

## Background

Regulations such as those at 50 CFR 17.40(c) are promulgated under section 4(d) of the Act and are referred to as “4(d) rules.” These rules apply only to threatened species. Petitions to amend 4(d) rules are petitions under the Administrative Procedure Act (APA; 5 U.S.C. 553(e)) and are considered in accordance with 50 CFR 424.10; 424.14(a), (j), and Departmental regulations at 43 CFR part 14. A final rule published in 1990 reclassified all Tonkin snub-nosed monkeys from threatened to endangered (55 FR 39414, September 27, 1990), so the provisions of the 4(d) rule can no longer be applied to this endangered species.

Accordingly, we are publishing this final rule without a prior proposal because this is a noncontroversial action that does not alter the regulatory protections afforded to this species and is a technical correction necessary to bring our regulations into conformity with the Act.

## Previous Federal Actions

In 1976, as part of a decision to list 26 species of primates as threatened or endangered under the Act, the Service proposed to list Tonkin snub-nosed monkeys as a threatened species (41 FR 16466, April 19, 1976) and subsequently finalized the listing (41 FR 45990, October 19, 1976). In the same rulemaking, Tonkin snub-nosed monkeys were included in a new 4(d) rule for threatened primates at 50 CFR 17.40(c).

In 1990, all Tonkin snub-nosed monkeys were reclassified from threatened to endangered (55 FR 39414, September 27, 1990).

In both the proposed rule and final rule reclassifying the species from threatened to endangered status (55 FR 1486, January 16, 1990; 55 FR 39414, September 27, 1990), the Service indicated through the informational text “NA” (not applicable) in the “Special rules” column of the List at 50 CFR 17.11(h) that there are no 4(d) rules for that particular species. However, we failed to make the corresponding change to 50 CFR 17.40(c) to reflect the fact that the provisions there no longer applied to the now-endangered Tonkin snub-nosed monkey.

## Taxonomy

The terms monkey and langur are both used interchangeably in the common name for this species. However, the International Union for Conservation of Nature (IUCN) Red List, the Convention on International Trade in Endangered Species of Wild Fauna

and Flora (CITES), the Integrated Taxonomic Information System (ITIS), and the List at 50 CFR 17.11(h) all use the term “monkey” for this species.

The Tonkin snub-nosed monkey is currently listed in § 17.40(c)(1) as “Tonkin snub-nosed langur (*Pygathrix [Rhinopithecus] avunculus*).” The snub-nosed monkeys of the genus *Rhinopithecus* were formerly listed as a subgenus of *Pygathrix*, but *Rhinopithecus* was elevated to the full genus level in 2001 (Groves 2001, p. 287). This taxonomic change is now widely accepted in the scientific community, including CITES (CITES 2017, p. 5), ITIS (ITIS 2017, unpaginated), and IUCN Red List (IUCN 2017, unpaginated). Therefore, in this final rule we refer to the species as Tonkin snub-nosed monkey (*Rhinopithecus avunculus*), which is also how the species is presented in the List at 50 CFR 17.11(h).

## Administrative Procedure

As explained above, this rulemaking is necessary to bring our regulations into compliance with the Act. Therefore, under these circumstances, we have determined, pursuant to 5 U.S.C. 553(b)(3)(B), that prior notice and opportunity for public comment are impractical and unnecessary. Public opportunity for comment is simply not required when an agency amends a regulation to remove regulatory provisions that are not consistent with law. Such action is ministerial in nature and allows for no discretion on the part of the agency. Thus, public comment could not inform this process in any meaningful way. We have further determined, pursuant to 5 U.S.C. 553(d)(3), that the agency has good cause to make this rule effective upon publication, which is to comply with the Act as soon as practicable.

## List of References Cited

A list of the references cited in this final rule is provided in Docket No. FWS-HQ-ES-2017-0026 at <http://www.regulations.gov>.

## List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

## Regulation Promulgation

Accordingly, we hereby amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

## PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

**Authority:** 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

### § 17.40 [Amended]

■ 2. Amend § 17.40(c)(1) by:  
 ■ a. Adding the word “and” before “purple-faced langur (*Presbytis senex*)”; and  
 ■ b. Removing the phrase “; and Tonkin snub-nosed langur (*Pygathrix [Rhinopithecus] avunculus*)”.

Dated: August 30, 2017.

**James W. Kurth,**

*Acting Director, U.S. Fish and Wildlife Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket Nos. 090206140–91081–03 and 120405260–4258–02]

RIN 0648–XF673

### Authorization of Revised Reporting Requirements Due to Catastrophic Conditions for Federal Seafood Dealers in Texas and Portions of Louisiana

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

**ACTION:** Temporary rule; determination of catastrophic conditions.

**SUMMARY:** In accordance with the regulations implementing the individual fishing quota (IFQ) and Federal dealer reporting programs specific to the commercial reef fish and coastal migratory pelagic (CMP) fisheries in the Gulf of Mexico (Gulf), the Regional Administrator, Southeast Region, NMFS (RA) has determined that Hurricane Harvey has caused catastrophic conditions in coastal and adjacent counties in the state of Texas, and Cameron and Vermilion parishes in Louisiana. Consistent with those regulations, the RA has authorized any dealer in the affected area who does not have access to electronic reporting to delay reporting of trip tickets to NOAA Fisheries from September 1, 2017, through October 15, 2017. The RA has

also authorized IFQ participants within this affected area to use paper-based forms, if necessary, for basic required administrative functions, *e.g.*, landing transactions, from September 1, 2017, through October 15, 2017. This temporary rule announcing the determination of catastrophic conditions and allowance of alternative methods for completing required IFQ and other dealer reporting administrative functions is intended to facilitate continuation of IFQ and dealer reporting operations during the period of catastrophic conditions. NMFS will continue to monitor and evaluate conditions. A subsequent **Federal Register** document will be published, if needed.

**DATES:** The RA is authorizing applicable Federal dealers reporting within this affected area to use revised reporting methods from September 1, 2017, through October 15, 2017.

**FOR FURTHER INFORMATION CONTACT:** IFQ Customer Service, telephone: 866-425-7627, fax: 727-824-5308, email: [SER-IFQ.Support@noaa.gov](mailto:SER-IFQ.Support@noaa.gov). For federal dealer reporting, Fisheries Monitoring Branch, telephone: 305-361-4581.

**SUPPLEMENTARY INFORMATION:** The reef fish fishery of the Gulf of Mexico is managed under the Fishery Management Plan (FMP) for Reef Fish Resources of the Gulf of Mexico, prepared by the Gulf of Mexico Council. The fishery for CMP fish (king mackerel, Spanish mackerel, and cobia) is managed under the FMP for the CMP Resources of the Gulf of Mexico and South Atlantic. Both FMPs are implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

The Generic Dealer Amendment established Federal dealer reporting requirements for federally permitted dealers in the Gulf and South Atlantic (79 FR 19490, April 9, 2014). Amendment 26 to the FMP established an IFQ program for the commercial red snapper component of the Gulf reef fish fishery (71 FR 67447, November 22, 2006). Amendment 29 to the FMP established an IFQ program for the commercial grouper and tilefish components of the Gulf reef fish fishery (74 FR 44732, August 31, 2009). Regulations implementing these IFQ programs (50 CFR 622.21 and 622.22) and the dealer reporting requirements (50 CFR 622.5(c)) require that Federal dealers and IFQ participants have access to a computer and Internet and that they conduct administrative functions associated with dealer reporting and the

IFQ program, *e.g.*, landing transactions, online. However, these regulations also specify that during catastrophic conditions, as determined by the RA, the RA may waive or modify the reporting time requirements for dealers and authorize IFQ participants to use paper-based forms to complete administrative functions for the duration of the catastrophic conditions. The RA must determine that catastrophic conditions exist, specify the duration of the catastrophic conditions, and specify which participants or geographic areas are deemed affected.

Hurricane Harvey made landfall between Port Aransas and Port O'Connor, Texas, as a Category 4 hurricane on August 25, 2017. Strong winds and flooding from this hurricane impacted communities throughout coastal and eastern Texas and southwest Louisiana, resulting in power outages and damage to homes, businesses, and infrastructure. As a result, the RA has determined that catastrophic conditions exist in all coastal and adjacent counties of Texas and in Cameron and Vermilion Parishes, Louisiana. Through this temporary rule, the RA is authorizing Federal dealers to delay reporting of trip tickets to NOAA Fisheries and IFQ participants within this affected area to use paper-based forms, from September 1, 2017, through October 15, 2017. NMFS will provide additional notification to affected participants via NOAA weather radio, Fishery Bulletins, and other appropriate means. NOAA Fisheries will continue to monitor and re-evaluate the areas and duration of the catastrophic conditions.

Dealers may delay electronic reporting of trip tickets to NOAA Fisheries during catastrophic conditions. Dealers are to report all landings to NOAA Fisheries as soon as possible. Assistance for Federal dealers in effected areas is available at the Fisheries Monitoring Branch, 1-305-361-4581. NMFS previously provided IFQ dealers with the necessary paper forms (sequentially coded) and instructions for submission in the event of catastrophic conditions. Paper forms are also available from the RA upon request. The electronic systems for submitting information to NMFS will continue to be available to all participants, and participants in the affected area are encouraged to continue using these systems, if accessible.

The administrative program functions available to participants in the area affected by catastrophic conditions will be limited under the paper-based system. There will be no mechanism for transfers of IFQ shares or allocation

under the paper-based system in effect during catastrophic conditions. Assistance in complying with the requirements of the paper-based system will be available via the Catch Share Support line, 1-866-425-7627 Monday through Friday, between 8 a.m. and 4:30 p.m. eastern time.

#### Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of reef fish and CMP species managed under the Gulf IFQ Programs and the Federal dealer reporting programs, and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.5(c), 622.21(a)(3)(iii), and 622.22(a)(3)(iii), and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because this 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 the rules implementing the Gulf IFQ programs and Federal dealer reporting have already been subject to notice and public comment. These rules authorize the RA to determine when catastrophic conditions exist, and which participants or geographic areas are deemed affected by catastrophic conditions. The rules also authorize the RA to provide timely notice to affected participants via publication of notification in the **Federal Register**, NOAA Weather Radio, Fishery Bulletins, and other appropriate means. All that remains is to notify the public that catastrophic conditions exist and that paper forms may be utilized in the affected area and that Federal dealers may submit delayed reports. Additionally, delaying this temporary rule to provide prior notice and opportunity for public comment would be contrary to the public interest because affected participants are still fishing for and receiving these species in the affected area and need a means of completing their landing transactions. With the power outages and damages to infrastructure that have occurred in the affected area due to Hurricane Harvey, numerous businesses are unable to complete landings transactions and dealer reports electronically. In order to continue with their businesses, they need to be aware they can still complete

landing transactions and dealer reports using the paper forms.

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: September 1, 2017.

**Alan D. Risenhoover,**

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

[FR Doc. 2017-18963 Filed 9-1-17; 4:15 pm]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 160920866-7167-02]

RIN 0648-XF653

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher/Processors Using Trawl Gear in the Central Regulatory Area of the Gulf of Alaska

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

**ACTION:** Temporary rule; modification of a closure; request for comments.

**SUMMARY:** NMFS is opening directed fishing for Pacific cod by catcher/processors using trawl gear in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to fully use the 2017 total allowable catch apportioned to catcher/processors using trawl gear in the Central Regulatory Area of the GOA.

**DATES:** Effective 1200 hours, Alaska local time (A.l.t.), September 1, 2017, through 1200 hours, A.l.t., November 1, 2017. Comments must be received at the following address no later than 4:30 p.m., A.l.t., September 15, 2017.

**ADDRESSES:** Submit your comments, identified by NOAA-NMFS-2016-0127, by either of the following methods:

- *Federal e-Rulemaking Portal:* Go to [www.regulations.gov](http://www.regulations.gov)/  
#/docketDetail;D=NOAA-NMFS-2016-0127, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

**Instructions:** NMFS may not consider comments if they are sent by any other method, to any other address or individual, or received after the comment period ends. All comments received are a part of the public record and NMFS will post the comments for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender is publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

**FOR FURTHER INFORMATION CONTACT:**

Obren Davis, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679. Regulations governing sideboard protections for GOA groundfish fisheries appear at subpart B of 50 CFR part 680.

NMFS closed directed fishing for Pacific cod by catcher/processors using trawl gear in the Central Regulatory Area of the GOA under § 679.20(d)(1)(iii) on January 1, 2017, pursuant to the final 2017 and 2018 harvest specifications for groundfish of the Gulf of Alaska (82 FR 12032, February 27, 2017).

NMFS has determined that as of August 29, 2017, approximately 970 metric tons of Pacific cod remain in the 2017 Pacific cod apportionment for catcher/processors using trawl gear in the Central Regulatory Area of the GOA. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully use the 2017 total allowable catch (TAC) of Pacific cod in the Central Regulatory Area of the GOA, NMFS is terminating the previous closure and is opening directed fishing for Pacific cod by catcher/processors using trawl gear in the Central Regulatory Area of the GOA. The Administrator, Alaska Region, NMFS, (Regional Administrator) considered the following factors in reaching this decision: (1) The current catch of Pacific cod by catcher/processors using trawl gear in the Central Regulatory Area of the GOA

and, (2) the harvest capacity and stated intent on future harvesting patterns of vessels in participating in this fishery.

#### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of directed fishing for Pacific cod by catcher/processors using trawl gear in the Central Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of August 29, 2017.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Without this inseason adjustment, NMFS could not allow the fishery for Pacific cod by catcher/processors using trawl gear in the Central Regulatory Area of the GOA to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until September 15, 2017.

This action is required by § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: August 30, 2017.

**Alan D. Risenhoover,**

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

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