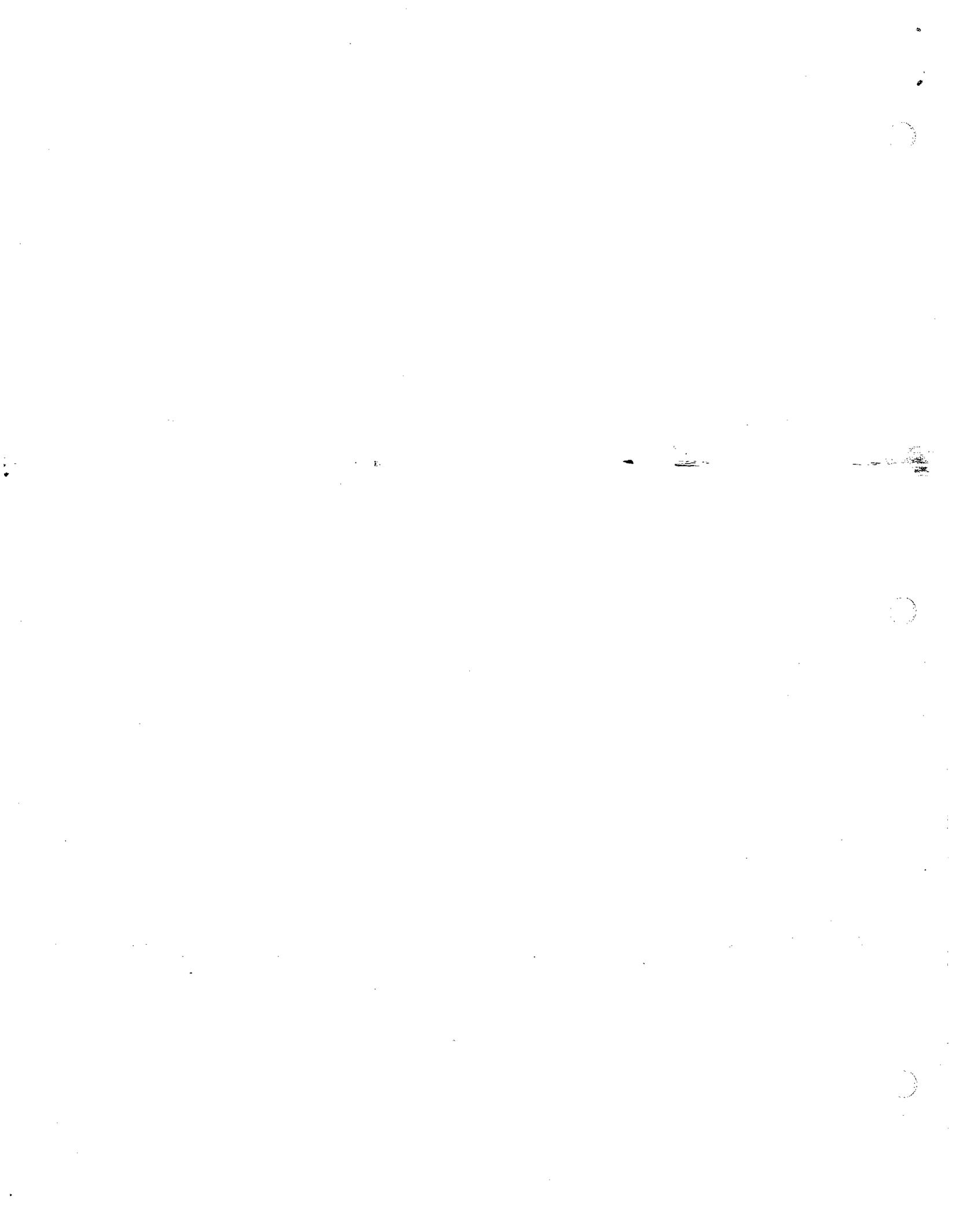


AMENDMENT NUMBER 2  
TO  
THE FISHERY MANAGEMENT PLAN  
FOR THE STONE CRAB FISHERY  
OF THE GULF OF MEXICO  
AND  
AMENDMENT NUMBER 3  
TO  
THE FISHERY MANAGEMENT PLAN  
FOR THE SHRIMP FISHERY  
OF THE GULF OF MEXICO

MARCH, 1984

GULF OF MEXICO FISHERY MANAGEMENT COUNCIL  
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Amendment to the Fishery Management Plans (FMPs) for the Stone Crab and Shrimp Fisheries of the Gulf of Mexico.

SUMMARY

- a. Statement of Problem: The Stone Crab Fishery Management Plan (FMP), as amended, provides for management and regulation of the stone crab fishery off the west coast of Florida in the fishery conservation zone (FCZ). One of the principal management measures of the FMP establishes a "line of separation" off southwest Florida (from approximately 26°N. latitude southwardly to the Keys) shoreward of which trawl fishing is prohibited from January 1st through May 20th each year [44 FR 53523]. This area was established to resolve a major armed conflict between stone crab fishermen and fishermen using trawls. The measure which was developed through compromise agreement by representatives of shrimping and crabbing industries has been extremely effective in resolving this conflict. The measure was also incorporated into the Shrimp FMP since it provided for regulation of the shrimp fishery as well as the stone crab fishery [46 FR-27499].

A similar conflict developed off Citrus County on the central west coast of Florida during the late 1970s. The problem was related to competition for fishing area between stone crab fishermen who utilize fixed gear (traps, pots, etc.) and shrimp fishermen who utilize mobile gear (rigid frame roller trawls). The problem was compounded since crabbers fish during daylight and shrimpers fish only at night. By 1980 the fishermen involved in the two fisheries judged the loss of traps and loss of trawling time and the resultant loss of productivity to be so significant that they established exclusive fishing areas for each fishery off Citrus County for the duration of the stone crab season (October 5th through May 20th). These fishing areas were established, buoyed, and complied with by "gentleman's agreement" and involved no governmental action or sanction.

In 1982, due to the failure of voluntary observance of these exclusive fishing areas, the State of Florida (State) established by law an advisory committee for Citrus County consisting of an equal number of representatives from each of the two industries [Chapter 81-199, 370.158]. The advisory committee was empowered with authority to recommend exclusive fishing areas for crabbing and shrimping in waters off Citrus County under state jurisdiction (out to nine nautical miles from shore). The committee recommended, and the State promulgated as rule [16N-2.14], exclusive fishing areas during 1982.

Due to the concurrent increase in fishing participants, gear, and effort over this period, the conflict situation extended out into the FCZ and into waters off adjoining counties (principally Hernando and Pasco counties). From 1979 through 1982, stone crab landings increased by 225 percent and shrimp landings (bait and commercial combined) by 200 percent for the Pasco, Hernando and Citrus counties area, illustrating the increasing fishing pressure (Table 1).

During 1982, the Citrus County Advisory Committee petitioned the Gulf of Mexico Fishery Management Council (hereafter referred to as "Council") to

Table 1. Landings of Shrimp and Stone Crab in Pounds in the Conflict Area and Surrounding Counties<sup>1</sup>

	<u>Pinellas</u> <sup>2</sup>	<u>Pasco/Citrus</u> <sup>3</sup>	<u>Levy</u>	<u>Dixie/Taylor</u>
<b><u>1979</u></b>				
Bait Shrimp	101,670	177,030	15,520	29,297
Shrimp	1,585,740	178,267	-	-
Stone Crab	9,432	342,642	187,394	70,331
<b><u>1980</u></b>				
Bait Shrimp	42,031	242,290	4,825	15,882
Shrimp	1,871,758	256,827	-	-
Stone Crab	26,639	335,079	87,246	101,250
<b><u>1981</u></b>				
Bait Shrimp	45,531	275,320	8,075	7,431
Shrimp	2,623,353	291,379	200,356 <sup>4</sup>	-
Stone Crab	73,784	481,865	124,828	176,560
<b><u>1982</u></b>				
Bait Shrimp	103,317	284,764	2,600	20,034
Shrimp	1,426,682	424,869	364,236 <sup>4</sup>	-
Stone Crab	28,942	769,500	179,576	186,842
<b><u>1983<sup>5</sup></u></b>				
Bait Shrimp	NA	245,580	-	NA
Shrimp	NA	1,031,455	569,043 <sup>4</sup>	NA
Stone Crab	NA	1,000,485	106,700	NA

<sup>1</sup> Includes landings only through the fish houses monitored by NMFS. An estimated 20 percent of shrimp landings and 25 percent of stone crab landings bypass these fish houses. All weights are live weight, i.e., shrimp heads on, whole crab weight.

<sup>2</sup> Bait shrimp and stone crab landings are from local coastal waters, whereas shrimp landings are primarily from distant water vessels operating throughout the Gulf of Mexico.

<sup>3</sup> Conflict area. Negligible amounts are landed in Hernando County since it has no navigation channels.

<sup>4</sup> Landings combined for Levy, Dixie and Taylor Counties to insure confidentiality.

<sup>5</sup> Preliminary data, subject to revision.

amend the Stone Crab and Shrimp FMPs to include measures to resolve the conflict in the FCZ off Citrus County. The Council, after conferring with the Committee, held a fact-finding public hearing in Crystal River, Florida, on September 29, 1982. Following this hearing the Council prepared a draft amendment to the Shrimp and Stone Crab FMPs and held public hearings on the proposed draft amendment on March 29 and 30, 1983.

As a result of testimony presented at the public hearings, the Council concluded that the proposed action of its draft amendment was inadequate to resolve the conflict. It was also evident from testimony that there was little agreement on how the area should be divided into fishing areas, although the great majority of persons testifying felt that the creation of exclusive fishing areas was the only way to resolve the conflict. Following the hearings the Council established an Ad Hoc Shrimp/Stone Crab Advisory Panel (AP) consisting of equal representation from shrimp and stone crab industries of Pasco, Hernando and Citrus Counties. The members of the AP were selected from persons recommended by the fishermen of each of the counties. The AP was established to assist the Council in addressing a long-term solution to the conflict.

Prior to the first meeting of the AP the conflict situation intensified and, due to evidence suggesting impending violence, NMFS implemented an emergency regulation to create exclusive fishing areas for stone crab and shrimp fishing in the FCZ off Pasco, Hernando and Citrus Counties, effective April 6, 1983, through May 20, 1983 [48 FR 14903].

During May and June of 1983, the Council held seven meetings of the AP to gather information on the fisheries and to attempt to reach a long-term compromise solution to the conflict. Although a great deal of progress was made, no compromise acceptable to each group was reached. During this period the Florida legislature passed an act establishing a Pasco, Hernando, Citrus Counties Shrimping and Crabbing Advisory Committee (Committee) who were assigned the task of zoning state waters in a manner that would be most equitable to both groups [Chapter 83-190, 370.158]. The Committee was composed of two shrimp and two crab fishermen for each of the three counties appointed by the legislative delegations from those counties. The Council terminated the AP and presented its findings to the Committee for consideration at its first operational meeting. The Committee was asked to consider equitable zoning of both federal and state waters in the conflict area for the coming stone crab season (October 5, 1983 - May 20, 1984). The Council also presented to the Committee the concept for a measure to address the conflict in future seasons by utilizing the zoning recommendations of the Committee. Such zoning recommendations would be considered by the State [Florida Department of Natural Resources (FDNR) and Florida Marine Fisheries Commission (FMFC)] for implementation in state waters and by the Council and NMFS for implementation in adjoining waters of the FCZ.

On August 30, 1983, the Committee met and endorsed the measures proposed in this amendment. The Committee further concluded that the conflict situation was serious and recommended that specific exclusive fishing areas be established in state waters and the FCZ off Citrus and Hernando Counties for

the coming season by emergency rule. No fishing areas were recommended by the Committee off Pasco County for the coming season since crab and shrimp fishermen were mutually avoiding confrontation in this area, which is subject to less fishing pressure.

On September 20, 1983, the Florida Governor and Cabinet promulgated by state emergency rule the zoning configuration recommended by the Committee for fishing zones in state jurisdiction [16N-ER83-2]. At its September, 1983, meeting the Council considered the Committee's recommended zoning configuration for the FCZ and recommended that the Secretary of Commerce (Secretary) implement it by emergency regulation for 90 days, effective October 5, 1983. The Secretary promulgated the regulation establishing the fishing areas in the FCZ on October 5, 1983 (48 FR 46057).

- b. Description of the Fisheries: The shrimp and stone crab fisheries in the conflict area (seaward of Pasco, Hernando and Citrus Counties to 83°W. longitude) is essentially a localized fishery pursued by fishermen residing in the tricounty area and, to some extent, fishermen from adjacent counties. The localized nature of the fishery is due to the fact that stone crab fishermen must make daily trips in that their product is not refrigerated at sea and due to the fact that very specialized shrimp trawling gear is required to fish the area. The inshore trawling area (inside the 30-foot contour) from Pinellas County north through Dixie and Taylor Counties (Table 1) consists primarily of grass beds with low relief rubble (rocks, etc.) broken by open sandy areas. To fish these areas the fishermen have developed a specialized trawl (a rigid frame roller trawl) which allows them to operate over the grass beds with no damage and which pivots and rides over low relief obstructions. Shrimp vessels from other parts of the Gulf equipped with otter trawls cannot operate in this fishing area, but do operate further offshore in open, unvegetated bottoms (Figure 1).

In 1983, 222 shrimp boats and vessels (five net tons or larger) operated in the fishery off the tricounty area (and inshore of 83°W. longitude). These consisted of 147 shrimp commercial and bait boats and vessels based in ports in the tricounty area and 75 boats and vessels from other counties which frequently or occasionally fished the area. Forty-three percent of these fishing craft were documented vessels and averaged 30 to 32 feet in length. These fishing craft utilized 489 rigid frame roller trawls varying in width from 12 to 16 feet. Most boats were double rigged with two 12-foot trawls. There were approximately 540 fishermen aboard the fishing craft.

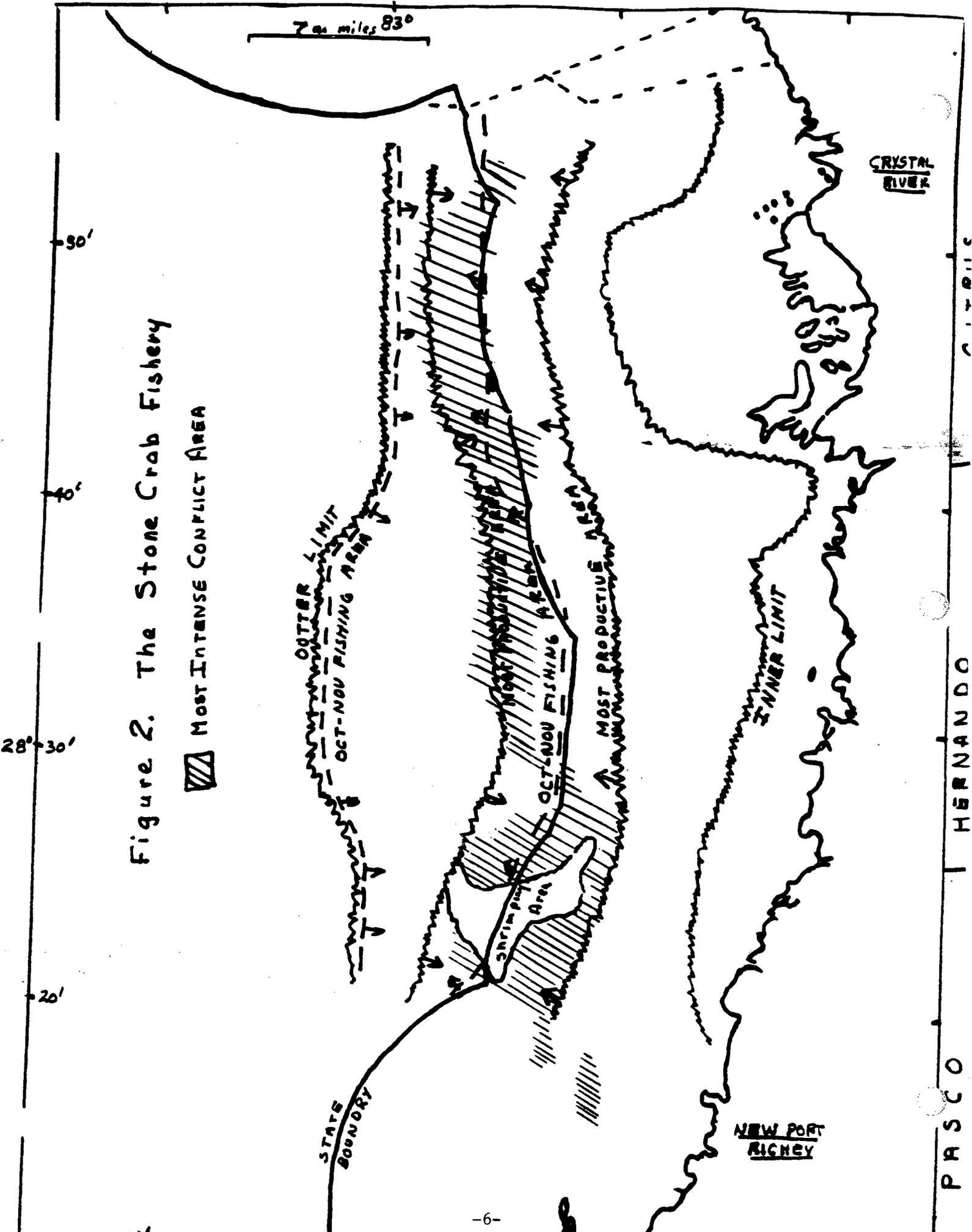
In 1982, commercial (food) catches of shrimp from the tricounty area landed in tricounty ports was 424.9 thousand pounds and landings of bait shrimp (primarily live shrimp) were 284.8 thousand pounds (Table 1). These bait shrimp constituted about 42 percent of the bait shrimp landed on the west coast of Florida during 1982 and supplied markets on the east and west coasts of Florida. An unmeasurable amount of commercial shrimp caught from the tricounty area was probably landed at Pinellas, Levy, and Dixie County ports.

Approximately 70 percent of annual bait shrimp catch and 72 percent of annual commercial shrimp catch was harvested during the stone crab season (Environmental Assessment, Tables 2 and 3).



Figure 2. The Stone Crab Fishery

▨ MOST INTENSE CONFLICT AREA



In 1983, 70 stone crab boats and vessels operated in the fishery off the tricounty area. Fifty of these were based in tricounty ports and approximately 20 fishing craft from other counties occasionally fished the area.

Approximately 47 percent were documented vessels which were typically 28 to 31 feet in length. Approximately 96,000 traps were utilized (1,000 per boat and 1,800 per vessel) in the fishery. Each trap was individually buoyed. Traps were set in lines approximately 150 feet apart, normally in strings of 500 to 600 traps. Approximately 210 fishermen were aboard the stone crab fishing craft.

In 1982, 769,000 pounds of stone crabs were harvested and their claws landed (approximately 50 percent of live weight). An unmeasurable, but probably not significant, amount of stone crab caught off the tricounty area was landed at Pinellas and Levy County ports.

The AP described each fishery in terms of areas fished, most productive areas, and conflict areas (Figures 1 and 2). In general, fishing occurred by both groups in essentially the same areas. Only bait shrimping, which was usually confined to the nearshore waters (due to necessity of keeping shrimp alive), did not generally compete for space with commercial crabbers (Figure 1). However, their trawling area was frequently utilized by recreational crabbers (approximately 100-180 persons) utilizing traps.

- c. Proposed Action: The action proposed through this amendment to the Shrimp and Stone Crab FMPs consists of two measures which provide a flexible system with rapid response time for addressing the tricounty conflict in future years. One measure provides a system for establishing fishing areas in state jurisdiction and the FCZ (inshore of 83°W. longitude) to resolve the conflict annually with flexibility for inseason changes. The other measure provides the Regional Director of NMFS (RD) with authority to rapidly resolve a serious conflict, if one should erupt despite the establishment of these fishing areas, for a time sufficient to establish order in the fishery.

The amendment language of the proposed action would change the Stone Crab FMP [44 FR 19445] as amended [47 FR 41757] by adding subparts "h" and "i" after subpart "g" [44 FR 19491]. The amendment language would change the Shrimp FMP [45 FR 74178] as amended [47 FR 4104] and as administratively amended May 7, 1982 (Council document dated November, 1981) by adding a Measure 9(b) and 9(c) and renumbering Measure 9 as 9(a) on page 8-19 of the current FMP text (Council document dated November, 1981).

Measure A. Procedure for establishing fishing areas for shrimp and stone crab fishermen in the FCZ (inshore of 83°W. longitude) off Pasco, Hernando and Citrus Counties, Florida to provide for orderly, productive fisheries and to alleviate conflict in the fisheries.<sup>1</sup>

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<sup>1</sup> Stone Crab FMP reference: subpart "h"; Shrimp FMP reference: Measure 9(b)

Step:

- (1) The Pasco, Hernando, and Citrus Counties Shrimping and Crabbing Advisory Committee (Committee) shall develop proposed exclusive fishing areas for shrimp trawling and for crabbing or other recommendations to resolve the conflict in both state waters and the FCZ inshore of 83° W. longitude, at its public meetings. Such a zoning proposal for fishing areas or suggested change to an existing zoning rule 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 (FDNR and Florida Marine Fisheries Commission) for implementation in state waters and may submit the proposal to the Council for review.
- (3) The Council, after initial review, may submit comments to the State pointing out its deficiencies for implementation in Federal waters, or the Council may take the proposal under advisement until they avail themselves of comment presented at public hearings held by the State and until the State has recommended its adoption by the Council.
- (4) After the State has completed its review and accepted the proposal for promulgation as rule, the State shall request 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 the RD implement (or not implement) the zoning proposal or implement the proposal with minor modifications in the FCZ by notice in the Federal Register. If the Council or RD judges 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 SSC, its Shrimp and Stone Crab APs or an Ad Hoc AP representative of persons fishing Federal waters in the review of the proposal. Should the Council recommend that the Federal portion of the proposal not be implemented or be modified, it shall immediately notify the State and specify its reasons for such action.

If such action by the Council will result in preventing a regulation from becoming effective by the next stone crab season, the Council may recommend the Secretary implement an alternative by emergency rule for 90 or 180 days or until the issue has been resolved with the State.

- (5) If the RD, after receiving the recommendations of the Council, concludes that such recommendation is consistent with the objectives of the FMPs, the Magnuson Act and other applicable law, he shall implement it as Federal regulation by notice in the Federal Register. Such regulation when implemented will remain in effect until action is taken by the Council to modify it under the preceding process. If the RD does not implement the recommended rule of the Council, he shall immediately notify the Council and State of his reasons for such action and may suggest an alternative to the recommended rule. The Council, after conferring with the State, shall immediately advise the RD as to the acceptability of the alternative.

- (6) 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 Florida Marine Fisheries Commission to provide the recommendations under steps (1) and (2). The Council may utilize its own Ad Hoc AP consisting of fishermen from the area affected to advise the Council on the acceptability of these recommendations. In the event the Committee is enlarged or restructured to have authority over zoning for other counties, the restructured committee may provide recommendations under Steps (1) and (2).
- (7) In the event that other measures for resolving the conflict, such as gear and fishing technique modifications, are judged as practicable by the State and when the State proposes to require the measures by State rule in lieu of zoning, the Council may request the RD implement similar rules in federal waters of the area and rescind the rules specifying zones. Such implementation by the RD shall be by the regulatory amendment process and will be preceded by preparation of a SEIS and SRIR, and holding of public hearings.
- (8) Notwithstanding the procedural steps (1) through (7), the RD, in consultation with or based on recommendations by the Council, may through the regulatory amendment process (preparation of SEIS or EA and SRIR, holding public hearings, etc.,) take such action as may be necessary and appropriate to resolve any conflict in this or any other part of the FCZ, providing such action is consistent with the objectives of the FMPs, the Magnuson Act and other applicable law and is taken in a manner which to the maximum extent practicable is consistent with action recommended by or taken by the adjacent coastal state. The authority provided the Regional Director herein may be exercised by notice in the Federal Register in event a more timely regulatory response is required to resolve or prevent occurrence of conflict as considered herein. In the event such action by notice is taken by the Regional Director it shall be with the concurrence of a majority of the Council that (1) the conflict involved requires a more immediate response than that available through the regulatory amendment process and (2) that the proposed notice is consistent with the objectives of the FMPs, the Magnuson Act and other applicable law and is taken in a manner which to the maximum extent practicable is consistent with action recommended or taken by the adjacent coastal state.

Measure B. Procedure for terminating a conflict or preventing a violent confrontation between shrimp and stone crab fishermen in waters inshore of 83°W. longitude off Pasco, Hernando and Citrus Counties, Florida.<sup>2</sup>

In the event that the RD determines, based on reliable information from appropriate law enforcement agencies, that the existing management regulations established by Measure "h" [or 9(b)] are inadequate to prevent conflict and that direct conflict has occurred or is imminent, he may take one or more of the following actions by notice in the Federal Register:

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<sup>2</sup> Stone Crab FMP reference: subpart "i"; Shrimp FMP reference: Measure 9(c)

1. In conjunction with similar action by the State of Florida close the entire area (inshore of 83°W. longitude) or portion thereof to shrimp and stone crab fishing for a period not to exceed 30 days;
2. Close the FCZ (inshore of 83°W. longitude) or portion thereof of the area to shrimp and stone crab fishing for a period not to exceed 30 days;
3. Cooperatively with the State or with consent of the State, divide the entire area (inshore of 83°W. longitude) or portion thereof, into two or four east-west fishing areas, separated by appropriate buffer zones, for the duration of the stone crab season (or such other period as deemed appropriate). Shrimp trawling and stone crab fishing will be allowed only in alternate fishing areas and will be prohibited in the buffer zones. The entire area will be closed to shrimp and stone crab fishing for ten days to allow movement of crab traps into the crabbing areas specified in the rule;
4. Modify the configuration of the boundaries of the fishing areas existing under Federal regulation in the FCZ for the duration of the stone crab season and close the fishery in the areas affected for ten days to allow stone crab traps to be moved. He may provide such buffer zones where no fishing is allowed, as are deemed necessary.

Not later than 72 hours after the effective date of the regulation, the RD shall conduct a fact-finding meeting whose participants shall include, but not be limited to, the following:

1. Chairman of the Council and/or such other representatives as the Chairman deems appropriate;
2. The Director of the Florida Department of Natural Resources and/or such other representatives as the Director deems appropriate;
3. The Chairman of the Florida Marine Fisheries Commission and/or such other representatives as the Chairman deems appropriate;
4. Local news media as may be appropriate;
5. Such user group representatives or organizations as may be appropriate and practicable;
6. Others deemed appropriate by the RD.

The fact-finding meeting shall be for the purpose of evaluating the following:

1. The existence and seriousness of the conflict needing resolution by the existing rule;
2. The appropriate duration or modification of the rule;
3. Other solutions to the conflict;

4. Other relevant matters.

The RD within ten days after conclusion of the fact-finding meeting shall either rescind, modify or allow the regulation to remain unchanged through notice in the Federal Register.

d. Rationale Supporting the Proposed Action: Measures (A) and (B) address the objectives of the Stone Crab and Shrimp FMPs. The first objective of the Stone Crab FMP is to provide for an orderly stone crab fishery by reducing conflict between stone crab and shrimp fishermen. The sixth objective of the Shrimp FMP is to minimize conflicts between shrimp and stone crab fishermen.

1. Measure A. The shrimp and stone crab fisheries (Figures 1 and 2) off Pasco, Hernando and Citrus Counties, Florida, have a long history of competition for fishing area and of conflict between the fishermen. The fishermen themselves and the State of Florida have attempted to resolve the conflict by establishing exclusive fishing areas for shrimp trawling and for crabbing. These efforts have met with moderate success but were generally of limited duration. Because of the expansion of both shrimp and stone crab fisheries the problem was moved from State regulated areas into the FCZ and the waters of other counties. The Council attempted to address a solution, in the FCZ, through a draft amendment presented to the public in early 1983. This effort was also judged inadequate.

This proposed amendment addresses the gear conflict between shrimp and stone crab fishermen in the nearshore waters (inside 83°W. longitude) off Pasco, Hernando and Citrus Counties, Florida. The area affected is subject to fishing largely by fishermen residing in the tricounty area and neighboring counties, and, therefore, the conflict is a localized problem the regulation of which will not generally impact fishermen from other areas. This results from the fact that the stone crab fishermen must make one-day trips, since their product is not refrigerated, thereby, precluding participation by stone crab fishermen from other areas. In order to shrimp the area, which is largely grass beds broken by low relief rubble, specialized trawling gear is required which precludes shrimp fishermen from other areas, who are normally equipped with otter trawls, from participating. Therefore, resolution of the conflict is largely a local problem and should be based on solutions proposed by local fishermen.

The State of Florida has established by statute a Pasco, Hernando, and Citrus Counties Shrimping and Crabbing Advisory Committee (Committee). The Committee consists of representatives of the shrimp and stone crab fishermen of the three county area and is charged with developing fishing zones in the state waters (about two-thirds of the total area involved) to resolve the conflict. Such proposed zoning is submitted to the State for promulgation as rule. The State may adopt or reject the proposed zoning plan but may not modify it. If the proposed zoning is rejected, the Committee may submit alternative zoning proposals to the State. This system ensures that the proposed zoning is a result of compromise between representatives of the two groups of fishermen.

The proposed framework amendment will utilize as its basis this same system by extending to the Committee the right to propose zoning of federal waters (out to 83°W. longitude) adjacent to the State zones. The use of this system will achieve the following administrative advantages:

1. Allow the Committee to consider zoning of the entire conflict area regardless of whether the waters are State or Federal, thereby, providing the flexibility to achieve more equitable compromise solutions through zoning;
2. Provide the Council with suggested zoning of Federal waters that is generally acceptable to the fishermen involved;
3. Provide for public review and comment on the proposed solutions through state hearings and the correspondence submitted by the public, the results of which will be available ~~for~~ Council review;
4. Through State approval (or disapproval) and recommendations on the proposed zoning, provide the Council with indication of the State's position on the conflict issue affecting its citizens;
5. Provide the maximum degree of flexibility for modification of the zoning, annually or on an in-season basis, to accommodate changes in the fishery while maintaining as its basis compromise agreement of the representatives of the two fisheries; and
6. Result in considerable savings to the Council and Federal government in time and funding.

Through the amendment the Council and the Regional Director (RD) will maintain the right to reject the Committee recommendation submitted via the State if the recommendations compromise the provisions of MFCMA or are considered inequitable to the fishermen. The Council and RD may also take independent action to resolve the conflict in Federal waters as a result of failure of the State entities to act expeditiously, inadequate opportunity for public comment on zoning proposed by the State, failure of an implemented system in preventing conflict, unenforceability of proposed or implemented systems, or for other justifiable reasons, including inequity in proposed zoning of the FCZ.

The proposed amendment will result in significant economic benefits to both groups of fishermen. Under the generally unregulated fishery season of 1982-1983 crab fishermen reported losses of traps that ranged from 25 to 50 percent of which typically four to five percent were attributable to weather and the rest attributable to severed buoys and traps being lost due to the traps being dragged from the trap line (AP minutes). Shrimp fishermen reported that they lost an average of 25 percent of their trawling time in untying trap buoy lines from trawls, rigging and propellers (AP minutes). These losses significantly affect the productivity and operation efficiency of both groups.

Shrimpers are potentially losing 25 percent of their production which would have been equivalent to 236,000 pounds of shrimp (40 percent bait shrimp) valued at \$340,300, exvessel, in 1982. This does not include costs incurred due to towing incapacitated vessels with lines in wheels; damage to trawls, rigging or water cooled propeller bearings; and hauling expense for line removal, propeller and bearing repair, etc. These costs have been conservatively estimated at \$30,000.

Crabbers are incurring losses of traps conservatively estimated as 25 percent of the 96,000 traps valued at a replacement cost of \$18 each or \$432,000. In addition, they are losing the production from the lost traps for approximately three weeks until replaced. This results in an estimated loss in production of 54,000 pounds of claws (0.75 pounds per trap per week) valued at \$148,000, exvessel, in 1982.

Shrimp fishermen are incurring losses estimated at \$370,300 in lost productivity and damage. Crab fishermen are incurring losses estimated at \$580,000 in lost gear and productivity. As Measure A of the proposed amendment provides for establishing exclusive fishing areas by the Committee which is representative of the fishermen, it is expected that the zoning will reduce these gear and productivity losses to a negligible level while insuring each group's access to the most productive fishing areas throughout the stone crab season to the maximum extent possible.

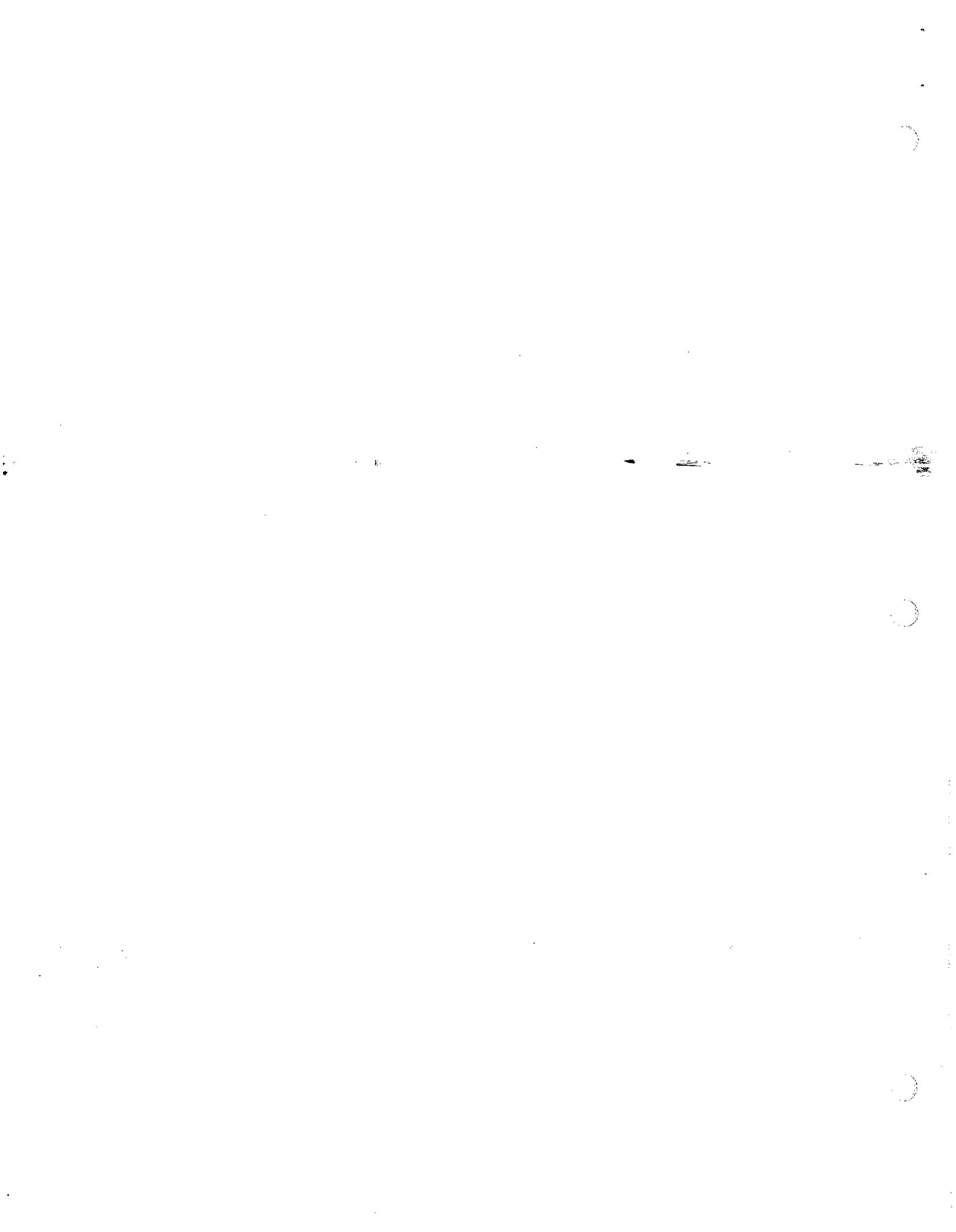
2. Measure B: This measure is unlikely to be implemented unless conflict resulting in violence, loss of life, or property, is occurring or is imminent. The measure provides the RD with authority to rapidly institute a regulatory response that is commensurate with the offenses committed. The measures would never be implemented unless the existing regulatory system under Measure A failed. Options for regulatory action include a complete closure of the fishery, or portions thereof, for a short duration to provide a cooling off period to separate the fishing activities and restore order to the fisheries; similar closure of the fishery in the FCZ; and institution of fishing areas separated by buffer zones to assure enforceability and compliance. The impacts of these options are discussed in the Draft Environmental Assessment/Supplemental Regulatory Impact Review (EA/SRIR).
- e. Alternatives to the Proposed Action: The alternatives to the proposed action are discussed in the draft EA/SRIR.
- f. Amendment to the Regulations: The proposed action also amends the regulations of Shrimp and Stone Crab FMPs to prohibit the intentional placement of any article (including fishing gear) in the FCZ that would obstruct or interfere with the fishing operation of another, the use of fishing gear to intentionally damage the fishing gear of another, and the regulations of Stone Crab FMP to provide for disposal of stone crab traps left in the water in areas closed to crabbing.

The emergency zoning rule which was implemented April 11, 1983 (48 FR 14903) is included in the regulations as an interim rule which will remain in effect until modified under the procedures of Measure A. This rule is included only to ensure that a regulation will be in effect at the beginning of the 1984 stone crab season (October 5).

ENVIRONMENTAL ASSESSMENT  
AND  
SUPPLEMENTAL REGULATORY IMPACT REVIEW  
AND  
INITIAL REGULATORY FLEXIBILITY ANALYSIS  
OF  
AMENDMENT NUMBER 2  
TO  
THE FISHERY MANAGEMENT PLAN  
FOR THE STONE CRAB FISHERY  
OF THE GULF OF MEXICO  
AND OF  
AMENDMENT NUMBER 3  
TO  
THE FISHERY MANAGEMENT PLAN  
FOR THE SHRIMP FISHERY  
OF THE GULF OF MEXICO

MARCH, 1984

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ENVIRONMENTAL ASSESSMENT (EA) AND SUPPLEMENTAL REGULATORY IMPACT REVIEW (SRIR) AND INITIAL REGULATORY FLEXIBILITY ANALYSIS (IRFA) OF PROPOSED AMENDMENTS TO THE FISHERY MANAGEMENT PLANS AND TO THE REGULATIONS FOR THE STONE CRAB AND SHRIMP FISHERIES OF THE GULF OF MEXICO.

Introduction

The fishery management plans (FMPs) for the stone crab and shrimp fisheries of the Gulf of Mexico were prepared by the Gulf of Mexico Fishery Management Council (Council) and provide for management and regulation of these fisheries in the fishery conservation zone (FCZ). When implemented, these FMPs resolved an armed conflict between stone crab and trawl fishermen operating off the southwest coast of Florida. The Stone Crab FMP was published in the Federal Register on April 3, 1979, and was implemented by regulation on September 14, 1979. An Environmental Impact Statement (EIS) was prepared on the FMP and was filed with the Environmental Protection Agency (EPA). The Shrimp FMP was published in the Federal Register on November 7, 1980, and was implemented by regulation on May 20, 1981. An EIS was prepared on the FMP and was filed with EPA.

The Secretary promulgated emergency regulations amending the Stone Crab and Shrimp FMPs under Section 305(e)(2) of the Magnuson Act on April 6, 1983, until the end of the crab season on May 20. These emergency regulations were implemented to resolve gear conflicts between stone crab and shrimp fishermen off the west central coast of Florida. The Secretary again implemented emergency regulations in this area on October 5, 1983, amending the FMPs for a portion of the 1983-1984 stone crab season because of gear conflicts between these two groups. The emergency rule was repromulgated on January 3, 1984, for an additional 90 days.

Background information on the problem and description of the fisheries is presented in subsections (a) and (b) of the amendment to the FMPs (attached).

DESCRIPTION OF THE PROPOSED ACTION

The action proposed through this amendment to the Shrimp and Stone Crab FMPs consists of two measures which provide a flexible system with rapid response time for addressing the conflict off Pasco, Hernando and Citrus Counties, Florida, in future years. One measure provides a system for establishing fishing areas in state jurisdiction and the FCZ (inshore of 83°W. longitude) to resolve the conflict annually, with flexibility for inseason changes. The other measure provides the Regional Director (RD) with authority to rapidly resolve a serious conflict, if one should erupt despite the establishment of these fishing areas, for a time sufficient to restore order in the fishery.

The two measures (A and B) are described in detail in subsection (c) of the amendment to the FMPs (attached).

The proposed action also amends the regulations to (1) prohibit the intentional placement of any article (including fishing gear) in the FCZ that would obstruct or interfere with the fishing operation of another and the intentional use of fishing gear to damage the fishing gear of another, (2) provide for disposal of stone crab traps left in the water in areas closed to crabbing and (3) includes an interim zoning rule which will remain in effect until amended under the procedures of Measure A.

## NEED FOR THE PROPOSED ACTION

The need for the proposed action of implementing the two measures is discussed in subsections (a) and (d) of the amendment to the FMPs (attached).

In essence this proposed action is needed because the potential for serious conflict is real and the State is constrained from taking action in the FCZ to alleviate the situation. The proposed action will provide the following benefits which are consistent with the FMPs' objectives:

1. provide for orderly conduct of stone crab and shrimp fisheries, and
2. minimize the potential for serious conflict, and
3. reduce gear loss and loss of fishing time by both groups, and
4. provide for unimpeded access to the area during the period that is generally most productive for each fishery, and
5. provide for flexibility for change of the measures by the Committee, State, Council and Secretary.

The proposed amendment to the regulations is needed to prohibit any person from intentionally taking actions to obstruct or damage the fishing opportunity or gear of other fishermen in the two fisheries. The proposed regulation would make it illegal for fishermen to intentionally place articles (including gear) in areas where trawling is allowed and which are intentionally placed to obstruct such trawling activity or damage trawling gear (including vessels). The regulation further would make it illegal to intentionally utilize trawls (or other gear) in such a manner that would damage or obstruct the fishing gear of another. The proposed regulation also allows enforcement officers to dispose of such traps found in areas closed to crabbing in the most appropriate manner, thereby removing gear illegally fished and which constitutes an entanglement threat to shrimping gear.

## ANALYSIS OF PROPOSED ACTIONS

The proposed management measures and impacts follow:

- a. Measure A. Procedure for establishing fishing areas for shrimp and stone crab fishermen in the FCZ (inshore of 83°W. longitude) off Pasco, Hernando and Citrus Counties, Florida to provide for orderly, productive fisheries and to alleviate conflict in the fisheries. Steps (1) through (5) of this procedure (see Amendment, subsection c) provide for the establishment of exclusive fishing areas for shrimp trawling and crabbing in the FCZ concurrent with the establishment of such areas in waters under State jurisdiction. The configuration of these areas is recommended by the Committee which consists of representatives of the two fishing industries. These recommendations are formulated at public meetings of the Committee which affords all affected persons the right to be heard and to provide input into the decision process. The procedure allows the Committee to recommend changes to the area configurations at any time and to institute inseason changes to afford the maximum degree of access to each group at times of the year when it is most advantageous to them to fish each area.

The establishment of such exclusive fishing areas will result in denying access to some members of each group to areas they traditionally have fished. Conversely, however, over the long-term, each group should gain exclusive access to areas that provide the best fishing opportunity for their fishery. The loss of productivity from denied access to an entire area is expected to be more than compensated for by the economic benefits accruing to each group from resolution of the conflict.

During the generally unregulated fishing season of 1982-1983 crab fishermen reported losses of traps that ranged from 25 to 50 percent of which typically four to five percent was attributable to weather and the rest attributable to severed buoys and traps being lost due to the traps being dragged from the trap line (AP minutes). Shrimp fishermen reported that they lost an average of 25 percent of their trawling time in untangling trap buoy lines from trawls, rigging and propellers (AP minutes). These losses significantly affect the productivity and operation efficiency of both groups.

Shrimpers lost an estimated 25 percent of their potential production which was equivalent to 236,000 pounds of shrimp (40 percent bait shrimp) valued at \$340,300, exvessel, in 1982 (Tables 1, 2 and 3). This did not include costs incurred due to towing incapacitated vessels with lines in wheels; damage to trawls, rigging or water cooled propeller bearings; and hauling expense for line removal, propeller and bearing repair, etc. These costs have been conservatively estimated at \$30,000 (\$135 per boat).

Crabbers incurred losses of traps conservatively estimated as 25 percent of the 96,000 traps, valued at a replacement cost of \$18 each or \$432,000. In addition, they lost the production from these traps for approximately three weeks until replaced. This resulted in an estimated loss in production of 54,000 pounds of claws (0.75 pounds per trap per week) valued at \$148,000, exvessel, in 1982.

Shrimp fishermen, therefore, incurred losses estimated at \$370,300 in lost productivity and damage, while crab fishermen incurred losses estimated at \$580,000 in lost gear and productivity for 1982. As Measure A of the proposed amendment provides for establishing exclusive fishing areas by the Committee which is representative of the fishermen, it is expected that the zoning will reduce these gear and productivity losses to a negligible level while insuring each group's access to the most productive fishing areas throughout the stone crab season, to the maximum extent possible.

Some productivity may be lost to each group as a result of zoning due to movement of animals into closed areas. However, over time, these losses should be minimized through structure of the zoning by the Committee. This movement of the animals also helps alleviate such losses as the animals will eventually move through the closed areas. This potential loss of productivity cannot be expressed in quantitative terms, but is expected to be much less than the value gained by resolution of the conflict.

Step (6) (see Amendment, subsection c) of the procedure simply allows for modification to the Committee structure by the state or transfer of its responsibility to other agencies. Step (7) recognizes that gear and fishing technique modifications, when perfected, may offer a solution for resolving

Table 1. Landings of Shrimp and Stone Crab in Pounds in the Conflict Area and Surrounding Counties<sup>1</sup>

	<u>Pinellas</u> <sup>2</sup>	<u>Pasco/Citrus</u> <sup>3</sup>	<u>Levy</u>	<u>Dixie/Taylor</u>
<u>1979</u>				
Bait Shrimp	101,670	177,030	15,520	29,297
Shrimp	1,585,740	178,267	-	-
Stone Crab	9,432	342,642	187,394	70,331
<u>1980</u>				
Bait Shrimp	42,031	242,290	4,825	15,882
Shrimp	1,871,758	256,827	-	-
Stone Crab	26,639	335,079	87,246	101,250
<u>1981</u>				
Bait Shrimp	45,531	275,320	8,075	7,431
Shrimp	2,623,353	291,379	200,356 <sup>4</sup>	-
Stone Crab	73,784	481,865	124,828	176,560
<u>1982</u>				
Bait Shrimp	103,317	284,764	2,600	20,034
Shrimp	1,426,682	424,869	364,236 <sup>4</sup>	-
Stone Crab	28,942	769,500	179,576	186,842
<u>1983<sup>5</sup></u>				
Bait Shrimp	NA	245,580	-	NA
Shrimp	NA	1,031,455	569,043 <sup>4</sup>	NA
Stone Crab	NA	1,000,485	106,700	NA

<sup>1</sup> Includes landings only through the fish houses monitored by NMFS. An estimated 20 percent of shrimp landings and 25 percent of stone crab landings bypass these fish houses. All weights are live weight, i.e., shrimp heads on, whole crab weight.

<sup>2</sup> Bait shrimp and stone crab landings are from local coastal waters, whereas shrimp landings are primarily from distant water vessels operating throughout the Gulf of Mexico.

<sup>3</sup> Conflict area. Negligible amounts are landed in Hernando County since it has no navigation channels.

<sup>4</sup> Landings combined for Levy, Dixie and Taylor Counties to insure confidentiality.

<sup>5</sup> Preliminary data, subject to revision.

the conflict in certain areas without zoning. FDNR is implementing research to explore this avenue for resolution of the conflict. A SEIS and SRIR will be prepared before any such modifications are implemented under this procedure.

Step (8) (see Amendment, subsection c) provides authority for addressing similar conflicts in other areas. This procedure also calls for exact specification of a proposed rule, preparation of SEIS and SRIR and holding public hearings before implementation. Under certain circumstances the procedure allows implementation by notice in the Federal Register.

- b. Measure B. Procedure for terminating a conflict or preventing a violent confrontation between shrimp and stone crab fishermen in waters inshore of 83°W. longitude off Pasco, Hernando and Citrus Counties, Florida. This measure is unlikely to be implemented unless conflict resulting in violence, loss of life or property is occurring or is imminent. The conflict may arise in areas regulated under the regulatory system of Measure (A) or in areas off the tricounty area that are unregulated. (The current emergency rule provides no regulation off Pasco County.)

The impacts of the provisions of this procedure range from complete closure of the fisheries for a period of short duration to restore order to realignment of the configuration of fishing areas in the FCZ to improve enforceability. The impacts of the procedure on the participants, which are analyzed below, must be contrasted against violence, civil disorder and possible loss of life or property resulting from the conflict.

The first alternative action available to the RD is to close the entire area to shrimp and stone crab fishing, cooperatively with the state, for a period not to exceed 30 days. The impact of such a closure would depend on the duration and the time of year the closure was implemented. If the closure was implemented for a full 30 days in November, the period of maximum production for both fisheries (Tables 2, 3 and 4), the impacts in reduced catch and lost value (in terms of 1982 value) would be as follows:

- (1) bait shrimp (Table 2) = loss of 12.3 percent of annual catch
- (2) commercial shrimp (Table 3) = loss of 15.8 percent of annual catch
- (3) stone crab (Table 4) = loss of 22.0 percent of annual catch
- (4) loss in exvessel value of \$64K (bait) and \$77K (shrimp) and \$233K (stone crab) = \$374K (total).

The closure, if implemented, likely would be terminated as soon as order could be restored and probably within 10 to 15 days. Under this circumstance a closure implemented in November would result in a loss of \$47K to \$70K to shrimp fishermen which may be partially offset by transferring their fishing activity to other unregulated areas and would result in a loss of \$78K to \$116K to crab fishermen who would have difficulty moving their traps to offset the loss during the 10- to 15-day period.

If a closure of the entire area was implemented for a 30-day or 15-day or

Table 2. Monthly Catch (thousands of shrimp) and Value (thousands of dollars) of Live Shrimp Landed in Pasco/Citrus Counties, Florida, During 1979 Through 1982 and Percent of Catch Landed by Month

Year/Category	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL	WHOLESALE VALUE
1979/Number <sup>1</sup>	481.8	702.5	1683.5	1281.8	1712.6	474.3	283.2	1548.3	1379.0	1644.8	1952.2	1060.5	13704	\$292
1979/(Percent)	(3.5)	(5.1)	(12.3)	(9.3)	(12.5)	(3.5)	(2.0)	(11.3)	(10.1)	(12.0)	(10.6)	(7.7)		
1980/Number <sup>2</sup>	816.2	813.7	1607.7	1465.0	1572.1	787.2	550.3	1310.7	1838.8	2329	2684.2	2445.3	18220	\$402
1980/(Percent)	(4.5)	(4.5)	(8.8)	(8.0)	(8.6)	(4.3)	(3.0)	(7.2)	(10.1)	(12.8)	(14.7)	(13.4)		
1981/Number <sup>3</sup>	1025.2	867.2	1394.3	1929.5	2546.5	593.5	975.1	2149.7	2713.5	2727.2	2256.5	1010.0	20188	\$478
1981/(Percent)	(5.0)	(4.3)	(6.9)	(9.6)	(12.6)	(2.9)	(4.8)	(10.6)	(13.4)	(13.5)	(11.2)	(5.0)		
1982/Number <sup>4</sup>	840.0	948.2	1972.5	1805.2	2493.0	922.0	2031.0	2247.0	2485.2	2613.5	2896.5	1580.0	22834	\$523
1982/(Percent)	(3.7)	(4.1)	(8.6)	(7.9)	(10.9)	(4.0)	(8.9)	(9.8)	(10.9)	(11.4)	(12.7)	(6.9)		
Average Percent	4.2	4.5	9.1	8.7	11.1	3.7	4.7	9.7	11.1	12.4	12.3	8.2		

PERCENT OF CATCH DURING STONE CRAB SEASON (OCT - MAY) = 70.5 percent<sup>5</sup>  
 PERCENT OF CATCH DURING CLOSED SEASON (JUN - SEP) = 29.2 percent

- 1 In addition, 4.3 thousand pounds of dead bait shrimp valued at \$5.2 thousand (wholesale) were landed in 1979
- 2 In addition, 3.3 thousand pounds of dead bait shrimp valued at \$2.9 thousand (wholesale) were landed in 1980
- 3 In addition, 26.3 thousand pounds of dead bait shrimp valued at \$33.9 thousand (wholesale) were landed in 1981
- 4 In addition, 9.2 thousand pounds of dead bait shrimp valued at \$14.2 thousand (wholesale) were landed in 1982
- 5 Difference from 100 percent due to rounding errors

Table 3. Monthly Catch (thousands of pounds) and Value (thousands of dollars) of Commercial Shrimp Landed in Pasco/Citrus Counties, Florida, During 1979 Through 1982 and Percent of Catch Landed by Month

Year/Category	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	TOTAL	EXVESSEL VALUE
1979/Weight	6.2	10.1	9.4	14.7	12.9	10.5	5.6	34.5	20.1	11.4	26.0	16.6	1783.0	\$274
1979/(Percent)	(3.5)	(5.7)	(5.3)	(8.2)	(7.2)	(5.8)	(3.1)	(19.3)	(11.3)	(6.3)	(14.6)	(9.3)		
1980/Weight	11.1	2.9	7.7	10.4	22.3	5.0	9.4	17.3	59.3	53.8	47.9	9.6	256.8	\$384
1980/(Percent)	(4.3)	(1.1)	(3.0)	(4.0)	(8.7)	(1.9)	(3.7)	(6.7)	(23.1)	(20.9)	(18.6)	(3.7)		
1981/Weight	6.0	62.3	81.5	40.2	37.9	10.0	-	6.0	29.5	2.9	5.9	9.1	291.3	\$354
1981/(Percent)	(2.0)	(21.4)	(31.4)	(13.8)	(13.0)	(3.4)	-	(2.0)	(10.1)	(1.0)	(2.0)	(3.1)		
1982/Weight	6.8	34.4	31.4	16.6	2.3	7.1	8.5	10.8	67.3	42.4	120.4	76.8	424.9	\$490
1982/(Percent)	(1.6)	(8.0)	(7.4)	(3.9)	(0.5)	(1.6)	(2.0)	(2.5)	(15.8)	(9.9)	(28.3)	(18.0)		
Average/ (Percent)	(2.8)	(9.0)	(11.8)	(7.5)	(7.3)	(3.1)	(2.9)	(7.6)	(15.1)	(9.5)	(15.8)	(8.5)		

PERCENT OF CATCH DURING STONE CRAB SEASON (OCT - MAY) = 72.2 Percent<sup>1</sup>  
 PERCENT OF CATCH DURING CLOSED SEASON (JUN - SEP ) = 28.7 Percent

<sup>1</sup> Difference from 100 percent due to rounding errors

Table 4. Monthly Catch (thousands of pounds, live weight<sup>1</sup>) and Value (thousands of dollars) of Stone Crab landed in Pasco/Citrus Counties, Florida, During 1980 Through 1982 and Percent of Catch Landed Monthly

Year/Category	JAN	FEB	MAR	APR	MAY	JUN/SEP	OCT	NOV	DEC	TOTAL	EXVESSEL VALUE
1980/Weight	33.7	52.4	77.5	27.1	12.5	—	64.4	36.6	30.6	335.1	\$ 440
1980/(Percent)	(10.1)	(15.6)	(23.1)	(8.1)	(3.7)	—	(19.2)	(10.9)	(9.1)		
1981/Weight	4.5	33.3	55.4	31.4	12.1	—	139.1	146.9	59.1	481.9	\$ 721
1981/(Percent)	(0.9)	(6.9)	(11.5)	(6.5)	(2.5)	—	(28.9)	(30.5)	(12.3)		
1982/Weight	93.2	60.8	66.0	43.7	26.0	—	136.0	190.0	153.6	769.5	\$1057
1982/(Percent)	(12.1)	(7.9)	(8.6)	(5.7)	(3.4)	—	(17.7)	(24.7)	(20.0)		
Average/(Percent)	(7.7)	(10.1)	(14.4)	(6.8)	(3.2)	—	(21.9)	(22.0)	(13.8)		

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<sup>1</sup> MFS records landings as live weight even though only claws are landed

10-day period during January when catches in both fisheries are lower, the combined impact (in terms of 1982 exvessel value) would be \$164K, \$82K or \$55K, respectively for each period. Thus the impact of such a complete closure would range from \$374K maximum (for 30 days in November) to a low of \$50K or less (for 10 days during other months). The range of impacts is quite broad since closure of only a portion of the entire area may be required to restore order in the fishery, but the impact is bounded by the economic maximum of approximately \$400K in lost exvessel value which may be partially offset by harvesting the animals later in the year.

The second alternative action available to the RD provides for closure only in the FCZ and the impact of such action is more difficult to quantify. Basically the FCZ makes up approximately 31 percent of the entire regulatory area, so closure of the FCZ would have considerably less impact than for the entire area. The actual impact would be dependent on the portion of the exclusive fishing areas established under Measure (A) for each fishery that was in the FCZ. Again, part of the impact may be offset by each group transferring part of their fishing effort to other unregulated areas. This transfer of effort would be more difficult for crab fishermen with traps in the FCZ. The transfer of this effort to other areas may adversely impact the catch per unit effort of fishermen already utilizing these areas.

The third alternative action provides for zoning the regulated area into two or more zones in an east-west configuration, assuring that both groups have both inshore and offshore fishing areas. Such zones may be separated by buffer zones in which shrimping and crabbing are prohibited. This alternative is less drastic in impact than the closures, but has the same impact for ten days (the period allowed for movement of traps). The measure allows fishing to continue lessening the overall impact, but the configuration of these areas may not conform to movement patterns of the shrimp and crabs and may therefore impact productivity.

The final alternative for action by the RD provides that the configuration of fishing areas established in the FCZ may be modified to improve enforceability. This alternative has the least impact but will require certain localized areas be closed for ten days to allow crab traps to be moved.

- c. The regulation change to prohibit placement of articles with intent to interfere with fishing or to utilize fishing gear to intentionally obstruct or damage the gear of another essentially improves enforceability of the conflict provisions of both FMPs and acts as a deterrent to actions which may result in conflict. The provision has no impact unless other provisions of the FMPs are violated.

The regulation change which allows enforcement officers to dispose of traps left in areas closed to crabbing has no impact unless such traps are illegally placed in closed areas. The Secretary and enforcement officers maintain discretion over disposal of such traps and may moderate the impact if the traps were accidentally placed in such areas or moved into such areas by weather conditions.

- d. The emergency zoning rule which was promulgated April 6, 1983 (48 FR 14903) is included in the regulations as an interim rule which will remain in effect until modified under the procedures of Measure A. This rule is included only to ensure that a regulation will be in effect at the beginning of the 1984 stone crab season (October 5). This rule was judged by the Council to be the most acceptable of the alternative emergency actions.

During 1983 the conflict area was regulated under two separate emergency rules promulgated by NMFS and by similar rules promulgated by the State of Florida. These rules were in effect for 56 percent of the stone crab season in 1983. During 1983 commercial shrimp landings in the tricounty ports increased by 143 percent and stone crab landings by 30 percent over landings for 1982 (Table 1) suggesting that regulation of the fishery had a beneficial impact. Similarly, shrimp landings in Levy, Dixie and Taylor counties also increased by 56 percent over that for 1982, suggesting that these fishermen, many of whom fish off the tricounty area, were also benefited and certainly were not adversely impacted. This represents rather significant increases considering Florida landings of shrimp increased by only 14 percent between 1982 and 1983.

- e. General. The regulatory impact of the proposed amendment would affect 222 shrimp fishing craft and 70 stone crab fishing craft. The Small Business Administration (SBA) defines a small business in the commercial fishing activity, classified and found in the Standard Industrial Classification Code, Major Group, Hunting, Fishing and Trapping (SIC 09), as a firm with receipts up to \$2.0 million annually. Probably all of the participants in the commercial fishery (shrimpers and stone crabbers) qualify as small businesses under the Small Business Act. It would affect approximately 540 shrimp fishermen, 210 crab fishermen and 12 local seafood dealers. The overall impact on these entities is beneficial and should result in an estimated gain, through savings of lost productivity and gear loss and damage, approaching \$950,000 annually, contrasted against a potential and probably temporary loss of some individual productivity until the fishing areas are adjusted to insure optimum productivity. No cost and earnings data are available for this fishery.

Commitment of Federal resources will be reduced by providing for an orderly fishery. Most enforcement burdens will be borne by the State of Florida under the cooperative enforcement agreement. These enforcement burdens should decline with time as the regulatory system gains acceptance.

The estimated cost to the Council in implementing this amendment is \$25,670 which includes the \$10,840 cost of previous draft amendment which was judged to be inadequate. Current estimated costs include those for preparing of documents (\$1,670), holding hearings (\$2,600); and holding reviews by SSC, AP and Council (\$10,560).

#### ALTERNATIVES TO THE PROPOSED ACTION

1. No Action: This alternative would ignore the very distinct probability of the occurrence of serious and violent conflict between shrimp and stone crab fishermen. Numerous gear conflicts have occurred in the fishery since the late 1970s. The fishermen themselves, the State, the Council and the NMFS,

have all taken actions to attempt to resolve the conflict situation. NMFS implemented emergency regulations in the 1982-1983 and the 1983-1984 seasons to regulate the conflict situation. The Florida Governor and Cabinet also implemented emergency regulation for 1983-1984 season.

The State has taken responsible action by establishing the Committee, composed of representatives of the two industries, and has charged the Committee with developing exclusive fishing areas for shrimping and crabbing to resolve the conflict in waters under State jurisdiction in the most equitable manner. The Committee may recommend changes in the configuration of the fishing areas at any time to provide for optimum fishing by the two industries. To take no action leaves the Federal response to this conflict in the mode of responding to emergency situations, retains an inflexible regulatory system which is not responsive to changes in the fishery and fails to achieve the objectives of the FMPs and optimum yield from the fisheries.

To take no action would ignore the economic benefits to be gained by reduction of gear damage and gear replacement cost and through increased productivity that is currently lost due to the gear conflict. These benefits represent an annual gain as high as \$950,000.

2. Closure of the Entire Area: This alternative is provided for in the proposed action in the event of serious conflict of a violent nature. It was not given serious consideration as a solution to the conflict, although it was suggested by some fishermen. The economic and social consequences of such an alternative are excessive as indicated by the information in Tables 2 through 4 and the Analysis of Proposed Actions for Measure (B).
3. A Single Static Zoning Configuration: Although a single zoning system was instituted through the FMPs for the conflict area off southwest Florida in 1979, such a simple configuration is not currently practical off Pasco, Hernando and Citrus Counties. In southwest Florida the area closed to trawling was predominantly fished by crabbers and trawling areas constituted only about five percent of the regulated area, the rest being too rough to trawl. This is not the case in the tricounty area as a high percentage of the bottoms are trawlable and the prime fishing areas of the two fisheries coincide in space and time (Amendment, Figures 1 and 2). In order to assure optimum productivity for the two fisheries a more flexible system, which allows inseason adjustments to compensate for changing migratory patterns, appears necessary.

The State has established such a system for its waters which constitute the largest portion of the conflict area. A static Federal system may impact the effectiveness of the State system and likely reduce optimum productivity of the fishermen. Over time under the proposed alternative it is quite likely that a single, equitable zoning system will be devised; however, most likely, it will include many areas in which access by each industry is alternated by time of year.

A single, static set of fishing areas has only the advantage of reduced enforcement cost; however, this is unlikely to be a significant advantage and likely would result in a negative impact on the productivity of the fishermen. Such static fishing areas are provided for in Measure (B) but only for the purpose of restoring order in the event of a serious or violent conflict.

4. Include In the Proposed Action Regulation of the Waters Off Other Florida Counties Where Shrimp and Stone Crab Fishing Occur. This alternative was suggested by some fishermen. The State of Florida considered this option and concluded through its legislative process that the principal conflict was off the tricounty area. It provided a statutory system for resolution of the conflict in this area through establishment of the Committee.

Although gear conflicts and competition for fishing area do exist in other areas they were judged to be of less severity at the present time. This conclusion is supported by landing information (Table 1) which is reflective of number of participants in each fishery. Both State and Federal regulatory authorities are reluctant to impose such regulation before it is required. Step (8) of Measure (A) does, however, provide for regulation in other areas should it be required. Under this provision a slower, methodical process of implementing such regulation; including specification of proposed zoning, evaluation of impacts and public hearings; is provided for to protect the public interest.

#### ENVIRONMENTAL CONSEQUENCES

The proposed action has no impact on the fishery resources or physical environment. The economic and social impacts are generally beneficial. The proposed action represents a socially acceptable compromise that will contribute to the peaceful coexistence of two divergent factions competing for resources in the same geographical area with incompatible fishing gear. Economic consequences will also be beneficial to both groups as savings and earnings will be realized from a considerable reduction in gear damage and loss and increased harvest resulting from conversion of lost fishing time and gear to productive effort.

Specific economic and social impacts are discussed under Analysis of Proposed Actions.

The proposed action has no impact on threatened or endangered species. The specialized rigid frame roller trawls are incapable of capturing turtles or other threatened or endangered species, due to the vertical bars shielding the mouth of the trawl. The traps are likewise incapable of capturing these animals. Section 7 Consultations were held for both FMPs with a "no jeopardy opinion" being rendered for similar provisions.

#### Conclusions

##### ° Mitigating Measures Related to the Proposed Action

None

° Unavoidable Adverse Effects

None

° Relationship Between Local, Short-term Users of the Resource and Enhancement of Long-term Productivity

Use of the resources are almost entirely local and will be enhanced by the proposed action. Long-term productivity will not be altered.

° Irreversible or irretrievable commitment of resource

The proposed action should diminish losses related to gear and effort and increase fishing productivity. Commitment of additional state and federal resources should be negligible as this represents a joint effort between the state and federal governments, and law enforcement activities will be continued under an existing cooperative agreement.

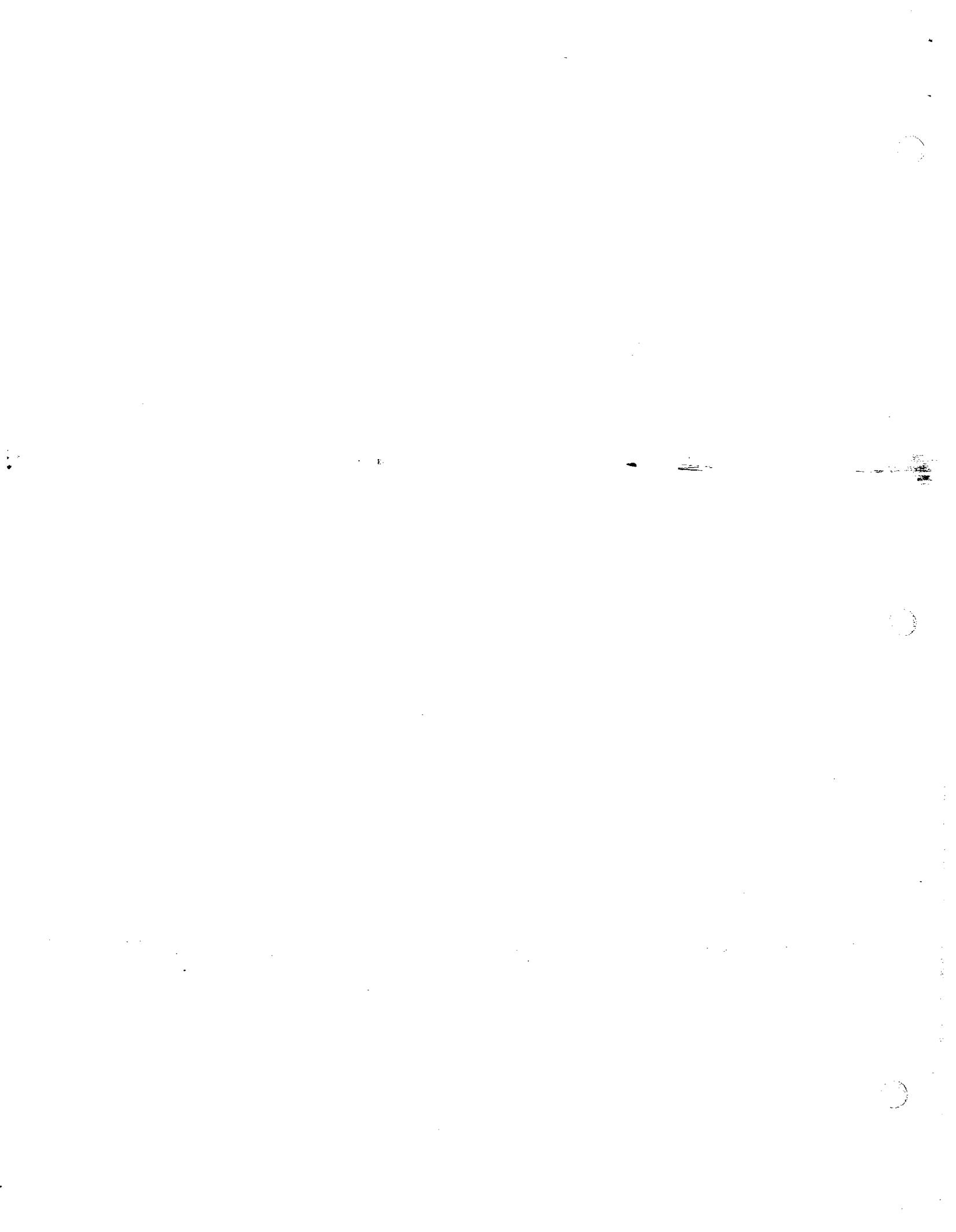
Recommendation

Having reviewed the environmental assessment and the available information relating to the proposed action, I have determined that there will be no significant environmental impact resulting from the proposed action.

Approved:

\_\_\_\_\_  
Assistant Administrator for Fisheries

\_\_\_\_\_  
Date



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR PARTS 654 and 658

[Docket No.            ]

Stone Crab Fishery and Shrimp Fishery of the Gulf of Mexico

AGENCY: National Oceanic and Atmospheric Administration (NOAA), ~~Commerce~~.

ACTION: Proposed rule.

SUMMARY: NOAA issues a proposed rule to implement an amendment to the Fishery Management Plans (FMPs) for the Stone Crab Fishery and Shrimp Fishery of the Gulf of Mexico and requests comments on the FMP amendment and implementing regulations. This proposed amendment 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 concurrently with such actions by the State of Florida within its jurisdiction; (2) modifying the specific fishing areas in the FCZ specified in (1) above; (3) prohibition of the intentional placement of articles in the FCZ to interfere with fishing or to utilize fishing gear to intentionally damage the gear of another; and (4) disposal 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.

DATES: Comments on the FMP amendment and proposed regulations must be received in writing on or before (Insert date 45 days after date of publication in the FEDERAL REGISTER).

ADDRESS: Comments and requests for copies of the amendment to the FMPs and the supplemental regulatory impact review/initial regulatory flexibility analysis and the proposed regulations should be sent to 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 on 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 on 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.

The proposed rulemaking consists of two 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 tricounty area in future years through rule-related notice in the FEDERAL REGISTER. In addition to these procedures, the rulemaking authorizes the Secretary to resolve conflicts in other areas when they occur through regulatory amendment, dispose of traps in areas closed to stone crab fishing and prohibits placement of articles in the FCZ with the intent to interfere with fishing by others.

Gear conflicts between shrimp and stone crab fishermen have occurred intermittently during the past six years in an area west of Pasco, Hernando and Citrus Counties, Florida. Recently, these conflicts have increased in number and severity, resulting in a significant disruption in the peaceful and orderly conduct of both fisheries. The affected fishermen have attempted unsuccessfully to reduce these conflicts. The State of Florida (State) has implemented regulations to address the problem. However, these have only been partially successful and do not resolve to conflicts in the FCZ.

During the 1982-1983 season the National Marine Fisheries Service (NMFS) documented incidents where barbed wire secured to cinder blocks or stone crab traps had been placed in the conflict area. Shrimp trawling gear encountering the barbed wire was damaged or destroyed. Damage and injury have occurred to fishing gear, to vessels, and to individuals attempting to disentangle the barbed wire.

Prior to implementation of emergency regulations during the 1982-1983 fishing year, alternative actions were considered by NMFS for resolution of this escalating conflict. Earlier testimony by stone crab and shrimp fishermen at public hearings and meetings conducted by the Council indicated an acceptable resolution was a minor westward extension of State-implemented area closures into the FCZ adjacent to Citrus County. Though such amendments to the FMPs were considered by the Council, the area affected by the amendments does not now include all of the locations to which the conflicts have spread.

There is concern among fishermen from both groups that the conditions which resulted in violence last season will develop and escalate at a much more rapid rate in coming seasons.

After a number of unsuccessful attempts by an advisory panel of the Council to formulate a solution to this situation, the State established by statute a Pasco, Hernando and Citrus County Shrimping and Stone Crabbing Advisory Committee (Committee). The Committee consists of representatives of the shrimp and stone crab fishermen of the three-county area and is charged with developing fishing zones in the State waters (about two-thirds of the total area involved) to resolve conflicts in this area.

Such proposed zoning is submitted to the State for promulgation as rule. The State may adopt or reject the proposed zoning plan but may not modify it. If the proposed zoning is rejected, the Committee may submit alternative zoning proposals to the State.

The proposed amendment will utilize as its basis this same system by extending to the Committee the right to propose zoning of Federal waters (out to 83°W. longitude) adjacent to the State zones. The use of this system will achieve the following administrative advantages: (1) allow the Committee to consider zoning of the entire conflict area

regardless of whether the waters are State or Federal, thereby, providing the flexibility to achieve more equitable compromise solutions through zoning; (2) provide the Council with suggested zoning of Federal waters that is generally acceptable to the fishermen involved; (3) provide for public review and comment on the proposed solutions through State hearings and the correspondence submitted by the public, the results of which will be available for Council review; (4) through State approval (or disapproval) and recommendations on the proposed zoning, provide the Council with indication of the State's position on the conflict issue affecting its citizens; (5) provide the maximum degree of flexibility for modification of the zoning, annually or on an in-season basis, to accommodate changes in the fishery while maintaining as its basis the agreement of the representatives of the two fisheries; and (6) result in considerable savings to the Council and Federal government in time and funding.

Through the proposed amendment the Regional Director, after consulting the Council, may implement by notice in the FEDERAL REGISTER or reject the recommendation of the Committee if the recommendations violate the provisions of the Magnuson Act, provide for inadequate opportunity for public comment, or are inequitable to the fishermen. The Council and Regional Director may also take independent action to resolve the conflict in Federal waters if the State entities fails to act expeditiously, if an implemented system fail to prevent conflict, or for other justifiable reasons, including inequity in proposed zoning of the FCZ.

Special provisions of these procedures provide the Secretary of Commerce (Secretary) with authority by regulatory amendment to require gear and fishing technique modification in lieu of zoning and to propose zoning configuration to resolve similar conflicts in the FCZ off other Florida Counties by regulatory amendment. Such special provisions require specification

of proposed rules, analysis of their impact through preparation of an Environmental Assessment (EA) or Supplemental Environmental Impact Statement (SEIS) and a Supplemental Regulatory Impact Review (SRIR), and holding public hearings on the proposed rule.

### Classification

Section 304(a)(1)(C)(ii) of the Magnuson Act requires the Secretary to publish regulations proposed by a Council within 30 days of receipt of the amendment to the FMPs and regulations. At this time the Secretary has not determined that the amendment that these regulations would implement are consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making that determination, will take into account the data, views, and comments received during the comment period.

Under the National Environmental Policy Act (NEPA) and NOAA Directive 02-10, an environmental assessment (EA) was prepared to determine if it was necessary to prepare a supplemental environmental impact statement (SEIS). The EA concluded that adoption and implementation of the amendment and proposed regulations is not a major Federal action and will not have a significant impact on the quality of the human environment. If further regulatory action is taken under the provisions of the amendment allowing institution of gear and fishing technique requirements in lieu of exclusive fishing areas or if conflicts develop in other unregulated areas the resolution of which requires other action, an environmental assessment will be prepared and public hearings held to determine if the change is a major Federal action, having a significant impact on the quality of the human environment. If so, a SEIS will be prepared under the NEPA.

The Administrator, NOAA, has determined that this rule is not a major one requiring the preparation of a regulatory impact analysis (RIA) under Executive Order 12291. The

major benefit from this amendment is the institution of a permanent system to resolve the conflict cooperatively by the Secretary (in the FCZ) and State of Florida (in its jurisdiction). Through such resolution of the conflict, significant economic and social benefits accrue to the fishermen.

If further regulatory action is taken under the provisions of the FMP amendment, NOAA will determine whether an RIA must be prepared for that action.

The Council prepared a SRIR which concludes that this rule will have the following economic effects: the SRIR indicated that potential benefits are significantly greater than expected costs. The original FMP resolved an armed conflict between stone crab trap fishermen and shrimp trawl fishermen. This amendment of the FMP 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. Restitution 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 proposed regulation, most of the enforcement burden will be borne by the State under the cooperative law enforcement agreement. Such a burden to maintain orderly fisheries will be minimized. Costs to the Council for implementation are estimated at \$26,000.

If the fishery had to be closed or severely restricted (by emergency rule or rule-related 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 dependent on the regulatory option invoked. Such impact, however, must be contrasted against violence, civil disorder, and potential loss of life and property. These impacts support the need to institute the provision providing for restitution of orderly fisheries.

This proposed rule is exempt from the procedures of Executive Order 12291 under section 8(a)(2) of that order. Deadlines imposed under section 304 of the Magnuson Act require the Secretary to publish this proposed rule 30 days after its receipt. Accordingly, the proposed rule is being reported to the Director, Office of the Management and Budget, with an explanation of why it is not possible to follow procedures of the order.

The Council prepared an initial regulatory flexibility analysis (IRFA) as part of the SRIR which concludes that this proposed rule will have a significant effect on small business entities. These effects are included in the SRIR which is summarized 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 programs 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:

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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. Section 654.2 is amended by adding the definition of Council and State to read as follows:

§654.2 Definitions.

\* \* \*

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

State means the State of Florida.

3. Section 654.23 is amended by redesignating the existing paragraph as (a), which is republished in its entirety, and adding new paragraphs (b), (c), and (d) to read as follows:

§654.23 Area restrictions.

(a) Between January 1 and May 20, it is unlawful to use trawl gear in that part of the FCZ (Figure 1) shoreward of a rhumb line connecting in order points B at 26°16.0' N. latitude and 81°58.5' W. longitude, C at 26°00.0' N. latitude and 82°04.0' W. longitude, D at 25°09.0' N. latitude and 81°47.6' W. longitude, E at 24°54.5' N. latitude and 81°50.5' W. longitude, and to the intersection of the seaward boundary of the State of Florida and a line extending from E to Point F at 24°41.9' N. latitude and 81°40.5' W. longitude (Snipe Point).

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

LORAN rate 7980

Point	Latitude	Longitude	W	X	Y	Z
Q .....	28°49.45' N .....	82°55.75' W .....	14375	.....	45260	62971.4
R .....	28°49.77' 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 .....	14355	.....	.....	62970
U .....	28°31.25' N .....	82°55.15' W .....	14325	.....	.....	62970
V .....	28°29.80' N .....	82°52.86' W .....	14325	.....	.....	62955
X1.....	28°37.88' N .....	82°53.02' W .....	14347.2	31285	.....	62955

Thence northerly along the State boundary to Point Q.

<sup>1</sup> This point is on the State boundary.

(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.

(3) Stone crab traps found in the areas described in paragraph (b)(1) of this section during their respective closed periods 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.

(c) 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.

(1) The Pasco, Hernando, and Citrus Counties Shrimping and Crabbing Advisory Committee (Committee) may develop proposed exclusive fishing areas for shrimping and for crabbing or other recommendations 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 or suggested change to an existing zoning rule 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 implementation in State waters and may submit the proposal to the Council for review.

(3) The Council, after initial review, may submit comments to the State pointing out deficiencies of the proposal for implementation in the FCZ, or the Council may take the proposal under advisement until it avails itself of comment presented at public hearings held by the State and until the State has recommended its adoption by the Council.

(4) After the State has completed its review and accepted the proposal for promulgation as rule, the State may request 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 that the Regional Director implement (or not implement) the zoning proposal or implement the proposal with minor modifications in the FCZ by notice in the FEDERAL REGISTER. If the Council or Regional Director judges 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 representative of persons fishing the Federal waters, in the review of the proposal. 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.

(5) If the Regional Director, after receiving the recommendations of the Council, concludes that such recommendation is consistent with the objectives of the FMPs, the Magnuson Act, or other applicable law, he may implement it as Federal regulation by notice in the FEDERAL REGISTER. Such regulation when implemented will remain in effect until action is taken by the Council to modify it under the preceding process. If the Regional Director does not implement the recommended rule of the Council, he will immediately notify the Council and State of his reasons for such action and may suggest an alternative to the recommended rule. The Council, after conferring with the State, will immediately advise the Regional Director as to the acceptability of the alternative.

(6) 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 steps (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. In the event the Committee is enlarged or restructured to have authority over zoning for other counties, the restructured committee may provide recommendations under steps (1) and (2) of this section.

(7) Notwithstanding the procedural steps (1) through (6), the Regional Director, in consultation with or based on recommendations by the Council, may through the regulatory amendment process (preparation of SEIS or EA and SRIR, holding public hearings, etc.,) take such action as may be necessary and appropriate to resolve any conflict in this or any other part of the FCZ, providing such action is consistent with the objectives of the FMPs, the Magnuson Act and other applicable law and is taken in a manner which to the maximum extent practicable is consistent with action recommended by or taken by the adjacent coastal state. The authority provided the Regional Director herein may be exercised by notice in the FEDERAL REGISTER in the event a more timely regulatory response is required to resolve or prevent occurrence of conflict as considered herein. In the event such action by notice is taken by the Regional Director, it shall be with the concurrence of a majority of the Council that (1) the conflict involved requires a more immediate response than that available through the regulatory amendment process and (2) that the proposed notice is consistent with the objectives of the FMPs, the Magnuson Act and other applicable law and is taken in a manner which to the maximum extent practicable is consistent with action recommended or taken by the adjacent coastal state.

(d) In the event that the Regional Director determines, based on reliable information from appropriate law enforcement agencies, that the existing management regulations

established under paragraph (c) of this section are inadequate to prevent conflict and that direct conflict has occurred or is imminent in the area of the FCZ (inshore of 83.0° W. longitude) off Pasco, Hernando and Citrus Counties, Florida, he may modify the existing management area by one or more of the following actions by notice in the FEDERAL REGISTER:

(i) In conjunction with similar action by the State of Florida close the entire area or portion thereof to stone crab fishing for a period not to exceed 30 days;

(ii) Close the FCZ or portion thereof of the area to stone crab fishing for a period not to exceed 30 days;

(iii) Cooperatively with the State or with consent of the State, divide the entire area or portion thereof, into two or four east-west fishing areas, separated by appropriate buffer zones, for the duration of the stone crab season (or such other period as deemed appropriate). Stone crab fishing will be allowed only in alternate fishing areas and will be prohibited in the buffer zones. The entire area will be closed to stone crab fishing for ten days to allow movement of crab traps into the crabbing areas specified in the rule; or

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

(2) Not later than 72 hours after the effective date of the modification to the regulation, the Regional Director will conduct a fact-finding meeting whose participants may include, but not be limited to, the following:

- (i) The Chairman of the Council or his designee;
  - (ii) The Director of the FDNR or his designee;
  - (iii) The Chairman of the FMFC or his designee;
  - (iv) Local news media as may be appropriate;
  - (v) Such user group representatives or organizations as may be appropriate and practicable; and
  - (vi) Others deemed appropriate by the Regional Director.
- (3) The fact-finding meeting will be for the purpose of evaluating the following:
- (i) The existence and seriousness of the conflict needing resolution by the modification to the existing rule;
  - (ii) The appropriate duration of the modification to the existing rule;
  - (iii) Other solutions to the conflict; and
  - (iv) Other relevant matters.
- (4) The Regional Director within ten days after conclusion of the fact-finding meeting will either rescind, modify or allow the modification to the existing rule to remain unchanged through notice in the FEDERAL REGISTER.

PART 658 - SHRIMP FISHERY OF THE GULF OF MEXICO

(4) Section 658.2 is amended by adding the definition of Council and State to read as follows:

§658.2 Definitions.

\* \* \*

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

State means the State of Florida.

3. Section 658.23 is amended by redesignating the existing paragraph as (a), which is republished in its entirety, and adding new paragraphs (b), (c), and (d) to read as follows:

§658.23 Stone crab area closures.

(a) Between January 1 and May 20, the area described in this paragraph is closed to trawl gear, including live bait gear. The area is that part of the fishery conservation zone shoreward of a line connecting the following points (see Figure 2):

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Point	Latitude	Longitude	Common name
B .....	26°16' N.	81°58.5' W.	
C .....	26°00' N.	82°04' W.	
D .....	25°09' N.	81°47.6' W.	
E .....	24°54.5' N.	81°50.5' W.	
M .....	24°41.9' N.	81°40.5' W.	Snipe Point

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(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

LORAN rate 7980

Point	Latitude	Longitude	W	X	Y	Z
R	28°49.77' N	82°56.31' W	14375	.....	.....	62975
S	28°53.55' N	83°02.89' W	14375	.....	.....	63020
T	28°36.11' N	83°02.77' W	14325	.....	.....	63020
U	28°31.25' N	82°55.15' W	14325	.....	.....	62970
Y	28°42.07' N	82°55.37' W	14355	.....	.....	62970
Z	28°42.52' N	82°56.10' W	14355	.....	.....	62975
R	28°49.77' 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 only for the convenience of fishermen):

AREA II

LORAN rate 7980

Point	Latitude	Longitude	W	X	Y	Z
X <sup>1</sup> .....	28°37.88' N .....	82°53.02' W .....	14347.2	31285	.....	62955
V .....	28°29.80' N .....	82°52.86' W .....	14325	.....	.....	62955
W <sup>1</sup> .....	28°28.93' N .....	82°51.50' W .....	14325	.....	45060	62946.3

Thence northerly along the State boundary to Point X.

<sup>1</sup> This point is on the State boundary

(2) No person may place into the FCZ 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.

(c) 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.

(1) The Pasco, Hernando, and Citrus Counties Shrimping and Crabbing Advisory Committee (Committee) may develop proposed exclusive fishing areas for shrimping and for crabbing or other recommendations 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 or suggested change to an existing zoning rule 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 implementation in State waters and may submit the proposal to the Council for review.

(3) The Council, after initial review, may submit comments to the State pointing out deficiencies of the proposal for implementation in the FCZ, or the Council may take the proposal under advisement until it avails itself of comment presented at public hearings held by the State and until the State has recommended its adoption by the Council.

(4) After the State has completed its review and accepted the proposal for promulgation as rule, the State may request 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 that the Regional Director implement (or not implement) the zoning proposal or implement the proposal with minor modifications in the FCZ by notice in the FEDERAL REGISTER. If the Council or Regional Director judges 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

representative of persons fishing the Federal waters, in the review of the proposal. 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.

(5) If the Regional Director, after receiving the recommendations of the Council, concludes that such recommendation is consistent with the objectives of the FMPs, the Magnuson Act, or other applicable law, he may implement it as Federal regulation by notice in the FEDERAL REGISTER. Such regulation when implemented will remain in effect until action is taken by the Council to modify it under the preceding process. If the Regional Director does not implement the recommended rule of the Council, he will immediately notify the Council and State of his reasons for such action and may suggest an alternative to the recommended rule. The Council, after conferring with the State, will immediately advise the Regional Director as to the acceptability of the alternative.

(6) 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 steps (1) and (2) of this section. The Council may utilize its own Ad Hoc Advisory Panel consisting of fishermen from the area affected to advise the Council on the acceptability of these recommendations. In the event the Committee is enlarged or restructured to have authority over zoning for other counties, the restructured committee may provide recommendations under steps (1) and (2) of this section.

(7) Notwithstanding the procedural steps (1) through (6), the Regional Director, in consultation with or based on recommendations by the Council, may through the regulatory amendment process (preparation of SEIS or EA and SRIR, holding public hearings, etc.,)

take such action as may be necessary and appropriate to resolve any conflict in this or any other part of the FCZ, providing such action is consistent with the objectives of the FMPs, the Magnuson Act and other applicable law and is taken in a manner which to the maximum extent practicable is consistent with action recommended by or taken by the adjacent coastal state. The authority provided the Regional Director herein may be exercised by notice in the FEDERAL REGISTER in the event a more timely regulatory response is required to resolve or prevent occurrence of conflict as considered herein. In the event such action by notice is taken by the Regional Director, it shall be with the concurrence of a majority of the Council that (1) the conflict involved requires a more immediate response than that available through the regulatory amendment process and (2) that the proposed notice is consistent with the objectives of the FMPs, the Magnuson Act and other applicable law and is taken in a manner which to the maximum extent practicable is consistent with action recommended or taken by the adjacent coastal state.

(d) In the event that the Regional Director determines, based on reliable information from appropriate law enforcement agencies, that the existing management regulations established under paragraph (c) of this section are inadequate to prevent conflict and that direct conflict has occurred or is imminent in the area of the FCZ (inshore of 83.0° W. longitude) off Pasco, Hernando and Citrus Counties, Florida, he may modify the existing management area by one or more of the following actions by notice in the FEDERAL REGISTER:

(i) In conjunction with similar action (i) by the State of Florida close the entire area or portion thereof to shrimp fishing for a period not to exceed 30 days;

(ii) Close the FCZ or portion thereof of the area to shrimp fishing for a period not to exceed 30 days;

(iii) Cooperatively with the State or with consent of the State, divide the entire area or portion thereof, into two or four east-west fishing areas, separated by appropriate buffer zones, for the duration of the stone crab season (or such other period as deemed appropriate). Shrimp fishing will be allowed only in alternate fishing areas and will be prohibited in the buffer zones. The entire area will be closed to shrimp fishing for ten days to allow movement of crab traps into the crabbing areas specified in the rule; or

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

(2) Not later than 72 hours after the effective date of the modification to the regulation, the Regional Director will conduct a fact-finding meeting whose participants may include, but not be limited to, the following:

- (i) The Chairman of the Council or his designee;
- (ii) The Director of the FDNR or his designee;
- (iii) The Chairman of the FMFC or his designee;
- (iv) Local news media as may be appropriate;
- (v) Such user group representatives or organizations as may be appropriate and practicable; and

(vi) Others deemed appropriate by the Regional Director.

(3) The fact-finding meeting will be for the purpose of evaluating the following:

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

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

(iii) Other solutions to the conflict; and

(iv) Other relevant matters.

(4) The Regional Director within ten days after conclusion of the fact-finding meeting will either rescind, modify or allow the modification to the existing rule to remain unchanged through notice in the FEDERAL REGISTER.

FIGURE: 1

Line of Separation

FORT MEYERS

FLORIDA

MAPLES

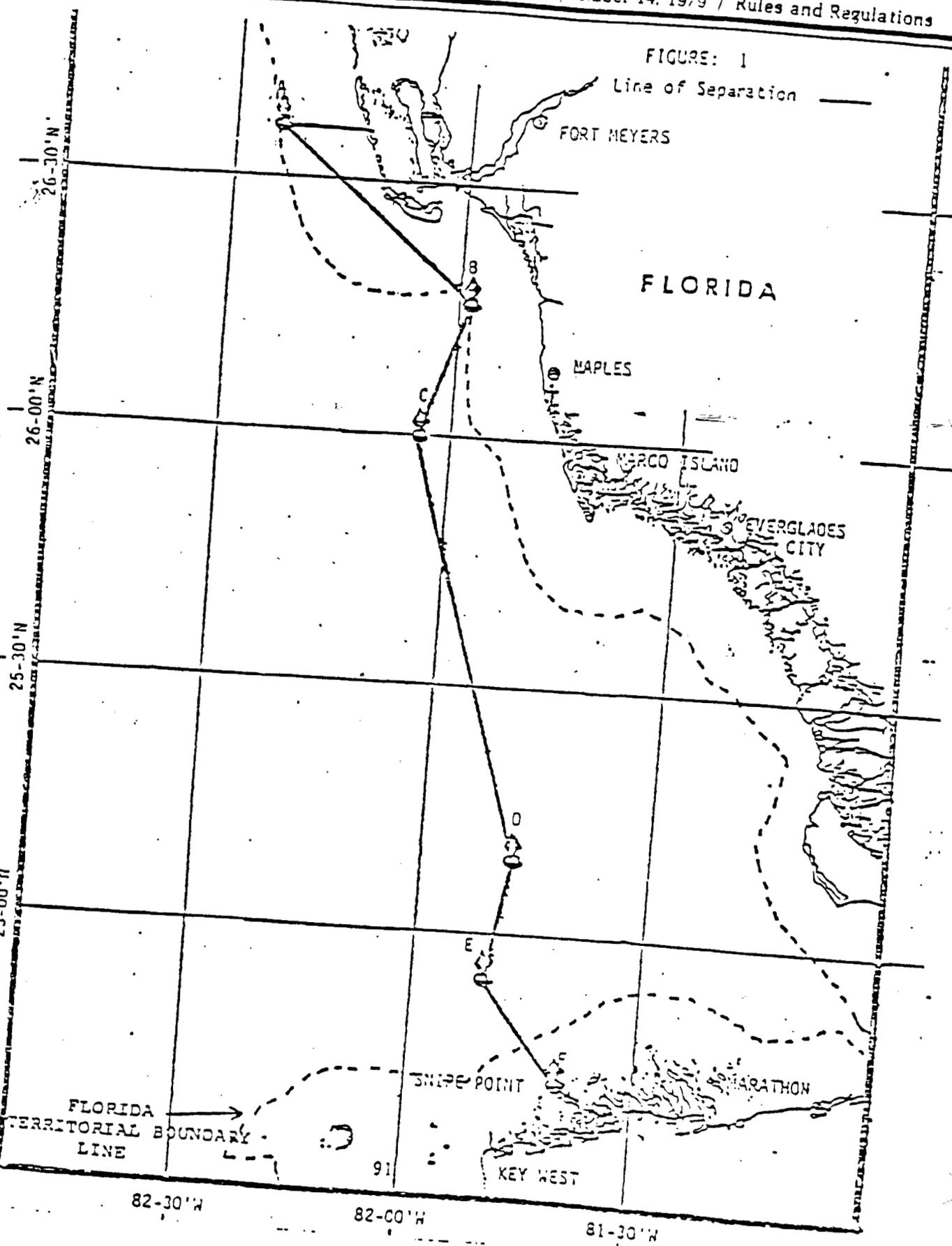
MERCO ISLAND

EVERGLADES CITY

SWIPE POINT

MARATHON

KEY WEST



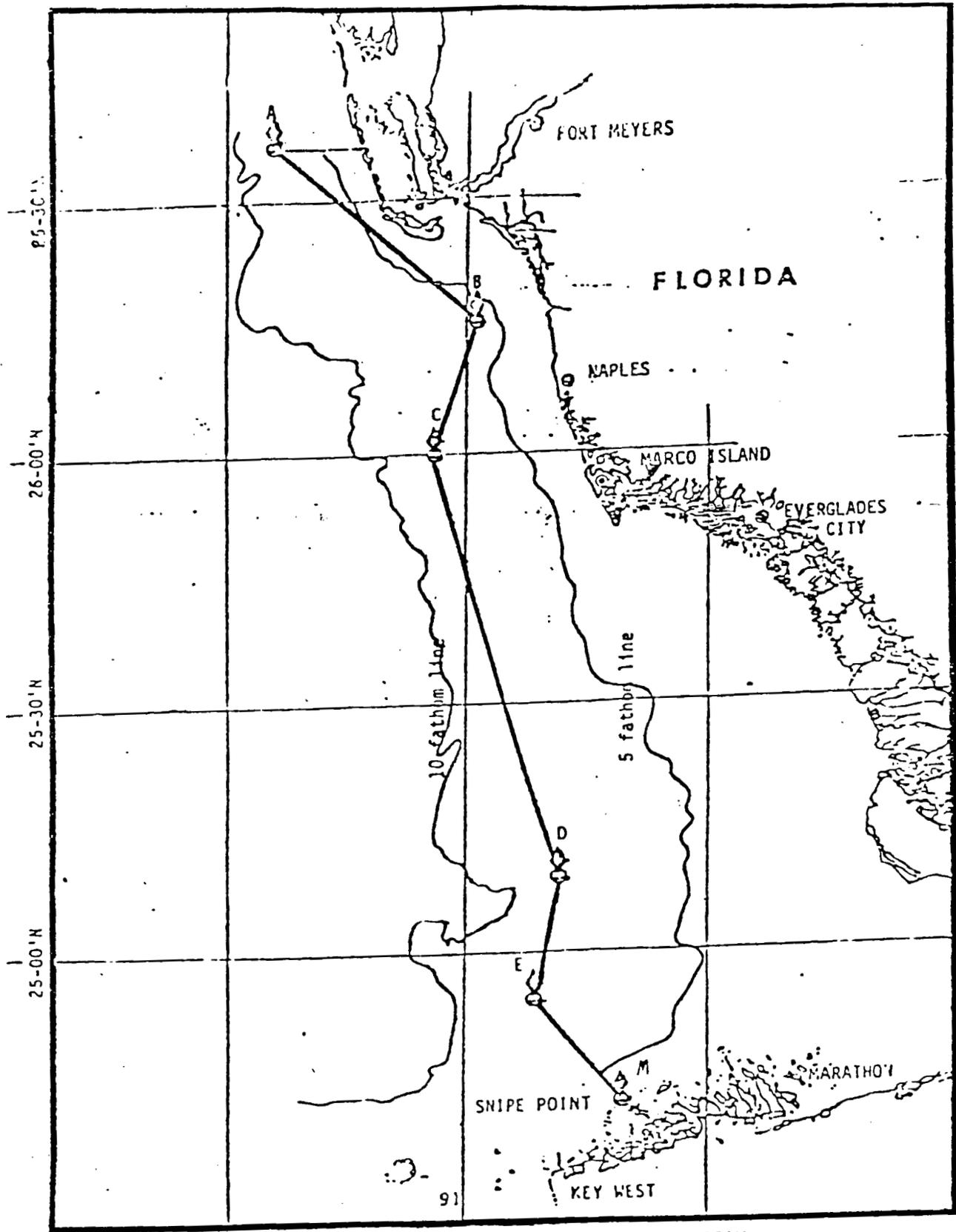


FIGURE 2. AREA CLOSED TO SHRIMPING BETWEEN JANUARY 1 AND MAY 20.

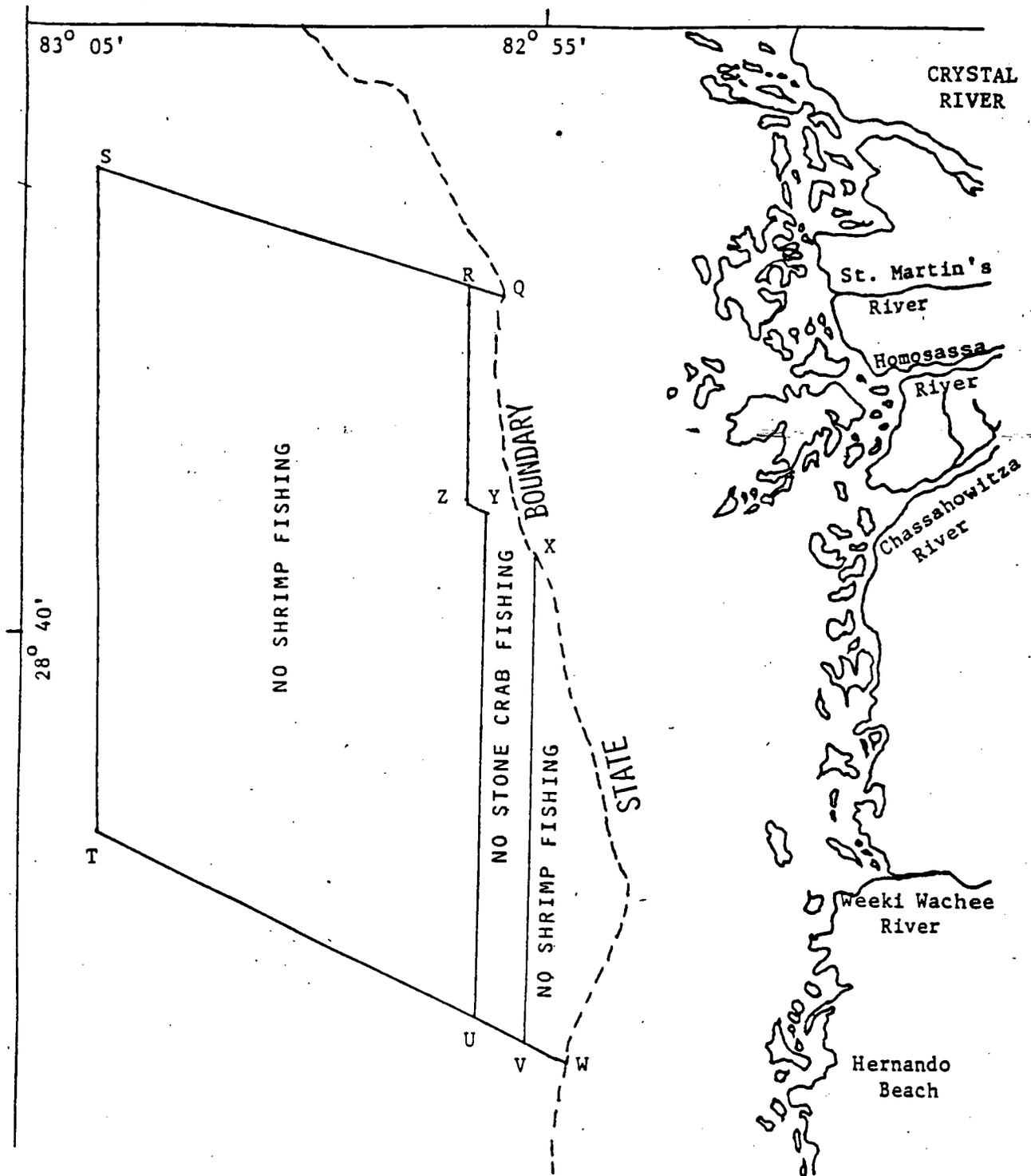


Figure 3. Chart delineating areas closed to fishing for shrimp or stone crabs (not to scale, for illustrative proposes only).

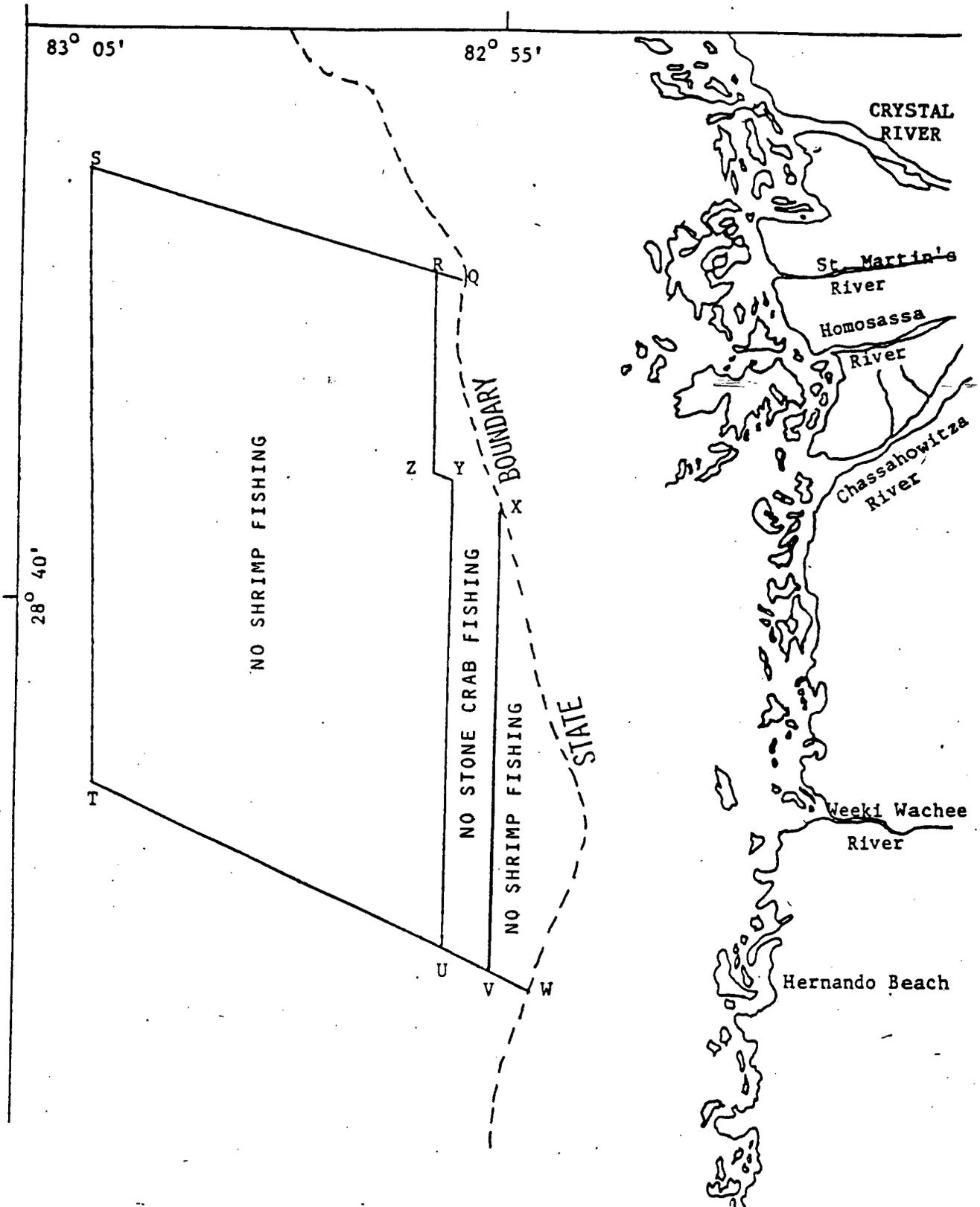


Figure 4. Chart delineating areas closed to fishing for shrimp or stone crab, (not to scale, for illustrative purposes only).