

Small. 1995. U.S. Pacific Marine Mammal Stock Assessments. NOAA Technical Memorandum NMFS, NOAA-TM-NMFS-SWFSC-219. 162 p.

Reeves, R.R., R.J. Hofman, G.K. Silber, D. Wilkinson. 1996. Acoustic Deterrence of Harmful Marine Mammal-Fishery Interactions: Proceedings of a Workshop held in Seattle, Washington, 20-22 March 1996. NOAA Technical Memorandum, NMFS-OPR-10. 70 p.

PCTRP. 1996. Final Draft, Pacific Offshore Cetacean Take Reduction Plan. Draft plan submitted to the National Marine Fisheries Service and prepared by the Pacific Cetacean Take Reduction Team. 75 p.

Dated: February 10, 1997.

Nancy Foster,

Deputy Assistant Administrator for Fisheries,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 229 is proposed to be amended as follows:

PART 229—AUTHORIZATION FOR COMMERCIAL FISHERIES UNDER THE MARINE MAMMAL PROTECTION ACT OF 1972

1. The authority citation for part 229, subpart C continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

2. In subpart C, sections 229.21 and 229.22 are added to read as follows:

§ 229.21 Basis.

Section 118(f)(9) of the Act authorizes the Director, NMFS, to impose regulations governing commercial fishing operations where necessary to implement a take reduction plan to protect or restore a marine mammal stock or species covered by such a plan.

§ 229.22 Pacific Offshore Cetacean Take Reduction Plan.

(a) *Purpose and scope.* The purpose of this section is to implement the Pacific Offshore Cetacean Take Reduction Plan. Sections 229.22(a) through (d) apply to all drift gillnet fishing vessels operating out of California or Oregon.

(b) *Extenders.* Extenders (buoy lines) of less than 6 fathoms (36 feet; 10.9 meters) may not be used by drift gillnet vessels operating out of California or Oregon.

(c) *Acoustic deterrent devices.* (1) For the purposes of this subpart, a pinger is defined as an acoustic deterrent device.

(2) NMFS-approved pingers must be used on all vessels, during every set, and during the entire drift gillnet fishing season. A NMFS-approved pinger is an acoustic deterrent device which, when immersed in water, broadcasts a sound frequency range of 10 to 80 kHz at 132 dB re 1 micropascal at 1 meter with a

pulse duration of 300 milliseconds and a pulse rate of 4 seconds.

(3) Pingers must be attached to both the floatline and leadline and spaced no more than 300 feet (90.9 meters) apart. Pingers on the floatline and leadline must be staggered, such that the horizontal distance between a pinger on the floatline and a pinger on the leadline is no more than 150 feet (45.5 meters).

(4) The pingers must be operational and functioning at all times during deployment.

(5) If requested, NMFS may authorize the use of pingers with specifications differing from those set forth in section 229.21(c)(2) for limited, experimental purposes within a single fishing season.

(d) *Skipper education workshops.* After notification from NMFS, vessel operators must attend a Pacific Offshore Cetacean skipper workshop before commencing fishing each fishing season. For purposes of this requirement, the fishing season shall be deemed to begin May 1 and end on January 31 of the following year. NMFS may waive the requirement to attend these workshops by notice to all vessel operators.

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50 CFR Part 424

[I.D. 010997C]

Endangered and Threatened Species and Designation of Critical Habitat; Petition To Designate Critical Habitat for the Atlantic Green and Hawksbill Turtles.

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

ACTION: Notice of receipt of a petition presenting substantial information and request for additional information.

SUMMARY: NMFS announces receipt of a petition to designate critical habitat for the Atlantic green and hawksbill turtles pursuant to the Endangered Species Act of 1973 (ESA). NMFS is soliciting public comment and information on the petition to designate critical habitat.

DATES: Written comments will be accepted through April 15, 1997.

ADDRESSES: Written comments on this announcement may be submitted to the Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Barbara Schroeder, 301-713-1401, or Charles A. Oravetz, 813-570-5312.

SUPPLEMENTARY INFORMATION:

Background

On November 7, 1996, Ms. Cindy Gines-Sanchez, Esq., on behalf of the Misión Industrial de Puerto Rico, Inc. and Chelonia, The Puerto Rico Herpetological Society, Inc., petitioned NMFS to designate critical habitat for the Atlantic green and hawksbill turtles to include all coastal waters surrounding the islands of the Culebra archipelago, including Isla de Culebra, Cayo Norte, Cayo Ballena, Cayos Geniqui, Isla Culebrita, Arrecife Culebrita, Cayo de Luis Peña, Las Hermanas, El Mono, Cayo Lobo, Cayo Lobito, Cayo Botijuela, Alcarraza, Los Gemelos, and Piedra Steven, from the Mean High Water line out to 3 nautical miles (nm)(4.2 km).

Section 4 of the Endangered Species Act (ESA) and 50 CFR part 424 contain provisions allowing interested parties to petition for the designation of critical habitat. Although the ESA does not require that the time frames outlined in section 4(b) of the ESA be followed for designation of critical habitat for species listed prior to 1982, NMFS will apply those time frames to the referenced petition, as a matter of policy, to the greatest extent practicable.

NMFS has determined that the petition presents substantial information indicating that designation may be warranted. A copy of the information submitted with the petition is available upon request (see **ADDRESSES**).

NMFS will conduct a review to determine if the petitioned action to designate critical habitat is warranted. The determination concerning critical habitat will be made on the best available scientific and commercial data and the economic impacts of such designation. NMFS will make a determination by November 7, 1997, 12 months after receipt of the petition. A notice of finding will be published in the Federal Register and, if the action is warranted, a proposed regulation to implement the action will be included.

Unlike listing a species as endangered or threatened, economic impacts must be considered when designating critical habitat. An area may be excluded from the designation if it is determined that the benefits of an exclusion outweigh the benefits of including the area as critical habitat, and the exclusion will not result in the extinction of the species.

NMFS is soliciting information and comments concerning the petition to

ensure that the review is complete and is based on the best available information. In addition, NMFS is soliciting information and comments concerning other areas in the U.S. Caribbean where the designation of critical habitat for listed sea turtles may be warranted. We request that the information and comments be accompanied by (1) supporting documentation such as maps, biological references or reprints of pertinent publications and (2) the person's name, address and association, institution, or business that the person represents.

Dated: February 10, 1997.

Rolland A. Schmitt, Jr.,

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

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50 CFR Part 697

[Docket No. 950605148-7018-04; I.D. 091696A]

RIN 0648-AH58

Atlantic Coast Weakfish Fishery; Change in Regulations for the Exclusive Economic Zone

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS requests public comment on proposed regulations for the exclusive economic zone (EEZ) offshore from Maine through Florida that would implement a minimum size limit of 12 inches (30.5 cm) (total length); minimum mesh sizes in the EEZ of 3-1/4 inch (8.3 cm) square stretch mesh or 3 3/4-inch (9.5 cm) diamond stretch mesh for trawls, and 2 7/8-inch (7.3 cm) stretch mesh for gill nets; a bycatch possession limit of 150 lb for fisheries using smaller mesh sizes for any one day or trip, whichever is longer; a prohibition on the use of flynets in the EEZ south of Cape Hatteras; and a requirement that weakfish harvested for commercial purposes in the EEZ be landed only in the following states: Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, North Carolina, or Florida. In addition, weakfish fishing must be in accordance with a state's laws if the state's regulations are more restrictive than the Federal regulations. The intent of the proposed regulations is to provide protection to the overfished stock of

weakfish, ensure the effectiveness of state regulations, and aid in the rebuilding of the stock.

DATES: Written comments must be received on or before March 17, 1997.

ADDRESSES: Comments on the proposed rule should be sent to, and copies of supporting documents, including a Draft Supplemental Environmental Impact Statement and Regulatory Impact Review (DSEIS/RIR), are available from Richard H. Schaefer, Chief, Staff Office for Intergovernmental and Recreational Fisheries, NMFS, 8484 Georgia Avenue, Suite 425, Silver Spring, MD 20910-3282. NMFS will hold public hearings to receive comments from fishery participants and other members of the public regarding these proposed regulations. The dates and locations of public hearings will be announced by notice in the Federal Register at least 2 weeks prior to the public hearing dates.

FOR FURTHER INFORMATION CONTACT: Thomas Meyer/Paul Perra, 301-427-2014.

SUPPLEMENTARY INFORMATION:

Background

Section 804(b) of the Atlantic Coastal Fisheries Cooperative Management Act (Atlantic Coastal Act), 16 U.S.C. 5101 *et seq.*, states that, in the absence of an approved and implemented Fishery Management Plan (FMP) under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (Magnuson-Stevens Act), and after consultation with the appropriate Fishery Management Council(s), the Secretary of Commerce (Secretary) may implement regulations to govern fishing in the EEZ (i.e., from 3-200 nautical miles (5.6-370.6 km)). These regulations must be (1) compatible with the effective implementation of an Interstate Fishery Management Plan (ISFMP) developed by the Atlantic States Marine Fisheries Commission (Commission), and (2) consistent with the national standards set forth in section 301 of the Magnuson-Stevens Act (16 U.S.C. 1851).

The Commission adopted a weakfish ISFMP in 1985 and amended the plan in October 1991 and 1994. In 1995, the Commission began development of Amendment 3 to rebuild declining stocks of weakfish. Amendment 3 was adopted by the Commission in 1996. Federal regulations were needed in the EEZ to support the Commission's effort to protect weakfish.

The Mid-Atlantic Fishery Management Council (MAFMC) is the lead Council for developing weakfish regulations in the EEZ. The MAFMC has listed weakfish as a species in need of

management but has not, to date, developed an FMP for the species. The MAFMC has indicated that, because of its heavy workload managing other species, the development of a Federal weakfish plan would not be possible this year. Therefore, Federal actions authorized by the Atlantic Coastal Act remain the most effective means of instituting management measures in the EEZ that will support the Commission's ISFMP for weakfish (Weakfish Plan).

On November 27, 1995, the Secretary, after consultations with the Commission, the New England, Mid-Atlantic, and South Atlantic Fishery Management Councils, and the U.S. Fish and Wildlife Service implemented a final rule (published at 60 FR 58246) to impose a moratorium on fishing for weakfish in the EEZ in accordance with the Atlantic Coastal Act. However, the rule was invalidated by the U.S. Federal District Court, Norfolk, VA, on February 16, 1996. The basis for the court's decision was that Amendment 2 to the Weakfish Plan did not contain recommendations to the Secretary on management in the EEZ and, therefore, cannot be considered a valid FMP under the Atlantic Coastal Act. The moratorium was not enforced as of February 16, 1996, and the regulations implementing the moratorium were formally suspended on July 3, 1996 (61 FR 34746). The Atlantic Coastal Act was amended on October 11, 1996, by section 404 of the Sustainable Fisheries Act. The revision removed the requirement that a Commission Coastal Fishery Management Plan must contain a recommendation to the Secretary on management in the EEZ.

Amendment 3 to the Weakfish Plan was adopted by the Commission in May 1996 and included the Commission's recommendation that the Secretary take the following steps by October 1, 1996, concerning management of weakfish in the EEZ:

1. Require a minimum weakfish size of 12 inches (30.5 cm) total length.
2. Require that weakfish harvested in the EEZ be landed in accordance with the landing laws of the state in which they are landed, with the exception that weakfish caught in the EEZ may not be landed in a "de minimis" state (a state where the landings are so low that the Commission's Weakfish Fisheries Management Board has exempted that state from some of its regulatory responsibilities under the Weakfish Plan).

3. Require minimum mesh sizes in the EEZ, consistent with a 12-inch (30.5-cm) minimum fish size. Non-directed fisheries using smaller mesh sizes may possess no more than 150 lb of weakfish