

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 638

[Docket No. 40580-4080]

• Coral and Coral Reefs of the Gulf of Mexico and the South Atlantic

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

ACTION: Final rule.

SUMMARY: NOAA issues this final rule to implement the Fishery Management Plan for Coral and Coral Reefs of the Gulf of Mexico and the South Atlantic (FMP). The FMP and these implementing regulations (1) establish unique habitat areas of particular concern for coral which are currently or potentially threatened; (2) prohibit the taking or destruction of certain coral except under permit; and (3) provide permit systems for the taking of certain coral for scientific and education purposes and harvesting fish or other marine organisms with toxic chemicals in coral habitat. This action is made necessary by the susceptibility of the coral to physical and biological degradation. The regulations are designed to optimize the benefits from the coral resources while conserving the coral and coral reefs.

EFFECTIVE DATE: August 22, 1984.

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

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

SUPPLEMENTARY INFORMATION: The FMP was prepared jointly by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils). The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), initially approved the FMP on July 27, 1983, under the authority of the Magnuson Fishery Conservation and Management Act, as amended (Magnuson Act), and the proposed rules to implement the FMP were published on August 30, 1983 (48 FR 39255). Comments on the FMP and proposed rules were invited through October 14, 1983. These final regulations implement the FMP.

The FMP manages coral resources throughout the fishery conservation zone (FCZ) off the southern Atlantic coastal States from the Virginia-North Carolina border south and through the

Gulf of Mexico to the Texas-Mexico border. The management unit consists of the coral and coral reefs throughout this area of the FCZ. Included in this management unit are the corals of the Class Hydrozoa (stinging and hydrocorals), the Class Anthozoa (sea fans, whips, precious corals, sea pen, and stony coral), and the hard bottoms, deepwater banks, patch reefs, and outer bank reefs within the FCZ off the South Atlantic Coastal States south of the Virginia-North Carolina border and in the Gulf of Mexico.

The preamble to the proposed rulemaking contained background information on the coral resources, its economic value, the condition of coral, and fishing practices. In addition the proposed rulemaking contained a discussion of the need for management and the management strategy. These are not repeated here.

Response to Comments

The U.S. Department of the Interior questioned the application of these FMP implementing regulations within National Parks. Both Councils took action to clarify their intent that these regulations not apply within the FCZ portion of National Marine Sanctuaries and National Parks. This final rule reflects this position.

One commenter took issue with the regulation section prohibiting the taking or destruction of certain coral except under permit. The commenter stated that unless there is an exception for anchoring, a wrench lost overboard, for example, could be grounds for complaint. The intent of the FMP is to protect coral from being destroyed as well as taken, thus it is inconsistent with the FMP to provide exceptions which would result in coral destruction. The commenter went on to question why the Dry Tortugas area was not proposed as a habitat area of particular concern (HAPC). In fact, a portion of the Dry Tortugas is within the confines of the Fort Jefferson National Monument and thus no additional regulations are proposed.

Changes From the Proposed Rule

The final rule differs from the proposed rule as follows:

Section 638.2. The definition of *coral area* is included for clarification.

Section 638.2. The definition of *fish* is revised for clarification.

Section 638.3(b) is changed to make it clear that the regulations do not apply to the FCZ portion of National Marine Sanctuaries and National Parks.

Section 638.5 has been revised to reflect the most recent signaling and boarding procedures recommended by

the U.S. Coast Guard (49 FR 9738, March 15, 1984).

Classification

The Assistant Administrator, after considering all comments received on the FMP and the proposed regulations, has determined that the FMP and this rule are necessary and appropriate for conservation and management of the fishery and are consistent with the national standards and other provisions of the Magnuson Act, and other applicable law. A final environmental impact statement was filed with the Environmental Protection Agency, and a notice of availability was published on August 19, 1983 (48 FR 37702).

The Administrator, NOAA, has determined that these regulations are not major under Executive Order 12291. A final 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 corals and coral reefs as habitat for marine resources and for their aesthetic value.

The RIR indicates that the regulations will result in benefits to the nonconsumptive users such as scuba divers and the commercial and recreational fishermen who target fishery resources dependent on the coral habitat. The annual value of the fish and shellfish whose life cycle is critically dependent upon coral and coral reef habitat is conservatively estimated to be in excess of \$300,000,000. The coral and coral reefs, except for those in areas under oil and gas lease or exploration permit, are unprotected in the FCZ. Large-scale coral harvesting would threaten several major fish and shellfish fisheries as well as the nonconsumptive value derived from coral.

This rule contains two collection of information requirements subject to the Paperwork Reduction Act. A request to collect this information has been approved by the Office of Management and Budget (OMB No. 0648-0136 and 0648-0097).

These regulations will have a significant impact on a substantial number of small entities under the Regulatory Flexibility Act. A final regulatory flexibility analysis has been prepared in compliance with the Regulatory Flexibility Act and has been combined with the RIR.

The Coastal Zone Management offices from each State having an approved program under the Coastal Zone Management Act and whose territorial

waters are adjacent to the management area were provided copies of the FMP and a consistency determination for review as to consistency with their coastal zone management programs. The States of Louisiana, Alabama, and South Carolina agreed with the consistency determination. No responses were received from any other States except Florida; hence it is presumed under 15 CFR 930.41(a) that those States agree with the consistency determination. The States of Georgia and Texas do not have approved programs. The State of Florida has determined that the FMP is inconsistent with the approved Florida coastal management plan. It has been concluded by the Agency, however, that to the maximum extent practicable the Agency action is consistent with the State's coastal zone management program.

List of Subjects in 50 CFR Part 638

Fish, Fisheries, Fishing.

Dated: July 18, 1984.

Joseph W. Angelevia,

Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.

For the reasons set out in the preamble, chapter VI of 50 CFR is amended by adding a new Part 638 to read as follows:

PART 638—CORAL AND CORAL REEFS OF THE GULF OF MEXICO AND THE SOUTH ATLANTIC

Subpart A—General Provisions

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

Subpart A—General Provisions

§ 638.1 Purpose and scope.

(a) The purpose of this part is to implement the Fishery Management Plan for Coral and Coral Reefs of the Gulf of Mexico and the South Atlantic (FMP) developed by the Gulf of Mexico and South Atlantic Fishery Management Councils under the Magnuson Act.

(b) This part regulates fishing for coral and coral reefs by fishing vessels of the United States within the fishery

conservation zone (FCZ) off the South Atlantic coastal States south of the Virginia-North Carolina border and in the Gulf of Mexico.

§ 638.2 Definitions.

In addition to the definitions in the Magnuson Act, and unless the context requires otherwise, the terms used in this part have the following 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 the National Marine Fisheries Service;
- (c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Secretary of the department under which the U.S. Coast Guard is operating, to enforce the provisions of the Magnuson Act; or
- (d) Any U.S. Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Center Director means the Director, Southeast Fisheries Center, NMFS, 75 Virginia Beach Drive, Miami, Florida 33149; telephone 305-381-5761.

Coral area means marine habitat where coral growth abounds including patch reefs, outer bank reefs, deepwater banks, and hard bottoms.

Fish means: (a) The hard and soft corals of the class Hydrozoa (stinging and hydrocorals), and the class Anthozoa (sea fans, whips, precious corals, sea pens, and stony corals); and (b) All finfish, mollusks, crustaceans, and all other forms of marine animal and plant life in the context of use of any of the following means of fishing or collecting fish:

- (1) Toxic chemicals,
- (2) Bottom longlines,
- (3) Traps,
- (4) Pots,
- (5) Bottom Trawls, or
- (6) Dredges.

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.

HAPC means coral habitat areas of particular concern.

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

Management area means that area of the FCZ off the South Atlantic coastal States south of the Virginia-North Carolina border and in the Gulf of Mexico.

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 paragraph (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.

Prohibited coral means (a) species of coral belonging to the Class Hydrozoa (fire corals and hydrocorals) and Class Anthozoa, Subclass Zooantharia (stony corals and black corals), and Subclass Octocorallaria (the sea fans *Georgonia flabellum* or *G. ventalina*), and (b) all coral and coral reefs in the HAPC's.

Regional Director means the Director, Southeast Region, NMFS, Duval Building, 9450 Koger Boulevard, St.

Petersburg, Florida 33702; telephone 813-893-3141; or a designee.

Scientific and educational purpose means for the purpose of gaining knowledge of coral for management and/or for the benefit of science and humanity.

Secretary means the Secretary of Commerce or a designee.

Take means to attempt to or damage, harm, kill, or collect.

U.S. fish processors means facilities 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 under the laws of the United States;

(b) Any vessel numbered in accordance with the Federal Boat Safety Act of 1971 (46 U.S.C. 1400 *et seq.*) and measuring less than five net tons; or

(c) Any vessel numbered under the Federal Boat Safety Act of 1971 (46 U.S.C. 1400 *et seq.*) and used exclusively for pleasure.

§ 638.3 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) These regulations do not apply within the FCZ portion of the following National Marine Sanctuaries and National Parks:

(1) Everglades National Park (36 CFR 7.45);

(2) Looe Key National Marine Sanctuary (15 CFR Part 937);

(3) Fort Jefferson National Monument (36 CFR 7.27);

(4) Key Largo Coral Reef National Marine Sanctuary (15 CFR Part 929);

(5) Biscayne National Park (16 U.S.C. 410gg);

(6) Gray's Reef National Marine Sanctuary (15 CFR Part 938); and

(7) Monitor Marine Sanctuary (15 CFR Part 924);

(c) Certain responsibilities relating to data collection, issuance of permits, and enforcement may be performed by authorized State personnel under a cooperative agreement entered into by the State and the Secretary.

§ 638.4 Permits and fees.

(a) *General.* Permits are required for persons—

- (1) Fishing for prohibited coral; or
- (2) Using toxic chemicals to collect fish or other marine organisms in coral

areas. A State of Florida permit is acceptable in lieu of a Federal permit for use of toxic chemicals.

(b) *Eligibility.* Fishing for prohibited coral must be for a scientific or educational purpose.

(c) *Fees.* There are no fees for Federal permits.

(d) *Application for a prohibited coral permit.* An application for a permit to fish for prohibited coral must be signed and submitted by the applicant on an appropriate form which may be obtained from the Regional Director. Applicants must provide the following information:

(1) Name, address, and telephone number of applicant;

(2) Name and address of harvester, company, institution, or affiliation;

(3) Amount of coral to be fished for by species;

(4) Size of each species;

(5) Projected use of each species;

(6) Collection techniques (vessel types, gear, number of trips);

(7) Period of fishing; and

(8) Location of fishing.

(e) *Application for toxic chemical permit.* An application for a Federal permit to collect fish or other organisms with toxic chemicals in coral areas must be signed and submitted by the applicant on an appropriate form which may be obtained from the Regional Director. Applicants must provide the following information:

(1) Name, address, and telephone number of applicant;

(2) Name and address of harvester, if other than applicant;

(3) Type of chemical;

(4) Period of fishing; and

(5) Location of fishing.

(f) *Permit conditions.* (1) Permits may not be transferred or assigned;

(2) Permits must be in the possession of the permittee while fishing for prohibited corals or using toxic chemicals;

(3) Permits must be presented for inspection upon request of any authorized officer;

(4) Permittee must have in possession sufficient documentation to establish identity as permittee (e.g., valid driver's license, etc.); and

(5) Other specific conditions as may be listed on the permits.

(g) Unless otherwise specified, application must be submitted to the Regional Director 45 days prior to the date on which the applicant desires to have the permit effective and permits will be issued for the period October 1 through the following September.

(h) All persons holding permits to take prohibited corals for scientific or educational purposes must submit

annual reports of their harvest to the Center Director within 30 days following the effective period for the permit. Specific reporting requirements will be provided with the issued permit.

(The information collection requirements contained in paragraph (g) were approved by the Office of Management and Budget under control number 0648-0097. The information collection requirements contained in paragraph (h) were approved under number 0648-0136.)

§ 638.5 Prohibitions.

It is unlawful for any person to—

(a) Fail to submit a report within 30 days following the effective period for a permit as specified in § 638.4;

(b) Take or collect fish or other marine organisms with toxic chemicals in coral areas except with a permit as specified in § 638.4;

(c) Fish for prohibited coral except as specified in § 638.4 and § 638.21;

(d) Fail to comply immediately with enforcement and boarding procedures specified in § 638.6;

(e) Use bottom longlines, traps, pots, bottom trawls, or dredges in an HAPC as specified in § 638.22;

(f) Possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, land, trade, or export any coral taken or retained in violation of the Magnuson Act, this part, or any other regulation or permit issued to a foreign vessel under the Magnuson Act;

(g) 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;

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

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

(j) 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;

(k) Transfer directly or indirectly, or attempt to so transfer, any U.S.-harvested fish to any foreign fishing vessel, while such foreign vessel is within the FCZ, unless the foreign fishing vessel has been issued a permit under § 204 of the Magnuson Act which authorized the receipt by such vessel of the U.S.-harvested fish of the species concerned; and

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

§ 638.6 Facilitation of enforcement.

(a) *General.* The operator of, or any other person aboard, any fishing vessel subject to this part must immediately comply with instructions and signals issued by an authorized officer to stop the vessel and with instructions to facilitate safe boarding and inspection of the vessel, its gear, equipment, fishing record (where applicable), and catch for purposes of enforcing the Magnuson Act and this part.

(b) *Communications.* (1) Upon being approached by a U.S. Coast Guard vessel or aircraft, or other vessel or aircraft with an authorized officer aboard, the operator of a fishing vessel must be alert for communications conveying enforcement instructions.

(2) If the size of the vessel and the wind, sea, and visibility conditions allow, loudhailer is the preferred method for communication between vessels. If use of a loudhailer is not practicable, and for communications with an aircraft, VHF-FM or high frequency radiotelephone will be employed. Hand signals, placards, or voice may be employed by an authorized officer and message blocks from an aircraft.

(3) If other communications are not practicable, visual signals may be transmitted by flashing light directed at the vessel signaled. Coast Guard units will normally use the flashing light signal "L" as the signal to stop.

(4) Failure of a vessel's operator to stop his vessel when directed to do so by an authorized officer using loudhailer, radio telephone, flashing light signal, or other means constitutes *prima facie* evidence of the offense of refusal to permit an authorized officer to board.

(5) The operator of a vessel who does not understand a signal from an enforcement unit and who is unable to obtain clarification by loudhailer or radio-telephone must consider the signal to be a command to stop the vessel instantly.

(c) *Boarding.* The operator of a vessel directed to stop must—

(1) Guard Channel 16, VHF-FM if so equipped;

(2) Stop immediately and lay to or maneuver in such a way as to allow the authorized officer and his party to come aboard;

(3) Except for those vessels with a freeboard of four feet or less, provide a safe ladder, if needed, for the authorized officer and his party to come aboard;

(4) When necessary to facilitate the boarding or when requested by an authorized officer, provide a manrope or safety line, and illumination for the ladder; and

(5) Take such other actions as necessary to facilitate boarding and to ensure the safety of the authorized officer and the boarding party.

(d) *Signals.* The following signals, extracted from the International Code of Signals, may be sent by flashing light by an enforcement unit when conditions do not allow communications by loudhailer or radio telephone. Knowledge of these signals by vessel operators is not required. However, knowledge of these signals and appropriate action by a vessel operator may preclude the necessity of sending the signal "L" and the necessity for the vessel to stop instantly.

(1) "AA" repeated (dit dah, dit dah)¹ is the call to an unknown station. The operator of the signaled vessel should respond by identifying the vessel by radio telephone or by illuminating the vessels identification.

(2) "RY-CY" (dit dah, dah dit dah dah dit dah dit, dah dit dah dah) means "you should proceed at slow speed, a boat is coming to you." This signal is normally employed when conditions allow an enforcement boarding without the necessity of the vessel being boarded coming to a complete stop, or, in some cases, without retrieval of fishing gear which may be in the water.

(3) "SQ3" (dit dit dit, dah dah dit dah, dit dit dit dah dah) means "you should stop or heave to; I am going to board you."

(4) "L" (dit dah dit dit) means "you should stop your vessel instantly."

§ 638.7 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 prescribed in the Magnuson Act, and to 50 CFR Part 621 and 15 CFR Part 904 (Civil Procedures), and other applicable law.

Subpart B—Management Measures

§ 638.20 Seasons.

The fishing year for all species of coral and coral resources begins at 0001 hours on October 1 and ends at 2400 hours on September 30.

§ 638.21 Harvest limitations.

(a) No person may fish for prohibited coral or fish with toxic chemicals in any coral area unless such person has in

¹ DIT means a short flash of light.

² DAH means a long flash of light.

possession a valid permit issued under § 638.4

(b) Prohibited coral taken as incidental catch to other fishing activities must be returned to the water in the general area of fishing as soon as possible. In those fisheries, such as scallops and groundfish, where the entire catch is landed, unsorted prohibited coral may be landed but not sold or traded.

§ 638.22 Area, time limitations.

The following coral HAPCs are established.

(a) *West and East Flower Garden Banks:* The geographical center point of the West Flower Garden Bank (Figures 1A and 1B) is located at 27°52'14.21"N., latitude, 93°48'54.79"W. longitude. The geographical center point of the East Flower Garden Bank, (Figures 1A and 1B) is located at 27°55'07.44"N., latitude, 93°36'08.49"W. longitude. The HAPC is limited to the portions of each bank shallower than the 50 fathom (300 foot) isobath. The following restrictions apply within the West and East Flower Garden Bank HAPC:

(1) Fishing for coral is prohibited except as authorized by a permit issued under § 638.4, and

(2) Fishing with bottom longlines, traps, pots, and bottom trawls is prohibited in the area less than 50 fathoms (300 feet) in depth.

(b) *Florida Middle Grounds.* (1) The area (Figure 2) is bounded by straight lines connecting the following points.

Point

A—28°42.5'N., latitude, 84°24.8'W. longitude
B—28°42.5'N., latitude, 84°18.3'W. longitude
C—28°11.0'N., latitude, 84°0.0'W. longitude
D—28°11.0'N., latitude, 84°7.0'W. longitude
E—28°28.6'N., latitude, 84°24.8'W. longitude
A—28°42.5'N., latitude, 84°24.8'W. longitude

(2) The following restrictions apply within the Florida Middle Grounds HAPC:

(i) Fishing for coral is prohibited except as authorized by a permit issued under § 638.4, and

(ii) Bottom longlines, traps, pots, and bottom trawls may not be fished within the area.

(c) *The Oculina Bank:* The area (Figure 3) is located approximately 15 nautical miles east of Fort Pierce, Florida, at its nearest point to shore. The area is bounded on the north by 27°53'N., latitude; on the south by 27°30'N., latitude; on the east by 79°56'W. longitude; and on the west by 80°0'W. longitude. The following restrictions apply within the *Oculina* Bank HAPC: fishing with bottom

longlines, traps, pots, dredges, and bottom trawls is prohibited.

§ 638.23 Gear limitations.

Toxic chemicals may not be used in taking fish or other marine organisms in or on coral reef areas except as may be specified by a permit issued under § 638.4.

§ 638.24 Specifically authorized activities.

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

[FR Doc. 84-19889 Filed 7-19-84; 845 am]
BILLING CODE 3510-23-01

50 CFR Part 674

[Docket No. 40679-4079]

High Seas Salmon Fishery off Alaska

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

ACTION: Interim rule and request for comments.

SUMMARY: NOAA issues an interim rule that requires fishing vessel operators who harvest salmon in the fishery conservation zone (FCZ) off Alaska and who sell, transfer, or deliver salmon in the fishery conservation zone or to a United States port outside Alaska to submit a fish ticket to the Alaska Department of Fish and Game after such sale, transfer, or delivery. Receipt of this ticket is necessary to obtain timely data on salmon catches. These data are intended for inseason management of the salmon fisheries off Alaska.

DATES: This rule is effective on July 18, 1984 until January 23, 1985. Comments are invited until September 4, 1985.

ADDRESS: Send comments to Robert W. McVey, Director, Alaska Region, NMFS, P.O. Box 1868, Juneau, AK 99802.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg (Fishery Management Biologist, NMFS), 907-586-7230.

SUPPLEMENTARY INFORMATION: The fishery management plan for the High Seas Salmon Fishery off the Coast of Alaska East of 175° East Longitude (FMP) was initially implemented by emergency regulations (44 FR 29080, May 18, 1979). These regulations, subsequently implemented by final rule (44 FR 51988, September 6, 1979), require any operator of a fishing vessel who harvested salmon off southeast Alaska in the FCZ and whose port of landing is in the United States but outside Alaska, or who sells, transfers, or delivers such salmon in the fishery conservation zone (FCZ), to submit a completed Alaska

fish ticket or a fish ticket of the State where the salmon are landed which contains all of the information required on an Alaska fish ticket to the Alaska Department of Fish and Game (ADF&G) within one week after the sale, transfer, or delivery.

An emergency interim rule (46 FR 33041, June 28, 1981), implementing Amendment 2 to the FMP, required fishermen to report their salmon catch at an Alaskan port before leaving Alaskan waters and republished the existing reporting requirements for the public's information. In the final rule for Amendment 2 (46 FR 57299, November 23, 1981), the reporting requirements were removed pending approval by the Office of Management and Budget (OMB) under section 3507(g) of the Paperwork Reduction Act (44 U.S.C. 35). OMB subsequently found that the in-person reporting procedures added by Amendment 2 imposed an unjustified burden on fishermen. The reporting requirements of the original FMP were cleared by OMB under Control Number OMB 0648-0016, Pacific Fishermen's Logbook. This interim rule reestablishes the reporting requirement essentially as originally implemented in the FMP and changes the address for submitting fish tickets to—Director, Division of Commercial Fisheries, Alaska Department of Fish and Game, P.O. Box 3-2000, Juneau, AK 99802.

Classification

The Assistant Administrator for Fisheries, NOAA, has determined that this rule is necessary for the conservation and management of the salmon resource and that it is consistent with the Magnuson Act and other applicable law.

The Regional Director has determined that this action is worthy of a categorical exclusion from further analysis under the National Environmental Policy Act. The potential environmental impacts of this action were discussed in the environmental impact statement prepared for the original FMP and in a supplemental environmental impact statement prepared for Amendment 2. The findings of those two documents are still valid; repromulgation of the reporting requirement will not cause significant environmental impacts.

The Administrator of NOAA has determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial

number of small entities. Only 70 vessels, or seven percent of the fleet, may be affected by this requirement. The reporting burden imposed by the requirement is minimal. For these reasons, a regulatory flexibility analysis was not prepared.

This rule contains a collection of information requirement subject to the Paperwork Reduction Act. The collection of this information has been approved by the Office of Management and Budget, OMB Control Number 0648-0016.

The Director, Alaska Region, NMFS, has 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 Alaska. This determination was submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act. The State of Alaska has agreed with this determination.

Prices for chinook salmon have risen substantially during the 1984 troll season, providing an incentive for harvesting vessels to freeze their harvests for later sale at higher prices. The very short 1984 troll season off the State of Washington may cause ex-vessel prices there to rise such that operators of vessels with freezing capacity will be encouraged to transport their harvests south at the end of the Alaska chinook troll season. As many as 31,500 fish, or 11 to 13 percent of the chinook OY range could thus be taken out of the Alaska area. Reporting requirements for the State of Alaska do not apply to fish sold outside of the State of Alaska, and absent another reporting mechanism, substantial overfishing could result. The State of Washington requires that all landings of salmon be reported, but the information often does not reach the Alaska Department of Fish and Game (ADF&G) in time to be used for inseason management. Thus the Federal reporting requirement, which requires prompt reporting to ADF&G of landings outside the State of Alaska, is necessary to prevent overfishing. At current rates of harvest, it is expected that the OY for chinook salmon will be reached within two weeks after the re-opening of the troll season on July 11. For these reasons, the Assistant Administrator has determined that it is impracticable and contrary to the public interest to provide prior opportunity for comment, or to delay for 30 days the effective date of this rule, under the provisions of section 553 (b) and (d) of the Administrative Procedure Act.

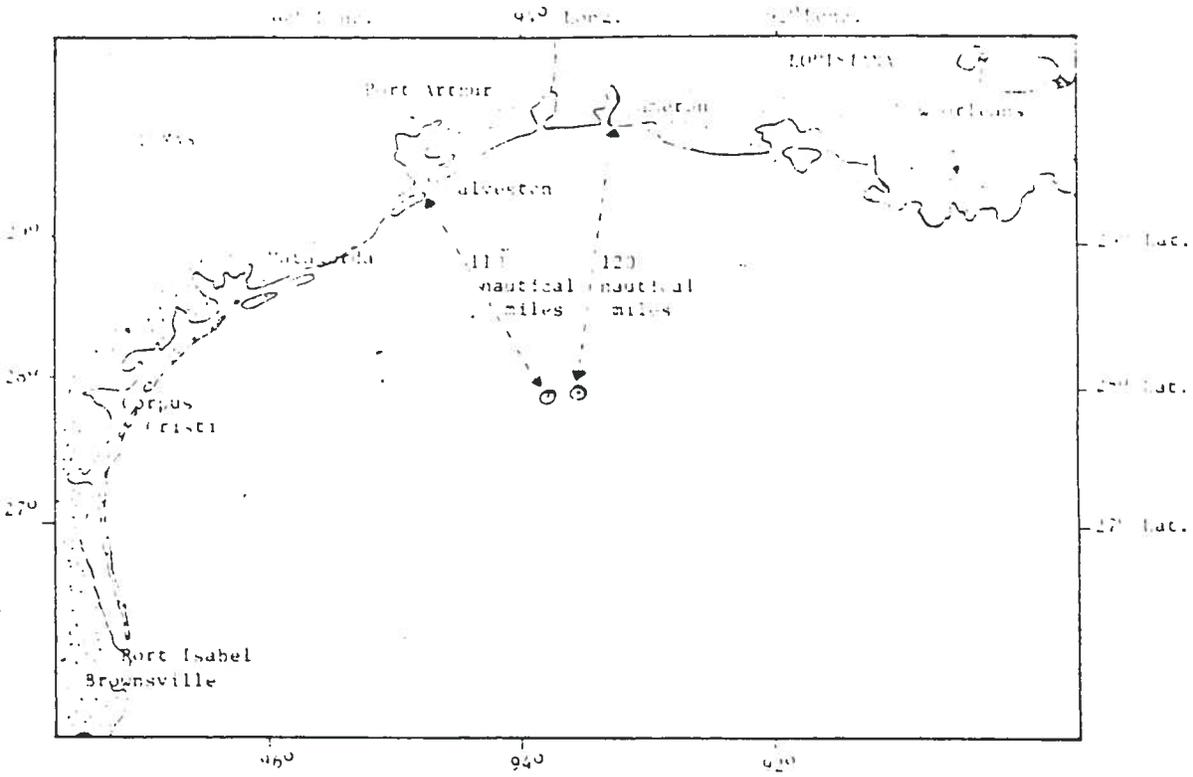


FIGURE 1A EAST AND WEST FLOWER GARDENS HABITAT AREAS OF PARTICULAR CONCERN

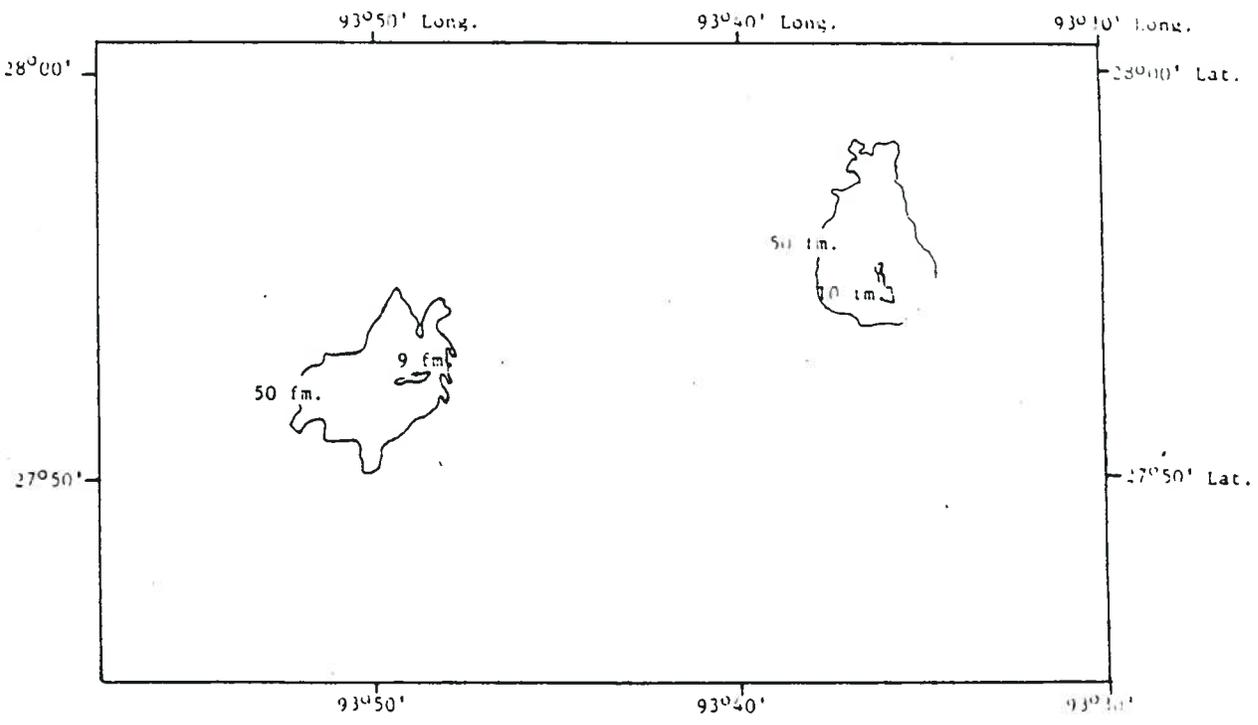


Figure 1B EAST AND WEST FLOWER GARDENS HABITAT AREAS OF PARTICULAR CONCERN

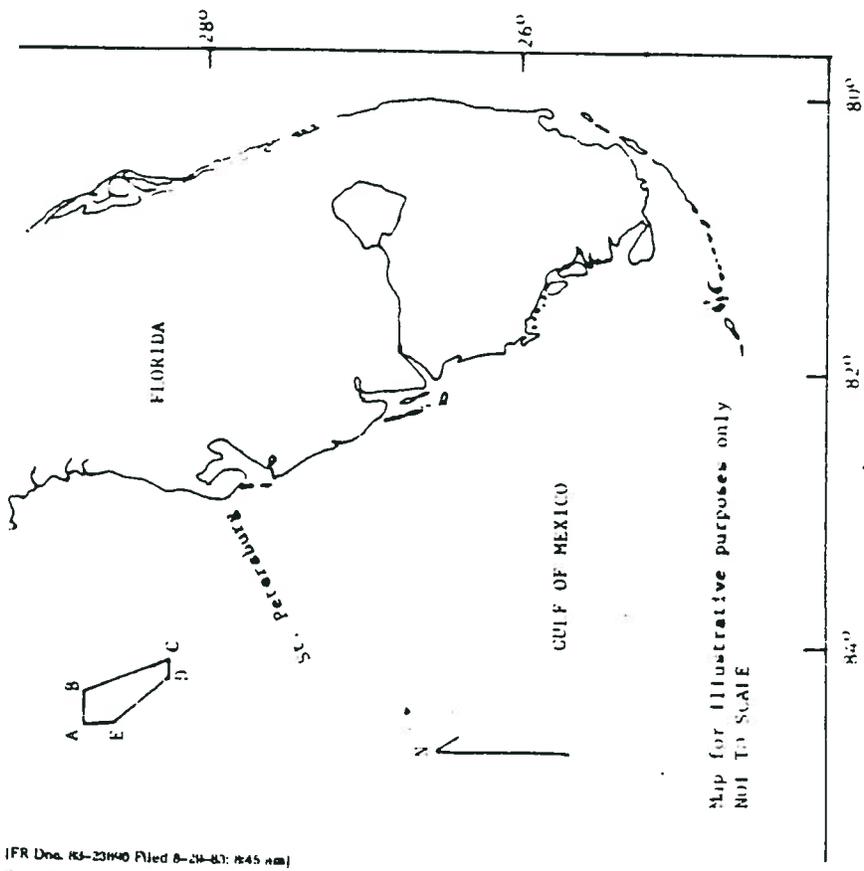


Figure 2. Florida Middle Grounds Habitat Area of Particular Concern

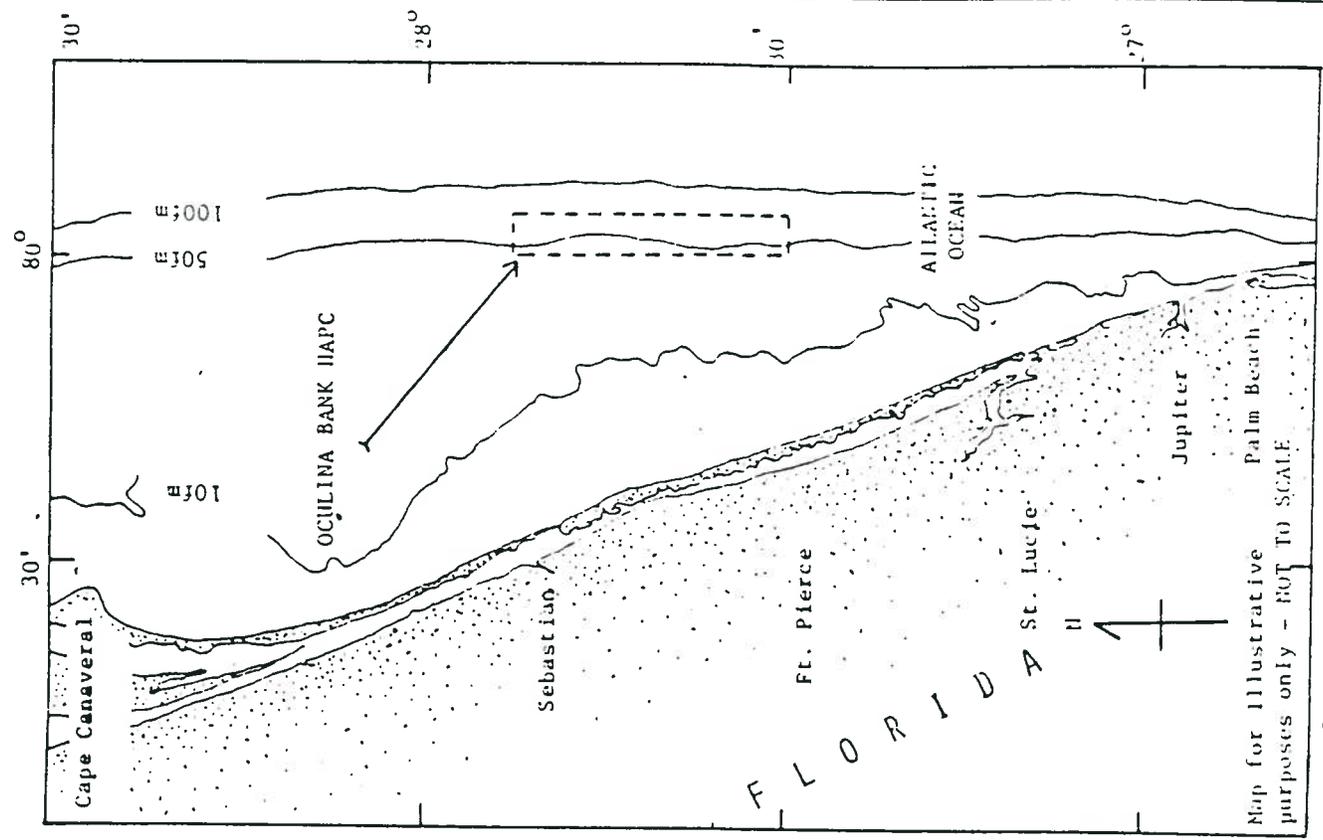


Figure 3. Oculina Bank Habitat Area of Particular Concern.