

Service to make "expeditious progress" in adding new species to the lists and thereby necessitates steady work in reducing the number of outstanding candidate species. Issuance of new proposed listings is the first formal step in the regulatory process for listing a species. However, this step provides only limited conservation benefits and the Service believes that issuance of new proposed listings, even for species facing imminent, high-magnitude threats, should therefore be afforded lower priority so long as a large backlog exists of proposed listings for species facing high-magnitude threats.

The Service will conduct a preliminary review of any petition to list a species or change a threatened species to endangered status to determine if an emergency situation exists or if the species would probably be assigned a high listing priority upon completion of a status review. If the initial screening indicates an emergency situation the action will be elevated to Tier 1. The historical record on listing petitions reveals that fewer than 25 percent of all petitions are found to warrant listing.

Processing reclassifications and delistings can provide welcome regulatory relief. The Service regrets that such activities must be accorded Tier 3 priority due to the limited appropriations provided by Congress and the need to devote scarce funds to carry out the overall protective purposes of the Act.

Designation of critical habitat consumes large amounts of the Service's listing appropriation and generally provides only limited conservation benefits beyond those achieved when a species is listed as endangered or threatened. Because critical habitat protections apply only to Federal actions, situations where designating critical habitat provides additional protection beyond that provided by the jeopardy prohibition of section 7 are rare. It is critical during this period to maximize the conservation benefit of every dollar spent in the listing activity. The relatively small amount of additional protection that is gained by designating critical habitat for species that are already listed is greatly outweighed by providing the protections included in sections 7 and 9 to newly-listed species. Therefore, the Service will place higher priority on addressing species that presently have no protection under the Act rather than devoting limited resources to the expensive process of designating critical habitat for species already protected by the Act.

Rules and Findings Currently Near Completion

The Headquarters Office will promptly process any draft final rules to add species to or remove species from the lists, draft proposed listings or delistings, draft petition findings, draft proposed or final critical habitat determinations, and draft withdrawal notices that were in the Washington Office prior to the date of this notice but could not be processed because of the funding constraints or the moratorium. These actions will require little additional work to complete and the Service believes it to be cost-effective to finish up these actions that were inadvertently delayed by the funding constraints. The anticipated number of such actions is fewer than ten.

Notifying the Courts on Matters in Litigation

The Service will assess the relative priority of all section 4 petition and rule-making activities that are the subject of active litigation using this guidance and the 1983 listing priority guidelines. In many cases, simply identifying the tier in which an activity falls will suffice to determine whether the Service will undertake that action during the time this priority guidance is in effect. The Service, through the Office of the Solicitor, will then notify the Justice Department of its priority determination and request that appropriate relief be requested from each district court to allow those species with the highest biological priority to be addressed first. To the extent that the courts do not defer to the Service's priority guidance and the 1983 listing priority guidelines, the Service will of course comply with court orders despite any conservation disruption that may result.

The Service will not elevate the priority of proposed listings for species simply because they are subjects of active litigation. To do so would let litigants, rather than expert biological judgments, control the setting of listing priorities. The Regional Office with responsibility for processing such packages will need to determine the relative priority of such cases based upon this guidance and the 1983 listing priority guidelines and furnish supporting documentation that can be submitted to the relevant Court to indicate where such species fall in the overall priority scheme.

Authority

The authority for this notice is the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.*

Dated: May 10, 1996.
Mollie Beattie,
Director, Fish and Wildlife Service.
[FR Doc. 96-12243 Filed 5-15-96; 8:45 am]
BILLING CODE 4310-55-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 658

[I.D. 050896B]

Shrimp Fishery of the Gulf of Mexico; Texas Closure

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

ACTION: Adjustment of the beginning date of the Texas closure.

SUMMARY: NMFS announces an adjustment of the beginning date of the annual closure of the shrimp fishery in the exclusive economic zone (EEZ) off Texas. The closure is normally from May 15 to July 15 each year. This year the closure will begin on June 1, 1996. The Texas closure is intended to prohibit the harvest of brown shrimp during the major period of emigration from Texas estuaries to the Gulf of Mexico so the shrimp may reach a larger, more valuable size and to prevent the waste of brown shrimp that would be discarded in fishing operations because of their small size.

EFFECTIVE DATE: The EEZ off Texas is closed to trawl fishing from 30 minutes after sunset, June 1, 1996, to 30 minutes after sunset, July 15, 1996, unless the latter date is changed through notification in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Michael E. Justen, 813-570-5305.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico shrimp fishery is managed under the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council and is implemented by regulations at 50 CFR part 658 under the authority of the Magnuson Fishery Conservation and Management Act. The FMP implementing regulations at 50 CFR 658.26 describe the Texas closure and provide for adjustments to the beginning and ending dates by the Director, Southeast Region, NMFS, under specified criteria.

Biological data collected by the Texas Parks and Wildlife Department indicate

that brown shrimp will be leaving the Texas estuaries later than normal. This information and other data meeting the FMP's criteria indicate that beginning the closure on June 1, 1996, is necessary to provide adequate protection of small brown shrimp emigrating from the Texas estuaries.

Accordingly, the time and date as provided at 50 CFR 658.26(a) for beginning the Texas closure is changed from 30 minutes after sunset May 15, 1996, to 30 minutes after sunset on June 1, 1996. During the closure, the area described at 50 CFR 658.26(a) is closed to all trawl fishing, except that a vessel may trawl for royal red shrimp beyond the 100-fathom (183-m) depth contour. The waters of Texas will also be closed commencing at 30 minutes after sunset on June 1, 1996.

The termination date of the Texas closure may be adjusted to conform to the termination date of the closure in the waters of Texas. If adjusted, notification of the revised termination date will be published in the Federal Register.

Classification

This action is authorized by 50 CFR 658.26(b) and is exempt from review under E.O. 12866.

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

Dated: May 10, 1996.

Richard H. Schaefer,
Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96-12346 Filed 5-15-96; 8:45 am]

BILLING CODE 3510-22-F

50 CFR Part 672

[Docket No. 950727194-6118-03; I.D. 062795C]

Groundfish of the Gulf of Alaska; Recordkeeping and Reporting Requirements; General Limitations

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

ACTION: Final rule; technical amendment.

SUMMARY: NMFS issues a technical amendment to the final rule implementing regulations for recordkeeping and reporting under the authority of the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA) and the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (BSAI). This action corrects the definition for "fishing trip."

EFFECTIVE DATE: May 16, 1996.

FOR FURTHER INFORMATION CONTACT:

Patsy A. Bearden, 907-586-7228.

SUPPLEMENTARY INFORMATION: The final rule implementing recordkeeping and reporting requirements for the GOA and BSAI was published in the Federal Register on February 13, 1996 (61 FR 5608). The rule consolidated and revised recordkeeping and reporting requirements for the GOA and BSAI groundfish fisheries, including revisions to various definitions for the term, "fishing trip." Several very similar definitions for the term had existed previously and were to be reconciled and consolidated into one definition for the term in the final rule. The definition for "fishing trip" used to calculate maximum retainable bycatch amounts and retention of pollock roe in the GOA were found at § 672.20(h)(2) and (i)(4). Similar but slightly different definitions for this term as it applied to the BSAI also were found at § 675.20(i)(2) and (j)(4). Inadvertently, the reconciled definition in the final rule did not include some of the language of the original definitions.

The final rule implementing the recordkeeping and reporting requirements specified that an operator of a vessel is engaged in a fishing trip from the time the harvesting, receiving, or processing is begun or resumed until the transfer or offloading of all groundfish product, the vessel leaves the area where fishing activity commenced, or the end of a weekly reporting period, whichever occurs first. NMFS is amending the regulation to correct that definition to specify that a single fishing trip in an area continues until the offload or transfer of all groundfish or groundfish product, the vessel enters or leaves an area to which a directed fishing prohibition applies, or the end of a weekly reporting period, whichever occurs first. This change is based on language from earlier definitions and is designed to add additional precision and clarity concerning when a fishing trip begins and ends.

Classification

Because this technical amendment makes only minor, non-substantive corrections to an existing rule, notice and public procedure thereon and a delay in effective date would serve no purpose. Accordingly, under 5 U.S.C. 553(b)(B) and (d), notice and public procedure thereon and a delay in effective date are unnecessary.

Because this rule is being issued without prior comment, it is not subject to the Regulatory Flexibility Act

requirement for a regulatory flexibility analysis and none has been prepared.

This rule makes minor technical changes to a rule that has been determined to be not significant under E.O. 12866. No changes in the regulatory impact previously reviewed and analyzed will result from implementation of this technical amendment.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements

Dated: May 9, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For reasons set out in the preamble 50 CFR part 672 is amended to read as follows:

PART 672—GROUND FISH OF THE GULF OF ALASKA

1. The authority citation for part 672 continues to read as follows:

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

2. In § 672.20, paragraph (h)(2) is revised to read as follows:

§ 672.20 General limitations.

* * * * *

(h) * * *

(2) *Fishing trip.* For purposes of this section, an operator of a vessel is engaged in a single fishing trip in an area from the time the harvesting, receiving, or processing of groundfish is begun or resumed until:

(i) The offload or transfer of all groundfish or groundfish product from that vessel;

(ii) The vessel enters or leaves an area to which a directed fishing prohibition applies; or

(iii) The end of a weekly reporting period, whichever comes first.

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[FR Doc. 96-12240 Filed 5-15-96; 8:45 am]

BILLING CODE 3510-22-F

50 CFR Part 672

[Docket No. 960129018-6018-01; I.D. 051096D]

Groundfish of the Gulf of Alaska; Shallow-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska

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

ACTION: Closure.