

50 CFR Part 669

[Docket No. 940372-4072; ID 123093H]

Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands

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

ACTION: Final rule, technical amendment.

SUMMARY: NMFS issues this technical amendment to correct and clarify the specification of the minimum mesh sizes allowed in fish traps used in the exclusive economic zone around Puerto Rico and the U.S. Virgin Islands. The intent of this action is to correct and clarify the regulations and carry out the intent of the Caribbean Fishery Management Council (Council).

EFFECTIVE DATE: March 11, 1994.

FOR FURTHER INFORMATION CONTACT: Georgia Cranmore, 813-893-3161.

SUPPLEMENTARY INFORMATION: The reef fish fishery of Puerto Rico and the U.S. Virgin Islands is managed under the Fishery Management Plan for the Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands (FMP). The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 669 under the authority of the Magnuson Fishery Conservation and Management Act.

Under the FMP's framework procedure for making regulatory changes, the Council may initiate and NMFS may change, among other things, the minimum allowable mesh sizes in fish traps. In accordance with that framework procedure, the mesh sizes were substantively changed by a final rule published September 26, 1991 (56 FR 48755). Since that final rule, the regulations specify a minimum mesh size of 2 inches (5.1 cm) for fish traps

constructed of material other than bare wire, such as coated wire or plastic, measured in the smallest dimension of the opening, rather than measured between centers of strands (currently codified at 50 CFR 669.23(b)(1)). When the Council recommended changes in the minimum allowable mesh sizes in fish traps, it intended that the minimum allowable mesh sizes for all fish traps be measured between centers of strands, regardless of construction material. Wire manufacturers produce trap mesh in accordance with this measurement procedure. Fishermen have been using coated-wire fish traps constructed with mesh of this standard size. The difference in the mesh openings between industry standard bare wire and coated wire is approximately 0.23 inch (5.84 mm), which is considered insignificant for purposes of fishery conservation. Accordingly, this final rule, technical amendment, corrects the regulations so that all fish trap mesh is measured between centers of strands. In addition, this final rule, technical amendment clarifies the regulations by specifying that measurements are to be made between the centers of opposite strands.

Classification

This technical amendment is issued as a final rule under 50 CFR part 669.

This rule is minor and technical and does not change regulatory impacts that were previously reviewed and analyzed.

Because this rule (1) makes a non-substantive correction and a clarification to the regulations; (2) will not necessitate a change in operating practices in the fishery; and (3) relieves a restriction, the Assistant Administrator for Fisheries, NOAA, under section 553(b) (B) and (d) of the Administrative Procedure Act (5 U.S.C. 553) for good cause finds that it is unnecessary and contrary to the public

interest to provide notice and public comment on this rule or to delay for 30 days its effective date.

List of Subjects in 50 CFR Part 669

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: March 8, 1994.

Charles Karnella,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 669 is amended as follows:

PART 669—REEF FISH FISHERY OF PUERTO RICO AND THE U.S. VIRGIN ISLANDS

1. The authority citation for part 669 continues to read as follows:

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

2. In § 669.23, paragraph (b)(1) is revised to read as follows:

§ 669.23 Gear restrictions.

* * * * * (b) * * *

(1) Mesh size. A bare-wire fish trap used or possessed in the EEZ that has hexagonal mesh openings must have a minimum mesh size of 1.5 inches (3.8 cm), in the smallest dimension measured between centers of opposite strands. A bare-wire fish trap used or possessed in the EEZ that has other than hexagonal mesh openings or a fish trap of other than bare wire, such as coated wire or plastic, used or possessed in the EEZ must have a minimum mesh size of 2.0 inches (5.1 cm), in the smallest dimension measured between centers of opposite strands.

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[FR Doc. 94-5762 Filed 3-10-94; 8:45 am] BILLING CODE 3510-22-P

REEF FISH

fishery and the marine aquarium fin fish fishery into the reef fish management unit; retitle the FMP to encompass the revised management unit; restrict the collection of marine aquarium fishes to hand-held dip nets and slurp guns; prohibit the harvest/possession/sale of certain species used in the marine aquarium trade; remove a requirement that the two escape panels required for each fish trap be located on opposite sides of the trap; prohibit the harvest or possession of jewfish; close two additional red hind spawning aggregation areas from December through February, in addition to the areas already closed; and close a spawning aggregation area for mutton snapper from March through June of each year. This final rule is intended to protect and conserve the highly exploited reef fish resources of Puerto Rico and the U.S. Virgin Islands.

EFFECTIVE DATE: November 15, 1993.

FOR FURTHER INFORMATION CONTACT: Miguel A. Rolon, 809-753-6910 or William R. Turner, 813-893-3161.

ADDRESSES: Requests for copies of Amendment 2, the final supplemental environmental impact statement, the final regulatory impact review, and the final regulatory flexibility analysis should be sent to the Caribbean Fishery Management Council, 268 Ave Munoz Rivera, suite 1108, San Juan, PR, 00918-4577.

SUPPLEMENTARY INFORMATION: The shallow-water reef fish fishery is managed under the FMP prepared by the Caribbean Fishery Management Council (Council), and its implementing regulations at 50 CFR part 669, under authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

Amendment 2 addresses continuing and growing concerns by the Council over scarce resources, the need to protect important species when they aggregate for spawning, and the need to extend protection to other reef-associated species not presently in the management unit. The specific management measures, and their backgrounds and rationales, were discussed in the proposed rule to implement Amendment 2 (58 FR 39186, July 22, 1993) and are not repeated here.

The NMFS Regional Director, Southeast Region, approved Amendment 2 on September 23, 1993. No public comments were received on the proposed rule or on Amendment 2; accordingly, the proposed rule is adopted as final without change.

Classification

The Secretary of Commerce (Secretary) determined that Amendment 2 is necessary for the conservation and management of the reef fish fishery and that it is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law, except for the provision in Amendment 2 that would have authorized the use of 18-gauge ungalvanized wire as fasteners of escape panels on fish traps. Accordingly, the Secretary disapproved that provision. The basis for the disapproval was included in the proposed rule and is not repeated here.

The Council prepared a regulatory impact review (RIR), which concludes this rule would have national net economic benefits. A summary of those benefits was included in the proposed rule and is not repeated here.

The Council prepared an initial regulatory flexibility analysis (RFA) for this action. The initial RFA has been adopted as final without change. The final RFA concludes that this rule would have a significant economic impact on a substantial number of small entities.

The Council prepared a final supplemental environmental impact statement (SEIS) for Amendment 2. The final SEIS was filed with the Environmental Protection Agency which published in the Federal Register, on August 6, 1993, a notice of availability for public comment until September 7, 1993.

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of Puerto Rico and the U.S. Virgin Islands. This determination was submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act. The state agencies did not respond within the statutory time period; therefore, state agency agreement with the consistency determination is presumed.

This final rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

This final rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12812.

List of Subjects in 50 CFR Part 669

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

50 CFR Part 669

[Docket No. 930773-3247; LD. 090893A]

RIN 0648-A263

Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement Amendment 2 to the Fishery Management Plan for the Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands (FMP). Amendment 2 and this final rule incorporate the major species of the deep-water reef fish

Dated: October 7, 1993.

Samuel W. McKenna,
Program Management Officer, National
Marine Fisheries Service.

For the reasons set forth in the
preamble, 50 CFR part 659 is amended
as follows:

**PART 659—REEF FISH FISHERY OF
PUERTO RICO AND THE U.S. VIRGIN
ISLANDS**

1. The authority citation for part 659
continues to read as follows:

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

2. The heading for part 659 is revised
to read as set forth above.

3. Section 659.1 is revised to read as
follows:

§ 659.1 Purpose and scope.

(a) The purpose of this part is to
implement the Fishery Management
Plan for the Reef Fish Fishery of Puerto
Rico and the U.S. Virgin Islands,
prepared by the Caribbean Fishery
Management Council under the
Magnuson Act.

(b) This part governs conservation and
management of reef fish in or from the
EEZ around Puerto Rico and the U.S.
Virgin Islands.

4. In § 659.2, the definition for "fish
in the shallow-water reef fish fishery" is
removed and a definition for "fish in
the reef fish fishery" is added in its
place to read as follows:

§ 659.2 Definitions.

Fish in the reef fish fishery means any
of the following species:

Morays—Muraenidae
Giant moray, *Echidna colanota*
Green moray, *Gymnothorax funebis*
Goldenside moray, *Gymnothorax miliaris*
Sails sets—Ophichthidae
Goldspotted eel, *Myrichthys ocellatus*
Lizardfishes—Synbranchidae
Sand diver, *Synodus listratus*
Frogfishes—Antennariidae
Frogfish, *Antennarius spp.*
Butfishes—Ogcocephalidae
Butfish, *Ogcocephalus spp.*
Squirtfishes—Holocentridae
Squirtfish, Holocentrus edentatus
Longspine squirrelfish, Holocentrus ruber
Blackbar soldierfish, Myripristis pacifica
Cardinal soldierfish, Pterodryops
trispinatus
Trumpetfishes—Aulostomidae
Trumpetfish, Aulostomus maculatus
Pipefishes—Syngnathidae
Seahorses, *Hippocampus spp.*
Pipefishes, *Syngnathus spp.*
Flying gurnards—Dactylopteroideae
Flying gurnard, Dactylopterus volitans
Scorpionfishes—Scorpaenidae
Sea bunnies—Serranidae
Rock blind, Epinephelus edwardsianus
Crayby, Epinephelus cruentatus

Yellowedge grouper, *Epinephelus*
pyrodonotus

Coney, *Epinephelus furus*

Red blind, *Epinephelus virgatus*

Parfish, *Epinephelus liparis*

Red grouper, *Epinephelus morio*

Muliy grouper, *Epinephelus aeneus*

Nassau grouper, *Epinephelus striatus*

Butler hamlet, *Hypoplecterus unicolor*

Butterguard hamlet, *Lagodon rhomboides*

Yellowfin grouper, *Mycteroperca venenosa*

Tiger grouper, *Mycteroperca tigris*

Creole fish, *Paranibalis fuscifer*

Greater seafile, *Myxisthus sepioides*

Orangehead bass, *Serranus annularis*

Latern bass, *Serranus baldwini*

Tobaccofish, *Serranus tobacconis*

Harlequin bass, *Serranus tigrinus*

Chilli bass, *Serranus tortuosus*

Seafile—Grammatidae

Royal gramma, *Croceus lewisii*

Bilgys—Percanthisidae

Bilgys, *Percanthis serratus*

Clawfish snapper, *Procoelotus cruentatus*

Cardinalfishes—Apogonidae

Parrotfish, *Apogon maculatus*

Cowfish, *Acanthopagrus ruber*

Tilfishes—Melanichthidae

Blackline tilfish, *Caulolatilus cyanops*

Sand whiff, *Melocentrus plumieri*

Jack—Carangidae

Yellow jack, *Caranx berthelamoni*

Blue runner, *Caranx cryseus*

Horse-eye jack, *Caranx lacrus*

Black jack, *Caranx lugubris*

Bar jack, *Caranx ruber*

Greater amberjack, *Seriola lalandi*

Almaco jack, *Seriola rivoliana*

Snappers—Lutjanidae

Black snapper, *Apulius dentatus*

Queen snapper, *Kala ocellatus*

Mutton snapper, *Lutjanus analis*

Redcocksnipter, *Lutjanus spodioides*

Blackfin snapper, *Lutjanus buchanani*

Cray snapper, *Lutjanus griseus*

Dog snapper, *Lutjanus jessii*

Palatinate snapper, *Lutjanus moolougii*

Late snapper, *Lutjanus grunni*

Silk snapper, *Lutjanus viraninus*

Yellowtail snapper, *Ocyurus chrysurus*

Wenchowan, *Pristigaster ocellatus*

Vermillion snapper, *Rhabdopholis*
aurivulvatus

Cream—Hamulidae

Parfish, *Acanthurus virginicus*

Mygale, *Hamulus albus*

Tomatis, *Hamulus surinamensis*

French parrot, *Hamulus formosus*

White parrot, *Hamulus plumieri*

Bluestriped parrot, *Hamulus sciurus*

Porpales—Sparidae

Sea bream, *Archamia rhomboidalis*

Redhead parrot, *Calamus bojanoides*

Shoeshoed parrot, *Calamus bojanoides*

Prima, *Calamus panamensis*

Drum—Sciaenidae

Mud-hat, *Equetus acuminatus*

Redhead fish, *Equetus lanceolatus*

Spotted drum, *Equetus punctatus*

Cowfishes—Mullidae

Yellow goatfish, *Mullidichthys muriei*

Spotted goatfish, *Mullidichthys muriei*

Spadefishes—Ephippidae

Atlantic spadefish, *Chaetodipterus jaber*

Butterflyfishes—Chaetodontidae

Longspout butterflyfish, *Chaetodon*
ocellatus

Four-eye butterflyfish, *Chaetodon*
capitatus

Spotfin butterflyfish, *Chaetodon ocellatus*

Bandied butterflyfish, *Chaetodon striatus*

Angelfishes—Pomacanthidae

Parrotfish, *Centropyge aery*

Queen angelfish, *Holocentrus ciliatus*

Rock beauty, *Holocentrus tricolor*

Cray angelfish, *Pomacanthus arcuatus*

French angelfish, *Pomacanthus paru*

Damselfishes—Famocanthidae

Sargant major, *Abudefduf saxatilis*

Blue chromis, *Chromis cyanea*

Banahianfish, *Chromis lineolata*

Yellowtail damselfish, *Microperichthys*
chrysurus

Dusky damselfish, *Pomacentrus fuscus*

Bluegrouper, *Pomacentrus leucocentrus*

Bicolor damselfish, *Pomacentrus partitus*

Three-spot damselfish, *Pomacentrus*
trispinatus

Parrotfishes—Scaridae

Parrotfish, *Scarus coelestis*

Midnight parrotfish, *Scarus coelestis*

Blue parrotfish, *Scarus coeruleus*

Striped parrotfish, *Scarus croceatus*

Rainbow parrotfish, *Scarus guineensis*

Princeps parrotfish, *Scarus princeps*

Queen parrotfish, *Scarus tricolor*

Redhead parrotfish, *Sparus*
aurifasciatus

Chrysopteron

Redfin parrotfish, *Sparus rubripinnis*

Striped parrotfish, *Sparus viride*

Parrotfishes—Ogilbichthidae

Yellowhead parrotfish, *Ogilbichthys*
aurifasciatus

Dusky parrotfish, *Ogilbichthys whitshirei*

Combtooth blennioid—Blenniidae

Redlip blenny, *Ophichthichthys edentatus*

Cobblers—Cobiidae

Neon goby, *Cochlosoma oceanops*

Rummy goby, *Proolepis nipolii*

Burgonfishes—Acanthuridae

Ocean surgeonfish, *Acanthurus bahianus*

Doctorfish, *Acanthurus chirurgus*

Blue tang, *Acanthurus coeruleus*

Lehiye flowerfish—Botiidae

Parrotfish flowerfish, *Botia lunata*

Boles—Soleidae

Caribbean tonguefish, *Symphurus arroyo*

Leatherfishes—Aulostomidae

Scrawled filefish, *Aulurus scirpus*

Queen triggerfish, *Belister wreath*

Whitespotted filefish, *Canthiopus*
macrodon

Ocean triggerfish, *Canthidermis sufflamen*

Black dragon, *Melichthys nigra*

Sargassum triggerfish, *Xanichthys rigens*

Boarfish—Ostraciidae

Spotted unicornfish, *Lactophrys bicaudalis*

Honeycomb cowfish, *Lactophrys polygona*

Screwed cowfish, *Loctophrys quadricornis*
 Trunkfish, *Loctophrys trigonus*
 Smooth trunkfish, *Loctophrys triquetus*
 Puffers—Tetraodontidae
 Sharpnose puffer, *Canthigaster rostrata*
 Porcupinefish, *Diodon hystrix*

8. Section 659.7 is revised to read as follows:

§ 659.7 Prohibitions.

In addition to the general prohibitions specified in § 620.7 of this chapter, it is unlawful for any person to do any of the following:

- (a) Fish with a fish trap in the EEZ without a vessel identification number and color code, as specified in § 659.8(a).
- (b) Falsify or fail to display and maintain vessel and gear identification, as specified in § 659.8(c), (d), and (e).
- (c) Fish in an area during a seasonal closure, as specified in § 659.21.
- (d) Harvest or possess a Nassau grouper, jewfish, seahorse, or four-eye, banded, or longnout butterflyfish in or from the EEZ, or fail to release such fish immediately with a minimum of harm; as specified in § 659.22(a) and (b).
- (e) Harvest in the EEZ a marine aquarium fish by means other than a hand-held dip net or a hand-held slurp gun, as specified in § 659.22(c).
- (f) Possess a yellowtail snapper in or from the EEZ that is smaller than the minimum size limit or is without its head and fins intact; or fail to release immediately with a minimum of harm an undersized yellowtail snapper caught in the EEZ; as specified in § 659.22(d).
- (g) Fish in the EEZ with explosives or possess on board a vessel in the reef fish fishery any dynamite or similar explosive substance, as specified in § 659.23(a)(1).
- (h) Fish in the EEZ with poisons, drugs, other chemicals, or a powerhead, as specified in § 659.23(a)(2) and (a)(3).
- (i) Use or possess in the EEZ a fish trap that does not conform to the requirements for mesh sizes and escape panels, as specified in § 659.23(b)(1) and (b)(2).
- (j) Tend, open, pull, molest, or have in possession another person's fish trap in the EEZ, except as specified in § 659.23(b)(3).
- (k) Sell, purchase, trade, or barter, or attempt to sell, purchase, trade, or barter, a live red hind or live mutton snapper, as specified in § 659.24.
- (l) Interfere with, obstruct, delay, or prevent by any means an investigation, search, seizure, or disposition of seized property in connection with enforcement of the Magnuson Act.
- (m) Make any false statement, oral or written, to an authorized officer

concerning the taking, catching, harvesting, landing, sale, purchase, trade, barter, possession, or transfer of a reef fish.

6. Subpart B of part 659 is revised to read as follows:

Subpart B—Management Measures

Sec.

- 659.20 Fishing year.
- 659.21 Seasonal area closures.
- 659.22 Harvest limitations.
- 659.23 Gear restrictions.
- 659.24 Limitations on sale.
- 659.25 Specifically authorized activities.

Subpart B—Management Measures

§ 659.20 Fishing year.

The fishing year for the reef fish fishery begins on January 1 and ends on December 31.

§ 659.21 Seasonal area closures.

(a) *Red hind spawning aggregation areas.* From December 1 through February 28, each year, fishing is prohibited in the following three areas. Each area is bounded by rhumb lines connecting the points in the order listed.

(1) *South of St. Thomas:*

Point	Latitude	Longitude
A	18°13.2'N	65°06.0'W
B	18°13.2'N	64°58.0'W
C	18°11.8'N	64°59.0'W
D	18°10.7'N	65°06.0'W
A	18°13.2'N	65°06.0'W

(2) *West of Puerto Rico:*

Point	Latitude	Longitude
A	18°11.0'N	67°25.5'W
B	18°11.0'N	67°20.4'W
C	18°08.0'N	67°20.4'W
D	18°08.0'N	67°25.5'W
A	18°11.0'N	67°25.5'W

(3) *East of St. Croix:*

Point	Latitude	Longitude
A	17°50.2'N	64°27.8'W
B	17°50.1'N	64°28.1'W
C	17°49.2'N	64°25.8'W
D	17°48.8'N	64°25.8'W
E	17°48.1'N	64°28.1'W
F	17°47.5'N	64°28.8'W
A	17°50.2'N	64°27.8'W

(b) *Mutton snapper spawning aggregation area.* From March 1 through June 30, each year, fishing is prohibited in the following area bounded by rhumb lines connecting the points in the order listed:

Point	Latitude	Longitude
A	17°37.8'N	64°52.6'W
B	17°38.2'N	64°52.1'W
C	17°38.3'N	64°51.8'W
D	17°38.1'N	64°51.4'W
A	17°37.8'N	64°52.6'W

§ 659.22 Harvest limitations.

(a) *Nassau grouper and jewfish.* Nassau grouper or jewfish may not be harvested or possessed in or from the EEZ. A Nassau grouper or jewfish caught in the EEZ must be released immediately with a minimum of harm.

(b) *Seahorses and four-eye, banded, and longnout butterflyfish.* Seahorses and four-eyes, banded, and longnout butterflyfish may not be harvested or possessed in or from the EEZ. Such fish caught in the EEZ must be released immediately with a minimum of harm.

(c) *Marine aquarium fish.* A marine aquarium fish may be harvested in the EEZ only by a hand-held dip net or by a hand-held slurp gun. For the purposes of § 659.7(e) and this paragraph (c), a hand-held slurp gun is a device that rapidly draws seawater containing fish into a self-contained chamber, and a marine aquarium fish is a fish in the reef fish fishery that is smaller than 3.5 inches (14.0 cm), total length.

(d) *Yellowtail snapper—(1) Minimum size limit.* The minimum size limit for the possession of yellowtail snapper in or from the EEZ is 12 inches (30.5 cm) total length. An undersized yellowtail snapper caught in the EEZ must be released immediately with a minimum of harm.

(2) *Head and fins intact.* A yellowtail snapper possessed in the EEZ must have its head and fins intact and a yellowtail snapper taken from the EEZ must have its head and fins intact through offloading at a dock, berth, beach, seawall, or ramp. Such yellowtail snapper may be eviscerated but must otherwise be maintained in a whole condition.

§ 659.23 Gear restrictions.

(a) *Explosives, poisons, and powerheads.*

(1) Explosives may not be used in the EEZ to fish for fish in the reef fish fishery. A vessel in the reef fish fishery may not possess on board any dynamite or similar explosive substances.

(2) Poisons, drugs, or other chemicals may not be used in the EEZ to fish for fish in the reef fish fishery.

(3) A powerhead may not be used in the EEZ to fish for fish in the reef fish fishery. Possession of a powerhead and a mutilated fish in the reef fish fishery aboard a vessel in the EEZ or aboard a vessel after having fished in the EEZ

constitutes *prima facie* evidence that such reef fish was taken with a powerhead in the EEZ.

(b) *Fish traps*—(1) *Mesh size*. A bare-wire fish trap used or possessed in the EEZ that has hexagonal mesh openings must have a minimum mesh size of 1.5 inches (3.8 cm), in the smallest dimension measured between centers of strands. A bare-wire fish trap used or possessed in the EEZ that has other than hexagonal mesh openings must have a minimum mesh size of 2.0 inches (5.1 cm), in the smallest dimension measured between centers of strands. A fish trap of other than bare wire, such as coated wire or plastic, used or possessed in the EEZ must have a minimum mesh size of 2.0 inches (5.1 cm), in the smallest dimension of the opening (rather than between centers of strands).

(2) *Escape panels*. A panel must be located on each of two sides of the trap, excluding the top, bottom, and side containing the trap entrance. The opening covered by a panel must measure not less than 8 inches (20.3 cm) by 8 inches (20.3 cm). The mesh size of a panel may not be smaller than the mesh size of the trap. A panel must be attached to the trap with untreated jute twine with a diameter not exceeding 1/4 inch (.3 cm). An access door may serve as one of the panels, provided it is on an appropriate side, it is hinged only at its bottom, its only other fastening is at the top of the door so that the door will fall open when such other fastening degrades, and such other fastening is untreated jute twine with a diameter not exceeding 1/4 inch (.3 cm). Jute twine used to secure a panel may not be wrapped or overlapped.

(3) *Tending traps*. A fish trap in the EEZ may be tended or pulled only by a person (other than an authorized officer) aboard the fish trap owner's vessel(s), or aboard another vessel if such vessel has on board written consent of the fish trap owner, or if the fish trap owner is aboard and has documentation verifying his identification number and color code. An owner's written consent must specify the time period such consent is effective and the trap owner's identification number and color code. (See § 669.6 regarding identification numbers and color codes.)

§ 669.24 Limitations on sale.

A live red hind or live mutton snapper in or from the EEZ may not be sold, purchased, traded, or bartered, or attempted to be sold, purchased, traded, or bartered, that is, used in the marine aquarium trade.

§ 669.25 Specifically authorized activities.

The Secretary may authorize, for the acquisition of information and data, activities which are otherwise prohibited by these regulations.

§§ 669.4 and 669.6 (Amended)

7. In addition to the amendments set forth above, in 50 CFR part 669, the words "shallow-water" are removed where they appear in the following places: § 669.4 and § 669.6(a), (a)(1) introductory text, (a)(2) (two places), and (a)(3).

OPR Doc. 93-25185 Filed 10-13-93; 8:45 am
 GULLER CODE 2518-25-01

Species		Historic Range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Iridaceae—Iris family:						
<i>Sisyrinchium dichotomum</i>	White irisette	U.S.A. (NC)	E	438	NA	NA

Dated: September 3, 1991.
 Richard N. Smith,
Acting Director, Fish and Wildlife Service.
 [FR Doc 91-23148 Filed 9-25-91; 8:45 am]
 BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 669

[Docket No. 910793-1223]

RIN 0649-AE17

Shallow-Water Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.
ACTION: Final rule.

SUMMARY: The Secretary of Commerce (1) modifies scheduled changes in mesh size requirements, and (2) changes the requirements for degradable panels for fish traps in the shallow-water reef fish fishery, in accordance with the framework procedure of the Fishery Management Plan for the Shallow-Water Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands (FMP). This final rule prescribes minimum allowable mesh sizes for fish traps of (1) 1.5 inches (3.8 centimeters) for hexagonal mesh; (2) 1.5 inches (3.8 centimeters) for square mesh through September 13, 1993; and (3) 2.0 inches (5.1 centimeters) for square mesh effective September 14, 1993. The intended effect is to reduce adverse economic impacts on the industry while continuing the rebuilding program for the shallow-water reef fish resource, some species of which are overfished.

EFFECTIVE DATES: September 20, 1991, except that § 669.24(a)(3) is effective September 20, 1991, through September 13, 1993.

FOR FURTHER INFORMATION CONTACT: Miguel Rolon, 809-753-6910.

SUPPLEMENTARY INFORMATION: The shallow-water reef fish fishery is managed under the FMP, prepared by the Caribbean Fishery Management Council (Council), and its implementing regulations at 50 CFR part 669, under authority of the Magnuson Fishery

Conservation and Management Act (Magnuson Act). In accordance with the framework procedures in the FMP, the Council recommended changes to the mesh size and degradable panel requirements for fish traps used in the fishery.

Discussion of the framework procedure, background for the recommended changes, explanation of the proposed management measures, and analysis of the impacts of the proposed changes are included in the proposed rule (56 FR 41114, August 19, 1991) and are not repeated here.

Comments and Responses

One comment was received during the public comment period, and is addressed below.

Comment: One comment was received from a commercial fishing company in St. Thomas, U.S. Virgin Islands, criticizing the September 14, 1993, deadline for removal of 1.5-inch (3.8 centimeter) square-mesh wire from the fishery. The commenter stated that square-mesh wire traps had a 4-year life expectancy, and documented its August 28, 1990, order of such wire. An exemption from the 2-year phase-out schedule was requested for fishermen with either previous orders or existing inventories of 1.5-inch (3.8 centimeter) square-mesh wire.

Response: According to information provided by the commenter, the order of 1.5-inch (3.8 centimeter) square mesh wire originated after public hearings held in St. Thomas, on April 6, 1989, and on June 27, 1989, at which the Council's intent to eliminate use of the wire was announced. The fish trapping company, which received part of its order on December 31, 1990, and the remainder on August 19, 1991, was already informed that the Council intended to eliminate the 1.5-inch (3.8 centimeter) square mesh wire.

The alleged 4-year trap life expectancy is not supported by a recent survey of the U.S. Virgin Islands Department of Fish and Wildlife that indicated most traps made of vinyl-coated wire last only about 2 years because of loss and theft. The exemption suggested would favor those able to provide appropriate documentation of their investment in

square-mesh wire, in effect extending the phase-out timetable past the gear's life expectancy. Continued use of the 1.5-inch (3.8 centimeter) wire by the exempted fishermen would cause additional resource waste and excessive fishing mortality, thereby impeding rebuilding efforts.

During the phase-out period for the 1.5-inch (3.8 centimeter) square-mesh wire, the Council will pursue studies off Puerto Rico and the U.S. Virgin Islands to evaluate the effectiveness of various mesh sizes and configurations. Additional modifications may be required as a result of these studies.

The proposed rule is published as final with one clarification. In this final rule, the specification of "jute" as a means of attaching an escape panel to a fish trap is revised to read "jute twine."

This final rule, in part, allows the use of fish traps with minimum mesh sizes smaller than 2.0 inches ((5.1 centimeters). A requirement for a minimum mesh size of 2.0 inches (5.1 centimeters) became effective September 14, 1991. In this regard, this final rule is a substantive rule that relieves a restriction. Further, a delay in effectiveness of this final rule would prolong an unnecessary and confusing period during which interim minimum mesh size and escape panel requirements would apply. Accordingly, the Assistant Administrator for Fisheries, NOAA, finds that good cause exists under the Administrative Procedure Act (5 U.S.C. 553(d)(1)) to waive the 30-day delayed effectiveness of this final rule.

Other Matters

This action is authorized by the FMP and complies with E.O. 12291.

List of Subjects in 50 CFR Part 669

Fisheries, Fishing.

Dated: September 20, 1991.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 669 is amended to read as follows:

PART 669—SHALLOW-WATER REEF FISH FISHERY OF PUERTO RICO AND THE U.S. VIRGIN ISLANDS

1. The authority citation for part 669 continues to read as follows:

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

2. In § 669.7, paragraphs (h) and (i) are revised to read as follows:

§ 669.7 Prohibitions.

(h) Use or possess in the EEZ a fish trap with a mesh size smaller than the minimum mesh sizes specified in § 669.24(a).

(i) Use or possess in the EEZ a fish trap that does not have the degradable panels specified in § 669.24(a).

3. In § 669.24, paragraph (a) is revised to read as follows:

§ 669.24 Gear limitations.

(a) *Fish traps*—(1) *Mesh size.* A fish trap used or possessed in the EEZ that has hexagonal mesh openings of bare wire must have a minimum mesh size of 1.5 inches (3.8 centimeters), in the smallest dimension measured between

centers of strands. A fish trap used or possessed in the EEZ that has rectangular mesh openings of bare wire, or that has bare wire mesh openings other than hexagonal or square, must have a minimum mesh size of 2.0 inches (5.1 centimeters), in the smallest dimension measured between centers of strands. A fish trap used or possessed in the EEZ that has mesh openings other than bare wire, such as plastic and coated-wire traps, must have a minimum mesh size of 2.0 inches (5.1 centimeters), in the smallest dimension of the opening, rather than between center of strands.

(2) *Degradable panels.* A panel must be located on each of two opposite sides of the trap, excluding the top, bottom, and side containing the trap entrance. The opening covered by the panel must measure not less than 8 inches (20.3 centimeters) by 6 inches (20.3 centimeters). The mesh size of the panel may not be smaller than the mesh size of the trap, and the panel must be attached to the trap with untreated jute twine with a diameter not exceeding 1/8 inch (.3 centimeter). An access door may serve as one of the panels, provided it is

on an appropriate side, it is hinged only at its bottom, and its only other fastening is by jute twine not exceeding 1/8 inch (.3 centimeter) in diameter at the top of the door so that the door will fall open when the jute twine degrades. Jute twine used to secure a panel may not be wrapped or overlapped.

(3) *Interim exception.* Paragraphs (a)(1) and (a)(2) of this section notwithstanding, through September 13, 1993, a fish trap that has rectangular mesh openings with a minimum mesh size of 1.5 inches (3.8 centimeters), in the smallest dimension measured between center of strands, may be used or possessed in the EEZ. The degradable panels on such a trap must cover an opening not less than 9 inches (22.9 centimeters) by 9 inches (22.9 centimeters), and the mesh of the panels may not be smaller than 2-inch (5.1-centimeter) square-mesh wire. The location and attachment of the panels must be as specified in paragraph (a)(2) of this section.

[FR Doc. 91-23144 Filed 9-20-91; 3:16 pm]
BILLING CODE 3510-22-M

Corrections

Federal Register

Vol. 55, No. 244

Wednesday, December 19, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 433

[Amdt. No. 3; Doc. No. 7889S]

Dry Bean Crop Insurance Regulations

Correction

In rule document 90-28904 beginning on page 50815 in the issue of Tuesday, December 11, 1990, in the second column, under EFFECTIVE DATE, "January 10, 1990" should read "January 10, 1991".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 669

[Docket No. 900786-0263]

RIN 0648-AD47

Shallow-Water Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands

Correction

In rule document 90-25995 beginning on page 46214 in the issue of Friday, November 2, 1990, make the following corrections:

§ 669.21 [Corrected]

1. On page 46216, in the second column in the table in § 669.21, the last entry was omitted and, the point, latitude, and longitude should read, "A 18°13.2'N. 65°06.0'W." respectively.

§ 669.23 [Corrected]

2. On the same page, in the third column, in § 669.23(b), in the fourth line "EEA" should read "EEZ".

BILLING CODE 1505-01-D

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 52

[Federal Acquisition Circular 84-60]

RIN 9000-AD01

Federal Acquisition Regulation (FAR); Procurement Integrity

Correction

In rule document 90-21008 beginning on page 36782 in the issue of Thursday, September 6, 1990, make the following correction:

§ 52.203-8 [Corrected]

On page 36796, in § 52.203-8, in paragraph (b)(1) of the provision, in the middle column, in the fifth line, "subsection 27(a), (d), or (f)" should read "subsection 27(a), (b), (d), or (f)".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 433, 435, 436, 440, and 447

[MB-014-F]

RIN 0938-AD16

Medicaid Program; Eligibility Groups, Coverage and Conditions of Eligibility; Legislative Changes Under OBRA '87, COBRA, and TEFRA

Correction

In rule document 90-27393 beginning on page 48601 in the issue of Wednesday, November 21, 1990, make the following corrections:

1. On page 48602, in the third column, in the third paragraph, in the fourth line, "30" should read "20".

2. On page 48604, in the third column, in the first line, "SSI" should read "SSP".

3. On page 48606, in the first column, the ninth line should read "42 CFR Part 440".

§ 433.137 [Corrected]

4. In the same column, under § 433.137, in paragraph (b)(1), in the fifth line, "of" should read "or".

§ 436.604 [Corrected]

5. On page 48610, in § 436.604(c), in the third column, in the last line, "are" should be "is".

§ 447.53 [Corrected]

6. On page 48611, in § 447.53(b)(2), in the third column, in the ninth line, after "care" add a comma.

BILLING CODE 1505-01-D

50 CFR Part 669

(Docket No. 900789-0283)

RIN 0649-AD47

Shallow-Water Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.**ACTION:** Final rule.

SUMMARY: NOAA issues this final rule to implement Amendment 1 to the Fishery Management Plan for the Shallow-Water Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands (FMP). This rule (1) increases the minimum allowable mesh size used in fish traps to 2 inches (5.08 centimeters); (2) prohibits the harvest or possession of Nassau grouper; (3) closes an area of approximately 34 square nautical miles (48 km²) in the Exclusive Economic Zone (EEZ) southwest of St. Thomas, U.S. Virgin Islands, to fishing during the spawning season for red hind; and (4) prohibits the possession of dynamite or similar explosive substances on board vessels in the fishery. The intended effects of this rule are to rebuild the declining reef fish species and to enhance enforcement.

EFFECTIVE DATES: November 29, 1990, except that paragraph § 669.24(u)(1) is effective September 14, 1991.

FOR FURTHER INFORMATION CONTACT: William R. Turner, 813-893-3722.

SUPPLEMENTARY INFORMATION: The shallow-water reef fish fishery is managed under the FMP, prepared by the Caribbean Fishery Management Council (Council), and its implementing regulations at 50 CFR part 669, under authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

Amendment 1 to the FMP contains (1) additional management measures to rebuild declining reef fish species, (2) authorization for collection of socio-economic information, (3) definitions of overfishing and overfished, and (4) a revised habitat section. A notice of availability summarizing Amendment 1 was published in the Federal Register on June 21, 1990 (55 FR 25348). The additional management measures and the background and rationale for all the changes in Amendment 1, and an

additional change to the regulations proposed by NOAA, were discussed in the proposed rule (55 FR 28787, July 13, 1990) and are not repeated here.

Comments and Responses

Twenty-eight sets of comments were received on Amendment 1 during the public comment period, including a form letter signed by 24 members of a fishing organization and a member of the legislature of the U.S. Virgin Islands. A state fisheries research laboratory provided information on trap mesh size and an additional red hind spawning site.

Comment: All commenters supported the spawning season closure for red hind in the specified area off the U.S. Virgin Islands, and two indicated that similar areas also should be closed off Puerto Rico. A state fisheries scientist provided geographical information on such an area of Puerto Rico, and suggested that this area be closed by Amendment 1.

Response: NOAA agrees that closing spawning aggregation areas may be critical to sustaining the red hind resource. However, incorporating the recently defined spawning site off Puerto Rico into Amendment 1 would only serve to delay implementation of the management measures and cause a lapse in the closure off the U.S. Virgin Islands during the forthcoming spawning season. The Council may consider additional spawning area closures, including the area described off Puerto Rico, and make appropriate changes by regulatory amendment using the regulatory adjustment procedure contained in Amendment 1.

Comment: Twenty-six commenters objected to the establishment of two inches, in the smallest dimension, as the minimum mesh size for fish traps and believed that this management measure would increase escapement of certain slender-bodied species that have consumer value. One commenter indicated that regulation of gillnets and prohibiting the use of bait in fish traps should be substituted for this management measure. The others contended that only part (one side) of the traps needs to be constructed of 2-inch mesh to allow juvenile fish to escape, thus, reducing economic impacts associated with rewiring the entire trap. They stated that the life expectancy of coated wire traps is three to four years, and that many fishermen have already purchased replacement mesh for traps destroyed by hurricane Hugo.

Response: The current mesh size of 1½ inches results in a large bycatch of juvenile reef fish in the trap fishery.

thereby, reducing the average size of much of the harvest. NOAA believes that the two-inch mesh size will allow the escapement of juvenile fish that otherwise would be retained in a smaller mesh, thus, contributing to rebuilding of the overfished reef fish species.

Selecting an optimum mesh size for a large complex of species that vary widely in body conformation is exceedingly difficult. The 2-inch mesh size was selected to reduce fishing mortality on juveniles and, at the same time, reverse a trend toward the harvest of less desirable, lower valued species. Scientists knowledgeable about this fishery acknowledge that the larger mesh size may result in the escape of more slender-bodied species but should have little effect on the catch of more robust species. A state fishery scientist submitted information supporting the increased minimum mesh size and indicating that the bycatch, considered to be of minimal economic value but significant in terms of resource recovery, would decrease once the larger mesh size is implemented. These shifts in harvest composition are needed to effect a general rebuilding of the declining reef fish resources. The harvest of the more valuable species at optimum size will outweigh the short-term economic losses resulting from this measure.

Currently, the use of gillnets is uncommon and is a relatively insignificant source of fishing mortality compared to fish traps, which are the prevalent gear in this fishery. Should data indicate that gillnets are a significant source of fishing mortality, restrictions on their use may be implemented.

The use of bait in fish traps may increase the attraction of reef fish, and thereby, increase fishing mortality by this gear. However, a ban on the use of bait is virtually unenforceable. The proposed measures are effective, enforceable means of reducing the mortality of the declining reef fish resources, one of the objectives of the FSP.

Small fish use fish traps as a shelter and when traps are hauled to the surface rapidly, the fish attempt to escape by swimming in all directions. Only by chance would an individual fish move in the direction of the side of the trap with 2-inch mesh. Also, traps are frequently moved about by currents, especially during storms. The exit of fish from a trap would be impeded if that trap comes to rest on the only side that is constructed of 2-inch mesh. NOAA agrees that the construction of traps with 2-inch mesh is the best resolution of the Council's intent to reduce

mortality of juveniles and bycatch of small fishes.

Further, the Council has specified a 1-year period of delayed effectiveness to ease the burden of transition to traps with the 2-inch mesh throughout. This gives the fishermen an additional period to use old traps before replacement is required. Delaying the effectiveness of this measure for a longer period of time would have substantial consequences on resources already in need of protection.

Comment: The form letter suggested that the closure of the Nassau grouper fishery be limited to 3 years and then opened for a 6-month period under an 18-inch size limit. The fishermen and the legislator expressed concern that once a fishery is closed, it will not be reopened regardless of stock conditions.

Response: Nassau grouper resources have been diminished to the extent that to catch even one is a rare occurrence, and the fishery should not be reopened, even intermittently, until the population has been restored to a level that will support a controlled harvest. Nassau grouper do not reach maturity until 22 inches in length; therefore, it takes a number of years for this species to attain spawning size. Accordingly, the resource is not expected to rebuild in a short period of time. To reopen the fishery prematurely could cause further damage to the resource and delay the Council's rebuilding efforts. The resource will be assessed periodically, and the fishery will be reopened when the population reaches a level that will support a harvest. At that time, it is likely that the Council will institute a minimum size restriction of 22 inches rather than 18 inches.

Comment: One fisherman indicated that recent residential development and improper sewage disposal have greatly affected the fishery, with far greater negative impacts than those caused by the relatively few fish trappers.

Response: The scientific community and state fishery managers agree that the fishery is showing signs of depletion, in all likelihood, due to overfishing. Although excessive development and waste disposal may have a deleterious effect, it is virtually impossible to quantify these impacts. NOAA believes that the management measures are fair, equitable, and enforceable means of rebuilding the resource and arresting the decline of the fishery.

Approval of Amendment 1

The Secretary of Commerce approved Amendment 1 on September 14, 1990. In accordance with the amendment and to minimize the economic impacts of the increase in minimum allowable mesh

size for fish traps, the effectiveness of that measure is delayed for one year.

Changes From the Proposed Rule

In § 609.2, a definition for *Powerhead* is added to clarify the use of that term. The language in § 609.7(c) is revised to change the prohibition on the possession or harvest in the EEZ of Nassau grouper during the closed season to prohibition in or from the EEZ year round.

The management measures on Nassau grouper are placed under "Harvest Limitations" (§ 609.22) in lieu of under "Closed seasons" (§ 609.21).

The phrase "used or possessed in the EEZ" is added to the minimum mesh size limitation for fish traps (§ 609.24(a)(1)) to clarify the scope of that limitation.

Classification

The Director, Southeast Region, NMFS, determined that Amendment 1 is necessary for the conservation and management of the shallow-water reef fish resource of Puerto Rico and the U.S. Virgin Islands and is consistent with the Magnuson Act and other applicable law.

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), determined that this rule is not a "major rule" requiring the preparation of regulatory impact analysis under E.O. 12291. This rule is not likely to have an annual effect on the economy of \$100 million or more; result in a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographical regions; or have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic markets.

The Council prepared a regulatory impact review (RIR) for Amendment 1. A summary of the economic effects was included in the proposed rule.

The Council prepared a Regulatory Flexibility Analysis as part of the RIR that concludes that this rule will have significant impacts on 1500-2000 small business entities. Those impacts were summarized in the proposed rule.

The Council prepared an environmental assessment (EA) that discusses the impact of Amendment 1 on the environment. Based on the EA, the Assistant Administrator concluded that there will be no significant adverse impact on the human environment as a result of this rule.

The Council determined that this rule will be implemented in a manner that is consistent, to the maximum extent

practicable, with the approved coastal zone management programs of Puerto Rico and the U.S. Virgin Islands. These determinations were submitted for review by the responsible agencies under section 307 of the Coastal Zone Management Act. Both Puerto Rico and the U.S. Virgin Islands agreed with the determinations.

This rule does not contain a collection-of-information requirement subject to the Paperwork Reduction Act.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

List of Subjects in 50 CFR Part 669

Fisheries, Fishing.

Dated: October 28, 1990.

Michael F. Tillman,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 669 is amended as follows:

PART 669—SHALLOW-WATER REEF FISH FISHERY OF PUERTO RICO AND THE U.S. VIRGIN ISLANDS

1. The authority citation for part 669 continues to read as follows:

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

2. In § 669.2, a definition for *Powerhead* is added in alphabetical order to read as follows:

§ 669.2 Definitions.

Powerhead means any device with an explosive charge, usually attached to a speargun, spear, pole, or stick, which fires a projectile upon contact.

3. In § 669.7, in paragraph (d), the reference “§ 669.22” is revised to read “§ 669.22(b)”; and paragraphs (c), (e), (f), (g), (j), and (k) are revised to read as follows:

§ 669.7 Prohibitions.

(c) Harvest or possess Nassau grouper in or from the EEZ, as specified in § 669.22(a).

(e) Possess a yellowtail snapper smaller than the minimum size limit, as specified in § 669.23(a), or without its head, fins, and tail intact, as specified in § 669.23(b).

(f) Fail to release a Nassau grouper or undersized yellowtail snapper with a minimum of harm, as specified in § 669.22(a) and 669.23(a).

(g) Fish in the area during the time specified in § 669.21.

(j) Fish with explosives or possess on board a fishing vessel any dynamite or similar explosive substance, as specified in § 669.24(b)(1).

(k) Fish with poisons, drugs, other chemicals, or a powerhead as specified in § 669.24(b)(2) and (3).

4. Section 669.21 is revised to read as follows:

§ 669.21 Closed seasons.

From December 1 through February 28, each year, fishing is prohibited in the area bounded by rhumb lines connecting the following points in the order listed:

Point	Latitude	Longitude
A	18°13.2'N	65°05.0'W
B	18°13.2'N	64°54.0'W
C	18°11.8'N	64°58.0'W
D	18°10.7'N	65°08.0'W

5. In § 669.22, the existing text is designated as paragraph (b) and a new paragraph (a) is added to read as follows:

§ 669.22 Harvest Limitations.

(a) Nassau grouper may not be harvested or possessed in or from the EEZ year round. A Nassau grouper

caught in the EEZ must be released immediately with a minimum of harm.

6. Section 669.23 is revised to read as follows:

§ 669.23 Size Limitations.

(a) The minimum size limit for the harvest or possession of yellowtail snapper in or from the EEZ is 12 inches (30.48 centimeters) total length. An undersized yellowtail snapper caught in the EEZ must be released immediately with a minimum of harm.

(b) A yellowtail snapper possessed in the EEZ must have its head, fins, and tail intact and a yellowtail snapper taken from the EEZ must have its head, fins, and tail intact through landing.

7. In § 669.24, a heading is added to paragraph (a), and paragraph (b) is revised to read as follows:

§ 669.24 Gear Limitations.

(a) *Fish traps*—(1) . . .

(b) *Explosives, poisons, and powerheads*—(1) Explosives may not be used to fish for shallow-water reef fish in the EEZ. A vessel in the shallow-water reef fish fishery may not possess any dynamite or similar explosive substances on board.

(2) Poison, drugs, or other chemicals may not be used to fish for shallow water reef fish in the EEZ.

(3) A powerhead may not be used to fish for shallow-water reef fish in the EEZ.

8. Effective September 14, 1991, in § 669.24, paragraph (a)(1) is revised to read as follows:

§ 669.24 Gear Limitations.

(a) . . . (1) A fish trap used or possessed in the EEZ must have a minimum mesh size of 2 inches (5.08 centimeters) in the smallest dimension of the mesh opening.

50 CFR Part 669

(Docket No. 80586-5132)

Shallow-Water Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues this final rule to implement the Fishery Management Plan for the Shallow-water Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands (FMP). The rule (1) establishes criteria for the construction of fish traps; (2) requires owner identification and marking of gear and boats; (3) prohibits the hauling of or tampering with another person's traps without the owner's written consent; (4) prohibits the use of poisons, drugs, other chemicals, and explosives for the taking of reef fish; (5) establishes a minimum size limit on the harvest of yellowtail snapper and Nassau grouper; and (6) establishes a closed season for the taking of Nassau grouper. The intent of the regulations is to rebuild declining reef fish species in the fishery and reduce conflicts among fishermen.

EFFECTIVE DATE: This rule is effective September 22, 1985, except for § 669.24 (a)(1) which becomes effective September 22, 1986.

ADDRESS: A copy of the combined final regulatory flexibility analysis/regulatory impact review may be obtained from Donald W. Geagan, Southeast Region, National Marine Fisheries Service (NMFS), 9450 Koger Boulevard, St. Petersburg, Florida 33702.

FOR FURTHER INFORMATION CONTACT: Donald W. Geagan, 813-893-3722.

SUPPLEMENTARY INFORMATION: The FMP was prepared by the Caribbean Fishery Management Council (Council), under the authority of the Magnuson Fishery Conservation and Management Act, as amended (Magnuson Act). The proposed rule to implement the FMP was published on June 10, 1985 (50 FR 24251) and comments were invited through July 20, 1985. This final rule implements the FMP.

The preamble to the proposed rule contained background information on the fishery, its economic value, condition of the stocks, and harvesting practices within the commercial and recreational sectors. Also discussed in detail were major problems in the fishery (i.e., declining catch per unit of effort by fish traps—the most abundant gear in the fishery, declines in the average size of yellowtail snapper and Nassau grouper in the landings, and problems associated with ciguatera

poisoning and fragmented jurisdiction over the stocks involved). These discussions are not repeated here.

Comments and Responses

A total of six written responses were received from commercial fishermen. Although certain of the comments contained in these responses were in support of the proposed rule, some suggested that certain measures should be even more stringent than proposed. One commenter indicated that prohibitions against the use of explosives and chemicals should apply to marine waters in general, while another commenter suggested that minimum size restrictions should be applied to all species in the shallow-water reef fish fishery.

Generally, the prohibition against the use of drugs, poisons, other chemicals, and explosives for taking shallow-water reef fish would also afford protection to other species that live in association with the reef community; however, management measures must be restricted to the management unit addressed by the FMP. Regarding the application of minimum size limitations to all species in the management unit, the fishery will be monitored after the FMP is implemented and appropriate restrictions will be recommended for other species when data are supplied that indicate such actions are warranted. Comments in opposition to the proposed regulations are discussed by category as follows:

1. Size Limits and Seasonal Closures

Three respondents recommended that alternatives (such as providing training to pursue deep-water or pelagic fishery resources or by providing some form of monetary compensation) be offered to fishermen to offset the negative economic impacts they will suffer when the management program is implemented—especially the proposed minimum size limits and seasonal closures. In that regard, the regulations provide an incremental approach to the minimum size limits for yellowtail snapper and Nassau grouper wherein the attainment of optimum reproductive sizes will be phased-in over a period of years to minimize any social and economic disruption associated with these measures. The FMP thoroughly evaluated these impacts and estimated that the minimum size restrictions coupled with the three-month closed season for Nassau grouper each year will result in a net loss of \$165,000 the first year and \$80,000 the second year. After the second year, however, there will be a gross gain to the fishermen that will amount to an estimated \$5.0 million

over a period of ten years. Moreover, there are no provisions in the Magnuson Act that would authorize such compensation or training programs to alleviate these short-term impacts resulting from management.

Another commenter indicated that undersized fish in traps would die as a result of pressure changes when traps are retrieved from deepwater, and since these fish would be illegal to retain they would be wasted. While the condition of fishes taken at the bottom and brought to the surface undoubtedly will vary with depth of capture, preliminary evidence from studies conducted by NMFS on red snapper indicates a relatively high rate of survival—89 percent for those taken at a depth of 100 feet. The few fishes that were lost during those studies were attributed to hook damage. Although there is no direct evidence on survival for yellowtail snapper and Nassau grouper, it is conceivable that even higher survival rates may be obtained as most would be taken by traps rather than hook-and-line. Hopefully, fishermen taking large numbers of undersized fish would shift their effort to areas where larger fish are more abundant.

One commenter noted that yellowtail snapper commence reproducing before they reach eight inches and that the initial size limit should be smaller. Although some yellowtail snapper may reproduce at a smaller size, data indicate that optimum production occurs at twelve inches. Establishing a lower initial minimum size would only serve to delay the restoration of the stock along with the associated economic gains.

Another commenter suggested that the three-month seasonable closure for Nassau grouper be reduced to 30 days per year to lessen the economic impacts on fishermen. Spawning aggregations of Nassau grouper occur in the management area from January through April of each year and, according to public testimony, these aggregations have diminished considerably over recent years. Prohibiting the retention of Nassau grouper during three fourths of the spawning season already represents a concession of 25 percent but this, coupled with the incremental size limit, is believed to be a reasonable and prudent approach to stock recovery. Any further shortening of the closed season would defer the advantages of the management program and could lead to the collapse of the Nassau grouper stock. Therefore, NOAA is implementing the size limits and seasonable closure as proposed.

2. Habitat

One respondent stressed the importance of a program for protecting mangrove habitat which is essential to the development of numerous commercial species. NOAA agrees that the conservation of mangrove areas is very important to the development of commercial fishes and recreational species as well; however, the management program implemented by these regulations is restricted to the fishery conservation zone.

3. Gear Conflicts

One other commenter indicated that there is a problem with the theft of traps, especially in the Virgin Islands. The regulations at § 669.22 specify that traps may be tended or pulled only by persons aboard the trap owner's vessel, or from another vessel only if such vessel has aboard written consent of the trap owner. This constraint, in conjunction with vessel and gear identification requirements, is implemented to alleviate the trap theft problem.

Classification

The Regional Director determined that the FMP is necessary for the conservation and management of the shallow-water reef fish fishery of Puerto Rico and the U.S. Virgin Islands, and that it is consistent with the Magnuson Act and other applicable law.

The Council prepared a final environmental impact statement for this FMP; a notice of availability was published on July 19, 1985; 50 FR 29480.

The NOAA Administrator determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. Summary published at 50 FR 24251, June 10, 1985.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities. Summary published at 50 FR 24251. As a result, a regulatory flexibility analysis was not prepared.

This rule contains a collection of information requirement subject to the Paperwork Reduction Act. The collection of this information has been approved by the Office of Management and Budget, OMB Control Number 0648-0097.

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 669
Fisheries, Fishing.

Dated: August 22, 1985.

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

For the reasons set forth in the preamble, Chapter VI of 50 CFR is amended by adding a new Part 669 to read as follows:

PART 669—SHALLOW-WATER REEF FISH FISHERY OF PUERTO RICO AND THE U.S. VIRGIN ISLANDS

Subpart A—General Provisions

- Sec.
- 669.1 Purpose and scope.
 - 669.2 Definitions.
 - 669.3 Relationship to other laws.
 - 669.4 Permits.
 - 669.5 Reporting and recordkeeping requirements (Reserved).
 - 669.6 Vessel and gear identification.
 - 669.7 Prohibitions.
 - 669.8 Facilitation of enforcement.
 - 669.9 Penalties.

Subpart B—Management Measures

- 669.20 Fishing year.
- 669.21 Closed seasons.
- 669.22 Harvest limitations.
- 669.23 Size limitations.
- 669.24 Gear limitations.
- 669.25 Specifically authorized activities.

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

Subpart A—General Provisions

§ 669.1 Purpose and scope.

(a) The purpose of this part is to implement the Fishery Management Plan for the Shallow-water Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands prepared by the Caribbean Fishery Management Council under the Magnuson Fishery Conservation and Management Act, as amended (Magnuson Act).

(b) This part regulates fishing for shallow-water reef fish within the Atlantic Ocean and Caribbean Sea portions of the fishery conservation zone (FCZ) adjacent to the State waters of Puerto Rico and the U.S. Virgin Islands.

§ 669.2 Definitions.

In addition to the definitions in the Magnuson Act, and unless the context requires otherwise, the terms used in this part have the following meaning:

Authorized officer means:

- (a) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;
- (b) Any special agent of the National Marine Fisheries Service;
- (c) Any officer designated by the head of any Federal or State agency which

has entered into an agreement with the Secretary and the Commandant of the U.S. Coast Guard to enforce the provisions of the Magnuson Act; or

(d) Any U.S. Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Fish in the shallow-water reef fish fishery means any of the following species:

Squirrelfishes—*Holocentridae*

Squirrelfish, *Holocentrus ascensionis*
Longspine squirrelfish, *Holocentrus rufus*

Grouper—*Serranidae*

Rock hind, *Epinephelus adscensionis*
Graysby, *Epinephelus cruentatus*
Coney, *Epinephelus fulvus*
Red hind, *Epinephelus guttatus*
Jewfish, *Epinephelus itajara*
Nassau grouper, *Epinephelus striatus*
Yellowfin grouper, *Mycteroperca venenosa*

Jacks—*Carangidae*

Yellow jack, *Caranx bartholomaei*
Blue runner, *Caranx crysos*
Horse-eye jack, *Caranx latus*
Black jack, *Caranx lugubris*
Bar jack, *Caranx ruber*

Snappers—*Lutjanidae*

Mutton snapper, *Lutjanus analis*
Schoolmaster, *Lutjanus apodus*
Mangrove snapper, *Lutjanus griseus*
Dog snapper, *Lutjanus joca*
Mahogany snapper, *Lutjanus mahogani*
Lane snapper, *Lutjanus synagris*
Yellowtail snapper, *Ocyurus chrysurus*

Grunts—*Haemulidae*

Margate, *Haemulon album*
Tomtate, *Haemulon aurolineatum*
French grunt, *Haemulon flavolineatum*
White grunt, *Haemulon plumieri*
Bluestriped grunt, *Haemulon sciurus*

Porgies—*Sparidae*

Sea bream, *Archosargus rhomboidalis*
Jolthead porgy, *Calamus bajonado*
Sheephead porgy, *Calamus penna*
Pluma, *Calamus pennatula*

Goatfishes—*Mullidae*

Yellow goatfish, *Mullaidichthys martinicus*
Spotted goatfish, *Pseudupeneus maculatus*

Butterflyfishes—*Chaetodontidae*

Four-eye butterflyfish, *Chaetodon capistratus*
Spotfin butterflyfish, *Chaetodon ocellatus*
Banded butterflyfish, *Chaetodon striatus*

Angelfishes—*Pomacanthidae*

Queen angelfish, *Holocanthus ciliaris*
Rock beauty, *Holocanthus tricolor*
Gray angelfish, *Pomacanthus arcuatus*
French angelfish, *Pomacanthus paru*

Wrasses—*Labridae*

Spanish hogfish, *Bodianus rufus*
Puddingwife, *Halichoeres radiatus*
Pearly razorfish, *Hemipteronotus novacula*

Hogfish, *Lachnolaimus maximus*

Parrotfishes—Scaridae

Midnight parrotfish, *Scarus coelestinus*
Blue parrotfish, *Scarus coeruleus*
Striped parrotfish, *Scarus croicensis*
Rainbow parrotfish, *Scarus guacamaia*
Princess parrotfish, *Scarus taeniopterus*
Queen parrotfish, *Scarus vetula*
Redband parrotfish, *Sparisoma aurofrenatum*
Redtail parrotfish, *Sparisoma chrysopteron*
Stoplight parrotfish, *Sparisoma viride*

Surgeonfishes—Acanthuridae

Ocean surgeonfish, *Acanthurus bahianus*
Doctorfish, *Acanthurus chirurgus*
Blue tang, *Acanthurus coeruleus*

Leatherjackets—Balistidae

Queen triggerfish, *Balistas vetula*
Ocean triggerfish, *Canthidermis sufflamen*
Black durgon, *Melichthys niger*
Sargassum triggerfish, *Xanthichthys ringens*

Boxfishes—Ostraciidae

Spotted trunkfish, *Loctophrys bicaudalis*
Honeycomb cowfish, *Loctophrys polygonia*
Scrawled cowfish, *Loctophrys quadricornis*
Trunkfish, *Loctophrys trigonus*
Smooth trunkfish, *Loctophrys triquetar*

Fish trap or trap means any trap and the component parts (including the lines and buoys) thereof used for taking finfish, regardless of the construction material.

Fishery conservation zone (FCZ) means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of the Commonwealth of Puerto Rico and the U.S. Virgin Islands to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishing means any activity, other than scientific research conducted by a scientific research vessel, which involves:

- (a) The catching, taking or harvesting of fish;
- (b) The attempted catching, taking or harvesting of fish;
- (c) Any other activity which can reasonably be expected to result in the catching, taking or harvesting of fish; or
- (d) Any operations at sea in support of, or in preparation for, any activity described in paragraph (a), (b) or (c) of this definition.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for:

- (a) Fishing; or

- (b) Aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing; including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Magnuson Act means the Magnuson Fishery Conservation and Management Act, as amended (16 U.S.C. 1801 *et seq.*).

Official number means the documentation number issued by the U.S. Coast Guard or the registration number issued by a State or the U.S. Coast Guard for undocumented vessels.

Operator with respect to any vessel, means the master or other individual onboard and in charge of that vessel.

Owner with respect to any vessel, means:

- (a) Any person who owns that vessel in whole or in part;

- (b) Any charterer of the vessel, whether bareboat, time or voyage;

- (c) Any person who acts in the capacity of a charterer, including, but not limited to, parties to a management agreement, operating agreement, or other similar arrangement that bestows control over the destination, function, or operation of the vessel; or

- (d) Any agent designated as such by any person described in paragraph (a), (b) or (c) of this definition.

Person means any individual (whether or not a citizen of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Regional Director means the Regional Director, or a designee, Southeast Region, National Marine Fisheries Service, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702; telephone 813-863-3141.

Secretary means the Secretary of Commerce, or a designee.

State means the Commonwealth of Puerto Rico and the U.S. Virgin Islands.

Total length means the greatest possible length of a fish with the mouth of the fish closed and the caudal fin (tail) squeezed together to give the greatest over-all measurement (Figure 1).

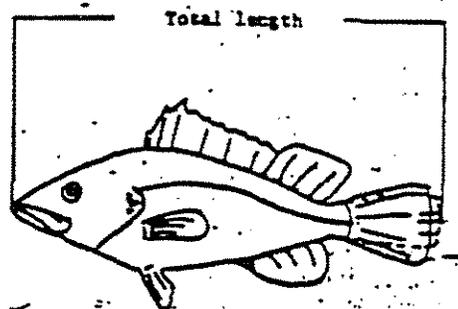
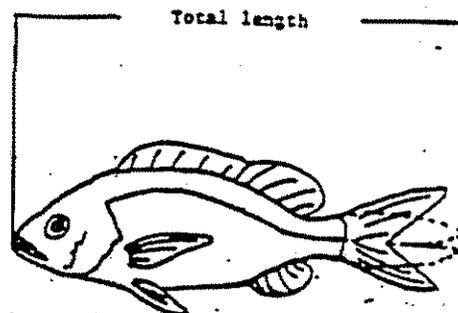


Figure 1. Measurement of total length for fishes with a forked tail, yellow-tail snapper (top) and with a rounded tail, Nassau grouper (bottom).

U.S. fish processors means facilities located within the United States and vessels of the United States, used for or equipped for, the processing of fish for commercial use or consumption.

U.S.-harvested fish means fish caught, taken, or harvested by vessels of the United States within any fishery regulated by a fishery management plan or preliminary fishery management plan implemented under the Magnuson Act.

Vessel of the United States means:

- (a) Any vessel documented under the laws of the United States;
- (b) Any vessel numbered in accordance with the Federal Boat Safety Act of 1971 (46 U.S.C. 1400 *et seq.*) and measuring less than 5 net tons; or
- (c) Any vessel numbered under the Federal Boat Safety Act of 1971 (46 U.S.C. 1400 *et seq.*) and used exclusively for pleasure.

§ 669.3 Relationship to other laws.

- (a) Persons affected by these regulations should be aware that other Federal and State statutes and regulations may apply to their activities.

- (b) Certain responsibilities relating to data collection, issuance of permits, and enforcement may be performed by

authorized State personnel under a cooperative agreement entered into by the State, the U.S. Coast Guard, and the Secretary.

§ 609.4 Permits

No permits are required for fishing vessels engaged in the shallow-water reef fish fishery within the FCZ (see vessel and gear identification requirements in § 609.6).

§ 609.5 Reporting and recordkeeping requirements. [Reserved].

§ 609.6 Vessel and gear identification.

(a) *Applicability.* A vessel in the commercial shallow-water reef fish fishery fishing with traps in the FCZ must obtain an identification number and color code issued by the Regional Director unless the vessel possesses a valid identification number and color code issued by the Government of Puerto Rico or the Government of the U.S. Virgin Islands.

(b) *Application to the Regional Director.* (1) An application for an identification number and color code must be submitted to the Regional Director 45 days prior to the date on which the applicant desires receipt.

(2) Each application must contain the following information:

- (i) The applicant's name, mailing address, and telephone number;
- (ii) The name and length of the vessel;
- (iii) The vessel's official number; and
- (iv) The vessel's radio call sign.

(c) *Vessel identification.* Each fishing vessel must display the identification number and color code issued to the vessel by the Regional Director or State on the port and starboard sides of the deckhouse or hull. In addition, each vessel over 25 feet long must display its identification number and color code on an appropriate weather deck. All identification numbers and color codes must be displayed permanently and conspicuously so as to be readily identifiable from the air and water. The number must contrast with the background and be in block Arabic numerals at least 18 inches high for vessels over 65 feet long, at least 10 inches high for vessels over 25 feet long, and at least 3 inches high for vessels 25 feet long or less. The color code representation must be in the form of a circle not less than 18 inches in diameter or a strip not less than 18 inches high and 18 inches long for vessels over 65 feet long; a circle not less than 10 inches in diameter or a strip not less than 10 inches high and 18 inches long for vessels over 25 feet long; and a circle not less than 3 inches in diameter or a strip not less than 3 inches high and 10

inches long for vessels 25 feet long or less.

(d) *Duties of operator.* The operator of each fishing vessel subject to this part must:

(1) Keep the identification number and color code clearly legible and in good repair.

(2) Ensure that no part of the vessel, its rigging, its fishing gear, or anything else aboard obstructs the view of the identification number and color code from an enforcement vessel or aircraft.

(e) *Gear identification.* (1) All traps and buoys used in the shallow-water reef fish fishery must be marked and identified as follows:

(i) Buoys affixed to traps must bear the number and color code specified for the vessel. The identification number must be legible and at least 3 inches high on each buoy.

(ii) Traps must bear the number specified for the vessel. The number must be legible and at least 3 inches high, or as high as the widest available space if such space is less than 3 inches wide. As an alternative, the number may be stamped on a plate of non-corrosive metal or plastic and securely affixed to the trap.

(2) Traps and buoys for shallow-water reef fish fished in the FCZ will be presumed to be the property of the most recently documented owner. This presumption will not apply with respect to shallow-water reef fish traps which are lost or sold if the owner of such traps reports in writing the loss or sale within 15 days to the Regional Director. The report must specify the number of traps lost or sold, the color code and the identification number.

(3) Unmarked shallow-water reef fish traps deployed in the FCZ at any time are illegal gear and may be disposed of in any appropriate manner by the Secretary or an authorized officer. Lines and buoys are considered part of the trap. If owners of the unmarked traps can be ascertained, those owners remain subject to appropriate civil penalties.

(Approved by the Office of Management and Budget under control number 0648-0097.)

§ 609.7 Prohibitions.

(a) It is unlawful for any person to do any of the following:

(1) Fish with traps for shallow-water reef fish in the FCZ without an identification number and color code as required by § 609.6;

(2) Falsify or fail to affix and maintain gear and vessel markings as required by § 609.6;

(3) Possess in, or harvest from the FCZ Nassau grouper during the closed fishing season specified in § 609.21;

(4) Tend, open, pull, or otherwise molest or have in one's possession aboard a fishing vessel another person's fish traps except as provided in § 609.22;

(5) Possess in, or harvest from the FCZ yellowtail snapper less than the minimum size limit specified in § 609.23(a);

(6) Possess in, or harvest from the FCZ Nassau grouper less than the minimum size limit specified in § 609.23(b);

(7) Possess in the FCZ or land any shallow-water reef fish harvested in the FCZ without head and fins intact as specified in § 609.23(d);

(8) Possess or use fish traps in the FCZ with a mesh size smaller than the size limit specified under § 609.24(a)(1);

(9) Possess, or use fish traps in the FCZ without a degradable panel or degradable door fastening as specified in § 609.24(a)(2) and (3);

(10) Fish for shallow-water reef fish in the FCZ with explosives, including powerheads, as specified in § 609.24(b)(1);

(11) Fish for shallow-water reef fish in the FCZ with drugs, poisons or other chemicals as specified in § 609.24(b)(2);

(12) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, land, or export any shallow-water reef fish or parts thereof taken or retained in violation of the Magnuson Act, this part, or any other regulation under the Magnuson Act;

(13) Fail to comply immediately with enforcement and boarding procedures specified in § 609.8;

(14) Refuse to allow an authorized officer to board a fishing vessel subject to such person's control for purpose of conducting any search or inspection in connection with the enforcement of the Magnuson Act, this part, or any other regulation or permit issued under the Magnuson Act;

(15) Forcibly assault, resist, oppose, impede, intimidate, threaten, or interfere with any authorized officer in the conduct of any search or inspection under the Magnuson Act;

(16) Interfere with, delay, obstruct or prevent by any means a lawful investigation or search in the process of enforcing this part;

(17) Interfere with, obstruct, delay, or in any other manner prevent the seizure of illegally taken shallow-water reef fish or the final disposition of such shallow-water reef fish through the sale of the shallow-water reef fish;

(18) Resist a lawful arrest for any act prohibited by this part;

(19) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that

such other person has committed any act prohibited by this part and

(20) Transfer directly or indirectly, or attempt to so transfer, any U.S.-harvested shallow-water reef fish to any foreign fishing vessel, while such foreign vessel is in the FCZ unless the foreign fishing vessel has been issued a permit under section 204 of the Magnuson Act which authorizes the receipt by such vessel of the U.S.-harvested fish of the species concerned.

(b) It is unlawful to violate any other provisions of this part, the Magnuson Act, or any regulations or permit issued under the Magnuson Act.

§ 669.8 Facilitation of enforcement.

(a) *General.* The operator of, or any other person aboard any fishing vessel subject to this part must immediately comply with instructions and signals issued by an authorized officer to stop the vessel and with instructions to facilitate safe boarding and inspection of the vessel, its gear, equipment, fishing record (where applicable) and catch for purposes of enforcing the Magnuson Act and this part.

(b) *Communications.* (1) Upon being approached by a U.S. Coast Guard vessel or aircraft or other vessel or aircraft with an authorized officer aboard, the operator of a fishing vessel must be alert for communications conveying enforcement instructions.

(2) If the size of the vessel and the wind, sea, and visibility conditions allow, loudhailer is the preferred method for communicating between vessels. If use of a loudhailer is not practicable, and for communications with an aircraft, VHF-FM or high frequency radiotelephones will be employed. Hand signals, placards, or voice may be employed by an authorized officer and message blocks may be dropped from an aircraft.

(3) If other communications are not practicable, visual signals may be transmitted by flashing light directed at the vessel signaled. Coast Guard units will normally use the flashing light signal "L" as the signal to stop.

(4) Failure of a vessel's operator to stop his vessel when directed to do so by an authorized officer using loudhailer, radiotelephone, flashing light signal, or other means constitutes *prima facie* evidence of the offense of refusal to permit an authorized officer to board.

(5) The operator of a vessel who does not understand a signal from an enforcement unit and who is unable to obtain clarification by loudhailer or radiotelephone must consider the signal to be a command to stop the vessel instantly.

(c) *Boarding.* The operator of a vessel directed to stop must:

(1) Guard Channel 16, VHF-FM, if so equipped;

(2) Stop immediately and lay to or maneuver in such a way as to allow the authorized officer and his party to come aboard;

(3) Except for those vessels with a freeboard of four feet or less, provide a safe ladder, if needed, for the authorized officer and his party to come aboard;

(4) When necessary to facilitate the boarding or when requested by an authorized officer, provide a manrope or safety line, and illumination for the ladder, and

(5) Take such other actions as necessary to facilitate boarding and to ensure the safety of the authorized officer and the boarding party.

(d) *Signals.* The following additional signals, extracted from the International Code of Signals, may be sent by flashing light by an enforcement unit where conditions do not allow communications by loudhailer or radiotelephone.

Knowledge of these signals by vessel operators is not required. However, knowledge of these signals and appropriate action by a vessel operator may preclude the necessity of sending the signal "L" and the necessity for the vessel to stop instantly.

(1) "AA" repeated (·-·-) is the call to an unknown station. The operator of the signaled vessel should respond by identifying the vessel by radiotelephone or by illuminating the vessel's identification.

(2) "RY-CY" (·-·-·-·-·-·-) means "you should proceed at slow speed, a boat is coming to you." The signal is normally employed when conditions allow an enforcement boarding without the necessity of the vessel being boarded coming to a complete stop, or, in some cases, without retrieval of fishing gear which may be in the water.

(3) "SQ3" (·-·-·-·-·-) means "you should stop or heave to: I am going to board you."

(4) "L" (·-·) means "you should stop your vessel instantly."

§ 669.9 Penalties.

Any person or fishing vessel found to be in violation of this part will be subject to the civil and criminal penalty provisions and forfeiture provisions prescribed in the Magnuson Act, and to 50 CFR Part 621, and 15 CFR Part 904 (Civil Procedures), and other applicable law.

¹ Period (·) means a short flash of light and Dash (-) means a long flash of light.

Subpart B—Management Measures

§ 669.20 Fishing year.

The fishing year for the shallow-water reef fish fishery begins on January 1 and ends on December 31.

§ 669.21 Closed seasons.

The fishing season for Nassau grouper in the FCZ is closed from 0001 hours January 1 through 2400 hours March 31. Nassau grouper taken during this period must be returned to the sea immediately with a minimum amount of harm.

§ 669.22 Harvest limitations.

Fish traps may be tended or pulled only by persons (other than authorized officers) aboard the fish trap owner's vessel(s), or aboard another vessel if such vessel has onboard written consent of the fish trap owner, or if the fish trap owner is aboard and has documentation verifying the identification number and color code. Owner's letter of consent must specify effective time period, and trap owner's vessel identification number and color code.

§ 669.23 Size limitations.

(a) The minimum size limit for the harvest or possession of yellowtail snapper in the FCZ is 8 inches total length. Effective September 22, 1986, the minimum size of yellowtail snapper will be increased to 9 inches. On each September 22 the minimum size will be increased one inch until reaching a minimum size of 12 inches total length on September 22, 1989.

(b) The minimum size limit for the harvest or possession of Nassau grouper in the FCZ is 12 inches total length. Effective September 22, 1986, the minimum size of Nassau grouper will be increased to 13 inches. On each September 22 the minimum size will be increased one inch until reaching a minimum size of 24 inches total length on September 22, 1997.

(c) Undersized yellowtail snapper and Nassau grouper must be returned to the water immediately and with minimum harm.

(d) All shallow-water reef fish harvested in the FCZ and subject to minimum size limits specified in this section must be landed with the head, fins, and tail intact.

§ 669.24 Gear limitations.

(a)(1) Effective September 22, 1986, fish traps must have a minimum mesh size of 1 1/4 inches in the smallest dimension of the mesh opening.

(2) Fish traps must have on the sides or top, a degradable panel or degradable door fastening made of any material listed in paragraph (a)(3) of this section.

The panel and door opening must not be smaller than either of the entry ports or funnel opening of the trap.

(3) Degradable material must be untreated fiber of biological origin, not more than three millimeters (approximately 1/8") maximum diameter, including but not limited to tyre palm, hemp, jute, cotton, wool, or silk, or non-galvanized black iron wire not more than 1.59 millimeters (approximately one-sixteenth inch) in diameter, that is, 16 gauge wire.

(b)(1) Explosives, including powerheads, may not be used to fish for shallow-water reef fish in the FCZ.

(2) Poisons, drugs, and other chemicals may not be used to fish for shallow-water reef fish in the FCZ.

§ 669.25 Specifically authorized activities.

The Secretary may authorize, for the acquisition of information and data, activities which are otherwise prohibited by these regulations.

[FR Doc. 85-20544 Filed 8-23-85; 3:05 pm]

BILLING CODE 2610-22-N