

secondary basis with respect to adjacent channel licensees. Additionally, these licensees may continue to operate with an authorized bandwidth wider than 11.25 kHz on such low power frequencies, subject to the provisions of § 90.209(b) of this chapter.

(8) Applicants proposing to operate with an authorized bandwidth wider than 11.25 kHz, on low power frequencies that are subject to an authorized bandwidth of 11.25 kHz, may be licensed on a secondary, non-interference basis. Such applicants are subject to the conditions of paragraphs (b) through (g) of this section and the provisions of § 90.209(b) of this chapter.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 030414084-3084-01; I.D. 021202A]

RIN 0648-AR02

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan Regulations

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

ACTION: Final rule; technical amendment.

SUMMARY: NMFS issues a correction to final rules implementing the Atlantic Large Whale Take Reduction Plan (ALWTRP) in order to correct unintended errors from the preamble and regulatory text in the final rules published in the **Federal Register** on February 16, 1999 and September 23, 2002. This technical amendment clarifies the requirements for shark gillnet gear in the southeast U.S. and corrects an error regarding fisheries affected by the final rules.

DATES: Effective April 21, 2003.

ADDRESSES: Copies of the Environmental Assessment (EA), the Regulatory Impact Review (RIR), and the Regulatory Flexibility Act (RFA) analysis for the final rules that are being corrected are available from Protected Resources Division, NMFS/Southeast Region, 9721 Executive Center Dr. North, St. Petersburg, FL 33702-2432. The ALWTRP Compliance guide,

Atlantic Large Whale Take Reduction Team (ALWTRT) meeting summaries, and a progress report on implementation of the ALWTRP may be obtained by writing to Diane Borggaard, NMFS/Northeast Region, 1 Blackburn Dr., Gloucester, MA 01930 or to Katie Moore, NMFS/Southeast Region, 9721 Executive Center Dr., St. Petersburg, FL 33702-2432. Copies of the EA, the RIR, and the RFA analysis may also be obtained from the ALWTRP web site listed (See Electronic Access).

FOR FURTHER INFORMATION CONTACT:

Katie Moore, NMFS, Southeast Region, 727-570-5312; Diane Borggaard, NMFS, Northeast Region, 978-281-9145; or Patricia Lawson, NMFS, Office of Protected Resources, 301-713-2322. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1-800-877-8339 between 8 a.m. and 4 p.m. Eastern time, Monday through Friday, excluding Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Several of the background documents for this technical amendment and the take reduction planning process may be obtained from the ALWTRP web site: <http://www.nero.nmfs.gov/whaletrp/>. Copies of the most recent Stock Assessment Reports may be downloaded from the Internet at <http://www.nefsc.nmfs.gov/psb/assesspdfs.htm>. Information on disentanglement events is available on the web page of NMFS' whale disentanglement contractor, the Center for Coastal Studies, <http://www.coastalstudies.org/>.

Background

NMFS published a final rule (67 FR 59471, September 23, 2002) implementing approved modifications in the ALWTRP recommended by the ALWTRT to satisfy the requirements of the Endangered Species Act and the Marine Mammal Protection Act (MMPA). Details concerning the justification for and development of the rule were provided in the preamble to the proposed rule (67 FR 14690, March 27, 2002) and are not repeated here.

This technical amendment clarifies and corrects the preamble to the final rule. By truncating the definition of the Southeast Atlantic gillnet fishery and misstating a word, the rule incorrectly defined the fisheries affected. On page 59472, column 1, the first paragraph, second sentence under *Changes Proposed for the ALWTRP for Gillnet Gear* in the preamble should read:

"This final rule regulates the MMPA's List of Fisheries (LOF) definition for the Southeast Atlantic gillnet fishery which includes any type of gillnet gear for any species (except shark gillnetting effort using 5-inch (12.7-cm) or greater stretched mesh south of the South Carolina/Georgia border) in waters south of a line extending due east from the North Carolina/South Carolina border and south and east of the fishery management council demarcation line between the Atlantic Ocean and the Gulf of Mexico (50 CFR 600.105)."

Fishing for sharks with striknet gear is exempt from restrictions detailed in 50 CFR 229.32(f)(4) if the fishers adhere to a list of requirements. All of the requirements must be met in order for this exemption to apply. For clarity, NMFS is adding the term "and" before the last requirement of the list. The term "and" was included in the proposed rule (62 FR 16519, April 7, 1997), the interim final rule's comments and responses (62 FR 29157, July 22, 1997, comment 67), but was inadvertently omitted from the interim final rule and the final rule (64 FR 7529, February 16, 1999) regulatory text.

This final rule will also correct an error in the regulatory text of the February 16, 1999 final rule (64 FR 7529) by deleting the reference to minke whales. Two of the requirements necessary to obtain an exemption, as discussed in the previous paragraph of this preamble, specifically relate to a list of whale species included in that regulatory provision. Minke whale was not in this list of species in the proposed rule (April 7, 1997, 62 FR 16519) or the interim final rule (62 FR 39157, July 22, 1997). However, minke whale was included in this list of species in the regulatory text of final rule (64 FR 7529, February 16, 1999) without explanation and NMFS did not intend to include it.

Classification

The Assistant Administrator (AA) finds that good cause exists to waive the requirement to provide prior notice and the opportunity for comment, pursuant to authority set forth at 5 U.S.C. 553(b)(B), as such procedures would be unnecessary. Prior notice and opportunity for comment are unnecessary because the technical amendments merely correct the preamble and inadvertent changes to regulatory text and will have a de minimis effect, if any, on the regulated community. The corrections do not increase the scope of the regulated community nor add new requirements. Because this portion of the rule corrects and clarifies provisions and makes non-