

commercial quotas in the FCZ on an annual basis. (4) establishes a catch limit for the incidental harvest of red drum in non-directed fisheries and provides for prohibiting retention, landing, sale, barter or trade of any incidental harvest of red drum when the catch limit is reached. (5) prohibits the transfer or attempted transfer of red drum at sea. (6) requires permits for selected vessels with catches of red drum and (7) specifies reporting requirements for owners or operators of permitted vessels and dealers receiving incidentally-caught red drum. The intended effect of this rule is to prevent overfishing while achieving optimum yield on a continuing basis.

DATE: Comments on the proposed rule must be received on or before November 8, 1986.

ADDRESSES: Comments on the proposed rule and requests for copies of the initial regulatory impact review/initial regulatory flexibility analysis should be sent to Donald W. Geagan, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702. Comments on the collection of information requirement subject to the Paperwork Reduction Act should be directed to the Office of Information and Regulatory Affairs of OMB, Washington, DC 20503. Attention: Desk Officer for NOAA. Persons interested in the Council's position on the FMP this rule would implement should contact Wayne Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, FL 33609 (Telephone: 813-228-2815).

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

SUPPLEMENTARY INFORMATION: The Secretary of Commerce (Secretary) has prepared the FMP under Section 304(c) of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The FMP was submitted to the Council on August 26, 1986. At its meeting on September 10, 1986, the Council provided extensive comments that will be addressed together with comments from the general public when final action is taken.

The Secretary promulgated an emergency rule (51 FR 23551, June 30, 1986) that limited the directed net harvest of red drum from the FCZ to one million pounds during its 90-day effective period (June 25 to September 23, 1986); it also limited nondirected fisheries to five percent of red drum by weight of the total catch aboard a vessel. The directed fishery was closed

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 653

[Docket No. 60617-6188]

Fishery Conservation and Management; Red Drum Fishery of the Gulf of Mexico

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

ACTION: Proposed rule.

SUMMARY: NOAA issues this proposed rule to implement the Fishery Management Plan for the Red Drum Fishery of the Gulf of Mexico (FMP). The rule (1) establishes a total allowable directed harvest of red drum from the fishery conservation zone (FCZ) of zero for 1987, (2) provides for a resource assessment program, (3) establishes a framework procedure for specifying

on July 20, 1986 (51 FR 26554, July 24, 1986; corrected at 51 FR 27413, July 13, 1986). The Secretary extended the emergency regulations for a second 90-day period, in December 22, 1986, at which time this FMP would be implemented.

Red drum, *Sciaenops ocellatus*, commonly referred to as redfish, is one of the most important fishery resources in the Gulf of Mexico. Juvenile and subadult red drum inhabit estuaries and nearshore State waters while the larger, adult fish which comprise the spawning stock are generally found offshore in the FCZ. Recreational fishing occurs primarily in State waters. Red drum is the second most popular game fish species in the Gulf of Mexico.

Red drum landings in State waters averaged 10.0 million pounds per year from 1978 to 1985, ranging from a low of 6.8 million pounds in 1981 to a high of 13.4 million pounds in 1982. In 1985 landings were 9.3 million pounds. Recreational landings from 1979 to 1985 were three times the level of commercial landings from State waters.

Red drum landings from the FCZ averaged 0.98 million pounds from 1979 to 1985. These landings generally increased from a low of 0.14 million pounds in 1979 to 3.7 million pounds in 1985. From January 1 to June 25, 1986, 6.95 million pounds of red drum were harvested by purse seines alone. In 1984 and 1985, commercial landings from the FCZ were approximately 10 times greater than recreational landings from the FCZ. Thus, a very noticeable shift from recreational to commercial fishing has occurred in the FCZ. Total landings (recreational and commercial) in State waters from 1979 to 1983 were 27 times the catch in the FCZ. In 1984 to 1985, the ratio dropped to 3.5 to 1, and if commercial fishing in the FCZ had not been curtailed by the emergency rule, landings in the FCZ in 1986 would have been almost twice the landings in State waters.

The demand for "blackened redfish" increased commercial fishing on the spawning stock of red drum in the FCZ because the demand exceeded the capacity of the commercial fishery in State waters. Red drum school near the surface and are particularly susceptible to purse seine gear. Purse seines, when deployed under the direction of spotter aircraft, have proved extremely efficient with catches ranging upwards of 50,000 pounds per set; some of the larger vessels are capable of taking 150,000 pounds per set. At a hearing before the House of Representatives Subcommittee on Fisheries and Wildlife and the Environment in New Orleans, Louisiana, on June 2, 1986, testimony was

presented that two vessels alone had harvested 3.4 million pounds from the FCZ during the first five months of 1986 and "would have harvested 20 million pounds if markets had existed." All five Gulf States have prohibited the use of purse seines for taking red drum in State waters and three States have prohibited their landing or sale. The remaining two States are expected to take similar action.

Although scientists have not determined the impacts resulting from the increased effort, the unregulated harvest of these long-lived brood fish is a major concern. A profile of the red drum fishery prepared by the Gulf of Mexico Fishery Management Council and Gulf States Marine Fisheries Commission indicated that growth overfishing was occurring in the estuarine areas of Texas and west central Florida.

The major problem regarding management of the red drum fishery is limited data on the size and condition of the resource. A major research program was initiated during the first 90-day emergency period and continued through a second 90-day period. Further, the major thrust during the first year of management is directed at determining stock abundance and the level of harvest that can be accommodated without damaging the biological integrity of the stock.

The fishery involves five species of schooling fishes in the Gulf of Mexico FCZ. Catches of one species often result in incidental catches of the others. The species include red drum (*Sciaenops ocellatus*), black drum (*Pogonias cromis*), crevalle jack (*Caranx hippos*), blue runner (*Caranx crysos*), and ladyfish (*Elops saurus*).

The management unit for which measures are proposed includes only the population of red drum occurring in the U.S. Gulf of Mexico. Only data collection and research are proposed for the other species in the fishery so as to expand the base of scientific information in the event conditions warrant the need to manage those species.

The principal objective is to manage the fishery as a unit throughout the U.S. Gulf of Mexico in a manner that will (1) ensure adequate recruitment from the adult spawning population in the FCZ to maintain catches in State waters near historic levels (10.0 million pounds), and (2) to encourage and support State efforts to ensure that enough juveniles survive fishing pressure in State waters to enter the FCZ spawning population, so that the spawning stock biomass can be maintained above critical levels. A biologically healthy population of red

drum can provide commercial and recreational fishermen and consumers long-term benefits. To achieve this objective, it is recognized that the two levels of government must rely on one another to perpetuate the fishery at optimum harvest levels within their respective jurisdictions.

Optimum yield is defined as the following:

(1) All the recreationally-caught red drum harvested in State and Federal waters and landed consistent with State laws and regulations;

(2) All commercially-caught red drum harvested in State waters that are landed under State laws and regulations; and

(3) All commercially-harvested red drum in the FCZ that are caught in a directed or non-directed fishery under an annual allowable catch procedure.

Management measures provide for the following:

(1) A fishing year of January 1 to December 31;

(2) A procedure for determining the allowable commercial catch in the FCZ on an annual basis;

(3) A zero allowable catch for the directed fishery during the first year;

(4) A resource assessment program (RAP);

(5) An allowable incidental catch of red drum for non-directed fisheries limited to five percent of red drum by weight of the total catch (established at 300,000 pounds for the first year);

(6) A prohibition against retaining red drum when the non-directed fishery quota is taken (intent is to prevent expansion of the incidental harvest of the resource without adversely affecting traditionally fisheries);

(7) Permits for all vessels fishing with entanglement gear in the FCZ taking or landing red drum (fees to cover administrative costs associated with the permit programs may be required later);

(8) The maintenance of logbooks by owners or operators of permitted vessels and, in the future, by spotter aircraft pilots if selected to report by NMFS; and

(9) The prohibition of the transfer or attempted transfer of red drum at sea.

The procedure mentioned in (2) above requires that NMFS scientists assess the status of the stocks, assess and update (if appropriate) MSY, assess the range of acceptable biological catch (ABC) in the FCZ, and report such findings to the Regional Director on or before October 1.

Upon receipt of the scientific findings, the Regional Director will assess the specification of MSY and the economic, social, and biological impacts of various commercial harvest levels in the FCZ

within the ABC range and recommend (1) adjustment of the specification of MSY (if appropriate) and (2) the commercial harvest in the FCZ that most adequately accommodates the management objectives of this FMP.

In determining the annual commercial quota in the FCZ, the first priority must be given to the red drum incidental catch requirements of non-directed fisheries prior to assigning any directed fishery quota. If the ABC can only accommodate an incidental catch, a limit on the incidental harvest of red drum in non-directed fisheries will be proposed, with prohibition of retention of red drum should that limit be exceeded. If the ABC is zero, the retention of red drum must be prohibited. The commercial harvest, whether directed or non-directed, must not exceed ABC.

These determinations will be made by the Secretary and published in the **Federal Register** with 30 days' opportunity for public review and comment. The final amounts will be announced before the beginning of each fishing year.

The RAP mentioned in (4) above will be designed to assess the spawning stock biomass, calculate the amount of fish that will be required to maintain historic catches in State waters, and determine what level of commercial harvest can be safely taken in the FCZ. The program may authorize, under terms and conditions specified by the Regional Director, the participation of selected commercial fishing vessels which may be allowed to harvest and sell commercial quantities of red drum. At a minimum, the vessels so employed must accept and accommodate an observer on board, embark and disembark at locations specified, and fish in the place and time required for scientific purposes. The total harvest of red drum during 1987 under the RAP must not exceed one (1) million pounds.

Fish lawfully harvested under these regulations may be landed in any State of the United States. This action does not extend Federal management to red drum caught recreationally in the FCZ which will continue to be regulated by laws and regulations of the State in which the fish are landed.

Classification

Section 304(c)(2)(A)(iii) of the Magnuson Act, as amended by Pub. L. 97-453, requires the Secretary of Commerce (Secretary) to publish proposed regulations for an FMP prepared by the Secretary. The Secretary has preliminarily determined that the FMP these regulations would implement is consistent with the

national standards, other provisions of the Magnuson Act, including section 304(c)(1)(A), and other applicable law. The Secretary, in making a final determination, will take into account the data, views, and comments received during the comment period. The Secretary prepared a draft environmental impact statement for this FMP; a notice of availability was published on August 29, 1986, at 51 30885.

The Administrator of NOAA determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. The regulations are designed to prevent overfishing of red drum in the FCZ. The Secretary incorporated a regulatory impact review (RIR) into the FMP. The major benefit is the restoration and maintenance of the red drum fishery in State waters at historic levels. The initial regulatory flexibility analysis (IRFA), which was prepared as a part of the RIR, concludes that this proposed rule, if adopted, would have significant effects on small business entities. A summary of the effects is included in the RIR. A copy of the FMP, containing the RIR and the IRFA, may be obtained from the Southeast Region, NMFS (see **ADDRESSES**).

This proposed rule is exempt from the procedures of Executive Order 12291 under Section 8(a)(2) of that order. Deadlines imposed under the Magnuson Act, as amended by Pub. L. 97-453, require the Secretary to publish this proposed rule 30 days after its submission for Council review. This proposed rule is being reported to the Director, Office of Management and Budget (OMB), with an explanation of why it is not possible to follow procedures of the order.

This rule contains a collection of information requirements subject to the Paperwork Reduction Act (PRA). A request to collect this information has been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the PRA. Comments on this requirement may be sent to OMB (see **ADDRESSES**).

The Secretary 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 Alabama, Florida, Louisiana, and Mississippi. This determination has been submitted for review by the responsible State agencies under Section 307 of the Coastal Zone Management Act.

The U.S. Coast Guard has been provided with a copy of the proposed

FMP and the proposed regulations for their review and comment.

NOAA initiated a Section 7 consultation in accordance with the Endangered Species Act, and a biological assessment was prepared, submitted, and reviewed. It was concluded that the proposed management measures would not affect any endangered or threatened species.

List of Subjects in 50 CFR Part 653

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: October 3, 1986.

Carmen J. Blondin,

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

For the reasons set out in the preamble, 50 CFR Part 653 is proposed to be revised to read as follows:

PART 653—RED DRUM FISHERY OF THE GULF OF MEXICO

Subpart A—General Provisions

Sec.	
653.1	Purpose.
653.2	Definitions.
653.3	Relation to other laws.
653.4	Permits and fees.
653.5	Reporting requirements.
653.6	Vessel identification. [Reserved]
653.7	Prohibitions.
653.8	Enforcement.
653.9	Penalties.

Subpart B—Management Measures

653.20	Seasons.
653.21	Quotas.
653.22	Harvest limitations.
653.23	Closures.
653.24	Stock assessment procedures.
653.25	Specifically authorized activities.
Appendix—Figure 1	

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

Subpart A—General Provisions

§ 653.1 Purpose.

The purpose of this part is to implement the Fishery Management Plan for the Red Drum Fishery of the Gulf of Mexico prepared by the Secretary of Commerce.

§ 653.2 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 meanings:

Acceptable biological catch (ABC) means a range of harvest levels which can be taken from a stock while maintaining the stock at or near maximum sustainable yield and ensuring that recruitment overfishing does not occur. ABC may vary due to

fluctuating requirement, abundance, and intensity of fishing effort.

Authorized officer means—

(a) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;

(b) Any special agent of NMFS;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Secretary of Transportation 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.

Center Director means the Director, Southeast Fisheries Center, NMFS, 75 Virginia Beach Drive, Miami, FL 33149; telephone 305-361-5761, or a designee.

Commercial quota means the maximum permissible level of annual commercial harvest of red drum in the FCZ specified after consideration of biological, social, and economic factors within the range of ABC.

Dealer means the person who first receives fish by way of purchase, trade, or barter from a fisherman.

Directed red drum fishery means any commercial fishing activity in which the amount of red drum landed exceeds five percent by weight of the total catch on board.

Fishery conservation zone (FCZ) means the area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States 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 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 including aircraft which is used or 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.*).

NMFS means the National Marine Fisheries Service.

Non-directed fishery means any commercial fishing activity in which the amount of red drum landed does not exceed five percent by weight of the total catch on board.

Operator, with respect to any vessel, means the master or other individual on board 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; or

(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; and

(d) Any agent designated as such by any person described in paragraphs (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.

Processor means a person who processes fish or fish products for commercial use or consumption.

Red drum means *Sciaenops ocellatus*, also called redfish.

Regional Director means the Director, Southeast Region, NMFS, Duval Building, 9450 Koger Boulevard, St. Petersburg, FL telephone 813-893-3141, or a designee.

Resource assessment program means the resource assessment program as described at section 12.6.3 of the Secretarial Fishery Management Plan for the Red Drum Fishery of the Gulf of Mexico.

Secretary means the Secretary of Commerce or a designee.

Trip means a fishing trip, regardless of duration, which begins with departure from a dock, berth, beach, seawall, or ramp and which terminates with return to a dock, berth, beach, seawall, or ramp.

Vessel of the United States means—

(a) Any vessel documented under Chapter 121 of Title 46, United States Code; or

(b) Any vessel numbered under Chapter 123 of Title 46, United States Code, and measuring less than five tons;

(c) Any vessel numbered under Chapter 123 of Title 46, United States Code, and used exclusively for pleasure; and

(d) Any vessel not equipped with propulsion machinery of any kind and used exclusively for pleasure.

§ 653.3 Relation 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 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.

(c) These regulations apply within the boundaries of any national park, monument, or marine sanctuary in the Gulf of Mexico.

§ 653.4 Permits and fees.

(a) *Applicability.* Permits are required for all vessels fishing in the FCZ using entanglement gear (i.e. gill nets, trammel nets, and purse seines) and taking or landing red drum. An application for a permit must be applied for by the owner or operator of such vessel on forms provided by the Regional Director. The owners and operators of vessels issued such permits must comply with the terms and conditions stated thereon.

(b) *Fees.* There is no fee for a permit issued for a vessel in the non-directed fishery under this section.

(c) *Display.* A permit issued under this section must be carried aboard the vessel at all times. The operator of a fishing vessel must present the permit for inspection upon request of an authorized officer.

(d) *Transfer.* A permit issued under this section is not transferable or assignable. A permit is valid only for the vessel for which it is issued.

(e) *Sanctions.* Permits are subject to sanction and denial pursuant to the procedures found at Subpart D of 15 CFR Part 904.

§ 653.5 Reporting requirements.

(a) *Directed red drum fishery.* [Reserved]

(b) *Non-directed red drum fishery.* Owners or operators of vessels permitted under § 653.4 must maintain logbooks containing the following information. Logbooks must be submitted to the Center Director monthly or more frequently if requested.

(1) Name and address of owner or operator;

(2) Name and official number of vessel and vessel's home port;

(3) Port and time of departure and arrival;

(4) Pounds of total catch by species;

(5) Pounds of red drum landed;

(6) Location of catch either by latitude and longitude, *loran*, or by grid zone

(Appendix—Figure 1) as specified on logbook form;

(7) Gear used;

(8) Depth of water fished;

(9) Number of time of sets; and

(10) To whom the red drum catch was sold.

(c) *Dealers and processors.* Any person who receives red drum or parts thereof by way of purchase, barter, trade, or sale from a fishing vessel or person that fishes for, or lands said fish, or parts thereof in the Gulf of Mexico FCZ or in adjoining State waters, and who is selected to report, must provide the following information to the Center Director at monthly intervals, or more frequently if requested, and on forms provided by the Center Director:

(1) Dealer's or processor's name and address;

(2) County where red drum were landed;

(3) Total poundage of red drum received during that month, or other requested interval;

(4) Total poundage of red drum from adjoining State waters by each gear type; and

(5) Total poundage of red drum landed from the FCZ by each gear type.

(d) *Spotter aircraft pilots.* [Reserved]

(e) *Inspection.* Any owner or operator of commercial, charter, or recreational vessels, and dealers or processors may be required upon request to make red drum or parts thereof available for inspection by the Center Director of his designee for the collection of additional information or for inspection by an authorized officer.

(f) *Observers.* [Reserved]

§ 653.6 Vessel Identification. [Reserved]

§ 653.7 Prohibitions.

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

(1) Fail to display the permit aboard a permitted vessel as required by § 653.4(c);

(2) Fail to comply with a term or condition stated on a permit issued under § 653.4;

(3) Falsify or fail to report information required to be submitted by § 653.4 and § 653.5;

(4) Fail to make fish available for inspection as required by § 653.5(d);

(5) Fail to comply immediately with enforcement and boarding specified in § 653.8;

(6) Transfer or attempt to transfer red drum in the FCZ as specified in § 653.22;

(7) Retain on board a vessel, land, sell, trade, or barter red drum taken in the FCZ after any closure as specified in § 653.23 has been invoked;

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

(9) 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;

(10) Forcibly assault, resist, oppose, impede, intimidate, threaten, or interfere with any authorized officer in the conduct of any search or inspection described in paragraph (a)(9) of this section;

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

(12) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person had committed any act prohibited by this part;

(13) Transfer directly or indirectly, or attempt to so transfer, any U.S. harvested red drum to any foreign fishing vessel, while such 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 U.S. harvested red drum;

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

(15) Interfere with, obstruct, delay, or prevent in any manner the seizure of illegally taken red drum or the final disposition of such red drum through the sale of the red drum.

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

§ 653.8 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 of communicating between vessels. If use of a loudhailer is not practicable, and for communications with an aircraft, VHF-FM or high frequency radiotelephone 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.

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 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 when conditions do not allow communications

by loudhailer or radiotelephone. Knowledge of these signals and appropriate action by a vessel operator is not required. However, knowledge of these signals 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 (.—.—)¹ 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." This 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."

§ 653.9 Penalties.

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

Subpart B—Management Measures

§ 653.20 Seasons.

The fishing season for red drum is from 0001 hours (local time) January 1 to 2400 hours (local time) December 31.

¹ Period (.) means a short flash of light; dash (—) means a long flash of light.

§ 653.21 Quotas.

(a) The total allowable harvest or commercial quota of red drum for the directed red drum fishery in the FCZ is zero.

(b) The total allowable harvest of red drum for the non-directed red drum fishery in the FCZ is 300,000 pounds.

§ 653.22 Harvest limitations.

Transfer at sea. Fishing vessels may not transfer or attempt to transfer red drum in the FCZ from one fishing vessel to another.

§ 653.23 Closures.

(a) The Secretary, by publication of a notice in the **Federal Register**, shall close the directed red drum fishery when the quota as specified in § 653.21(a) is reached or is projected to be reached.

(b) The Secretary, by publication of a notice in the **Federal Register**, shall close the non-directed red drum fishery when the quota for such fishery as specified in § 653.21(b) is reached or is projected to be reached.

(c) The directed red drum fishery is closed from the effective date of this rule through the 1987 fishing season, except as authorized under the resource assessment program.

§ 653.24 Stock assessment procedures.

(a) NMFS Southeast Fisheries Center will assess the condition of the red drum stock on an annual basis. The Center Director will provide the Regional Director with an assessment report by October 1 which includes a recalculation of maximum sustainable yield (MSY), if necessary, and a range of ABC for the FCZ for the upcoming fishing year along with a description of the biological consequences of levels of harvest within the ABC range.

(b) The Regional Director will consider economic, social, and biological impacts of levels of

commercial harvest within the ABC range and will recommend commercial quotas in the FCZ for the next fishing year that are consistent with the objectives of the FMP. If changes are needed in MSY or the commercial quotas from the previous year NMFS will advise the Secretary of any recommendations.

(c) The Secretary will review NMFS' recommendations, supporting rationale, and other relevant information. After consulting with the Gulf of Mexico Fishery Management Council, if the Secretary concurs that NMFS' recommendations are consistent with the objectives of the FMP, the national standards, and other applicable law, he will publish a notice in the **Federal Register** of any preliminary changes prior to the appropriate fishing year. A 30-day period for public comment will be afforded. After consideration of public comments, the Secretary may publish a notice in the **Federal Register** of any final changes for that fishing year.

(d) Appropriate pre-season adjustments which may be implemented by the Secretary by notice in the **Federal Register** follow:

(1) Adjustment of the estimate of MSY for red drum.

(2) Implementing or modifying commercial quotas, including a specification of an allowable harvest of red drum for the non-directed fishery as necessary to limit incidental harvest. A directed harvest will be allowed if the quota supports it, only after a reasonable allowance has been made to meet non-directed fishery requirements for red drum harvest.

§ 653.25 Specifically authorized activities.

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

BILLING CODE 3510-22-M

