

Guard designated radio protection areas for mandatory VTS and established marine VHF Channel 12 as the VTS frequency for Sault Ste. Marie, Michigan; San Francisco, California; and Channel 11 as the VTS frequency for Morgan City, Louisiana.

2. Under the Ports and Waterways Safety Act of 1972, as amended by the Port and Tanker Safety Act of 1978 and the Oil Pollution Act of 1990, the Coast Guard may construct, operate, maintain, improve or expand VTS systems in any port or place under the jurisdiction of the United States, including the navigable waters of the United States, or in any covered by an international agreement negotiated pursuant to 33 U.S.C. § 1230. The Ports and Waterways Safety Act requires certain designated vessels which operate in a VTS area to utilize and comply with the VTS. Marine accidents in recent years have underscored the need for improving safety on the nation's waterways. Moreover, Congress mandated VTS participation in section 4107 of the Oil Pollution Act, 33 U.S.C. § 1223(a)(2). The Coast Guard has amended its VTS regulations to make participation in all VTS systems mandatory. A VTS system instills order and predictability on a waterway by coordinating vessel movements through the collection, verification, organization, and dissemination of information.

3. Designating Sault Ste. Marie and Berwick Bay as VTS areas will allow the Coast Guard to manage vessel traffic in those areas more efficiently and will help protect the marine environment by preventing vessel collisions and groundings. We propose, therefore, to add Sault Ste. Marie and Berwick Bay to the Commission's list of designated radio protection area for VTS systems specified in Section 80.383. The radio protection area for Sault Ste. Marie will be defined as "The rectangle between North latitudes 45 degrees and 47 degrees, and West longitudes 83 degrees and 85 degrees." The radio protection area for Berwick Bay will be defined as "The rectangle between North latitudes 28 degrees 30 minutes and 30 degrees 30 minutes, and West longitudes 90 degrees 50 minutes and 92 degrees." This area is part of the New Orleans VTS which discontinued operations on July 30, 1988, due to budgetary constraints.

4. We propose to designate Channel 12 (156.600 MHz) as a second radio frequency for use within the San Francisco VTS radio protection area. The density of vessel traffic in the San Francisco Bay, which includes numerous recreational boats, ferries and commercial fishing boats, severely

constrains the ability of large vessels to maneuver in the event of an emergency. The Coast Guard states that with mandatory participation, the current VTS channel, Channel 14 (156.700 MHz), will be inadequate to ensure safe and reliable communications in this busy and environmentally sensitive area. The addition of Channel 12 will permit increased navigational safety in the area by organizing traffic flow patterns, reduced meeting, crossing and overtaking situations between large vessels in tight spaces, and limited vessel speed. We propose to permit private coast stations currently authorized on Channel 12 within the proposed San Francisco VTS area to operate until the end of their current license term on a noninterference basis.¹ The staff will help affected licensees find suitable alternative channels. No fee will be charged for affected stations that apply for modification for an alternative channel before their next renewal.

5. We propose to amend Section 0.331 to authorize the Chief, Wireless Telecommunications Bureau to amend the maritime service rules at the request of the United States Coast Guard to designate radio protection areas for mandatory VTS and establish marine channels as VTS frequencies for these areas. This will allow the Commission to expedite these requests, which will increase safe vessel transit and protect U.S. waters and associated natural resources from environmental harm.

6. We certify that the Regulatory Flexibility Act of 1980 does not apply to this rule making proceeding because if the proposed rule amendments are promulgated, there will not be a significant economic impact on a substantial number of small business entities, as defined by Section 601(3) of the Regulatory Flexibility Act. The change proposed herein will have a beneficial effect on the marine community by allowing the Coast Guard to manage vessel traffic in the Prince William Sound area in a more efficient manner. The Secretary shall send a copy of this Notice of Proposed Rule Making, including the certification, to the Chief Counsel for Proposed Rule Making, including the certification, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 605(b) of the Regulatory Flexibility Act. Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. §§ 601-612 (1980).

¹ There currently are six licensed private coast stations within the proposed designated radio protected area that would be affected by this proposal.

List of Subjects in 47 CFR Part 80

Communications equipment, Marine safety.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 227

[Docket No. 9508830222-5222-01; I.D. 062795B]

RIN 0648-AH89

Sea Turtle Conservation; Restrictions Applicable to Shrimp Trawling Activities

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

ACTION: Advance notice of proposed rulemaking (ANPR); notice of receipt of petition for rulemaking; request for comments.

SUMMARY: NMFS announces that it is considering proposing regulations that would identify special sea turtle management areas in the southeastern Atlantic and Gulf of Mexico and impose additional conservation measures to protect sea turtles in these areas. This ANPR is in response to the need for such measures identified in NMFS' biological opinions on shrimp trawling, as well as NMFS' recent experience and additional information regarding the need to more effectively protect sea turtles from incidental capture and mortality in the shrimp trawl fishery. NMFS also received a petition for rulemaking from the Texas Shrimp Association (TSA) to revise the current sea turtle conservation requirements for the shrimp trawl fishery in the southeastern United States. The petition is based on a report: "Sea Turtle and Shrimp Fishery Interactions—Is a New Management Strategy Needed?" prepared by LGL Ecological Research Associates, Inc., for TSA (LGL Report).

NMFS is soliciting public comment on the LGL Report and information on sea turtles and shrimp trawling and the need for identification of certain areas in the southeastern United States that require special management measures, and what those measures should be.

DATES: Written comments will be accepted through November 13, 1995.

ADDRESSES: Written comments on this ANPR and the LGL Report and requests for copies of the Shrimp Fishery Emergency Response Plan (ERP) and the LGL Report may be submitted 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 Phil Williams, 301-713-1401.

SUPPLEMENTARY INFORMATION:

Background

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the 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.

NMFS consults on shrimp fishing operations in the southeastern United States that may affect listed sea turtles, pursuant to section 7 of the ESA. These shrimp fishing operations are managed, in part, under the Gulf of Mexico Shrimp Fishery Management Plan and the South Atlantic Shrimp Fishery Management Plan, both implemented pursuant to the Magnuson Fisheries Management and Conservation Act (16 U.S.C. 1801 *et seq.*), and the sea turtle conservation regulations at 50 CFR part 227, subpart D, implemented under the ESA.

Unprecedented levels of sea turtle strandings in Texas, Louisiana, and Georgia associated with shrimp fishing during 1994 resulted in a reinitiation of consultation pursuant to 50 CFR 402.16 on shrimp fishing in the southeastern United States. The resulting Biological Opinion (Opinion), issued on November 14, 1994, concluded that continued long-term operation of the fishery under the current management regime is likely to jeopardize the continued existence of

the Kemp's ridley and prevent the recovery of loggerheads, but it identified a reasonable and prudent alternative to allow the fishery to continue while avoiding jeopardy. One component of the alternative required the establishment of sea turtle special management areas and permanent rules to reduce the impacts of intensive nearshore shrimping and prevent repeated incidental capture of individual turtles in those areas. An additional component required the development of a Shrimp Fishery Emergency Response Plan (ERP) to identify the actions NMFS would take in response to sea turtle stranding events and to ensure compliance with sea turtle conservation regulations. NMFS approved the ERP on March 14, 1995, and circulated it widely on March 17, 1995. A notice of the ERP's availability was published on April 21, 1995 (60 FR 19885).

NMFS has implemented several temporary restrictions on shrimp trawling during the 1995 season in both the Gulf and the southeast Atlantic, based on the guidance provided in the ERP. Temporary conservation measures restricting the use of certain types of turtle excluder devices (TEDs) and other fishing gear and were first imposed in areas off Texas (60 FR 21741, May 3, 1995) and were modified based on comments from industry (60 FR 26691, May 18, 1995). The same restrictions, as modified, were then imposed in areas off Georgia (60 FR 32121, June 20, 1995). Based on further public comment, restrictions were modified and, through separate rulemaking, were again imposed on August 11, 1995 (60 FR 42809, August 17, 1995) in areas off Georgia and South Carolina. NMFS was prepared to impose similar restrictions in areas off Texas, but a court order eliminated the need for these restrictions; instead, NMFS implemented the restrictions identified in the court order on August 24, 1995 (60 FR 44780, August 29, 1995).

NMFS intended the ERP to be an interim plan to guide its actions and to ensure compliance with sea turtle

conservation regulations when strandings approached or met the authorized incidental take levels. Indeed, the Opinion requires that NMFS identify areas requiring special sea turtle management consideration, due to high sea turtle abundance or important nesting or foraging habitats, propose permanent management measures to mitigate the impacts of intensive nearshore shrimping, and prevent repeated incidental capture of individual turtles. These proposed conservation measures could include prohibitions on nighttime shrimping, restrictions on the number and size of trawl nets, restriction on the size of trynets, authorization of only top-opening hard-grid TEDs, reducing the density of shrimp vessels, and temporary area closures. The Opinion requires that the areas be identified by November 14, 1995, and that NMFS propose certain management measures in these areas. NMFS is inviting public comment on what areas and what measures should be included in such a rulemaking.

NMFS received a request from TSA that the LGL Report be treated as a petition for issuance, amendment or repeal of a rule under the rulemaking petition provision of the Administrative Procedures Act, at 5 U.S.C. 553 (e).

NMFS is inviting public comment to assist in determining what, if any, conservation measures should be required of the shrimp trawl fishery to reduce unusual mortalities of sea turtles. NMFS considers the LGL Report as a proposal to revise the existing sea turtle conservation regulations. Through this ANPR, all interested parties are invited to submit comments and information (see **ADDRESSES**).

Copies of the ERP and LGL Report, are available (see **ADDRESSES**).

Dated: September 6, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

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