

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

#### **PART 73—[AMENDED]**

1. The authority citation for Part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336.

#### **§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Vermont, is amended by adding Barton, Channel 262A.

Federal Communications Commission.

**John A. Karousos,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 00-10923 Filed 4-28-00; 8:45 am]

**BILLING CODE 6712-01-P**

#### **DEPARTMENT OF COMMERCE**

#### **National Oceanic and Atmospheric Administration**

#### **50 CFR Parts 222 and 223**

**[Docket No. 991207322-0115-04; I.D. 042100B]**

**RIN 0648-AN30**

#### **Sea Turtle Conservation; Restrictions Applicable to Shrimp Trawl Activities; Leatherback Conservation Zone**

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

**ACTION:** Temporary rule; request for comments.

**SUMMARY:** NMFS is closing, for a two-week period, all inshore waters and offshore waters out to 10 nautical miles (nm) (18.5 km) seaward of the COLREGS demarcation line, bounded by 32° N. lat. and 33° N. lat. within the Leatherback Conservation Zone, to fishing by shrimp trawlers required to have a turtle excluder device (TED) installed in each net that is rigged for fishing, unless the TED has an escape opening large enough to exclude leatherback turtles, as specified in the regulations. This action is necessary to reduce mortality of endangered leatherback sea turtles incidentally captured in shrimp trawls.

**DATES:** This action is effective from April 27, 2000 through 11:59 p.m. (local time) on May 11, 2000.

**ADDRESSES:** Comments on this action should be addressed to the Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments may also be sent via

fax to 301-713-0376. Comments will not be accepted if submitted via e-mail or the Internet.

#### **FOR FURTHER INFORMATION CONTACT:**

Charles A. Oravetz, (727) 570-5312, (ph. 727-570-5312, fax 727-570-5517, e-mail [Chuck.Oravetz@noaa.gov](mailto:Chuck.Oravetz@noaa.gov)), or Wanda L. Cain, (ph. 301-713-1401, fax 301-713-0376, e-mail [Wanda.Cain@noaa.gov](mailto:Wanda.Cain@noaa.gov)).

For assistance in modifying TED escape openings to exclude leatherback sea turtles, fishermen may contact gear specialists at the NMFS, Pascagoula, MS laboratory by phone (228) 762-4591 or fax (228) 769-8699.

#### **SUPPLEMENTARY INFORMATION:**

Prohibitions to taking sea turtles are governed by regulations implementing the Endangered Species Act at 50 CFR parts 222 and 223. The incidental take of turtles during shrimp fishing in the Atlantic Ocean off the coast of the southeastern United States and in the Gulf of Mexico is excepted from the taking prohibition pursuant to sea turtle conservation regulations at 50 CFR 223.206, which include a requirement that shrimp trawlers have a NMFS-approved TED installed in each net rigged for fishing. The use of TEDs significantly reduces mortality of loggerhead, green, Kemp's ridley, and hawksbill sea turtles. Because leatherback turtles are larger than the escape openings of most NMFS-approved TEDs, use of these TEDs is not an effective means of protecting leatherback turtles.

Through a final rule (60 FR 47713 September 14, 1995), NMFS established regulations to provide protection for leatherback turtles when they occur in locally high densities during their annual, spring northward migration along the Atlantic seaboard. Within the Leatherback Conservation Zone, NMFS may close an area for 2 weeks when leatherback sightings exceed 10 animals per 50 nm (92.6 km) during repeated aerial surveys pursuant to § 223.206(d)(2)(iv)(A) through (C).

An aerial survey conducted on April 20, 2000, along the South Carolina coast documented 28 leatherback turtles over a total survey trackline of approximately 120 nm (222 km). The highest concentrations were noted in waters off the southern half of the state. Twenty-one of the 28 leatherbacks were sighted in the portion of the survey trackline just 36.3 nm (67.2 km) long, from the south end of Pritchards Island (approximately 32°16' N. lat, 080°36' W. long.) to the north end of Kiawah Island (approximately 32°35' N. lat., 079°59' W. long.). In a 8.7-nm (16.1-km) section of the survey trackline flown in a

northeasterly direction commencing approximately 1 nm (1.8 km) off the beach at the southern end of Edisto Island (approximately 32°28' N. lat., 080°20' W. long.), 7 leatherbacks were sighted. A replicate survey flown later in the flight (same course, speed, and altitude) over the same 8.7 nm section of trackline area sighted 11 leatherbacks. Fishing effort appeared minimal at the time of the survey. Only 8 vessels (7 underway shrimp trawlers and 1 stationary gillnet vessel) were observed during the survey of the South Carolina coast. The paucity of vessels is likely due to the fact that shrimping in state waters off South Carolina (and Georgia) is scheduled to remain closed until mid to late May.

The Assistant Administrator for Fisheries, NOAA (AA), has determined that all inshore waters and offshore waters within 10 nm (18.5 km) seaward of the COLREGS demarcation line, bounded by 32° N. lat. and 33° N. lat., within the Leatherback Conservation Zone are closed to fishing by shrimp trawlers required to have a TED installed in each net that is rigged for fishing, unless the TED installed has an escape opening large enough to exclude leatherback turtles, meeting the specifications at 50 CFR 223.207(a)(7)(ii)(B) or 223.207(c)(1)(iv)(B). These regulations specify modifications that can be made to either single-grid hard TEDs or Parker soft TEDs to allow leatherbacks to escape.

The regulations at 50 CFR 223.206(d)(2)(iv) also state that fishermen operating in the closed area with TEDs modified to exclude leatherback turtles must notify the NMFS Southeast Regional Administrator of their intentions to fish in the closed area. This aspect of the regulations does not have a current OMB control number, issued pursuant to the Paperwork Reduction Act. Consequently, fishermen are not required to notify the Regional Administrator prior to fishing in the closed area, but they must still meet the gear requirements.

#### **Classification**

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

The AA is taking this action in accordance with the requirements of 50 CFR 223.206(d)(2)(iv) to provide protection for endangered leatherback sea turtles from incidental capture and drowning in shrimp trawls. Leatherback sea turtles are occurring in high concentrations in coastal waters in shrimp fishery statistical zone 32. This

action allows shrimp fishing to continue in the affected area and informs fishermen of the gear changes that they can make to protect leatherback sea turtles.

Pursuant to 5 U.S.C. 553(b)(B), the AA finds that there is good cause to waive prior notice and opportunity to comment on this action. It would be contrary to the public interest to provide prior notice and opportunity for comment because providing notice and comment would prevent the agency from implementing the necessary action in a timely manner to protect the endangered leatherback. Notice and opportunity to comment on the leatherback closure procedures was provided through the rulemaking establishing the closure procedures (60 FR 25663, May 12, 1995).

Pursuant to 5 U.S.C. 552(d)(3), the AA finds that there is good cause not to delay the effective date of this rule for 30 days. It would be contrary to the public interest to delay this action because such delay would prevent the agency from implementing the necessary action in a timely manner to protect the endangered leatherback. Accordingly, the AA is making the rule effective April 27, 2000 through May 11, 2000. This closure has been announced on the NOAA weather channel, in newspapers, and other media. Shrimp trawlers may also call (727) 570-5312 for updated area closure information.

As prior notice and an opportunity for public comment are not required to be provided for this notification by 5 U.S.C. 553, or by any other law, the analytical requirements of 5 U.S.C. 601 *et seq.*, are inapplicable.

The AA prepared an Environmental Assessment (EA) for the final rule requiring TED use in shrimp trawls and the regulatory framework for the Leatherback Conservation Zone (60 FR 47713, September 14, 1995). Copies of the EA are available (see **ADDRESSES**).

Dated: April 27, 2000.

**Penelope D. Dalton,**

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

[FR Doc. 00-10922 Filed 4-27-00; 4:49 pm]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 000211040-0040-01; I.D. 042800A]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Species in the Rock sole/Flathead sole/"Other flatfish" Fishery Category by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area

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

**ACTION:** Closure.

**SUMMARY:** NMFS is closing directed fishing for species in the rock sole/flathead sole/"other flatfish" fishery category by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the second seasonal apportionment of the 2000 halibut bycatch mortality allowance specified for the trawl rock sole/flathead sole/"other flatfish" fishery category.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), April 30, 2000, until 1200 hrs, A.l.t., July 4, 2000.

**FOR FURTHER INFORMATION CONTACT:** Mary Furuness, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The second seasonal apportionment of halibut bycatch mortality allowance specified for the BSAI trawl rock sole/flathead sole/"other flatfish" fishery

category, which is defined at § 679.21(e)(3)(iv)(B)(2), was established as 168 metric tons by the Final 2000 Harvest Specifications for Groundfish (65 FR 8282, February 18, 2000).

In accordance with § 679.21(e)(7)(v), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the second seasonal apportionment of the 2000 halibut bycatch mortality allowance specified for the trawl rock sole/flathead sole/"other flatfish" fishery in the BSAI has been caught. Consequently, the Regional Administrator is closing directed fishing for species in the rock sole/flathead sole/"other flatfish" fishery category by vessels using trawl gear in the BSAI.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent exceeding the second seasonal apportionment of the 2000 halibut bycatch mortality allowance specified for the trawl rock sole/flathead sole/"other flatfish" fishery category. Providing prior notice and an opportunity for public comment on this action is impracticable and contrary to the public interest. The fleet will soon take the apportionment. Further delay would only result in the second seasonal apportionment of the 2000 halibut bycatch mortality allowance being exceeded. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under U.S.C. 553(d), a delay in the effective date is hereby waived.

#### Classification

This action is required by 50 CFR 679.21 and is exempt from review under E.O. 12866.

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

Dated: April 28, 2000.

**Bruce C. Morehead,**

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

[FR Doc. 00-10990 Filed 4-28-00; 12:54 pm]

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