

Federal Communications Commission.

**Douglas W. Webbink,**

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

[FR Doc. 95-15049 Filed 6-19-95; 8:45 am]

BILLING CODE 6712-01-F

#### 47 CFR Part 73

[MM Docket No. 93-164; RM-8248]

#### Radio Broadcasting Services; Williamstown, WV

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of James Phillips, allots Channel 245A at Williamstown, West Virginia, as its first local aural transmission service. See 58 FR 34026, June 23, 1993.

Channel 245A can be allotted to Williamstown in compliance with the Commission's minimum distance separation requirements with a site restriction of 6.9 kilometers (4.3 miles) southwest to avoid a short-spacing to Station WRRK(FM), Channel 245A, Braddock, Pennsylvania. The coordinates for Channel 245A at Williamstown are North Latitude 39-22-18 and West Longitude 81-31-04. Since Williamstown is located within 320 kilometers (200 miles) of the U.S.-Canadian border, Canadian concurrence has been obtained. With this action, this proceeding is terminated.

**DATES:** Effective July 31, 1995. The window period for filing applications for Channel 245A at Williamstown, West Virginia, will open on July 31, 1995, and close on August 31, 1995.

**FOR FURTHER INFORMATION CONTACT:** Sharon P. McDonald, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Report and Order*, MM Docket No. 93-164, adopted June 6, 1995, and released June 14, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

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:** Sections 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

#### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under West Virginia, is amended by adding Williamstown, Channel 245A.

Federal Communications Commission.

**John A Karousos,**

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

[FR Doc. 95-15045 Filed 6-19-95; 8:45 am]

BILLING CODE 6712-01-F

#### 47 CFR Part 73

[MM Docket No. 94-138; RM-8542]

#### Radio Broadcasting Services; Ketchikan, AK

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document allots Channel 260A to Ketchikan, Alaska, as that community's third local FM service, in response to a petition for rule making filed on behalf of TLP Communications, Inc. See 59 FR 62390, December 5, 1994. Coordinates used for Channel 260A at Ketchikan are 55-20-30 and 131-38-48. With this action, the proceeding is terminated.

**DATES:** Effective July 31, 1995. The window period for filing applications on Channel 260A at Ketchikan, Alaska, will open on July 31, 1995, and close on August 31, 1995.

**FOR FURTHER INFORMATION CONTACT:** Nancy Joyner, Mass Media Bureau, (202) 418-2180. Questions related to the window application filing process for Channel 260A at Ketchikan, Alaska, should be addressed to the Audio Services Division, FM Branch, (202) 418-2700.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Report and Order*, MM Docket No. 94-138, adopted June 7, 1995, and released June 14, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased

from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, located at 1919 M Street, NW., Room 246, or 2100 M Street, NW., Suite 140, Washington, DC 20037.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

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:** Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

#### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Alaska, is amended by adding Channel 260A at Ketchikan.

Federal Communications Commission.

**John A. Karousos,**

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

[FR Doc. 95-15051 Filed 6-19-95; 8:45 am]

BILLING CODE 6712-01-F

#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Parts 217 and 227

[Docket No. 950427119-5152-04; I.D. 061295B]

RIN 0648-AH98

#### Sea Turtle Conservation: Restrictions Applicable to Shrimp Trawling Activities; Additional Turtle Excluder Device Requirements Within Certain Fishery Statistical Zones

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

**ACTION:** Temporary additional restrictions on fishing by shrimp trawlers in the nearshore waters off Georgia to protect sea turtles; request for comments.

**SUMMARY:** NMFS is imposing, for a 30-day period, additional restrictions on shrimp trawlers fishing in the Atlantic Area in offshore waters out to 10 nautical miles (nm)(18.5 km) from the COLREGS line, between 30°45' N. lat. and 32°03' N. lat. This area includes nearshore waters in NMFS fishery statistical Zone 31, a small part of the southern portion of statistical Zone 32,

and approximately 18 miles (29.0 km) of the northern portion of statistical Zone 30. The restrictions include prohibitions on the use by shrimp trawlers of: soft turtle excluder devices (TEDs); bottom-opening TEDs; webbing flaps that completely cover the escape opening of TEDs; and try nets with a headrope length greater than 12 ft (3.6 m) and footrope length greater than 15 ft (4.5 m), unless the try nets are equipped with approved TEDs other than soft or bottom-opening TEDs. This action is necessary to prevent the continuation of high levels of mortality and strandings of threatened and endangered sea turtles.

**DATES:** This action is effective at 12:01 a.m. (local time) June 21, 1995 through 11:59 p.m. (local time) July 20, 1995. Comments on this action must be submitted by July 21, 1995.

**ADDRESSES:** Comments on this action and requests for a copy of the environmental assessment (EA) or supplemental biological opinion (BO) prepared for this action should be addressed to the Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Charles A. Oravetz, 813-570-5312, or Russell Bellmer, 301-713-1401.

**SUPPLEMENTARY INFORMATION:**

**Background**

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act of 1973 (ESA). The Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) are listed as endangered. Loggerhead (*Caretta caretta*) and green (*Chelonia mydas*) turtles are listed as threatened, except for breeding populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered.

The incidental take and mortality of sea turtles, as a result of shrimp trawling activities have been documented in the Gulf of Mexico and along the Atlantic Seaboard. Under the ESA and its implementing regulations, taking sea turtles is prohibited, with exceptions set forth at 50 CFR 227.72. The incidental taking of turtles during shrimp trawling in the Gulf and Atlantic Areas (as defined in 50 CFR 217.12) is excepted from the taking prohibition, if the sea turtle conservation measures specified in the sea turtle conservation regulations (50 CFR part 227, subpart D) are employed. The regulations require most shrimp trawlers operating in the

Gulf of Mexico and Southeast U.S. Atlantic to have a NMFS-approved TED installed in each net rigged for fishing, year round.

The conservation regulations provide a mechanism to implement further restrictions of fishing activities, if necessary to avoid unauthorized takings of sea turtles that may be likely to jeopardize the continued existence of listed species or that would violate the terms and conditions of an incidental take statement or biological opinion. Upon a determination that incidental takings of sea turtles during fishing activities are not authorized, additional restrictions may be imposed to conserve listed species and will be imposed if necessary to avoid unauthorized takings that may be likely to jeopardize the continued existence of a listed species. Restrictions may be effective for a period of up to 30 days and may be renewed for additional periods of up to 30 days each (50 CFR 227.72(e)(6)).

**Biological Opinion**

On November 14, 1994, NMFS issued a Biological BO, that concluded that the continued long-term operation of the shrimp fishery in the nearshore waters of the southeastern U.S. was likely to jeopardize the continued existence of the highly endangered Kemp's ridley. In addition, while the long-term operation of the shrimp fishery would not likely jeopardize the continued existence of loggerheads, it could prevent the recovery of this species. This BO resulted from an ESA section 7 consultation that was reinitiated in response to the unprecedented number of dead sea turtles that stranded along the coasts of Texas, Louisiana, Georgia, and Florida in the spring and summer of 1994, coinciding with heavy nearshore shrimp trawling activity. Pursuant to section 7(b)(3) of the ESA, NMFS provided a reasonable and prudent alternative to the existing management measures that would allow the shrimp fishery to continue without jeopardizing the continued existence of the Kemp's ridley sea turtle. In addition, the BO was accompanied by an Incidental Take Statement (ITS), pursuant to section 7(b)(4)(i) of the ESA, that specifies the impact of such incidental taking on the species. The ITS provides two levels to identify the expected incidental take of sea turtles by shrimp fishing. The incidental take levels are based upon either documented takes or indicated takes measured by stranding data. Stranding data are considered an indicator of lethal take in the shrimp fishery during periods in which intensive shrimping effort occurs and there are no significant

or intervening natural or human sources of mortality, other than shrimping, conclusively identified as the cause of the strandings.

NMFS has established an indicated take level (ITL) by identifying the weekly average number of sea turtle strandings documented in each NMFS statistical zone for the last 3 years (taking into consideration anomalous years). In Texas and Georgia, where strandings were anomalously high in 1994, the years 1991-93 were used to determine historical levels. The weekly average was computed as a 5-week running average (2 weeks before and after the week in question) to reflect seasonally fluctuating events such as fishery openings and closures and turtle migrations. The ITL for each zone was set at 2 times the weekly 3-year stranding average. For weeks and zones where the historical average was less than one, the ITL was set at two strandings.

As discussed below, consultation was again reinitiated as a result of high levels of strandings in the Gulf this year, and concluded with the issuance of a biological opinion on April 26, 1995. This BO reaffirmed the reasonable and prudent alternative and incidental take statement provided on November 14, 1994.

**The Emergency Response Plan**

The reasonable and prudent alternative of the November 14, 1994, BO and the accompanying ITS required NMFS to develop and implement an Emergency Response Plan (ERP) to respond to future stranding events and to ensure compliance with sea turtle conservation measures. The Assistant Administrator for Fisheries, NOAA (AA) approved the ERP on March 14, 1995, and published a notice of availability on April 21, 1995 (60 FR 19885). Comments on the ERP are being accepted. The ERP provides for elevated enforcement of TED regulations in two areas in which strandings of Kemp's ridley sea turtles historically have been high. The first, the Atlantic Interim Special Management Area, includes shrimp fishery statistical Zones 30 and 31 (northeast Florida and Georgia). The second, the Northern Gulf Interim Special Management Area, includes statistical Zones 13 through 20 (Louisiana and Texas from the Mississippi River to North Padre Island). The ERP also establishes procedures for notifying NMFS of sea turtle stranding events, and provides guidelines for implementation of temporary restrictions to prevent take levels in the BO from being exceeded.

As described in the ERP, restrictions in addition to those already imposed by 50 CFR 227.72(e) will be placed on shrimping in the Interim Special Management Areas if 75 percent or more of the ITL is reached for 2 consecutive weeks. The restrictions originally identified in the ERP (60 FR 19885, April 21, 1995) and imposed in certain statistical areas in the Gulf of Mexico (60 FR 21741, May 3, 1995) were modified subsequently (60 FR 26691, May 18, 1995). A detailed discussion of those restrictions, the modification, and reasons therefor, is provided in those notices and is not repeated here.

As described in the ERP, when strandings remain elevated for 1 month in zones outside the Interim Special Management Areas, NMFS, upon the determination of the Director, Southeast Region, NMFS (Regional Director), may implement management actions, similar to those specified for the Interim Special Management Areas.

#### Recent Stranding Events

Sea turtle strandings on offshore beaches in a number of NMFS fishery statistical zones in the southeastern U.S. have exceeded the established ITLs specified in the November 14, 1994, BO, during 1995. Temporary restrictions on shrimp fishing were imposed in some zones of Texas and western Louisiana on April 27, 1995 (60 FR 21741, May 3, 1995), in response to elevated strandings within those zones. Recent strandings in Georgia and South Carolina appear to be closely correlated with the opening of state waters to shrimp fishing, as delineated below.

#### South Carolina

South Carolina waters, which fall within NMFS statistical Zones 32 and 33, were opened to shrimping on May 16, 1995. Reported strandings on offshore beaches of South Carolina increased beginning on May 17, and exceeded the ITL in Zone 32 by the end of the week of May 28. Strandings again reached the ITL during the week beginning May 28. The ITL was exceeded in Zone 33, beginning May 21, and approached the ITL for the week beginning May 28. Many of the strandings reported in Zone 33 earlier in the spring occurred in North Carolina in the northern portion of the Zone. Four weekly averages (May 7 through June 3) for Zones 32 and 33, have approached 75 percent of, or exceeded, the ITL; however, the strandings have not remained elevated throughout the entire period. Enforcement efforts have been increased in response to strandings, and as described in the ERP, restrictions will be initiated in the waters off South

Carolina if stranding levels remain elevated. Shrimping effort was elevated during the week following the May 16 opening of South Carolina waters, with 280 trawlers observed, including 200 in the vicinity of Charleston on May 17, 1995. During an aerial survey conducted on May 23, 1995, 95 vessels were observed. Georgia waters opened to shrimp fishing on June 1, 1995, which may have resulted in reduced effort off South Carolina as vessels moved south. Additionally, tropical storm Allison, which prevented an aerial survey in early June, may also have reduced effort. An aerial survey conducted on June 7, 1995, documented 120 shrimp vessels operating within 1 mile (1.9 km) of the South Carolina offshore beaches.

#### Georgia

The Georgia coastline encompasses the northern 18 miles (29.0 km) of NMFS shrimp statistical Zone 30, all of Zone 31, and a few miles of the southern portion of Zone 32. Zones 30 and 31 are both within the Atlantic Interim Special Management Area. Georgia waters were opened to shrimping on Thursday, June 1, 1995. During the week beginning May 28, 21 strandings were reported on Georgia offshore beaches, including 1 Kemp's ridley. Fifteen of these strandings, including the ridley, occurred in Zone 31, compared to an ITL of 8. While a number of these turtles stranded before the June 1, 1995, opening, reports of vessels fishing within state waters prior to the opening have been received and are being investigated by enforcement personnel. During an aerial survey conducted over nearshore Georgia waters on June 1, 1995, 351 shrimp vessels were observed. Between June 4 and June 8, 1995, 24 strandings were reported on Georgia offshore beaches, including 6 Kemp's ridleys. The combined ITL for Zones 30 and 31 (which includes a small, northern portion of the Florida coastline) is 16.

Enforcement observations suggest that compliance with the TED requirements of the sea turtle conservation regulations is high in Georgia and South Carolina. Soft TEDs were observed in almost 50 percent of the nets inspected by enforcement agents in Georgia and South Carolina waters this year, and all hard-grid TEDs observed had bottom escape openings. State enforcement personnel and resource managers confirm these observations. As discussed herein, although soft TEDs and bottom-opening hard TEDs have been generally approved for use under the sea turtle conservation regulations, based on the best available information, NMFS concludes that they are not as

effective in releasing turtles, under some conditions, as top-opening hard TEDs. Additionally, anecdotal accounts suggest that shrimpers off Georgia are taking high numbers of sea turtles in try nets. Law enforcement personnel stated that a fisherman reported that another individual caught 25 sea turtles in try nets with a headrope length of 20 ft (6.1 m) in 2 days of fishing.

#### Analysis of Other Factors

NMFS and state personnel have investigated factors other than shrimping that may contribute to sea turtle mortality in Georgia and South Carolina, including other fisheries and environmental factors. Gillnet effort in North Carolina waters is being investigated in association with strandings in North Carolina as well as in northern South Carolina. Shrimp fishermen have suggested that crabbers in Georgia waters may be intentionally killing sea turtles based on their belief that sea turtles cause damage to crab pots. Two loggerheads stranded on Wassaw Island, GA, had apparent gun shot wounds. Georgia law enforcement personnel are investigating these reports but currently have no information identifying participants of any particular fishery in these intentional mortalities.

An algae bloom with red tide organisms has been transported along the Gulf Stream into nearshore North Carolina waters where the coastline projects out near the Gulf Stream. However, there is no information to suggest that red tide or other environmental conditions have contributed to sea turtle strandings in Georgia and South Carolina thus far in 1995. Additionally, accounts of the successful rehabilitation of loggerhead turtles in pools containing red tide organisms suggest that sea turtles are not adversely affected solely by the occurrence of red tide organisms in the environment. Crustaceans, which are the primary forage species of loggerhead and ridley sea turtles in the Atlantic, are not considered bioaccumulators of red tide toxins.

In summary, no new activity or environmental condition has been identified in the nearshore southeast U.S. Atlantic waters to account for high stranding levels except for increased shrimping effort associated with the opening of South Carolina and Georgia waters to shrimping.

#### Restrictions on Fishing by Shrimp Trawlers

The November 14, 1994, BO provides a reasonable and prudent alternative requiring conservation measures be

implemented as mortality levels approach those established in the ITS to ensure that shrimping is not likely to jeopardize the continued existence of the Kemp's ridley. The BO specifically requires that such measures be implemented immediately when sea turtle takings, indicated or documented, reach 75 percent of the established levels. These measures are intended to allow shrimp fishing to continue, while reducing the likelihood of further sea turtle strandings. The ERP provides further guidance on the nature and geographic scope of such measures. As noted in the foregoing discussion, strandings have reached or exceeded the ITL in Zone 31 for 2 weeks; therefore, conservation measures are being implemented in Zone 31 and adjacent waters along the Georgia coast.

Pursuant to 50 CFR 227.72(e)(6), the exemption for incidental taking of sea turtles in 50 CFR 227.72(e)(1) does not authorize incidental takings during fishing activities if the takings would violate the restrictions, terms or conditions of an incidental take statement or biological opinion, or may be likely to jeopardize the continued existence of a species listed under the ESA. The AA has determined that continued takings of sea turtles by shrimp fishing off Georgia are unauthorized and, therefore takes this action.

The measures that NMFS is implementing include:

1. Prohibition of the use of soft TEDs;
2. Prohibition of the use of bottom-opening TEDs;
3. Prohibition of the use of try nets, with a headrope length greater than 12 ft (3.6 m) or a footrope length greater than 15 ft (4.5 m), unless the try nets are equipped with approved TEDs other than soft or bottom-opening TEDs; and
4. Prohibition of the use of webbing flaps completely covering the escape opening of TEDs, as described in the Requirements section herein.

These restrictions are being applied in Atlantic offshore waters seaward to 10 nm (18.5 km) along the Georgia coast, between 30°45' N. lat. and 32°03' N. lat. Under 50 CFR 217.12, offshore is defined as marine and tidal waters seaward of the 72 COLREGS demarcation line (International Regulations for Preventing Collisions at Sea, 1972), as depicted or noted on nautical charts published by the NOAA (Coast Charts, 1:80,000 scale) and as described in 33 CFR part 80.

This area includes the nearshore waters in NMFS fishery statistical Zone 31, a small southern, portion of statistical Zone 32, and approximately 18 miles (29.0 km) of the northern

portion of Zone 30. As described in the ERP, NMFS may extend conservation measures in any statistical zone to portions of contiguous zones as determined necessary. NMFS has extended these measures to include the entire Georgia coastline due to the familiarity of state boundaries to shrimpers, and state and Federal enforcement personnel, the occurrence of physical landmarks delineating Georgia borders, and the high incidences of strandings along the entire Georgia coastline. These restrictions will allow fishing by shrimp trawlers to continue in these areas despite elevated rates of turtle strandings.

Although soft TEDs and bottom-opening hard TEDs have been generally approved for use under the sea turtle conservation regulations, based on the best available information, NMFS has concluded that they are not as effective, under some conditions, in releasing turtles as top-opening hard TEDs. Therefore, the use of soft TEDs and bottom-opening hard TEDs is temporarily prohibited in the specified areas. NMFS gear specialists conducted evaluations of soft TEDs installed in various trawl designs purchased from a number of suppliers during September, 1994. All the devices met the regulatory requirements for soft TEDs. Trawl evaluations of the TEDs were conducted in the Canaveral ship channel. Seven TED/net configurations were tested. Five turtles were observed upon net retrieval in 21 tows with 1 configuration; 1 turtle was observed in 20 tows with another configuration. Three of the configurations also were evaluated for small turtle exclusion through the release of eight captive-reared loggerhead turtles into the nets. Entanglement in the TED panels occurred in two of the three configurations tested. These tests suggest that proper soft TED installation is critical to turtle release. Additional in-water testing of hard-grid TEDs in May, 1995, indicated that small turtles require almost twice as long to escape from a bottom-opening TED versus a top-opening TED (an average of 125.6 seconds vs. an average of 68.8 seconds) under ideal conditions. NMFS has previously implemented regulations to discuss and address problems with bottom-opening hard TEDs (59 FR 33447, June 29, 1994; 60 FR 15512, March 24, 1995). Notwithstanding the required use of floats, turtles may be more susceptible to capture in bottom-opening TEDs.

Pursuant to 50 CFR 227.72(e)(2)(ii)(B)(1), try nets have been exempted from the TED requirements, because they are only intended for use

in brief sampling tows not likely to result in turtle mortality. Turtles are, however, caught in try nets, and either through repeated captures or long tows, try nets can contribute to the mortality of sea turtles. Takes of sea turtles in try nets, including one mortality, have been documented by NMFS, and anecdotal accounts suggest multiple sea turtle captures in try nets are occurring in Georgia waters. Twenty-foot try nets are reportedly preferred to smaller try nets by the Atlantic shrimp fleet. During the Canaveral ship channel evaluations, conducted in September 1994 and discussed above, 1 loggerhead was captured in a 13-ft (4.0-m) headrope length try net in 59 tows, while 9 loggerheads were captured in a 20-ft (6.1-m) headrope length try net in 57 tows. Therefore, NMFS has determined that top-opening hard-grid TEDs temporarily should be required in try nets larger than 12-ft (6.1-m) headrope length or a footrope length greater than 15 ft (4.6 m) in the specified areas. Finally, webbing flaps completely covering TED escape openings have been allowed in order to help reduce shrimp loss with TEDs. However, full length flaps may hinder turtle releases. In a top-opening TED, high pressure is generated above the trawl net which forces the webbing flap closed; while in a bottom-opening TED, the weight of the TED grid can pin the webbing flap shut over the escape opening. Additionally, the webbing flap can be sewn shut to disable the TED deliberately. Accordingly, NMFS has determined that use of full length flaps should be temporarily prohibited in the specified areas.

Under these temporary restrictions, only NMFS-approved hard or special hard TEDs with top escape openings may be used in shrimp trawls in the specified areas. Flaps may not completely cover the escape opening. Figure 1 illustrates a top-opening hard TED with a shortened webbing flap meeting the dimension requirements of this emergency action.

#### Requirements

This action is authorized by 50 CFR 227.72(e)(6). The definitions in 50 CFR 217.12 are applicable to this action, as well as all relevant provisions in 50 CFR parts 217 and 227. For example, § 227.71(b)(3) provides that it is unlawful to fish for or possess fish or wildlife contrary to a restriction specified or issued under § 227.72(e)(3) or (e)(6).

NMFS hereby notifies owners and operators of shrimp trawlers (as defined in 50 CFR 217.12) that for a 30-day period, starting at 12:01 a.m. (local time)

June 21, 1995 and ending 11:59 p.m. (local time) July 20, 1995, fishing by shrimp trawlers in offshore waters, seaward to 10 nm (18.5 km) from the COLREGS line, along the Georgia coast, bounded between 30°45' N. lat. and 32°03' N. lat., is prohibited unless the shrimp trawler is in compliance with all applicable provisions in 50 CFR 227.72(e) and the following prohibitions:

1. The use of soft TEDs described in CFR 227.72(e)(4)(iii) is prohibited.

2. The use of hard TEDs with bottom escape openings and special hard TEDs with bottom escape openings is prohibited. Approved hard TEDs and special hard TEDs must be configured with the slope of the deflector bars upward from forward to aft and with the escape opening at the top of the trawl.

3. The use of try nets with a headrope length greater than 12 ft (3.6 m) or a footrope length greater than 15 ft (4.6 m) is prohibited unless a NMFS-approved top-opening, hard TED or special hard TED is installed when the try nets are rigged for fishing. Try nets with a headrope length 12 ft (3.6 m) or less and a footrope length 15 ft (4.6 m) or less remain exempt from the requirement to have a TED installed in accordance with 50 CFR 227.72(e)(2)(ii)(B)(1).

4. The use of a webbing flap that completely covers the escape opening in the trawl is prohibited. Any webbing that is attached to the trawl, forward of the escape opening, must be cut to a length so that the trailing edge of such webbing does not approach to within 2 inches (5.1 cm) of the posterior edge of the TED grid. The requirements for the size of the escape opening are unchanged.

All provisions in 50 CFR 227.72(e), including, but not limited to 50 CFR 227.72(e)(2)(ii)(B)(1) (use of try nets), 50 CFR 227.72(e)(4)(iii) (Soft TEDs), 50 CFR 227.72(e)(4)(i)(F) (Position of escape opening), and 50 CFR 227.72(e)(4)(iv)(C) (Allowable modification to TEDs), that are inconsistent with these prohibitions are hereby suspended for the duration of this action.

NMFS hereby notifies owners and operators of shrimp trawlers in the area

subject to restrictions that they are required to carry a NMFS-approved observer aboard such vessel(s) if directed to do so by the Regional Director, upon written notification sent to either the address specified for the vessel registration or documentation purposes, or otherwise served on the owner or operator of the vessel. Owners and operators and their crew must comply with the terms and conditions specified in such written notification.

#### **Additional Conservation Measures**

The AA may withdraw or modify a determination concerning unauthorized takings or any restriction on shrimping activities if the AA determines that such action is warranted. Notification of any additional sea turtle conservation measures, including any extension of this 30-day action, will be published in the **Federal Register** pursuant to 50 CFR 227.72(e)(6).

NMFS will continue to monitor sea turtle strandings to gauge the effectiveness of these conservation measures. If, after these restrictions are instituted, strandings in Georgia persist at or above 75 percent of the ITL for 2 weeks, NMFS will follow the guidance in the ERP to determine whether to prohibit fishing by some or all shrimp trawlers, as required, in the offshore waters of all or parts of NMFS statistical Zones 30, 31 and/or 32 seaward to 10 nm (18.5 km) from the COLREGS line, for a period of 30 days. Contiguous statistical zones or portions of those zones may be included in the closure as necessary. Area closures will be implemented through emergency rulemaking notices pursuant to the procedures set forth at 50 CFR 227.72(e)(6).

#### **Classification**

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

Because neither section 553 of the Administrative Procedure Act (APA), nor any other law requires that general notice of proposed rulemaking be published for this action, under section 603(b) of the Regulatory Flexibility Act,

an initial Regulatory Flexibility Analysis is not required.

Pursuant to section 553(b)(B) of the APA, the AA finds there is good cause to waive prior notice and opportunity to comment on this rule. It is impracticable and contrary to the public interest to provide prior notice and opportunity for comment because unusually high levels of turtle strandings have been reported in Georgia and continue to occur as shrimping continues. Any delay in this action will likely result in additional fatal takings of listed sea turtles.

Pursuant to section 553(d) of the APA, the AA finds there is good cause to waive the 30-day delay in effective date. In addition to the immediate need to protect listed sea turtles, these restrictions are expected to impose only a minor burden on shrimp fishermen. The predominant TED designs in use in the affected area are bottom-opening hard grid TEDs and soft TEDs. Bottom-opening hard grid TEDs can be modified to comply with these restrictions in 1 to 2 hours. Any webbing flap over the escape opening can be shortened in less than 10 minutes. Trawlers equipped with soft TEDs may be required to move out of the affected area, or to equip their nets with hard TEDs. Hard grid TEDs are available for \$75.00 to \$350.00 and take several hours to install. Finally, some fishermen may not elect to equip their larger try nets with hard grid TEDs, and thus, would be unable to monitor their catch rate during long tows. However, these fishermen may elect to monitor their catch rate with smaller try nets not required to have a NMFS-approved top-opening hard TED installed.

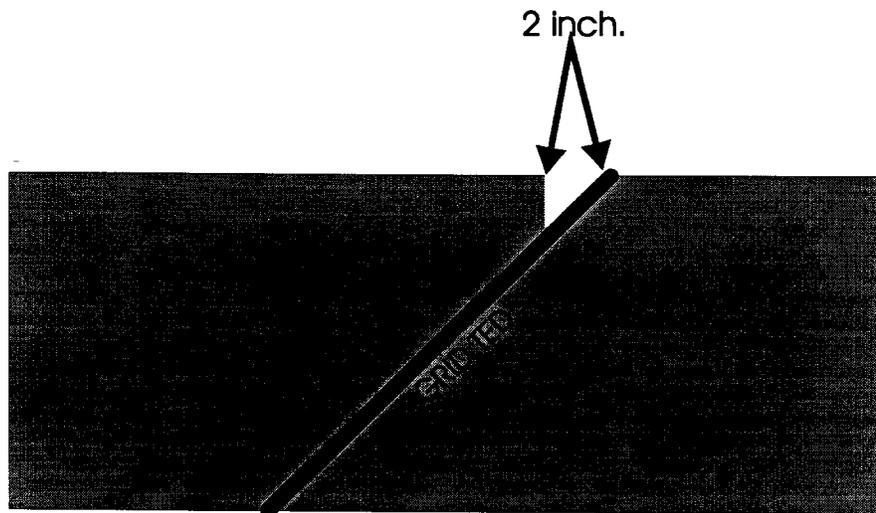
The AA prepared an EA for the final rule (57 FR 57348, December 4, 1992) requiring TED use in shrimp trawls and establishing the 30-day notice procedures. An EA has been prepared for this action. Copies of the EA are available (see ADDRESSES).

Dated: June 15, 1995.

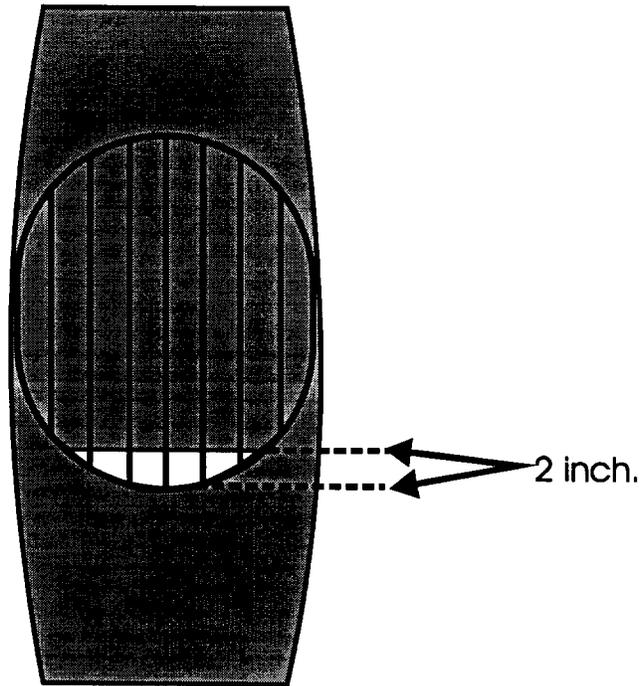
**Charles Karnella,**

*Acting Program Management Officer,  
National Marine Fisheries Service.*

BILLING CODE 3510-22-F



SIDE VIEW



TOP VIEW

FIGURE 1--SHORTENED WEBBING OVER THE ESCAPE OPENING COMPLYING WITH REQUIREMENT NUMBER 4 OF THIS ACTION.