

the Mississippi Director or the Louisiana Secretary, rather than simply disposing of the debris at sea. Proper disposal of debris should help the restoration of the shrimping grounds in the wake of the hurricane. Shrimp trawlers are reminded that regulations under 33 U.S.C. 1901 *et seq.* (Act to Prevent Pollution From Ships) may apply to disposal at sea.

Alternative to Required Use of TEDs; Termination

The Assistant Administrator, at any time, may modify the alternative conservation measures through publication in the **Federal Register**, if necessary to ensure adequate protection of endangered and threatened sea turtles. Under this procedure, the Assistant Administrator may modify the affected area or impose any necessary additional or more stringent measures, including more restrictive tow times or synchronized tow times, if the Assistant Administrator determines that the alternative authorized by this rule is not sufficiently protecting turtles, as evidenced by observed lethal takes of turtles aboard shrimp trawlers, elevated sea turtle strandings, or insufficient compliance with the authorized alternative. The Assistant Administrator may also terminate this authorization for these same reasons, or if compliance cannot be monitored effectively, or if conditions do not make trawling with TEDs impracticable. The Assistant Administrator may modify or terminate this authorization, as appropriate, at any time. A document will be published in the **Federal Register** announcing any additional sea turtle conservation measures or the termination of the tow time option in Mississippi inshore waters. This authorization will expire automatically on November 23, 1998, unless it is explicitly extended through another notification to be published in the **Federal Register**.

Classification

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

The AA has determined that this action is necessary to respond to an emergency situation to allow more efficient fishing for shrimp, while providing adequate protection for endangered and threatened sea turtles pursuant to the ESA and other applicable law.

Pursuant to section 553(b)(B) of the Administrative Procedures Act (APA), the Assistant Administrator finds that there is good cause to waive prior notice and opportunity to comment on this rule. It is impracticable, unnecessary,

and contrary to the public interest to provide prior notice and opportunity for comment. The Assistant Administrator finds that an unusually large amount of debris exists in the aftermath of Hurricane George, creating special environmental conditions that may make trawling with TED-equipped nets impracticable. The Assistant Administrator has determined that the use of limited tow times for the described area and time would not result in a significant impact to sea turtles. Notice and comment are contrary to the public interest in this instance because providing notice and comment would prevent the agency from providing relief within the necessary timeframe. Furthermore, the public had notice and an opportunity to comment on 50 CFR 227.72(e)(3)(ii) when that regulation was finalized.

Pursuant to section 553(d)(1) of the APA, for the reasons cited above, and because this action relieves a restriction, this rule is effective immediately. As prior notice and an opportunity for public comment are not required to be provided for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of 5 U.S.C. 601 *et seq.* are inapplicable.

The Assistant Administrator prepared an Environmental Assessment (EA) for the final rule (57 FR 57348, December 4, 1992) requiring TED use in shrimp trawls and creating the regulatory framework for the issuance of actions such as this. Copies of the EA are available (see **ADDRESSES**).

Dated: October 22, 1998.

Gary C. Matlock,

*Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 971015246-7293-02; I.D. 102298A]

Fisheries of the Northeastern United States; Summer Flounder Fishery; Commercial Quota Harvested for New York

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

ACTION: Commercial quota harvest.

SUMMARY: NMFS announces that the summer flounder commercial quota available to the State of New York has been harvested. Vessels issued a commercial Federal fisheries permit for the summer flounder fishery may not land summer flounder in New York for the remainder of calendar year 1998 unless additional quota becomes available through a transfer. Regulations governing the summer flounder fishery require publication of this notification to advise the State of New York that the quota has been harvested and to advise vessel permit holders and dealer permit holders that no commercial quota is available for landing summer flounder in New York.

DATES: Effective 0001 hours October 27, 1998, through December 31, 1998.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, (978) 281-9273.

SUPPLEMENTARY INFORMATION:

Regulations governing the summer flounder fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned among the coastal states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state are described in § 648.100.

The initial total commercial quota for summer flounder for the 1998 calendar year was set equal to 11,105,636 lb (5,037,432 kg) (62 FR 66304, December 18, 1997). The percent allocated to vessels landing summer flounder in New York is 7.64699 percent, or 849,680 lb (385,408 kg).

Section 648.100(e)(4) stipulates that any overages of commercial quota landed in any state be deducted from that state's annual quota for the following year. In calendar year 1997, a total of 815,741 lb (370,014 kg) were landed in New York, creating a 61,398 lb (27,850 kg) overage that was deducted from the amount allocated for landings in the state during 1998 (63 FR 23227, April 28, 1998). The resulting quota for New York is 788,282 lb (357,559 kg).

Section 648.101(b) requires the Administrator, Northeast Region, NMFS (Regional Administrator), to monitor state commercial quotas and to determine when a state's commercial quota is harvested. The Regional Administrator is further required to publish notification in the **Federal Register** advising a state and notifying Federal vessel and dealer permit holders that, effective upon a specific date, the state's commercial quota has been harvested and no commercial quota is available for landing summer flounder in that state. The Regional

Administrator has determined, based upon dealer reports and other available information, that the State of New York has attained its quota for 1998.

The regulations at § 648.4(b) provide that, as a condition of the permit, Federal permit holders agree not to land summer flounder in any state that the Regional Administrator has determined no longer has commercial quota available. Therefore, effective 0001 hours October 27, 1998, further landings of summer flounder in New York by vessels holding commercial Federal

fisheries permits are prohibited for the remainder of the 1998 calendar year unless additional quota becomes available through a transfer and is announced in the **Federal Register**. Effective October 27, 1998, federally permitted dealers are also advised that they may not purchase summer flounder from federally permitted vessels that land in New York for the remainder of the calendar year, or until additional quota becomes available through a transfer.

Classification

This action is required by 50 CFR part 648 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 22, 1998.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
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