

our website (<http://international.fws.gov>).

(4) *What must vicuña range countries do in order to be authorized under the special rule to export to the United States?* (i) *Annual Report.* Range country governments (Argentina, Bolivia, Chile, and Peru) wishing to export specimens of vicuña to the United States will need to provide an annual report containing the most recent information available on the status of the species, following the information guidelines specified below. The first submission of a status report will be required as of July 1, 2003, and every year thereafter on the anniversary of that date. For each range country, the following information should be provided in the annual report:

(A) A description of any revisions to the management program, especially any changes in management approaches or emphasis;

(B) New information obtained in the last year on vicuña distribution, population status, or population trends, for the country as a whole or for specific protected areas, and a detailed description of the methodology used to obtain such information;

(C) Results of any research projects concluded in the last year on the biology of vicuña in the wild, particularly its population biology, habitat use, and genetics, and a description of any new research projects undertaken on the biology of vicuña in the wild, particularly its population biology, habitat use, and genetics;

(D) A description of any changes to national and/or provincial laws and programs relating to vicuña conservation, in particular those laws and regulations related to harvest and use of the vicuña, and export of vicuña parts and products;

(E) A description of any changes in the number or size of natural reserves or national parks that provide protected habitat for the vicuña;

(F) A summary of law enforcement activities undertaken in the last year, and a description of any changes in programs to prevent poaching, smuggling, and illegal commercialization of the vicuña;

(F) A description of the current management and harvest (or "sustainable use") programs for wild populations of the vicuña, including: any changes in the location and population size of wild populations being managed for sustainable use; any changes in the harvest management practices being used for each population; any changes in current harvest quotas for wild populations, if any; any changes in protocols for

translocations undertaken as part of the use program; a summary of the specific financial costs of and revenues generated by the sustainable use program over the last year; and a summary of documented conservation benefits resulting from the sustainable use program over the last year;

(G) A description of current management and harvest (or "sustainable use") programs for captive and so-called "semi-captive" populations of the vicuña, including: any changes in the number and location of all captive and "semi-captive" populations; any changes in the size (ha) of each captive enclosure and the number of vicuña maintained therein; any changes in protocols for translocations undertaken as part of the use program; a summary of the financial costs of and revenues generated by the sustainable use program over the last year; and documented conservation benefits resulting from the sustainable use program over the last year (information on captive and "semi-captive" populations must be separate from that provided for wild populations); and

(H) Export data for the last year.

(ii) The Service's Division of Scientific Authority will conduct a review every 2 years, using information in the annual reports, to determine whether range country management programs are effectively achieving conservation benefits for the vicuña. Failure to submit an annual report could result in a restriction on trade in specimens of vicuña as addressed in paragraph (m)(3) of this section. Based on information contained in the annual reports and any other pertinent information it has available, the Service may restrict trade from a range country, as addressed in paragraph (m)(3) of this section, if it determines that the conservation or management status of threatened vicuña populations in a range country has changed, such that continued recovery of the vicuña population in that country may be compromised. Trade restrictions may result from one or more of the following factors:

(A) A change in range country laws or regulations that lessens protection for vicuña;

(B) A change in range country management programs that lessens protection for vicuña;

(C) A documented decline in wild vicuña population numbers;

(D) A documented increase in poaching of vicuña;

(E) A documented decline in vicuña habitat quality or quantity; or

(F) Other natural or man-made factors affecting the species' recovery.

Dated: May 21, 2002.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 222 and 223

[Docket No. 020523129-2129-01; I.D. No.052202A]

RIN 0648-AQ06

Sea Turtle Conservation; Shrimp Trawling Requirements

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

ACTION: Temporary rule; request for comments.

SUMMARY: NMFS is imposing, for a 30-day period, additional restrictions on shrimp trawlers in offshore Atlantic waters west of 77° 57.5' W. longitude (approximately Cape Fear, NC) and north of 30° N. latitude (just north of St. Augustine, FL). Shrimp fishermen operating in this area are required to use turtle excluder devices (TEDs) with escape openings modified to exclude leatherback turtles and are prohibited from fishing at night between 1 hour after sunset and 1 hour before sunrise. NMFS is taking this action because we have determined that higher than normal shrimping effort, particularly long tows conducted at night, and the use of less efficient TEDs by some shrimpers are the causes of extraordinarily high mortality and strandings of sea turtles that are listed as endangered or threatened. This action is necessary to reduce mortality of listed sea turtles incidentally captured in shrimp trawls.

DATES: This action is effective from May 24, 2002 through June 24, 2002.

Comments on this action are requested, and must be received by June 24, 2002.

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.

FOR FURTHER INFORMATION CONTACT: Bob Hoffman, (727) 570-5312, or Barbara A.

Schroeder, (301) 713–1401. 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 by fax (228) 769–8699.

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 nesting populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered.

The incidental take of these species as a result of shrimp trawling activities has been documented in the Gulf of Mexico and in the Atlantic Ocean. Under the Endangered Species Act (ESA) and its implementing regulations, taking sea turtles is prohibited, with exceptions identified in 50 CFR 223.206. Existing sea turtle conservation regulations (50 CFR part 223, subpart B) require most shrimp trawlers operating in the Gulf and Atlantic areas to have a NMFS-approved TED installed in each net rigged for fishing, year-round. The use of TEDs 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 ("the Leatherback Contingency Plan"). 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).

NMFS has recently proposed amending the sea turtle conservation regulations to provide more comprehensive protection to all sizes and species of sea turtles from trawling (66 FR 50148, October 2, 2001). A major element of the proposed amendment is the use of larger escape openings on TEDs. Recent data have shown that the current regulatory minimum opening

sizes of TEDs are not sufficient to allow large green and loggerhead turtles to escape. In addition, the Leatherback Contingency Plan which was developed to ensure that larger openings would be deployed when necessary to protect leatherbacks has been insufficient because the plan is limited to a geographic area that does not always encompass areas where the larger opening is needed. Implementation of the 2 week actions specified in the plan also often lag behind the time when they are most needed.

The sea turtle 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 incidental take permit. 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 to avoid unauthorized takings. 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 223.206(d)(4)).

Recent Events

NMFS has been notified by the Georgia Department of Natural Resources (GADNR) that extraordinarily high numbers of threatened and endangered sea turtles have stranded, especially off southern Georgia. From May 5, 2002, through May 19, 2002, a total of 89 dead sea turtles have washed ashore along the Georgia coast (shrimp zones 30 and 31). Of these, 66 are loggerheads, 10 are Kemp's ridleys, 3 are leatherbacks, and 10 have not been identified to species. By comparison, the 12-year average of stranded sea turtles in Georgia for this 2-week period is 18, so the 89 strandings are 5 times more than normal. Considering that strandings are only a minimum estimate of actual mortality, these strandings represent a serious impact to the recovery and survival of the local sea turtle populations.

Information from GADNR and NOAA enforcement indicates that there is a high level of shrimp effort off Georgia, which is typical for this time of year. Georgia state waters are closed to shrimp, so the fishery is currently operating only in Federal waters, targeting high-value, large white shrimp. These sources also indicate that the behavior of the fishery is somewhat different than in previous years. There are a large number of very large,

powerful shrimp vessels from Gulf states (estimated at 25–30 boats) that are participating in the fishery. These boats are generally capable of fishing more, larger trawls at higher speeds than the local boats. Although white shrimp are generally only caught during the day, these large vessels are fishing 24-hours-a-day and using long tow times (up to 12 hours in some cases) to maximize effort given the distance from their local ports. Local fishermen fish mostly in the day to target white shrimp using tow times of 2 to 4 hours. The 24-hour fishing, in conjunction with long tow times, represents a significant increase in effort in this area. An aerial survey to monitor shrimping effort on May 21 found that most of the large trawlers were concentrated in the southern part of the state, in the area of highest strandings.

This spring has seen a very high abundance of leatherback turtles migrating close to the Atlantic coast in Florida, Georgia, South Carolina, and North Carolina. Under the Leatherback Contingency Plan, a 14-day requirement to use leatherback-excluding TEDs was implemented for Zone 31 (north and central Georgia) through May 3. Weather and logistical problems have prevented effective aerial surveys since then, and the requirement to use the larger-opening TEDs has lapsed. GADNR estimates that up to 70 percent of the local fishermen are using leatherback-excluding TEDs, which are also effective at releasing large green and loggerhead turtles. The large, Gulf vessels have been fishing south of Zone 31 or arrived after May 3, and NMFS believes that most are not using TEDs with large openings.

NMFS believes that the increased shrimping effort, particularly the switch to nighttime fishing and very long tow-times, in conjunction with the use of TEDs with smaller escape openings is responsible for the sharp increase in turtle mortality and strandings along the Georgia coast.

Analysis of Other Factors

NMFS has analyzed other factors that might have contributed to the turtle strandings, including environmental conditions. No possible causes other than shrimp trawling have been identified. A single vessel fishing for sharks using drift gillnets a fishing method that is known to capture and kill sea turtles has been operating in Federal waters in the Florida-Georgia border area in the past month. A NMFS observer has been aboard that vessel for every trip since April 29 and no sea turtle interactions have been observed. There is no evidence of a red tide or

other harmful plankton bloom event or any major disease factor. The condition of the stranded turtles has indicated that they were generally healthy and actively foraging prior to their deaths, which is consistent with strandings resulting from shrimp trawling. The carcasses have primarily been coming ashore in the vicinity of areas where shrimping effort has been concentrated. NMFS and state personnel will continue to investigate factors other than shrimping that may contribute to sea turtle mortality in the area, including other fisheries and environmental factors.

Restrictions on Fishing for Shrimp Trawlers

Pursuant to 50 CFR 223.206(d)(4), the exemption for incidental taking of sea turtles in 50 CFR 223.206(d) does not authorize incidental takings during fishing activities if the takings would violate the restrictions, terms or conditions of an ITS or incidental take permit, or may be likely to jeopardize the continued existence of a species listed under the ESA. Therefore, the Assistant Administrator for Fisheries, NOAA (AA) issues this determination that further takings of threatened and endangered sea turtles in Atlantic Ocean waters off the southeast coast of the U.S. by shrimp trawlers using TEDs with small escape openings and shrimping during nighttime hours are unauthorized because such takes may be likely to jeopardize the continued existence of the sea turtle populations. The AA, thus, imposes this additional restriction to shrimp trawling activities to conserve threatened and endangered sea turtles. The AA has determined that conservation measures are necessary in an area larger than the current hot-spot of strandings to prevent fishing with practices that are harmful to sea turtles from simply relocating to other areas in the South Atlantic. Additionally, the use of large, leatherback size TED openings will allow for easier escape for all turtle species, decreasing stress and mortality to the turtles. Specifically, the AA requires shrimp trawlers, who are required to use TEDs, fishing in offshore Atlantic waters west of 77° 57.5' W. longitude (approximately Cape Fear, NC) and north of 30° N. latitude (just north of St. Augustine, FL) to use TEDs with escape openings modified to exclude leatherback turtles (meeting the specifications at 50 CFR 223.207(a)(7)(ii)(B)(1) or (2) or § 223.207(c)(1)(iv)(B)) and prohibits shrimp trawling in the same area between 1 hour after sunset and 1 hour before sunrise. This restriction is effective from May 24, 2002 through 11:59 p.m. (local time) June 24, 2002.

This restriction has been announced on the NOAA weather channel, in newspapers, and other media. Shrimp trawlers may also call (727)570-5312 for updated information on shrimping restrictions.

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 223.206(d)(4).

NMFS will continue to monitor sea turtle strandings to gauge the effectiveness of these conservation measures.

Classification

This action has been determined to be not significant for purposes of Executive Order 12866.

The AA has determined that this action is necessary to respond to an emergency situation to provide adequate protection for threatened and endangered sea turtles pursuant to the ESA and other applicable law.

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 impracticable to provide prior notice and opportunity for comment because providing notice and comment would prevent the agency from implementing this action in a timely manner to protect threatened and endangered sea turtles. Notice and opportunity to comment was provided on the proposed rule (57 FR 18446, April 30, 1992) on the final rule establishing the procedures for taking this action. Furthermore, the AA finds good cause under 5 U.S.C. 553(d)(3) not to delay the effective date of this rule for 30 days. Such delay would also prevent the agency from implementing this action in a timely manner to protect threatened and endangered sea turtles. Accordingly, the AA is making the rule effective May 24, 2002 through June 24, 2002. As stated above, this restriction has been announced on the NOAA weather channel, in newspapers, and other media.

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.

As required by 50 CFR 223.207(d)(4)(iv), NMFS has consulted with the marine fisheries officials in

Florida, Georgia, South Carolina, and North Carolina on this emergency action. The required nighttime closure will complement existing nighttime closures of state waters in Georgia, South Carolina, and North Carolina.

The AA prepared an Environmental Assessment (EA) for the final rule (57 FR 57348, December 4, 1992) requiring TED use in shrimp trawls and creating the regulatory framework for the issuance of notifications such as this. The AA also prepared an EA for this action. Copies of the EA are available (see **ADDRESSES**).

Dated: May 24, 2002.

John Oliver

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 011005244-2011-02; I.D. 052102A]

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Closure of Fishery for *Loligo* Squid

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

ACTION: Closure.

SUMMARY: NMFS announces that the directed fishery for *Loligo* squid in the exclusive economic zone (EEZ) will be closed effective May 28, 2002. Vessels issued a Federal permit to harvest *Loligo* squid may not retain or land more than 2,500 lb (1.13 mt) of *Loligo* squid per trip for the remainder of the quarter. This action is necessary to prevent the fishery from exceeding its Quarter II quota and allow for rebuilding of this overfished stock.

DATES: Effective 0001 hours, May 30, 2002, through 0001 hours, July 1, 2002.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, 978-281-9273, fax 978-281-9135, e-mail paul.h.jones@noaa.gov.

SUPPLEMENTARY INFORMATION:

Regulations governing the *Loligo* squid fishery are found at 50 CFR part 648. The regulations require specifications for maximum sustainable yield, initial optimum yield, allowable biological catch, domestic annual harvest (DAH),