

stations, but not including service between the United States and Mexico and the United States and Canada using frequencies above 72 MHz. For FY 2002, International Public Fixed Radio Service licensees will pay a \$1,400 annual regulatory fee per call sign.

f. International (HF) Broadcast

42. This category covers International Broadcast Stations licensed under part 73 of the Commission's Rules to operate on frequencies in the 5,950 kHz to 26,100 kHz range to provide service to the general public in foreign countries. For FY 2002, International HF Broadcast Stations will pay an annual regulatory fee of \$495 per station license.

**Attachment G—Description of FCC Activities**

*Licensing:* This activity includes the authorization or licensing of radio stations, telecommunications equipment and radio operators, as well as the authorization of common carrier and other services and facilities. Includes direct organizational FTE and FTE workyear effort provided by staff offices to support policy direction, program development, legal services, and executive direction, as well as support services associated with licensing activities.

*Competition:* This activity includes formal inquiries, rulemaking proceedings to establish or amend the Commission's rules and regulations, action on petitions for rulemaking, and requests for rule interpretations or waivers; economic studies and analyses; spectrum planning, modeling, propagation-interference analyses and allocation; and development of equipment standards. Includes direct organizational FTE and FTE workyear effort provided by staff offices to support policy direction, program development, legal services, and executive direction, as well as support services associated with activities to promote competition.

*Enforcement:* This activity includes enforcement of the Commission's rules, regulations and authorizations, including investigations, inspections, compliance monitoring, and sanctions of all types. Also includes the receipt and disposition of formal and informal complaints regarding common carrier rates and services, the review and acceptance/rejection of carrier tariffs, and the review, prescription and audit of carrier accounting practices. Includes direct organizational FTE and FTE workyear effort provided by staff offices to support policy direction, program development, legal services, and executive direction, as well as support

services associated with enforcement activities.

*Consumer Information Services:* This activity includes the publication and dissemination of Commission decisions and actions, and related activities; public reference and library services; the duplication and dissemination of Commission records and databases; the receipt and disposition of public inquiries; consumer, small business, and public assistance; and public affairs and media relations. Includes direct organizational FTE and FTE workyear effort provided by staff offices to support policy direction, program development, legal services, and executive direction, as well as support services associated with consumer information activities.

*Spectrum Management:* This activity includes management of the electromagnetic spectrum as mandated by the Communications Act of 1934, as amended. Spectrum management includes the structure and processes for allocating, allotting, assigning, and licensing this scarce resource to the private sector and state and local governments in a way that promotes competition while ensuring that the public interest is best served. In order to manage spectrum in both an efficient and equitable manner, the Commission prepares economic, technical and engineering studies, coordinates with federal agencies, and represents U.S. industry in international forums. This activity includes direct organizational FTEs and FTE workyear efforts provided by staff offices that support policy direction, program development, legal services, and executive direction, as well as support services associated with spectrum management activities.

**Attachment H—Factors, Measurements and Calculations That Go Into Determining Station Signal Contours and Associated Population Coverages**

*AM Stations*

Specific information on each day tower, including field ratio, phasing, spacing and orientation was retrieved, as well as the theoretical pattern RMS figure (mV/m @ 1 km) for the antenna system. The standard, or modified standard if pertinent, horizontal plane radiation pattern was calculated using techniques and methods specified in §§ 73.150 and 73.152 of the Commission's rules.<sup>174</sup> Radiation values were calculated for each of 72 radials around the transmitter site (every 5 degrees of azimuth). Next, estimated soil conductivity data was retrieved from a

database representing the information in FCC Figure M3. Using the calculated horizontal radiation values, and the retrieved soil conductivity data, the distance to the city grade (5 mV/m) contour was predicted for each of the 72 radials. The resulting distance to city grade contours were used to form a geographical polygon. Population counting was accomplished by determining which 1990 block centroids were contained in the polygon. The sum of the population figures for all enclosed blocks represents the total population for the predicted city grade coverage area.

*FM Stations*

The maximum of the horizontal and vertical HAAT (m) and ERP (kW) was used. Where the antenna HAMS L was available, it was used in lieu of the overall HAAT figure to calculate specific HAAT figures for each of 72 radials under study. Any available directional pattern information was applied as well, to produce a radial-specific ERP figure. The HAAT and ERP figures were used in conjunction with the propagation curves specified in § 73.313 of the Commission's rules to predict the distance to the city grade (70 dBuV/m or 3.17 mV/m) contour for each of the 72 radials.<sup>175</sup> The resulting distance to city grade contours were used to form a geographical polygon. Population counting was accomplished by determining which 1990 block centroids were contained in the polygon. The sum of the population figures for all enclosed blocks represents the total population for the predicted city grade coverage area.

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 635**

[Docket No. 020325067-2067-01; I.D. 080901B]

RIN 0648-AP49

**Atlantic Highly Migratory Species; Pelagic Longline Fishery; Shark Gillnet Fishery; Sea Turtle and Whale Protection Measures**

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

<sup>174</sup> 47 CFR 73.150 and 73.152.

<sup>175</sup> 47 CFR 73.313.

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

**SUMMARY:** This proposed rule is necessary to implement the measures required by the June 14, 2001, Biological Opinion (BiOp) issued by NMFS' Office of Protected Resources. The reasonable and prudent alternative (RPA) of the BiOp requires NMFS to implement several measures for the pelagic longline fishery. These include: close the northeast distant statistical reporting (NED) area, require gangions to be two gangion lengths from floatlines, require gangion lengths to be 110 percent of floatline lengths in shallow sets, and require corrodible, non-stainless steel hooks to be deployed. The terms and conditions (TCs) of the BiOp requires NMFS to implement several measures for the shark gillnet fishery. These include: require both the observer and vessel operator to be responsible for sighting whales and the vessel operator to contact NMFS if a listed whale is taken and require shark gillnet fishermen to conduct net checks every 0.5 to 2 hours to look for and remove any sea turtles or marine mammals from their gear. This proposed rule would also require bottom and pelagic longline vessels to post sea turtle handling and release guidelines in the wheelhouse. The intent of these proposed actions is to reduce the incidental catch and post-release mortality of sea turtles and protected species in highly migratory species (HMS) fisheries.

**DATES:** Comments must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m., eastern standard time, on May 10, 2002. Public hearings on this proposed rule will be held in April 2002. Times for the public hearings will be specified in a separate document in the **Federal Register** to be published at a later date.

**ADDRESSES:** Written comments on the proposed rule should be submitted to Christopher Rogers, Chief, Highly Migratory Species Management Division (SF/1), National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. Comments also may be sent via facsimile (fax) to 301-713-1917. Comments will not be accepted if submitted via e-mail or Internet. Comments regarding the collection-of-information requirements contained in this proposed rule should be sent to the HMS Division, 1315 East-West Highway, Silver Spring, MD 20910, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer). For copies of the

Draft Environmental Impact Statement/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (DSEIS/RIR/IRFA), contact Tyson Kade at 301-713-2347.

**FOR FURTHER INFORMATION CONTACT:** Karyl Brewster-Geisz, Tyson Kade, or Margo Schulze-Haugen at 301-713-2347 or fax 301-713-1917.

**SUPPLEMENTARY INFORMATION:** The Atlantic swordfish and tuna fisheries are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Atlantic Tunas Convention Act (ATCA). Atlantic sharks are managed under the authority of the Magnuson-Stevens Act. The Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP) is implemented by regulations at 50 CFR part 635. The management of the Atlantic pelagic longline fishery and the shark gillnet fishery is also subject to the requirements of the Endangered Species Act (ESA) and the Marine Mammal Protection Act (MMPA).

#### Sea Turtle Bycatch Reduction

Under the Endangered Species Act (ESA), NMFS is required to address the fishery-related take of sea turtles that are listed as threatened or endangered. Although a high percentage of hooked sea turtles are released alive, NMFS remains concerned about serious injuries to sea turtles taken by pelagic longline gear. Longline fisheries generally affect sea turtles by entangling or hooking them in fishing gear. Sea turtles that become entangled in longline gear may drown when they are forcibly submerged or they may be injured by the entangling lines. Turtles that are hooked by longline gear can be injured or killed, depending on whether they are hooked internally or externally and whether the hook sets deep in their tissue. In addition to these immediate effects, longline gear can have long-term effects on a turtle's ability to swim, forage, migrate, and breed, although these long-term effects are difficult to monitor or measure. From 1992 to 1999, NMFS estimates that the pelagic longline fishery interacted with an average of 795 leatherback and 986 loggerhead sea turtles annually with an average estimate of 11 leatherback and 8 loggerhead annual mortalities.

In a BiOp prepared under section 7 of the ESA, completed June 14, 2001, NMFS concluded that operation of the U.S. Atlantic pelagic longline fishery jeopardized the continued existence of threatened loggerhead and endangered leatherback sea turtles. Information from

the February 2001 Stock Assessment of Loggerhead and Leatherback Sea Turtles and an Assessment of the Impact of the Pelagic Longline Fishery on the Loggerhead and Leatherback Sea Turtles of the Western North Atlantic is incorporated in the BiOp's analysis. The BiOp estimates that a 55-percent reduction in bycatch mortality from the Atlantic pelagic longline fishery is necessary to allow for the recovery of these two species. It is anticipated that this level of reduction can be achieved by implementing an area closure and by modifying the manner in which pelagic longline gear is deployed. The BiOp also requires several other measures to be implemented in the bottom and pelagic longline and shark gillnet fisheries.

#### Pelagic Longline Fishery

Pelagic longline gear is a type of commercial fishing gear used by U.S. fishermen in the Atlantic Ocean to target HMS. The gear consists of a mainline, often many miles long, suspended in the water column by floats and from which baited hooks are attached on leaders (gangions). Though not completely selective, longline gear can be modified (e.g., gear configuration, hook depth, timing of sets) to target yellowfin tuna, bigeye tuna, or swordfish.

Data collected through observer and vessel logbook programs indicate that pelagic longline fishing for Atlantic swordfish and tunas often results in the catch of non-target finfish species, including sharks, bluefin tuna, billfish, undersized swordfish, and of protected species, including threatened and endangered sea turtles. The bycatch of protected species (sea turtles or marine mammals) may significantly impair the recovery of these species. Consistent with national standard 9 of the Magnuson-Stevens Act, NMFS has implemented measures to reduce bycatch and bycatch mortality to the extent practicable in the Atlantic pelagic longline fishery.

#### Area Closure

The intent of this proposed rule is to reduce the incidental take and mortality of sea turtles captured by pelagic longlines. The first measure would be a closure of the NED area. The NED area has the highest incidental take rate of sea turtles by the U.S. Atlantic pelagic longline fleet. This proposed regulation would close the NED area to vessels that have been issued, or are required to have, Federal HMS limited access permits and/or use pelagic longline gear. The closed area is bounded by the following coordinates: 35°00' N. lat., 60°00' W. long.; 55°00' N. lat., 60°00' W.

long.; 55°00' N. lat., 20°00' W. long.; 35°00' N. lat., 20°00' W. long. This closure comprises an area of 2,631,000 square nautical miles (nm<sup>2</sup>), including the Grand Banks and other fishing locations. Only larger vessels, primarily fishing out of ports in the northeast, travel to this area on a seasonal basis, from June to October. The BiOp estimates that this closure would reduce leatherback and loggerhead sea turtle interactions by 58 and 67 percent respectively.

#### **Gear Modifications**

In addition to the closure, there are several gear modifications designed to reduce the mortality rate of captured sea turtles year-round and in all fishing areas. All Atlantic vessels that use pelagic longline gear and have been issued, or are required to have, Federal HMS limited access permits would be prohibited from setting gangions within two gangion lengths of the floatline. Specifically, while the gear is deployed, gangions may not be attached to floatlines, nor to the mainline except at a distance from the attachment point of the floatline to the mainline of at least twice the length of the average gangion length in the set. Based on information from the Hawaii longline fleet and the NED experiment, hooks that are beneath or adjacent to floatlines have a much higher incidental take of sea turtles than hooks one or more positions away from the floatline. NMFS projects that this measure would result in reductions of 22 percent for loggerhead interactions and 24 percent for leatherback interactions.

In addition to restricting the gangion placement relative to the floatline, all Atlantic vessels that use pelagic longline gear and have been issued, or are required to have, Federal HMS limited access permits would be required to deploy the gear during shallow sets so that the length of the gangion is greater than the length of the floatline. The intent of this requirement would be to ensure that hooked or entangled turtles have sufficient slack line to be able to reach the surface and avoid drowning. For pelagic longline sets in which the combined depth of the floatline plus the gangion is 100 meters or less, the length of the gangion must be at least 10 percent longer than the length of the floatline. For sets in which the combined depth is over 100 meters, the requirement does not apply.

NMFS proposes to require all vessels that use pelagic longline gear and have been issued, or are required to have, Federal HMS limited access permits to use corrodible hooks and/or crimps. At the current time, NMFS considers

corrodible hooks and crimps to be those manufactured out of non-stainless steel. NMFS expects to have a workshop in 2002 to assess the impacts of corrodible hooks on sea turtles. Currently, this measure is believed to reduce the post-release mortality of sea turtles by either causing the fishing line to fall off or causing the hook to fall out earlier than might occur if it were made of stainless steel.

Finally, all Atlantic vessels that use bottom or pelagic longline gear and have been issued, or are required to have, Federal HMS limited access permits would be required to post inside the wheelhouse the guidelines for the safe handling of sea turtles captured in a longline interaction. This measure would allow vessel captains to refer to the appropriate handling and release guidelines in the event a sea turtle is hooked or entangled. NMFS previously distributed the guidelines via mail to all HMS bottom and pelagic longline permit holders and announced this requirement (66 FR 36711, July 13, 2001) and the availability of the guidelines via the fax network in September 2001. If a vessel owner did not receive the document, it is available for downloading from the Internet at: <http://www.nmfs.noaa.gov/sfa/hmspg.html>, or NMFS can be contacted to request a copy (see **ADDRESSES**).

#### **Reporting**

One of the TCs of the BiOp requires that the captains of all vessels that use pelagic longline gear and have been issued, or are required to have, Federal HMS limited access permits report any turtles that are dead when they are captured or that die during capture to the Southeast Fisheries Science Center (SEFSC) Observer Program within 48 hours of returning to port. NMFS expects that this regulation would provide a better assessment of the number of sea turtles harmed during pelagic longline operations. This could result in more accurate management decisions involving fishery interactions with protected species.

#### **Experimental Fishery**

Consistent with the BiOp, NMFS expects to continue a research program, in consultation and cooperation with the domestic pelagic longline fleet, to develop and evaluate the efficacy of new technologies and changes in fishing practices to reduce sea turtle interactions. The experimental fishery uses a limited number of qualifying commercial fishing vessels as cooperative research platforms in the NED area. To provide for the maximum amount of transparency and public

participation in the process of developing the experimental fishery, NMFS applied for an ESA section 10 permit to conduct this scientific research (66 FR 29934, June 4, 2001). The approved research plan for the experimental fishery, as stated in the BiOp, complies with four conditions: the sea turtle target mortality reduction is 55 percent, the duration is no more than 3 years, all measures that are tested must be exportable to international fleets, and the level of mortality reduction may be achieved through reducing take rates or improving post-release survival for captured sea turtles. NMFS conducted the first year of the experiment in 2001 and is analyzing the results prior to developing the experimental design for the 2002 experiment.

#### **Atlantic Shark Gillnet Fishery**

Gillnet fishing for sharks occurs primarily in the waters off the coasts of Georgia and Florida. The fishery is comprised of 4 to 12 vessels that engage in nearshore fishing trips that typically last less than 18 hours. Legislation in South Carolina, Georgia, and Florida has prohibited the use of commercial gillnets in state waters, causing these vessels to operate further offshore in waters under Federal jurisdiction. Historically, eight shark species made up over 99 percent of sharks caught, including: blacknose, Atlantic sharpnose, blacktip, finetooth, scalloped hammerhead, bonnethead, spinner, and great hammerhead sharks. The June 14, 2001, BiOp contains several TCs that NMFS must implement to reduce interactions with and mortalities of sea turtles and whales in the HMS shark gillnet fishery. The two requirements addressed by this proposed rule are discussed below.

#### **Sighting Whales**

This action proposes that both the vessel operator of all vessels issued Federal Atlantic shark limited access permits and that fish for Atlantic sharks with a shark gillnet (as defined by 50 CFR 229.2) and, in cases where an observer is on board, the observer would be responsible for sighting whales. The vessel operator would be responsible for contacting the Southeast Regional Office (SERO) of NMFS and ceasing fishing in the event of a listed whale being taken in the drift gillnet/strikenet gear. By having two people responsible for sighting whales, it is hoped that the animals would be spotted prior to any fishery interaction occurring.

### Checking Gear

In the shark gillnet fishery, it is customary for fishermen to inspect the length of the net every 0.5 to 2 hours to check the net and the catch. This proposed regulation would require the fishermen to conduct these net checks to look for and remove any sea turtles and marine mammals found during these checks. While using the gear for strickenetting, the fishermen would be exempt from this requirement due to the limited soak time. As the average soak time for the drift gillnets in this fishery is 5.6 to 7.5 hours, this measure would be expected to reduce the mortality level of incidentally captured protected species.

### Classification

This proposed rule is published under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.*, and ATCA, 16 U.S.C. 971 *et seq.*

NMFS has prepared an initial regulatory flexibility analysis.

The initial regulatory flexibility analysis examines the impacts of the preferred alternatives, discussed previously in this document. It assumes that distant water fishermen, during the time they would otherwise be pelagic longline fishing in the NED area would instead: (1) make longline sets in other areas or (2) exit commercial fishing. As of October 2001, there were 320 directed and incidental swordfish permit holders under the limited access system. This number probably represents the number of active pelagic longline vessels since most pelagic longline fishermen land swordfish along with other species. Since 1997, an average of 15 vessels have fished each year in the NED area. Due to the size and cost of operation of these boats, NMFS feels that it may not be as economical to fish in other areas of the Atlantic Ocean and thus the vessels fishing in the NED would be significantly impacted. The other preferred alternatives are not expected to have significant economic effects.

The other alternatives considered for the pelagic longline fishery include: taking no action; other gear modifications, such as requiring dehookers, requiring hooks to be set deeper in the water column, requiring the use of blue-dyed bait, requiring the use of mackerel as bait, requiring the use of stealth gear, and requiring the use of circle hooks; and a ban on pelagic longline fishing by U.S. vessels in the Atlantic Ocean. While the no action and most of the gear modification alternatives would not be expected to have significant economic impacts on participants in the pelagic longline

fishery, these alternatives either do not reduce bycatch to the extent required by the BiOp or are not supported by sufficient data to support implementation. Initial data concerning the alternative requiring circle hooks indicates that they may significantly reduce post-release mortality of sea turtles; however, more information is needed concerning impacts on target catch and appropriate hook size. In addition, there would be an economic cost associated with this alternative if fishing vessels were required to switch to circle hooks. While a complete ban on longline fishing would reduce bycatch to a greater extent than the proposed time-area closures, the lost value of commercial seafood products and the adverse impacts on fishery participants and fishing communities would impose greater costs than the proposed action. The RIR/IRFA provides further discussion of the economic effects of all the alternatives considered for the pelagic longline fishery.

The two preferred alternatives for the shark gillnet fishery would affect a small number of vessels, approximately four to eleven based on NMFS records. The alternative to contact NMFS following the take of a listed whale species could have an economic impact as the vessel would be required to terminate fishing operations for that trip. The alternative requiring shark drift gillnet fishermen to check their nets every 0.5 to 2 hours could increase the cost per trip based on the amount of fuel consumed. However, NMFS does not expect these impacts to be significant.

Of the alternatives that were not selected, taking no action would not impose an economic impact. However, prohibiting drift gillnet gear in the shark fishery and requiring vessels to fish in a strikenet fashion using spotter planes could impose a significant negative effect upon the vessels in the shark gillnet fishery.

This proposed rule contains collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). These reporting requirements for pelagic longline and shark gillnet vessel operators have been submitted to OMB for approval. Public reporting burden for this collection of information is estimated to average 5 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding whether these proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to the HMS Division at the ADDRESSES above, and to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attention: NOAA Desk Officer).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

This proposed rule has been determined to be not significant for purposes 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: March 29, 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 proposed to be 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.*; 16 U.S.C. 1801 *et seq.*

2. In § 635.2, new definitions for “Bottom longline,” “Corrodible hook,” “Floatline,” “Gangion,” and “Northeast distant closed area” are added alphabetically to read as follows:

#### § 635.2 Definitions.

\* \* \* \* \*

*Bottom longline* means longline gear that is deployed on or near the ocean floor.

\* \* \* \* \*

*Corrodible hook* means a fishing hook composed of any material other than stainless steel.

\* \* \* \*

*Floatline* means a line attached to a buoyant object that is used to support the mainline of a longline at a specific target depth.

\* \* \* \*

*Gangion* means a line that serves to attach a hook, suspended at a specific target depth, to the mainline of a longline.

\* \* \* \*

*Northeast distant closed area* means the Atlantic Ocean area bounded by straight lines connecting the following coordinates in the order stated: 35°00' N. lat., 60°00' W. long.; 55°00' N. lat., 60°00' W. long.; 55°00' N. lat., 20°00' W. long.; 35°00' N. lat., 20°00' W. long.; 35°00' N. lat., 60°00' W. long.

\* \* \* \*

3. In § 635.5, paragraphs (a)(4) and (5) are added to read as follows:

#### § 635.5 Recordkeeping and reporting.

\* \* \* \*

(a) \* \* \*

(4) *Pelagic longline sea turtle reporting.* The operators of vessels that have pelagic longline gear on board and that have been issued, or are required to have, a limited access swordfish, shark, or tuna longline category permit for use in the Atlantic Ocean including the Caribbean Sea and the Gulf of Mexico are required to report any sea turtles that are dead when they are captured or that die during capture to the NMFS Southeast Fisheries Science Center Observer Program, at a number designated by NMFS, within 48 hours of returning to port, in addition to submitting all other reporting forms required by this part and 50 CFR parts 223 and 224.

(5) *Shark gillnet whale reporting.* The vessel operators of vessels that are shark gillnetting, as defined by 50 CFR 229.2, and that have been issued, or are required to have, shark directed or incidental limited access permits for use in the Atlantic Ocean including the Caribbean Sea and the Gulf of Mexico are required to contact the NMFS Southeast Regional Office, at a number designated by NMFS, if a listed whale is taken, in addition to submitting all other reporting forms required by this part and 50 CFR part 229.

\* \* \* \*

4. In § 635.21, paragraphs (a)(3), (c)(2)(v), (c)(5)(iii), (d)(3)(v), and (d)(3)(vi) are added to read as follows:

#### § 635.21 Gear operation and deployment restrictions.

(a) \* \* \*

(3) Operators of all vessels that have pelagic or bottom longline gear on board and that have been issued, or required to have, a limited access swordfish, shark, or tuna longline category permit for use in the Atlantic Ocean including the Caribbean Sea and the Gulf of Mexico must post inside the wheelhouse the sea turtle handling and release guidelines provided by NMFS.

\* \* \* \*

(c) \* \* \*

(2) \* \* \*

(v) In the Northeast Distant closed area at any time beginning at 12:01 a.m. on July 9, 2002.

\* \* \* \*

(5) \* \* \*

(iii) *Gear modifications.* The following measures are required of vessel operators to reduce the incidental capture and mortality of sea turtles:

(A) *Gangion placement.* Pelagic longline gear must be deployed such that gangions may not be attached to floatlines nor to the mainline except at a distance from the attachment point of the floatline to the mainline, along the mainline, of at least twice the length of the average gangion length in the set.

(B) *Gangion length.* Pelagic longline gear must be deployed such that the length of the gangion is at least 10 percent greater than the length of the floatline for longline sets in which the combined length of the floatline and the gangion is 100 meters or less.

(C) *Corrodible hooks.* Pelagic longline gear must be deployed with only corrodible hooks.

\* \* \* \*

(d) \* \* \*

(3) \* \* \*

(v) Both the observer and vessel operator are responsible for sighting whales. If a listed whale is taken, the vessel operator must cease fishing operations immediately.

(vi) Vessel operators are required to conduct net checks every 0.5 to 2 hours to look for and remove any sea turtles or marine mammals.

\* \* \* \*

5. In § 635.71, paragraphs (a)(36) and (37) are added to read as follows:

#### § 635.71 Prohibitions.

(a) \* \* \*

(36) Fish with bottom or pelagic longline and shark gillnet gear for HMS without using the gear modifications required in 50 CFR 635.21.

(37) Fail to report to NMFS the incidental capture of listed whales with shark gillnet gear and sea turtle

mortalities associated with pelagic longline gear as required by 50 CFR 635.5.

\* \* \* \*

[FR Doc. 02-8689 Filed 4-9-02; 8:45 am]

BILLING CODE 3510-22-S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[I.D. 032702A]

#### Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Application for an Exempted Fishing Permit

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

**ACTION:** Notice of receipt of an application for an exempted fishing permit (EFP); request for comments.

**SUMMARY:** NMFS announces receipt of an application for an EFP from the Washington State Department of Fish and Wildlife (WSDFW). If awarded, the EFP would allow vessels with valid Washington state delivery permits that have historically fished for arrowtooth flounder to land certain federally managed groundfish species in excess of cumulative trip limits, providing the vessel carries a state-sponsored observer. Observers would collect total catch and effort data and retain specimens that are otherwise not available shoreside. This EFP proposal is intended to promote the objectives of the Pacific Coast Groundfish Fishery Management Plan (FMP) by providing much-needed data on total catch and incidental catch rates.

**DATES:** DATES: Comments must be received by April 30, 2002.

**ADDRESSES:** ADDRESSES: Copies of the EFP application are available from Becky Renko, Northwest Region, NMFS, 7600 Sand Point Way N.E., Bldg. 1, Seattle, WA 98115-0070.

**FOR FURTHER INFORMATION CONTACT:** Becky Renko, 206-526-6110.

**SUPPLEMENTARY INFORMATION:** This action is authorized by the FMP and implementing regulations at 50 CFR 600.745 and 50 CFR 660.350.

On February 20, 2002, NMFS received a completed EFP application from the WSDFW. The primary purpose of this exempted fishing activity would be to measure bycatch rates for canary and other rockfish species associated with