

pueblo, or colony, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), and Indian allotments. "Near reservation" is defined as those areas or communities adjacent or contiguous to reservations which are designated by the Department of Interior's Commission of Indian Affairs upon recommendation of the local Bureau of Indian Affairs Superintendent, which recommendation shall be based upon consultation with the tribal governing body of those reservations, as locales appropriate for the extension of financial assistance and/or social services, on the basis of such general criteria as: Number of Indian people native to the reservation residing in the area; a written designation by the tribal governing body that members of their tribe and family members who are Indian residing in the area, are socially, culturally and economically affiliated with their tribe and reservation; geographical proximity of the area to the reservation, and administrative feasibility of providing an adequate level of services to the area.

**Note to paragraph (e):** The Commission stayed implementation of paragraph (e) as applied to qualifying low-income consumers living "near reservations" on August 31, 2000 (15 FCC Rcd 17112).

■ 3. Amend § 54.409 by revising the third sentence of paragraph (a), and the first and third sentence of paragraph (c) to read as follows:

**§ 54.409 Consumer qualification for Lifeline.**

(a) \* \* \* A state containing geographic areas included in the definition of "reservation" and "near reservation," as defined in § 54.400(e), must ensure that its qualification criteria are reasonably designed to apply to low-income individuals living in such areas.

\* \* \* \* \*

(c) A consumer that lives on a reservation or near a reservation, but does not meet the qualifications for Lifeline specified in paragraphs (a) and (b) of this section, nonetheless shall be a "qualifying low-income consumer" as defined in § 54.400(a) and thus an "eligible resident of Tribal lands" as defined in § 54.400(e) and shall qualify to receive Tiers One, Two, and Four Lifeline service if the individual participates in one of the following federal assistance programs: Bureau of Indian Affairs general assistance; Tribally administered Temporary Assistance for Needy Families; Head Start (only those meeting its income

qualifying standard); or National School Lunch Program's free lunch program. \* \* \* To receive Lifeline support under this paragraph for the eligible resident of Tribal lands, the eligible telecommunications carrier offering the Lifeline service to such consumer must obtain the consumer's signature on a document certifying under penalty of perjury that the consumer receives benefits from at least one of the programs mentioned in this paragraph or paragraph (b) of this section, and lives on or near a reservation, as defined in § 54.400(e). \* \* \*

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BILLING CODE 6712-01-P

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 64**

[CC Docket No. 94-129; FCC 03-42]

**Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; announcement of effective date.

**SUMMARY:** This document announces the effective date of certain sections of the Commission's rules regarding unauthorized changes of consumers' preferred telecommunications service providers. Certain sections of the rules contained information collection requirements that required the approval of the Office of Management and Budget ("OMB") before they could become effective. Those sections have been approved by OMB.

**DATES:** The amendments to 47 CFR sections 64.1120(c)(3)(iii), 64.1130(j), 64.1150(b), 64.1160(g), 64.1170(g), 64.1180, to the requirements concerning local exchange carrier verification of inbound carrier changes, and to certifications to exempt carriers from the drop-off requirement, released by the Commission on March 17, 2003, and a summary of which was published at 68 FR 19152, April 18, 2003, will become effective on July 16, 2003.

**FOR FURTHER INFORMATION CONTACT:** Perlesta Hollingsworth of the Policy Division, Consumer & Governmental Affairs Bureau at (202) 418-7383, TTY (202) 202 418-7365 (tty).

**SUPPLEMENTARY INFORMATION:** On March 17, 2003, the Commission released the

Third Order on Reconsideration and Second Further Notice of Proposed Rulemaking (Order). The Order revised and clarified certain rules to implement Section 258 of the Communications Act. The rules and requirements implementing Section 258 can be found primarily at 47 CFR part 64. The modifications and additions adopted in the Order will improve the carrier change process for consumers and carriers, while making it more difficult for unscrupulous carriers to perpetrate slams. The Commission released the Order on March 17, 2003. In addition, a summary of the Order was published in the **Federal Register** at 68 FR 19152, April 18, 2003. On July 1, 2003, the Commission received approval for the information collection requirements, Implementation of Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, OMB Control Number 3060-0787, contained in the Order pursuant to the "emergency processing" provisions of the Paperwork Reduction Act of 1995 (5 CFR 1320.13). Questions concerning OMB control numbers and expiration dates should be directed to Les Smith, Federal Communications Commission, (202) 418-0217 or via the Internet to [leslie.smith@fcc.gov](mailto:leslie.smith@fcc.gov).

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 03-17976 Filed 7-15-03; 8:45 am]

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 223**

[Docket No. 020319061-3166-03; I.D. 070803G]

RIN 0648-AP81

**Sea Turtle Conservation Measures for the Pound Net Fishery in Virginia Waters**

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

**ACTION:** Temporary final rule.

**SUMMARY:** NOAA Fisheries is prohibiting the use of all pound net leaders in the Virginia waters of the mainstem Chesapeake Bay effective immediately through July 30, 2003. The

affected area includes all Chesapeake Bay waters between the Maryland and Virginia state line (approximately 38° N. lat.) and the COLREGS line at the mouth of the Chesapeake Bay, and the waters of the James River, York River, and Rappahannock River downstream of the first bridge in each tributary. This action, taken under the Endangered Species Act of 1973 (ESA), is necessary to conserve sea turtles listed as threatened or endangered.

**DATES:** Effective July 16, 2003, through July 30, 2003.

**ADDRESSES:** Requests for copies of the literature cited, the Environmental Assessment (EA), or Regulatory Impact Review (RIR) should be addressed to the Assistant Regional Administrator for Protected Resources, NOAA Fisheries, One Blackburn Drive, Gloucester, MA 01930. Requests for supporting documents may also be sent via fax to 978-281-9394.

**FOR FURTHER INFORMATION CONTACT:** Mary Colligan (ph. 978-281-9116, fax 978-281-9394), or Barbara Schroeder (ph. 301-713-1401, fax 301-713-0376).

**SUPPLEMENTARY INFORMATION:**

**Background**

Pound net leaders with greater than or equal to 12 inches (30.5 cm) stretched mesh and leaders with stringers have been documented to incidentally take sea turtles (Bellmund *et al.*, 1987). High strandings of threatened and endangered sea turtles are documented on Virginia beaches each spring, and the number of strandings has increased in recent years. No cause of mortality is immediately apparent for the majority of turtles that strand in Virginia, but the circumstances surrounding the recent stranding events are consistent with fishery interactions in that a majority of the carcasses are undamaged and when examined seemed healthy. A discussion on fisheries interactions and strandings are provided in the preambles to the proposed rule (67 FR 15160, March 29, 2002) and the interim final rule (67 FR 41196, June 17, 2002). In light of documented entanglement in pound net leaders and high strandings in the vicinity of pound net operations, on June 17, 2002, NOAA Fisheries issued an interim final rule that prohibited the use of all pound net leaders measuring 12 inches (30.5 cm) and greater stretched mesh and all pound net leaders with stringers in the Virginia waters of the mainstem Chesapeake Bay and portions of the Virginia tributaries from May 8 to June 30 each year (67 FR 41196). Included in this interim final rule was a year-round requirement for fishermen to report all interactions with

sea turtles in their pound net gear to NOAA Fisheries within 24 hours of returning from the trip and a year-round requirement for pound net fishing operations to be observed by a NOAA Fisheries-approved observer if requested by the Northeast Regional Administrator. The interim final rule also established a framework mechanism by which NOAA Fisheries may make changes to the restrictions and/or their effective dates on an expedited basis in order to respond to new information and protect sea turtles. Under this framework mechanism, if NOAA Fisheries receives information that a significant level of strandings will likely continue beyond June 30, the Assistant Administrator, NOAA, (AA) may extend the effective dates of the restrictions established by the regulations. Additionally, if monitoring of pound net leaders during the time frame of the gear restriction, May 8 through June 30 of each year, reveals that if one or more sea turtles are entangled alive in a pound net leader less than 12 inches (30.5 cm) stretched mesh or that one sea turtle is entangled dead and NOAA Fisheries determines that the entanglement contributed to its death, then NOAA Fisheries may determine that additional restrictions are necessary to conserve sea turtles and prevent entanglements. The restrictions that may be implemented are limited to the alternatives previously considered in the EA. These alternatives included: (1) The restriction of all pound net leaders measuring 8 inches (20.3 cm) or greater stretched mesh; (2) the prohibition of all pound net leaders regardless of mesh size; and (3) the restriction of pound net leaders with greater than 16 inches stretched mesh and the modification of all other leaders with stringers by dropping the leader mesh 9 feet below mean low water and spacing stringer lines at least 3 feet apart. The interim final rule stated that should an extension of the effective dates of the prohibition of pound net leaders measuring 12 inches (30.5 cm) or greater stretched mesh and pound net leaders with stringers be necessary or should NOAA Fisheries determine that an additional restriction is warranted, NOAA Fisheries would issue a rule. This rule would explicitly state the duration of the extension of the prohibition or the new mandatory gear restriction and the time period, which could also be extended for up to 30 days but not beyond July 30.

Details concerning the justification for the previous pound net leader restriction regulations and the previous high sea turtle stranding events in

Virginia were provided in the preambles to the proposed rule (67 FR 15160, March 29, 2002) and the interim final rule (67 FR 41196, June 17, 2002) and are not repeated here.

**2003 Pound Net Monitoring**

From April 21 to June 11, 2003, NOAA Fisheries monitored pound net leaders with stretched mesh measuring less than 12 inches (30.5 cm), as well as sea turtle stranding levels and other fisheries active in the Virginia Chesapeake Bay and ocean waters. This monitoring effort resulted in the documentation of 17 sea turtles found in association with pound net leaders. The first documented sea turtle was found impinged on a pound net leader on May 11, and sea turtles were documented in leaders through June 11 when the monitoring program ceased. In total, 12 sea turtles were found held against or impinged on pound net leaders by the current. Of these 12 impingements, 11 were loggerhead sea turtles (one of which was dead) and one was a Kemp's ridley sea turtle (alive). There were an additional five sea turtles found entangled in pound net leaders, of which two were loggerheads (one dead) and three were Kemp's ridleys (two dead). Eleven of the 17 incidents involved leaders measuring 11.5 inches (29.2 cm) stretched mesh, while six of the sea turtles were entangled or impinged in 8 inch (20.3 cm) stretched mesh leaders. Most of the observed sea turtles were found in nets along the Eastern shore of Virginia, but two turtles were found in leaders near Mobjack Bay in the Western Chesapeake Bay.

As stated in the 2002 interim final rule, if even one sea turtle is entangled alive or if one sea turtle is entangled dead, and NOAA Fisheries determines that the entanglement contributed to its death, additional restrictions may be implemented by the publication of a final rule in the **Federal Register**. The spring 2003 monitoring effort documented two live sea turtles entangled in pound net leaders with 11.5 inches (29.2 cm) stretched mesh, and three dead sea turtles entangled in pound net leaders with either 11.5 inches (29.2 cm) or 8 inches (20.3 cm) stretched mesh. NOAA Fisheries believes that there is sufficient information to conclude that the death of these turtles is attributable to entanglement in the pound net leaders, given the degree of entanglement and multiple wrapping of line around their flippers, their decomposition state (fresh dead to moderately decomposed), and their buoyancy (negatively buoyant, which typically suggests recent mortality). Given these monitoring

results documenting the entanglement of sea turtles in leaders with less than 12 inches (30.5 cm) stretched mesh, additional restrictions are warranted.

### 2003 Spring Stranding Event

As mentioned, high strandings of threatened and endangered sea turtles are documented on Virginia beaches each spring. The magnitude of this stranding event has increased in recent years. During May and June, total reported Virginia sea turtle strandings were 84 in 1995, 85 in 1996, 164 in 1997, 181 in 1998, 129 in 1999, 155 in 2000, 265 in 2001, and 182 in 2002. In 2003, preliminary data indicate that 302 dead sea turtles stranded on Virginia beaches during May and June.

The 2003 spring stranding season in Virginia began later than usual. Based upon historical Sea Turtle Stranding and Salvage Network (STSSN) data, strandings in Virginia typically begin in mid-May, with strandings remaining elevated until June 30. In the spring of 2003, water temperatures were relatively cool in Virginia. The first sea turtle stranding was documented on May 18, but stranding levels were relatively low until June. In May, 22 dead animals stranded, and in June, 280 dead sea turtles were documented. The majority of the 2003 spring strandings occurred during the last two weeks in June and continue through July with a total of 27 documented through July 5.

### Approved Measures

To conserve sea turtles, the AA prohibits the use of all pound net leaders in the Virginia waters of the mainstem Chesapeake Bay and portions of the Virginia tributaries effective through July 30, 2003. The area where this gear restriction applies includes the Virginia waters of the mainstem Chesapeake Bay from the Maryland-Virginia state line (approximately 37°55' N. lat., 75°55' W. long.) to the COLREGS line at the mouth of the Chesapeake Bay; the James River downstream of the Hampton Roads Bridge Tunnel (I-64; approximately 36°59.55' N. lat., 76°18.64' W. long.); the York River downstream of the Coleman Memorial Bridge (Route 17; approximately 37°14.55' N. lat., 76°30.40' W. long.); and the Rappahannock River downstream of the Robert Opie Norris Jr. Bridge (Route 3; approximately 37°37.44' N. lat., 76°25.40' W. long.).

NOAA Fisheries recognizes that there may be a localized interaction between sea turtles and pound nets along the Eastern shore, as that is the area where most of the sea turtles have been observed in pound net gear this spring. Given that one or more turtles have been

found entangled live and dead in pound net leaders with less than 12 inch (30.5 cm) stretched mesh, NOAA Fisheries has the authority to implement additional restrictions this year. Under the framework provision included in the 2002 interim final rule, only an option previously analyzed in the EA may be considered. Given the amount of time it takes to order, purchase, and hang a leader and the timing of this rule related to the sunset date (July 30, 2003), restricting leaders with 8 inches (20.3 cm) or greater stretched mesh would be effectively the same as restricting all leaders regardless of mesh size. Further, given the data collected this spring, sea turtle impingement on leaders of various sizes is a more significant problem than originally believed and this impingement may continue to occur on leaders with less than 8 inches (20.3 cm) stretched mesh in the areas where impingements were previously documented. Prohibiting all leaders throughout the Virginia Chesapeake Bay is the only available option that will reduce sea turtle entanglements and impingements in pound net leaders.

As mentioned previously, the Virginia stranding season has been relatively late this year. As strandings were highest in the latter half of June and remained elevated through June 30, NOAA Fisheries believes that elevated strandings could continue into the end of July and that an extension of the prohibition of all pound net leaders is warranted until July 30, 2003.

This prohibition of pound net leaders is effective July 16, 2003, through July 30, 2003. In subsequent years, the original restrictions included in the 2002 interim final rule will be in effect (*i.e.*, restriction of pound net leaders measuring 12 inches (30.5 cm) or greater stretched mesh and pound net leaders with stringers from May 8 to June 30 each year), unless modified or replaced by a new rule. For the duration of this gear prohibition, fishermen are required to stop fishing with all pound net leaders in the designated area.

The year-round reporting and monitoring requirements for this fishery established by the 2002 interim final rule remain in effect.

### Classification

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

The AA finds that providing prior notice and an opportunity to comment on this rule would be impracticable and contrary to the public interest. 50 CFR 223.206(d)(2)(v)(E) allows NOAA Fisheries to modify restrictions on pound net leaders and extend the

effective date of those restrictions until July 30 each year if, in leaders complying with those regulations, one or more sea turtles are found entangled live or one or more sea turtles are found entangled dead and the entanglement contributed to its death. Turtles have recently been found entangled in leaders that comply with the regulations, and are at immediate risk of additional harm if no additional protections are implemented. If NOAA Fisheries were to provide notice and an opportunity to comment, it would pass the July 30 date on which the effectiveness of any restrictions lapses and miss the opportunity to provide additional protections for the sea turtles that will still be in the areas. Therefore, the AA finds good cause exists under 5 U.S.C. 553(b)(B) to waive the requirement for prior notice and opportunity for public comment.

The AA finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day effective date of this final rule. Such a delay would be contrary to the public interest because sea turtles are currently present in Virginia waters and are being subject to entanglement and impingement in pound net leaders and potential subsequent mortality. Any delay in the effective date of this final rule would prevent NOAA Fisheries from meeting its obligations under the ESA to prevent harm to sea turtles.

NOAA Fisheries previously prepared a final regulatory flexibility analysis (FRFA) which describes the impact the 2002 interim final rule would have on small entities. The FRFA considered the potential implementation of the framework provision and the alternative currently proposed for implementation (*i.e.* prohibition of all pound net leaders). Nevertheless, because prior notice and opportunity for 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 are inapplicable.

### List of Subjects 50 CFR Part 223

Administrative practice and procedure, Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements.

Dated: July 10, 2003.

**Rebecca Lent,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

■ For the reasons set forth 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 *et. seq.*; 16 U.S.C. 742a *et. seq.*; 31 U.S.C. 9701.

■ 2. In § 223.206, paragraph (d)(2)(v)(F) is added to read as follows:

### § 223.206 Exceptions to prohibitions relating to sea turtles.

\* \* \* \* \*

(d) \* \* \*

(2) \* \* \*

(v) \* \* \*

(F) *Additional restrictions for pound net leaders through July 30, 2003.* Based upon 2003 spring monitoring results and the framework provision noted in paragraph (d)(2)(v)(E) of this section, from July 16, 2003 to July 30, 2003, all pound net leaders are prohibited and must be removed from the waters described in paragraph (d)(2)(v)(B) of this section.

\* \* \* \* \*

[FR Doc. 03-17873 Filed 7-15-03; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 030227050-3082-02; I.D. 071003E]

### Fisheries of the Northeastern United States; Spiny Dogfish Fishery; Commercial Annual Quota Harvested

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

**ACTION:** Closure; commercial fishery.

**SUMMARY:** NMFS announces that the annual spiny dogfish commercial quota available to the coastal states from Maine through Florida for the fishing year, May 1, 2003 - April 30, 2004, has been harvested. Federally permitted commercial vessels may no longer land spiny dogfish for the duration of the fishing year (through April 30, 2004), whether fishing occurs in the Exclusive Economic Zone (EEZ) or within state waters. Regulations governing the spiny dogfish fishery require publication of this notification to advise the coastal states from Maine through Florida that the quota has been harvested and to advise vessel permit holders and dealer permit holders that no Federal

commercial quota is available for landing spiny dogfish in these states.

**DATES:** Quota period 1 is closed effective at 0001 hrs, local time, July 18, 2003, through 2400 October 31, 2003. Quota period 2 is closed effective at 0001 hrs, local time, November 1, 2003, and remains closed through 2400 hrs local time, April 30, 2004.

**FOR FURTHER INFORMATION CONTACT:** Eric Jay Dolin, Fishery Policy Analyst, at (978) 281-9259, or Eric.Dolin@Noaa.gov.

#### SUPPLEMENTARY INFORMATION:

Regulations governing the spiny dogfish fishery are found at 50 CFR part 648.

The regulations require annual specification of a commercial quota, which is allocated into two quota periods based upon percentages specified in the fishery management plan. The commercial quota is distributed to the coastal states from Maine through Florida as described in § 648.230.

The initial total commercial quota for spiny dogfish for the 2003 fishing year is 4 million lb (1.81 million kg) (68 FR 19160, April 18, 2003). The commercial quota is allocated into two periods (May 1 through October 31, and November 1 through April 30). Vessel possession limits are intended to preclude directed fishing, and they are set at 600 lb (272 kg) and 300 lb (136 kg) for quota periods 1 and 2, respectively. Quota period 1 is allocated 57.9 percent of the quota (2.3 million lb (1.1 million kg)), and quota period 2 is allocated 42.1 percent (1.7 million lb (765,455 kg)) of the commercial quota. The total quota cannot be exceeded, so landings in excess of the amount allocated to quota period 1 have the effect of reducing the quota available to the fishery during quota period 2.

The Administrator, Northeast Region, NMFS (Regional Administrator) monitors the commercial spiny dogfish quota for each quota period and, based upon dealer reports, state data and other available information, determines when the total commercial quota will be harvested. NMFS is required to publish a notification in the **Federal Register** advising and notifying commercial vessels and dealer permit holders that, effective upon a specific date, the Federal spiny dogfish commercial quota will be harvested and no Federal commercial quota is available for landing spiny dogfish for the remainder of a given quota period.

The Regional Administrator has reviewed the performance of the 2002 fishery and the projected impact of the spiny dogfish quota for the 2003 fishing year that was recently adopted by the

Atlantic States Marine Fisheries Commission (ASMFC). Before the 2003 fishing year, the ASMFC Spiny Dogfish and Coastal Shark Management Board instituted an emergency action that closed state waters to the commercial harvest, landing, and possession of spiny dogfish when a Federal closure was enacted. Thus, the Federal quota governed the spiny dogfish fishery in both the EEZ and state waters.

For the 2003 fishing year, however, the ASMFC's spiny dogfish quota is set at 8.8 million lb (4 million kg), which is significantly higher than the Federal quota. The ASFMC plan has the same quota periods as the Federal plan, and the quota is divided between those periods in the same way, with 57.9 percent (5.1 million lb; 2.3 million kg) allocated to period 1 and 42.1 percent (3.7 million lb; 1.7 million kg) allocated to period 2. The ASMFC further divided the quota among the states, with 57.9 percent allocated to Maine, New Hampshire and Massachusetts, combined, and 42.1 percent allocated to Rhode Island and states south. In addition, the ASMFC's plan allows up to a 7,000-lb (3,182-kg) possession limit. Thus, after the Federal quota is reached and the EEZ is closed, the dogfish fishery can continue to be prosecuted in state waters by vessels other than those issued Federal spiny dogfish permits until the higher ASFMC quota is reached. Some of the ASFMC member states have also voluntarily decided to apply the Federal daily possession limit of 600-lb (272 kg) of spiny dogfish throughout much of the summer, most likely up until the middle of August. Other ASMFC member states have opted to institute possession limits up to 7,000 lb (3,182 kg) immediately.

During the 2002 fishing year, the Federal dogfish quota for period 1, which began on May 1, 2002, was taken by July 1 of the same year. Based on the 2002 fishery performance and the fact that some of the states have voluntarily decided to postpone the imposition of the ASMFC's higher possession limit, while others have already instituted the higher possession limit, the Regional Administrator has determined that the period 1 Federal quota for the 2003 fishing year will be harvested by July 18, 2003. Furthermore, the Regional Administrator has determined that, once the 7,000-lb (3,182-kg) possession limit goes into effect, the remainder of the annual Federal quota will be taken in short order, certainly well before the beginning of the second quota period on November 1, 2003. Therefore, this action closes the second quota period of the Federal spiny dogfish fishery at 0001 hrs on November 1, 2003.