

of hollow pipe that incorporate a bent angle at the escape opening, in a bottom-opening configuration. In addition, the installation angle of a hard TED in the trawl extension is an important performance element in excluding debris from the trawl. High installation angles can result in debris clogging the bars of the TED; NMFS recommends an installation angle of 45°, relative to the normal horizontal flow of water through the trawl, to optimize the TED's ability to exclude turtles and debris. Furthermore, the use of accelerator funnels, which are allowable modifications to hard TEDs, is not recommended in areas with heavy amounts of debris or vegetation. Lastly, the webbing flap that is usually installed to cover the turtle escape opening may be modified to help exclude debris quickly: the webbing flap can either be cut horizontally to shorten it so that it does not overlap the frame of the TED or be slit in a fore-and-aft direction to facilitate the exclusion of debris. The use of the double cover flap TED will also aid in debris exclusion.

All of these recommendations represent legal configurations of TEDs for shrimpers fishing in the affected areas. This action does not authorize any other departure from the TED requirements, including any illegal modifications to TEDs. In particular, if TEDs are installed in trawl nets, they may not be sewn shut.

#### Alternative to Required Use of TEDs

The authorization provided by this rule applies to all shrimp trawlers that would otherwise be required to use TEDs in accordance with the requirements of 50 CFR 223.206(d)(2) who are operating in the state waters of Alabama and Mississippi, and the state waters of Louisiana from the Mississippi/Louisiana border to a line at 90° 03' 00" West longitude (approximately the west end of Grand Isle) for a period of 30 days. Instead of the required use of TEDs, shrimp trawlers may opt to comply with the sea turtle conservation regulations by using restricted tow times.

#### Alternative to Required Use of TEDs; Termination

The AA, at any time, may withdraw or modify this temporary authorization to use tow time restrictions in lieu of TEDs, through publication of a notice in the **Federal Register**, if necessary to ensure adequate protection of endangered and threatened sea turtles. Under this procedure, the AA may modify the affected area or impose any necessary additional or more stringent measures, including more restrictive

tow times, synchronized tow times, or withdrawal of the authorization if the AA determines that the alternative authorized by this rule is not sufficiently protecting turtles or no longer needed. The AA may also terminate this authorization if information from enforcement, state authorities, or NMFS indicate compliance cannot be monitored effectively. This authorization will expire automatically on November 12, 2004, unless it is explicitly extended through publication 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 applicable regulations.

Pursuant to 5 U.S.C. 553(b)(3)(B), the AA finds that there is good cause to waive prior notice and opportunity to comment on this temporary rule as such procedures are impracticable and contrary to the public interest. Unusually high amounts of debris are creating special environmental conditions that make trawling with TED-equipped nets impracticable. Providing notice and comment would prevent the agency from providing relief within the necessary time frame because shrimp loss and sea turtle lethal take is likely to occur in the interim period prior to finalizing this temporary rule. These resources would be impacted unnecessarily through a notice and comment period process.

For the same reasons, the AA finds that there is good cause to waive the 30-day delay in effective date pursuant to 5 U.S.C. 553(d)(3). The temporary rule grants a short-term exemption to the requirement to use TEDs, and, therefore, allows fishermen to choose between deploying TEDs or using tow-times. This temporary rule relieves a restriction and is not subject to a 30-day delay in effective date, pursuant to 5 U.S.C. 553(d)(1). NMFS is making the rule effective October 12, 2004 through November 12, 2004.

Since prior notice and an opportunity for public comment are not required to be provided for this action by 5 U.S.C. 553, or by any other law, the analytical requirements of 5 U.S.C. 601 *et seq.* are inapplicable.

The AA prepared an Environmental Assessment (EA) for this rule. Copies of the EA are available (see **ADDRESSES**).

Dated: October 12, 2004.

**Rebecca Lent**,

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 040618188-4265-02; I.D. 061404A]

RIN 0648-AS26

#### Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Correction

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

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects a final rule that implemented Amendment 16-3 to the Pacific Coast Groundfish Fishery Management Plan (FMP). This document corrects amendatory instruction 2.

**DATES:** Effective October 28, 2004.

**FOR FURTHER INFORMATION CONTACT:** Jamie Goen (Northwest Region, NMFS), phone: (206) 526-4646; fax: 206-526-6736; and email: [jamie.goen@noaa.gov](mailto:jamie.goen@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access

This final rule also is accessible via the Internet at the Office of the **Federal Register's** website at [www.gpoaccess.gov/fr/index/html](http://www.gpoaccess.gov/fr/index/html) and at the NMFS Northwest Region website at [www.nwr.noaa.gov/1sustfish/gfsh/gdfsh/gdfsh01.html](http://www.nwr.noaa.gov/1sustfish/gfsh/gdfsh/gdfsh01.html).

##### Background

NMFS published a final rule implementing Amendment 16-3 on September 28, 2004 (69 FR 57874). That final rule updated the list of rockfish species defined in the Code of Federal Regulations to match that listed in the FMP and corrected dusty rockfish to read dusky rockfish. In that final rule, dusty rockfish was mistakenly listed as dusky rockfish in the instruction language for which species was to be removed. This document corrects that amendatory instruction language.

**Correction**

As published, the final rule FR Doc. 04-21691, September 28, 2004, (69 FR 57874), contains an error and needs to be corrected.

**§ 660.302 [Corrected]**

1. On page 57881, in the third column, amendatory instruction 2 is corrected to read "In § 660.302, in the definition of "Groundfish," under

"Rockfish:" remove "dusty rockfish, *S. ciliatus*," and add "chameleon rockfish, *S. phillipsi*," "dwarf-red rockfish, *S. rufinanus*," "dusky rockfish, *S. ciliatus*," "freckled rockfish, *S. lentiginosus*," "half-banded rockfish, *S. semicinctus*," "pinkrose rockfish, *S. simulator*," "pygmy rockfish, *S. wilsoni*," and "swordspine rockfish, *S. ensifer*" in alphabetical order to read as follows:"

All other information previously published remains the same.

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

Dated: October 7, 2004.

**William T. Hogarth,**

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

[FR Doc. 04-23062 Filed 10-14-04; 8:45 am]

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