

2. Use of hard TEDs with bottom escape openings and special hard TEDs with bottom escape openings is prohibited. Approved hard TEDs and special hard TEDs must be configured with the slope of the deflector bars upward from forward to aft and with the escape opening at the top of the trawl.

3. Use of try nets with a headrope length of 20 ft (6.1 m) or less is prohibited unless an NMFS-approved top-opening, hard TED or special hard TED is installed when the try nets are rigged for fishing.

4. Use of a webbing flap that completely covers the escape opening in the trawl is prohibited. Any webbing which is attached to the trawl, forward of the escape opening, must be cut to a length so that the trailing edge of such webbing does not approach to within 2 inches (5.1 cm) of the posterior edge of the TED grid (see Figure 1). The requirements for the size of the escape opening are unchanged.

All provisions in 50 CFR 227.72(e), including, but not limited to 50 CFR 227.72(e)(2)(ii)(B)(1) (use of try nets), 50 CFR 227.72(e)(4)(iii) (approval of soft TEDs), 50 CFR 227.72(e)(4)(i)(F) (position of escape opening), and 50 CFR 227.72(e)(4)(iv)(C) (webbing flap), that do not conform to these requirements are hereby suspended for the duration of this action.

NMFS hereby notifies owners and operators of shrimp trawlers in the area subject to restrictions that they may be required to carry an NMFS-approved observer aboard such vessel(s) if selected to do so by the Director, Southeast Region, NMFS, upon written notification sent to either the address specified for the vessel registration or documentation purposes, or otherwise served on the owner or operator of the vessel. Shrimp trawlers must comply with the terms and conditions specified in such written notification.

Additional Conservation Measures

The AA may withdraw or modify the requirement for specific conservation measures 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 emergency action, will be published in the **Federal Register** pursuant to 50 CFR 227.72(e)(6).

NMFS will continue to monitor sea turtle strandings to gauge the effectiveness of these conservation measures. If, after these restrictions are instituted, strandings in statistical areas 17, 18, and/or 20 persist at or above 75 percent of the ITL for 2 weeks, NMFS will follow the guidance in the ERP to determine whether to prohibit fishing by some or all shrimp trawlers, as required, in the offshore waters of statistical areas 17, 18, and/or 20 seaward to 10 nm (18.5 km) from the COLREGS line, for a period of 30 days. Contiguous statistical areas or portions of those areas may be included in the closure as necessary. These restrictions may apply to gear types/vessels currently exempted from the TED requirement at 50 CFR 227.72(e)(2)(ii)(A) and/or (B). Area closures will be promulgated through emergency rulemaking notices pursuant to the procedures identified at 50 CFR 227.72(e)(6).

Classification

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

Because neither section 553 of the Administrative Procedure Act (APA), nor any other law requires that general notice of proposed rulemaking be published for this action, and under section 603(b) of the Regulatory Flexibility Act, an initial Regulatory Flexibility Analysis is not required.

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

Pursuant to section 553(b)(B) of the APA, the AA finds there is good cause to waive prior notice and opportunity to comment on this rule. It is impracticable and contrary to the public interest to provide prior notice and opportunity for comment because unusually high levels of turtle strandings have been reported in shrimp fishery statistical areas 18 and 20 and continue to occur as shrimping continues. Any delay in this action will likely result in additional fatal takings of listed sea turtles.

Pursuant to section 553(d) of the APA, the AA finds there is good cause to waive the 30-day delayed effective date. In addition to the need to protect listed sea turtles, these restrictions are expected to impose only a minor burden on shrimp fishermen. The predominant TED design in use in the affected area is a bottom-opening hard grid TED. Bottom-opening hard grid TEDs can be modified to comply with these restrictions in one to two hours. Any webbing flap over the escape opening can be shortened in less than ten minutes. Trawlers equipped with soft TEDs may be required to move out of the affected area, either offshore or alongshore, or to equip their nets with hard TEDs. Hard grid TEDs are available for as little as \$75.00 and take several hours to install. Finally, some fishermen may not elect to equip their try nets with hard grid TEDs. These fishermen would then be unable to monitor their catch rate during long tows.

The AA prepared an EA for the final rule (57 FR 57348, December 4, 1992) requiring TED use in shrimp trawls and establishing the 30-day notice procedures. A supplemental EA has been prepared for this action. Copies of the EA and the supplemental EA are available (see **ADDRESSES**).

Dated: April 27, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

BILLING CODE 3510-22-P