

August 1, 1984

SMA
SRB-0E-09

50 CFR Parts 654 and 658

(Docket No. 40558-4062)

**Stone Crab Fishery and Shrimp
Fishery of the Gulf of Mexico**

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

ACTION: Final rule.

SUMMARY: NOAA issues a final rule to implement an amendment to each of the fishery management plans for the stone crab fishery and shrimp fishery of the Gulf of Mexico. This rule provides for: (1) Opening and closing specific fishing areas in the fishery conservation zone (FCZ) off Pasco, Hernando, and Citrus Counties, Florida, to stone crab or shrimp fishing; (2) modifying the specific fishing areas in the FCZ specified in (1) above; (3) prohibiting the intentional placement of articles in the FCZ that interfere with fishing or the utilization of fishing gear to damage intentionally the gear of another; and (4) disposing of stone crab traps found in areas closed to crab fishing. The intent of these regulations is to allow orderly conduct of the two fisheries and avoid serious conflict between stone crab and shrimp fishermen.

EFFECTIVE DATE: August 31, 1984.

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

FOR FURTHER INFORMATION CONTACT:

Donald W. Geagan, 813-893-3722.

SUPPLEMENTARY INFORMATION:

Background

The Fishery Management Plan for the Stone Crab Fishery of the Gulf of Mexico (Stone Crab FMP) prepared by the Gulf of Mexico Fishery Management Council (Council) was approved by the Assistant Administrator for Fisheries, NOAA (Assistant Administrator), on March 19, 1979, and implemented by regulations published September 14, 1979 (44 FR 53520), under the authority of the Magnuson Fishery Conservation and Management Act, as amended (Magnuson Act). The Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (Shrimp FMP) prepared by the Council, was approved by the Assistant Administrator on November 7, 1980, and implemented by regulations published May 20, 1981 (46 FR 27494).

Emergency regulations amending the Stone Crab and Shrimp FMPs under section 305(e)(2) of the Magnuson Act were published on April 6, 1983 (48 FR 14903), October 11, 1983 (48 FR 46057), and December 21, 1983 (48 FR 56394). These emergency regulations were implemented to resolve continuing gear conflicts between shrimp and stone crab fishermen in the FCZ off the Pasco, Hernando, and Citrus Counties, Florida area during the 1983 and 1984 stone crab seasons.

This rulemaking consists of procedures which establish exclusive fishing areas for shrimp trawling or for crab fishing in the FCZ and provide a flexible system with rapid response time for addressing the conflict in the tri-county area in future years by notice in the Federal Register. In addition to these procedures, the rulemaking (1) authorizes the Secretary of Commerce (Secretary) to resolve conflicts in other areas when they occur through regulatory amendment and to dispose of traps in areas closed to stone crab fishing, and (2) prohibits placement of articles in the FCZ with the intent to interfere with fishing by others.

Gear conflicts have occurred between shrimp and stone crab fishermen for the past six years in the area west of Pasco, Hernando, and Citrus Counties, Florida. A discussion of the conflicts, their effect on local fishermen and results of previously implemented emergency regulations was contained in the preamble to the proposed rulemaking. This discussion is not repeated here.

Comments and Responses

During the public comment period, the only comments received on the

proposed rule were those submitted by the Council.

Comment 1

The Council requested modification of the wording under § 654.23(b)(3) to include the entire management area.

Response

This change was not made since § 654.22(b) provides authority for the disposition of traps throughout the management area and § 654.23(b)(3) is intended specifically for the closed zones.

Comment 2

The Council requested that the wording in § 654.23(a)(3) and (5) and § 658.24(a)(3) and (5) be modified to indicate clearly the authority of the Ad Hoc Advisory Panel to recommend zoning modifications.

Response

The appropriate wording has been added to these sections.

Comment 3

In the FMP amendment, the Council included a provision authorizing the Secretary to modify, with the concurrence of the Council, the existing zoning by notice in the Federal Register. This measure was not included in the proposed rule because of a question regarding its legality. The Council requested that this provision be incorporated in the final rule.

Response

The legal issue has been resolved and the deleted authority is included in § 654.24 and § 658.24 of the final rule with modification.

Changes From the Proposed Rule

For the reasons discussed above, the final rule differs from the proposed rule as follows:

Sections 654.24 and 658.24

Paragraphs (a)(7) through (c) of these sections have been amended by redesignating as paragraphs (b)(1) through (d) to accommodate incorporation of new paragraphs (7)(i)(iii) authorizing the Secretary to modify, with the concurrence of the Council, the existing zoning by notice in the Federal Register.

Sections 654.24 (a) (3) and (5) and 658.24 (a) (3) and (5)

Wording has been added to these sections to indicate clearly the authority of the Ad Hoc Advisory Panel to recommend zoning modifications.

Classification

The Assistant Administrator, after considering all comments received on the FMP amendments and the proposed regulations, has determined that the FMP amendments are necessary and appropriate for conservation and management of the stone crab and shrimp fisheries and are consistent with the national standards and other provisions of the Magnuson Act, and other applicable law.

The Council prepared an environmental assessment for these FMP amendments and concluded that there will be no significant impact on the environment as a result of this rule. You may obtain a copy of the environmental assessment from the address listed above.

The Administrator, NOAA, has determined that these regulations are not major requiring the preparation of a regulatory impact analysis (RIA) under Executive Order 12291. A final supplementary regulatory impact review (SRIR) has been prepared that analyzes the expected benefits and costs of the regulatory action. The review provides the basis for the Administrator's determination. The major benefit provided by this amendment is the institution of a permanent system to resolve conflicts cooperatively by the Secretary (in the FCZ) and the State of Florida (in its jurisdiction).

The Council prepared a SRIR which concludes that these rules will have the following economic effects. This amendment of the FMPs allows both fisheries to operate in an orderly manner in the area off Pasco, Hernando, and Citrus Counties, Florida. Under generally unregulated conditions in the conflict area, fishermen were incurring cumulative losses estimated at \$950,000 annually. These losses were a result of lost production in fishing harvest, lost gear, and the replacement costs of lost or damaged gear, all resulting from the gear conflict. Restoration of orderly fisheries should reduce such losses to a negligible level. Such action is also expected to reduce the enforcement burden on Federal and State agencies over that existing in the unmanaged fisheries, or in the fisheries regulated by emergency rule. Over time, under the regulations, most of the enforcement burden will be borne by the State under a cooperative law enforcement agreement. Such a burden to maintain orderly fisheries will be minimized. Costs to the Council for development of the amendments are estimated at \$28,000.

If the fishery had to be closed or severely restricted (by emergency rule or notice) to resolve a serious conflict, it would result in adverse economic impacts on the participants in the two fisheries, ranging from \$374,000 to less than \$50,000, depending on the regulatory option invoked. Such impacts, however, must be contrasted against violence, civil disorder, and potential loss of life and property. These impacts support the need to institute the provision for restoration of orderly fisheries.

The Council prepared a final regulatory flexibility analysis as part of the SRIR which concludes that this rule will have a significant effect on small business entities. These effects are included in the SRIR which is summarized above. You may obtain a copy of this analysis from the address listed above.

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

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 program of Florida. The State of Florida Department of Environmental Regulation has concurred with this determination.

List of Subjects in 50 CFR Parts 654 and 658

Fisheries, Reporting and recordkeeping requirements.

Dated: July 27, 1984.

William G. Gordon,

Assistant Administrator for Fisheries,
National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR Parts 654 and 658 are amended as follows:

1. The authority citation for Parts 654 and 658 reads as follows:

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

PART 654—STONE CRAB FISHERY

2. The Table of Contents is amended by redesignating § 654.24 as § 654.25 and by adding a new entry § 654.24 "Zone modification procedures."

3. Section 654.2 is amended by adding the definitions of "Committee", "Council", "FDNR", "FMP", "Secretary", and "State" in alphabetical order to read as follows:

§ 654.2 Definitions.

Committee means Pasco, Hernando, and Citrus Counties Shrimping and Crabbing Advisory Committee or any successor committee designated as such by the Staff of Florida.

Council means the Gulf of Mexico Fishery Management Council, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33600.

FDNR means the Florida Department of Natural Resources.

FMFC means the Florida Marine Fisheries Commission.

FMP means the Fishery Management Plan for Stone Crab Fishery.

Secretary means the Secretary of Commerce, or a designee.

State means the State of Florida.

4. Section 654.23 is amended by redesignating the existing text as paragraph (a) and by adding a new paragraph (b) to read as follows:

§ 654.23 Area restrictions.

(b)(1) Between 0001 hours October 5 to 2400 hours May 15 each year, it is unlawful to place stone crab traps in the water or harvest stone crabs from traps in that area of the FCZ (Figure 3) bounded by a continuous line connecting the following points expressed by latitude and longitude (LORAN notations are unofficial, and are included only for the convenience of fishermen):

AREA III

Point	Latitude	Longitude	LORAN rate 7980			
			W	X	Y	Z
Q	28°48.45' N	82°55.78' W	14375		45280	62971.4
R	28°48.77' N	82°56.31' W	14375			62975
Z	28°42.52' N	82°56.10' W	14355			62975
Y	28°42.07' N	82°55.37' W	14366			62970
U	28°31.25' N	82°55.15' W	14325			62970
V	28°28.80' N	82°52.88' W	14325			62955
X ¹	28°37.88' N	82°53.02' W	14347.2	31286		62956

¹Thence northerly along the State boundary to point Q.

¹This point is on the State boundary.

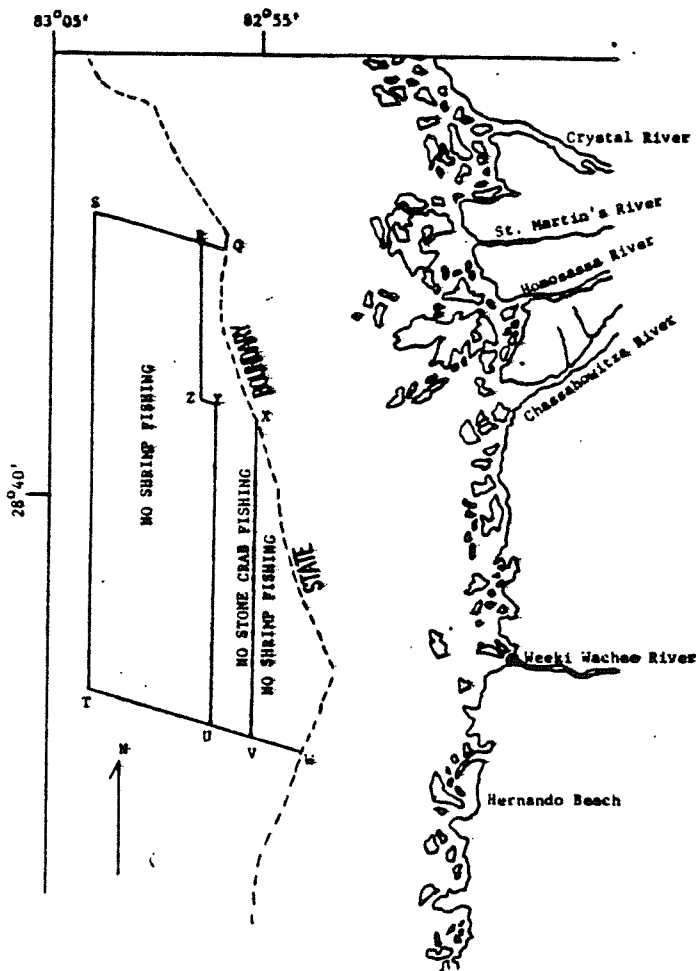


Figure 3. Chart delineating areas closed to fishing for shrimp or stone crab (not to scale, for illustrative purposes only).

implementation in State waters and may submit the proposal to the Council for initial review and comment.

(3) After the State has accepted the proposal for promulgation as a rule, the State may request that the Council adopt that portion of the zoning proposal relating to the FCZ. The Council will review the proposal and administrative record developed by the State in support of its proposed rule and will recommend to the Regional Director that the proposal be implemented (or not implemented) or implemented with minor modifications in the FCZ. If the Council or Regional Director determine that the opportunity for public comment through the State system was inadequate, they may hold public hearings on the zoning proposal affecting the FCZ. The Council may also avail itself of the advice and counsel of its Scientific and Statistical Committee, Shrimp and Stone Crab Advisory Panels, or an Ad Hoc Advisory Panel consisting of persons fishing the Federal waters, in the review of the proposal or to propose zoning modifications. Should the Council recommend that the Federal portion of the proposal not be implemented or be modified, it will immediately notify the State and specify its reasons for such action.

(4) If the Secretary, after receiving the recommendations of the Council, concludes that such recommendations are consistent with the objectives of the FMPs, the Magnuson Act, or other applicable law, the Secretary will implement them by notice in the Federal Register. If the Regional Director determines that the recommended action of the Council should not be implemented, the Regional Director will immediately notify the Council and State of his reasons and may suggest an alternative to the recommended action. The Council, after conferring with the State, will immediately advise the Regional Director as to the acceptability of the alternative.

(5) In the event that the Committee fails to act or is unable to develop a compromise solution for fishing in the area, or if the Committee is abolished or otherwise becomes nonfunctional, the Council will call upon the FMFC to provide the recommendations under paragraphs (a)(1) and (2) of this section. The Council may then utilize its own Ad Hoc Advisory Panel consisting of fishermen from the area affected to advise the Council on the acceptability of these recommendations or to propose zoning modifications.

(6) If the Committee is enlarged or restructured to have authority over zoning for other counties, the

(2) No person may place into the management area any article, including fishing gear, with the intent to interfere with fishing or obstruct or damage fishing gear or fishing vessels of others, to utilize willfully fishing gear in such a fashion that it obstructs or damages the fishing gear or fishing vessel of another.

(3) Stone crab traps found in the area described in paragraph (b)(1) of this section during the closed period will be considered unclaimed or abandoned property and may be disposed of in any manner considered appropriate by the Secretary or an authorized officer. Lines and buoys are considered part of the trap. Owners of these stone crab traps are subject to civil penalties. All stone crab traps fished in the FCZ will be presumed to be the property of the most recently documented owner.

5. Section 654.24 "Specifically authorized activities" is redesignated as § 654.25, and a new § 654.24 is added in its entirety to read as follows:

§ 654.24 Zone modification procedure.

(a) Procedure for modifying existing restricted fishing areas for stone crab fishermen in the FCZ (inshore of 83.0° W. longitude) off Pasco, Hernando, and Citrus Counties, Florida, by notice. (1) The Pasco, Hernando, and Citrus Counties Shrimping and Crabbing Advisory Committee (Committee) may propose modifications to the exclusive fishing areas for shrimping and for crabbing provided by § 654.23 to resolve any conflict in both State waters and the FCZ inshore of 83.0° W. longitude, at its public meetings. Such a zoning proposal for fishing areas may be initiated at any time by the Committee in response to changing conditions in the fishery and may include zoning configurations that fluctuate or change on specific dates to allow for optimum production by the user groups affected.

(2) The Committee will submit the zoning proposal to the State regulatory agencies, Florida Department of Natural Resources (FDNR) and Florida Marine Fisheries Commission (FMFC), for

restructured committee may provide recommendations under paragraphs (a)(1) and (2) of this section and the Secretary may implement such recommendations under paragraph (a)(4) of this section.

(7)(i) The Secretary may, with the concurrence of the Council, modify existing zoning by publishing a notice in the Federal Register if the Regional Director determines that the procedures in paragraphs (a)(1)-(5) of this section cannot be followed in time to prevent inequitable access to the resources.

(ii) The Secretary will invite public comment prior to the effective date of the notice. If the Secretary determines, for good cause, that a notice must be promulgated immediately, comments will be received for 15 days after the effective date of the notice.

(iii) As soon as practicable after the end of the comment period, the Secretary will either rescind, modify or allow the modification to the existing zoning to remain unchanged through notice in the Federal Register.

(8)(i) In the event that the Regional Director determines that the procedural paragraphs (a)(1)-(5) of this section cannot be followed in time to resolve or prevent serious conflict the Secretary may, with the concurrence of the Council, publish a notice in the Federal Register to:

(A) Close the area or a portion thereof to stone crab fishing for a period not to exceed 30 days; and/or

(B) Modify the configuration of the existing boundaries of the fishing areas as specified in the rule in the FCZ for part of or for the duration of the stone crab season and close the fisheries in the areas affected for 10 days to allow movement of crab traps into the crabbing areas specified in the rule.

(ii) Not later than 72 hours after the effective date of the modification to the regulation under paragraph (b)(1) of this section, the Regional Director will conduct a public fact-finding hearing. Notice of such hearing will be provided to the following:

(A) The Chairman of the council or his designee;

(B) The Director of the FDNR or his designee;

(C) The Chairman of the FMFC or his designee;

(D) Local news media as may be appropriate;

(E) Such user group representatives or organizations as may be appropriate and practicable; and

(F) Others deemed appropriate by the Regional Director.

(iii) The fact-finding hearing will be for the purpose of evaluating the following:

(A) The existence and seriousness of the conflict needing resolution by the modification to the existing rule;

(B) The appropriate duration of the modification to the existing rule;

(C) Other solutions to the conflict; and

(D) Other relevant matters.

(iv) The Secretary, within ten days after conclusion of the factfinding hearing will either rescind, modify or allow the modification to the existing rule to remain unchanged through notice in the Federal Register.

(b) The Secretary, in consultation with or based on recommendations by the Council, may by regulatory amendment, take such action as may be necessary and appropriate to resolve any conflict in the area off Pasco, Hernando and Citrus Counties, Florida (inshore of 83.0° W. longitude) or any other part of the FCZ, provided such action is taken in a manner which to the maximum extent practicable is consistent with action recommended by or taken by the adjacent coastal State.

(c) Nothing contained in this section limits the authority of the Secretary to issue emergency regulations under section 305(e) of the Magnuson Act.

PART 658—SHRIMP FISHERY OF THE GULF OF MEXICO

6. The Table of Contents is amended by redesignating §§ 658.24-658.26 as §§ 658.25-658.27 and by adding a new entry "§ 658.24 Zone modification procedures" and by revising the entry for § 658.23 from "Stone crab area closure" to read "Stone crab area restrictions."

7. Section 658.2 is amended by adding the definitions of "Committee," "Council," "FDNR," "FMFC," "Secretary," and "State" to read as follows:

§ 658.2 Definitions.

Committee means the Pasco, Hernando, and Citrus Counties Shrimping and Crabbing Advisory Committee.

Council means the Gulf of Mexico Fishery Management Council, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609.

FDNR means the Florida Department of Natural Resources.

FMFC means the Florida Marine Fisheries Commission.

Secretary means the Secretary of Commerce, or a designee

State means the State of Florida.

8. Section 658.23 is amended by redesignating the existing text as paragraph (a) and by adding a new paragraph (b) to read as follows:

§ 658.23 Stone crab area restrictions.

(b)(1) Between 0001 hours October 5 to 2400 hours May 20 each year, it is unlawful to fish for shrimp in the following two areas of the FCZ (see Figure 4):

(i) That area of the FCZ bounded by a continuous line connecting the following points expressed by latitude and longitude (LORAN notations are unofficial, and are included only for the convenience of fishermen):

AREA I

Point	Latitude	Longitude	LORAN rate 7900			
			W	X	Y	Z
R	28°48.77' N	82°56.31' W	14375			62975
S	28°53.58' N	83°02.89' W	14375			63020
T	28°58.11' N	83°02.77' W	14325			63020
U	28°31.28' N	82°55.18' W	14325			62970
Y	28°42.07' N	82°55.37' W	14355			62970
Z	28°42.52' N	82°58.10' W	14355			62975
R	28°48.77' N	82°56.31' W	14375			62975

(ii) That area of the FCZ bounded by a continuous line connecting the following points expressed by latitude and

longitude (LORAN notations are unofficial, and are included for the convenience of fishermen):

AREA II

Point	Latitude	Longitude	LORAN rate 7900			
			W	X	Y	Z
X ¹	28°37.88' N	82°58.02' W	14347.2	31286		62955
Y ¹	28°29.80' N	82°52.98' W	14325	31285		62955
W ¹	28°28.93' N	82°51.50' W	14325		45080	62946.3

¹Thence northerly along the State boundary to Point X.

¹ These points are on the State boundary.

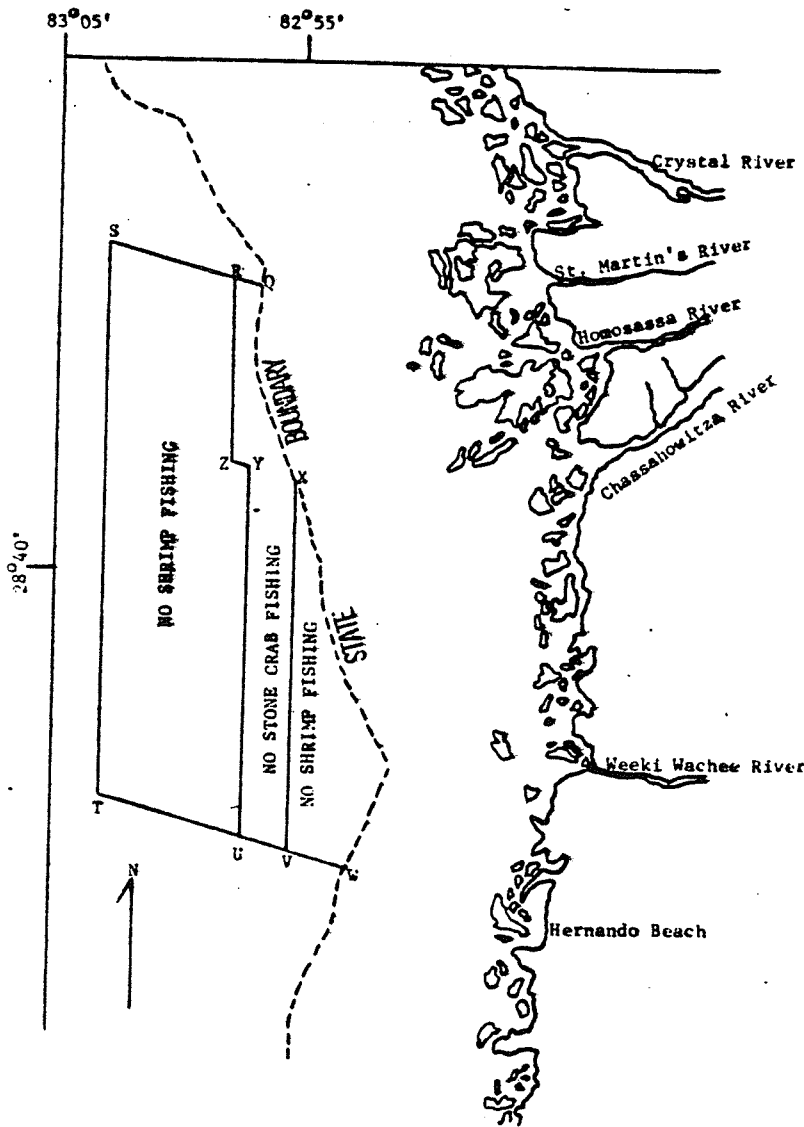


Figure 4. Chart delineating areas closed to fishing for shrimp or stone crab (not to scale, for illustrative purposes only).

(2) No person may place into the management area any article, including fishing gear, with the intent to interfere with fishing or obstruct or damage fishing gear or fishing vessels of others; or to utilize willfully fishing gear in such a fashion that it obstructs or damages the fishing gear or fishing vessel of another.

9. Sections 658.24-658.26 are redesignated as §§ 658.25-658.27 and a new "§ 658.24 Zone modification procedures" is added to read as follows:

§ 658.24 Zone modification procedures.

(a) Procedure for modifying existing restricted fishing areas for shrimp fishermen in the FCZ (inshore of 83.0° W. longitude) off Pasco, Hernando, and

Citrus Counties, Florida, by notice: (1) The Pasco, Hernando, and Citrus Counties Shrimping and Crabbing Advisory Committee (Committee) may propose modification to the exclusive fishing areas for shrimping and for crabbing provided by § 658.23 to resolve any conflict in both State waters and the FCZ inshore of 83.0° W. longitude, at its public meetings. Such a zoning proposal for fishing areas may be initiated at anytime by the Committee in response to changing conditions in the fishery and may include zoning configurations that fluctuate or change on specific dates to allow for optimum production by the user groups affected.

(2) The Committee will submit the zoning proposal to the State regulatory

agencies, Florida Department of Natural Resources (FDNR) and Florida Marine Fisheries Commission (FMFC), for implementation in State waters and may submit the proposal to the Council for initial review and comment.

(3) After the State has accepted the proposal for promulgation as a rule, the State may request that the Council adopt that portion of the zoning proposal relating to the FCZ. The Council will review the proposal and administrative record developed by the State in support of its proposed rule and will recommend to the Regional Director that the proposal be implemented (or not implemented) or implemented with minor modifications in FCZ. If the Council or Regional Director determine that the opportunity for public comment through the State system was inadequate, they may hold public hearings on the zoning proposal affecting the FCZ. The Council may also avail itself of the advice and counsel of its Scientific and Statistical Committee, its Shrimp and Stone Crab Advisory Panels, or an Ad Hoc Advisory Panel consisting of persons fishing the Federal waters, in the review of the proposal or to propose zoning modifications. Should the Council recommend that the Federal portion of the proposal not be implemented or be modified, it will immediately notify the State and specify its reasons for such action.

(4) If the Secretary, after receiving the recommendations of the Council, concludes that such recommendations are consistent with the objections of the FMPs, the Magnuson Act, other applicable law, the Secretary will implement them by notice in the Federal Register. If the Regional Director determines that the recommended action of the Council should not be implemented, the Regional Director will immediately notify the Council and State of his reasons and may suggest an alternative to the recommended action. The Council, after conferring with the State, will immediately advise the Regional Director as to the acceptability of the alternative.

(5) In the event that the Committee fails to act or is unable to develop a compromise solution for fishing the area, or if the Committee is abolished or otherwise becomes nonfunctional, the Council will call upon the FMFC to provide the recommendations under paragraphs (a)(1) and (2) of this section. The Council may then utilize its own Ad Hoc Advisory Panel consisting of fishermen from the area affected to advise the Council on the acceptability of these recommendations or to propose zoning modifications.

(6) If the Committee is enlarged or restructured to have authority over zoning for other counties, the restructured committee may provide recommendations under paragraphs (a) (1) and (2) of this section and the Secretary may implement such recommendations under paragraph (a) (4) of this section.

(7) (i) The Secretary may, with the concurrence of the Council, modify existing zoning by publishing a notice in the Federal Register if the Regional Director determines that the procedures in paragraphs (a)(1)-(5) of this section cannot be followed in time to prevent inequitable access to the resources.

(ii) The Secretary will invite public comment prior to the effective date of the notice. If the Secretary determines, for good cause, that a notice must be promulgated immediately, comments will be received for 15 days after the effective date of the notice.

(iii) As soon as practicable after the end of the comment period, the Secretary will either rescind modify or allow the modification to the existing zoning to remain unchanged through notice in the Federal Register.

(8)(i) In the event that the Regional Director determines that the procedural paragraphs (a)(1)-(5) of this section cannot be followed in time to resolve or prevent serious conflict, the Secretary

may, with the concurrence of the Council, publish a notice in the Federal Register to

(A) Close the area or portion thereof to shrimp fishing for a period not to exceed 30 days; and/or

(B) Modify the configuration of the existing boundaries of the fishing areas as specified in the rule in the FCZ for part of or for the duration of the stone crab season and close the fisheries in the areas affected for 10 days to allow stone crab traps to be moved. Provide such buffer zones where no fishing is allowed, as are deemed necessary.

(ii) Not later than 72 hours after the effective date of the modification to the regulation under paragraph (b)(1) of this section, the Regional Director will conduct a public fact-finding hearing. Notice of such hearing will be provided to the following:

(A) The Chairman of the Council or his designee;

(B) The Director of the FDNR or his designee;

(C) The Chairman of the FMFC or his designee;

(D) Local news media as may be appropriate;

(E) Such user group representatives or organizations as may be appropriate and practicable; and

(F) Others deemed appropriate by the Regional Director.

(iii) The fact-finding hearing will be for the purpose of evaluating the following:

(A) The existence and seriousness of the conflict needing resolution by the modification to the existing rule;

(B) The appropriate duration of the modification to the existing rule;

(C) Other solutions to the conflict; and

(D) Other relevant matters.

(iv) The Secretary, within ten days after conclusion of the factfinding hearing will either rescind, modify or allow the modification to the existing rule to remain unchanged through notice in the Federal Register.

(b) The Secretary, in consultation with or based on recommendations by the Council, may by regulatory amendment take such action as may be necessary and appropriate to resolve any conflict in the area off Pasco, Hernando and Citrus Counties, Florida (inshore of 83.0' W. longitude) or any other part of the FCZ, provided such action is taken in a manner which to the maximum extent practicable is consistent with action recommended by or taken by the adjacent coastal State.

(c) Nothing contained in the section limits the authority of the Secretary to issue emergency regulations under section 305(e) of the Magnuson Act.