

subzone is that part of the eastern zone south and west of 25°20.4' N. lat. The Florida west coast subzone is further divided into southern and northern subzones. From November 1 through March 31, the southern subzone is that part of the Florida west coast subzone that extends south and west from 25°20.4' N. lat. to 26°19.8' N. lat., a line directly west from the Lee/Collier County, FL, boundary (i.e., the area off Collier and Monroe Counties). From April 1 through October 31, the southern subzone is that part of the Florida west coast subzone that is between 26°19.8' N. lat. and 25°48' N. lat., which is a line directly west from the Monroe/Collier County, FL, boundary (i.e., off Collier County). The northern subzone is that part of the Florida west coast subzone that is between 26°19.8' N. lat. and 87°31'06" W. long., which is a line directly south from the Alabama/Florida boundary.

(B) Western zone—1.01 million lb (0.46 million kg).

\* \* \* \* \*

4. In § 622.44, paragraphs (a)(2)(i) and (d)(4)(i) are revised to read as follows:

**§ 622.44 Commercial trip limits.**

(a) \* \* \*

(2) \* \* \*

(i) *Eastern zone—Florida east coast subzone.* In the Florida east coast subzone, king mackerel in or from the EEZ may be possessed on board at any time or landed in a day from a vessel with a commercial permit for king mackerel as required under § 622.4(a)(2)(iii) as follows:

(A) From November 1 through January 31—not to exceed 50 fish.

(B) Beginning on February 1 and continuing through March 31—

(1) If 75 percent or more of the Florida east coast subzone quota as specified in § 622.42(c)(1)(i)(A)(1) has been taken—not to exceed 50 fish.

(2) If less than 75 percent of the Florida east coast subzone quota as specified in § 622.42(c)(1)(i)(A)(1) has been taken—not to exceed 75 fish.

\* \* \* \* \*

(d) \* \* \*

(4) \* \* \*

(i) May not possess red snapper in or from the Gulf in excess of the appropriate vessel trip limit, as specified in paragraphs (d)(1) through (d)(3) of this section.

\* \* \* \* \*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 635**

[Docket No. 010319072-1072-01; I.D. 110600A]

RIN 0648-A076

**Atlantic Highly Migratory Species; Pelagic Longline Fishery; Sea Turtle Protection; Shark Drift Gillnet Fishery**

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

**ACTION:** Interim final rule; request for comments.

**SUMMARY:** NMFS issues an interim final rule that requires the possession and use of line clippers and dipnets on board all pelagic longline vessels that have been issued Federal fisheries permits for Atlantic highly migratory species (HMS); requires specific methods for handling, resuscitating, and releasing sea turtles; reduces the level of observer coverage in the Atlantic shark drift gillnet fishery from 100 percent year-round to 100 percent during the right whale calving season and a statistically significant level during the rest of the year; and modifies the definition of pelagic longline gear to remove the high-flyer component.

The gear and sea turtle handling requirements will minimize the mortality of, or injury to, sea turtles that have been hooked or entangled by pelagic longline gear. The reduction in observer coverage requirements in the shark drift gillnet fishery reduces costs to industry while maintaining statistically valid levels of coverage. The change in the definition of pelagic longline gear is necessary for enforcement of gear prohibitions in closed areas.

**DATES:** Effective beginning 12:01 a.m. local time on April 1, 2001, except for amendments to 635.21(c)(5) and 635.71(a)(33) and (a)(34) which are effective beginning 12:01 a.m. local time on April 10, 2001. Comments on this interim final rule will be accepted through April 30, 2001.

**ADDRESSES:** Written comments on this action must be mailed to Christopher Rogers, Acting Chief, NMFS Highly Migratory Species Management Division, 1315 East-West Highway, Silver Spring, MD 20910; or faxed to 301-713-1917. Comments will not be accepted if submitted via email or the Internet.

Copies of the environmental assessment and regulatory impact review prepared for this action may be obtained from Christopher Rogers.

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

**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. The Atlantic shark drift gillnet fishery is managed under the authority of the Magnuson-Stevens Act. The Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks is implemented by regulations at 50 CFR part 635.

**Pelagic Longline Fishery**

Pelagic longline gear is one of the major 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., through gear configuration, hook depth, timing of sets) to target preferentially yellowfin tuna, bigeye tuna, or swordfish.

**Sea Turtle Bycatch Reduction**

Observer data and vessel logbook data indicate that pelagic longline fishing for Atlantic swordfish and tunas results in the bycatch of protected species, including threatened and endangered sea turtles. In certain times and areas, the Atlantic pelagic longline fishery has relatively high rates of sea turtle bycatch, with associated mortality. Although a high percentage of hooked sea turtles are released alive, NMFS remains concerned about serious injuries of sea turtles taken by pelagic longline gear.

In its most recent Biological Opinion (BO) on Atlantic HMS fisheries, completed June 30, 2000, NMFS concluded that operation of the pelagic longline fishery jeopardizes the continued existence of threatened loggerhead and endangered leatherback sea turtles. However, NMFS thereafter concluded that further analyses of observer data and additional population modeling of loggerhead sea turtles were needed to determine more precisely the impact of the pelagic longline fishery on sea turtles. Consequently, NMFS re-initiated consultation. NMFS anticipates completing the consultation and issuing a new BO in March 2001. In the interim,

NMFS issued an emergency rule (65 FR 60889, October 13, 2000) to reduce sea turtle bycatch and bycatch mortality in the pelagic longline fishery in the short-term. The emergency rule will expire on April 9, 2001, unless it is extended. This interim final rule adopts the requirements in the emergency rule regarding the possession and use of dipnets and line clippers to facilitate the release of sea turtles with a minimum of injury.

#### **Gear and Handling Requirements**

Under the emergency rule, all Atlantic pelagic longline vessels that have been issued Federal HMS permits are required to carry on board dipnets and line clippers that meet NMFS design and performance standards and comply with requirements for the use of these dipnets and line clippers for the handling of incidentally caught sea turtles. Technical descriptions of the dipnet and line clipper gear are available from NMFS (see **ADDRESSES**) and are also included in this interim final rule. While specific line clipper devices are not available in the commercial market, line clippers meeting the minimum design standards of this interim final rule may be fashioned from readily available tools and components. Consequently, line clippers may be fabricated or obtained and put into use in the fishery at low cost. NMFS' minimum design standards are intended to allow users flexibility in adapting line clippers and dipnets for optimum use on board individual vessels. The emergency rule also reiterates existing resuscitation and release requirements.

NMFS is adopting these requirements because dipnets and line clippers better enable the vessel captain, crew, and observers to disengage sea turtles hooked or entangled in their gear. All sea turtles brought on board for dehooking and/or disentanglement must be handled in a manner that prevents injury and promotes post-release survival. Active and comatose sea turtles should be brought on board immediately and handled in accordance with the procedures specified in 50 CFR 223.206(d)(1). If a sea turtle is too large or hooked in a manner that prevents safe boarding, the line clippers must be used to remove as much line as possible prior to releasing the animal.

#### **Definition of Pelagic Longline Gear**

The regulatory text for the final rule implementing the DeSoto Canyon, East Florida Coast, and Charleston Bump closures (65 FR 47214, August 1, 2000) defines pelagic longline gear in a manner designed to avoid applying the

vessel monitoring system requirement and fishing restrictions to vessels fishing with bottom longline gear. The regulations define pelagic longline gear as a longline that is suspended by floats in the water column and that is not fixed to or in contact with the ocean bottom. As defined, pelagic longline gear consists of five components: a power-operated longline hauler, a mainline, high-flyers, floats capable of supporting the length of the mainline, and leaders (gangions) with hooks. Those regulations further state that the removal of any one of these components from a vessel constitutes the removal of pelagic longline gear. Vessel operators removing one or all of the listed components would be eligible to fish with other gear in the closed areas and would not be required to operate a VMS while at sea. Since publication of the time and area requirements, NMFS has become aware that it is possible to use a longline that is suspended by floats without the use of high-flyers. Operators of fishing vessels could potentially utilize the remainder of the defined components of pelagic longline gear to target tunas, swordfish and sharks in the closed areas, thereby undermining the objective of bycatch reduction and reducing the benefits of the closures. Removal of the term "high-flyer" from the list of components constituting pelagic longline gear would avoid this potential problem. NMFS proposed this regulatory change among other changes in a notice of proposed rulemaking published December 7, 2000 (65 FR 76601). During the comment period, NMFS received one comment in support of this change and no objections or concerns were raised. Therefore, NMFS has included this change in this interim final rule. This definition change will have no measurable impact on the environment or fishermen, since the intent of the closures is to prohibit all pelagic longline fishing by vessels with HMS fishing permits when the areas are closed. The environmental, economic, and social impacts associated with the area closures were previously considered and are discussed in detail in the HMS FMP and Final Supplemental Environmental Impact Statement issued for the August 1, 2000, final rule.

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

Drift gillnet fishing for sharks occurs primarily in the waters off the coasts of Georgia and Florida. The fishery is comprised of 4 to 12 vessels that engage in nearshore fishing trips that typically last less than 13 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.

#### **Shark Drift Gillnet Fishery Observer Coverage**

The southeast shark drift gillnet fishery is believed to be responsible for the bycatch of at least one right whale, and has interacted with sea turtles as well as valuable finfish along the Georgia coast for a number of years. The BO issued under section 7 of the Endangered Species Act requires 100-percent observer coverage during the right whale calving season (November 15 to March 31) as well as observer coverage for the rest of the year at a level sufficient to provide a reasonably precise estimate of sea turtle takes. In an effort to improve the estimates of bycatch and bycatch mortality of protected species, juvenile sharks, and other finfish, NMFS established a 100-percent observer requirement in this fishery year-round. Regulations issued on May 28, 1999 (64 FR 29090) prohibited the use of drift gillnet gear in the Atlantic shark fisheries unless a NMFS-approved observer is on board the vessel.

However, recent scientific analysis indicates that a 53-percent coverage rate, rather than 100-percent coverage, is statistically significant and adequate to provide reasonable estimates of sea turtle and marine mammal takes in the shark drift gillnet fishery outside the right whale calving season. The level of observer coverage necessary to maintain statistical significance will be reevaluated annually and adjusted accordingly. Based on this analysis, this interim final rule reduces the observer coverage requirement so that the 100-percent coverage applies from November 15 to March 31, and for the rest of the year vessels will be selected for observer coverage according to a statistically-based sampling plan.

#### **Comment Period**

NMFS is accepting comments regarding this interim final rule for 30 days, through April 30, 2001. Comments on the gear requirements were requested in the emergency rule published on October 13, 2000 (65 FR 60889). One comment was received concerning the line clipper specifications that said the line clipper blade should be modified to better cut heavier line. NMFS also received comments concerning the

dipnets and line clippers during the technical gear workshop held in Silver Spring, MD on January 17 and 18, 2001. While many of the comments were positive, it was indicated that better specifications could be developed. NMFS intends to conduct further research to develop more effective specifications, if possible.

#### Classification

This interim final rule is published under the authority of the Magnuson-Stevens Act and the Atlantic Tunas Convention Act. The Assistant Administrator for Fisheries (AA) has determined that these regulations are necessary to reduce, to the extent practicable, the bycatch mortality of sea turtles in the pelagic longline fishery. This interim final rule also reduces the cost to the industry by reducing required observer coverage in the shark drift gillnet fishery to levels that will provide reasonable estimates of sea turtle and marine mammal takes.

NMFS prepared an Environmental Assessment that describes the impact of the interim final rule on the human environment and found that no significant impact would result from the implementation of these measures. NMFS also prepared a Regulatory Impact Review that assesses the economic costs and benefits of this action. Requiring the use of line clippers and dipnets to release hooked turtles is not expected to increase fishing costs substantially and will not negatively impact small business entities. In a similar rule for the fisheries in the Western Pacific, NMFS estimated the total cost for the materials to fabricate and/or purchase line clippers and dipnets to be \$250 (65 FR 16347, March 28, 2000). Moreover, affected vessels that complied with the emergency rule would already have this gear.

The reduction in the level of observer coverage in the shark drift gillnet fishery is based on recent scientific analysis that indicates that a 53-percent coverage rate is adequate to provide reasonable estimates of sea turtle and marine mammal takes in this fishery outside the right whale calving season. The level of appropriate coverage will be reassessed each year to maintain statistical significance. Reduced observer coverage will result in reductions in industry costs associated with carrying observers on vessels in this fishery.

Because no general notice of proposed rulemaking is required to be published for this rule by 5 U.S.C. 553 or by any other law, the analytical requirements of the Regulatory Flexibility Act are not applicable and no Regulatory Flexibility Analysis was prepared.

This interim final rule has been determined to be not significant for the purposes of Executive Order 12866.

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. Notice and opportunity to comment was provided on the emergency rule (65 FR 60990, October 13, 2000) that first implemented the dipnet and line clipper requirement. For the change in the definition of pelagic longline gear, comments were solicited in a notice of proposed rulemaking (65 FR 76601, December 7, 2000). It would be contrary to the public interest to provide additional prior notice and opportunity for comment because it would prevent the agency from implementing this action in a timely manner to both reduce the post-release mortality of sea turtles incidentally captured in the pelagic longline fishery and prevent pelagic longline fishing in closed areas.

Furthermore, the AA finds good cause also under 5 U.S.C. 553(d)(3) not to delay the effective date of this interim final rule for 30 days. Such delay would also cause a lapse in the gear requirements and handling techniques that reduce the post-release mortality of sea turtles incidentally captured in the pelagic longline fishery and undermine the effectiveness of the closed areas, contrary to the public good. NMFS believes there is good cause for waiving the notice and comment period and the delay in effectiveness because the reduction in the level of observer coverage in the Atlantic shark drift gillnet fishery relieves current restrictions.

NMFS has determined that this interim final rule is consistent to the maximum extent practicable with the coastal zone management programs of those Atlantic, Gulf of Mexico, and Caribbean coastal states that have approved coastal zone management programs.

#### List of Subjects in 50 CFR Part 635

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

Dated: March 26, 2001.

**William T. Hogarth,**

*Acting Assistant Administrator for Fisheries,  
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 § 635.7, paragraph (d) is revised to read as follows:

##### § 635.7 At-sea observer coverage.

\* \* \* \* \*

(d) *Assignment of observers.* Once notified of a trip, NMFS will assign an observer for that trip based on current information needs relative to the expected catch and bycatch likely to be associated with the indicated gear deployment, trip duration and fishing area. If an observer is not assigned for a fishing trip, NMFS will issue a waiver for that trip to the owner or operator of the selected vessel, so long as the waiver is consistent with other applicable laws. If an observer is assigned for a trip, the operator of the selected vessel must arrange to embark the observer and shall not fish for or retain any Atlantic HMS unless the NMFS-assigned observer is aboard.

\* \* \* \* \*

3. In § 635.21, in paragraph (c) introductory text, the first sentence is revised and a new paragraph (c)(5) is added to read as follows:

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

\* \* \* \* \*

(c) *Pelagic longlines.* For purposes of this part, a vessel is considered to have pelagic longline gear on board when a power-operated longline hauler, a mainline, floats capable of supporting the mainline, and leaders (gangions) with hooks are on board. \* \* \*

\* \* \* \* \*

(5) The operator of a vessel required to be permitted under this part and that has pelagic longline gear on board must undertake the following sea turtle bycatch mitigation measures:

(i) *Possession and use of required mitigation gear.* Line clippers meeting minimum design standards as specified in paragraph (c)(5)(i)(A) of this section and dipnets meeting minimum standards prescribed in paragraph (c)(5)(i)(B) of this section must be carried on board and must be used to disengage any hooked or entangled sea turtles in accordance with the requirements specified in paragraph (c)(5)(ii) of this section.

(A) *Line clippers.* Line clippers are intended to cut fishing line as close as possible to hooked or entangled sea turtles. NMFS has established minimum

design standards for line clippers. The Arceneaux line clipper is a model that meets these minimum design standards and may be fabricated from readily available and low-cost materials (65 FR 16347, March 28, 2000). The minimum design standards for line clippers are as follows:

(1) *A protected cutting blade.* The cutting blade must be curved, recessed, contained in a holder, or otherwise designed to minimize direct contact of the cutting surface with sea turtles or users of the cutting blade.

(2) *Cutting blade edge.* The blade must be able to cut 2.0–2.1 mm monofilament line and nylon or polypropylene multistrand material commonly known as braided mainline or tarred mainline.

(3) *An extended reach holder for the cutting blade.* The line clipper must have an extended reach handle or pole of at least 6 ft (1.82 m).

(4) *Secure fastener.* The cutting blade must be securely fastened to the extended reach handle or pole to ensure effective deployment and use.

(B) *Dipnets.* Dipnets are intended to facilitate safe handling of sea turtles and access to sea turtles for purposes of cutting lines in a manner that prevents injury and trauma to sea turtles. The minimum design standards for dipnets are as follows:

(1) *Extended reach handle.* The dipnet must have an extended reach handle of at least 6 ft (1.82 m) of wood or other rigid material able to support a minimum of 100 lbs (34.1 kg) without breaking or significant bending or distortion.

(2) *Size of dipnet.* The dipnet must have a net hoop of at least 31 inches (78.74 cm) inside diameter and a bag depth of at least 38 inches (96.52 cm). The bag mesh openings may not exceed 3 inches × 3 inches (7.62 cm × 7.62 cm).

(ii) *Handling requirements.* (A) The dipnets required by this paragraph should be used to facilitate access and safe handling of sea turtles where feasible. The line clippers must be used to disentangle sea turtles from fishing gear or to cut fishing line as close as possible to a hook that cannot be removed without causing further injury.

(B) When practicable, active and comatose sea turtles must be brought on board immediately, with a minimum of injury, and handled in accordance with the procedures specified in § 223.206(d)(1).

(C) If a sea turtle is too large or hooked in a manner that precludes safe boarding without causing further damage or injury to the turtle, line clippers described in paragraph (c)(5)(i)(A) of this section must be used

to clip the line and remove as much line as possible prior to releasing the turtle.

\* \* \* \* \*

4. In § 635.71, paragraphs (a)(33) and (a)(34) are added to read as follows:

**§ 635.71 Prohibitions.**

\* \* \* \* \*

(a) \* \* \*

(33) Deploy or fish with any fishing gear from a vessel with pelagic longline gear on board without carrying a dipnet and line clipper as specified at § 635.21(c)(5)(i).

(34) Fail to disengage any hooked or entangled sea turtle with the least harm possible to the sea turtle as specified at § 635.21(c)(5)(ii).

\* \* \* \* \*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 660**

[Docket No. 000831250–0250–01; 031901D]

**Fisheries off West Coast States and in the Western Pacific; Coastal Pelagic Species Fisheries; Closure of Fishery for Pacific Mackerel**

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

**ACTION:** Closure of fishery for Pacific mackerel.

**SUMMARY:** NMFS announces the closure of the fishery for Pacific mackerel in the exclusive economic zone off the Pacific coast at 12 a.m. on March 27, 2001. The Coastal Pelagic Species Fishery Management Plan (FMP) and its implementing regulations require NMFS to set an annual harvest guideline for Pacific mackerel based on a formula in the FMP and to close the fishery when the harvest guideline is reached. The harvest guideline of 20,740 metric tons (mt) has been reached. Following this date no more than 1 mt of Pacific mackerel may be landed from any fishing trip. The effect of this action is to ensure conservation of the Pacific mackerel resource.

**DATES:** Effective at 12 a.m. on March 27, 2001 through June 30, 2001.

**FOR FURTHER INFORMATION CONTACT:** James J. Morgan, Southwest Region, NMFS, 562–980–4036.

**SUPPLEMENTARY INFORMATION:** On September 11, 2000, NMFS announced

a harvest guideline for Pacific mackerel in the **Federal Register** (65 FR 54817) of 20,740 mt for the fishing season of July 1, 2000, through June 30, 2001. The harvest guideline was based on an annual biomass estimate and calculated by a formula in the FMP applying information on that portion of the stock in U.S. waters and the required harvest rate above a minimum biomass.

On October 27, 2000, (65 FR 65272, November 1, 2000), the directed fishery for Pacific mackerel was closed and an incidental landing of Pacific mackerel of 20 percent of the total weight of all coastal pelagic species was implemented. Subsequent changes to the incidental landing provision were published on November 17, 2000 (65 FR 69483), and February 22, 2001 (65 FR 11119).

As of March 12, 2001, 20,751 mt of Pacific mackerel has been harvested; therefore, the fishery must be closed.

For the reasons stated here and in accordance with the FMP and its regulations governing closure of the fishery, the fishery for Pacific mackerel will be closed at 12 a.m. on March 27, 2001, after which time no more than 1 mt of any landing may be Pacific mackerel.

**Classification**

This action is required by 50 CFR 660.509 and is exempt from review under Executive Order 12866.

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

Dated: March 27, 2001.

**Bruce C. Morehead,**

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

[FR Doc. 01–7932 Filed 3–27–01; 2:54 pm]

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 679**

[Docket No. 010112013–1013–01; I.D. 032601B]

**Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels 60 Feet Length Overall and Longer Using Hook-and-line Gear in the Bering Sea and Aleutian Islands**

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

**ACTION:** Closure.