ecology, adaptation to the physical environment, and timing and duration of breeding season. Based on the available scientific information, it is unclear that eastern and western yellow-billed cuckoos are distinct. However, we find that the petition presents substantial information that leads us to conclude that further investigation is required, through a status review, to determine if listing the western yellow-billed cuckoo as a distinct population segment may be warranted.

In making these findings, we recognize that yellow-billed cuckoo populations have declined in portions of their range in the United States, particularly west of the Continental Divide. Loss and degradation of western riparian habitats appears to be a primary factor in these declines. The range of the species has contracted substantially in many regions of the western United States, compared to the range reported for the species in the first several decades of the twentieth century (Gaines and Laymon 1984; Laymon and Halterman 1987; Hughes 1999). Population numbers have also declined substantially in the western United States (Hughes 1999), although scientific data on the magnitude of population changes are unavailable for most regions.

Public Information Solicited

We solicit information regarding the taxonomic status, occurrence, and distribution of the species, and any additional data or scientific information from the public, scientific community, Tribal, local, State, and Federal governments, and other interested parties concerning the status of the yellow-billed cuckoo. Of particular interest is information regarding:

(1) The taxonomy and genetics of the species and whether this information supports classifying the western yellow-billed cuckoo as a valid subspecies;

(2) Behavioral and ecological differences between eastern and western yellow-billed cuckoos; and

(3) Significance of the western population in relation to the species as a whole that may aid in differentiating population segments.

After consideration of additional information received during the public information collection period (see DATES section of this notice), we will prepare a 12-month finding as to whether listing the yellow-billed cuckoo as a species, subspecies, or distinct population segment is warranted.

References Cited

You may request a complete list of all references we cited, as well as others, from the Sacramento Fish and Wildlife Office (see **ADDRESSES** section).

Authority. The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: February 7, 2000.

Jamie Rappaport Clark,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 00–3652 Filed 2–16–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 012100C]

South Atlantic Fishery Management Council; Public Hearings; Correction

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

ACTION: Correction to notice of public hearings.

SUMMARY: This document contains corrections to the notice of public hearings pertaining to the draft options for an amendment to the Golden Crab Fishery Management Plan.

DATES: Effective February 3, 2000.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407–4699; telephone: 843–571–4366; fax: 843–769–4520; E-mail address: kim.iverson@safmc.noaa.gov.

SUPPLEMENTARY INFORMATION: A notice of public hearings was published in the **Federal Register** on February 3, 2000, notifying the public of the hearings that would be conducted regarding draft options for an amendment to the Golden Crab Fishery Management Plan. That document misidentified the amendment, which must be corrected.

NMFS is correcting the error but is making no other change to the document.

Corrections

Under the Proposed Rules Section, South Atlantic Fishery Management Council; Public Hearings, FR Doc. 00–2404, published on February 3, 2000 (65 FR 5300), on page 5300, please correct the text ''Amendment 1'' to read ''Amendment 3'' in both places: (1) first column, last line and (2) third column, fourth line from the top.

Dated: February 11, 2000.

Bruce C. Morehead,

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

[FR Doc. 00–3856 Filed 2–16–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No.000214041–0041–01; 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: Proposed rule; gear requirements.

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

DATES: Comments on this proposed rule will be accepted through March 3, 2000.

ADDRESSES: Written comments on this action must be mailed to Charles Karnella, Administrator, NMFS, Pacific Islands Area Office (PIAO), 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814–4700; or faxed to 808–973–2941. Comments will not be accepted if submitted via e-mail or internet. Copies of the environmental assessment prepared for this action may be obtained 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.

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act (ESA). The Olive ridley (*Lepidochelys olivacea*) is listed as threatened in the Pacific, except for the Mexican nesting population, which is classified as endangered. The leatherback (*Dermochelys coriacea*) and hawksbill (*Eretmochelys imbricata*) are listed as endangered. The loggerhead (*Caretta caretta*) is listed as threatened, and green (*Chelonia mydas*) sea turtles are listed as threatened, except for populations in Florida and on the Pacific coast of Mexico, which are listed as endangered.

Under the ESA and its implementing regulations, the take of sea turtles is generally prohibited, with exceptions as identified in 50 CFR 223.206 and as authorized under section 7 of the ESA. For the purposes of the ESA and for this proposed rule, the term ''take'' means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Under section 7 of the ESA, NMFS must consult on any Federal actions that may affect listed species under NMFS' jurisdiction and may issue Incidental Take Statements (ITSs) that authorize take incidental to the proposed action, if such take does not jeopardize the continued existence of any listed species. The Hawaii-based pelagic longline fishery is known to take sea turtles incidentally to fishing operations and, therefore, NMFS consulted on the FMP and its subsequent amendments and issued biological opinions with accompanying ITSs in 1985, 1991, 1993, 1994, and 1998. The 1994 ITS required NMFS to conduct a workshop to evaluate procedures for the handling of incidentally caught sea turtles. NMFS held this workshop in March 1995 and guidelines were produced (NMFS Technical Memorandum SWFSC–222, November 1995). In the workshop report, NMFS stated that additional injury may occur as turtles caught on longline gear are retrieved and that turtles cut free with varying lengths of line trailing from the mouth or body may later ingest or become entangled in the line, thereby suffering injury or eventual death by strangulation. Among the recommended guidelines was a requirement to remove any line if the turtle is entangled, to remove the hook or cut the line at the eye of the hook if the turtle is hooked externally, and to cut the line as close to the eye of the hook as possible if the hook is ingested—leaving as little line attached as possible. The 1998 ITS required NMFS to translate the guidelines and educate longline fishermen on turtle handling and release techniques no later than November 2000.

The 1998 ITS also required NMFS to review, within 90 days of notification of an observed leatherback take, the circumstances surrounding the take. During the review of a leatherback take in which 5 meters of line were left attached to the turtle, NMFS determined that an immediate practical method for mitigating the effects of hooking on individual turtles is to cut the leader as close to the hook as possible. A long-handled pruning pole fitted with a specially configured knife was discussed as an option to be used by NMFS' observers to cut line from incidentally caught sea turtles.

In response to litigation, NMFS restated before the U.S. District Court, District of Hawaii, its commitment to developing a line clipping device that would reduce or eliminate line attached to sea turtles incidentally caught in longline gear, and to educating longline fishermen and vessels operators in procedures to safely handle and dehook sea turtles, and to using a line clipping device that would reduce or eliminate line attached to sea turtles incidentally caught in longline gear. Subsequently, 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.'' Magnuson-Stevens Act National Standard 9, (16 U.S.C. 301(a)(9)), requires NMFS to minimize, to the extent practicable, any sea turtle bycatch.

While specific line clipper devices are not available in the commercial market, line clippers meeting the minimum design standards of this proposed rule may be fashioned from readily available tools and components. One model is an extended reach garden pruning tool, which may be adapted to meet the minimum prescribed design standards. Another model, which may be easily fabricated, is the Arceneaux Line Clipper depicted in figure 1 of this proposed rule. Consequently, line clippers may be fabricated or obtained and put into use in the fishery with little expense or delay. NMFS' proposed minimum design standards are intended to allow users flexibility in adapting line clippers and dip nets for optimum use aboard individual vessels.

The proposed rule would also impose specified handling, resuscitation, and release requirements. All sea turtles brought aboard for dehooking and/or disentanglement would have to be handled in a manner which minimizes injury and promotes post-hooking survival. No other methods of handling would be allowed. Where practicable, comatose sea turtles would have to be brought aboard immediately with a minimum of injury and handled in accordance with the resuscitation and release requirements specified in this proposed rule. If the turtle is too large or hooked in such a manner as to preclude it being brought aboard without causing further damage or injury to the turtle, line clippers would have to be used to clip the line and remove as much line as possible prior to releasing the turtle. If a sea turtle brought aboard appears dead or comatose, resuscitation would have to be performed. The methods and procedures for resuscitation are similar to those imposed by NMFS in shrimp trawl fisheries. Sea turtles that revive and become active or that fail to revive within a 24–hour period would have to be returned to the sea in accordance with this proposed rule release requirements. These release provisions would require that the vessel engine be put in neutral gear so that the propeller is disengaged, the vessel is stopped, and the sea turtle is released away from any deployed fishing gear. The sea turtle would have to be observed to be safely away from the vessel before the propeller is engaged and operations are continued.

NMFS is issuing this proposed rule with a 15-day comment period. Although the line clipper and dip net requirements are ordered by the Court, NMFS is soliciting public comments on the specifics of these requirements, such as the design elements. NMFS will consider public comments as well as further information provided by NMFS observers on the efficiency of line clipping devices and will make a final determination on any necessary modifications to the design standards through final rulemaking.

Classification

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

The NOAA Assistant Administrator for Fisheries finds that this proposed rule must be finalized and become effective on March 24, 2000, to comply with the Order issued by the U.S. District Court, District of Hawaii.

NMFS prepared an initial regulatory flexibility analysis that describes the impact this proposed rule, if adopted, would have on small entities. A copy of this analysis is available from NMFS (see **ADDRESSES**). A summary of the analysis follows.

The analysis describes the reasons why the action is being considered and contains a succinct statement of the objectives of and the legal basis for the proposed rule. These are described earlier in this preamble.

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 proposed rule, meets the objective of the District Court order while minimizing economic impacts on fishery participants 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 the least 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 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. Though the preferred alternative also requires resuscitation, 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.

An informal ESA section 7 consultation on the proposed action was completed on January 20, 2000. The consultation concluded that this action is not likely to adversely affect endangered and 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: February 14, 2000.

Andrew J. Kemmerer,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Services.

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, 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 follow 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 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 nets 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 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.

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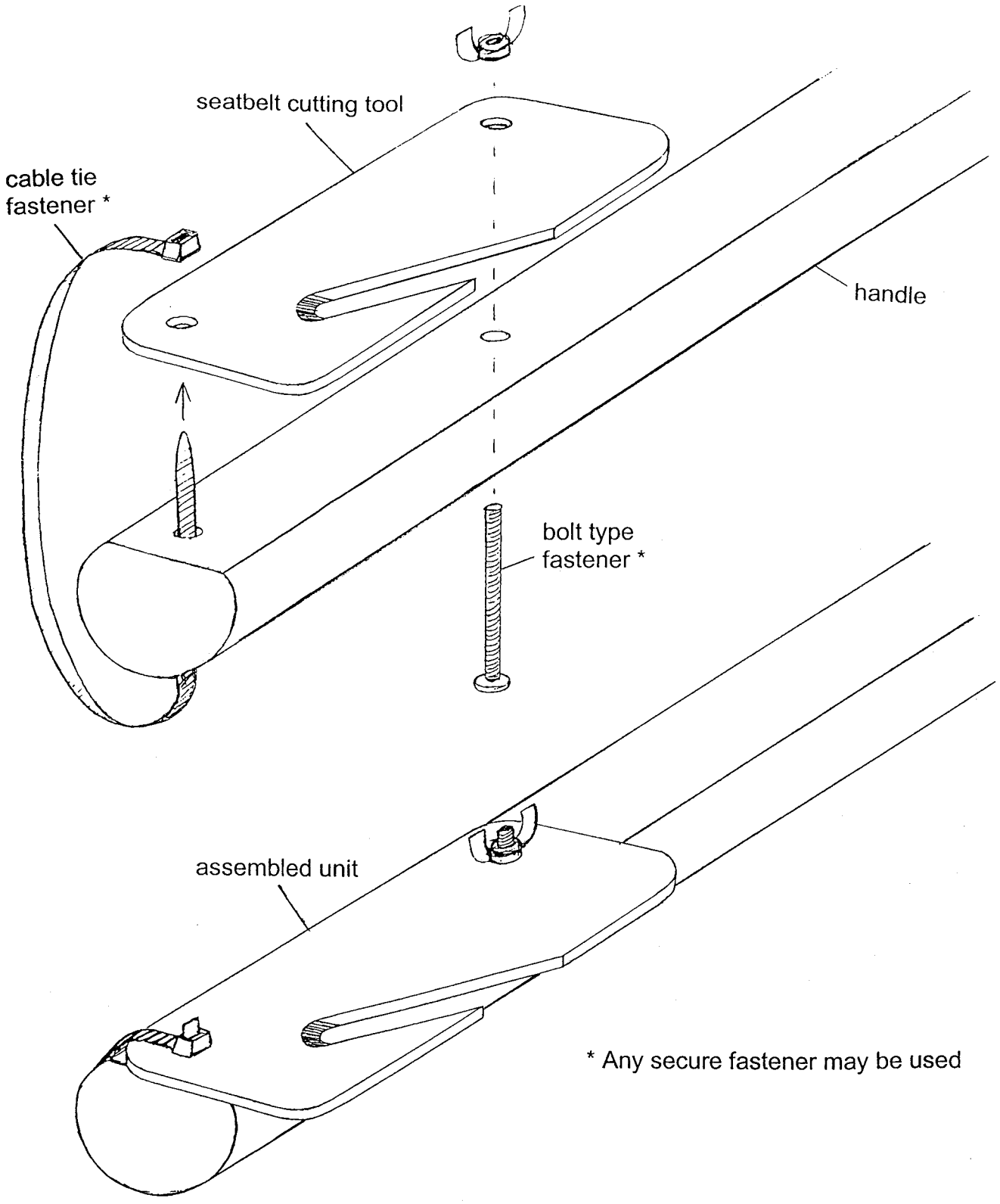

Figure 1 – Sample Fabricated Arceneaux Line Clipper

[FR Doc. 00–3930 Filed 2–16–00; 8:45am]
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