

Final Rule To Reduce Sea Turtle Bycatch and Bycatch Mortality in the Atlantic Pelagic Longline Fishery

Actions: Limit vessels in the Atlantic pelagic longline fishery for highly migratory species, at all times, to possessing and/or using only certain hooks and baits; re-open the Northeast Distant (NED) Statistical Reporting Area to pelagic longline fishing under specific hook and bait limitations; require possession and use of specific sea turtle handling and release equipment and sea turtle handling and release protocols to reduce the bycatch and bycatch mortality of incidentally captured Atlantic sea turtles in the pelagic longline fishery.

Type of Statement: Final Supplemental Environmental Impact Statement (FSEIS); Final Regulatory Impact Review; Final Regulatory Flexibility Analysis; and Final Social Impact Assessment

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Abstract: On June 14, 2001, The National Marine Fisheries Service (NOAA Fisheries) published a Biological Opinion (BiOp) regarding Atlantic sea turtles which concluded that the continued operation of the Atlantic pelagic longline (PLL) fishery is likely to jeopardize the continued existence of Atlantic leatherback and loggerhead sea turtles. To avoid jeopardy, the Reasonable and Prudent Alternative (RPA) in the BiOp included a closure of the NED, a research program to develop or modify fishing gear, and techniques to reduce sea turtle interactions and the mortality associated with such interactions. The BiOp also included an incidental take statement (ITS) for the Atlantic PLL fishery that established incidental take levels of 438 leatherback and 402 loggerhead sea turtles, respectively, on an annual basis. The BiOp further contemplated modification or reopening of the NED, if sea turtle takes attributable to fishing effort in that area could be reduced sufficiently through gear and fishing technique modifications. The NED research experiment (permitted under section 10 of the ESA) demonstrated that significant reductions in sea turtle interactions could be achieved through application of large size circle style hooks and certain bait combinations.

In December 2003, NOAA Fisheries data indicated that the ITS had been exceeded for Atlantic leatherback sea turtles in 2001 - 2002 and for Atlantic loggerhead sea turtles in 2002. The 2001 and 2002 estimated turtle interaction levels for the Atlantic PLL fishery (2001: 1208

leatherbacks, 312 loggerheads; 2002: 962 leatherbacks, 575 loggerheads) do not include takes associated with the NED research experiment.

To implement measures effective at reducing sea turtle interactions and mortalities, to comply with the ESA and other applicable law, and to minimize the social and economic impacts of bycatch reduction measures to the extent practicable, this action proposes to: 1) limit the possession and use, at all times, of hooks and baits by Atlantic pelagic longline vessels fishing for HMS; 2) allow pelagic longline fishing for highly migratory species in the NED with hook and bait limitations in place; 3) mandate possession and use of certain equipment to safely remove fishing hooks and line from incidentally captured sea turtles; and, 4) require possession of new sea turtle handling and release guidelines.

To more rapidly reduce sea turtle interactions and mortality and to mitigate the economic impacts of sea turtle bycatch mitigation measures, NOAA Fisheries requested and was authorized to execute alternative procedures for the preparation and completion of an SEIS. The Council on Environmental Quality authorized a waiver of 14 of the standard 45 days for the DSEIS comment period. Comments on the draft SEIS and associated proposed rule were accepted from February 11, 2004 through March 15, 2004.

EXECUTIVE SUMMARY

In November 2003, NOAA Fisheries completed a three-year sea turtle bycatch reduction experiment. The Agency also received preliminary data indicating that the Atlantic pelagic longline fishery may have exceeded the ITS in the June 14, 2001, Biological Opinion for Atlantic leatherback sea turtles in 2001 - 2002, and for Atlantic loggerhead sea turtles in 2002. As a result of the conclusion of the experiment and the potential ITS exceedance, the Agency published a Notice of Intent of Proposed Rulemaking (NOI) in the Federal Register (68 FR 66783) identifying significant issues and management measures being considered, and requesting public comment. Based in part on comments received on the NOI, the Draft Supplemental Environmental Impact Statement (DSEIS) examined 16 alternatives to reduce the bycatch and bycatch mortality of sea turtles in the Atlantic HMS pelagic longline fishery, consistent with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA), the Marine Mammal Protection Act (MMPA), the Coastal Zone Management Act (CZMA), the Regulatory Flexibility Act (Reg Flex Act), and other domestic laws.

As discussed in detail in Sections 1.2 and 1.3 of this document, the objectives of this rulemaking are multifaceted and include, *inter alia*,: 1) addressing sea turtle interactions and mortalities to avoid jeopardy for Atlantic leatherback and loggerhead sea turtles; 2) reconsidering the NED and other time and area closures in light of possible gear modifications ; and, 3) minimizing, to the extent practicable, the economic impacts of sea turtle bycatch mitigation measures. This document analyzes the ecological, economic, and social impacts of 16 alternatives (and two sub-alternatives) to reduce the bycatch and bycatch mortality of loggerhead and leatherback sea turtles in the Atlantic HMS pelagic longline fishery. A proposed rule was published in the Federal Register on February 11, 2004 (69 FR 6621), which announced public hearings in North Dartmouth, MA (March 2, 2004), New Orleans, LA (March 4, 2004), and Manteo, NC (March 9, 2004). A Notice of Availability (NOA) of the DSEIS was published by the Environmental Protection Agency in the Federal Register on February 13, 2004 (69 FR 7215). The public comment period on both the proposed rule and the DSEIS closed on March 15, 2004. Over 100 people attended the public hearings, and the Agency received approximately 175 written and electronic comment letters.

Preferred alternatives A5 (b), A10 (b), and A16 strike an appropriate balance between protecting and conserving living marine resources and maintaining a viable domestic pelagic longline fleet, in compliance with legal mandates. To achieve this balance, NOAA Fisheries examined and re-examined the best available scientific and soci-economic data and public comment on the DSEIS and proposed rule. Where appropriate, the Agency incorporated refinements to data and modified the preferred measures in the FSEIS based on these examinations and comments.

Changes to the SEIS are summarized below.

PREFERRED ALTERNATIVES IN THE DSEIS	SELECTED ALTERNATIVES IN THE FSEIS
<p>Alternative A3 - Limit vessels with pelagic longline gear onboard, at all times, in all areas open to pelagic longline fishing, excluding the NED, to possessing onboard and/or using only one of the following combinations: i) 18/0 or larger circle hooks with an offset not to exceed 10 degrees and whole mackerel bait; OR ii) 18/0 or larger non-offset (flat) circle hooks and squid bait</p>	<p>Alternative A5(b) - Limit vessels with pelagic longline gear onboard, at all times, in all areas open to pelagic longline fishing, excluding the NED, to possessing onboard and/or using only 16/0 or larger non-offset circle hooks and/or 18/0 or larger circle hooks with an offset not to exceed 10 degrees. Only whole finfish and squid baits may be possessed and/or utilized with allowable hooks.</p>
<p>Alternative A10(a) - Open the NED to pelagic longline fishing and limit vessels with pelagic longline gear onboard in that area, at all times, to possessing onboard and/or using only one of the following combinations: i) 18/0 or larger circle hook with an offset not to exceed 10 degrees with whole mackerel bait; OR ii) 18/0 or larger non-offset (flat) circle hook with squid bait.</p>	<p>Alternative A10(b) - Open the NED to pelagic longline fishing and limit vessels with pelagic longline gear onboard in that area, at all times, to possessing onboard and/or using only 18/0 or larger circle hooks with an offset not to exceed 10 degrees. Only whole mackerel and squid baits may be possessed and/or utilized with allowable hooks.</p>
<p>Alternative A16 - Require vessels with pelagic longline gear onboard to possess and use dipnets and line clippers that meet newly revised design and performance standards, plus require these vessels to possess, maintain, and utilize additional sea turtle handling and release gear and comply with handling and release guidelines, as specified by NOAA Fisheries.</p>	<p>Same.</p>

The suite of preferred alternatives best meets the purpose and scope of this rulemaking by providing comprehensive and meaningful protection to Atlantic sea turtles, maintaining the viability of the domestic pelagic longline fishery, and achieving legal and policy obligations. Importantly, by providing a successful roadmap for sea turtle bycatch and bycatch mortality reduction, NOAA Fisheries may provide the impetus for other nations to adopt similar sea turtle conservation measures, thereby bringing truly meaningful protection to sea turtles throughout their entire range.

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