

### Regulatory Evaluation

This temporary final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Entry into this zone will be prohibited until March 1, 1999. Although this regulation prevents traffic from transiting a portion of Swift Creek Channel, Freeport, NY, the effect of this regulation will not be significant for several reasons: there are alternative routes around the channel; the closure is during the off-season for recreational boating; and extensive, advance maritime advisories have been made of the channel closure and will continue to be made.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this rule will have significant economic impact on a substantial number of small entities. "Small entities" include small businesses that are independently owned and operated and are not dominant in their fields, not-for profit organizations and governmental jurisdictions with populations of less than 50,000. For the reasons addressed under the Regulatory Evaluation above, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this temporary final rule will not have a significant economic impact on a substantial number of small entities.

### Collection of Information

This temporary final rule does not provide for a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

### Federalism

The Coast Guard has analyzed this action under the principles and criteria contained in Executive Order 12612, and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

### Environment

The Coast Guard has considered the environmental impact of this rule and concluded that under figure 2-1, paragraph 34(g) of Commandant Instruction "M16475.1.C.", this temporary final rule is categorically excluded from further environmental documentation.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports and recordkeeping requirements, Security measures, Waterways.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

### PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 160.5; 49 CFR 1.46.

2. A temporary section, 165.T01-184, is added to read as follows:

#### § 165.T01-184 Swift Creek Channel, Freeport, NY.

(a) *Location:* The safety zone includes all waters surrounding the Loop Parkway Bridge where it spans Swift Creek channel, within a 200 yard distance on either side of the bridge.

(b) *Effective date.* This section is effective on January 1, 1999, from 8 a.m. until March 1, 1999.

(c) *Regulations.* The general regulations contained in section 165.23 apply.

#### P.K. Mitchell,

*Captain, U.S. Coast Guard, Captain of the Port, Long Island Sound.*

[FR Doc. 99-1882 Filed 1-26-99; 8:45 am]

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### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Parts 1, 21 and 74

[MM Docket No. 97-217; FCC 98-231]

#### MDS and ITFS Two-Way Transmissions; Correction

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; correction.

**SUMMARY:** The Federal Communications Commission published in the **Federal Register** of November 25, 1998 amendments to its rules to enable Multipoint Distribution Service ("MDS") and Instructional Television

Fixed Service ("ITFS") licensees to engage in fixed two-way transmissions. This document corrects the section numbers of the regulations on individually licensed 125 kHz channel MDS and ITFS response stations. Furthermore, this document corrects the effective dates of the rules.

**DATES:** Effective January 25, 1999.

**FOR FURTHER INFORMATION CONTACT:** Michael J. Jacobs, (202) 418-7066 or Dave Roberts, (202) 418-1600, Video Services Division, Mass Media Bureau.

**SUPPLEMENTARY INFORMATION:** The Commission published a document in the **Federal Register** of June 1, 1998 (63 FR 29667), adding § 21.940. In FR Doc. 98-31334, published in the **Federal Register** of November 25, 1998 (63 FR 65087), the Commission inadvertently gave the same designation to another new rule added in the latter document. This correction correctly designates the second § 21.940 as § 21.949. In addition, for the sake of consistency, this correction redesignates the companion rule to part 74 of our Rules, § 74.940, as § 74.949, and replaces all references to § 21.940 or § 74.940 in the document with references to § 21.949 or § 74.949, as appropriate. Finally, this correction clarifies that all of the rules adopted in FR Doc. 98-31334 are subject to congressional review, and that §§ 1.1307(b)(1), Table 1; 21.27(d); 21.42(c)(8); the amendment to 21.201; 21.304; 21.900(b); 21.901(d); 21.903(d); 21.905(d)(3); 21.906(a); 21.909(c), (d), (f), (g)(6), (h), (i), (k), and (n); 21.913(a), (b), (d), and (e); 21.949(a), (b), and (f); 74.902(f); 74.911(d); 74.931(c)(1), (3), and (6)(ii) and (iii); 74.931(d)(6)(ii) and (iii); 74.936(b)(3) and (g); 74.939(c), (d), (f), (g)(6), (h), (i), (l)(1), (2) and (4), (m), and (p); 74.949(a), (b)(3) and (4), and (f); 74.951(b); 74.965; and 74.985(a), (b), and (d) through (f) of the rules adopted in FR Doc. 98-31334 are subject to approval of the information collection requirements by OMB and cannot become effective until approval is received.

FR Doc. 98-31334, published on November 25, 1998 (63 FR 65087), is corrected as follows:

1. On page 65087, in the third column, correct the "DATES" caption to read:

**DATES:** These final rules have been classified as a major action subject to congressional review. The effective date is February 8, 1999. If, however, at the conclusion of the congressional review process the effective date has been changed, the FCC will publish a document in the **Federal Register** to establish the actual effective date or to issue notice of termination of the final

rule action. In addition, §§ 1.1307(b)(1), Table 1; 21.27(d); 21.42(c)(8); the amendment to 21.201; 21.304; 21.900(b); 21.901(d); 21.903(d); 21.905(d)(3); 21.906(a); 21.909(c), (d), (f), (g)(6), (h), (i), (k), and (n); 21.913(a), (b), (d), and (e); 21.949(a), (b), and (f); 74.902(f); 74.911(d); 74.931(c)(1), (3), and (6)(ii) and (iii); 74.931(d)(6)(ii) and (iii); 74.936(b)(3) and (g); 74.939(c), (d), (f), (g)(6), (h), (i), (l)(1), (2) and (4), (m), and (p); 74.949(a), (b)(3) and (4), and (f); 74.951(b); 74.965; and 74.985(a), (b), and (d) through (f) contain information collection requirements that are not effective until approved by the Office of Management and Budget. The FCC will publish documents in the **Federal Register** announcing the effective dates for those sections.

2. In parts 21 and 74, §§ 21.940 and 74.940 are redesignated as §§ 21.949 and 74.949, and all references to “§§ 21.940” and “74.940” are revised to read “21.949” and “74.949”, respectively.

Dated: January 22, 1999.

**Shirley S. Suggs,**

*Chief, Publications Branch.*

[FR Doc. 99-1898 Filed 1-25-99; 2:09 pm]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 630

[Docket No. 980630163-9010-02; I.D. 011598A]

RIN 0648-AJ68

#### Atlantic Swordfish Fishery; Management of Driftnet Gear

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to prohibit the use of driftnet gear in the North Atlantic swordfish fishery. The purpose of this action is to improve the conservation and management of the North Atlantic swordfish resource and other marine resources; specifically, to reduce bycatch of protected resources in a manner that maximizes the benefit to the Nation.

**DATES:** All provisions of this final rule are effective February 25, 1999.

**ADDRESSES:** Copies of the Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA)

supporting this action may be obtained from Rebecca Lent, Chief, Highly Migratory Species Management Division, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Jill Stevenson or Chris Rogers, 301-713-2347 or FAX 301-713-1917.

**SUPPLEMENTARY INFORMATION:** The Atlantic swordfish fishery is managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Atlantic Tunas Convention Act (ATCA). The Atlantic Swordfish Fishery Management Plan (FMP) has been issued pursuant to requirements of the Magnuson-Stevens Act. The FMP is implemented by regulations at 50 CFR part 630. This fishery is also subject to the requirements of the Endangered Species Act (ESA) and the Marine Mammal Protection Act (MMPA).

#### Introduction

This rule prohibits the use of driftnet gear in the north Atlantic swordfish fishery. The intent of the rule is to reduce marine mammal bycatch in the swordfish driftnet fishery while increasing the net benefits to the nation. Background information about the need to address bycatch and management concerns in the Atlantic swordfish driftnet fishery was provided in the preamble to the proposed rule (63 FR 55998, October 20, 1998) and is not repeated here.

NMFS wishes to address fishery management issues in an efficient manner that increases economic benefits to the nation. Further, NMFS seeks to reduce marine mammal takes consistent with the MMPA and the ESA. To do this, NMFS considered implementing take reduction measures and evaluated the effects of those measures on finfish, protected species, and administrative costs. Prohibiting the use of driftnets in the North Atlantic swordfish fishery serves to reduce potential marine mammal takes in an efficient manner.

Measures necessary for reducing marine mammal takes and for monitoring this fishery, specifically, monitoring the limited quota and observer coverage, are costly. For some alternatives considered to reduce marine mammal takes, the costs of implementation would exceed the net revenues from the landed swordfish. The swordfish driftnets are used by a limited number of participants to harvest a very small proportion of the swordfish quota within a short season. Further, there is currently no mechanism to limit access to this gear in place.

Some of the fishermen affected by this prohibition may choose to continue fishing with driftnets for other species in the same area as long as they discard any swordfish incidentally taken. Some fishermen that have participated in the swordfish driftnet fishery have stated that they would use driftnet gear to “target” (to the extent possible with relatively non-selective gear) tunas or pelagic sharks. NMFS has proposed to prohibit the use of driftnets in the Atlantic tunas fishery in the draft HMS FMP. Driftnet fishermen have not used this gear to target pelagic sharks in the past, however, high expected rates of marine mammal bycatch are not consistent with the objectives of this rule or the draft HMS FMP. Therefore, NMFS seeks comments on prohibiting the use of this gear in all highly migratory species fisheries in order to reduce marine mammal takes and bycatch of other protected species.

Under the authority of the MMPA, the Atlantic Offshore Cetacean Take Reduction Team (AOCTRT) was convened in 1996 to recommend measures that would reduce takes of marine mammals in the longline and driftnet fisheries for Atlantic highly migratory species (HMS). That team submitted a draft plan to NMFS that outlined its recommended measures for both fisheries. NMFS published a draft EA in 1997 and comments were received, some indicating preferred alternatives by constituents. After consideration of those comments, the AOCTRT recommendations, and HMS Advisory Panel comments, NMFS proposed those take reduction measures applicable to the pelagic longline fishery in the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP). For driftnet gear, the AOCTRT recommended measures, which included a set allocation scheme, limited access, time/area closure, and 100 percent observer coverage, would require excessive administrative costs and were not considered effective at reducing marine mammal interactions or addressing fishery management concerns. NMFS has instead decided to prohibit the use of driftnet gear in the Atlantic swordfish fishery in order to reduce marine mammal and sea turtle takes and to resolve fishery management issues.

#### Comments and Responses

NMFS considered comments received on the 1997 draft EA in formulation of the proposed rule. In addition, over 300 written comments (mostly postcards) were submitted to NMFS and two public hearings were held during the 60-day comment period on the proposed