

incorporated in the Commission's final rules which would be effective February 14, 1983. The Association also points to the need for clarification or correction of some of the final rules, problems in the use of the forms adopted, and the short time available to print the new forms, distribute them across the country and effect all new filings before February 14, 1983.

Numerous insurance companies and their associations and printers have also brought to the Commission's attention for the first time their desire to have the two-sided forms reworded and formatted to allow all typing to be done on one side for more convenient packaging, completion, and computer use. This problem cannot be addressed before the current effective date.

Due to the critical importance of insurance filings, the need for both the carriers and insurers to know with certainty the meaning of the filings, and the desirability of avoiding repetitive filings, the February 14, 1983 effective date of the Commission's decision and final rules is postponed.

This decision will not affect the quality of the human environment or the conservation of energy resources, not will it have an adverse affect on small business.

Decided: January 26, 1983.

By the Commission: Reese H. Taylor, Jr.,
Chairman.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-2870 Filed 2-3-83; 8:45 am]
BILLING CODE 7035-01-88

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 642

[Docket No. 21021-216]

Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic

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

ACTION: Final rule.

SUMMARY: NOAA issues final regulations implementing the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic. The intended effect of these regulations is to reduce user-group conflicts and prevent overfishing of the king and Spanish mackerel and cobia stocks.

EFFECTIVE DATE: February 4, 1983.

ADDRESSES: A copy of the combined final regulatory flexibility analysis/regulatory impact review may be obtained from Jack T. Brawner, Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

FOR FURTHER INFORMATION CONTACT: Jack T. Brawner, 813-893-3141.

SUPPLEMENTARY INFORMATION: The Assistant Administrator for Fisheries, NOAA, approved the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic (FMP) on April 1, 1982, under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). These regulations implement the FMP, which was prepared jointly by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils). A proposed rulemaking was published on May 18, 1982 (47 FR 21279), initiating a 45-day comment period which ended July 2, 1982.

The proposed rulemaking contained information on the coastal migratory pelagic fishery, its economic value, and its relative importance to the recreational and commercial sectors. The major problems in the fishery (i.e., prevention of overfishing and gear conflicts) and the management measures to resolve them were also discussed in detail.

In the proposed regulations, § 642.5 pertaining to recordkeeping and reporting was reserved. This section is also being reserved in this final rule because the reporting system has not been completely developed and forms have not yet been prepared. It is anticipated that the mandatory reporting system will be implemented when sampling procedures and reporting forms are developed and approved. The forms will be submitted to the Office of Management and Budget for clearance under section 3507 of the Paperwork Reduction Act of 1980.

Section 642.7(e) in the proposed regulations prohibited fishing for king mackerel with gill nets having a mesh size of less than 4½ inches. In the final rule, this section has been changed to prohibit possession of king mackerel in the FCZ on board a vessel with gill nets less than this size, except as provided for under § 642.24(a)(2). Section 642.24(a)(2) has been revised to allow an incidental catch of king mackerel equal to ten percent of the total catch by number of Spanish mackerel on board a vessel with gill nets with a mesh size smaller than 4½ inches (stretched mesh). These two changes have been made to facilitate enforcement of the FMP.

The final rule differs from the proposed rule in that several minor technical modifications were made for clarification in the definitions of *fishery conservation zone* and *commercial fisherman*, § 642.2, and in the texts of §§ 642.7(d) and (1), 642.8(b), and 642.24(a). Errors in the location of Points 3 and 4 on Table 1 of § 642.26(a)(1)(i) are corrected. The U.S. Coast Guard (USCG) requested minor revisions of § 642.8 to reflect recent changes in USCG boarding procedures and of § 642.9 to reflect the recent revision of 50 CFR Part 621 (Civil Procedures); these are revised in the final rule. Also, changes were incorporated in the final rule in response to comments received during the public comment period. These changes are discussed below.

Comments and Responses

The Councils and the Florida Department of Natural Resources (FDNR) questioned consistency of the proposed regulations with the FMP concerning the mandatory requirement of placing observers on purse-seine vessels. The Councils requested modification of § 642.7(f) and § 642.24(b)(4) to clarify their intent that all purse-seine vessels fishing for Spanish and king mackerel must have an observer on board, unless such observer cannot be made available by the National Marine Fisheries Service (NMFS). Section 642.24(b)(4) was rewritten in response to this request.

The Councils also recommended that § 642.24(b)(1) and (2) be changed to specify the contents of the letter of intent and telephone notification prior to fishing with purse seines. These include the number of vessels and area to be fished, and information on the port of departure and return. Sections 642.24(b)(1) and (2) were revised to comply with this request.

FDNR questioned implementation of the FMP without an effective statistical reporting system. The Southeast Fisheries Center will utilize its present collection system with an expeditious analysis of dealer and processor data for the commercial fishery. The catch data from charter boats, expanded to other recreational segments, will be used for determination of the recreational fishery catch. These methods will be adequate for management purposes until the FMP's mandatory statistical reporting system is developed and implemented.

The State of Mississippi commented that the regulations were inconsistent with its Coastal Zone Management Program (CZMP) due to their coverage of areas within Mississippi Sound over

which the jurisdiction is disputed between Mississippi and the United States. These areas are referred to as enclaves, i.e., areas surrounded by State waters but subject to Federal jurisdiction. Mississippi's conclusion of inconsistency depends upon the question of jurisdiction over these enclaves, rather than any substantive conflict between the proposed regulations and the tenets of its CZMP. The present juridical status of these enclaves is that they are under Federal jurisdiction, and not within Mississippi's coastal zone management jurisdiction. NOAA's Office of Coastal Zone Management, in a supplemental finding dated January 26, 1981, specified that the enclaves are not part of Mississippi's coastal zone. Therefore, as a matter of law, there is no inconsistency with Mississippi's CZMP.

The FDNR questioned the consistency of the regulations with Florida's CZMP, to the extent that the regulations allow the harvest of coastal pelagic fish with purse seines. State law, incorporated into Florida's CZMP, prohibits the utilization of such gear to take food fish within and without the waters of Florida (Florida Statutes § 370.071(3)). Florida's claim of inconsistency is without legal foundation for the following reasons:

1. The Gulf of Mexico Fishery Management Council forwarded copies of the FMP to Florida's Office of Coastal Zone Management on April 8, 1981, and on October 16, 1981, with letters requesting comments on its finding of consistency with Florida's CZMP. The FMP sent in October contains an extensive discussion of the purse-seine measures and reasons (including statutory prohibitions) for rejecting Florida's ban on the use of this gear. Florida did not respond to either of these letters until FDNR submitted its comments on the proposed regulations last July. In accordance with the provisions of 15 CFR 930.41, it is appropriate for the Federal agency to presume State agency agreement to the Federal determination of consistency after 45 days. NOAA has properly assumed Florida's agreement with the Gulf Council's conclusion of consistency.

2. The Administrator, NOAA, has independently reviewed the issue of consistency with Florida's CZMP and determined that the FMP is consistent to the maximum extent practicable. The regulation regarding purse seines is in concert with the articulated goal of Florida's CZMP regarding the utilization of the marine resources of the State, as set forth at page II-33 of the CZMP. Though the Federal and State

regulations are not identical, identity is not required by the Coastal Zone Management Act (CZMA). The statutory requirement of consistency is qualified. Consistency is required only to the "maximum extent practicable" (CZMA § 307(c)(1)). This qualified requirement of consistency requires that Federal activities be fully consistent with State coastal zone programs "unless compliance is prohibited based on the requirements of existing law applicable to the Federal agency's operations" (15 CFR 930.32(a)). In this instance, NOAA is constrained by the Magnuson Act. To implement a regulation prohibiting the use of purse seines for the harvest of coastal pelagic fish would violate several of the national standards of the Magnuson Act. Therefore, to the maximum extent practicable, this regulation is consistent with Florida's CZMP. The Administrator of NOAA has considered and rejected Florida's request to delay implementation of the FMP because the State did not respond to the Council's consistency determination within the 45-day period, and because Florida has offered no challenge to NOAA's determination that the FMP is consistent with the CZMP "to the maximum extent practicable."

One commenter questioned whether her statements presented during public hearings had been considered. This commenter also questioned why her written comments had not been appended to the final Environmental Impact Statement (FEIS). A review of the administrative record, established during the preparation of the FMP, showed that the comments were considered by the Councils, their Scientific and Statistical Committees, and NMFS. The written comments were not appended to the FEIS because they were not submitted during the National Environmental Policy Act comment period.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), after considering all comments received on the FMP and the proposed regulations, has determined that the FMP and final regulations comply with the national standards, other provisions of the Magnuson Act, and other applicable law.

The adoption and implementation of the FMP is a major Federal action that will have a significant impact on the quality of the human environment. Under the National Environmental Policy Act and NOAA Directive 02-10, a draft environmental impact statement was filed with the Environmental Protection Agency. The notice of

availability was published on February 5, 1980 (45 FR 7831). The final environmental impact statement was filed and the notice of availability was published on April 30, 1982 (47 FR 18652).

The Administrator, NOAA, has determined that these proposed regulations are not major under Executive Order 12291. A Regulatory Impact Review (RIR) has been prepared that analyzes the expected benefits and costs of the regulatory action. The review provides the basis for the Administrator's determination. The FMP's management measures are designed to maintain current landings and the productivity of each user group, while preventing overfishing of the king and Spanish mackerel and cobia stocks.

The RIR indicates that the proposed regulations will result in benefits to fishermen and the economy that are greater than the associated Federal costs to manage the fishery on a continuing basis. Benefits that will accrue from implementation of the proposed measures come from the prevention of overfishing. The benefit, in terms of pounds of fish, is the difference between the OY specified in the plan and the amount caught after overfishing occurs; in monetary terms, the benefit is the difference between the contribution to the Gross National Product (GNP) by OY and the contribution to GNP associated with the catch after overfishing occurs. The expected benefits range from \$5.6 to \$27.9 million annually over the next five years. Empirical data indicated that the level of fishing effort by commercial and recreational fishermen is increasing rapidly, and mackerel stocks and catch will decline if effort increases.

These regulations will have a significant impact on a substantial number of small entities, under the Regulatory Flexibility Act. A final regulatory flexibility analysis (RFA) has been prepared in compliance with the Regulatory Flexibility Act and has been combined with the RIR summarized above. Copies of the final RFA/RIR are offered to the public.

The FMP and implementing regulations will not increase the Federal paperwork burden as defined by the Paperwork Reduction Act, because the data collection system will not be implemented at this time. Section 642.24(b) of the implementing regulations requires that owners or operators of purse-seine vessels fishing for king and Spanish mackerel report their catch for each trip by telephone. Since there are fewer than 10 vessels in this fleet, this information is to be

gathered from fewer than 10 persons, so no "collection of information" is involved for purposes of the Paperwork Reduction Act.

The Coastal Zone Management offices for each State having an approved program under the CZMA and whose territorial waters are adjacent to the management area were provided copies of the FMP for review as to consistency with their coastal zone management programs. The only comments are discussed above. NOAA has concluded that, to the maximum extent practicable, the FMP is consistent with the applicable coastal zone management programs. The States of Georgia and Texas do not have approved programs.

The Assistant Administrator has determined that there is a good cause to waive the 30-day period of delayed effectiveness required under the Administrative Procedure Act. Fishing activity for Spanish mackerel begins to intensify in October, and effective regulations are essential during that period to ensure orderly prosecution of the fishery. The regulations establish annual quotas and allocations for various user groups. Delaying implementation of the regulation would also interfere with the orderly installation of observers aboard purse-seine vessels, and thereby result in adverse impacts on this segment of the fishery during the initial part of the fall fishing season when mackerel are most susceptible to that gear. For these reasons, the Assistant Administrator has found that it would be impracticable to delay the effective date of this action.

List of Subjects in 50 CFR Part 642

Fish, Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: February 1, 1983.

William H. Stevenson,

Deputy Assistant Administrator for Fisheries,
National Marine Fisheries Service.

50 CFR is amended by adding a new Part 642 to read as follows:

PART 642—COASTAL MIGRATORY PELAGIC RESOURCES OF THE GULF OF MEXICO AND SOUTH ATLANTIC

Subpart A—General Provisions

Sec.

- 642.1 Purpose and scope.
- 642.2 Definitions.
- 642.3 Relation to other laws.
- 642.4 Permits and fees.
- 642.5 Recordkeeping and reporting requirements [Reserved].
- 642.6 Vessel identification [Reserved].
- 642.7 Prohibitions.
- 642.8 Facilitation of enforcement.
- 642.9 Penalties.

Subpart B—Management Measures

Sec.

- 642.20 Seasons.
- 642.21 Quotas.
- 642.22 Closures.
- 642.23 Size restrictions.
- 642.24 Vessel, gear, equipment limitations.
- 642.25 Specifically authorized activities.
- 642.26 Area, time limitations.

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

Subpart A—General Provisions

§ 642.1 Purpose and scope.

(a) The purpose of this Part is to implement the Fishery Management Plan for Coastal Migratory Pelagic Resources developed by the Gulf of Mexico and South Atlantic Fishery Management Councils under the Magnuson Act.

(b) This Part regulates fishing for coastal migratory pelagic fish by fishing vessels of the United States within the fishery conservation zone off the Atlantic coastal States south of the Virginia-North Carolina border and in the Gulf of Mexico.

§ 642.2 Definitions.

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

Authorized Officer means:

- (a) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;
- (b) Any certified enforcement officer or special agent of NMFS;
- (c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Commandant of the U.S. Coast Guard to enforce the provisions of the Magnuson Act; or
- (d) Any U.S. Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Center Director means the Center Director, Southeast Fisheries Center, NMFS, 75 Virginia Beach Drive, Miami, Florida 33149; telephone 305-381-5781.

Coastal migratory pelagic fish means the following species:

- King mackerel, *Scomberomorus cavalla*
- Spanish mackerel, *Scomberomorus maculatus*
- Cero mackerel, *Scomberomorus regalis*
- Cobia, *Rachycentron canadum*
- Little tunny, *Euthynnus alletteratus*
- Dolphin, *Caryphaena hippurus*
- Bluefish, *Pomatomus saltatrix* (Gulf of Mexico only)

Commercial fisherman means a person who sells, trades, or barter any part of his catch of coastal migratory pelagic fish.

Dealer means the person who first receives or purchases fish directly from a commercial fisherman.

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

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

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

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

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

Fork length means the distance from the tip of the head to the center of the tail (caudal fin).

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

NMFS means the National Marine Fisheries Service.

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

Owner, with respect to any vessel, means:

- (a) Any person who owns that vessel in whole or in part;
- (b) Any charterer of the vessel, whether bareboat, time, or voyage; or
- (c) Any person who acts in the capacity of a charterer, including, but not limited to, parties to a management agreement, operating agreement, or other similar arrangement that bestows control over the destination, function, or operation of the vessel; and
- (d) Any agent designated as such by any person described in paragraphs (a), (b), or (c) of this definition.

Person means any individual (whether or not a citizen of the United States),

corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

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

Regional Director means the Regional Director, Southeast Region, NMFS, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702; telephone, 813-893-3141, or a designee.

Secretary means the Secretary of Commerce or a designee.

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

U.S.-harvested fish means fish caught, taken, or harvested by vessels of the United States within any foreign or domestic fishery regulated under the Magnuson Act.

Vessel of the United States means:

(a) Any vessel documented or numbered by the U.S. Coast Guard under United States law; or

(b) Any vessel, under five net tons, that is registered under the laws of any State.

§ 642.3 Relation to other laws.

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

(b) Certain responsibilities relating to data collection and enforcement may be performed by authorized State personnel under a cooperative agreement entered into by the State, the U.S. Coast Guard, and the Secretary.

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

§ 642.4 Permits and fees.

No permits or fees are required for domestic recreational or commercial fishing vessels engaged in fishing in the coastal migratory pelagic fishery.

§ 642.5 Recordkeeping and reporting requirements. [Reserved]

§ 642.6 Vessel identification. [Reserved]

§ 642.7 Prohibitions.

It is unlawful for any person to:

(a) Fail to comply immediately with enforcement and boarding procedures specified in § 642.8;

(b) Fish for king or Spanish mackerel in violation of any area closures or season closures as specified in § 642.22 or § 642.28;

(c) Possess in or harvest from the FCZ Spanish mackerel under the minimum size limit specified in § 642.23(a)(1), except for the catch allowance specified in § 642.23(a)(2);

(d) Possess in or harvest from the FCZ cobia under the minimum size limit specified in § 642.23(b);

(e) Possess in the FCZ king mackerel on board a vessel with gill nets with a minimum mesh size less than that specified in § 642.24(a)(1), except for a catch allowance as specified in § 642.24(a)(2);

(f) Fish for king or Spanish mackerel using a purse seine, except in compliance with § 642.24(b);

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

(h) Refuse to permit an Authorized Officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Magnuson Act, this Part, or any other regulation or permit issued under the Magnuson Act;

(i) Forcibly to assault, resist, oppose, impede, intimidate, threaten, or interfere with any Authorized Officer in the conduct of any search or inspection described in paragraph (h) of this section;

(j) Resist a lawful arrest for any act prohibited by this Part;

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

(l) Transfer directly or indirectly, or attempt to so transfer, any U.S.-harvested coastal migratory pelagic fish to any foreign fishing vessel, while such vessel is in the FCZ, unless the foreign fishing vessel has been issued a permit under Section 204 of the Magnuson Act which authorizes the receipt by such vessel of U.S.-harvested coastal migratory pelagic fish;

(m) Violate any other provision of this Part, the Magnuson Act, or any regulation or permit issued under the Magnuson Act.

§ 642.8 Facilitation of enforcement.

(a) *General.* The owner or operator of any fishing vessel subject to this Part shall immediately comply with instructions issued by an Authorized Officer to facilitate safe boarding and inspection of the vessel, its gear, equipment, logbook, and catch for

purposes of enforcing the Magnuson Act and this Part.

(b) *Signals.* Upon being approached by a U.S. Coast Guard cutter or aircraft, or other vessel or aircraft authorized to enforce the Magnuson Act, the operator of a fishing vessel shall be alert for signals conveying enforcement instructions. The following signals extracted from the International Code of Signals are among those which may be used:

(1) "L" meaning "You should stop your vessel instantly."

(2) "SQ3" meaning "You should stop or heave to; I am going to board you."

(3) "AA AA AA" etc. is the call to an unknown station, to which the signaled vessel should respond by identifying the vessel by radio, visual signals or illuminating the vessel identification, and

(4) "RY-CY" meaning "You should proceed at slow speed. A boat is coming to you."

(c) *Boarding.* A vessel signaled to stop or heave to for boarding shall:

(1) Stop immediately and lay to or maneuver in such a way as to permit the Authorized Officer and his party to come aboard;

(2) Provide a ladder, enough light, and a safety line when necessary or requested by the Authorized Officer to facilitate the boarding and inspection; and

(3) Take such other actions as necessary to ensure the safety of the Authorized Officer and his party and facilitate the boarding.

§ 642.9 Penalties.

Any person or fishing vessel found to be in violation of this Part is subject to the civil and criminal penalty provisions and forfeiture provisions of the Magnuson Act, and to 50 CFR Part 620 (Citations), 50 CFR Part 621 and 15 CFR Part 904 (Civil Procedures), and other applicable law.

Subpart B—Management Measures

§ 642.20 Seasons.

The fishing year of all species of coastal migratory pelagic resources begins on July 1 and ends on June 30.

§ 642.21 Quotas.

(a) *Hook-and-line and net fishing.*—(1) *King mackerel.* The total allowable catch for king mackerel is 37 million pounds per year.

(i) Annual quotas are 28 million pounds for the recreational fishery and 9 million pounds for the commercial fishery. A fish is counted against the commercial quota if it is sold.

(ii) The commercial quota is further divided between hook-and-line fishing and net fishing as follows:

Hook and Line: 3,877,200 pounds
Net: 5,122,800 pounds

(2) *Spanish mackerel*. The total allowable catch for Spanish mackerel is 27 million pounds per year.

(b) *Purse seine fishing*.—(1) *King mackerel*. The harvest of king mackerel by purse seines is limited to 400,000 pounds in the Atlantic and 400,000 pounds in the Gulf of Mexico per fishing year. King mackerel harvested by purse seines are included in the net quotas under paragraph (a)(1)(ii) of this section.

(2) *Spanish mackerel*. The harvest of Spanish mackerel by purse seines is limited to 300,000 pounds in the Atlantic and 300,000 pounds in the Gulf of Mexico per fishing year. Spanish mackerel harvested by purse seines are included in the total allowable Spanish mackerel catch under paragraph (a)(2) of this section.

(3) *Geographic boundary*. The boundary between the Gulf of Mexico and the Atlantic Ocean begins at the intersection of the other boundary of the FCZ and the 83° W. longitude, proceeds north to 24°35' N. latitude (Dry Tortugas), east to Marquesas Key, then through the Florida Keys to the mainland.

§ 642.22 Closures.

(a) The Secretary, by publication of a notice in the *Federal Register*, shall close the king or Spanish mackerel fishery for a particular gear type or user group when the quota for that gear type or user group under § 642.21(a)(1) or (b) has been harvested.

(b) The Secretary, by publication of a notice in the *Federal Register*, shall close the king or Spanish mackerel fishery when the total allowable catch for the fishery under § 642.21(a)(1) or (2) has been harvested.

§ 642.23 Size restrictions.

(a) *Spanish mackerel*.—(1) *Minimum size*. The minimum size limit for the harvest or possession of Spanish mackerel in the FCZ is 12 inches (fork length) for both the recreational and commercial fisheries, except for the incidental catch allowance under paragraph (a)(2) of this section.

(2) *Catch Allowance*. A catch of Spanish mackerel under the 12-inch fork length is allowed equal to five percent of the total catch by weight of Spanish mackerel on board.

(b) *Cobia*. The minimum size limit for the possession of cobia in the FCZ is 33 inches (fork length).

§ 642.24 Vessel, gear, equipment limitations.

(a) *Gill nets*.—(1) *Minimum size*. The minimum mesh size for gill nets used to fish for king mackerel is 4½ inches (stretched mesh).

(2) *Catch allowance*. A catch of king mackerel is allowed equal to ten percent of the total catch by number of Spanish mackerel on board a vessel with gill nets with a minimum mesh size smaller than that specified in paragraph (a)(1) of this section.

(b) *Purse seines*. Owners or operators of purse seine vessels fishing for king or Spanish mackerel shall:

(1) Send a letter of intent to fish for king or Spanish mackerel, indicating the number of vessels and area to be fished, to the Regional Director (i) at least three months in advance of beginning fishing each fishing year, or (ii) within a shorter time period deemed reasonable by the Regional Director and publicized in the news media;

(2) Notify the Center Director by telephone, 48 hours in advance of each trip, of departure information (port, dock, date, and time) and of the expected landing information (port, dock, and date);

(3) Report to the Center Director, by

telephone, the quantity of landings, by species, for each trip as soon as practical after landing, and not later than 15 hours after unloading;

(4) Accommodate observers for scientific and statistical purposes; and

(5) Provide for embarkment and disembarkment of observers as determined by the Center Director.

§ 642.25 Specifically authorized activities.

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

§ 642.26 Area, time limitations.

(a) *Field orders*.—Subject to the procedures and restrictions set forth in paragraphs (b) and (c) of this section, the Secretary may take any of the following actions by field order under the circumstances specified:

(1) If the Secretary determines that a conflict exists in the king mackerel fishery between hook-and-line and gillnet fishermen in an area of the FCZ between 27° 0.6' N. latitude and 27° 50' N. latitude off the east coast of the State of Florida, the Secretary may:

(i) Prohibit use of gillnet gear to take king mackerel within the areas (depicted in Figure 1 and described in Table 1) encompassed by points 1, 2, 5, and 6; 2, 3, 4, and 5; or 1, 2, 3, 4, 5, and 6;

Table 1

Point 1—Bethel Shoal light at 27° 44.3' N. latitude, 80° 10.4' W. longitude;
Point 2—A wreck 15 miles southeast of Fort Pierce Inlet at 27° 23.5' N. latitude, 80° 03.7' W. longitude;
Point 3—Marker WR 16, five miles northeast of Jupiter Inlet at 27° 0.6' N. latitude, 80° 2.6' W. longitude;
Point 4—27° 0.6' N. latitude, 79° 55.0' W. longitude at approximately the 100 fm. depth due east of Point 3;
Point 5—27° 23.5' N. latitude, 79° 54.0' W. longitude at approximately the 100 fm. depth due east of Point 2; and
Point 6—27° 44.3' N. latitude, 79° 53.5' W. longitude at approximately the 100 fm. depth due east of Point 1.

BILLING CODE 3510-22-M

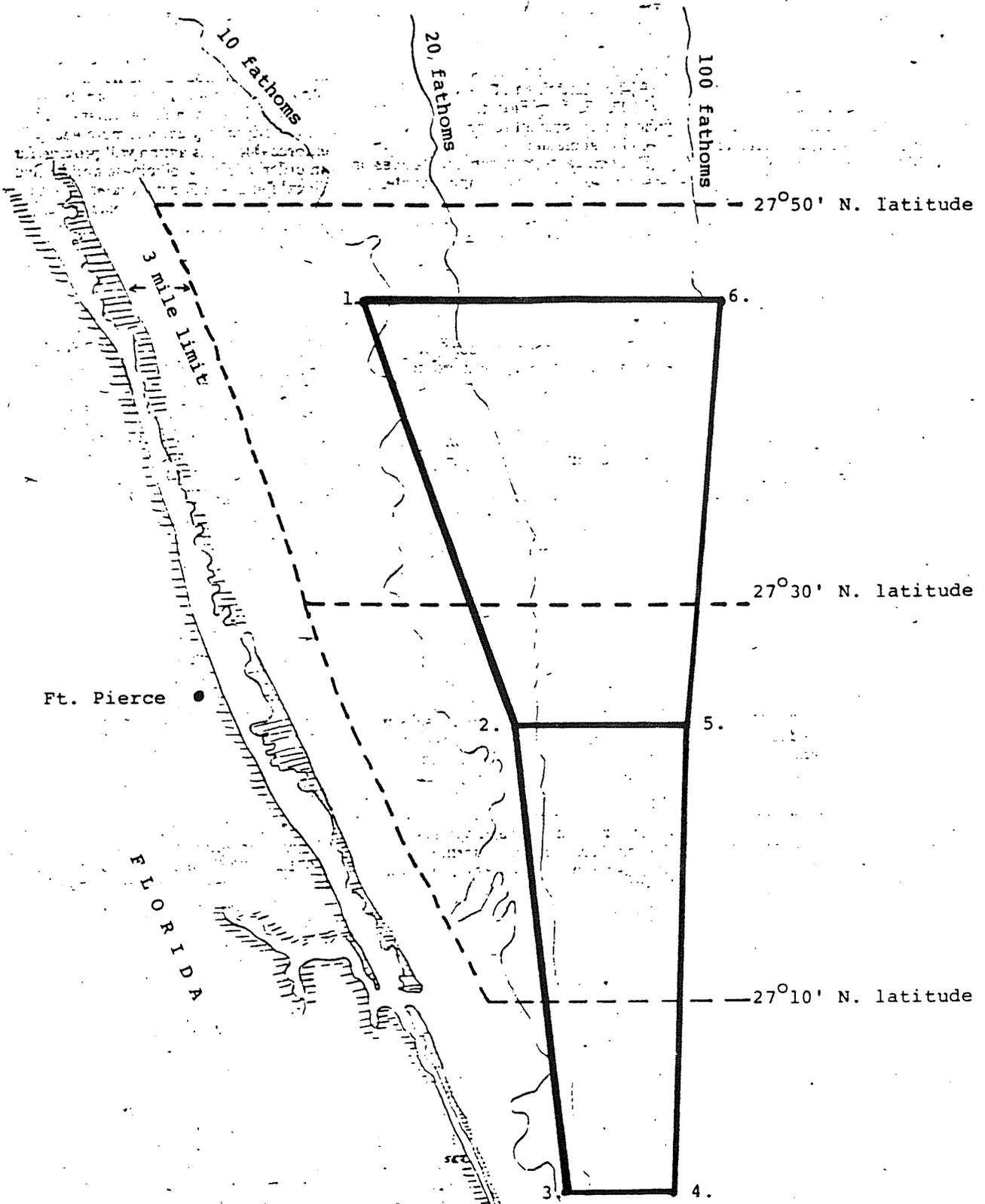


Figure 1. Area divisions under §642.26.

(ii) Prohibit use of hook-and-line gear to take king mackerel in the FCZ landward of line between points 1 and 2, 2 and 3, or 1, 2, and 3;

(iii) In the first year a conflict arises, close the FCZ between 27° 30' N. latitude and 27° 10' N. latitude to the use of gill nets for taking king mackerel, and close the FCZ between 27° 30' N. latitude and 27° 50' N. latitude to the use of hook-and-line gear for taking king mackerel (in any succeeding year that a conflict develops, the Secretary may change the zone that is closed to each gear); or

(iv) Alternate daily the use of each gear within the area between 27° 10' N. latitude and 27° 50' N. latitude as follows:

(A) On even days of the month, close the area to the use of gillnet gear to take king mackerel.

(B) On odd days of the month, close the area to the use of hook-and-line gear to take king mackerel.

(2) If a conflict described in paragraph (a)(1) of this section results in death or serious bodily injury or significant gear loss, the Secretary may close the fishery for king mackerel to all users in the FCZ between 27° 10' N. latitude and 27° 50' N. latitude.

(b) *Procedures.* The Secretary shall use the following procedures in determining whether a conflict exists for which a field order is appropriate:

(1) When the Secretary is advised by any person that a conflict exists, he will confirm the existence of such a conflict through information supplied him by NMFS, the U.S. Coast Guard, other appropriate law enforcement agencies, or personnel of the State of Florida agency with marine fishery management responsibility.

(2) The Secretary shall also confer with the Chairmen of the South Atlantic and Gulf of Mexico Fishery Management Councils (Councils), the State of Florida agency with marine fishery management responsibility, and such other persons as the Secretary deems appropriate.

(c) *Restrictions on field orders.*—(1) No field order may be implemented which results in exclusive access of any user group or gear type to the fishery during the time the field order is in effect.

(2) No field order may be effective for more than five days, except under the conditions set forth in paragraph (c)(4) of this section.

(3) When the Secretary submits to the Federal Register a field order for implementation under this section, he will immediately arrange for a fact-finding meeting in the area of the conflict, to be convened no later than 72

hours from the time of implementation of the field order.

(i) The following persons will be advised of such a meeting:

- (A) The Chairmen of the Councils;
- (B) The State of Florida agency with fishery management responsibility;
- (C) Local media;
- (D) Such user-group representatives or organizations as may be appropriate and practicable; and
- (E) Other persons as deemed appropriate by the Secretary or as requested by the Chairmen of the Councils or the State of Florida agency.

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

- (A) The existence of a conflict needing resolution by field order;
- (B) The appropriate term of the field order, i.e., either greater or less than five days;
- (C) Other possible solutions to the conflict besides Federal intervention; and
- (D) Other relevant matters.

(4) If the Secretary determines, as a result of the fact-finding meeting, that the term of the field order should exceed five days, he may, after consultation with the Chairman of the Councils and the State of Florida agency, extend such field order for a period not to exceed 30 days from the date of initial implementation. If the Secretary determines that it is necessary or appropriate for the term of such field order to extend beyond 30 days, he may extend it a second time, after consulting with the Chairman of the Council, for such period of time as necessary to resolve the conflict.

(5) The Secretary may rescind a field order if he finds, through application of the same procedures set forth in paragraph (b) of this section, that the conflict no longer exists.

[FR Doc. 83-3021 Filed 2-1-83; 2:08 pm]
BILLING CODE 3510-22-01

50 CFR Part 671

[Docket No. 30121-15]

Tanner Crab Off Alaska

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

ACTION: Emergency interim rule and request for comments.

SUMMARY: NOAA issues emergency regulations to eliminate a regulatory provision allowing Tanner crab pots to be stored on fishing grounds in a non-fishing condition for 72 hours prior to the opening of the fishing season. NOAA

also requests comments on the emergency rule.

This action is necessary to bring Federal regulations in the fishery conservation zone into conformity with State regulations in State waters, and to make Federal regulations more easily enforceable. This action will provide for an orderly fishery, eliminate anticipated illegal fishing in Federal waters prior to the opening of the fishing season, and give all vessels an equal start in the fishery. The comments will be considered prior to any future action to promulgate a final rule.

DATES: Section 671.26(b)(3)(ii) is suspended from 12:00 noon, Alaska Standard Time (AST) February 7, 1983, until 12:00 noon Alaska Daylight Time (ADT) May 8, 1983; § 671.26(b)(3)(iv) is added as a temporary regulation effective 12:00 noon AST February 7, 1983, until 12:00 noon ADT May 8, 1983. Comments must be received on or before March 7, 1983.

ADDRESS: Comments should be addressed to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

FOR FURTHER INFORMATION CONTACT: Robert W. McVey, 907-586-7221.

SUPPLEMENTARY INFORMATION: When the Fishery Management Plan for the Commercial Tanner Crab Fishery Off the Coast of Alaska (FMP) was implemented by final regulations on December 1, 1978 (43 FR 57149), State of Alaska regulations governing the domestic Tanner crab fishery were adopted and implemented as Federal regulations to govern the domestic fishery in the fishery conservation zone. The implementing regulations at § 671.26(b)(3)(ii) included a provision that Tanner crab pots with all doors fully open and with all bait containers removed may be stored in water deeper than the maximum permissible storage depth (less than 25 fathoms) for 72 hours prior to the opening of the Tanner crab seasons. This provision means, therefore, that Tanner crab pots in such nonfishing condition may be stored on the fishing grounds for 72 hours before the season starts. The purpose of this provision was to give boats with limited pot carrying capacity sufficient time to move their pots from onshore or legal inshore storage waters to the fishing grounds prior to the opening of the Tanner crab seasons in order to have the same number of actual fishing days as the boats with greater pot carrying capacity.

The State of Alaska subsequently eliminated its provision for storing pots