

[FR Doc. 99-26312 Filed 10-12-99; 8:45 am]
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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 96-240; RM-8946, RM-9019]

Radio Broadcasting Services; Lockport and Amherst, NY.

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: This document denies a petition for reconsideration of the *Report and Order*, 62 FR 66030 (December 17, 1997), in this proceeding that allotted Channel 221A to Amherst, New York, as that community's first local FM service. The proposal decision to add the channel to Amherst was preferred over adding the same channel to Lockport, New York, because the Amherst allotment provides local service to a community that has four times the population of Lockport.

EFFECTIVE DATE: October 13, 1999.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order*, MM Docket No. 96-240, adopted September 1, 1999, and released September 17, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY-A257, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99-26419 Filed 10-12-99; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA No. 99-1945; MM Docket No. 99-235; RM-9643]

Radio Broadcasting Services; Ingram, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 243A at Ingram, Texas, in response to a petition filed by Ingram Radio Broadcasting Company. See 64 FR 36323, July 6, 1999. The coordinates for Channel 243A at Ingram are 30-04-30 NL and 99-14-06 WL. Mexican concurrence has been received for the allotment of Channel 243A at Ingram. With this action, this proceeding is terminated. A filing window for Channel 243A at Ingram will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

DATES: Effective November 8, 1999.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 99-235, adopted September 15, 1999, and released September 24, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857-3800, facsimile (202) 857-3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

47 CFR PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Ingram, Channel 243A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99-26688 Filed 10-12-99; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 223

[Docket No. 980331080-9269-02; I.D. 091799A]

RIN 0648-AK66

Sea Turtle Conservation; Shrimp Trawling Requirements

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

ACTION: Interim final rule.

SUMMARY: The National Marine Fisheries Service (NMFS) is issuing this interim final rule to amend the regulations that require most shrimp trawlers to use turtle excluder devices (TEDs) in the southeastern Atlantic, including the Gulf of Mexico, to reduce the incidental capture of endangered and threatened sea turtles during shrimp trawling. Specifically, we are extending for one additional year the approved use of the Parker soft TED.

DATES: This rule is effective October 13, 1999. Comments on this rule are requested, and must be received by December 13, 1999.

ADDRESSES: Comments on this action should be addressed to the Chief, Endangered Species Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Charles A. Oravetz, 727-570-5312.

SUPPLEMENTARY INFORMATION:

Background

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act of 1973 (ESA). The Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) are listed as endangered. Loggerhead (*Caretta caretta*) and green (*Chelonia mydas*) turtles are listed as threatened, except for breeding populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered.

The incidental take and mortality of these species, as a result of shrimp trawling activities, have been documented in the Gulf of Mexico and along the Atlantic seaboard. Under the ESA and its implementing regulations, taking sea turtles is prohibited, with exceptions identified in 50 CFR 223.206. Existing sea turtle conservation regulations (50 CFR 223.206 and 223.207) require most shrimp trawlers operating in the Gulf and Atlantic Areas, defined at 50 CFR 222.102, to have a NMFS-approved TED installed in each net rigged for fishing, year round. Current TEDs approved by NMFS for shrimp trawling include single-grid hard TEDs, hooped hard TEDs conforming to a generic description, two types of special hard TEDs, and one type of soft TED—the Parker soft TED.

NMFS approved the Parker TED through an April 13, 1998, interim final rule (63 FR 17948). Without an extension, that rule would lapse on October 13, 1999. NMFS limited the duration of that rule to 18-months so that if an evaluation of the effectiveness of the Parker TED in commercial use showed that the Parker TED was not effective at excluding sea turtles, NMFS could allow the Parker TED to lapse. If the Parker TED was found to be effective at excluding sea turtles, the interim rule would be adopted as final incorporating any necessary technical changes that might result from the TED testing and commercial use during the 18-month period. At this time, NMFS' data are inconclusive, and NMFS is unable to make a final determination regarding the effectiveness of Parker TEDs under commercial fishing condition. To provide for further data collection, NMFS is extending the effectiveness of the interim rule for 12 months.

Evaluation of the Parker TED

NMFS looked at many aspects of the Parker soft TED's performance over the past 2 years in both the Gulf of Mexico and the South Atlantic. Observers placed aboard commercial trawlers have documented sea turtle capture rates and finfish bycatch reduction. Intensive law enforcement efforts have been used to ensure and document fishermen's compliance with the technical requirements for using the Parker TED. NMFS' gear specialists have traveled extensively throughout the Southeast to provide training to net shops and trawler fleets in the proper installation and use of the Parker TED. The gear specialists have also provided follow-up assistance to fishermen and net makers.

Observer Information

NMFS' observer information generally shows that the Parker TED does not have a problem with sea turtle captures. In 1997–1998, observers documented three turtle captures in nets equipped with Parker TEDs in nearshore waters in the South Atlantic area. A total of 190 tows were observed, for 515 hours of trawling. The resulting turtle catch rate (Catch per unit effort, or CPUE) was 0.005 turtles per 100 ft. (30.5 m) headrope-hour. In 1997, observers documented 62 tows in the South Atlantic area aboard trawlers equipped with hard TEDs. One turtle was observed captured in 161 hours of trawling, for a CPUE of 0.005 turtles per 100 ft (30.5 m) headrope-hour. Observations in the Gulf of Mexico revealed a similar situation, although turtle catch rates in the Gulf are much lower overall. In 1998, 133 tows using Parker TEDs, totaling 1,352 trawl hours, were observed in the offshore waters of the Gulf of Mexico: no turtle captures were observed. We also observed 2,081 offshore shrimp tows using hard TEDs, for a total of 9,632 hours. Two turtles were captured, representing a CPUE of 0.0001. The observed catch rates for shrimp trawlers using hard TEDs and Parker TEDs are small and, therefore, it is difficult to make definitive comparisons. Observers experienced difficulty in finding vessels using Parker TEDs to make trips with, contributing somewhat to the small number of Parker TED tows observed. Still, the available observer data indicates that the Parker TED's turtle catch rate is probably comparable to the catch rates of hard TEDs.

Several observer trips have also been made specifically to test the Parker TED's potential as a bycatch reduction device (BRD). The tests are made by comparing the catches from two nets pulled simultaneously by a trawler—one net is equipped with a Parker TED and the other with a hard TED. The Gulf and South Atlantic Fisheries Development Foundation (GSAFDF) and the South Carolina Department of Natural Resources (SCDNR) conducted independent tests of the Parker TED in the Atlantic in the fall of 1997. The GSAFDF and SCDNR tests showed a greater shrimp loss compared to standard tests in for hard TED-equipped net. The bycatch reduction rates for weakfish and Spanish mackerel, the two primary bycatch species of concern in the Atlantic, were 32.1 and 45.96 percent from the GSAFDF data and 25.02 and 79.78 percent from the SCDNR data. These tests showed that the Parker TED is effective for excluding

Spanish mackerel but does not meet the 40 percent exclusion rate for weakfish that is a criterion for certification as a BRD under the South Atlantic Shrimp Fishery Management Plan. The GSAFDF also did considerable testing of the Parker TED in 1998 and 1999 in the Gulf of Mexico where red snapper is the bycatch species of concern. That testing revealed a 7 percent shrimp loss, compared to a hard TED. A preliminary analysis of the red snapper catch rate shows a 33 percent reduction, which would not meet the criterion for certification as a BRD in the Gulf. Currently a modified Parker TED, using a 4 x 6 inch (10.2 X 15.2 cm) panel, is being tested as a BRD off South Carolina through a permit issued by NMFS, to determine whether the smaller-mesh panel can increase the bycatch reduction rate.

Observations by Law Enforcement

The Protected Resources Enforcement Team (PRET) is a specially-equipped team of NMFS law enforcement officers that was formed to focus enforcement attention on protected resources issues—primarily TEDs—in the Southeast. The PRET has placed priority on ensuring compliance with the requirements for the newly introduced Parker TED. The PRET has not encountered many shrimp trawlers actually using the Parker TED, despite intensive patrol efforts. In 1998, the PRET's first year in operation, the team logged 488 hours of at-sea patrols, boarding 261 vessels as part of the TED compliance project. PRET boardings in 1998 focused on nearshore shrimping grounds along the coasts of Texas, Louisiana, Georgia, and South Carolina. A large portion of the PRET's efforts in 1999 have been dedicated to patrols along the Texas coast, due to the continuing concern over the number of dead sea turtles that strand on Texas beaches. From March 16, 1999, through August 19, 1999, the PRET boarded 241 vessels along the Texas and Louisiana coasts.

Only two boats using Parker TEDs have been encountered by the PRET during 449 boardings in the Gulf of Mexico over 2 years. Both boats were operated by the same company which had installed Parker TEDs on its boats in 1998. When one of the boats was encountered in the summer of 1998, the recently-installed Parker TEDs were in good condition and in full compliance with the regulations. When the second boat was boarded in the summer of 1999, the boat's Parker TEDs were in bad disrepair and had apparently received no maintenance in a long time, possibly not since being installed a year

earlier. The boat was cited for the violation.

Enforcement efforts in the South Atlantic also indicate that use of the Parker TED in the shrimp fleet may be very low. The PRET only documented one trawler equipped with Parker TEDs during 53 boardings in 1998. NMFS gear specialists accompanied SCDNR enforcement officers on patrols of state waters during May 1999. Out of approximately 40 trawlers boarded at sea, two were using Parker TEDs. The U.S. Coast Guard Group in Charleston, SC, reports boarding only 4 boats with Parker TEDs over the past 2 years. No violations were reported from these seven boardings.

Observations of Gear Specialists

The installation specifications for the Parker TED included an unprecedented level of technical detail compared to previous soft TED regulations. The specifications included new requirements such as limiting installation to only certain styles of nets, exact mesh counts for fixing the location of the soft TED panel in the net, and detailed sewing instructions for attaching the panel to the net. As discussed in the April 13, 1998 interim final rule (63 FR 17948), NMFS believes that this level of technical specificity is required for the Parker TED to achieve a proper shape and exclude turtles effectively.

NMFS provided intensive technical training to assist the shrimp industry to adopt these stringent technical requirements. During 1998 and 1999, NMFS gear specialists held training sessions throughout the southeastern United States to improve TED technical operation and compliance. Technology transfer methodology included the development of improved training and educational materials which were distributed through the Coast Guard, Sea Grant, by direct mailouts, and through TED skill building workshops. Workshops included multimedia presentations and hands-on instruction which have proven highly effective in transferring technical information. TED operational manuals were distributed to assist fishermen in complying with TED regulations and to assist in solving TED operational problems. In spring 1998, the training specifically focused on net shops around the entire Atlantic and Gulf coasts. Those training sessions reviewed the new Parker TED regulatory requirements and included hands-on training installing Parker TEDs. Generally, the net makers were able to learn how to install the Parker TED according to the regulations quickly. Gear specialists provided follow-up

visits to work with some net makers who had difficulties. Subsequent workshops in 1998 and 1999 have been primarily addressed to the fishermen and to ensuring proper commercial use of TEDs.

The gear specialists also held workshops for NMFS, Coast Guard, and state law enforcement personnel. The purpose of these workshops was to review the complete enforcement process for TEDs, including descriptions of TEDs, establishing at-sea protocols for boarding vessels, checking Parker TEDs and hard TEDs for correct installation, and conducting training of new enforcement officers. NMFS gear experts also accompanied NMFS, Coast Guard, and state law enforcement personnel during at-sea and dockside boardings to provide hands-on technical training and assistance and to collect information on TED technical performance and compliance. This assistance was provided in North Carolina, South Carolina, Georgia, Florida, Alabama and Louisiana, and Texas.

During the period May-July 1999, three NMFS gear specialists provided 22 days of assistance to fishermen in North Carolina, South Carolina and Georgia in modifying their TEDs to comply with actions implemented under the leatherback turtle contingency plan (64 FR 25460, May 12, 1999; 64 FR 27206, May 19, 1999; 64 FR 28761, May 27, 1999; 64 FR 29805, June 3, 1999). Although almost all fishermen used hard TEDs with a large escape opening to comply with the leatherback contingency plan, the gear specialists found 10 vessels in McClellanville, SC, that were equipped with Parker TEDs modified to use the leatherback escape opening. The fishermen reported little difficulty in successfully making the leatherback modification to their Parker TEDs.

During the months of March, April and May, 1999, NMFS gear specialists visited net shops along the Texas coast to provide follow-up Parker TED training if necessary, but found no net shops still making Parker TEDs in Texas. On the East Coast, the gear specialists have confirmed with one net shop in each state (Florida, Georgia, South Carolina, and North Carolina) that they were still installing Parker TEDs in 1999. Those shops reported no ongoing technical problems. One of those net shops has also made a practice of selling uninstalled TED excluder panels directly to fishermen. NMFS has not encountered any trawlers, however, that had one of these do-it-yourself Parker TEDs.

Comments on the April 13, 1998 Interim Final Rule

NMFS received one letter on the April 13, 1998, interim final rule that allowed the use of the Parker soft TED. The commenter supported the approval of the Parker TED, but expressed several qualifying concerns.

Comment 1: The commenter questioned whether the TED testing conducted on the Parker TED was risk-averse enough, considering the known problems with testing soft TEDs. Specifically, NMFS had not tested every net-TED combination with a full sample of 25 test turtles.

Response: The April 13, 1998, interim final rule provided a detailed discussion of the two TED testing sessions that were used to approve the Parker soft TED. Those TED testing sessions included several changes to the testing protocol from previous tests that significantly increased the test's risk-aversion for approving new TEDs. The most significant change was to limit the approval of successful candidate soft TEDs to demonstrably compatible net sizes and styles. The 1998 TED tests included 107 turtle exposures to Parker TEDs in various net configurations. All 107 turtles escaped the nets. NMFS also considered the installation compatibility of the Parker TED in various nets. On that basis, NMFS excluded 2-seam, balloon trawls with bibs and trawls in which the body taper is greater than 4 bars - 1 point from use with the Parker TED. Parker TEDs installed in those trawl styles were observed to curl upwards into the 8-inch (20.3-cm) mesh section of the excluder panel, creating an area where turtles might become entangled. NMFS also excluded triple-wing trawls, which were not tested. The current testing protocol, which combines diver observations with exposure of small turtles to candidate TEDs, provides a risk-averse method for approving new soft TED candidates, such as the Parker TED, in a variety of appropriate net combinations.

The experimental TED testing conducted in 1998 provides a further example of that risk-averse approach. NMFS conducted additional testing on the Parker TED in net styles that had previously been excluded from approval with the Parker TED. A triple-wing net and two sizes of mongoose nets, all with 6 bars - 1 point (6b1p) body tapers, were tested. All three net-TED combinations had a strong rolling-up of the outer edges of the 4 inch (10.2 cm) and the 8 inch (20.3 cm) mesh of the Parker TED excluder panel. In a test with a 68 ft (20.7 m) headrope-length the 6b1p

mongoose net, no turtles were captured. Additional industry and possibly NMFS' testing will be required, however, before this design can be approved.

Comment 2: The commenter was concerned that the turtles used for TED testing in 1997 may not have been properly conditioned and that standardized physiological tests to confirm the turtles' fitness were not conducted.

Response: NMFS agrees that proper conditioning of the turtles used for TED testing is important. More vigorous escape behaviors by the test turtles are probably more representative of natural turtle behavior. The current practice is to try to condition the turtles in large, free-swimming pens for at least 4 weeks prior to using the turtles for TED testing. Physiological data have been collected to help determine how different conditioning regimes affect the turtles' stress response to the TED tests, such as blood pH and blood lactate levels. The analysis of those data, however, has not been completed, and we do not know whether different conditioning regimes result in different physiological stress levels. The goals in conducting the TED test are to provide a meaningful examination of candidate TEDs while minimizing stress and risk to the turtles. Current practices, which include 5-minute limits on the exposure to TEDs, limits on the safe water temperatures, and full-time care from animal husbandry experts, have resulted in a perfect safety record for the turtles used in TED testing. Even with these practices, there will always be natural variability in the environmental conditions and the fitness of the turtles. For that reason, every TED testing session is based on the performance of the turtles in a control TED, not on comparisons with previous TED testing sessions. While NMFS continues to investigate the role of various physiological measures on the turtles' fitness and behavior, the controls ensure that the 1997 TED tests, as well as future tests, are a rigorous examination of candidate TEDs.

Comment 3: The commenter recommended that NMFS adopt a regulatory certification process for net installers, stating this would be a more efficient way of ensuring proper installation of the Parker TED than NMFS proposed use of technical assistance to fishermen and net makers and enforcement surveillance for correct TED use.

Response: NMFS explicitly considered adopting a net maker certification program in the Environmental Assessment/Regulatory

Impact Review (EA/RIR) for the interim final rule. In summary, NMFS determined that a certification program would create a large administrative and bureaucratic burden on the government and a clumsy regulatory requirement affecting the net makers and the fishermen. The TED regulations already include prohibitions on selling or using non-approved TEDs (50 CFR 223.250(b)). Also, the technical specifications for what constitutes an approved Parker TED are extremely detailed. Therefore, there would be little advantage for enforcement from an additional regulatory certification requirement. NMFS believes that the limited enforcement resources for ensuring compliance with the TED regulations are best spent by conducting at-sea patrols and boardings of actively fishing trawlers and by providing dockside assistance to fishermen.

Comment 4: The commenter was concerned about the durability of soft TEDs and their installation over time.

Response: The commenter is referring to two separate problems with soft TEDs that inherently result from the use of soft, flexible webbing for the TED. The first is the soft TED's fragile material relative to hard TEDs. The webbing in a soft TED may easily be cut or damaged during normal trawling activities; for example, from encountering small sharks, shell fragments, rocks, corals, and wood debris. The second is that tensions on the soft TED and the net during trawling may eventually stretch the net or the excluder panel so that pockets or slack webbing appear and cause turtle entanglements.

NMFS is also aware of, and concerned by, these problems which, in part, is why the Parker TED was approved for a limited, 18-month period. Part of the goal of the enforcement and training programs has been to document the extent to which these problems do occur with the Parker TED in commercial use. NMFS believes that the design of the Parker TED and its stringent installation requirements make it much less susceptible to losing its shape than previous styles of soft TEDs. NMFS enforcement and training programs, in fact, have not discovered that stretching has been a problem with Parker TEDs. NMFS has only observed a few Parker TEDs in commercial use, however, and further evaluation of the durability and installation of this design over time is needed.

NMFS recognized from the outset that no soft TED, constructed of polyethylene or polypropylene webbing, would be immune to routine damage. Shrimpers who use soft TEDs must continually inspect their TEDs and

repair holes and damage as soon as they appear. Inspecting the panel of a soft TED is a difficult and time-consuming task, especially compared to inspecting a hard TED. Most shrimpers can check the condition of their hard TEDs visually before every tow, but a soft TED cannot be inspected through the outside of a wet trawl. The one boat using a Parker TED in the Gulf of Mexico that NMFS encountered apparently did not perform proper maintenance on the soft TEDs, and these TEDs had deteriorated badly over the course of a year. Even with proper maintenance, NMFS estimates that soft TED panels need to be replaced once a year, on average. Anecdotal reports from fishermen and net makers in Texas indicate that virtually no one uses Parker TEDs in that area because the fishermen do not want the time burden or the responsibility of checking and repairing the panels. In the Atlantic, the few Parker TEDs observed did not have problems with holes or damage and likely were receiving proper maintenance.

Provisions of this Interim Final Rule

This interim final rule extends the approved use of the Parker TED through October 13, 2000. This interim final rule makes no changes to the technical requirements for the Parker TED nor to the restrictions on the styles of net in which it may be installed.

NMFS initially limited the approval of the Parker TED to an 18-month period for two reasons. First, NMFS limited the duration so that if an evaluation of the effectiveness of the Parker TED in commercial use showed that the Parker TED was not effective at excluding sea turtles, NMFS could allow the approval to lapse. If the Parker TED was found to be effective at excluding sea turtles, the interim rule would be adopted as final incorporating any necessary technical changes that might result from the TED testing and commercial use during the 18-month period. Second, NMFS expected that there would be additional commercial testing by industry of the Parker TED in other net sizes and styles, under NMFS authorization. If additional net sizes and styles were found to be compatible with the Parker TED, NMFS would expand the authorized use of the Parker TED in finalizing the rule. NMFS observations of commercial use of the Parker TED do generally indicate that it effectively excludes turtles. This conclusion is tempered, however, by the small number of vessels with Parker TEDs that have actually been observed and by the troubling lack of maintenance seen in one of those cases. The anticipated commercial testing of

additional net sizes and styles has also not taken place. One vessel is currently collecting information on a Parker TED with a modified panel, to determine whether the modified panel excludes more finfish bycatch. NMFS believes that extending the approved use of the Parker TED for an additional year will allow additional information to be collected for a better final decision. This extension will allow fishermen currently using Parker TEDs to continue to do so and will give more time for testing additional modifications. The small number of fishermen using Parker TEDs and the apparently high effectiveness of the Parker TED mean that this extension will not unnecessarily impact sea turtles.

Request for Comments

NMFS is requesting input and will accept written comments (see **ADDRESSES**) on this interim final rule until December 13, 1999. Any comments, suggestions, or additional data and information on this action will be taken into consideration before a final determination is made on a final rule.

Classification

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

The Assistant Administrator for Fisheries, NOAA (AA), finds that good cause exists, under 5 U.S.C. 553(b)(B), to waive prior notice and an opportunity for public comment on this rule. It is impracticable and contrary to the public interest to provide prior notice and opportunity for comment because the shrimp fishery is currently underway in the offshore and eastern Gulf of Mexico with virtually all of those shrimp trawlers required to use TEDs. The provisions of this rule allow those fishermen the continued option of a soft TED design, to comply with the TED requirement. In addition, a small number of fishermen are presently using the Parker TED. This rule will allow those fishermen to continue to use their existing gear beyond October 12, 1999. Otherwise, they would be forced to remove their soft TEDs by that date and replace them with hard TEDs. Because this final rule does not create any new regulatory burden, but instead relieves regulatory restrictions by continuing an additional option for complying with existing sea turtle conservation requirements, under 5 U.S.C. 553(d)(1) it is not subject to a 30-day delay in effective date.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other

law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

The AA prepared an EA/RIR for the April 13, 1998, interim final rule (63 FR 17948) that approved the use of the Parker TED. The EA concluded that the rule will have no significant impact on the human environment. A copy of the EA/RIR is available (see **ADDRESSES**).

List of Subjects in 50 CFR Part 223

Endangered and threatened species, Exports, Imports, Marine mammals, Transportation.

Dated: October 7, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 223 is amended as follows:

PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

1. The authority citation for part 223 continues to read as follows:

Authority: 16 U.S.C. 1531 - 1543; subpart B, § 223.12 also issued under 16 U.S.C. 1361 *et seq.*

§ 223.207 [Amended]

2. In § 223.207, paragraph (c) introductory text, remove the text "October 13, 1999" and add in its place, "October 13, 2000".

[FR Doc. 99-26693 Filed 10-12-99; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304063-9063-01; I.D. 100699B]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock by Vessels Catching Pollock for Processing by the Inshore Component in the Bering Sea Subarea

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock by vessels catching pollock for processing by the inshore component in the Bering Sea subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is

necessary to prevent exceeding the 1999 pollock total allowable catch (TAC) specified to the inshore component in the Bering Sea subarea of the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.) October 6, 1999, until 2400 hrs, A.l.t., December 31, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with section 206(b)(1) of the American Fisheries Act (AFA), 50 percent of the remainder of the pollock TAC in the BSAI, after the subtraction of the allocation to the pollock Community Development Quota and the subtraction of allowances for the incidental catch of pollock by vessels harvesting other groundfish species, shall be allocated as a directed fishing allowance to catcher vessels harvesting pollock for processing by the inshore component. Pursuant to the AFA, the final 1999 amount of pollock allocated as a directed fishing allowance for processing by the inshore component of the Bering Sea subarea is 423,187 metric tons (64 FR 12103, March 11, 1999).

In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance soon will be reached. Consequently, NMFS is prohibiting directed fishing for pollock by vessels catching pollock for processing by the inshore component in the Bering Sea subarea of the BSAI.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to prevent exceeding the final 1999 pollock TAC specified to the inshore component in the Bering Sea subarea of the BSAI. A delay in the effective date is impracticable and contrary to the public interest. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a