

Amend. #2

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric
Administration****50 CFR Part 658****[Docket No. 40322-37]****Shrimp Fishery of the Gulf of Mexico****AGENCY:** National Oceanic and
Atmospheric Administration (NOAA),
Commerce.**ACTION:** Final rule.

SUMMARY: NOAA issues this final rule to implement the mandatory reporting of statistical data by shrimp fishermen, dealers, and processors. The Fishery Management Plan for the Shrimp Fishery in the Gulf of Mexico, approved in 1980, contained a management measure requiring the reporting of shrimp landing statistics. Regulations to implement this provision were reserved until the National Marine Fisheries Service designed a reporting system approved by the Gulf of Mexico Fishery Management Council. This system has been developed and approved and is implemented by this final rule. The intended effect of this rule is to provide for timely reporting of shrimp catch data during the fishing season.**EFFECTIVE DATE:** May 31, 1984.**ADDRESS:** A copy of the Final Supplemental Regulatory Impact Review may be obtained from Donald W. Geagan, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.**FOR FURTHER INFORMATION CONTACT:**
Donald W. Geagan, 813-893-3722.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP) was approved May 29, 1980, under authority of the Magnuson Fishery Conservation and Management Act, as amended (Magnuson Act). Final regulations implementing the FMP were published in the Federal Register on May 20, 1981 (46 FR 27494). The FMP contains a provision for the accumulation of shrimp landings information necessary for responsive management of the fishery. However, because the data collection system had not been developed when the regulations were implemented, one section of the regulations, 50 CFR 658.5, was reserved. The National Marine Fisheries Service (NMFS) is responsible for the design (subject to review by the Gulf of Mexico Fishery Management Council (Council)) implementation, and management of the data collection system.

NMFS has now designed and the Council has approved a statistical data collection system which essentially makes mandatory the voluntary reporting program utilized in this fishery since 1956. This final rule implements that system.

The proposed rulemaking (48 FR 42840, September 20, 1983) contained a discussion of the need for the mandatory reporting and a description of data collection procedures. These are not repeated here.

Response to Comments

Two commenters (a shrimp association and a national fishing organization) opposed the requirement for immediately reporting price and volume information. Delayed reporting of this information was considered by the Council prior to the publication of the proposed regulations, but was rejected because: (1) It is unnecessary to protect confidentiality of current bid prices since dealers will be providing current box weight and box weight prices rather than prices for packed and graded shrimp, (2) it would significantly add to the cost of and disrupt a stable data collection and analysis system, and (3) it would reduce the information available for those management decisions which are time critical.

The same national fishing organization suggested that prior to implementation of the proposed mandatory reporting NMFS insure that industry is supportive of the program in order that accurate data will be reported. Industry representatives at public hearings, as well as Council meetings, substantiated the need for accurate data, and indicated general

support for the proposed system. Additionally, the commenter suggested that NMFS insure that data collection be uniform throughout the Gulf. The system which will be implemented under this rule is Gulf-wide and the same criteria and data reporting requirements will apply to all resource users.

Marine resource agencies for the States of Texas and Louisiana objected to the application of the reporting requirements to shrimping activities occurring within State waters. These agencies indicated that such action would constitute preemption of State authority and impact on present and future State laws. NMFS disagrees that this action preempts State authorities, as a matter of law. A State is free to require the submission of information from shrimp fishermen, dealers and processors without conflicting with the Magnuson Act. Furthermore, there is no conflict between Federal and State requirements: NMFS collects shrimp statistics under the current voluntary data gathering programs for both States under cooperative agreements.

Effective management of the shrimp resource in the Gulf requires comprehensive and uniform data collection. Stock assessment, maximum sustainable yield calculations and optimum yield determinations must be based upon information gathered from State waters as well as the fishery conservation zone (FCZ). Were NMFS to accept and implement the comments of these marine resource agencies, its ability to properly manage the shrimp resource throughout the Gulf would be unacceptably limited.

Changes From the Proposed Rule

The final rule clarifies § 658.5(b)(1) to require the reporting of vessel name and official number.

Classification

The Assistant Administrator for Fisheries, NOAA, after considering all comments on the proposed regulatory amendment has determined that this regulatory amendment is necessary and appropriate for conservation and management of the fishery and is consistent with the national standards and other provisions of the Magnuson Act, and other applicable law.

It was previously determined, on the basis of a regulatory impact review (RIR), that rules to implement the FMP, except for this measure, were not major under Executive Order 12291. The RIR was summarized in the preamble to the final rules for the FMP (see 46 FR 27493). A final supplemental RIR, prepared for this regulatory amendment, does not alter the findings of the previous RIR.

The General Counsel of the Department of Commerce has certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities because the regulatory amendment simply adds a mandatory requirement to an already existing data collection system and very limited additional economic impacts will be experienced. As a result, a regulatory flexibility analysis was not prepared.

This rule contains a collection of information requirement subject to the Paperwork Reduction Act (PRA). The mandatory collection of this information has been approved by the Office of Management and Budget (OMB control number 0648-0013) through September 30, 1986.

This action is part of a previous Federal action for which a final environmental impact statement (EIS) was prepared. The final EIS for the FMP was filed with the Environmental Protection Agency and the notice of availability was published on March 13, 1981 (46 FR 16720).

The Council determined that this rule does not directly affect the coastal zone of any State with an approved coastal zone management program.

List of Subjects in 50 CFR Part 658

Fisheries, Reporting requirements.

Dated: April 25, 1984.

Carmen J. Blondin,
Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR Part 658 is amended as follows:

PART 658—SHRIMP FISHERY OF THE GULF OF MEXICO

1. The authority citation for Part 658 reads as follows:

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

2. In Part 658, the Table of Contents is amended by revising the heading for § 658.5 from "Recordkeeping and reporting [Reserved]" to read "Reporting requirements."

3. In § 658.2, the definition of *Statistical area* is added in alphabetical order to read as follows:

§ 658.2 Definitions.

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Statistical area means one or more of the 21 statistical grids depicted in Figure 5. In addition, the term includes the following "inside" water areas:

"Inside" water area	Code No.	"Inside" water area	Code No.	"Inside" water area	Code No.
Charlotte Harbor, FL.....	4.1	Lakes Borgne and Pontchartrain, LA.....	12.1	Sabine Lake, TX.....	17.2
Tampa Bay, FL.....	5.1	Breton and Chandeleur Sounds and Adjacent Marsh Areas, LA.....	12.2	Galveston Bay System, TX.....	18.1
Apalachicola Bay, FL.....	7.1	Inside Waters from Mississippi River to Bayou Lafourche, LA.....	13.1	Matagorda Bay System, TX.....	19.1
St. Andrews Bay, FL.....	8.1	Inside Waters from Bayou Lafourche to Atchafalaya River, LA.....	14.1	San Antonio Bay System, TX.....	19.2
St. Joseph Bay, FL.....	8.2	Inside Waters from Atchafalaya River to Tigre Point, LA.....	15.1	Arkansas Bay System, TX.....	19.3
Choctawhatchee Bay, FL.....	9.1	Inside Waters from Tigre Point to Louisiana Point, LA.....	16.1	Corpus Christi Bay System, TX.....	20.1
Pensacola Bay, FL.....	10.1			Upper Laguna Madre, TX.....	20.2
Alabama Inside Waters (Exclusive of Mississippi Sound), AL.....	10.2			Lower Laguna Madre, TX.....	21.1
Little Lagoon, AL.....	10.5				
Mississippi Sound, MS.....	11.1				

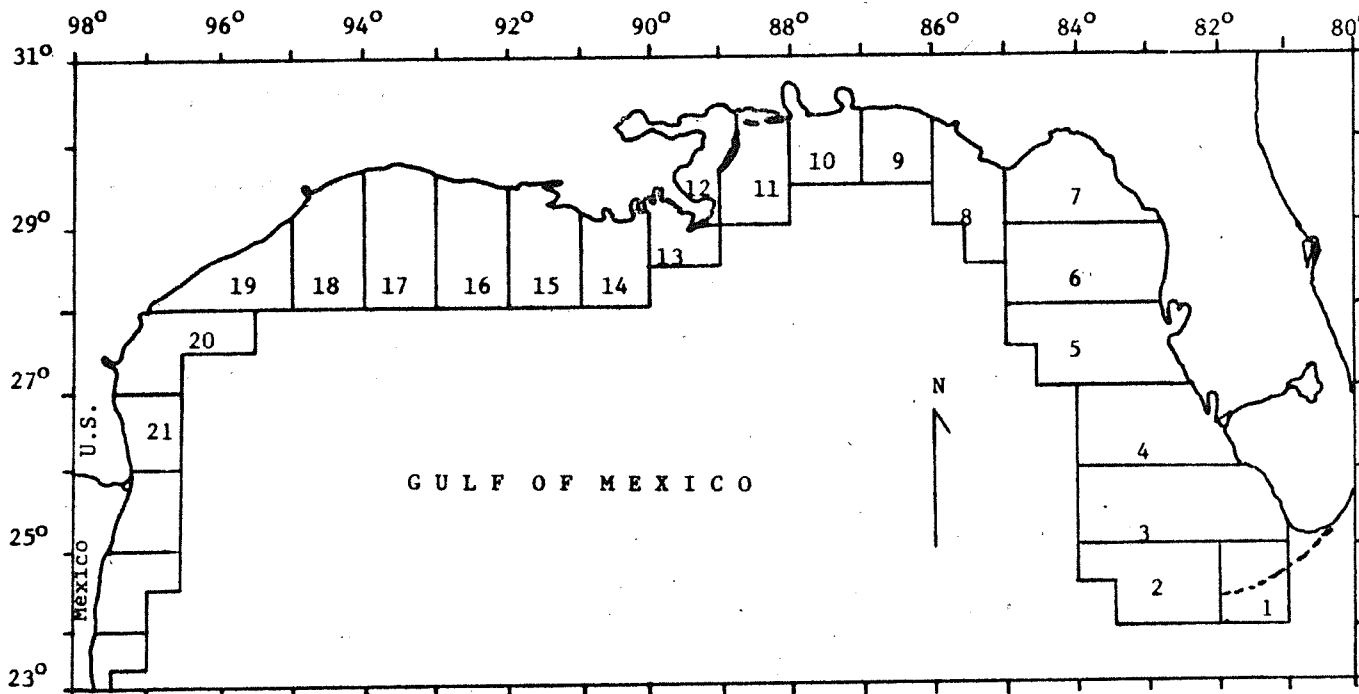


Figure 5. Statistical Grids for Reporting Harvest of Shrimp For Illustrative Purposes Only - Not to Scale

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4. § 658.5 is revised to read as follows:

§ 658.5 Reporting requirements.

(a) *Vessel owners and operators.* The owner or operator of any fishing vessel that fishes for, or lands, shrimp or any part thereof in the Gulf of Mexico or in adjoining State waters, and who is selected to report by the Center Director, must provide upon request the following information regarding any fishing trip to the Center Director or his designee:

- (1) Name and official number of vessel;
- (2) Amount of catch of shrimp by species;
- (3) The condition of the shrimp (heads on/heads off);
- (4) Depth fished and information regarding fishing location that is specific

enough to enable the Center Director or his designee to ascertain the statistical area fished;

- (5) Person to whom sold, bartered, or traded;
- (6) Number, size and type of gear; and
- (7) Effort and period of fishing.

(b) *Dealers and processors.* Any person who receives shrimp or parts thereof by way of purchase, barter, trade or sale from a fishing vessel or person that fishes for, or lands, shrimp or parts thereof in the Gulf of Mexico or in adjoining State waters, and who is selected to report by the Center Director, must provide upon request the following information to the Center Director or his designee:

- (1) Fishing vessel (name and official number) or person (if harvested from other than a vessel) from which received;

(2) Amount of shrimp or parts thereof received by species and size category for each vessel trip; and

(3) Exvessel value by size category of shrimp or portions thereof received.

(Approved by the Office of Management and Budget under OMB control number 0648-0013).

5. In § 658.7, paragraphs (b) through (l) are redesignated as (c) through (m), and a new paragraph (b) is added to read as follows:

§ 658.7 Prohibitions.

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(b) Falsify or fail to report information required to be submitted upon request by § 658.5;

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