

greater in any year, i.e., it is not a "significant regulatory action" under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this proposed rule, has determined that these regulations meet the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988. This rule has been reviewed by the Office of the Solicitor. Specifically, this rule has been reviewed to eliminate errors and ambiguity, has been written to minimize litigation, provides a clear legal standard for affected conduct, and specifies in clear language the effect on existing Federal law or regulation. It is not anticipated that this rule will require any additional involvement of the justice system beyond enforcement of provisions of the Migratory Bird Treaty Act of 1918 that have already been implemented through previous rulemakings.

Public Comment Invited

The policy of the Department of the Interior is, whenever practical, to afford you the opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding this proposal to the location identified in the address section above. Comments must be received on or before (Insert 60 days from the date of publication of this notice). Following review and consideration of the comments, we intend to issue a final rule.

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid in or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (A "section" appears in bold type and is preceded by the symbol "§" (50 CFR 21.60) (5) Is the description of the rule in the SUPPLEMENTARY INFORMATION section of the preamble helpful in understanding the rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to "Office of Regulatory Affairs, Department of the

Interior, room 7229, 1849 C Street, NW, Washington, DC 20240. You may also e-mail the comments to this address: Exsec@ios.doi.gov.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

For the reasons given in the preamble, we hereby propose to amend part 20 of subchapter B, chapter I, title 50 of the Code of Federal Regulations, as set forth below:

The authority citation for part 20 continues to read as follows:

Authority: 16 U.S.C 703–712; and 16 U.S.C. 742 a–j.

PART 20—[AMENDED]

§ 20.21 [Amended]

1. Revise paragraphs (b) and (g) of § 20.21 *Hunting methods* to read as follows:

* * * * *

(b) With a shotgun of any description capable of holding more than three shells, unless it is plugged with a one-piece filler, incapable of removal without disassembling the gun, so its total capacity does not exceed three shells. *Provided that* during a light-goose only season when all other migratory bird hunting seasons are closed, nothing in this paragraph (b) prohibits the taking of lesser snow and Ross' geese in Alabama, Arkansas, Colorado, Illinois, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas and Wyoming with a shotgun that is capable of holding more than three shells. This exception is subject to an annual assessment by the Service based on harvest data collected from the previous year to determine the effectiveness of this section in meeting the management goals and objectives associated with the reduction of Mid-continent light goose (lesser snow and Ross' geese) populations. The Service will annually publish the determination of that assessment in the **Federal Register**.

* * * * *

(g) By the use or aid of recorded or electrically amplified bird calls or sounds, or recorded or electrically amplified imitations of bird calls or sounds. *Provided that* during a light goose only season when all other migratory bird hunting seasons are closed, nothing in this paragraph (g) prohibits the taking of lesser snow and Ross' geese in Alabama, Arkansas, Colorado, Illinois, Iowa, Kansas,

Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, Texas, South Dakota, and Wyoming with recorded or electrically amplified bird calls or sounds or recorded or electrically amplified imitations of bird calls or sounds. This exception is subject to an annual assessment by the Service based on harvest data collected from the previous year to determine the effectiveness of this regulation in meeting the management goals and objectives associated with the reduction of Mid-continent light goose (Mid-continent lesser snow and Ross' geese) populations. The Service will annually publish the determination of that assessment in the **Federal Register**.

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Dated: October 30, 1998.

Donald J. Barry,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 98–29953 Filed 11–5–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 20 and 21

RIN 1018–AF05

Migratory Bird Permits; Establishment of a Conservation Order for the Reduction of Mid-Continent Light Goose Populations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Mid-continent lesser snow goose and Ross' goose population has nearly quadrupled in the last 30 years. The Western Central Flyway lesser snow and Ross' goose population also has quadrupled in the last 23 years. Collectively, these central and eastern arctic and subarctic-nesting light goose populations are referred to as Mid-continent light geese (MCLG).

Due to high population growth rates, a decline in adult mortality, and an increase in winter survival, MCLG are now seriously injurious to their habitat and habitat important to other migratory birds which poses a serious threat to the short and long-term health and status of migratory bird populations. The U.S. Fish and Wildlife Service (Service or "we") believes that MCLG populations exceed long-term sustainable levels for their arctic and subarctic breeding habitats and the populations must be reduced. This proposed rule proposes the addition of a new subpart to 50 CFR

part 21 for the management of overabundant MCLG populations. We, in cooperation with State wildlife agencies, are further proposing to implement a population control program by establishing a conservation order for MCLG under the authority of the proposed subpart. This proposed rule will increase the use and availability of additional hunting methods and will authorize take of MCLG outside of the normal open light-geese hunting season. We designed the program to increase MCLG harvest and to provide a biologically sound and cost effective and efficient method for the reduction and management of overabundant MCLG populations.

DATES: The comment period for this proposed rule closes January 8, 1999.

ADDRESSES: Comments should be mailed to Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of Interior, ms 634—ARLSQ, 1849 C Street NW, Washington, D.C. 20240. The public may inspect comments during normal business hours in room 634—Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia. Comments and suggestions on the requirements should be sent directly to the Office of Information and Regulatory Affairs; Office of Management and Budget; Attention: Interior Desk Officer, Washington, DC 20503; and a copy of the comments should be sent to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, ms 224—ARLSQ, 1849 C Street NW, Washington DC 20204.

FOR FURTHER INFORMATION CONTACT: Bob Blohm, Acting Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, (703) 358-1714.

SUPPLEMENTARY INFORMATION:

Background

Lesser snow and Ross' geese that primarily migrate through North Dakota, South Dakota, Nebraska, Kansas, Iowa, and Missouri, and winter in Arkansas, Louisiana, Mississippi, and eastern, central, and southern Texas and other Gulf Coast States are referred to as the Mid-continent population of light geese (MCP). Lesser snow and Ross' geese that primarily migrate through Montana, Wyoming, and Colorado and winter in New Mexico, northwestern Texas, and Chihuahua, Mexico are referred to as the Western Central Flyway population of light geese (WCFP). Ross' geese are often mistaken for lesser snow geese due to their similar appearance. Ross' geese occur in both the MCP and the WCFP and mix extensively with lesser snow geese on both the breeding and

wintering grounds. MCP and WCFP lesser snow and Ross' geese are collectively referred to as Mid-continent light geese (MCLG) because they breed, migrate, and winter in the "Mid-continent" or central portions of North America primarily in the Central and Mississippi Flyways. They are referred to as "light" geese due to their light coloration as opposed to "dark" geese such as the white-fronted or Canada goose.

MCLG breed in the central and eastern arctic and subarctic regions of Northern Canada. MCLG populations are experiencing high population growth rates and have substantially increased in numbers within the last 30 years. MCP light geese have more than tripled within 30 years from an estimated 800,000 birds in 1969 to approximately three million birds in 1998 and have grown an average of 5% per year for the last ten years (Abraham et al. 1996, USFWS 1998b). WCFP light geese have quadrupled in 23 years from 52,000 in 1974 to 216,000 in 1997 (USFWS 1997b), and have increased an average of 9% per year for the last ten years (USFWS 1998b). The above population estimates are not true population counts and likely underestimate the true population sizes. They were derived from an index which is used to detect population growth trends by sampling a portion of a population. Breeding colony estimates, actual population counts estimated from spring and summer surveys, suggest that the actual population sizes of MCLG may be in excess of five million breeding birds (D. Caswell pers. comm. 1998). In an area northwest of Hudson Bay alone, the Queen Maud Gulf, estimates for breeding and non-breeding (failed to successfully nest) adult Ross' and lesser snow geese for 1998 are 1.29 million and 1.82 million birds, respectively (Alisauskas et al. 1998). These geese are in addition to the millions of geese estimated to be nesting along west Hudson and James Bays where the geese have precipitated severe habitat degradation and on Southampton and Baffin Islands where signs of habitat degradation are becoming evident. MCLG populations have exceeded the North American Waterfowl Management Plan (NAWMP) population objective levels in both the United States and Canada. NAWMP population objective levels are used to demonstrate that MCLG populations have increased substantially over what is considered to be a healthy population level, not to suggest that MCLG be reduced to NAWMP population objective levels. Population

management thresholds, however, are management thresholds that specify both an upper and lower population level objective.

Ross' goose estimates (WCFP and MCP) currently exceed 200,000 birds (December index) and breeding colony estimates (actual counts of nesting birds) approached 400,000 birds in 1996 (Batt 1997), and exceeded 1 million birds 1998; both estimates well exceed the recommended minimum population objective level for Ross' geese of 100,000 birds (USDOI et al. 1998d). MCP lesser snow geese estimates currently exceed 2.9 million birds (December index); the lower and upper population management thresholds are 800,000 and 1.2 million birds, respectively (Central and Mississippi Flyway Councils 1982) with a recommended minimum population objective level of 1 million birds (USDOI et al. 1998d). WCFP lesser snow goose estimates currently exceed 200,000 birds (December index) which exceeds the recommended minimum population objective level of 110,000 birds (USDOI et al. 1998d). Although our intention is to significantly reduce these populations to relieve pressures on the breeding habitats, we feel that these efforts will not threaten the long-term status of these populations as we are confident reduction efforts will not result in the populations falling below the population goal and management objective levels indicated above. Evaluation and assessment mechanisms are in place to estimate population sizes and will be used to prevent the over-harvest of these populations.

The rapid rise of MCLG populations has been influenced heavily by human activities (Sparrowe, 1998, Batt 1997). The greatest attributable factors are:

- (1) The expansion of agricultural areas in the United States and prairie Canada that provide abundant food resources during migration and winter;
- (2) The establishment of sanctuaries along the Flyways specifically to increase bird populations;
- (3) A decline in harvest rate; and
- (4) An increase in adult survival rates.

Although all of these factors contributed to the rapid rise in MCLG populations, the expansion of agriculture in prairie Canada and the United States is considered to be the primary attributable factor (Sparrowe 1998, Abraham and Jefferies 1997). Today, MCLG continue to exploit soybean, rice, and other crops during the winter primarily in the Gulf Coast States and are observed less frequently in the natural coastal marshes they historically utilized. Similarly, MCLG migrating through the Mid-latitude and northern United States and prairie

Canada during spring migration exploit cereal grain crops consisting of corn, wheat, barley, oats and rye (Alisauskas et al. 1988). For example, an estimated 1 to 2 million MCLG stage in the Rainwater Basin in Nebraska from mid-February to mid-March and primarily feed on corn left over from harvesting (USFWS 1998a). These crops provide MCLG with additional nutrients during spring migration assuring that MCLG arrive on the breeding grounds in prime condition to breed. Increased food subsidies during spring migration over the last 30 years has resulted in higher reproductive potential and breeding success (Ankney and McInnes 1978, Abraham and Jefferies 1997). Consequently, more geese survived the winter and migration and were healthier as they returned to their breeding grounds in Canada.

This is not intended to criticize the conservation efforts accomplished by the implementation of conservation-oriented agricultural practices. Such efforts have benefitted numerous wildlife species. It is merely to point out that MCLG have exploited these artificial resources which has resulted in an increase in survival.

Foraging Behavior of MCLG

The feeding behavior of MCLG is characterized by three foraging methods. Where spring thawing has occurred and above-ground plant growth has not begun, lesser snow geese dig into and break open the turf (grub) consuming the highly nutritious below-ground biomass, or roots, of plants. Grubbing continues into late spring. Lesser snow geese also engage in shoot-pulling where the geese pull the shoots of large sedges, consume the highly nutritious basal portion, and discard the rest, leaving behind large unproductive, and potentially unrecoverable areas (Abraham and Jefferies 1997). A third feeding strategy utilized by many species is grazing which in some cases, stimulates plant growth. Both lesser snow geese and Ross' geese graze. Due to their shorter bill size, Ross' geese are able to graze shorter stands of grass.

Grubbing, grazing, and shoot-pulling are natural feeding behaviors and at lower population levels have had positive effects on the ecosystem. For example, at lower numbers, geese fed on the tundra grasses and actually stimulated growth of plant communities resulting in a positive feedback loop between the geese and the vegetation. However, the rapidly expanding numbers of geese, coupled with the short tundra growing season, disrupted the balance and has resulted in severe habitat degradation in sensitive

ecosystems. The Hudson Bay Lowlands salt-marsh ecosystem, for example, consists of a 1,200 mile strip of coastline along west Hudson and James Bays, Canada. It contains approximately 135,000 acres of coastal salt-marsh habitat. Vast hypersaline areas devoid of vegetation degraded by rapidly increasing populations of MCLG have been observed and documented extensively throughout the Hudson Bay Lowlands (Abraham and Jefferies 1997). Rockwell et al. (1997a) observed the decline of more than 30 avian populations in the La Pérouse Bay area due to severe habitat degradation. These declines and other ecological changes represent a decline in biological diversity and indicate the beginning of collapse of the current Hudson Bay Lowlands salt-marsh ecosystem. Experts fear that some badly degraded habitat will not recover (Abraham and Jefferies 1997). For example, in a badly degraded area, less than 20% of the vegetation within an enclosure (fenced in area where geese cannot feed) has recovered after 15 years of protection from MCLG (Abraham and Jefferies 1997). Recovery rates of degraded areas are further slowed by the short tundra growing season and the high salinity levels in the exposed and unprotected soil.

Long-term research efforts have indicated signs of "trophic cascade" in La Pérouse Bay, Cape Henrietta Maria, and Akimiski Island (R. Rockwell pers. comm. 1998). Trophic cascade is essentially the collapse of an existing food chain indicating that the ecosystem is unable to support its inhabitants. Impacts associated with trophic cascade are indicative that MCLG populations have exceeded the carrying capacity of much of their breeding habitat. Impacts such as a decline in biological diversity and physiological stress, malnutrition, and disease in goslings have been documented and observations of such impacts are increasing. Additional observations in areas north of Hudson Bay on Southampton and Baffin Islands, northwest in the Queen Maud Gulf region, and south off the west coast of James Bay on Akimiski Island also suggest similar habitat degradation patterns from expanding colonies of MCLG. Batt (1997) reported the rapid expansion of existing colonies and the establishment of new colonies in the central and eastern arctic. In 1973, for example, Canadian Wildlife Service data indicated that approximately 400,000 light geese nested on West Baffin Island. In 1997, approximately 1.8 million breeding adults were counted. Similar colony expansions have been reported for the Queen Maud

Gulf region and Southampton Island. Rapid colony expansion must be halted and the populations must be reduced to prevent further habitat degradation and to protect the remaining habitat upon which numerous wildlife species depend.

Breeding Habitat Status

MCLG breeding colonies occur over a large area encompassing eastern and central portions of Northern Canada. Habitat degradation by MCLG has been most extensively studied in specific areas where colonies have expanded exponentially and exhibit severe habitat degradation. The Hudson Bay Lowlands salt-marsh ecosystem, for example, lies within a 135,000 acre narrow strip of coastline along west Hudson and James Bays and provides important stopover sites for numerous migratory bird species. Of the 135,000 acres of habitat in the Hudson Bay Lowlands, 35% is considered to be destroyed, 30% is damaged, and 35% is overgrazed (Batt 1997). Habitats currently categorized as "damaged" or "overgrazed" are moving and will continue to move into the "destroyed" category if goose populations continue to expand. Accelerated habitat degradation has been observed on Southampton and Baffin Islands and appear to be following the same pattern as documented in the Hudson Bay Lowlands. Current research efforts are underway to confirm observations of habitat degradation by MCLG in other areas.

Migration and Wintering Habitat Conditions and Degradation

There is no evidence to support that wintering habitat for MCLG is threatened or that it may limit population growth. Presently, there are approximately 2.25 million acres of rice fields in Texas, Louisiana, and Arkansas, in addition to the millions of acres of cereal grain crops in the Midwest. Consequently, food availability and suitable wintering habitat are not limiting MCLG during the migration and wintering portions of the annual cycle.

Summary of Environmental Consequences of Taking No Action

At each site they occupy, MCLG will continue to degrade the plant communities until food and other resources are exhausted, forcing yet more expansion. The pattern has been, and will continue to be, that as existing nesting colonies expand, they exploit successively poorer quality habitats, which are less able to accommodate them and which become degraded more

quickly. Eventually, the coastal salt-marsh communities surrounding Hudson Bay and James Bay will become remnant with little chance of recovery as long as MCLG populations remain high and for some time after it declines from natural causes, if they do. The functioning of the whole coastal ecosystem, from consolidation of sediments by colonizing plants to provision of suitable habitats for invertebrate and vertebrate fauna, will be detrimentally and possibly irrevocably altered. Similar conditions will likely come to prevail at selected non-coastal areas where MCLG have occupied most of the suitable nesting habitats. As many as 30 other avian species, including American wigeon, Northern shoveler, stilt sandpiper, Hudsonian godwit, and others, that utilize those habitats have declined locally, presumably due to habitat degradation by MCLG. Other species, such as Southern James Bay Canada geese, a species of management concern, that breed on nearby Akimiski Island and numerous other waterfowl species that migrate and stage with MCLG, have been and will continue to be negatively impacted. Arctic mammalian herbivores will also be impacted as the vegetative communities upon which they depend become depleted. Due to the rapidly expanding populations and the associated ecological impacts identified, we have concluded that MCLG populations have become seriously injurious to themselves and other migratory birds, their habitat and habitat of other migratory birds.

We expect that MCLG populations will continue to grow at least 5% annually, resulting in more severe and widespread ecological impacts. Although several factors influence population dynamics, the greatest single factor in the populations' increase is high and increasing adult survival rates (Rockwell et al. 1997b). Therefore, removing adults from the populations is the most effective and efficient approach in reducing the populations. Experts feel that breaking eggs and other non-lethal techniques have been determined to be ineffective in significantly reducing the populations within a reasonable time to preserve and protect habitat (Batt 1997).

We have attempted to curb the growth of MCLG populations by increasing bag and possession limits and extending the open hunting season length for light geese to 107 days, the maximum allowed by the Treaty. However, due to the rapid rise in MCLG numbers, low hunter success, and low hunter interest, harvest rate (the percentage of the population that is harvested), has

declined despite evidence that the number of geese harvested has increased (USFWS 1997b). The decline in harvest rate indicates that the current management strategies are not sufficient to stabilize or reduce population growth rates.

We realize that current MCLG management policies need to be re-examined and believe that alternative regulatory strategies designed to increase MCLG harvest, implemented concurrently with habitat management and other non-lethal control measures, have the potential to be effective in reducing MCLG populations to levels that the remaining breeding habitat can sustain. We prefer to implement alternative regulatory strategies designed to increase MCLG harvest afforded by the Migratory Bird Treaty and avoid the use of more drastic population control measures. More direct population control measures such as trapping and culling programs may be necessary if the current proposed action is not successful. Should the proposed action be unsuccessful in five years, we will consider more direct population control measures to reduce MCLG.

We restrict the scope of this proposed rule to Mid-continent populations of light geese (MCLG): Mid-continent and Western Central Flyway lesser snow geese (*Chen caerulescens caerulescens*) and Ross' geese (*C. rossii*) and the United States portions of the Central and Mississippi Flyways (primarily Alabama, Arkansas, Colorado, Illinois, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming) where they migrate, stage, or winter. Evidence exists to support the conclusion that MCLG migrate, stage, and winter in these areas and breed in the arctic and subarctic areas that are experiencing severe habitat degradation.

We are concurrently proposing an additional but separate population reduction strategy. In addition to this proposed rule to amend 50 CFR part 21, we are also proposing to amend 50 CFR part 20 to authorize the use of new hunting methods to harvest MCLG. That proposed rule would authorize States to allow the use of new hunting methods to harvest MCLG during a light-geese only season when all other migratory bird hunting seasons are closed. The proposal is also in the nature of a proposed rule and the notice and request for comments is published in this issue of the **Federal Register**.

We do not expect the second proposed action (amendment to 50 CFR part 20) implemented alone to achieve

our overall management objective which is to reduce MCLG populations such that the December index falls within 800,000 and 1.2 million birds. The success of that strategy will hinge upon State participation, hunter participation, and hunter effectiveness. If a State does not participate, then its hunters will not be able to participate, decreasing the program's potential. We do not expect some States to participate in that proposed action due to the infeasibility of implementing the action when all other migratory bird hunting seasons are closed. MCLG migrate through northern and Mid-latitude States in the fall, however, the geese typically do not reach some of those States prior to 10 March during spring migration. For those States to be able to utilize the second proposed action, they would have to close all other migratory bird hunting seasons in the fall, which is highly unlikely. Conversely, many migratory bird hunting seasons in the southern States close prior to 10 March. Therefore, it is much more feasible for southern States to implement that proposed action by establishing a light-geese only season when all other migratory bird seasons are closed. We are proposing this proposed action (conservation order) in order to maximize the overall program's potential and obtain our management objective within a reasonable time-frame to avoid the use of more direct population control programs. This proposed action, conservation order, will allow northern States to participate in this effort and enable them to harvest MCLG during spring migration, particularly after 10 March. Harvest projections for the second proposed action (amendment 50 CFR part 20) are rolled into the harvest projections for this proposed action (conservation order). Harvest projections for the second proposed action would not be in addition to the harvest projections for this proposed action.

Proposed Conservation Order for MCLG

We propose to establish a new subpart in 50 CFR part 21 for the management of overabundant MCLG populations. Under this new subpart, we propose to establish a conservation order specifically for the control and management of MCLG. Conditions under the conservation order require that participating States inform all participants acting under the authority of the conservation order of the conditions that apply to the proposed amendment.

Under the authority of this proposed rule, States could initiate aggressive

harvest management strategies with the intent to increase MCLG harvest without having to obtain an individual permit, which will significantly reduce administrative burden to the State and Federal governments. A permit process would slow efforts to reduce the populations and prolong habitat degradation on the breeding grounds. This proposed rule will enable States to use hunters to harvest MCLG, by shooting in a hunting manner, inside or outside of the regular open migratory bird hunting season frameworks. States could maximize the opportunity to increase harvest of MCLG by implementing this proposed action beyond 10 March, where historically States have been limited by hunting season framework closing dates to take migratory birds. In order to minimize or avoid take of non-target species, States may implement this proposed action only when all migratory bird hunting seasons are closed. It is expected that this proposed action will facilitate other protection and recovery efforts. This proposed rule would further result in biologically sound and more cost-effective and efficient overabundant MCLG management and could preclude the use of more drastic, direct population control measures such as trapping and culling programs. Although the desired goal is to significantly reduce overabundant MCLG populations, we believe that this proposed rule will not threaten the long-term status of MCLG populations or threaten the status of other species that could be impacted through the implementation of this proposed rule. Evaluation and monitoring strategies are in place to assess the overall impacts of this proposed action on MCLG harvest and impacts to non-target species that may be affected by the implementation of this proposed action.

Summary of Environmental Consequences of Proposed Action

MCLG Populations and Associated Habitats

We project that we will harvest two million MCLG within three years without the use of this proposed action based on current MCLG harvest trends. Under certain assumptions, our most liberal estimate projects that we can expect to harvest an additional three million MCLG within three years of implementation of this proposed action bringing the total harvest to five million MCLG within three years of implementation of this proposed action. Once the December index falls within recommended management guidelines (800,000 to 1.2 million birds), then the

proposed amendment to 50 CFR part 21 will be revoked.

The impact is expected to be regional within the Central and western Mississippi Flyway States that choose to utilize the proposed action. Since the proposed action may take place between 11 March and 31 August, we expect MCLG take to increase among Mid-latitude and northern States according to migration chronology. Increased harvest will be further facilitated by the use of additional hunting methods (electronic callers and unplugged shotguns) authorized by a State under the authority of this proposed rule. Although we can expect the additional hunting methods to be effective in increasing harvest per hunter, there is no precedent to guide us in determining to what degree they will be effective. It is equally difficult to ascertain to what degree the public will participate in the implementation of this proposed action, which will influence its effectiveness. However, with certain assumptions, we may project an increase in harvest using existing harvest data.

Several assumptions must be established before projecting the effect of the proposed action on harvest. We are assuming that all affected States will act under the authority of this proposed action and will allow all new hunting methods authorized in this proposed rule (electronic callers and unplugged shotguns), including the utilization of the maximum number of days available after the regular light-geese season. We are also assuming that current MCLG hunter numbers will not decrease and that the new methods authorized in this proposed rule, if used, will increase hunter effectiveness and overall harvest. We do not assume that all MCLG hunters will participate in the implementation of this proposed action and of those that do, we do not assume that all will increase their effectiveness by using new hunting methods. We are assuming that 25% of the MCLG hunters will use the new methods and will increase his/her effectiveness in harvesting MCLG.

States that have MCLG after 10 March may choose not to harvest MCLG after 10 March. Of those that do, the number of days each State may harvest outside of their regular open light-geese season likely will vary. For purposes of this exercise, we are assuming MCLG harvest is consistent throughout the entire light-geese season and that all affected States will use the proposed action. It is important to note that the issue of just how additional days influences harvest of migratory birds continues to be extensively analyzed. In that respect, our projections regarding

MCLG harvest are our best estimates based on the data that we have and represent a liberal estimate.

We determined, based on a linear regression analysis of historical harvest data, that harvest number of MCLG has increased approximately 31,600 MCLG per year for the last ten years. A simple linear regression of the harvest data represents our most conservative estimate because the analysis does not take into account other factors that may have influenced harvest such as the recent regulation changes for light geese. A more complex analysis will demonstrate that harvest number has actually increased at a faster rate since the bag and possession limits for light geese have been increased (USFWS 1998c). Today, more MCLG are harvested with fewer hunters and hunter participation in light goose hunting is increasing. Therefore, conservatively, we projected that harvest will increase 31,600 per year for the next 5 years.

In 1997–98, 602,800 MCLG were harvested in the affected States (AR, CO, IL, IA, KS, LA, MS, MO, MT, NE, NM, ND, OK, SD, TX, and WY). Combined with our projection that harvest will increase by 31,600 per year without any changes to hunting regulations, we can expect to harvest 634,400 MCLG in the 1998–1999 regular light goose season in those affected States. Under the assumptions stated above, we expect to harvest an additional 576,300 MCLG through the implementation of this proposed action (authorize electronic callers, unplugged shotguns, and additional days to harvest) bringing the total projected harvest to 1.2 million MCLG in the first year of implementation of this proposed action. These figures are based on increasing harvest number. Therefore, we expect this projected harvest to increase annually. We expect to harvest 1.8 million MCLG in the second year of implementation and 2.4 million in the third year of implementation.

Central and Mississippi Flyway Council management guidelines suggest that MCLG populations should rest between 800,000 and 1.2 million birds based on the December index (USFWS 1998b, Central and Mississippi Flyway Councils 1982). Batt (1997) estimate that the populations should be reduced by 50% by 2005. Based on the December index, that would suggest a reduction from approximately 3 million birds to approximately 1.5 million birds in the December index; a figure which coincides with the management guidelines determined by the Central and Mississippi Flyway Council. Therefore, our efforts will focus on a

goal similar to those documented. It is important to understand that the December index is not a population count. It is simply used to detect population growth trends by sampling a portion of a population. The reduction of MCLG will be carefully analyzed and assessed on an annual basis using the December index and other surveys to ensure that the populations are not over-harvested.

We expect an increase in MCLG harvest to facilitate other efforts, such as habitat management on the wintering grounds and increased harvest by Canadian aboriginals, to decrease MCLG numbers and relieve pressures on the breeding grounds. There is no evidence to suggest that the implementation of this proposed action will result in an over-harvest of MCLG. Once the December index reflects a number within the management guidelines mentioned above (800,000—1.2 million), the proposed action will be revoked and the methods authorized will no longer be used. It is improbable that the implementation of this proposed action will threaten the long-term status of MCLG populations because we will monitor the MCLG populations and act accordingly to avoid it by modifying or revoking the proposed action.

Other Species

An increase in harvest, and subsequently a decrease in MCLG numbers, is expected to relieve pressures on other migratory bird populations that utilize MCLG breeding and wintering grounds and other areas along the migration routes. It is expected to reduce the possibility that other species will be forced to seek habitat elsewhere or abandon unsuitable degraded habitat altogether, which could potentially result in decreased reproductive success of affected populations. We expect a significant decrease in MCLG populations to contribute to increased reproductive success of adversely impacted populations. Further, we expect that by decreasing the numbers of MCLG on wintering and migration stopover areas, the risk of transmitting avian cholera to other species will be reduced which will reduce the threat of a widespread avian cholera outbreak.

Socio-economic

Any action taken has economic consequences. Continued inaction is likely to result in ecosystem failure of the Hudson Bay Lowlands salt-marsh ecosystem and potentially other ecosystems as MCLG populations expand and exploit new habitats.

Without more effective population control measures to curb the populations, the populations of MCLG are expected to continue increasing and become more and more unstable as suitable breeding habitat diminishes. As population densities increase, the incidence of avian cholera among MCLG and other species is likely to increase throughout the Flyways, particularly at migration stopover sites. Losses of other species such as pintails, white-fronted geese, sandhill cranes, and whooping cranes, from avian cholera may be great. This may result in reduced hunting, birdwatching, and other opportunities. It may also result in the season closures of adversely impacted migratory game birds such as white-fronted geese, sandhill cranes, and pintails. Goose damage to winter wheat and other agricultural crops will continue and worsen. Habitat damage in the Arctic will eventually trigger density-dependent regulation of the population which likely will result in increased gosling mortality and may cause the population to decline precipitously.

However, it is not clear when such population regulation will occur and what habitat, if any, will remain to support the survivors. Such a decline may result in a population too low to permit any hunting, effectively closing MCLG hunting seasons. The length of the closures will largely depend on the recovery rate of the breeding habitat which likely will take decades. Although the overall impact of closures of light-geese seasons in the Central and Mississippi Flyways that could result from continued degradation of the breeding habitat is small on a national scale, it would be concentrated where large flocks of geese stage and winter. As hunter services tend to be performed by people with low incomes, the impact of a closure would fall disproportionately on low income groups near goose concentrations. We expect the proposed action to reduce the risk of light-geese season closures in the Central and Mississippi Flyways and avoid a \$70 million loss in output and reduce the possibility of increased agricultural loss. We expect special MCLG population control efforts to create additional take opportunities which is expected to add \$18 million in output to local economies.

Public Comments Received

On April 6, 1998, we issued in the **Federal Register** (63 FR 16819) a notice of intent announcing that we would develop a draft Environmental Assessment to examine alternative regulatory strategies to reduce MCLG populations. This notice invited public

comment on possible regulatory alternatives. The notice also advised the public that the draft Environmental Assessment along with a proposed rule would be published in the **Federal Register** later this year for public review and comment. As a result of this invitation for public comment, 247 comments consisting of 1 from a Federal agency, 8 from State wildlife agencies, 7 from private organizations, 1 from a Flyway Council, 115 from private citizens, and 115 from people who signed a petition were received. Comments were generally dichotomized by two key points of concern.

To summarize, 186 comments were supportive of our intent to examine alternative regulatory strategies to reduce the MCLG population. These commenters agreed that there was a problem and that the resolution should entail reduction by lethal means and supported the use of additional methods to increase take of MCLG. Comments in support of such action were received from 1 Federal agency, 8 State wildlife agencies, 1 Flyway Council, 5 private conservation agencies, 94 private citizens, and 77 from people who signed a petition. Conversely, 59 comments received were in opposition to the Service's intent to reduce MCLG populations by use of lethal means either because they believe it is not scientifically justified to reduce the populations or attempts to do so would be inhumane. Instead, these commenters offered two non-lethal recommendations to reduce the populations: (1) Hazing adults off nests and (2) eggging (destroying nests) on the breeding grounds. Comments in support of no action or non-lethal action were received from 2 private animal welfare agencies, 19 private citizens, and 38 from people who signed a petition. Additionally, 2 comments were received in support of reducing the population by use of lethal means, however, recommended use of Federal wildlife agency programs such as trapping and culling.

Service Response: We are also opposed to the inhumane treatment of any birds and we do not believe that increasing take of MCLG by providing additional opportunities or methods for take of MCLG is inhumane. We also prefer non-lethal control activities, such as habitat modification, as the first means of resolving this issue. However, habitat modification and other harassment tactics do not always work satisfactorily and lethal methods are sometimes necessary to increase the effectiveness of non-lethal management methods. Further, MCLG breed in remote locations in the arctic and

subarctic regions of Northern Canada. Implementing control activities in those areas is cost-prohibitive and dangerous. Instead, we feel that providing States with additional opportunity and means to increase take of MCLG while implementing non-lethal control measures concurrently is the most efficient and feasible short-term solution. We will continue to work jointly with the Canadian Wildlife Service to reduce MCLG in both the United States and in Canada.

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NEPA Considerations

We have prepared a draft Environmental Assessment (EA), as defined under the authority of the National Environmental Policy Act of 1969, in connection with this proposed regulation. The EA is available for public review at the above address.

Endangered Species Act Consideration

Section 7(a)(2) of the Endangered Species Act (ESA), as amended (16 U.S.C. 1531–1543; 87 Stat. 884) provides that “Each Federal agency shall, in consultation with the Secretary, insure that any action authorized, funded, or carried out . . . is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of (critical) habitat . . .” Consequently, we initiated Section 7

consultation under the ESA for this proposed rulemaking. Completed results of our consultation under Section 7 of the ESA may be inspected by the public in, and will be available to the public from, the Office of Migratory Bird Management at the above address.

Regulatory Flexibility Act, Executive Order 12866, and Executive Order 12630

The economic impacts of this proposed rulemaking will fall disproportionately on small businesses because of the structure of the waterfowl hunting related industries. The proposed regulation benefits small businesses by avoiding ecosystem failure to an ecosystem that produces migratory bird resources important to American citizens. The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.) requires the preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities. Data are not available to estimate the number of small entities affected, but it is unlikely to be a substantial number on a national scale. We expect the proposed action to reduce the risk of light-geese season closures in the Central and Mississippi Flyways subsequently avoiding a \$70 million loss in output and reducing the possibility of increased agricultural loss. We expect special MCLG population control efforts to create additional take opportunities which is expected to add \$18 million in output to local economies. We have determined that a Regulatory Flexibility Act Analysis is not required. Migratory bird regulations are recognized as exempt from takings implication assessment under E.O. 12630. This rule was not subject to review by the Office of Management and Budget under E.O. 12866.

Paperwork Reduction Act and Information Collection

The collection of information described below will be submitted to OMB for approval under the provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13). We will not conduct or sponsor any information collection until approved by OMB and a final regulation is published, and a person is not required to respond to a collection of information unless it displays a current valid OMB control number. The proposed information collection will be used to administer this program and, particularly in the assessment of impacts alternative regulatory strategies may have on MCLG and other migratory bird populations. The information collected will be required to authorize State wildlife management agencies

responsible for migratory bird management to take MCLG within the guidelines provided by the Service. The annual number of State participants is

expected to be 17. The reporting burden for this collection of information is estimated to average 30 hours per response, including the time for

reviewing instructions, gathering and maintaining data, and completing and reviewing the collection of information, yielding an annual burden of 510 hours.

BURDEN ESTIMATES FOR REPORTING REQUIREMENTS FOR THE CONSERVATION ORDER TO REDUCE MID-CONTINENT POPULATIONS OF LIGHT GEESE

Type of report	Number of reports annually	Avg. time required per report (minutes)	Burden hours
General Take or Removal*	17	1,800	510

* General take or removal includes authorized human-related mortality.

We expect a maximum of 17 annual reports per year from all participating States. We estimate that each annual report will require about 6 hours to complete, therefore, the burden assumed by the participants is 102 hours or less.

Comments are invited from you on:
(1) Whether the collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate, automated, electronic, mechanical, or other technological collection techniques or other forms of information collection technology. Comments and suggestions on the requirements should be sent directly to the Office of Information and Regulatory Affairs; Office of Management and Budget; Attention: Interior Desk Officer, Washington, DC 20503; and a copy of the comments should be sent to the Information Collection Clearance Officer, US Fish and Wildlife Service, ms 224—ARLSQ, 1849 C Street NW., Washington DC 20204. A copy should also be sent directly to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, ms 224—ARLSQ, 1849 C Street NW., Washington, DC 20204 or electronically to mullinR@fws.gov.

Unfunded Mandates

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Act (2 U.S.C. 1502 et seq) that this proposed rulemaking will not impose a cost of \$100 million or more in any given year on local or State government or private entities. This rule will not "significantly or

uniquely" affect small governments. No governments below the State level will be affected by this rule. A Small Government Agency Plan is not required. This rule will not produce a Federal mandate of \$100 million or greater in any year, i.e., it is not a "significant regulatory action" under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this proposed rule, has determined that these regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988. This rule has been reviewed by the Office of the Solicitor. Specifically, this rule has been reviewed to eliminate errors and ambiguity, has been written to minimize litigation, provides a clear legal standard for affected conduct, and specifies in clear language the effect on existing Federal law or regulation. It is not anticipated that this rule will require any additional involvement of the justice system beyond enforcement of provisions of the Migratory Bird Treaty Act of 1918 that have already been implemented through previous rulemakings.

Public Comment Invited

The policy of the Department of the Interior is, whenever practical, to afford you the opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding this proposal to the location identified in the address section above. Specifically, we invite comment from affected States regarding the feasibility in implementing the proposed rule within the conditions provided. Comments must be received on or before January 8, 1998. Following review and consideration of the comments, we will issue a final rule.

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your

comments on how to make this rule easier to understand including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid in or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (A "section" appears in bold type and is preceded by the symbol "§" (50 CFR 21.60) (5) Is the description of the rule in the "Supplementary Information" section of the preamble helpful in understanding the rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to "Office of Regulatory Affairs, Department of the Interior, room 7229, 1849 C Street, NW, Washington, DC 20240. You may also e-mail the comments to this address: Exsec@ios.doi.gov.

List of Subjects in 50 CFR Parts 20 and 21

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

For the reasons stated in the preamble, we hereby propose to amend parts 20 and 21, of the subchapter B, chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 20—[AMENDED]

The authority citation for part 20 continues to read as follows:

Authority: 16 U.S.C. 703–712; and 16 U.S.C. 742a–j.

§ 20.22 [Amended]

2. In Section 20.22, the phrase "except as provided in part 21" is added following the word "season".

PART 21—[AMENDED]

1. The authority citation for part 21 continues to read as follows:

Authority: Pub. L. 95-616, 92 Stat. 3112 (16 U.S.C. 712(2)).

2. Subpart E, consisting of Section 21.60, is added to read as follows:

Subpart E—Control of Overabundant Migratory Bird Populations

§ 21.60 Conservation Order for Mid-continent light geese.

Any State agency responsible for the management of wildlife and migratory birds may, without permit, kill or cause to be killed under its general supervision, lesser snow and Ross' geese (Mid-continent light geese) in Alabama, Arkansas, Colorado, Illinois, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming: Provided that:

(a) Persons who take Mid-continent light geese under this section may not sell or offer for sale those birds nor their plumage, but may possess, transport, and otherwise properly use them.

(b) Persons acting under the authority of this section must permit at all reasonable times including during actual operations, any Federal or State game or deputy game agent, warden, protector, or other game law enforcement officer free and unrestricted access over the premises on which such operations have been or are being conducted; and must promptly furnish whatever information an officer requires concerning the operation.

(c) Nothing in this section authorizes the take of Mid-continent light geese contrary to any State laws or regulations; and none of the privileges granted under this section may be exercised unless persons acting under the authority of the conservation order possesses whatever permit or other authorization(s) as may be required for such activities by the State concerned.

(d) Activities conducted under this section may not affect endangered or threatened species as designated under the Endangered Species Act.

(e) Control activities must be conducted clearly as such and are intended to relieve pressures on migratory birds and habitat essential to migratory bird populations only and are not to be construed as opening, re-opening, or extending any open hunting season contrary to any regulations promulgated under section 3 of the Migratory Bird Treaty Act.

(f) Control activities may be conducted only when all migratory bird hunting seasons are closed.

(g) Control measures employed through this section may be implemented only between the hours of ½ hour before sunrise to ½ hour after sunset.

(h) Nothing in this section may limit or initiate management actions on Federal land without concurrence of the Federal Agency with jurisdiction.

(i) States must designate participants who must operate under the conditions of this section.

(j) States must inform all participants of the requirements/conditions of this section that apply.

(k) States must keep records of activities carried out under the authority of this section, including the number of Mid-continent light geese taken under this section, the methods by which they were taken, and the dates they were taken. The State must submit an annual report summarizing activities conducted under this section on or before August 1 of each year, to the appropriate Assistant Regional Director—Refuges and Wildlife (see § 10.22).

(l) Persons acting under the authority of this section may take Mid-continent light geese by any method except those prohibited in this section. No persons may take Mid-continent light geese:

(1) With a trap, snare, net, rifle, pistol, swivel gun, shotgun larger than 10 gauge, punt gun, battery gun, machine gun, fish hook, poison, drug, explosive, or stupefying substance;

(2) From or by means, aid, or use of a sinkbox or any other type of low floating device, having a depression affording the person a means of concealment beneath the surface of the water;

(3) From or by means, aid, or use of any motor vehicle, motor-driven land conveyance, or aircraft of any kind, except that paraplegics and persons missing one or both legs may take from any stationary motor vehicle or stationary motor-driven land conveyance;

(4) From or by means of any motorboat or other craft having a motor attached, or any sailboat, unless the motor has been completely shut off and the sails furled, and its progress therefrom has ceased: Provided, That a craft under power may be used to retrieve dead or crippled birds; however, crippled birds may not be shot from such craft under power;

(5) By the use or aid of live birds as decoys; although not limited to, it shall be a violation of this paragraph for any

person to take migratory waterfowl on an area where tame or captive live ducks or geese are present unless such birds are and have been for a period of 10 consecutive days before the taking, confined within an enclosure that substantially reduces the audibility of their calls and totally conceals the birds from the sight of wild migratory waterfowl;

(6) By means or aid of any motordriven land, water, or air conveyance, or any sailboat used for the purpose of or resulting in the concentrating, driving, rallying, or stirring up of any migratory bird;

(7) By the aid of baiting, or on or over any baited area. As used in this paragraph, "baiting" means the placing, exposing, depositing, distributing, or scattering of shelled, shucked, or unshucked corn, wheat or other grain, salt, or other feed so as to constitute for such birds a lure, attraction or enticement to, on, or over any areas where hunters are attempting to take them; and "baited area" means any area where shelled, shucked, or unshucked corn, wheat or other grain, salt, or other feed capable of luring, attracting, or enticing such birds is directly or indirectly placed, exposed, deposited, distributed, or scattered; and such area shall remain a baited area for 10 days following complete removal of all such corn, wheat or other grain, salt, or other feed. However, nothing in this paragraph prohibits the taking of Mid-continent light geese on or over standing crops, flooded standing crops (including aquatics), flooded harvested croplands, grain crops properly shocked on the field where grown, or grains found scattered solely as the result of normal agricultural planting or harvesting; or

(8) While possessing shot (either in shotshells or as loose shot for muzzleloading) other than steel shot, or bismuth-tin (97 parts bismuth: 3 parts tin with 1 percent residual lead) shot, or such shot approved as nontoxic by the Director and identified in 50 CFR 20.21(j).

(m) The Service will annually assess the overall impact and effectiveness of the conservation order to ensure compatibility with long-term conservation of this resource. If at any time evidence is presented that clearly demonstrates that there no longer exists a serious threat of injury to the area or areas involved, we will publish immediately a notice of intent to revoke the conservation order in the **Federal Register**.

Dated: October 30, 1998.

Donald J. Barry,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 98-29954 Filed 11-5-98; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 103098C]

RIN 0648-AJ17

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Amendment to the Fishery Management Plans of the Gulf of Mexico

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

ACTION: Notice of availability of an amendment to fishery management plans; request for comments.

SUMMARY: NMFS announces that the Gulf of Mexico Fishery Management Council (Council) has submitted for review and approval a generic amendment to the fishery management plans of the Gulf of Mexico that designates essential fish habitat (EFH). Written comments are requested from the public.

DATES: Written comments must be received on or before January 8, 1999.

ADDRESSES: Comments must be mailed to the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Requests for copies of the generic amendment, which includes an environmental assessment, should be sent to the Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619-2266; Phone: 727-228-2815; Fax: 727-225-7015.

FOR FURTHER INFORMATION CONTACT: Robert Sadler, 813-570-5305.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act, 16 U.S.C. 1801 et seq.) requires each regional fishery management council to submit any

fishery management plan (FMP) or amendment to the Secretary of Commerce for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an amendment, immediately publish a document in the **Federal Register** stating that the amendment is available for public review and comment.

Therefore, NMFS solicits comments on the approval, disapproval, or partial approval of this generic amendment designating EFH in the Gulf of Mexico.

Section 303(a)(7) of the Magnuson-Stevens Act requires that any FMP describe and identify EFH for the fishery, minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat. Section 305(b)(1)(A) and (B) of the Magnuson-Stevens Act require that the regional fishery management councils submit, by October 11, 1998, FMP amendments to identify and describe EFH for species under management.

NMFS published guidelines to assist regional fishery management councils in the description and identification of EFH, the identification of adverse impacts on EFH, and the identification of actions required to conserve and enhance EFH (62 FR 66531, December 19, 1997). The NMFS guidelines encourage ecosystem approaches to protecting and conserving EFH. Ecological roles of the managed species (i.e., prey, competitors, trophic links within foodwebs, and nutrient transfer between ecosystems) should be considered when identifying EFH. The guidelines also specify that sufficient EFH be protected and conserved to support sustainable fisheries and managed species' contribution to a healthy ecosystem.

The generic amendment designates EFH for species included in all seven of the Council's FMPs. EFH is identified and described based on areas where various life stages of 26 selected managed species and the coral complex commonly occur. The Council selected these 26 species because they are considered to be ecologically representative of the remaining species in the FMPs. The selected species are: Shrimp (brown shrimp, white shrimp, pink shrimp, royal red shrimp); red drum; reef fish (red grouper, gag grouper, scamp grouper, black grouper,

red snapper, vermilion snapper, gray snapper, yellowtail snapper, lane snapper, greater amberjack, lesser amberjack, tilefish, and gray triggerfish); coastal migratory pelagic species (king mackerel, Spanish mackerel, cobia, dolphin, bluefish, little tunny); stone crab; spiny lobster; and the coral complex.

The selected species represent about a third of the species under management by the Council. EFH for the remaining managed species will be addressed in future FMP amendments, as appropriate.

EFH is identified based on where the individual managed species commonly occur. Collectively, these species commonly occur throughout all of the marine and estuarine waters of the Gulf of Mexico. For purposes of this generic EFH amendment, EFH is separated into estuarine and marine components. Collectively, EFH for the estuarine component includes all estuarine waters and substrates (mud, sand, shell, rock, and associated biological communities), including subtidal vegetation (seagrasses and algae) and adjacent intertidal vegetation (marshes and mangroves). Collectively, EFH in marine waters of the Gulf of Mexico includes all marine waters and substrates (mud, sand, shell, rock, and associated biological communities) from the shoreline to the seaward limit of the exclusive economic zone.

The amendment also identifies: Threats to EFH from fishing and nonfishing activities; options to conserve and enhance EFH; and research needs. No management measures and, therefore, no regulations are proposed at this time. Fishing-related management measures to minimize any identified impacts are deferred to future amendments when the Council has adequate information to decide whether measures are practicable.

Comments received by January 8, 1999 will be considered in the approval/disapproval decision on the amendment.

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

Dated: November 3, 1998.

Bruce C. Morehead,

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

[FR Doc. 98-29944 Filed 11-6-98; 8:45 am]

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