DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 020325067–2161–02; 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 (NOAA Fisheries), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: This final rule implements measures required by the June 14, 2001, Biological Opinion (BiOp) on Atlantic highly migratory species (HMS) fisheries. In the HMS pelagic longline fishery, NOAA Fisheries is closing the northeast distant statistical reporting (NED) area, requiring the length of any gangion to be 10 percent longer than the length of any floatline if the total length of any gangion plus the total length of any floatline is less than 100 meters, and prohibiting vessels from having hooks on board other than corrodible, non- stainless steel hooks. In the HMS shark gillnet fishery, both the observer and vessel operator must look for whales, the vessel operator must contact NOAA Fisheries if a listed whale is taken, and shark gillnet fishermen must conduct net checks every 0.5 to 2 hours to look for and remove any sea turtles or marine mammals from their gear. This final rule also requires all HMS bottom and pelagic longline vessels to post sea turtle handling and release guidelines in the wheelhouse. The intent of these actions is to reduce the incidental catch and post-release mortality of sea turtles and other protected species in HMS fisheries.

DATES: Effective July 9, 2002, except for the amendments to § 635.5 and § 635.21 paragraphs (d)(3)(iv), (d)(3)(v) and (d)(3)(vi) which are effective August 8, 2002 and § 635.21 paragraph (c)(5)(iii)(B) which is effective October 7, 2002.

ADDRESSES: For copies of the Final Environmental Impact Statement/ Regulatory Impact Review/Final Regulatory Flexibility Analysis (FSEIS/ RIR/FRFA), contact Tyson Kade at 301–713–2347.

FOR FURTHER INFORMATION CONTACT: Tyson Kade or Margo Schulze-Haugen at 301–713–2347 or fax 301–713–1917.

To report a sea turtle mortality in the pelagic longline fishery, please call 800–858–0624. To report an interaction with a listed whale in the shark gillnet fishery, please call 305–862–2850.

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 Atlantic HMS fisheries is also subject to the requirements of the Endangered Species Act (ESA) and the Marine Mammal Protection Act (MMPA).

Sea Turtle Bycatch Reduction

NOAA Fisheries is required to address the fishery-related takes of sea turtles that are listed as threatened or endangered under the ESA. Although a high percentage of hooked sea turtles are released alive, NOAA Fisheries 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. In addition to these immediate effects, as discussed in the BiOp, trailing 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 and measure. From 1992 to 1999, NOAA Fisheries estimates that the Atlantic pelagic longline fishery interacted with an average of 795 leatherback and 986 loggerhead sea turtles annually with an average annual estimate of 11 leatherback and 8 loggerhead mortalities. As explained in the BiOp, based on available data, NOAA Fisheries expects that 27 percent of loggerhead sea turtles hooked in the beak or mouth, 42 percent of loggerhead sea turtles that ingested hooks, and 27 percent of the leatherback sea turtles hooked in their flippers will die.

In a BiOp prepared under section 7 of the ESA, completed June 14, 2001, NOAA Fisheries 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 NOAA Fisheries' Southeast Fisheries Science Center's 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 remove jeopardy to 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 to reduce bycatch of with sea turtles, whales, and other protected species.

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 sharks, swordfish, bigeye tuna, or yellowfin tuna.

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 protected species, including threatened and endangered sea turtles. The bycatch of protected species (sea turtles, marine mammals, or seabirds) may significantly impair the recovery of these species. Consistent with national standard 9 of the Magnuson-Stevens Act, NOAA Fisheries has implemented measures to reduce bycatch and bycatch mortality to the extent practicable in the Atlantic pelagic longline fishery.

Area Closure

The NED area has the highest incidental take rate of sea turtles by the U.S. Atlantic pelagic longline fleet. This regulation will close the NED area to vessels that have been issued, or are required to have, Federal HMS limited access permits and 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^2), 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 loggerhead and leatherback sea turtle interactions by 67 and 58 percent, respectively, based on logbook data and 51 and 49 percent, respectively, based on estimated extrapolated take levels derived from observer and logbook data in 1999.

Gear Modifications

In addition to the closure, NOAA Fisheries is implementing 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 are required to deploy the gear so that hooked or entangled turtles have sufficient slack line to reach the surface and avoid drowning. Specifically, for pelagic longline sets in which the combined depth of any floatline plus any gangion is 100 meters or less, the length of any gangion must be at least 10 percent longer than the length of any floatline. For sets in which the combined depth is over 100 meters, the requirement does not apply.

All Atlantic vessels that use pelagic longline gear and have been issued, or are required to have, Federal HMS limited access permits are prohibited from having on board hooks other than corrodible, non-stainless steel hooks. NOAA Fisheries expects to hold a workshop by the end of 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. NOAA Fisheries does not expect this management measure to have a significant impact on the catch rates of target species because many pelagic longline fishermen already use non-stainless steel hooks.

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 are required to post inside the wheelhouse the guidelines for the safe handling of sea turtles captured in a longline interaction. This measure will allow vessel captains to refer to the appropriate handling and release guidelines in the event a sea turtle is hooked or entangled. NOAA Fisheries previously distributed the guidelines via mail to all HMS bottom and pelagic longline permit holders and announced this requirement in an emergency rule (66 FR 36711, July 13, 2001) and the availability of the guidelines via the fax network in September 2001. The document is available for downloading from the Internet at: *http://www.nmfs.noaa.gov/sfa/hmspg.html*, or NOAA Fisheries can be contacted to request a copy (see **ADDRESSES**).

Reporting

Based on one of the terms and conditions (TC) of the BiOp, this rule requires that the captains of all vessels that have pelagic longline gear on board 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 at a number designated by NOAA Fisheries (see **ADDRESSES**) within 48 hours of returning to port. NOAA Fisheries expects that this regulation will provide a better assessment of the number of lethal sea turtle takes during pelagic longline operations. This should result in more accurate management decisions involving fishery interactions with these species.

Experimental Fishery

Consistent with the BiOp, NOAA Fisheries 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. 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.

In 2001, the experiment evaluated the effect of gangions placed two gangion lengths from floatlines, the effect of blue-dyed bait on target catch and sea turtle interactions, and the effectiveness of dipnets, line clippers, and dehooking devices. Eight vessels participated, making 186 sets, between August and November. During the course of the experimental fishery, 142 loggerhead and 77 leatherback sea turtles were incidentally captured and no turtles were released dead. NOAA Fisheries analyzed the data to determine if the tested measures reduced the incidental capture of sea turtles by a statistically significant amount. Measures to reduce post-release mortality continue to be examined and will be made available upon completion of this research. The blue-dyed bait parameter decreased the catch of loggerheads by 9.5 percent and increased the catch of leatherbacks by 45 percent. Neither value is statistically significant. In examining the gangion placement provision, the treatment sections of the gear (with gangions placed 20 fathoms from floatlines) did not display a statistically significant reduction in the number of loggerhead and leatherback sea turtle interactions compared to the control sections of the gear (with a gangion located under a floatline). The treatment section of the gear recorded a statistically insignificant increase in the number of leatherback interactions and had no significant effect on loggerhead interactions. These results led to the conclusion that the measures tested in 2001 were not successful in reducing interactions between sea turtles and pelagic longline gear. The 2002 NED experiment is expected to commence in July 2002.

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 11 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 NOAA Fisheries 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 final rule are discussed below.

Sighting and Reporting Whales

This action requires 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, are responsible for sighting whales. The vessel operator is responsible for contacting the Southeast Regional Office (SERO) of NOAA Fisheries at a number designated by NOAA Fisheries (see **ADDRESSES**) 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, NOAA Fisheries hopes that the animals can 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 regulation requires 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 strikenetting, the fishermen are 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 is expected to reduce the mortality level of incidentally captured protected species.

Changes From the Proposed Rule

The primary difference between the proposed rule and this action is that the proposed alternative requiring vessel operators using pelagic longline gear to set gangions two gangions lengths away from floatlines is not being made final. Results from the 2001 experimental fishery in the NED area determined that this alternative is not effective in reducing interactions with loggerhead and leatherback sea turtles. NOAA Fisheries presents an analysis of the impacts of not selecting this alternative in the FSEIS.

Response to Comments

NOAA Fisheries received numerous comments during the comment period on the April 10, 2002, proposed rule. Comments are summarized here together with responses.

Biological Opinion

Comment 1: The jeopardy finding of the June 14, 2001, BiOp is fundamentally flawed and treats the Atlantic pelagic longline fishery unequally compared to other domestic and international fisheries by trying to accomplish a 10–percent increase in pelagic stage juvenile loggerhead sea turtle survivorship in the entire North Atlantic basin by imposing a 55–percent reduction in sea turtle interactions by U.S. pelagic longline fishermen alone.

Response: Currently, NOAA Fisheries is in litigation concerning the BiOp and the resulting regulations and a court decision is pending. NOAA Fisheries believes that the BiOp and implementing regulations incorporate the best available scientific information concerning sea turtle populations and the HMS fisheries and do not impose an unfair burden on U.S. fishermen.

Comment 2: NOAA Fisheries should attempt to quantify or account for the reductions in sea turtle mortality that have resulted from the requirement to possess and use dipnets and line clippers.

Response: Efforts are underway to examine the post-release status of sea turtles incidentally captured in the pelagic longline fishery. The BiOp provides estimated mortality rates for sea turtles ranging from 27 to 42 percent depending on where the sea turtles were hooked. The 2001 NED experimental fishery included a pilot program to assess the post-release mortality of loggerhead sea turtles and additional studies are scheduled for 2002. These analyses should provide greater insights into the reductions in mortality gained by the use of dipnets and line clippers.

Comment 3: NOAA Fisheries should apply a moratorium on pelagic longline, gillnet, and other fishing gears that interact with sea turtles in the Atlantic Ocean to improve the turtles' chances for survival.

Response: While the HMS BiOp concluded that the operation of the Atlantic pelagic longline fishery jeopardizes the continued existence of loggerhead and leatherback sea turtles, a reduction in mortality of 55–percent would avoid jeopardy. NOAA Fisheries can achieve this reduction in mortality without implementing a moratorium on pelagic longline gear. Regarding shark gillnet and other fishing gears, the HMS BiOp found that these activities may adversely affect but are not likely to jeopardize sea turtles, whales, and other protected species, and consequently, identified several measures to reduce mortality without the need for a moratorium of those gears. This action implements those measures; therefore, a moratorium of shark gillnet and other fishing gear is not warranted at this time.

Comment 4: NOAA Fisheries should reinitiate consultation and consider more protective measures if gear restrictions do not provide the benefits anticipated in the biological opinion.

Response: NOAA Fisheries will evaluate the efficacy of the bycatch and bycatch reduction measures implemented in this action as well as the efficacy of measures already in place as the data become available for statistical analyses. If these and other measures are found to be insufficient, NOAA Fisheries will take appropriate action.

Comment 5: The United States must take action to increase the visibility of sea turtle conservation on an international scale with the goal of reducing international sea turtle interactions.

Response: The International Bycatch Reduction Task Force is organizing a meeting in late 2002 to address international sea turtle concerns. Also, the experiments being conducted in the NED area are intended to develop pelagic longline gear and/or fishing modifications to reduce sea turtle takes that can be transferred to international pelagic longline fleets.

Comment 6: Sea turtle populations are increasing.

Response: Trend information on loggerhead sea turtles demonstrates that the Florida subpopulation is increasing, but that the northern subpopulation, which has a large number of males, is relatively small and is either stable or declining. For leatherback sea turtles, there have been increases in the number of nests on some of the smaller nesting beaches, but the largest nesting beach has had a 15–percent decline in nests in recent years indicating a declining population.

Pelagic Longline Fishery

NED Area Closure

Comment 7: NOAA Fisheries should not close the NED area. It is unreasonable to close 2.6 million square nautical miles of the Atlantic Ocean when data show that the turtle interactions occur in a relatively small portion of the NED area and only during certain months.

Response: Based on the dynamic nature of ocean systems and the migratory nature of marine wildlife, closed areas have to be large to ensure they achieve the goal in reducing bycatch and bycatch mortality. NOAA Fisheries is aware that turtle interactions occur in a portion of the NED area; however, those interactions occur where and when pelagic longline fishing has occurred. Closing only that portion of the NED area where and when pelagic longline fishing has occurred could result in continued or

increased takes of turtles in the remaining open area of the NED area if fishermen move there. Additionally, closing only part of the NED area could decrease human safety at sea if fishermen move into unfamiliar fishing areas even further offshore than the areas currently fished or fish during other times of year when weather conditions are poor.

Comment 8: By closing the NED, the most productive swordfish fishing grounds available to U.S. fishermen, NOAA Fisheries will create a situation in which foreign flag fleets supplant the U.S. fleet and will likely result in more sea turtles being killed because international fleets do not follow careful sea turtle handling and release guidelines like U.S. fishermen.

Response: NOAA Fisheries is conducting an experimental fishery in the NED area using vessels of the U.S. pelagic longline fleet to test various gear configurations. The goal of the experiment is to develop pelagic longline gear and/or fishing modifications to reduce sea turtles bycatch and bycatch mortality sufficiently so that the NED area can be reopened and the technology exported to the international pelagic longline fleets. In the event that no such gear or fishing modifications are developed and the NED area remains closed to the U.S. pelagic longline fleet, NOAA Fisheries is aware that international fleets may increase fishing effort in the NED area. Regardless of the results of the NED area experiment, NOAA Fisheries intends to pursue international sea turtle conservation agreements and measures.

Comment 9: NOAA Fisheries should close the NED area to conventional pelagic longline gear but keep it open to fishermen who voluntarily agree to test new and innovative fishing techniques.

Response: NOAA Fisheries supports cooperative research with fishermen to develop pelagic longline gear and/or fishing modifications to reduce sea turtle interactions and is conducting an experimental fishery in the NED area using vessels of the U.S. pelagic longline fleet. That experimental fishery began in 2001 and will continue through 2003. After that time, NOAA Fisheries will evaluate the results of the experimental fishery and determine if the NED area can be reopened to pelagic longline vessels using modified fishing techniques, determine if further research is necessary and take appropriate action to conduct that research, or determine if no further research is warranted. NOAA Fisheries believes that the final action to close the NED area while also conducting the experimental fishery is essentially the same outcome as that suggested by the comment.

Comment 10: NED boats cannot simply go fish elsewhere as NOAA Fisheries predicts and remain profitable. Other coastal fishing areas are overcrowded, have competition with coastal longliners, and have gear conflicts with stationary lobster and crab gear.

Response: NOAA Fisheries is aware that not all other fishing areas are likely to be as profitable as the NED area for pelagic longline vessels that typically fished in the NED area. However, data available to NOAA Fisheries indicate that other areas, such as the Caribbean area, can be as profitable as the NED area. Additionally, data available to NOAA Fisheries indicate that NED vessels already fish in other areas, including the Caribbean, during winter months; thus, switching locations is not prohibitive for NED vessels. Also, in the short term, NED vessels can volunteer to participate in the NED experimental fishery. Participating in the NED experimental fishery can be profitable for these vessels in the short-term, and, in the worst case scenario, will allow these vessels time to plan their course of action if the experimental fishery does not produce results that would allow NOAA Fisheries to reopen the NED area.

Comment 11: Closing the NED area after closing the Florida Straits and Charleston Bump will direct increased effort into smaller and smaller areas and will increase regulatory discards that could result in more time and area closures.

Response: NOAA Fisheries intends to analyze the impacts of the time and area closures in the Florida east coast, Charleston Bump, and DeSoto Canyon as well as the NED area closure implemented by the emergency rule as the data become available for statistical analyses. NOAA Fisheries will take appropriate action at that time to address bycatch in the remaining open areas in light of effort redistribution as warranted.

Comment 12: Closing the NED area will prevent U.S. fishermen from enjoying the fruits of their hard-earned success in reversing the decline of swordfish.

Response: U.S. fishermen may fish for and land swordfish in U.S. waters under its quota from the International Commission for the Conservation of Atlantic Tunas and, as swordfish stocks recover, U.S. fishermen can reasonably expect to enjoy the benefits of a sustainable swordfish fishery.

Comment 13: Without the establishment of a sunset provision for the NED area closure, there is no assurance that it will ever be reevaluated.

Response: The NED area is closed to achieve most of the required 55–percent reduction mandated by the HMS BiOp. The experimental fishery in the NED area is designed to develop effective sea turtle bycatch reduction measures so that an area closure will not be necessary and the NED area can be reopened. Additionally, NOAA Fisheries intends to analyze the impact of all time and area closures implemented for HMS fishermen as data become available. Based on these analyses, NOAA Fisheries will modify any closures, as appropriate.

Comment 14: NOAA Fisheries must close the NED area to fishing by the U.S. pelagic longline fleet to ensure that it meets its legal obligations under the ESA and avoid jeopardy by reducing sea turtle bycatch. This closure would have the additional benefit of reducing the incidence of blue shark discards by U.S. fishermen.

Response: NOAA Fisheries is implementing such as closure.

Other Alternatives

Comment 15: The 2001 NED area experiment found that the gangion placement relative to floatlines shows a negative effect. NOAA Fisheries should rescind this requirement on the entire U.S. fleet at this time.

Response: NOAA Fisheries is not implementing that requirement.

Comment 16: NOAA Fisheries should implement the alternative to prohibit setting gangions in close proximity to floatlines as the measure is projected to reduce the take of loggerhead and leatherback sea turtles by 22 and 24 percent, respectively.

Response: The 2001 experimental fishery in the NED area demonstrated that this measure is not effective in reducing the incidental capture of sea turtles and may increase the interaction rate with leatherback sea turtles. Accordingly, NOAA Fisheries is not implementing that requirement.

Comment 17: NOAA Fisheries must analyze and quantify the benefits and drawbacks of the proposal to have gangion lengths be 110 percent of floatline length, including the economic impact of reduced target catch. This proposed alternative may have minimal effect on sea turtle survival as ocean currents or turtle movements could tangle the line.

Response: The economic impacts of the final actions are analyzed in the FSEIS. Additionally, the FSEIS provides the best available information concerning the effectiveness and

impacts of the final actions. NOAA Fisheries believes that the measure will have a positive effect on sea turtle survival although no quantitative estimate is available at this time.

Comment 18: NOAA Fisheries should implement the requirement for gangions to be longer than floatlines.

Response: NOAA Fisheries is implementing this requirement.

Comment 19: NOAA Fisheries needs to make a decision concerning the corrodible hook criteria and determine a policy for their implementation and extend it to all bycatch species and all HMS hook and line fisheries to increase post-release survival. The hooks should be used experimentally before being adopted on a larger scale.

Response: The current standard for corrodible hooks is that they be composed of non-stainless steel. NOAA Fisheries believes that many pelagic longline fishermen already use non-stainless steel hooks so that this measure should result in little change in costs or fishing practices while providing benefits to sea turtles although no quantitative estimates are available at this time. Therefore, NOAA Fisheries believes that finalizing this measure for the Atlantic pelagic longline fleet at this time is warranted. NOAA Fisheries may revise this standard at a future date as additional information becomes available. NOAA Fisheries intends to host a conference by the end of 2002 with sea turtle biologists and veterinarians to examine this issue.

Comment 20: Fishermen using other fishing gears are known to interact with sea turtles and should also be required to possess and use specific handling instructions for reference during their sea turtle interactions.

Response: NOAA Fisheries intends to develop fishery-specific sea turtle handling and release guidelines. At that time, NOAA Fisheries will take the appropriate action to ensure their distribution and use.

Comment 21: NOAA Fisheries should require posting of sea turtle handling and release guidelines in the wheelhouse.

Response: NOAA Fisheries is implementing a measure that will require guidelines to be posted in the wheelhouse of all pelagic and bottom HMS longline vessels.

Comment 22: NOAA Fisheries needs to address several issues concerning sea turtle post-release survival, including differences in gear interactions between fisheries and oceans, tag reliability, and creating a strategy for research using the Atlantic pelagic longline fleet.

Response: The 2001 NED area experimental fishery included a pilot study that involved the deployment of 16 PSAT (pop-off satellite) tags on loggerhead sea turtles caught in the Atlantic pelagic longline fishery. This study is scheduled to continue during the next 2 years of the experimental fishery and should effectively address the issues concerning sea turtle post-release survival following interactions with Atlantic pelagic longline gear.

Comment 23: NOAA Fisheries should increase the level of observer coverage in the pelagic longline and shark gillnet fisheries to better monitor interactions with protected species.

Response: Observer coverage is an important way to monitor fishery interactions with protected species. NOAA Fisheries has determined the level of observer coverage necessary in the pelagic longline and shark gillnet fisheries to produce statistically rigorous estimates of protected species interactions and is implementing those coverage levels.

Comment 24: NOAA Fisheries should implement a measure requiring pelagic longline vessels to carry a dehooking device on board.

Response: NOAA Fisheries believes that additional information concerning what types and techniques are optimal to reduce harm to sea turtles is needed before implementing such a measure. Several designs were tested in the 2001 NED experimental fishery and will continue to be tested in the 2002 NED area experimental fishery. NOAA Fisheries will take appropriate action based on the results of the experiment.

Comment 25: NOAA Fisheries should implement the timely reporting of sea turtle mortalities and the proper release of incidentally caught turtles, which are important factors in assessing and reducing sea turtle mortality in the pelagic longline fishery.

Response: NOAA Fisheries is implementing a measure that requires HMS fishermen with pelagic longline on board to report lethal turtle takes within 48 hours of returning to port.

NED Experiment

Comment 26: NOAA Fisheries should not forgo the collection of data that may help the bycatch reduction of other incidentally caught species when conducting research to mitigate the impact of pelagic longline gear on sea turtles.

Response: Data are being collected that will permit the analysis of the impacts of the measures tested in the NED area experimental fishery on other incidentally caught species.

Comment 27: NOAA Fisheries should consider the impact of gear modifications on other species besides sea turtles prior to exporting them to international fisheries.

Response: The impact of gear modifications on other species will be considered prior to promulgating regulations implementing measures for the pelagic longline fishery for species besides sea turtles and prior to exporting successful sea turtle take reduction measures to international fisheries.

Comment 28: NOAA Fisheries should implement any additional measures found to be effective during the ongoing sea turtle research, however more attention should be paid to other protective measures such as time or area closures.

Response: NOAA Fisheries intends to implement measures found to be effective in reducing sea turtle bycatch and bycatch mortality in the NED area experiment, including time or area closures, as appropriate.

Comment 29: NOAA Fisheries should continue to experiment with gear modifications that would reduce the mortality of sea turtles and implement new rules in response to new data about their effectiveness.

Response: NOAA Fisheries will continue to conduct such experiments.

Comment 30: NOAA Fisheries should foster cooperation with the industry through truly cooperative research based on real science.

Response: NOAA Fisheries believes that the NED area experimental fishery is an example of cooperative research based on sound science.

Shark Gillnet Fishery

Comment 31: The requirement for shark gillnet fishermen to contact NOAA Fisheries and cease fishing in the event of a listed whale being taken will neither protect listed whales nor reduce the bycatch of these animals.

Response: According to the BiOp, the major known sources of anthropogenic mortality and injury to listed whales include entanglement in commercial fishing gear and ship strikes. However, many of the reports of whale mortality cannot be attributed to a particular source. While to date, there has not been a confirmed interaction with a listed whale in the shark gillnet fishery, NMFS believes that it is appropriate to implement regulations that will enhance the response to an interaction with a listed whale and prevent a subsequent interaction by requiring the vessel to cease fishing immediately.

Comment 32: NOAA Fisheries should prohibit gillnet sets within a 5 nautical

mile radius of any sighted listed whale or, if the gear is already set, the removal of that gear from the water.

Response: NOAA Fisheries believes that current regulations under the Atlantic Large Whale Take Reduction Plan are adequate. Current regulations require shark gillnet fishermen to fish for sharks with a strikenet during times that right, humpback, fin or minke whales are present, require that no nets be set under limited visibility, prohibit setting of nets within three nautical miles of a whale, and require that gear be removed immediately from the water if a whale moves within 3 nautical miles of the gear.

Comment 33: NOAA Fisheries should implement regulations that would prevent gillnet fishing if a listed whale were taken for the rest of the season or until whales are no longer sighted in that area based on seven consecutive sighting surveys.

Response: NOAA Fisheries believes that current regulations under the Atlantic Large Whale Take Reduction Plan are adequate. Additionally, NOAA Fisheries has the authority under the Endangered Species Act to implement temporary closures to reduce takes or potential takes, as appropriate.

Comment 34: The net check provision will likely offer little conservation benefit for marine mammals and sea turtles unless it is coupled with disentanglement response training.

Response: The net check provision will require the shark gillnet fishermen to check their nets every 0.5 to 2 hours which should reduce the mortality of any incidentally captured protected species. Disentanglement training was provided to fishermen in this fishery although attendance was low. NOAA Fisheries may pursue additional disentanglement training for shark gillnet fishermen in the future. Additionally, the requirement to notify NOAA Fisheries if a whale is taken will allow personnel trained in disentangling these animals to respond.

Comment 35: NOAA Fisheries should maintain 100–percent observer coverage in the shark gillnet fishery due to the bycatch problems associated with this gear.

Response: Recently, the necessary level of observer coverage was statistically determined to be 53–percent outside right whale calving season and 100–percent coverage during right whale calving season. A statistically significant level of observer coverage would yield comparable results to 100- percent coverage. Additionally, given its limited resources, NOAA Fisheries believes that the resources that would be required to provide additional coverage outside the right whale calving season (not required statistically) are needed to provide additional observer coverage in other fisheries. NOAA Fisheries will maintain 100–percent observer coverage in this fishery during right whale calving season.

Comment 36: In addition to the preferred alternatives (requiring immediate reporting if a listed whale is taken; making the observer and vessel operator responsible for looking for whales; and frequent net checks), NOAA Fisheries should require fishermen to remove finfish bycatch in addition to protected species during net checks in the shark gillnet fishery.

Response: While NOAA Fisheries agrees that the preferred alternatives are appropriate for this fishery, NOAA Fisheries is concerned that requiring the removal of finfish bycatch may delay the completion of the net checks and could increase the bycatch mortality of any incidentally captured protected species. However, NOAA Fisheries encourages shark gillnet fishermen to remove finfish bycatch as quickly and with as minimal injury as practicable.

Comment 37: The size and low income of the shark gillnet fishery may not justify the high cost of the 100–percent observer coverage required during the right whale calving season compared to other observer needs.

Response: NOAA Fisheries is aware that observer coverage costs for this fishery are high relative to the number of participants in this and other fisheries. NOAA Fisheries is considering the use of vessel monitoring systems to decrease observer coverage costs for this fishery. The issue of vessel monitoring systems is currently in litigation and NOAA Fisheries is waiting for a decision from the court.

Comment 38: Shark gillnet fishermen should be required to check their nets continuously while deployed due to the numerous interactions with sea turtles and marine mammals. The 0.5 to 2 hour period between checking nets will result in unacceptably high sea turtle and marine mammal mortality. If the fishery cannot demonstrate that the gear can be fished cleanly, that gear should be prohibited for HMS species due to high bycatch of protected species.

Response: At this time, NOAA Fisheries believes that requiring net checks every 0.5 to 2 hours is sufficient to reduce protected species bycatch mortality. Currently, the average soak time for drift gillnets is 5.6 to 7.5 hours. Thus, drift gillnet fishermen will have to check the net between 3 and 15 times during an average soak. However, NOAA Fisheries intends to review protected species bycatch mortality data in the future as data on the efficacy of this requirement become available and will re-evaluate a requirement to conduct net checks continuously or other gear restrictions in this fishery if protected species bycatch mortality is not reduced.

Enforcement

Comment 39: NOAA Fisheries should implement vessel monitoring systems to improve the enforceability of the closed areas. This would be less disruptive and less costly for the fishermen and the Coast Guard.

Response: This matter is currently in litigation. NOAA Fisheries is waiting for a decision from the Court.

Comment 40: Enforcement of the gangion length provision will be difficult at sea. NOAA Fisheries should consider developing criteria to provide guidance in this matter (for example, specify how many gangions would need to meet the 110–percent requirement to verify compliance).

Response: NOAA Fisheries will work with enforcement agents to develop guidance to enhance the enforceability of this measure.

Comment 41: Enforcement of the gangion placement provision will be difficult because the gear can slide on the mainline due to a variety of reasons.

Response: As this measure was found to be ineffective in reducing sea turtle bycatch in the NED area experimental fishery, NOAA Fisheries is not implementing the gangion placement requirement in this final action.

Comment 42: NOAA Fisheries should consider a requirement that vessels fishing with bottom longline gear in an area closed to pelagic gear should not be allowed to possess pelagic species (i.e., tuna and sharks) and conversely, require that vessels fishing with pelagic gear not be allowed to have bottom species on board (i.e., some shark species) to increase enforcement.

Response: The time and area closures currently in place for pelagic longline fishermen were designed to reduce bycatch in the pelagic longline fishery and do not apply to bottom longline fishermen. Thus, extending any closure to bottom longline fishermen would require NOAA Fisheries to conduct the appropriate analyses and rulemaking. However, NOAA Fisheries will discuss this comment with the NOAA Fisheries Office of Law Enforcement and consider its management implications.

Comment 43: NOAA Fisheries should prohibit possession of non-corrodible stainless steel hooks, not use of non-corrodible stainless steel hooks, because it would be difficult for the Coast Guard

to enforce a use prohibition if the vessel is allowed to have both corrodible non-stainless steel and non-corrodible stainless steel hooks on board.

Response: NOAA Fisheries has modified the final action to prohibit vessels from having hooks on board other than corrodible, non-stainless steel hooks when pelagic longline gear is on board.

Comment 44: The proposed definition of corrodible hooks as non-stainless steel would be enforceable at sea.

Response: NOAA Fisheries has implemented this provision.

Classification

This final 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.*

NOAA Fisheries has prepared a final regulatory flexibility analysis (FRFA) that examines the impacts of the selected 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, will 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. In 2000, only 199 fishermen actively participated in the pelagic longline fishery according to logbook reports. Since 1997, an average of 15 vessels have fished each year in the NED area. These vessels have traditionally landed approximately 20 percent of all domestically caught Atlantic swordfish and have been the most economically viable vessels in the fleet. However, due to the size and cost of operation of these vessels, NOAA Fisheries feels that it may not be as economical to fish in other areas of the Atlantic Ocean and thus, these 15 vessels would be significantly impacted due to the NED closure. The other selected alternatives regarding the pelagic longline fishery 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 dehooking devices, 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 alternative and most of the gear modification alternatives are not 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 NED time-area closure, the lost value of commercial seafood products and the adverse impacts on fishery participants and fishing communities would impose greater costs than the final action. Thus, there are no alternatives available at this time that would minimize the economic impacts on the approximately 15 NED area vessels and reduce sea turtle interactions as required under the ESA and national standard 9 of the Magnuson-Stevens Act. The RIR/FRFA provides further discussion of the economic effects of all the alternatives considered for the pelagic longline fishery.

The two selected alternatives for the shark gillnet fishery will affect a small number of vessels, approximately 4 to 11, based on NOAA Fisheries records. The measure to contact NOAA Fisheries and cease fishing following the take of a listed whale species could have an economic impact as the vessel is required to terminate fishing operations for that trip. The requirement for shark drift gillnet fishermen to check their nets every 0.5 to 2 hours could increase the cost per trip slightly based on the amount of fuel consumed. However, NOAA Fisheries does not expect these impacts to be significant.

Of the alternatives that are not selected for the shark gillnet fishery, taking no action will 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 final rule has been determined to be not significant for purposes of Executive Order 12866.

The final rule is consistent with the ESA. The June 14, 2001, BiOp found that the fishery was likely to jeopardize loggerhead and leatherback sea turtles. The final rule implements the RPA, with the exception of one part, and the other required measures in the BiOp. NOAA Fisheries is not making final the part of the rule that implemented the component of the RPA specifying gangion placement. This requirement appeared to result in an unchanged number of interactions with loggerheads and an apparent increase in interactions with leatherbacks. Preliminary logbook data, which is inconclusive in the absence of analysis in conjunction with observer data, indicate that the level of incidental take of loggerheads is below that anticipated in the incidental take statement of the BiOp. Preliminary logbook data, collected during the time that the gangion placement requirement was in effect, indicate that the level of take of leatherbacks may or may not be exceeded. Accordingly, although NOAA Fisheries will reevaluate this conclusion upon completion of the analysis of incidental take based on both logbook and observer data, at this time NOAA Fisheries determines that the fishery with this final rule is not likely to jeopardize sea turtles. NOAA Fisheries' Office of Protected Resources concurred with this determination on July 1, 2002. In this final rule, NOAA Fisheries is also finalizing measures that would decrease the impacts of other HMS fisheries on sea turtle and whale populations.

NOAA Fisheries has determined that these regulations will be implemented in a manner consistent to the maximum extent practicable with the enforceable policies of those coastal states in the Atlantic, Gulf of Mexico, and Caribbean that have approved coastal zone management programs. Eleven of the 12 states that replied to the letter regarding compliance of the proposed rule with the Coastal Zone Management Act found NOAA Fisheries' proposed actions to be consistent with their coastal zone management programs. The State of Georgia objects to the consistency determination due to the continuing operation of the shark gillnet fishery in Federal waters impacting resources shared by adjacent state waters. NOAA Fisheries shares the State of Georgia's concern regarding the impact of the shark gillnet fishery on sea turtles, marine mammals, and sport fish. However, data currently available do not indicate high bycatch and bycatch mortality of protected species and other finfish in this fishery. Because the incidental capture of endangered species in the shark gillnet fishery is regulated under the ESA and the BiOp did not conclude that continuation of the shark gillnet fishery would jeopardize any endangered or threatened resources, NOAA Fisheries is

not prohibiting the use of this gear at this time. This finding is consistent with national standard 2 which requires that management measures be based on the best scientific information available and with the conclusions of the BiOp. Thus, NOAA Fisheries finds that the final regulations promulgated in this rulemaking are consistent with Georgia's Coastal Zone Management Program to the maximum extent practicable.

Notwithstanding any other provisions of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number.

This action contains new collection-of-information requirements subject to the PRA and which have been approved under OMB control number 0648–0452. The requirements for pelagic longline vessel operators to report a sea turtle mortality within 48 hours of returning to port and for shark gillnet operators to report interactions with listed whale species are estimated to take 5 minutes per response. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NOAA Fisheries (see **ADDRESSES**) and to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC. 20503 (Attention: NOAA Desk Officer).

Under 5 U.S.C. 553(d)(3), the Assistant Administrator for Fisheries, NOAA Fisheries, finds good cause to waive the 30–day delay in effectiveness for certain turtle mitigation measures for the Atlantic longline fishery. A waiver of the delay in effectiveness for the final rule is needed for the requirements concerning the NED area closure, gangion length, and posting the sea turtle handling and release guidelines to ensure the uninterrupted protection of sea turtles in the fishery following the expiration of an emergency rule extension (66 FR 64378) on July 8, 2002. The emergency rule and its extension imposed requirements, including a gangion placement measure, that were part of the RPA and other required measures in the BiOp. In late November 2001, NMFS completed an experiment in the NED area that tested gangion placement and other bycatch reduction measures identified in the BiOp. Data from this experiment were required for this rulemaking, but were not available in final format until mid-April, 2002. As a result of this data, this final rule relieves vessels from the gangion placement measure imposed under the emergency rule. Given the availability of the 2001 experimental fishery data, the need for public comment periods on the proposed and final rules and draft and final environmental impact statements, and the July 8, 2002, expiration date of the emergency rule extension, good cause exists for a waiver of the 30–day delay in effectiveness for the above-referenced requirements. All sea turtle and marine mammal mitigation measures in this final rule not previously implemented by the emergency rule extension will take effect 30 days or more from the publication of this rule.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics, Treaties.

Dated: July 2, 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 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,'' ''Net check,'' and ''Northeast distant closed area'' are added alphabetically to read as follows:

§ 635.2 Definitions.

* * * * *

Bottom longline means a longline that is deployed with enough weights and/or anchors to maintain contact with the ocean bottom.

* * * * *

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.

* * * * *

Net check refers to a visual inspection of a shark gillnet where the vessel operator transits the length of the gear and inspects it either with a spotlight or by pulling up the gear.

* * * * *

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, and 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 NOAA Fisheries Southeast Fisheries Science Center Observer Program, at a number designated by NOAA Fisheries, 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 NOAA Fisheries Southeast Regional Office, at a number designated by NOAA Fisheries, 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)(5)(iii), (d)(3)(v), and (d)(3)(vi) are added and paragraphs (c)(2) and (d)(3)(iv) are revised 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 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 must post inside the wheelhouse the sea turtle handling and release guidelines provided by NOAA Fisheries.

* * * * *

(c) * * *

(2) If pelagic longline gear is on board a vessel issued a permit under this part, persons aboard that vessel may not fish or deploy any type of fishing gear in:

(i) The Northeastern United States closed area from June 1 through June 30 each calender year;

(ii) In the Charleston Bump closed area from March 1 through April 30, 2001, and from February 1 through April 30 each calender year thereafter;

(iii) In the East Florida Coast closed area at any time beginning at 12:01 a.m. on March 1, 2001;

(iv) In the DeSoto Canyon closed area at any time beginning at 12:01 a.m. on November 1, 2000;

(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 length.* The length of any gangion on 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 must be at least 10 percent longer than any floatline length if the total length of any gangion plus the total length of any floatline is less than 100 meters.

(B) *Corrodible hooks.* 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 must only have corrodible hooks on board.

* * * * *

(d) * * *

(3) * * *

(iv) While fishing for Atlantic sharks with a gillnet, the gillnet must remain attached to the vessel at one end, except during net checks.

(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 and contact NOAA Fisheries as required in § 635.5(a)(5).

(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 adhering to the gear operation and deployment restrictions required in 50 CFR 635.21.

(37) Fail to report to NOAA Fisheries, at the number designated by NOAA Fisheries, 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. 02–17104 Filed 7–8–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 010313064–1064–01; I.D. 070102E]

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Commercial Haddock Harvest

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

ACTION: Notice of removal of haddock daily trip limit.

SUMMARY: NMFS announces that the Administrator, Northeast Region, NMFS (Regional Administrator), is suspending the haddock daily trip limit for the groundfish fishery. The Regional Administrator has projected that less than 75 percent of the haddock target total allowable catch (TAC) will be harvested for the 2002 fishing year under the restrictive daily trip limit. This action is intended to allow fisherman to catch more of the haddock TAC, without exceeding it.

DATES: Effective July 5, 2002.

FOR FURTHER INFORMATION CONTACT: Tom Warren, Fishery Policy Analyst, 978–281–9347.

SUPPLEMENTARY INFORMATION: Framework Adjustment 33 to the NE Multispecies Fishery Management Plan, which became effective May 1, 2000, implemented the current haddock trip limit regulations (65 FR 21658, April 24, 2000). To ensure that haddock landings do not exceed the appropriate TAC, Framework 33 established a haddock trip limit of 3,000 lb (1,360.8 kg) per NE Multispecies DAS fished and a maximum trip limit of 30,000 lb (13,608 kg) of haddock for the period May 1 through September 30; and 5,000 lb (2,268 kg) of haddock per DAS and 50,000 lb (22,680 kg) per trip from October 1 through April 30. Framework 33 also provided a mechanism to adjust the haddock trip limit based upon the percentage of TAC that is projected to be harvested. Section 648.86(a)(1)(iii)(B) specifies that, if the Regional Administrator has projected that less than 75 percent of the haddock TAC will be harvested in the fishing year, the trip limit may be adjusted. Further, this section stipulates that NMFS will publish a notification in the **Federal Register** informing the public of the date of any changes to the trip limit.

The Regional Administrator has projected that less than 75 percent of the 2002 fishing year haddock TAC will be harvested by April 30, 2003, and has therefore determined that suspending the daily haddock trip limit through April 30, 2003, while retaining the 30,000–lb (13,608–kg) and 50,000–lb (22,680–kg) per trip possession limits, for May 1–September 30, 2002, and October 1, 2002 - April 30, 2003, respectively, will provide the industry with the opportunity to harvest at least 75 percent of the TAC for the 2002 fishing year. In order to prevent the TAC from being exceeded, the Regional Administrator may adjust this possession limit again through publication of a notification in the **Federal Register**, pursuant to § 648.86(a)(1)(iii).

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 2, 2002.

Virginia M. Fay,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–17102 Filed 7–3–02; 12:53 pm]

BILLING CODE 3510–22–S