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Author

The primary author of this final rule is Mr. J. Allen Ratzlaff (See ADDRESSES section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Amend part 17, subchapter B of Chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–

625, 100 Stat. 3500 (1986), unless otherwise noted.

2. Amend § 17.12(h) by revising the entries for *Scutellaria montana* under “FLOWERING PLANTS” in the “Status” column to read “T” instead of “E” and in the “When Listed” column to read “234, 720”.

Dated: November 15, 2001.

Marshall P. Jones, Jr.,

Acting Director, Fish and Wildlife Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 010710169–1169–01; I.D. 060401B]

RIN 0648–AP31

Atlantic Highly Migratory Species; Pelagic Longline Fishery; Sea Turtle Protection Measures

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

ACTION: Extension of expiration date and technical amendments.

SUMMARY: NMFS amends the emergency rule extension regulations governing the Atlantic highly migratory species (HMS) fisheries that closed the Northeast Distant Statistical Reporting (NED) area, required modifications in deploying pelagic longline fishing gear, and requiring sea turtle handling and release guidelines for bottom and pelagic longline fisheries to be posted in the wheelhouse. This revision is needed to make the regulations consistent with the June 14, 2001, Biological Opinion (BiOp) on the Atlantic HMS Fishery Management Plan and its associated fisheries. The intent of this revision is to adjust the effective dates listed in the July 13, 2001, emergency rule and in the September 24, 2001, emergency rule revision.

DATES: The expiration date of the rule published September 24, 2001 at 66 FR 48812 is extended from January 9, 2002 to July 8, 2002. The amendments in this rule are effective January 10, 2002, to July 8, 2002. Comments must be received by February 28, 2002.

ADDRESSES: Written comments may be sent to Christopher Rogers, Acting Chief, NMFS Highly Migratory Species Management Division, 1315 East-West

Highway, Silver Spring, MD 20910; or faxed to 301-713-1917. Comments will not be accepted if submitted via e-mail or the Internet. Copies of the documents mentioned in this emergency rule revision may also be obtained from this address.

FOR FURTHER INFORMATION CONTACT:

Tyson Kade or Karyl Brewster-Geisz at 301-713-2347 or via fax at 301-713-1917.

SUPPLEMENTARY INFORMATION: On June 14, NMFS issued a BiOp that found that the Atlantic pelagic longline fishery is jeopardizing the continued existence of loggerhead and leatherback sea turtles. The BiOp estimated that a 55-percent reduction in bycatch mortality from the pelagic longline fishery is necessary to allow for the recovery of these two species. To achieve the necessary reduction, the BiOp required the implementation of a reasonable and prudent alternative that was composed of several elements including an area closure and gear modifications.

On July 13, 2001, NMFS issued an emergency rule (66 FR 36711) to implement the BiOp. Specifically, the regulation closed the NED area, required specific gear deployment modifications, and required that the safe handling and release guidelines for sea turtles caught in pelagic longline gear be posted aboard all vessels permitted for HMS fisheries. The emergency rule is effective until January 9, 2002.

On September 24, 2001 (66 FR 48812), the July 13, 2001, emergency rule was revised to adjust the requirement to post the sea turtle handling and release guidelines in the wheelhouse of all HMS permitted vessels. The safe handling guidelines are specific to longline interactions and would not be applicable to vessels using other gear such as seines or gillnets. Accordingly, NMFS revised the regulation to apply only to HMS permitted vessels having pelagic and bottom longline on board.

On December 13, 2001 (66 FR 64378), NMFS published a regulation that extended the July 13, 2001, emergency

rule for 180 days. This measure insures that the regulations do not lapse as NMFS prepares a proposed rule and environmental impact statement to implement the required measures of the BiOp. The emergency rule extension maintains the sea turtle protection measures through July 8, 2002.

In extending the July 13, 2001, emergency rule, NMFS inadvertently omitted the September 24, 2001, revisions and the necessary references to the new effective dates. This emergency rule revision adjusts the effective dates established in the July 13, 2001, emergency rule and the September 24, 2001, emergency rule adjustment to make the effective dates consistent with the intent of the December 13, 2001, emergency rule extension.

Classification

The Assistant Administrator for Fisheries (AA), under 5 U.S.C. 553(b)(3), finds that providing prior notice and opportunity for public comment on this revision would be contrary to the public interest. This revision is necessary to maintain the intended effective dates of the December 13, 2001, emergency rule extension. An opportunity was provided for public comment on the extension of the emergency rule and on the BiOp that was the basis of the emergency rule. The AA, under 5 U.S.C. 553(d)(3), finds that it would be contrary to the public interest to delay the effective date of these regulatory amendments. As the previously implemented regulations will expire on January 9, 2002, delaying the effectiveness of these amendments would create a lapse in the protection measures for the threatened and endangered sea turtles.

Because prior notice and opportunity for public comment are not required for this emergency rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., are inapplicable.

This action is not significant under the meaning of Executive Order 12866.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics, Treaties.

Dated: January 7, 2002.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service

For the reasons set out in the preamble, 50 CFR part 635 is amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

1. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.* and 16 U.S.C. 1801 *et seq.*

§ 635.21 [Amended]

2. In § 635.21, paragraph (a)(4), added at 66 FR 48812, September 24, 2001, and extended by this rule is amended by removing “effective September 15, 2001, through January 9, 2002” and adding “effective January 10, 2002, to July 8, 2002” in its place.

3. In § 635.21, paragraph (c)(5)(iii), added at 66 FR 36711, July 13, 2001, and extended at 66 FR 64378, December 13, 2001, is amended by removing “effective August 1, 2001, through January 9, 2002” and adding “effective January 10, 2002, to July 8, 2002” in its place.

4. In § 635.21, paragraph (c)(6)(v), added at 66 FR 36711, July 13, 2001, and extended at 66 FR 64378, December 13, 2001, is amended by removing “effective July 15, 2001, through January 9, 2002” and adding “effective January 10, 2002, to July 8, 2002” in its place.

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[FR Doc. 02-775 Filed 1-19-02; 11:30 am]

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