
50 CFR Part 642

[Docket No. 920810-2304]

RIN 0648-AE23

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

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement Amendment 6 to the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP).

This final rule: Allows the earned income requirement for a commercial vessel permit for king or Spanish mackerel to be met in any one of the 3 years preceding the permit application; changes the fishing year for recreational bag limits to the calendar year; removes the provisions for reducing a recreational bag limit to zero during a fishing year; increases the minimum size limit for king mackerel to 20 inches (50.8 cm); implements commercial

vessel trip limits for Atlantic migratory group Spanish mackerel; and makes other corrections and clarifications to the regulations to conform them to current usage. In addition, Amendment 6: Revises the problems and objectives of the FMP; specifies periods for rebuilding overfished stocks; changes the required frequency of stock assessments from annual to biennial; adds to the management measures that may be implemented or modified by the framework procedure; and provides for the establishment of separate subgroups and allocations of the Gulf migratory group of king mackerel, divided at the Florida/Alabama boundary, when the assessment panel is able to provide ranges of acceptable biological catch for the subgroups. This rule and Amendment 6 are intended to protect the coastal migratory pelagic resources from overfishing, continue stock rebuilding programs of king and Spanish mackerel while allowing catches by important recreational and commercial fisheries dependent on them, improve management of the resources, and clarify the regulations.

EFFECTIVE DATE: December 3, 1992, except that § 642.23(a)(3) is effective December 3, 1992, through January 3, 1993.

FOR FURTHER INFORMATION CONTACT: Mark F. Godcharles, (813) 893-3161.

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, Cobia, little tunny, dolphin, and, in the Gulf of Mexico only, bluefish) is managed under the FMP, prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils), and its implementing regulations at 50 CFR part 642, under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

The background and rationale for the changes in Amendment 6 and in this final rule were contained in the proposed rule (57 FR 38810, August 27, 1992) and are not repeated here.

Comment and Response

A comment on the proposed rule was received from the Florida Marine Fisheries Commission (FMFC). The FMFC was concerned that the language regarding transfer at sea of Spanish mackerel subject to the commercial trip limits (50 CFR 642.27(e)) might be construed as a prohibition on several vessels working a single net with the catch of Spanish mackerel divided among the vessels while the net is in the water. Such practice reportedly is common in the fishery. The language of

50 CFR 642.27(e) is modified to clarify that such practice is not prohibited and to conform the paragraph to current standards.

Other Changes From the Proposed Rule

Arrangements have not been completed whereby the Internal Revenue Service (IRS) will verify the documentation of earned income from fishing submitted by applicants for permits. Accordingly, language in 50 CFR 642.4(b)(3) regarding release to and verification by IRS of income tax forms and schedules is deleted. Amendment language will be proposed in a later rulemaking.

The introductory text regarding the requirements for a permitted vessel to display its official number (50 CFR 642.6(a)) is revised for clarity and to conform the regulations with current standards.

A minor modification is made in the explanation of the purse seine incidental catch allowance for king and Spanish mackerel (50 CFR 642.23(c)) to clarify and simplify the language.

Since the proposed rule was published, a final rule established bag limits for king and Spanish mackerel in certain areas that are as contained in referenced state rules of Florida and Texas (57 FR 43153, September 18, 1992). That final rule clarified that changes in the bag limits in the referenced rules will apply in the specified areas of the exclusive economic zone (EEZ), provided the changed bag limits are within certain specified maximum limits. This final rule at 50 CFR 642.24(a)(1) employs the clarifying language of the September 18 rule.

In the charter vessel exception to the general rule prohibiting possession of more than one daily bag limit of king and Spanish mackerel (50 CFR 642.24(a)(2)), the condition that the charter vessel must have two licensed operators aboard "as required by the U.S. Coast Guard for trips of over 12 hours" is revised. The requirements for two licensed operators aboard is explicitly stated in Coast Guard regulations that are applicable to some, but not all, of the vessels included in the term "charter vessel" in these regulations. The Councils, however, have concluded that having two licensed operators aboard on trips of over 24 hours is an appropriate condition for the exception. Accordingly, as a technical change, the phrase "as required by the U.S. Coast Guard for trips of over 12 hours" is removed.

The language regarding the transfer at sea of fish taken in the EEZ that are

subject to a bag limit (50 CFR 642.24(e)(1)) is revised to conform to current standards and to clarify that such transfer is prohibited, regardless of where it takes place.

The Councils intended that the Atlantic group Spanish mackerel trip limit of 500 pounds (227 kg), applicable after 100 percent of the adjusted allocation is taken, should remain in effect through the end of the fishing year. To carry out that intent, and for consistency with the closure provisions of 50 CFR 642.26(a), 50 CFR 642.27(a)(2)(iv) is revised.

The explanation regarding retention aboard a vessel after timely termination of a trip of Atlantic group Spanish mackerel that are subject to the trip limits (50 CFR 642.27(c)) is revised for clarity.

Approval of Amendment 6

On November 10, 1992, the Secretary of Commerce (Secretary) approved Amendment 6. In addition to the changes in this final rule, Amendment 6 also revises the problems and objectives of the FMP; specifies periods for rebuilding overfished stocks; changes the required frequency of stock assessments from annual to biennial; adds to the management measures that may be implemented or modified by the framework procedure; and provides for the establishment of separate subgroups and allocations of the Gulf migratory group of king mackerel, divided at the Florida/Alabama boundary, when the assessment panel is able to provide ranges of acceptable biological catch for the subgroups.

Classification

The Secretary determined that Amendment 6 is necessary for the conservation and management of the fishery for coastal migratory pelagic resources and that it is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law.

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), determined that this final rule is not a "major rule" requiring the preparation of a regulatory impact analysis under E.O. 12291.

The Councils prepared a regulatory impact review (RIR) that concludes that this rule and Amendment 6 are expected to have net positive economic benefits. A summary of the regulatory impacts of individual management measures was included in the proposed rule, with additional analysis and discussion in the RIR, and is not repeated here.

The Councils prepared an initial regulatory flexibility analysis (IRFA) as part of the RIR, which concluded that the proposed rule, if adopted, would have significant effects on small entities. No comments were received on the IRFA. Accordingly, it is adopted as final without change.

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

NMFS conducted a consultation under section 7 of the Endangered Species Act and prepared a biological opinion and incidental take statement concerning management actions in Amendment 6 and the fishery for coastal migratory pelagic resources itself. The determinations, conservation recommendations, and reasonable and prudent measures necessary to minimize impacts of the fishery on endangered and threatened species are listed in the proposed rule and are not repeated here.

The Councils determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal management programs of Alabama, Delaware, Florida, Louisiana, Maryland, Mississippi, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, and Virginia. Georgia and Texas do not participate in the coastal management program. These determinations were submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act. Delaware, Florida, Mississippi, New Jersey, New York, North Carolina, South Carolina, and Virginia agreed with the determination. Alabama, Louisiana, Maryland, and Pennsylvania did not respond during the statutory time period; therefore, state agency agreement with the consistency determination is presumed.

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

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

The Assistant Administrator finds that the following measures in this final rule relieve restrictions: Allowing the earned income for a commercial vessel permit to be met in any one of the 3 years preceding the permit application; and removing the provisions for

reducing a recreational bag limit to zero during a fishing year. Accordingly, under section 553(d)(1) of the Administrative Procedure Act (APA), implementation of these measures need not be delayed.

The provision of this final rule that changes the fishing year for recreational bag limits to the calendar year is administrative in nature and has not significant or immediate effect on fishermen. Accordingly, because delay in effectiveness of this measure is not necessary, the Assistant Administrator finds that good cause exists under section 553(d)(3) of the APA not to delay its implementation.

The final rule's commercial vessel trip limits applicable to Atlantic group Spanish mackerel taken in the EEZ off Florida are intended to extend the harvest season and to allocate fairly the available resource among users. The trip limits will effect necessary cooperative Florida/Federal management of the resource. Identical measures applicable to Florida's waters are effective November 24, 1992. Because of the expected winter migration of Atlantic group Spanish mackerel to the area off Florida's east coast, the trip limits must be implemented as soon as possible in order to obtain the desired benefits during the current fishing year. Accordingly, because delay in effectiveness of this measure is not in the public interest, the Assistant Administrator finds that good cause exists under section 553(d)(3) of the APA not to delay its implementation.

List of Subjects in 50 CFR Part 642

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: December 3, 1992.

Nancy Foster,

Acting Assistant Administrator, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 642 is amended as follows:

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

1. The authority citation for part 642 continues to read as follows:

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

§ 642.1 [Amended]

2. In § 642.1, in paragraph (a), the word "developed" is revised to read "prepared".

3. In § 642.2, the definitions for *Acceptable biological catch (ABC)*, *Allocation*, *Charter vessel crew*, *Conflict*, *Overfished*, *Overfishing*,

Recreational fishery, *Species*, *Total allowable catch (TAC)*, and *Total length* are removed; in the definition for *Councils*, paragraphs (a) and (b) are redesignated as paragraphs (1) and (2), and in newly designated paragraph (2), "suite 881" is revised to read "suite 331"; in the definition for *EEZ*, paragraphs (a), (b), and (c) are redesignated as paragraphs (1), (2), and (3); in the definition for *Science and Research Director*, the phrase "Southeast Fisheries Center" is revised to read "Southeast Fisheries Science Center"; in the definition for *Statistical area*, the reference to "Figure 3" is revised to read "Figures 1 and 2 of this part"; and the definitions for *Charter vessel* and *Migratory group* are revised to read as follows:

§ 642.2 Definitions.

Charter vessel (includes a headboat) means a vessel less than 100 gross tons (90.8 metric tons) that meets the requirements of the Coast Guard to carry six or fewer passengers for hire and that carries a passenger for hire at any time during the calendar year or a vessel that holds a valid Certificate of Inspection issued by the Coast Guard to carry passengers for hire. A charter vessel with a permit to fish under a commercial allocation for king or Spanish mackerel is considered to be operating as a charter vessel when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew.

Migratory group means a group of fish that may or may not be a separate genetic stock but which may be treated as a separate stock for management purposes. (See § 642.21(a) for the seasonal, geographical boundaries between migratory groups of king mackerel and § 642.21(b) for the geographical boundary between migratory groups of Spanish mackerel.)

4. In § 642.4, paragraphs (a)(1)(i), (a)(1)(ii), and (b)(2)(vi) and the last sentence of paragraph (b)(3) are revised to read as follows:

§ 642.4 Permits and fees.

(a) * * *
(1) * * *

(i) For a person who fishes aboard a vessel in the EEZ to be eligible for the incidental catch allowance for undersized king and Spanish mackerel specified in § 642.23(b), to be eligible for exemption from the bag limits specified in § 642.24(a), and to fish under a commercial allocation specified in § 642.25 (a) or (b), a vessel permit for

king and Spanish mackerel must be issued to the vessel and be on board.

(ii) A vessel permit for king and Spanish mackerel may be obtained by a qualifying owner or operator of a charter vessel. However, a person aboard such vessel must adhere to the bag limits when the vessel is operating as a charter vessel.

(b) * * *
(2) * * *

(vi) A sworn statement by the applicant certifying that, during one of the 3 calendar years preceding the application, at least 10 percent of his or her earned income was derived from commercial fishing, that is, sale of the catch;

(3) * * * Copies of income tax forms and schedules are treated as confidential.

5. In § 642.5, in paragraph (a) introductory text, the phrase "under § 642.4(a)(1)" is revised to read "for king and Spanish mackerel"; in paragraph (a)(3), the parenthetical phrase "(see figure 3)" is revised to read "(see figures 1 and 2 of this part)"; in paragraph (b) introductory text, the phrase "permit under § 642.4(a)(2)" is revised to read "charter vessel permit for coastal migratory pelagic fish"; and paragraphs (e) and (f) are revised to read as follows:

§ 642.5 Recordkeeping and reporting.

(e) *Availability of fish for inspection.* An owner or operator of a vessel, a dealer, or a processor must make any coastal migratory pelagic fish, or parts thereof, available, upon request, for inspection by the Science and Research Director for the collection of additional information or by an authorized officer.

(f) *Alternate Science and Research Director.* For the purposes of paragraphs (c) and (e) of this section, in the states from New York through Virginia, or in the waters off those states, the term "Science and Research Director" means the Science and Research Director, Northeast Fisheries Science Center, NMFS, Woods Hole, MA 02543, telephone (508) 548-5123, or a designee.

6. In § 642.6, paragraph (a) introductory text is revised to read as follows:

§ 642.6 Vessel identification.

(a) *Official number.* A vessel for which a commercial permit for king and Spanish mackerel has been issued under

§ 642.4 must display its official number—

7. Section 642.7 is revised to read as follows:

§ 642.7 Prohibitions.

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

(a) Fish for coastal migratory pelagic fish in the EEZ, or possess a coastal migratory pelagic fish in or from the EEZ, aboard a charter vessel that does not have a permit, as specified in § 642.4(a)(2).

(b) Falsify information specified in § 642.4 (b)(2) or (c)(2) on an application for a permit.

(c) Fail to display a permit, as specified in § 642.4(h).

(d) Falsify or fail to maintain, submit, or provide information required to be maintained, submitted, or provided, as specified in § 642.5 (a) through (d).

(e) Fail to make a coastal migratory pelagic fish, or parts thereof, available for inspection, as specified in § 642.5(e).

(f) Falsify or fail to display and maintain vessel identification, as specified in § 642.6.

(g) Fish in the EEZ for coastal migratory pelagic fish with prohibited gear or possess any coastal migratory pelagic fish in or from the EEZ aboard a vessel with prohibited gear aboard, as specified in § 642.22(a).

(h) Fish in the EEZ for king or Spanish mackerel with a gillnet with a mesh size less than the minimum allowable, or possess king or Spanish mackerel in or from the EEZ on a vessel that has aboard a gillnet with a mesh size less than the minimum allowable, as specified in § 642.22(b).

(i) Possess a king mackerel, Spanish mackerel, or cobia smaller than the minimum size limits, as specified in § 642.23(a)(1), except for the incidental catch allowance specified in § 642.23(b).

(j) Sell, purchase, trade, or barter, or attempt to sell, purchase, trade, or barter a king mackerel, Spanish mackerel, or cobia smaller than the minimum size limits, as specified in § 642.23(a)(2), except for such undersized king and Spanish mackerel that may be lawfully possessed under § 642.23(b).

(k) Possess a king mackerel, Spanish mackerel, or cobia without its head and fins intact, as specified in § 642.23(c).

(l) Operate a vessel with king mackerel, Spanish mackerel, or cobia aboard that are smaller than the minimum size limits, do not have head and fins intact, or are in excess of the cumulative bag limit, as specified in § 642.23(d) and § 642.24(d).

(m) Retain or possess king mackerel, Spanish mackerel, or cobia in or from the EEZ in excess of the bag and possession limits specified in § 642.24 (a)(1), (a)(2), and (b).

(n) Transfer at sea a king mackerel, Spanish mackerel, or cobia taken under a bag or possession limit, as specified in § 642.24(e).

(o) Aboard a vessel in the commercial fishery, fish for king or Spanish mackerel in the EEZ or retain a king or Spanish mackerel in or from the EEZ after a closure, as specified in § 642.26(b)(1), except as may be allowed aboard a charter vessel, as specified in § 642.26(b)(2), and except as may be authorized under § 642.22(c).

(p) After a closure specified in § 642.26(a), sell, purchase, trade, or barter, or attempt to sell, purchase, trade, or barter a king or Spanish mackerel of the closed species/migratory group/zone, as specified in §§ 642.22(c), 642.24(a)(4), and 642.26(b)(3).

(q) Exceed a commercial trip limit for Atlantic group Spanish mackerel, as specified in § 642.27(a).

(r) Transfer at sea from one vessel to another an Atlantic group Spanish mackerel subject to a commercial trip limit, as specified in § 642.27(e).

(s) Violate any prohibitions or restrictions for the prevention of gear conflicts that may be specified in accordance with § 642.28.

(t) Interfere with, obstruct, delay, or prevent by any means an investigation, search, seizure, or disposition of seized property in connection with enforcement of the Magnuson Act.

8. Subpart B of part 642 is revised to read as follows:

Subpart B—Management Measures

Table with 2 columns: Sec. and Description. Rows include 642.20 Fishing years, 642.21 Area and time separation, 642.22 Vessel, gear, and equipment limitations, 642.23 Harvest limitations, 642.24 Bag and possession limits, 642.25 Commercial allocations and quotas, 642.26 Closures, 642.27 Commercial trip limits for Atlantic group Spanish mackerel, 642.28 Prevention of gear conflicts, 642.29 Adjustment of management measures, 642.30 Specifically authorized activities.

Subpart B—Management Measures

§ 642.20 Fishing years.

(a) *Commercial mackerel fisheries.* The fishing year for the Gulf migratory group of king mackerel for commercial allocations and quotas begins on July 1 and ends on June 30. The fishing year

for all other groups of king and Spanish mackerel for commercial allocations begins on April 1 and ends on March 31.

(b) *All other fisheries.* The fishing year for the recreational mackerel fisheries, and for coastal migratory pelagic fish other than king and Spanish mackerel, begins on January 1 and ends on December 31.

§ 642.21 Area and time separation.

(a) *King mackerel:*

(1) *Summer separation.* From April 1 through October 31, the boundary separating the Gulf and Atlantic migratory groups of king mackerel is a line extending directly west from the Monroe/Collier County, Florida boundary (25°48' N. latitude) to the outer limit of the EEZ.

(2) *Winter separation.* From November 1 through March 31, the boundary separating the Gulf and Atlantic migratory groups of king mackerel is a line extending directly east from the Volusia/Flagler County, Florida boundary (29°25' N. latitude) to the outer limit of the EEZ.

(b) *Spanish mackerel.* The boundary separating the Gulf and Atlantic migratory groups of Spanish mackerel is a line extending directly east from the Dade/Monroe County, Florida boundary (25°40.4' N. latitude) to the outer limit of the EEZ.

§ 642.22 Vessel, gear, and equipment limitations.

(a) *Prohibited gear: (1) Drift gillnets.* The use of a drift gillnet to fish in the EEZ for coastal migratory pelagic fish is prohibited. A vessel in the EEZ or having fished in the EEZ with a drift gillnet aboard may not possess any coastal migratory pelagic fish.

(2) *Other gear.* (i) Fishing gear is prohibited for use in the EEZ for migratory groups of king and Spanish mackerel as follows:

(A) King mackerel Gulf migratory group—all gear other than hook and line and run-around gillnets.

(B) Spanish mackerel Gulf and Atlantic migratory groups—purse seines.

(ii) Except for the purse seine incidental catch allowance specified in paragraph (c) of this section, a vessel in the EEZ in an area specified in § 642.21 for a migratory group or having fished in the EEZ in such area with prohibited gear aboard may not possess any of the species for which that gear is prohibited.

(b) *Gillnets: (1) King mackerel.* The minimum allowable mesh size for a gillnet used to fish in the EEZ for king mackerel is 4¼ inches (12.1 cm), stretched mesh. A vessel in the EEZ or

having fished in the EEZ with a gillnet aboard that has a mesh size less than 4¼ inches (12.1 cm), stretched mesh, may possess an incidental catch of king mackerel that does not exceed 10 percent, by number, of the total lawfully possessed Spanish mackerel aboard.

(2) *Spanish mackerel.* The minimum allowable mesh size for a gillnet used to fish in the EEZ for Spanish mackerel is 3½ inches (8.9 cm), stretched mesh. A vessel in the EEZ or having fished in the EEZ with a gillnet aboard that has a mesh size less than 3½ inches (8.9 cm), stretched mesh, may not possess any Spanish mackerel.

(c) *Purse seine incidental catch allowance.* A vessel in the EEZ or having fished in the EEZ with a purse seine aboard will not be considered as fishing or having fished for king or Spanish mackerel in violation of a prohibition of purse seines under paragraph (a)(2) of this section, or, in the case of king mackerel from the Atlantic migratory group, in violation of a closure effected in accordance with § 642.26(a), provided the king mackerel aboard does not exceed 1 percent or the Spanish mackerel aboard does not exceed 10 percent of all fish aboard the vessel. Incidental catch will be calculated by number and/or weight of fish. Neither calculation may exceed the allowable percentage. Incidentally caught king or Spanish mackerel are counted toward the allocations and quotas provided for under § 642.25 (a) or (b) and are subject to the prohibition of sale under § 642.26(b)(3).

§ 642.23 Harvest limitations.

(a) *Minimum sizes.* (1) Except for the incidental catch allowance for undersized king and Spanish mackerel under paragraph (b) of this section, the minimum size limits for the possession of king mackerel, Spanish mackerel, and cobia in or from the EEZ are—

(i) Beginning on January 4, 1993, king mackerel—20 inches (50.8 cm), fork length;

(ii) Spanish mackerel—12 inches (30.5 cm), fork length; and

(iii) Cobia—33 inches (83.8 cm), fork length.

(2) Except for such undersized king and Spanish mackerel that may be lawfully possessed under paragraph (b) of this section, a king mackerel, Spanish mackerel, or cobia smaller than the minimum size limits of paragraph (a)(1) of this section may not be sold, purchased, traded, or bartered or attempted to be sold, purchased, traded, or bartered.

(3) From December 3, 1992, through January 3, 1993, the minimum size limit for the possession of king mackerel in or

from the EEZ is 12 inches (30.48 cm), fork length, or 14 inches (35.56 cm), total length.

(b) *Incidental catch allowance.*

Aboard a vessel in the commercial fishery, provided such vessel is not operating as a charter vessel,

(1) The possession of king mackerel under the minimum size limit is allowed equal to 5 percent by weight of the total catch of king mackerel aboard; and

(2) The possession of Spanish mackerel under the minimum size limit is allowed equal to 5 percent by weight of the total catch of Spanish mackerel aboard.

(c) *Head and fins intact.* A king mackerel, Spanish mackerel, or cobia in or from the EEZ must have its head and fins intact through off-loading. Such king mackerel, Spanish mackerel, or cobia may be eviscerated but must otherwise be maintained in a whole condition.

(d) *Operator responsibility.* The operator of a vessel that fishes in the EEZ is responsible for ensuring that king mackerel, Spanish mackerel, and cobia possessed aboard that vessel comply with the minimum sizes specified in paragraph (a) of this section, except for such undersized king and Spanish mackerel that may be lawfully possessed under paragraph (b) of this section; and are maintained with head and fins intact as specified in paragraph (c) of this section.

§ 642.24 Bag and possession limits.

(a) *King and Spanish mackerel: (1) Daily bag limits.* A person who fishes for king or Spanish mackerel in the EEZ, except a person in the commercial fishery and fishing under a commercial allocation specified in § 642.25 (a) or (b), or possessing the purse seine incidental catch allowance specified in § 642.22(c), may not retain or possess king or Spanish mackerel in or from the EEZ exceeding the following daily limits:

(i) *King mackerel Gulf migratory group*—two per person.

(ii) *King mackerel Atlantic migratory group:*

(A) *Northern area*—five per person; and

(B) *Southern area*—the limit specified by Florida in Rule 46-12.004, Rules of the Department of Natural Resources, Florida Marine Fisheries Commission, Florida Administrative Code, or as subsequently amended, but in any event not to exceed five per person.

(iii) *Spanish mackerel Gulf migratory group: (A) Eastern area*—the limit specified by Florida in Rule 46-23.005, Rules of the Department of Natural

Resources, Florida Marine Fisheries Commission, Florida Administrative Code, or as subsequently amended, but in any event not to exceed ten per person;

(B) *Central area*—ten per person; and

(C) *Western area*—the limit specified by Texas in Rule 31-65.72, Texas Administrative Code, or as subsequently amended, but in any event not to exceed ten per person.

(iv) *Spanish mackerel Atlantic migratory group*:

(A) *Northern area*—ten per person; and

(B) *Southern area*—the limit specified by Florida in Rule 46-23.005, Rules of the Department of Natural Resources, Florida Marine Fisheries Commission, Florida Administrative Code, or as subsequently amended, but in any event not to exceed ten per person.

(2) *Multi-day possession limit*. A person subject to a bag limit specified in paragraph (a)(1) of this section may not possess in or from the EEZ during a single day, regardless of the number of trips or the duration of a trip, any king or Spanish mackerel in excess of such bag limit, except that a person who is on a trip that spans more than 24 hours may possess no more than two daily bag limits, provided—

(i) Such trip is aboard a charter vessel;

(ii) The vessel has two licensed operators aboard; and

(iii) Each passenger is issued and has in possession a receipt issued on behalf of the vessel that verifies the length of the trip.

(3) *Areas*. For the purpose of paragraph (a)(1) of this section:

(i) The boundary between the northern and southern areas is a line extending directly east from the Georgia/Florida boundary (30°42'45.6" N. latitude) to the outer limit of the EEZ;

(ii) The boundary between the eastern and central areas is a line extending directly south from the Alabama/Florida boundary (87°31'06" W. longitude) to the outer limit of the EEZ; and

(iii) The boundary between the central and western areas is an extension of the boundary between Louisiana and Texas, namely, a line from point A (on the seaward limit of Texas' waters) at 29°32.1' N. latitude, 93°47.7' W. longitude to point B (on the outer limit of the EEZ) at 26°11.4' N. latitude, 92°53' W. longitude.

(4) *Fishing after a closure*. After a closure under § 642.26(a) is invoked for a commercial allocation or quota specified in § 642.25(a) or (b)(1), for the remainder of the appropriate fishing year for commercial allocations specified in § 642.20(a), the sale, purchase, trade, or barter or attempted

sale, purchase, trade, or barter of king or Spanish mackerel in or from the closed area is prohibited. This prohibition does not apply to trade in king or Spanish mackerel harvested, landed, and sold, traded, or bartered prior to the closure and held in cold storage by dealers or processors.

(b) *Cobia*. The daily bag and possession limit for cobia in or from the EEZ is two fish per person, regardless of the number of trips or duration of a trip and without regard to whether the cobia are taken aboard a vessel in the commercial fishery.

(c) *Combination of bag limits*. A person who fishes in the EEZ may not combine a bag or possession limit of this part with any bag or possession limit applicable to state waters.

(d) *Operator responsibility*. The operator of a vessel that fishes in the EEZ is responsible for the cumulative bag limit, based on the number of persons aboard, applicable to that vessel.

(e) *Transfer of fish*. A person for whom a bag or possession limit specified in this section applies may not transfer at sea a king mackerel, Spanish mackerel, or cobia—

(1) Taken in the EEZ, regardless of where such transfer takes place; or

(2) In the EEZ, regardless of where such king mackerel, Spanish mackerel, or cobia was taken.

§ 642.25 Commercial allocations and quotas.

A fish is counted against the commercial allocation or quota for the area where it is caught when it is first sold.

(a) *Commercial allocations and quotas for king mackerel*.

(1) The commercial allocation for the Gulf migratory group of king mackerel is 2.50 million pounds (1.13 million kg) per fishing year. This allocation is divided into quotas as follows:

(i) 1.73 million pounds (0.78 million kg) for the eastern zone; and

(ii) 0.77 million pounds (0.35 million kg) for the western zone.

(2) The commercial allocation for the Atlantic migratory group of king mackerel is 3.90 million pounds (1.77 million kg) per fishing year. No more than 0.4 million pounds (0.18 million kg) may be harvested by purse seines.

(b) *Commercial allocations for Spanish mackerel*.

(1) The commercial allocation for the Gulf migratory group of Spanish mackerel is 4.90 million pounds (2.22 million kg) per fishing year.

(2) The commercial allocation for the Atlantic migratory group of Spanish mackerel is 3.50 million pounds (1.59 million kg) per fishing year.

(c) *Zones*. For the purpose of paragraph (a)(1) of this section, the boundary between the eastern and western zones is a line extending directly south from the Alabama/Florida boundary (87°31'06" W. longitude) to the outer limit of the EEZ.

§ 642.26 Closures.

(a) *Notice of closure*. The Assistant Administrator, by publication of a notice in the Federal Register, will close the commercial fishery in the EEZ for king mackerel from a particular migratory group or zone and for Spanish mackerel from the Gulf migratory group when the allocation or quota under § 642.25(a) or (b)(1) for that migratory group or zone has been reached or is projected to be reached. The commercial fishery for Atlantic group Spanish mackerel is managed under the commercial trip limits specified in § 642.27 in lieu of the closure provisions of this section.

(b) *Fishing after a closure*. After a closure under paragraph (a) of this section is invoked, for the remainder of the appropriate fishing year for commercial allocations specified in § 642.20(a)—

(1) A person aboard a vessel in the commercial fishery may not fish for king or Spanish mackerel in the EEZ or retain fish in or from the EEZ under a bag limit specified in § 642.24(a)(1) for the closed species/migratory group/zone, except as provided for under paragraph (b)(2) of this section.

(2) A person aboard a vessel the permit for which indicates both king and Spanish mackerel and charter vessel for coastal migratory pelagic fish may continue to retain fish under a bag and possession limit specified in § 642.24 (a)(1) and (a)(2) provided the vessel is operating as a charter vessel.

(3) The sale, purchase, trade, or barter or attempted sale, purchase, trade, or barter of king or Spanish mackerel of the closed species/migratory group/zone, is prohibited. This prohibition does not apply to trade in king or Spanish mackerel harvested, landed, and sold, traded, or bartered prior to the closure and held in cold storage by dealers or processors.

§ 642.27 Commercial trip limits for Atlantic group Spanish mackerel.

(a) Commercial trip limits are established for Atlantic group Spanish mackerel as follows:

(1) In the northern zone, that is, north of a line extending directly east from the Georgia/Florida boundary (30°42'45.6" N. latitude) to the outer limit of the EEZ, Spanish mackerel in or from the EEZ may not be possessed aboard or landed

from a vessel in a day in amounts exceeding 3,500 pounds (1,588 kg).

(2) In the southern zone, that is, south of a line extending directly east from the Georgia/Florida boundary (30°42'45.6" N. latitude) to the outer limit of the EEZ, Spanish mackerel in or from the EEZ may not be possessed aboard or landed from a vessel in a day—

(i) From April 1 through November 30, in amounts exceeding 1,500 pounds (680 kg).

(ii) From December 1 until 80 percent of the adjusted allocation is taken, in amounts as follows:

(A) Mondays, Wednesdays, and Fridays—unlimited.

(B) Tuesdays and Thursdays—not exceeding 1,500 pounds (680 kg).

(C) Saturdays and Sundays—not exceeding 500 pounds (227 kg).

(iii) After 80 percent of the adjusted allocation is taken until 100 percent of the adjusted allocation is taken, in amounts not exceeding 1,000 pounds (454 kg).

(iv) After 100 percent of the adjusted allocation is taken through the end of the fishing year, in amounts not exceeding 500 pounds (227 kg).

(b) For the purpose of paragraph (a)(2) of this section, the adjusted allocation of Atlantic migratory group Spanish mackerel is 3.25 million pounds (1.47 million kg). The adjusted allocation is the commercial allocation for Atlantic migratory group Spanish mackerel reduced by an amount calculated to allow continued harvests of Atlantic group Spanish mackerel at the rate of 500 pounds (227 kg) per vessel per day for the remainder of the fishing year after the adjusted quota is reached. The Assistant Administrator, by publication of a notice in the Federal Register, will announce when 80 percent and 100 percent of the adjusted allocation is reached or is projected to be reached.

(c) For the purpose of paragraph (a)(2) of this section, a day starts at 6 a.m., local time, and extends for 24 hours. For example, Monday starts at 6 a.m. on Monday and extends to 6 a.m. on Tuesday. If a vessel terminates a trip prior to 6 a.m. but retains Spanish mackerel aboard after that time, the Spanish mackerel retained aboard will not be considered in possession during the succeeding day provided the vessel is not underway between 6 a.m. and the time such Spanish mackerel are unloaded and provided such Spanish mackerel are unloaded prior to 6 p.m.

(d) A person who fishes in the EEZ may not combine a trip limit of this section with any trip or possession limit applicable to state waters.

(e) A person for whom a trip limit specified in this section applies may not

transfer at sea from one vessel to another a Spanish mackerel—

(1) Taken in the EEZ, regardless of where such transfer takes place; or

(2) In the EEZ, regardless of where such Spanish mackerel was taken.

§ 642.28 Prevention of gear conflicts.

In accordance with the procedures and restrictions of the Fishery Management Plan for Coastal Migratory Pelagic Resources, when the Regional Director determines that a conflict exists in the king mackerel fishery between hook-and-line and gillnet fishermen in an area of the EEZ off the east coast of Florida between 27°00.6' N. latitude and 27°50.0' N. latitude, the Regional Director may prohibit or restrict the use of hook-and-line and/or gillnets in all or a portion of that area. Necessary prohibitions or restrictions will be published in the Federal Register.

§ 642.29 Adjustment of management measures.

In accordance with the procedures and limitations of the Fishery Management Plan for Coastal Migratory Pelagic Resources, the Regional Director may establish or modify for cobia or for king or Spanish mackerel, and migratory groups of king or Spanish mackerel, the following: Maximum sustainable yield, total allowable catch, allocations, adjusted allocations, quotas, bag limits, size limits, vessel trip limits, closed seasons or areas, gear restrictions, and initial permit requirements.

§ 642.30 Specifically authorized activities.

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

9. The two grids constituting Figure 3 of appendix A are transferred out of appendix A and redesignated as Figure 1 to part 642 and Figure 2 to part 642, respectively; the heading for newly designated Figure 1 is revised to read "FIGURE 1 TO PART 642— STATISTICAL GRIDS FOR THE GULF OF MEXICO" and the title at the bottom of the figure is removed; a heading is added to newly designated Figure 2 to read "FIGURE 2 TO PART 642— STATISTICAL GRIDS FOR THE SOUTH ATLANTIC AND MID-ATLANTIC" and the title at the bottom of the figure is removed; and Appendix A is removed.

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National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 820944-2302]

Groundfish Fishery of the Bering Sea and Aleutian Islands Area

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

ACTION: Allocation of Community Development Quota pollock to approved Community Development Plan applicants for 1992 and 1993.

SUMMARY: NMFS announces the approval by the Secretary of Commerce (Secretary) of recommendations made by the Governor of the State of Alaska (Governor) for Community Development Plans (CDPs) during the calendar years 1992 and 1993 under authority of the Community Development Quota (CDQ) program. This action is necessary to publicize the decision of the Secretary to approve the Governor's recommended CDPs, including the percentage of the CDQ reserve for each subarea allocated under the CDPs, and to announce the availability of findings underlying the Secretary's decision. It is intended to further the goals and objectives of the North Pacific Fishery management Council.

DATES: Effective December 4, 1992.

ADDRESSES: Individual copies of the findings made by the Secretary in approving the Governor's recommendation may be obtained from the Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802 (ATTN: Lori Gravel).

FOR FURTHER INFORMATION CONTACT: David C. Ham, Fishery Management Biologist, Alaska Region, NMFS, 907-586-7229.

SUPPLEMENTARY INFORMATION: The CDQ program was developed by the North Pacific Fishery Management Council (Council) and submitted with Amendment 18 to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (BSAI), which was approved in part by the Secretary June 3, 1992 (57 FR 23321). Federal regulations implementing the CDQ program became effective on November 18, 1992 (57 FR 54936, November 23, 1992). These regulations specify procedures governing the CDQ program.

Eligible western Alaska communities submitted six CDPs requesting allocations of the available CDQ pollock reserve to the Governor under CDQ procedures. The Governor announced a

