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[FR Doc. 2013-11296 Filed 5-13-13; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 622**

[Docket No. 940846-4348]

RIN 0648-XC683

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery of the Gulf of Mexico; Texas Closure

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS announces an adjustment to the start 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. For 2013, the closure will begin on May 23. The Texas closure is intended to prohibit the harvest of brown shrimp during the major period of emigration of these shrimp from Texas estuaries to the Gulf of Mexico (Gulf) 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.

DATES: Effective 30 minutes after sunset, May 23, 2013, to 30 minutes after sunset, July 15, 2013, unless the latter date is changed through notification in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Steve Branstetter, telephone: 727-824-5305, email: Steve.Branstetter@noaa.gov.

SUPPLEMENTARY INFORMATION: The Gulf 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 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations at 50 CFR 622.55(a) describe the Texas closure and provide for adjustments to the start and end dates by the Regional Administrator, Southeast Region, NMFS, (RA) under specified criteria.

The Texas closure in Federal waters is set to coincide with the Texas closure in state waters, after a determination has been made by Texas Parks and Wildlife Department (TPWD) of the start date of the closure. The start and end dates of the Texas closure are based on biological sampling by TPWD. This sampling is used to project when brown shrimp in Texas bays and estuaries will reach a mean size of 3.54 in (90 mm), and begin strong emigrations out of the bays and estuaries during maximum duration ebb tides. Sampling during the spring of 2013 indicates that brown shrimp will be leaving the Texas estuaries later than normal. Thus, state waters off Texas will close starting 30 minutes after sunset on May 23, 2013. NMFS, therefore, will also close Federal waters off Texas starting 30 minutes after sunset on May 23, 2013. NMFS is adjusting the closure date to maximize fishing opportunities in Federal waters to shrimp trawling. During the closure, the EEZ off Texas is closed to all trawl fishing, except for vessels trawling for royal red shrimp beyond the 100-fathom (183-m) depth contour.

The end date of the Texas closure is based on continued sampling by TPWD to develop projections of when brown shrimp will reach a mean size of 4.41 in (112 mm), and when maximum duration ebb tides will occur. If there is

a need to adjust the July 15 date for the end of the closure, notification of the revised end date will be published in the **Federal Register**.

Classification

The RA has determined this temporary rule is necessary for the conservation and management of the Gulf shrimp fishery and is consistent with the Magnuson-Stevens Act, the FMP, and other applicable laws.

This action is taken under 50 CFR 622.55(a) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive the requirements to provide prior notice and opportunity for public comment on this temporary rule. Such procedures are unnecessary because regulations to adjust the start date of the annual closure of the shrimp fishery in the EEZ off Texas, located at 50 CFR 622.55(a), have already been subject to notice and comment and authorize the RA to adjust the closing and/or opening date of the Texas closure by filing a notification with the Office of the Federal Register. All that remains is to notify the public of the adjusted closing date of the Texas closure for Gulf shrimp for the 2013 fishing year.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: May 9, 2013.

James P. Burgess,

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

[FR Doc. 2013-11403 Filed 5-13-13; 8:45 am]

BILLING CODE 3510-22-P