

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-NSCC-96-07) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.⁵

Margaret H. McFarland,

Deputy Secretary.

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SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Collection Request

Normally on Fridays, the Social Security Administration publishes a list of information collection packages that will require submission to the Office of Management and Budget (OMB) for clearance in compliance with P.L. 104-13 effective October 1, 1995, The Paperwork Reduction Act of 1995. Since the last list was published in the Federal Register on April 5, 1996, the information collections listed below have been proposed or will require extension of the current OMB approvals. (Call the SSA Reports Clearance Officer on (410) 965-4123 for a copy of the form(s) or package(s), or write to her at the address listed below the information collections.)

1. *State Report of Incorrect BENDEX Information—0960-0517*. The information collected by form SSA-1086 is used by the Social Security Administration to correct its master database and to facilitate the electronic exchange of data. The respondents are state agencies who provide or receive incorrect information from SSA during the beneficiary data exchange operation.

Number of Respondents: 155
Frequency of Response: 2 times annually
Average Burden Per Response: 10 minutes

Estimated Annual Burden: 52 hours

2. *Government Pension*

Questionnaire—0960-0160. The information collected by form SSA-3885 is used by the Social Security Administration to determine if an

individual's Social Security benefit should be reduced because of his or her receipt of a Government pension. The respondents are claimants for Social Security benefits who receive, or are qualified to receive, a Government pension.

Number of respondents: 76,000

Frequency of Response: 1

Average Burden Per Response: 12.5 minutes

Estimated Annual Burden: 15,833 hours

3. *Final Regulation Regarding Continuation of Full Benefit Standard for Persons Institutionalized—0960-0516*. The information collected by the Social Security Administration will be used to determine if a recipient of Supplemental Security Income benefits who is temporarily institutionalized is eligible to receive a full benefit. The respondents will be such recipients and their physicians.

Number of Respondents: 60,000

Frequency of Response: 1

Average Burden Per Response: 5 minutes

Estimated Annual Burden: 5,000 hours

Written comments and recommendations regarding these information collections should be sent within 60 days from the date of this publication, directly to the SSA Reports Clearance Officer at the following address: Social Security Administration, DCFAM, Attn: Charlotte S. Whitenight, 6401 Security Blvd., 1-A-21 Operations Bldg., Baltimore, MD 21235.

In addition to your comments on the accuracy of the agency's burden estimate, we are soliciting comments on the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

Dated: April 10, 1996.

Charlotte Whitenight,

Reports Clearance Officer Social Security Administration.

[FR Doc. 96-9538 Filed 4-18-96; 8:45 am]

BILLING CODE 4190-29-P

DEPARTMENT OF STATE

[Public Notice 2368]

Revised Notice of Guidelines for Determining Comparability of Foreign Programs for the Protection of Turtles in Shrimp Trawl Fishing Operations

SUMMARY: Section 609 of Public Law 101-162 ("Section 609") provides that

shrimp harvested with technology that may adversely affect certain sea turtles may not be imported into the United States unless there is an annual certification to Congress that the harvesting nation has a regulatory program and an incidental take rate comparable to that of the United States, or, alternatively, that the fishing environment in the harvesting nation does not pose a threat of the incidental taking of sea turtles. This notice revises guidelines used by the Department of State in making such certifications, in accordance with an order issued by the U.S. Court of International Trade on December 29, 1995.

EFFECTIVE DATE: May 1, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Hollis Summers, Office of Marine Conservation, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State, Washington, DC 20520, telephone number (202) 647-3940.

SUPPLEMENTARY INFORMATION: Section 609 provides that shrimp or products from shrimp harvested with commercial fishing technology that may adversely affect certain species of sea turtles protected under U.S. laws and regulations may not be imported into the United States unless the President certifies to Congress by May 1, 1991, and annually thereafter, that:

a. The government of the harvesting nation has provided documentary evidence of the adoption of a regulatory program governing the incidental taking of such sea turtles in the course of such harvesting that is comparable to that of the United States; and

b. The average rate of that incidental taking by vessels of the harvesting nation is comparable to the average rate of incidental taking of sea turtles by United States vessels in the course of such harvesting; or

c. The particular fishing environment of the harvesting nation does not pose a threat of the incidental taking of such sea turtles in the course of such harvesting.

The President has delegated to the Secretary of State the authority to make certifications pursuant to Section 609 (Memorandum of December 19, 1990; 56 FR 357; January 4, 1991).

The relevant species of sea turtles are: loggerhead (*Caretta caretta*), Kemp's ridley (*Lepidochelys kempi*), green (*Chelonia mydas*), leatherback (*Dermochelys coriacea*) and hawksbill (*Erismochelys imbricata*).

The Department of State had previously determined that Congress intended Section 609 to apply only to certain nations in the wider Caribbean/

⁵ 17 CFR 200.30-3(a)(12) (1995).

western Atlantic region. However, on December 29, 1995, Judge Thomas J. Aquilino, Jr., of the U.S. Court of International Trade, issued an order in *Earth Island Institute v. Christopher* (CIT 94-06-00321) requiring that Section 609 applies to shrimp harvested in all foreign nations.

The U.S. program. The foundation of the U.S. program governing the incidental taking of sea turtles in the course of shrimp harvesting is the requirement that commercial shrimp trawl vessels use turtle excluder devices (TEDs), approved in accordance with standards established by the U.S. National Marine Fisheries Service (NMFS), in areas and at times when there is a likelihood of intercepting sea turtles. The goal of this program is to protect sea turtle populations from further decline by reducing the incidental mortality of sea turtles in commercial shrimp trawl operations.

The commercial shrimp trawl fisheries in the United States in which there is a likelihood of intercepting sea turtles occur in the temperate waters of the Gulf of Mexico and the Atlantic Ocean from North Carolina to Texas. With very limited exceptions, all U.S. commercial shrimp trawl vessels operating in these waters must use approved TEDs at all times and in all areas. The only exceptions to this requirement are as follows:

a. Vessels equipped exclusively with the following special types of gear are not required to use TEDs because the nature of their operations does not pose a threat of the incidental drowning of sea turtles: barred beam trawls and/or roller trawls, wing nets, skimmer trawls, and pusher-head trawls. Single try nets are test nets, used briefly to test for shrimp concentrations, need not have TEDs.

b. Vessels whose nets are retrieved exclusively by manual rather than mechanical means are not required to use TEDs because the lack of a mechanical retrieval system necessarily limits tow times to a short duration so as not to pose a threat of the incidental drowning of sea turtles. This exemption applies only to vessels that have no power or mechanical-advantage trawl retrieval system.

c. In exceptional circumstances, where NMFS determines that the use of TEDs would be impracticable because of special environmental conditions such as the presence of algae, seaweed, or debris, or that TEDs would be ineffective in protecting sea turtles in particular areas, vessels are permitted to restrict tow times instead of using TEDs. Such exceptions are generally limited to

30 days. In practice, NMFS has permitted such exceptions only rarely.

With these limited exceptions, all other commercial shrimp trawl vessels operating in waters subject to U.S. jurisdiction in which there is a likelihood of intercepting sea turtles must use TEDs at all times. For more information on the U.S. program governing the incidental taking of sea turtles in the course of commercial shrimp trawl harvesting, see 50 C.F.R. 227.17 and 50 C.F.R. 227.72(e).

Shrimp Harvested in a Manner Not Harmful to Sea Turtles. The Department of State has determined that import prohibitions imposed pursuant to Section 609 do not apply to shrimp or products of shrimp harvested under the following conditions, since such harvesting does not adversely affect sea turtles:

a. Shrimp harvested in an aquaculture facility in which the shrimp spend at least 30 days in ponds prior to being harvested.

b. Shrimp harvested by commercial shrimp trawl vessels using TEDs comparable in effectiveness to those required in the United States.

c. Shrimp harvested exclusively by means that do not involve the retrieval of fishing nets by mechanical devices or by vessels using gear that, in accordance with the U.S. program described above, would not require TEDs.

d. Species of shrimp, such as the pandalid species, harvested in areas in which sea turtles do not occur.

Shrimp Exporter's Declaration. The Department of State has determined that, in order to achieve effective implementation of Section 609 on a world-wide basis, beginning May 1, 1996, all shipments of shrimp and products of shrimp into the United States must be accompanied by a declaration (DSP-121, revised) attesting that the shrimp accompanying the declaration was harvested either under conditions that do not adversely affect sea turtles (as defined above) or in waters subject to the jurisdiction of a nation currently certified pursuant to Section 609. All declaration must be signed by the exporter of the shrimp. A government official of the harvesting nation must also sign those declarations asserting that the accompanying shrimp was harvested under conditions that do not adversely affect sea turtles. The declaration must accompany the shipment through all states of the export process, including in the course of any transshipments and of any transformation of the original product. The Department of State will make copies of the declaration readily

available; local reproduction of the declarations is fully acceptable.

Date of Export. The Department of State has further determined that import prohibitions imposed in 1996 pursuant to Section 609 shall not apply to shipments of shrimp and products of shrimp with a date of export prior to May 1, 1996. In subsequent years, import prohibitions shall not apply to shipments of shrimp and products of shrimp with a date of export falling at a time in which the harvesting nation is currently certified pursuant to Section 609.

Country of Origin. For purposes of implementing Section 609, the country of origin shall be deemed to be the nation in whose waters the shrimp is harvested, whether or not the harvesting vessel is flying the flag of another nation.

Guidelines For Determining Comparability

I. Certification Pursuant to Section 609(b)(2)(C)

Section 609(b)(2)(C) authorizes the Department of State to certify a harvesting nation if the particular fishing environment of the harvesting nation does not pose a threat of incidental taking of sea turtles in the course of commercial shrimp trawl harvesting. Accordingly, the Department of State shall certify any harvesting nation meeting the following criteria without the need for action on the part of the government of the harvesting nation:

a. Any harvesting nation without any of the relevant species of sea turtles occurring in waters subject to its jurisdiction;

b. Any harvesting nation that harvests shrimp exclusively by means that do not pose a threat to sea turtles, e.g., any nation that harvests shrimp exclusively by artisanal means;

c. Any nation whose commercial shrimp trawling operations take place exclusively in waters subject to its jurisdiction in which sea turtles do not occur.

II. Other Certifications

The Department of State shall certify any other harvesting nation by May 1, 1996, and annually thereafter, only if the government of that nation has provided documentary evidence of the adoption of a regulatory program governing the incidental taking of sea turtles in the course of commercial shrimp trawl harvesting that is comparable to that of the United States and if the average take rate of that incidental taking by vessels of the

harvesting nation is comparable to the average take rate of incidental taking of sea turtles by United States vessels in the course of such harvesting.

a. *Regulatory Program.* The Department of State shall assess regulatory programs, as described in the documentary evidence provided by the governments of harvesting nations, for comparability with the U.S. program. Certification shall be made if a program includes the following:

1. *Required Use of TEDs*—a requirement that all commercial shrimp trawl vessels operating in waters in which there is a likelihood of intercepting sea turtles use TEDs at all times. TEDs must be comparable in effectiveness to those used in the United States. Any exceptions to this requirement must be comparable to those of the U.S. program described above; and

2. *Enforcement*—a credible enforcement effort that includes monitoring for compliance and appropriate sanctions.

b. *Incidental Take.* Average incidental take rates will be deemed comparable if the harvesting nation requires the use of TEDs in a manner comparable to that of the U.S. program described above.

c. *Additional Considerations.*

1. *Form*—A regulatory program may be in the form of regulations promulgated by the government of the harvesting nation and having the force of law. If the legal system and industry structure of the harvesting nation permit voluntary arrangements between government and the fishing industry, such an arrangement may be acceptable so long as there is a governmental mechanism to monitor compliance with the arrangement and to impose penalties for noncompliance, and confirmation that the fishing industry is complying with the arrangement.

2. *Documentary Evidence*—Documentary evidence may be in the form of copies of the relevant laws, regulations or decrees. If the regulatory program is in the form of a government-industry arrangement, then a copy of the arrangement is required. Harvesting nations are encouraged to provide, to the extent practicable, information relating to the extent of shrimp harvested by means of aquaculture.

3. *Additional Turtle Protection Measures*—The Department of State recognizes that sea turtles require protection throughout their life cycle, not only in the course of commercial shrimp trawl harvesting. In making the comparability determination, the Department shall also take into account other measures the harvesting nation undertakes to protect sea turtles,

including national programs to protect nesting beaches and other habitat, prohibitions on the directed take of sea turtles, national enforcement and compliance programs, and participation in any international agreement for the protection and conservation of sea turtles.

4. *Consultations*—The Department of State will engage in ongoing consultations with harvesting nations. The Department recognizes that, as turtle protection programs develop, additional information will be gained about the interaction between turtle populations and shrimp fisheries. These Guidelines may be revised in the future to take into consideration that and other information, as well as to take into account changes in the U.S. program.

IV. *Related Determinations*

a. Any harvesting nation that is not certified on May 1 of any year may be certified prior to the following May 1 at such time as the harvesting nation meets the criteria necessary for certification. Conversely, any harvesting nation that is certified on May 1 of any year may have its certification revoked prior to the following May 1 at such time as the harvesting nation no longer meets those criteria.

b. These Guidelines, as revised, do not represent any substantive change in criteria for certification of harvesting nations, previously determined to be covered by Section 609, that do not have waters subject to their jurisdiction outside the wider Caribbean/western Atlantic region. For harvesting nations that have waters subject to their jurisdiction both in the wider Caribbean/western Atlantic region and elsewhere (e.g., in the Pacific ocean), certification will depend on application of the criteria in Sections II and III above in relation to all waters subject to their jurisdiction.

As a matter relating to the foreign affairs function, these guidelines are exempt from the notice, comment, and delayed effectiveness provisions of the Administrative Procedures Act. This action is exempt from Executive Order 12866, and is not subject to the requirements of the Regulatory Flexibility Act.

Dated: April 9, 1996.

For the Secretary of State.

Eileen B. Claussen,

Assistant Secretary for Oceans and International Environmental and Scientific Affairs.

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

National Recreational Trails Funding Program; Certification Requirements

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: The FHWA is announcing certification requirements for States to be eligible to receive allocations through the National Recreational Trails Funding Program, authorized by the National Recreational Trails Fund Act. This notice is intended to inform the public of the requirements that a State must meet to be eligible to receive an allocation under the Trails Program, and to inform the public of the allocations available to a State if the State certifies its eligibility to receive an allocation. The requirements and several attachments, which were distributed to the FHWA's regional and division offices on January 26, 1996, are included in the supplementary information section.

FOR FURTHER INFORMATION CONTACT:

Christopher B. Douwes, Intermodal and Statewide Programs Division, HEP-10, Room 3222, (202) 366-5013; or Robert J. Black, Office of the Chief Counsel, HCC-31, (202) 366-1359; Federal Highway Administration, 400 Seventh St., SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays. This information also is available from FHWA's regional and division offices. These addresses were published in a Federal Register notice on January 4, 1993 (58 FR 128). This information is available for public review and copying at the FHWA, Room 4232, 400 Seventh Street SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: On January 26, 1996, FHWA issued procedures to its regional and division offices for States to certify their eligibility to receive allocations under the National Recreational Trails Fund Act (NRTFA) (Section 1301—1303 of Pub. L. 102-240, 105 Stat. 1914, 2064; Section 337 of Pub. L. 104-59, 109 Stat. 568, 602). The full text of the memorandum and attachments announcing these procedures follows.

Subject: ACTION: Certification of Eligibility for the National Recreational Trails Funding Program (Reply due: June 4, 1996).

From: Associate Administrator for Program Development.

To: Regional Administrators, Federal Lands Highway Program Administrator.