on the IRFA (summarized in the **Federal Register** on February 17, 2000, at 65 FR 8107).

A summary of the final regulatory flexibility analysis (FRFA) follows:

The fishery consists of 114 active vessels, all of which are considered small entities, and all of which would be affected. The rule does not contain any reporting or record keeping requirements and does not duplicate, overlap, or conflict with any other relevant Federal rules.

The preferred alternative, as set forth in this final rule, meets the objective of the District Court order while minimizing the economic impacts on fishery participants. It accomplishes this by establishing gear requirements based on performance and design standards, rather than requiring the purchase and use of specific devices. Total cost for the materials to fabricate and/or purchase line clippers and dip nets is estimated to be \$250. The exact cost of resuscitating a sea turtle, as described herein, is not known; however, it is expected to be minimal.

In addition to the preferred alternative, two other alternatives were evaluated. The first, a "no action" alternative, would impose no cost burden on small entities; however, this alternative would fail to comply with the November 26, 1999, District Court order. The other alternative would require each permitted Hawaii pelagic longline vessel to purchase and carry on board a specific, prefabricated line clipper and sea turtle dip net, as well as require vessel operators to try and resuscitate inactive or comatose turtles. This alternative was rejected in favor of the preferred alternative. Although the preferred alternative also requires resuscitation of sea turtles, it proposes design standards for line clippers and dip nets rather than requiring the purchase of prefabricated items. Specifying design standards encourages innovation and is likely to minimize compliance costs. Moreover, such prefabricated line clippers and dip nets are not readily available in the commercial market. This rule would result in costs that represent less than 1 percent of the average exvessel revenue in 1998. A copy of the FRFA is available from NMFS (see **ADDRESSES**).

An informal consultation under the Endangered Species Act was concluded on January 20, 2000. As a result of the informal consultation, the Regional Administrator determined that fishing activities conducted under this rule are not likely to affect adversely endangered or threatened species or critical habitat.

### List of Subjects in 50 CFR Part 660

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

Dated: March 23, 2000.

**Andrew J. Kemmerer,**

*Acting Assistant Administrator, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 660 is 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, new paragraphs (cc) and (dd) are added to read as follows:

#### § 660.22 Prohibitions.

\* \* \* \* \*

(cc) Fail to carry line clippers meeting the minimum design standards as specified in § 660.32(a)(1), and a dip net as required under § 660.32(a)(2), on board a vessel registered for use under a Hawaii longline limited access permit.

(dd) Fail to comply with the sea turtle handling, resuscitation, and release requirements specified in § 660.32(b) through (d), when operating a vessel registered for use under a Hawaii longline limited access permit.

3. A new § 660.32 is added to part 660 to read as follows:

#### § 660.32 Sea turtle take mitigation measures.

(a) *Possession and use of required mitigation gear.* Line clippers meeting minimum design standards as specified in paragraph (a)(1) of this section and dip nets meeting minimum standards prescribed in paragraph (a)(2) of this section must be carried aboard vessels registered for use under a Hawaii longline limited access permit and must be used to disengage any hooked or entangled sea turtles with the least harm possible to the sea turtles and as close to the hook as possible in accordance with the requirements specified in paragraphs (b) through (d) of this section.

(1) *Line clippers.* Line clippers are intended to cut fishing line as close as possible to hooked or entangled sea turtles. NMFS has established minimum design standards for line clippers. The Arceneaux line clipper (ALC) is a model line clipper that meets these minimum design standards and may be fabricated from readily available and low-cost materials (figure 1). The minimum design standards are as follows:

(i) *A protected cutting blade.* The cutting blade must be curved, recessed, contained in a holder, or otherwise afforded some protection to minimize direct contact of the cutting surface with sea turtles or users of the cutting blade.

(ii) *Cutting blade edge.* The blade must be capable of cutting 2.0–2.1 mm monofilament line and nylon or polypropylene multistrand material commonly known as braided mainline or tarred mainline.

(iii) *An extended reach holder for the cutting blade.* The line clipper must have an extended reach handle or pole of at least 6 ft (1.82 m).

(iv) *Secure fastener.* The cutting blade must be securely fastened to the extended reach handle or pole to ensure effective deployment and use.

(2) *Dip nets.* Dip nets are intended to facilitate safe handling of sea turtles and access to sea turtles for purposes of cutting lines in a manner that minimizes injury and trauma to sea turtles. The minimum design standards for dip nets that meet the requirements of this section are:

(i) *An extended reach handle.* The dip net must have an extended reach handle of at least 6 ft (1.82 m) of wood or other rigid material able to support a minimum of 100 lbs (34.1 kg) without breaking or significant bending or distortion.

(ii) *Size of dip net.* The dip net must have a net hoop of at least 31 inches (78.74 cm) inside diameter and a bag depth of at least 38 inches (96.52 cm). The bag mesh openings may be no more than 3 inches x 3 inches (7.62 cm x 7.62 cm).

(b) *Handling requirements.* (1) All incidentally taken sea turtles brought aboard for dehooking and/or disentanglement must be handled in a manner to minimize injury and promote post-hooking survival.

(2) When practicable, comatose sea turtles must be brought on board immediately, with a minimum of injury, and handled in accordance with the procedures specified in paragraphs (c) and (d) of this section.

(3) If a sea turtle is too large or hooked in such a manner as to preclude safe boarding without causing further damage/injury to the turtle, line clippers

described in paragraph (a)(1) of this section must be used to clip the line and remove as much line as possible prior to releasing the turtle.

(c) *Resuscitation.* If the sea turtle brought aboard appears dead or comatose, the sea turtle must be placed on its belly (on the bottom shell or plastron) so that the 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 depends on the size of the turtle; greater elevations are needed for larger turtles. A reflex test, performed by gently

touching the eye and pinching the tail of a sea turtle, must be administered by a vessel operator, at least every 3 hours, to determine if the sea turtle is responsive. Sea turtles being resuscitated must be shaded and kept damp or moist but under no circumstance may be placed into a container holding water. A water-soaked towel placed over the eyes, carapace, and flippers is the most effective method in keeping a turtle moist. Those that revive and become active must be returned to the sea in the manner described in paragraph (d) 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 (d)(1) of this section.

(d) *Release.* Live turtles must be returned to the sea after handling in accordance with the requirements of paragraphs (b) and (c) of this section:

(1) By putting the vessel engine in neutral gear so that the propeller is disengaged and the vessel is stopped, and releasing the turtle away from deployed gear; and

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

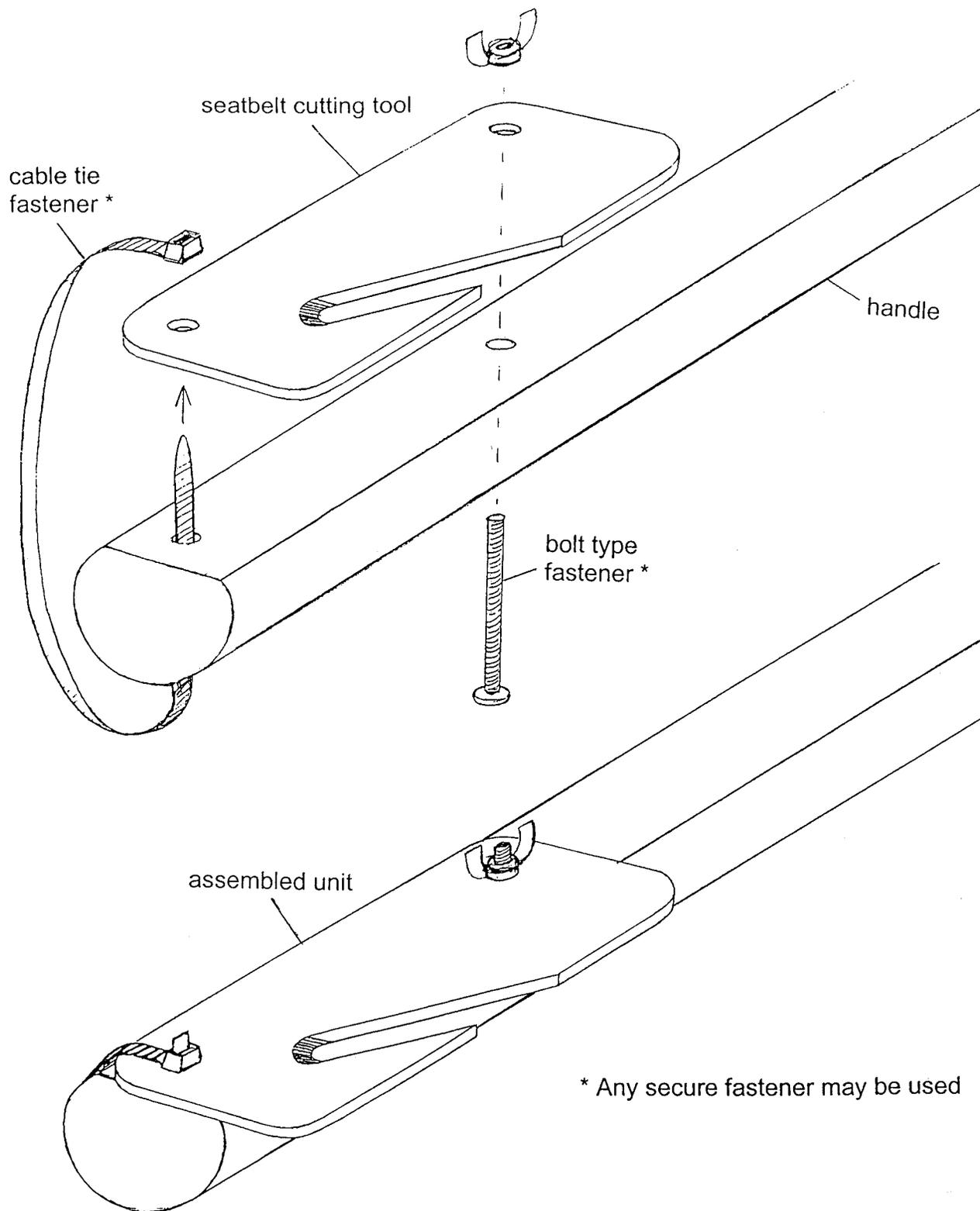


Figure 1 – Sample Fabricated Arceneaux Line Clipper