

PART 73—TELEVISION BROADCAST SERVICES

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

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

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Texas is amended by removing DTV channel *22 and adding DTV channel *38 at Odessa.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 222 and 223

[I.D. 042402B]

Sea Turtle Conservation; Activities Related to Fishing

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

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS); request for written comments; extension of comment period on application for Incidental Take Permit (ITP).

SUMMARY: The National Marine Fisheries Service (NMFS) announces its intent to prepare an EIS to assess the potential impacts on the human environment of sea turtle interactions with fishing activities in Hawaii State waters associated with an application for an individual ITP submitted by the State of Hawaii Department of Land and Natural Resources. NMFS is responsible for analyzing these permit applications and authorizing those which meet legal requirements. NMFS also announces the extension of the comment period on the ITP application.

DATES: Written comments on fisheries/sea turtle interactions or other information that NMFS should consider in preparing the EIS, as well as written comments from interested parties on the permit application and conservation plan are requested and must be received no later than 5 p.m. Eastern daylight time on or before June 10, 2002.

ADDRESSES: Comments on the proposal to prepare an EIS, comments on the application for an individual ITP, and

requests for copies of the application for the individual ITP should be sent to: 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. Notice of public meetings will be announced at a later date through notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Margaret Akamine Dupree (ph. 808-973-2935, fax 808-973-2941, e-mail *Margaret.Dupree@noaa.gov*) or Therese Conant (ph. 301-713-1401, fax 301-713-0376, e-mail *Therese.Conant@noaa.gov*).

SUPPLEMENTARY INFORMATION:

Background

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act (ESA). The 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 populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered. Olive ridley (*Lepidochelys olivacea*) turtles are listed as threatened, except for populations of olive ridley turtles on the Pacific coast of Mexico, which are listed as endangered.

Under the ESA and its implementing regulations, taking sea turtles—even incidentally—is prohibited, with exceptions identified in 50 CFR 223.206. Reduction of the incidental capture of sea turtles as a result of fishery operations and amelioration of the impacts of this interaction is an important aspect of sea turtle recovery efforts.

Pursuant to the ESA, the State of Hawaii has submitted an application to NMFS for an individual ITP for listed sea turtles in inshore marine fisheries in the Hawaiian islands managed by the State of Hawaii. The application for an ITP was made available to the public through an earlier **Federal Register** notice of availability (67 FR 16367, April 5, 2002), which established a comment period on the application of April 5, 2002 to May 6, 2002. Sea turtle interactions with fishing gear associated with the Hawaii-managed fisheries are known to occur, resulting in the take of threatened and endangered sea turtles. The extent and impact that will likely result from this incidental take must be analyzed and, if appropriate, authorized

through section 10 of the ESA. An ITP cannot be authorized unless the applicant submits a conservation plan, and unless it can be determined that with respect to the permit application and the related conservation plan that (1) the taking will be incidental, (2) the applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking, (3) the applicant will ensure that adequate funding for the plan will be provided, (4) the taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild, and (5) any other measures or assurances required by NMFS as being necessary or appropriate for purposes of the conservation plan will be met.

NMFS has determined that an environmental impact analysis of the incidental take of sea turtles which would be authorized by the issuance of an ITP for the marine inshore fisheries managed by the State of Hawaii is necessary under the National Environmental Policy Act (NEPA). Based on comments received through this notification, NMFS intends to schedule scoping meetings at a later date that would support preparation of an EIS.

NMFS is seeking input from fishermen, sea turtle experts, non-governmental organizations (NGOs), academia, state representatives, and the public on the Hawaii fisheries and is requesting information on fisheries interactions with sea turtles as well as the identification of missing data. The purpose of this notice is to: (1) inform the interested public of the intent to prepare this EIS, (2) request public participation and comments, and (3) extend the comment period on the application for the ITP to allow more time for comment on it. If authorization of an ITP is appropriate, it will proceed in accordance with the provisions specified in the ESA.

Dated: May 6, 2002.

Wanda Cain,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

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