

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 of title 49 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

§ 571.209 [Amended]

2. Section 571.209 is amended by removing and reserving S4.1(b).

Issued on: May 14, 1999.

Ricardo Martinez,
Administrator.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 222 and 223

[Docket No. 950427117-9133-07;
I.D.051299D]

RIN 0648-AH97

Sea Turtle Conservation; Restrictions Applicable to Shrimp Trawl Activities; Leatherback Conservation Zone

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

ACTION: Temporary rule.

SUMMARY: NMFS is extending for 1 week its existing closure of all inshore waters and offshore waters out to 10 nautical miles (nm) (18.5 km) seaward of the COLREGS demarcation line (as defined at 33 CFR part 80), bounded by 32° N. lat. and 33° N. lat. within the Leatherback conservation zone, to fishing by shrimp trawlers required to have a turtle excluder device (TED) installed in each net that is rigged for fishing, unless the TED has an escape opening large enough to exclude leatherback turtles, as specified in the regulations. The existing closure was scheduled to expire at 11:59 p.m. (local time) on May 21, 1999 (published in the **Federal Register** on May 12, 1999). The closure of the area will now expire at 11:59 p.m. (local time) on May 28, 1999. This continued closure is necessary to reduce mortality of endangered leatherback sea turtles incidentally captured in shrimp trawls.

DATES: This action is effective from May 14, 1999 through 11:59 p.m. (local time) on May 28, 1999.

FOR FURTHER INFORMATION CONTACT: Charles A. Oravetz, (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: The taking of sea turtles is governed by regulations implementing the Endangered Species Act (ESA) at 50 CFR parts 222 and 223 (see 64 FR 14051, March 23, 1999, final rule consolidating and reorganizing ESA regulations). Generally, the taking of sea turtles is prohibited. However, the incidental take of turtles during shrimp fishing in the Atlantic Ocean off the coast of the southeastern United States and in the Gulf of Mexico is excepted from the taking prohibition pursuant to sea turtle conservation regulations at 50 CFR 223.206, which include a requirement that shrimp trawlers have a NMFS-approved TED installed in each net rigged for fishing. The use of TEDs significantly 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 protect leatherback turtles when they occur in locally high densities during their annual, spring northward migration along the Atlantic seaboard. Within the Leatherback conservation zone, NMFS is required to close an area for 2 weeks when leatherback sightings exceed 10 animals per 50 nm (92.6 km) during repeated aerial surveys pursuant to 50 CFR 223.206(d)(2)(iv)(A) through (C).

An aerial survey conducted on April 27, 1999, along the South Carolina coast documented 70 leatherback turtles over a total survey trackline of 327 nm (606 km). The highest concentrations were noted in waters off the southern half of the state along two, parallel 46 nm (85.2 km) tracklines beginning at approximately 32°07' N. lat., 080°41' W. long. (offshore Hilton Head Island, SC) and ending at approximately 32°35' N. lat., 079°59' W. long. (offshore Kiawah Island, SC), where 35 leatherbacks were sighted along the trackline parallel to the coast at approximately 1.5 nm (2.8 km), and 17 leatherbacks were sighted along the trackline paralleling the coast at approximately 3.0 nm (5.6 km). On May 3, 1999, a survey along the same tracklines documented 1 leatherback on the 1.5 nm (2.8 km) and 11 leatherbacks

on the 3.0 nm (5.6 km) from shore tracklines.

On May 7, 1999, the Assistant Administrator for Fisheries, NOAA (AA), based on high observed concentrations of leatherback sea turtles off the South Carolina coast (64 FR 25460, May 12, 1999) during these surveys, closed, from May 7, 1999, through 11:59 p.m. (local time) on May 21, 1999, all inshore waters and offshore waters within 10 nm (18.5 km) seaward of the COLREGS demarcation line, bounded by 32° N. lat. and 33° N. lat., within the Leatherback conservation zone, to fishing by shrimp trawlers required to have a TED installed in each net that is rigged for fishing, unless the TED installed has an escape opening large enough to exclude leatherback turtles, meeting the specifications at 50 CFR 223.207(a)(7)(ii)(B) or 223.207(c)(1)(iv)(B). These regulations specify modifications that can be made to either single-grid hard TEDs or Parker soft TEDs to allow leatherbacks to escape.

NMFS has continued to monitor the presence of leatherback turtles along the Georgia and South Carolina coasts. A May 11, 1999, aerial survey along the South Carolina coast confirmed the continued high abundance of leatherback sea turtles in the currently closed area. Over the same portion of trackline, 14 leatherback turtles were sighted approximately 1.5 nm (2.8 km) from shore. Three more leatherbacks were sighted on the continuation of the survey, off of Folly Island immediately to the north. Low clouds and poor visibility prevented the survey of the parallel trackline 3 nm (5.6 km) from shore. Because this repeat aerial survey confirmed the continued presence of leatherback sea turtles, the AA has determined that under the regulations all inshore waters and offshore waters within 10 nm (18.5 km) seaward of the COLREGS demarcation line, bounded by 32° N. lat. and 33° N. lat., within the Leatherback conservation zone, are closed for 2 weeks to fishing by shrimp trawlers required to have a TED installed in each net that is rigged for fishing, unless the TED installed has an escape opening large enough to exclude leatherback turtles, meeting the specifications at 50 CFR 223.207(a)(7)(ii)(B) or 223.207(c)(1)(iv)(B).

This closure will be filed with the Office of the Federal Register on or about Friday May 14, 1999. The effect is the same as extending the existing closure for a 1-week period. The same restrictions apply during the entire period the area is closed.

NMFS will continue to monitor the presence of leatherback sea turtles along the Georgia and South Carolina coasts through weekly aerial surveys. Continued high abundance of leatherbacks greater than 10 turtles per 50 nm (92.6 km) of trackline will require further agency action, as per 50 CFR 223.206(d)(2)(iv)(B). If leatherback sightings fall to 5 or fewer turtles per 50 nm (92.6 km) of trackline, then the aerial surveys of the closed area will be replicated within 24 hours, or as soon as practicable thereafter. If sighting rates of 5 or fewer leatherbacks per 50 nm (92.6 km) are reconfirmed, then the AA may withdraw or modify the closure that is the subject of this rule, as per 50 CFR 223.206(d)(4)(ii). NMFS will consult with the appropriate state natural resource officials in the closed area in making a determination to withdraw or modify this closure, as per 50 CFR 223.206(d)(4)(iv). Fishermen should monitor NOAA weather radio for announcements.

The regulations at 50 CFR 223.206(d)(2)(iv) state that fishermen operating in the closed area with TEDs modified to exclude leatherback turtles must notify the NMFS Southeast Regional Administrator of their intentions to fish in the closed area. This aspect of the regulations does not have a current Office of Management and Budget control number, issued pursuant to the Paperwork Reduction Act. Consequently, fishermen are not required to notify the Regional Administrator prior to fishing in the closed area, but they must still meet the gear requirements.

The additional closure has been announced on the NOAA weather channel, in newspapers, and other media. Shrimp trawlers may also call Charles Oravetz (see **FOR FURTHER INFORMATION CONTACT**) for updated area closure information.

Classification

This action has been determined to be not significant for purposes of E.O. 12866.

The AA is taking this action in accordance with the requirements of 50 CFR 223.206(d)(2)(iv) to provide emergency protection for endangered leatherback sea turtles from incidental capture and drowning in shrimp trawls. Leatherback sea turtles are occurring in high concentrations in coastal waters in shrimp fishery statistical zone 32. This action allows shrimp fishing to continue in the affected area and informs fishermen of the gear changes that they can make to protect leatherback sea turtles.

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 contrary to the public interest to provide prior notice and opportunity for comment because providing notice and comment would prevent the agency from implementing the necessary action in a timely manner to protect the endangered leatherback. Furthermore, notice and opportunity to comment on this action was provided through the proposed rule establishing these actions (60 FR 25663, May 12, 1995). For these reasons, good cause exists under 5 U.S.C. 553(d)(3) not to delay the effective date of this rule for 30 days. As stated above, the additional closure has been announced on the NOAA weather radio, in newspapers, and other media, allowing time for the shrimp fishery to comply with this rule.

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.

The AA prepared an Environmental Assessment (EA) for the final rule requiring TED use in shrimp trawls and the regulatory framework for the Leatherback Conservation Zone (60 FR 47713, September 14, 1995). Copies of the EA are available (see **ADDRESSES**).

Dated: May 14, 1999.

Penelope D. Dalton,

*Assistant Administrator for Fisheries,
National Marine Fisheries Services.*

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 990513131-9131-01; I.D. 051299B]

RIN 0648-AM69

Atlantic Tuna Fisheries; Regulatory Adjustments

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

ACTION: Interim final rule; request for comments.

SUMMARY: NMFS amends the regulations governing the Atlantic bluefin tuna fisheries to suspend, for 1999 only, the deadline for Atlantic Tunas permit

category changes. This regulatory amendment is necessary to provide vessel owners the opportunity to consider category changes after the effective date of a final rule and final quota specifications currently under review by NMFS and a proposed rule on the use of spotter aircraft currently in preparation. NMFS received comments in conjunction with the proposed rule and quota specifications indicating that because the final actions could affect the allowable operations of several fishing categories, it is not possible for vessel owners to make final choices prior to the previously established deadline of May 15.

DATES: The interim final rule is effective May 14, 1999. Comments must be received by June 1, 1999.

ADDRESSES: Comments on the interim final rule should be directed to Rebecca Lent, Chief, Highly Migratory Species Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, 1315 East-West Highway, Silver Spring, MD 20910-3282. Send comments regarding the burden-hour estimates or other aspects of the collection-of-information requirement contained in this rule to Rebecca Lent and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Mark Murray-Brown, 978-281-9260.

SUPPLEMENTARY INFORMATION: The Atlantic tuna fisheries are managed under the authority of the Atlantic Tunas Convention Act (ATCA). ATCA authorizes the Secretary of Commerce (Secretary) to issue regulations as may be necessary to carry out the recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). The authority to issue regulations to carry out ICCAT recommendations has been delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA (AA).

This interim final rule responds to certain comments received in conjunction with comments received on a proposed rulemaking (64 FR 3154, January 20, 1999) and proposed quota specifications (64 FR 9298, February 25, 1999) particularly with respect to the use of spotter aircraft in the commercial BFT categories. Background information about the need for revisions to Atlantic tunas fishery regulations was provided in the proposed rule and specifications as well as the Highly Migratory Species Fishery Management Plan and is not repeated here. Certain aspects of the final rule to implement the Fishery