(4) A description of whether a court has upheld the decision of the agency to withhold information under each of those statutes cited, and a concise description of the scope of any information upheld;

(5) The number of requests for records pending before the agency as of September 30 of the preceding year and the median number of days that these requests had been pending before the agency as of that date;

(6) The number of requests for records received by the agency and the number of requests the agency processed;

(7) The median number of days taken by the agency to process different types of requests;

(8) The total amount of fees collected by the agency for processing requests;

(9) The average amount of time that the agency estimates as necessary, based on the past experience of the agency, to comply with different types of requests;

(10) The number of full-time staff of the agency devoted to the processing of requests for records under this section; and

(11) The total amount expended by the agency for processing these requests.

(b) The Freedom of Information Act Officer shall annually, on or before February 1 of each year, prepare and submit to the Attorney General an annual report covering each of the categories of records to be maintained in accordance with paragraph (a) of this section, for the previous fiscal year. A copy of the report will be available for public inspection and copying at the Commission Information Office and a copy will accessible through the Internet at OSHRC's World Wide Web site at http://www.oshrc.gov.

Dated: April 18, 2000.

Patricia A. Randle,

Executive Director.

[FR Doc. 00–10275 Filed 4–24–00; 8:45 am]

BILLING CODE 7600–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1234

RIN 3095–AA94

Elimination of Requirement to Rewind Computer Tapes

AGENCY: National Archives and Records Administration (NARA).

ACTION: Final rule.

SUMMARY: NARA is revising its regulations to eliminate the requirement that Federal agencies rewind under controlled tension all computer tapes containing unscheduled or permanent records every 3½ years. This change will affect Federal agencies that store unscheduled or permanent records on computer open-reel tapes or tape cartridges.

DATES: Effective May 25, 2000.

FOR FURTHER INFORMATION CONTACT: Nancy Allard or Shawn Morton at (301) 713–7360.

SUPPLEMENTARY INFORMATION: This rule was published as a proposed rule for comment in the **Federal Register** on February 3, 2000 (65 FR 5295). NARA received 6 comments on the proposed rule, all supporting the change. Four comments were from Federal agencies and two comments were from private individuals.

This rule is not a significant regulatory action for the purposes of Executive Order 12866. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on a substantial number of small entities because it applies to Federal agencies. This rule does not have any federalism implications.

List of Subjects in 36 CFR Part 1234

Archives and records, Computer technology.

For the reasons stated in the preamble, the National Archives and Records Administration is amending 36 CFR Part 1234 to read as follows:

PART 1234—ELECTRONIC RECORDS MANAGEMENT

Subpart C—Standards for the Creation, Use, Preservation, and Disposition of Electronic Records

1. The authority citation for part 1234 continues to read as follows:

Authority: 44 U.S.C. 2904, 3101, 3102, and 3105.

§ 1234.30 [Amended]

2. In § 1234.30, remove paragraph (g)(3) and redesignate paragraphs (g)(4) through (g)(7) as paragraphs (g)(3) through (g)(6) respectively.

Dated: April 19, 2000.

John W. Carlin,

Archivist of the United States.

[FR Doc. 00–10249 Filed 4–25–00; 8:45 am]

BILLING CODE 7515–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 222 and 223

[Docket No. 991207322–0107–03; I.D. 041300A]

RIN 0648–AN30

Sea Turtle Conservation; Shrimp Trawling Requirements

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

ACTION: Temporary rule; request for comments.

SUMMARY: NMFS is imposing, for a 30-day period, an additional restriction on shrimp trawlers required to have a turtle excluder device (TED) installed in each net that is rigged for fishing, operating in Gulf of Mexico offshore waters bounded by the line originating at the tip of the south jetty at Port Mansfield Channel and terminating at the tip of the north jetty at Aransas Pass, Texas. Shrimp vessels operating in this area must use a TED with an escape opening large enough to exclude leatherback turtles, as specified in the regulations. This action is necessary to reduce mortality of endangered leatherback sea turtles incidentally captured in shrimp trawls.

DATES: This action is effective from April 19, 2000 through May 19, 2000. Comments on this action are requested, and must be received at the appropriate address or fax number (see **ADDRESSES**) by May 19, 2000.

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. Comments may also be sent via fax to 301–713–0376. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Charles A. Oravetz (ph. 727–570–5312, fax 727–570–5517, e-mail Chuck.Oravetz@noaa.gov), or Barbara A. Schroeder (ph. 301–713–1401, fax 301–713–0376, e-mail Barbara.Schroeder@noaa.gov).

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:

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 populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered.

The incidental take of these species as a result of shrimp trawling activities has been documented in the Gulf of Mexico and in the Atlantic Ocean. Under the Endangered Species Act (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 part 223, subpart B) require most shrimp trawlers operating in the Gulf and Atlantic areas to have a NMFS-approved TED installed in each net rigged for fishing year round.

The regulations provide a mechanism to implement further restrictions of fishing activities, if necessary to avoid unauthorized takings of sea turtles that may be likely to jeopardize the continued existence of listed species or that may violate the terms and conditions of an incidental take statement or incidental take permit. Upon a determination that incidental takings of sea turtles during fishing activities are not authorized, additional restrictions may be imposed to conserve listed species and to avoid unauthorized takings. Restrictions may be effective for a period up to 30 days and may be renewed for additional periods up to 30 days each (50 CFR 223.206(d)(4)).

Leatherback Sea Turtles

Leatherback sea turtles are the largest species of sea turtle. They weigh between 500 and 1300 pounds (272 and 590 Kg) and have carapaces 5 to 6 ft (1.5 to 1.8 m) in length. Leatherbacks are widely distributed, ranging from the tropics to sub-Arctic waters during their feeding migrations. They nest in low numbers on U.S. beaches and are primarily seen in Atlantic coastal waters of the southeast U.S. during their northern springtime migration, especially when high abundances of jellyfish occur nearshore. Less is known about the distribution of leatherbacks in the Gulf, though stranding records suggest a peak in nearshore abundance during the Spring. However, they can be found in U.S. waters throughout the year.

Because of their size, leatherbacks are not likely to escape from trawls, even when equipped with approved TEDs. The sea turtle conservation regulations specify a minimum TED opening size in the Gulf of 32 inches (89 cm) horizontally and 10 inches (30.5 cm) vertically. When the regulations requiring TEDs in shrimp trawls year round were adopted (57 FR 57348, December 4, 1992), NMFS recognized that the then-existing TEDs would not protect leatherbacks, and the biological opinion on the regulations concluded that leatherback mortality would remain a problem that must be addressed to avoid jeopardizing the recovery of this species. Consequently, the August 19, 1992, biological opinion's incidental take statement included as a term and condition which specified that the episodic take of leatherback turtles by shrimp trawlers during periods of high jellyfish abundance must be eliminated. This could be accomplished by temporary area closures, by requiring an increase in size of TED openings to allow leatherbacks to escape at times when their abundance is high, by limiting tow times, or by implementing some other protective measure. In part, to address this problem, the 1992 sea turtle conservation regulations included the provisions of 50 CFR 223.206(d)(4), to provide ''a mechanism to prevent sea turtle mortalities * * *when existing restrictions on the shrimp fishery are found to be ineffective (57 FR 18453).''

Recent Events

The Sea Turtle Salvage and Stranding Network has reported that high numbers of endangered leatherback sea turtles have stranded along the Texas coast in March and through April 8. A total of nine leatherbacks have stranded this Spring, with five of those stranding the week of April 2 on Padre Island. By comparison, the total annual number of leatherbacks stranding statewide has averaged 12 over the past 6 years. Eight of the nine animals have stranded dead, and one was rehabilitated and released after the NOAA Protected Resources Enforcement Team (PRET) rescued it from an illegal gillnet. All the leatherbacks have been adults, and one was confirmed through a necropsy as a pre-nesting female. Considering the rarity of leatherbacks—no documented nests have occurred in Texas since the 1930's (Hildebrand, 1995) and although strandings are only a minimum estimate of actual mortality, these strandings represent a serious impact to the recovery and survival of the local population.

The Spring shrimp season in the Gulf of Mexico is traditionally characterized by lighter effort than the late Summer, but offshore trawling for brown shrimp and nearshore trawling for white shrimp are currently active. National Park Service employees on Padre Island have reported shrimp trawlers operating close to the beach in the area of the leatherback strandings. The PRET has recently been patrolling the south Texas coast and has encountered trawlers working close to the beach in relatively small numbers, but many of those have been large, slab trawlers with extensive fishing power. The minimum size for TED openings specified in the sea turtle conservation regulations is not large enough to release leatherback turtles, and capture and drowning in shrimp trawls are the likely causes of most of the leatherback strandings. Even if shrimp trawling were not the cause of the strandings observed thus far, the high leatherback mortality level indicates that leatherbacks are present on and near the shrimping grounds. Leatherback turtles are likely to remain in the area for the next month, and shrimp trawling with TEDs with openings that are not large enough to release leatherbacks would be expected to continue to take leatherbacks unnecessarily.

Analysis of Other Factors

One of the leatherback strandings on Padre Island resulted from entanglement in an illegally set gillnet. That turtle was rescued, rehabilitated, and released. Two days after that turtle was found, a Mexican gillnet boat, fishing illegally in U.S. waters, was apprehended by the Coast Guard. Also that week, a shrimp trawler in the vicinity of Port Mansfield Channel was found with all four of its TEDs sewn shut. Nevertheless, shrimping conducted in compliance with the TED regulations would also be expected to capture and drown leatherbacks due to the small minimum size for TED openings. Shrimping is also the main fishery in the area of the strandings. Illegal gillnetting and shrimping are possible sources of leatherback mortality. Ongoing law enforcement efforts by the Coast Guard, Texas Parks and Wildlife Department, and the NOAA PRET will continue to address these activities and the threat they pose to sea turtles. NMFS and stranding network personnel will continue to investigate factors other than shrimping that may contribute to leatherback sea turtle mortality in Texas, including other fisheries and environmental factors.

Restrictions on Fishing by Shrimp Trawlers

Pursuant to 50 CFR 223.206(d)(4), the exemption for incidental taking of sea turtles in 50 CFR 223.206(d) does not authorize incidental takings during fishing activities if the takings would violate the restrictions, terms, or conditions of an ITS or incidental take permit, or may be likely to jeopardize the continued existence of a species listed under the ESA. The August 19, 1992, biological opinion includes a condition under the ITS that specifies that NMFS must eliminate the episodic take of leatherback turtles by shrimp trawlers through area closures, requirements for large TED opening sizes, limitations on tow times, or some other protective measure. Failure by NMFS to take action to address the mortality seen in south Texas over the past weeks would violate the ITS and result in unauthorized takings. NMFS believes that a requirement for large TED opening size is the least restrictive means available to provide additional protection for leatherback turtles. Therefore, the Assistant Administrator for Fisheries, NOAA (AA) issues this determination that further takings of leatherback turtles in Gulf of Mexico waters off south Texas by shrimp trawlers using TEDs with small escape openings are unauthorized and imposes this additional restriction to shrimp trawling activities to conserve endangered leatherback sea turtles. Specifically, the AA closes all Gulf of Mexico offshore waters seaward of the COLREGS demarcation line, bounded by the line originating at the tip of the south jetty at Port Mansfield Channel, Texas, thence due east to the point 26°33.75' N. lat, 097°05 W. long., thence slightly east of north to the point 27°50' N. lat., 096°50.7' W. long., thence due west and terminating at the tip of the north jetty at Aransas Pass, Texas, 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. This restriction is effective from April 19, 2000 through 11:59 p.m. (local time) May 19, 2000.

This restriction has been announced on the NOAA weather channel, in newspapers, and other media. Shrimp trawlers may also call (727)570–5312 for updated area closure information.

Additional Conservation Measures

The AA may withdraw or modify a determination concerning unauthorized takings or any restriction on shrimping activities if the AA determines that such action is warranted. Notification of any additional sea turtle conservation measures, including any extension of this 30-day action, will be published in the **Federal Register** pursuant to 50 CFR 223.206(d)(4).

NMFS will continue to monitor sea turtle strandings to gauge the effectiveness of these conservation measures.

References Cited

Hildebrand, H.H. 1995. A Historical Review of the Status of Sea Turtle Populations in the Western Gulf of Mexico. pp. 447–453 in Biology and Conservation of Sea Turtles, Revised Edition. K.A. Bjorndal, ed. Smithsonian Institution.

Classification

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

The AA has determined that this action is necessary to respond to an emergency situation to provide adequate protection for endangered leatherback sea turtles pursuant to the ESA and other applicable law.

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 this action in a timely manner to protect endangered leatherback sea turtles. Notice and opportunity to comment were provided on the proposed rule (57 FR 18446, April 30, 1992) for the final rule establishing the procedures to take this action. Furthermore, the AA finds good cause also under 5 U.S.C. 553(d)(3) not to delay the effective date of this rule for 30 days. Such delay would also prevent the agency from implementing this action in a timely manner to protect endangered leatherback sea turtles. Accordingly, the AA is making the rule effective April 19, 2000 through May 19, 2000. Also as stated above, this restriction has been announced on the NOAA weather channel, in newspapers, and other media.

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 (57 FR 57348, December 4, 1992) requiring TED use in shrimp trawls and creating the regulatory framework for the issuance of notifications such as this. The AA also prepared an EA for the current action. Copies of the EAs are available (see **ADDRESSES**).

Dated: April 19, 2000.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries.

[FR Doc. 00–10203 Filed 4–19–00; 4:23 pm]

BILLING CODE 3510–22–F