

**SUMMARY:** NOAA issues this final rule to implement the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The rule: (1) Establishes limitations on the use of certain gear in specified areas; (2) establishes construction requirements, and maximum size and numerical limits for fish traps; (3) requires those using fish traps to obtain permits and mark their vessels and gear for identification; (4) establishes a minimum size limit for red snapper; and (5) prohibits the taking of reef fish with poisons or explosives. The regulations are designed to rebuild declining reef fish stocks.

**EFFECTIVE DATE:** This rule is effective November 8, 1984, except for §§ 641.4 and 641.6 which are effective November 23, 1984.

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

**FOR FURTHER INFORMATION CONTACT:** Bill Jackson, (202) 634-9568.

**SUPPLEMENTARY INFORMATION:** The FMP was prepared by the Gulf of Mexico Fishery Management Council (Gulf Council). The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), initially approved the FMP on June 3, 1983, under the authority of the Magnuson Fishery Conservation and Management Act, as amended (Magnuson Act), and proposed rules to implement the FMP were published on August 24, 1983 (48 FR 38511). Comments on the FMP and the proposed rules were invited through October 11, 1983.

Because of the great amount of public interest in the proposed rulemaking, the comment period was reopened for an additional 30 days (48 FR 49527 and 48 FR 52616), through November 25, 1983, to allow reviewers to evaluate more thoroughly the proposed regulations. This final rule implements the FMP.

The preamble to the proposed rulemaking contained background information on the reef fish fishery, its economic value, condition of the stocks, and fishing practices within the commercial and recreational sectors. Also discussed in detail were major problems in the fishery (i.e., harvesting of certain species of snapper and grouper at less than optimal sizes from nearshore waters, general overharvesting of red snapper resources throughout the management area, user-group conflicts in nearshore areas where fishing effort is highly concentrated, and

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 641**

**[Docket No. 40800-4100]**

**Reef Fish Fishery of the Gulf of Mexico**

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

**ACTION:** Final rule.

limited fishery data) and the management measures to resolve them. These discussions are not repeated here.

In the proposed rulemaking, § 641.5—Recordkeeping and reporting requirements—was reserved. This section is also reserved in this final rule, pending development of the appropriate reporting system.

#### Comments and Responses

Fifty-five written responses containing approximately 120 comments were received on the proposed rulemaking. The sources of these comments were U.S. Senators and Representatives, State representatives and governors, the Gulf States Marine Fisheries Commission (Commission), the Gulf Council, State marine resource agencies, commercial and sportsfishing organizations, commercial dealers and fishermen, recreational fishermen, charter and headboat owners and operators, and members of the scientific community. In addition to the written comments, approximately 500 questionnaires were received from an element of the headboat industry that conducted a survey of its clients for the purpose of assessing potential effects of the proposed regulations on that sector of the fishery. For convenience of discussion, the issues raised by commenters are summarized under 10 separate categories.

##### 1. State/Federal Jurisdiction

Natural resource agencies of four Gulf States, a governor, a shrimp association, the Commission, the Gulf Council, a sport fishing organization, and several individuals strenuously objected to the application of the red snapper minimum size limit to State waters (proposed § 641.23(a)) and the requirement that red snapper harvested in State waters be landed with head and fins intact (proposed § 641.23(c)). In addition, most of the States also echoed the Gulf Council's concern that these measures as drafted in the proposed rulemaking did not conform with the intent of the Gulf Council, and were not in agreement with the Gulf Council's public statements to fishermen and State officials. Florida also objected that the stressed area (as defined in proposed § 641.22) had been extended into State waters.

The language objected to in the proposed §§ 641.23 (a) and (c) had been drafted for purposes of enhancing the enforceability of the minimum size limit and the landing requirements. Since the scope of that language, however, is contrary to the Gulf Council's intent and public proclamations on the subject, the final rule has been drafted to limit

application of these measures to fish harvested in the fishery conservation zone (FCZ). State agencies responsible for the management of marine fisheries will be requested to adopt compatible measures for the waters under their respective jurisdictions.

Florida's concern regarding the shoreward extent of the stressed areas as defined in proposed § 641.22 was based on a misunderstanding of that section, since the stressed area was defined as a portion of the "management area"—which term was defined in § 641.2 as part of the FCZ. Nonetheless, the final rule has clarified the definition of "stressed area" at § 641.22 to eliminate such misunderstandings in the future.

##### 2. Size Limit and Incidental Catch Allowance

A wide variety of reviewers, including a U.S. Senator, a U.S. Representative and a State representative, submitted comments opposing the 12-inch minimum size limit and the associated incidental catch allowance of five undersized (less than 12-inches fork length) red snapper per fisherman. The major source of such comments was the headboat sector of the fishing industry and its sportsfishing clientele.

Limited data that have become available since the FMP was initially approved indicate that the headboat industry in the northwestern Gulf catches red snapper almost entirely and the vast majority of these fish are less than the minimum size limit (12-inches fork length) specified in the proposed regulations. Because of this strong reliance on undersized red snapper, the headboat industry challenged the proposed minimum size limit and undersized fish allowance on the basis that it would result in severe economic impacts upon that sector of the fishery. Concern was also expressed regarding the sufficiency of the initial regulatory flexibility analysis as it pertains to this sector of the fishery.

A headboat company conducted an extensive survey of its clientele to assist in determining the extent of economic impacts of the proposed minimum size limit on that sector of the fishery. The survey was designed to indicate the fishermen's reaction and the potential impact on the headboat industry of implementing the proposed minimum size limit and the allowance for an incidental catch of five undersized red snapper per fisherman. Although the survey was not conclusive because of structural bias, the responses revealed that some clients might discontinue utilizing headboat services if they could retain only five undersized red snapper.

Commenters also expressed doubt regarding the survivability of undersized fish that headboat customers would hook and be required to release. While the condition of fishes hooked at the bottom and brought to the surface generally varies with depth of capture, NMFS acknowledges that there is little direct evidence that would indicate a high rate of survival of fish harvested from headboats. Indirect evidence (mainly through mark-recapture efforts) that was available at the time of FMP development however, indicates a substantially high survival rate of red snapper which are hooked and released. Although these data are not definitive, high tag returns do suggest survival rates that would support managing red snapper resources through size restrictions.

In response to these joint concerns over the survivability of fish hooked and released and the potential adverse economic impacts, the Gulf Council submitted a request to the Secretary, after the close of the comment period on the proposed rules, to defer implementation of the minimum size limit for red snapper for one year for all segments of the fishery. NMFS believes that such action would be overly broad in light of the expressed concerns and the available data and would nullify in large measure the benefits expected from the FMP. However, NMFS believes it is appropriate to defer implementation of the 12-inch minimum size limit on red snapper for 18 months only for the headboat sector of the fishery. During that period, the Gulf Council will conduct studies to determine if there is an acceptable rate of survival of red snapper hooked and released at various depths and the extent to which size limits and incidental catch allowances for undersized fish may affect the economic viability of various sectors of the fishery, and to examine data that have become available recently which may be used in exploring other management alternatives to achieve the objectives of the FMP.

A number of recreational fishermen suggested increasing the catch allowance of undersized red snapper per fisherman to 10, 15, 20, or even more. One commercial fisherman recommended a percentage tolerance by weight. The Gulf Council in its deliberations originally did not consider any retention of undersized fish to be appropriate. The incidental catch allowance of five undersized red snapper was instituted solely as a convenience to fishermen while they are

searching for areas to catch legal-sized fish. As such, the incidental catch allowance of five undersized red snapper should be viewed as a disincentive to fish areas heavily populated by small fish rather than as a limit to be achieved in a directed effort for red snapper. In other words, the measure is an incidental catch allowance rather than a bag limit.

Preliminary data on the headboat fishery off Texas indicate that the average fisherman catches nine red snapper per trip and nearly all of these are undersized fish. Similar data are not available for other sectors of the fishery or other areas of the Gulf; however, comments received from some commercial fish dealers would also indicate that an increasingly high percentage of the commercial landings are made up of undersized red snapper—upwards of 40 percent in some areas. Increasing incidental catch allowances to a level that exceeds the average number harvested would render the measure ineffective. Also, using a system based upon a percentage of total weight landed could result in an increase in the total number of undersized red snapper being landed. Implementation of either of these suggested procedures would not attain the objective of rebuilding declining red snapper resources. Thus, the measure is implemented as proposed. The headboat fishery, however, will not be subject to this measure for the 18-month period of deferred implementation of the minimum size limit.

### 3. Exemption for Trawlers.

Some commenters indicated that exempting trawl vessels from the minimum size limit for red snapper would have a much greater adverse impact on the resource than allowing retention of undersized fish taken by hook and line. The Gulf Council recognizes that incidental catch of snappers by trawls is a significant problem and encourages the development and deployment of gear that will reduce the incidental catch of finfish. The vast majority of red snapper taken in directed trawling operations for shrimp and groundfish, however, are very small in size—many less than two inches in length. Since fish of that size have an extremely high rate of natural mortality, very few would ever be recruited into the adult population. Conversely, the greatest recruitment to the adult population can be achieved by affording protection to sub-adults, i.e., fishes that are 10–12 inches total length. Accordingly, a minimum size limit on the directed hook-and-line fishery, both recreational and commercial, would

produce substantially greater benefits to the stock than would restrictions against trawlers, especially since nearly all fish taken by trawl are dead when brought aboard. Therefore, this measure is implemented as originally proposed.

### 4. Enforcement and liability

Comments were received from one U.S. Senator, one U.S. representative, one State representative, several charter boat and headboat owners, and a number of fishermen questioning whether the regulations for the red snapper minimum size limit and allowance for undersized fish would be enforced equitably among various user groups. Commenters were apprehensive that major enforcement efforts would be directed towards headboat and charter boat operations, and that it was unjust to hold the owners or captains of these boats liable for violations by customers possessing undersized red snapper in excess of catch allowances.

NMFS assures fishermen that enforcement efforts will be directed towards all users of the resource. There will definitely be no concerted effort to police the activities of a particular user group unless there is just cause. The majority of fishermen are concerned with the need for managing reef fish resources and are expected to comply with the regulations. NMFS disagrees, however, that it would be unjust (as suggested by the commenters) to hold owners or captains of headboats or charter boats liable for violations by customers on board their vessels. The issue in part relates to the degree of control of the master or owner over the paying passengers. Although that control may be affected by the number of passengers on board a vessel, such control is clearly established by virtue of the contractual arrangement and by customary maritime law. NMFS is willing to consider, however, particular instances regarding the exercise of that control on a case-by-case basis. In addition, NMFS may consider a variety of factors in mitigation of liability in particular cases, including: whether the owner or master posts notices on the vessel regarding the minimum size limit and incidental catch allowance,<sup>1</sup> whether the owner or master apprises passengers of those notices; whether the owner or master provides means of identifying and measuring fish subject to the minimum size limit; and whether the owner or master provides some means (such as a numbered stringer) for

<sup>1</sup> NMFS will make available posters describing regulated species and the appropriate methods for determining measurements.

identifying the person or persons who caught particular fish.

### 5. Fish Hatcheries

One commenter suggested the introduction of hatchery-raised fish to increase red snapper abundance. Because of the high fecundity of red snapper, natural reproduction is capable of sustaining the population; female red snapper 15 to 30 inches in length reportedly produce an estimated 191,000 to 9,320,000 eggs per spawn, respectively. Implementation of the minimum size limit will ensure that a sufficient number of juveniles are recruited into the red snapper spawning population. In addition, the construction and operation of hatcheries for producing and raising red snappers would require extensive expenditures for a program of questionable value. Furthermore, this proposal is not the type of conservation and management measure contemplated by the Magnuson Act.

### 6. Commercial Fishing

Several commenters took issue with the longline sector of the fishery and their recommendations ranged from prohibiting the take of red snapper by longline during the spawning season to an immediate moratorium or total prohibition on longlines in the northwestern Gulf. No restrictions are placed on longlining activities at this time because this sector of the fishery was not addressed in the FMP. The longline fishery was in the early stage of development when the FMP was submitted for Secretarial approval and consequently little information was available on this sector of the fishery at that time. When the FMP was initially approved, one of the conditions was that the longline fishery be addressed at the earliest opportunity for plan amendment.

Two commenters, both recreational fishermen, recommended that all commercial fishing activities be prohibited. No data are available that would support such drastic action.

### 7. Seasonal and Area Closures

Several commenters recommended various area closures on an annual or seasonal basis. Recommended strategies ranged from a total ban on red snapper fishing during the spawning season to closure of the red snapper fishery every third year. One commenter suggested permanent closure of certain offshore banks to all types of fishing so that these areas would serve as refuges for sustaining reef-associated stocks, and closing selected mid-shelf and nearshore

habitats to all fishing on a seasonal or annual basis. These latter suggestions, although perhaps rational from the standpoint of stock conservation, are overly broad since they would preclude fishing for many species in addition to red snapper. Other alternatives and their associated impacts will be examined by the Gulf Council and will be addressed when the FMP is first amended.

#### 8. Coastal Zone Consistency

The Florida Department of Natural Resources (FDNR) questioned the consistency of the regulations with Florida's Coastal Management Program (CMP) to the extent that the use of fish traps is allowed and size limits are not imposed on any of the groupers. State law, incorporated into Florida's CMP, prohibits the use and possession of fish traps (with certain exceptions) (Florida Statutes section 370.1105), and establishes size limits on certain species of grouper (Florida Statutes section 370.11(2)(a)(8)).

The claim of inconsistency is without legal foundation. Though Federal and State regulations are not identical, identity is not required by the Coastal Zone Management Act (CZMA). In this instance, the Magnuson Act would prohibit such identity. The coastal zone consistency determination for this FMP, which was submitted to Florida's Office of Coastal Zone Management on March 18, 1983, clearly indicated that the prohibition of fish traps and the implementation of minimum size limits on certain species of groupers would violate several of the national standards of the Magnuson Act. (It should be noted that the FMP contains provisions for instituting minimum size limits on groupers and other reef fishes when sufficient evidence becomes available that would indicate those species warrant regulation.) Therefore, to the maximum extent practicable, the FMP is consistent with Florida's CMP.

#### 9. Specific State Concerns

The FDNR commented that these rules would authorize the use and possession of fish traps, without limitation on the number of vessels deploying traps, and that NOAA apparently perceived that the rules would nullify Florida's ban on the possession of traps within Florida's boundaries. This is incorrect. It is NOAA's position that Florida's ban on possession of fish traps in State waters is nullified only to the extent that it would interfere with the exercise of a fisherman's right to utilize those traps in the FCZ (i.e., Florida's ban may not be used to prohibit the transport of fish

traps through State waters to and from the FCZ).

FDNR further contends that allowing fish traps in the FCZ will create an enforcement impossibility within State boundaries and will decimate Florida's prohibition on the possession of fish traps. NOAA agrees that authorizing the use of fish traps in the FCZ may affect to some degree the ability of Florida to enforce its trap prohibition within State waters. NOAA disagrees, however, that Florida's trap law will be "decimated." Certainly, fishing with fish traps within State waters will still be prohibited. Furthermore, unless the fish trap fishermen have Federal permits and Federal markings on their traps, possession of those traps within State waters clearly would be subject to Florida's prohibition. NOAA will work with Florida to minimize whatever problems develop.

FDNR asserts that conflicts from disparate fish trap regulation between State and Federal law require resolution under section 306 of the Magnuson Act. However, section 306 of the Magnuson Act was not formulated for resolving regulatory conflicts created by Federal supersession. Rather, section 306 addresses the situation where the Federal government concludes that the regulation of fisheries within State waters is accomplished in such a fashion as to affect substantially and adversely the implementation of Federal regulations within the FCZ. In this instance, NOAA does not take issue with the manner in which Florida is regulating its fisheries within State waters. As a result, the preemption provisions of section 306 are not applicable.

The FDNR also took issue with the sufficiency of the data base and noted that stock/recruitment relationships, populations, size and mortality rates are totally unknown or inadequate for managing the resource. The FMP concedes that the current state of knowledge is insufficient for addressing total management needs for reef fish resources, and this is precisely why minimum size limits were not established at this time for a number of species, including several important species of groupers. Lack of sound data also explains, in part, why certain gear restrictions were not instituted and why the Federal regulations do not mirror certain aspects of Florida's laws. The regulatory regime developed provides for management of the reef fish resources within the constraints of the available data base, as required by the Magnuson Act. To obtain the information necessary for analyzing the

appropriate mix of measures required for comprehensive management of the reef fish unit, a data gathering program will be implemented as soon as the proper data collection elements can be determined. The recordkeeping and reporting requirements section of the regulations are merely reserved until such time, and have not been withdrawn as FDNR comments indicated. There is no violation of the Magnuson Act by reserving such regulation pending development of the data gathering system.

FDNR also indicated that disparate management measures between the reef fish FMP in the Gulf of Mexico and the snapper/grouper plan in the south Atlantic area would complicate enforcement of either plan in the Florida Keys. The chief differences pertain to minimum size limits on certain species, specification of optimum yield (OY), and fish trap size, number and permitting requirements. NOAA acknowledges that these disparities may create some problems for fishermen who fish on both sides of the Florida Keys, as well as for those who enforce the two sets of regulations. NOAA observes parenthetically that this problem was occasioned by a change in the boundary between the Gulf and South Atlantic Councils (in response to an opinion from the Office of Legal Counsel, Department of Justice) after both Councils had initiated development of the respective FMPs. To partially reconcile the problems associated with these divergent management measures, the Gulf Council has been urged to modify the reef fish FMP at the earliest opportunity by amendment to convert to a non-numeric OY similar to that adopted in the south Atlantic. This approach would allow for instituting minimum size limits on other important species in the reef fish complex on a more timely basis than would be possible under the presently specified approach. Potential problems which may arise due to differences in measures such as those relating to fish traps will require close surveillance; appropriate action will be taken if those problems become significant.

FDNR urges that the proposed rules be rejected as inimical to the resources that they were designed to protect. NOAA disagrees. The matters set forth in opposition to implementation of the FMP by FDNR are not persuasive. NOAA has concluded that the approach proposed in the FMP is the proper approach to management of the subject fishery.

FDNR also objects to the proposed rule on the grounds that development of

certain aspects of the FMP violated the Magnuson Act. Specifically, FDNR alleges that the Gulf Council modified an FMP measure by telephone vote. NOAA observes that the measure referred to initially provided for adjustment to the regulatory regime through rule-related notice if OY were exceeded in any year; the Gulf Council modified this provision to make such changes through the regulatory amendment process. Hence, FDNR's comment technically is a comment on the FMP since there is no rule which implements the regime adjustment provision, as modified. NOAA responds to the substance of FDNR's objection by noting that the effect of the revision was to provide a greater degree of public participation in the adjustment procedure. Such revision hardly "jeopardize(s) a cooperative effort to manage diminishing marine resources." The Gulf Council modified the measure to avoid a possible disapproval of that measure; the fact that the Council took action by telephone poll entails no precedential irregularity.

Finally, FDNR requested that an administrative hearing, in accordance with Title 5, U.S.C. 553 be held and that the proposed rules be stayed pending the resolution of the issues raised by FDNR. NOAA declines either to grant such a hearing or to delay the effective date of the final rule. To grant an administrative hearing on these rules would serve no useful purpose and would delay their implementation. Furthermore, the matters raised by FDNR are more properly resolved in the context of Council deliberations on future modification of the FMP.

#### 10. General Comments

The Gulf Council and a State marine resource agency suggested that the red snapper minimum size limitation be expressed in terms of total length since four of the five Gulf States use this terminology which is less scientific but more understandable to the fishermen. The final rule is modified to reflect the use of either fork length or total length.

The Gulf Council also suggested several additional language changes to clarify the regulations as follows:

- (1) That the definition of authorized officer be modified to identify the Departmental authority under which the Coast Guard operates;
- (2) That vessel number be included in the identification requirements for fish traps to aid in enforcement;
- (3) That official sunrise and sunset be specified in terms of civil rather than military time; and
- (4) That the line demarcating fish trap size restrictions conform with

terminology described on nautical charts used by fishermen.

The language in the final rule is modified to reflect these suggestions, except that the permit number is substituted for vessel number in marking buoys for identifying fish traps since vessel numbers are too lengthy. The purpose is served equally well.

The Gulf Council additionally suggested that the term "bill of lading" in proposed § 641.23(b)(3) be more explicitly defined. This provision has been deleted from the final rule, since it pertained to an exception from the proposed prohibition against possession of undersized red snapper, which has been revised on the basis of comments submitted.

#### Changes From the Proposed Rule

The final rule differs from the proposed rule in the following respects, for the reasons discussed above, and to clarify other minor aspects of the regulations:

##### Section 641.1

Paragraph (b) of this section, pertaining to the scope of Part 641, was revised to reflect the fact that certain portions of the rules apply to persons fishing from fixed structures.

##### Section 641.2

The definition of authorized officer, paragraph (c) is revised to identify the Departmental authority under which the Coast Guard operates.

A definition is added for the term "Headboat" which is used in revised § 641.23(b)(2).

A definition of "Total length" is included to describe measurement of fish in popular terminology. Figure 1 is modified to illustrate total measurement.

The definition of "U.S.-harvested fish" is revised to reflect that fish harvested by U.S. citizens on fixed structures are considered to be U.S.-harvested fish.

##### Section 641.4

Portions of paragraphs (c), (e) and (h) of this section were revised to conform to NOAA's rules on Permit Sanctions and Denials, 15 CFR Part 904, Subpart D (49 FR 1037, January 8, 1984).

##### Section 641.6

Paragraph (a) is revised to require the display of the permit number instead of vessel number on vessels or structures, fish traps and buoys, to facilitate identification.

##### Section 641.7

Paragraph (g) is modified to restrict application of the regulation to the FCZ.

Paragraphs (d) and (i) are revised slightly for purposes of clarity.

##### Section 641.8

This section has been revised to reflect the most recent signaling and boarding procedures recommended by the U.S. Coast Guard (49 FR 8796, March 15, 1984).

##### Section 641.9

The reference to 50 CFR Part 620 is deleted, since the substance of that part was removed and the procedures governing citations were set forth in 15 CFR Part 904, Subpart E on January 8, 1984 (49 FR 1036).

##### Section 641.21

Paragraph (a) is modified to designate official sunrise and sunset.

##### Section 641.22

The introductory paragraph is revised to clarify the definition of the stressed area.

##### Section 641.23

Paragraphs (a) and (b) are revised to include total length requirements for red snapper minimum size restrictions.

Paragraph (a) is revised to limit regulatory authority under the FMP to the FCZ.

A new paragraph (b)(2) exempts headboats from the red snapper minimum size limit and incidental catch limit for a period of 18 months. Previously designated paragraph (b)(2) is redesignated as (b)(3); previously designated paragraph (b)(3) is removed as unnecessary due to revision of paragraph (a).

Paragraph (c) is modified to limit regulatory authority under the FMP to the FCZ.

##### Section 621.24

Paragraph (b)(1)(iii) is corrected to designate the proper size wire that may be used for fish trap panels or hinging devices.

Paragraph (b)(5) is revised to conform with terms depicted on nautical charts, and to clarify the geographical scope of the regulation.

#### 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 its availability was published on September 9, 1983 (48 FR 40780).

The Administrator, NOAA, has determined that these regulations are not major under Executive Order 12291. However, these regulations will have significant economic impact on a substantial number of small entities. A regulatory impact review (RIR), which includes a regulatory flexibility analysis (RFA) as provided under section 605(a) of the Regulatory Flexibility Act, was initially prepared. On the basis of comments submitted on the initial RFA, a final RFA has been prepared pursuant to section 604(a) of the Regulatory Flexibility Act. Copies of the final RIR/RFA are available (see ADDRESSES). That document analyzes the expected benefits and costs of the regulatory action, and includes data that were not available at the time the FMP was submitted for approval. The document also includes an analysis of data obtained from a survey conducted by the headboat industry during the comment period on the proposed rule. These new data raised the issues of (1) the potential economic impacts on the headboat sector of the fishery as a result of the red snapper minimum size limit, and (2) the need for additional information on the survivability of fish hooked and released. Because of the high degree of dependence of the headboat industry on small red snapper, the minimum size limitation for that sector of the fishery has been deferred for 18 months. The 12-inch minimum size limit initially was expected to result in an increased yield of red snapper averaging 23 percent; deferring application of that measure to headboats for 18 months is expected to result in an increased yield of about 16 percent. Therefore, increases in the yield of red snapper described in the RIR would be somewhat lessened by that deferral of implementation; however, benefits resulting from application of the minimum size limit to the commercial and the other recreational components of the fishery would continue to accrue while alternatives are being explored for regulating the headboat industry in a more efficient manner. Increases accruing to the commercial sector of the fishery alone are expected to amount to an estimated \$4.1 to \$13.8 million, while a significant, but undetermined, amount of increase in the recreational sector is expected to result over the next four years. Potential benefits are significantly greater than expected costs. Benefits are expected from increases in reef fish landings. Benefits

expected to accrue from the FMP include the prevention of overfishing and the conservation of reef fish stocks in general and the red snapper stocks in particular. The measures relating to the stressed area will prevent further overfishing and decline of stocks in these nearshore waters, and will reduce the potential for user group conflicts. The major portion of expected costs is that incurred by the Federal government in managing the fishery (including enforcement).

This rule contains a collection of information requirement for purposes of the Paperwork Reduction Act; this collection relates to the permit requirement for trap fishermen. OMB has approved this data collection package.

The coastal zone management offices for each State adjoining the Gulf of Mexico (except Texas, which does not have an approved program under the Coastal Zone Management Act), were provided copies of a consistency determination on March 18, 1983, pursuant to 15 CFR 930.39. That determination concluded that, to the maximum extent practicable, the FMP is consistent with the applicable provisions of the coastal zone management programs of those States.

No responses were received from Alabama or Louisiana within 45 days; hence it is presumed under 15 CFR 930.41(a) that those States agree with the consistency determination. Mississippi agreed on May 4, 1983 that the FMP was consistent with the State's CZMP. Florida requested additional materials and time to review the consistency determination; those materials were provided and extensions of 15 and 45 days were granted to complete the review. Subsequently, Florida disagreed with the consistency determination. Florida's comments are discussed above. NOAA has concluded that, to the maximum extent practicable, the FMP is consistent with the coastal zone management programs of the affected States.

In accordance with 5 U.S.C. 553(d), these final rules will become effective on November 8, 1984, except for §§ 641.4 and 641.6 which will take effect on November 23, 1984. The effective date of these latter provisions is being delayed to enable trap fishermen to comply with § 641.4(b) which requires fish trappers to submit a permit application 45 days in advance of the desired effective date of the permit.

#### List of Subjects in 50 CFR Part 641

Fish, Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: October 2, 1984.

Joseph W. Angelovic,  
Deputy Assistant Administrator for Science and Technology.

For the reasons set out in the preamble, Chapter VI of 50 CFR is amended by adding a new Part 641, to read as follows:

### PART 641—REEF FISH FISHERY OF THE GULF OF MEXICO

#### Subpart A—General Provisions

##### Sec.

- 641.1 Purpose and scope.
- 641.2 Definitions.
- 641.3 Relationship to other laws.
- 641.4 Permits.
- 641.5 Recordkeeping and reporting requirements. [Reserved]
- 641.6 Vessel and gear identification.
- 641.7 Prohibitions.
- 641.8 Facilitation of enforcement.
- 641.9 Penalties.

#### Subpart B—Management Measures

- 641.20 Fishing year.
- 641.21 Harvest limitations.
- 641.22 Area limitations.
- 641.23 Size and incidental catch restrictions.
- 641.24 Gear limitations.
- 641.25 Effort limitations.
- 641.26 Specifically authorized activities.

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

#### Subpart A—General Provisions

##### § 641.1 Purpose and scope.

(a) The purpose of this part is to implement the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico, prepared by the Gulf of Mexico Fishery Management Council under the Magnuson Act.

(b) This part regulates fishing for reef fish by persons on fixed structures and fishing vessels of the United States within the Gulf of Mexico portion of the FCZ.

##### § 641.2 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 meanings:

*Authorized officer* means:

- (a) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;
- (b) Any 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 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.

**Fish trap** means any trap and the component parts thereof used for or capable of taking finfish, regardless of the construction material, except those traps historically used in the directed fisheries for crustaceans (blue crab, stone crab, and spiny lobster).

**Fishery conservation zone** 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; and

(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 snout to the rear center edge of the tail (caudal fin).

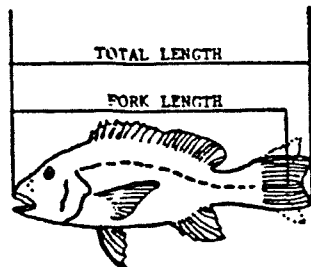


Figure 1. Illustration of fork length and total length measurement

**Headboat** means any fishing vessel operated by a master and crew which carries seven or more persons who fish for a fee.

**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 subject to the authority of the Gulf of Mexico Fishery Management Council.

**NMFS** means the National Marine Fisheries Service.

**Official number** means the documentation number issued by the U.S. Coast Guard or the registration number issued by a State or the U.S. Coast Guard for undocumented vessels.

**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 fishing 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;

(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; or

(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), corporate, 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.

**Powerhead** means any device with an explosive charge, usually attached to a speargun, spear, pole, or stick, which fires a projectile upon contact.

**Reef fish** refers to fish in the following two categories:

(a) **Management unit**—species in the directed fishery include the following:

**Snappers—Lutjanidae Family**

Queen snapper, *Etelis oculatus*  
Mutton snapper, *Lutjanus analis*  
Schoolmaster, *Lutjanus apodus*  
Blackfin snapper, *Lutjanus buccanella*  
Gulf red snapper, *Lutjanus campechanus*  
Cubera snapper, *Lutjanus cyanopterus*  
Gray (mangrove) snapper, *Lutjanus griseus*  
Dog snapper, *Lutjanus jocu*  
Mahogany snapper, *Lutjanus mahogoni*  
Lane snapper, *Lutjanus synagris*  
Silk snapper, *Lutjanus vivanus*  
Yellowtail snapper, *Ocyurus chrysurus*  
Wenchman, *Pristipomoides aquilonaris*  
Voraz, *Pristipomoides macrophthalmus*

Vermilion snapper, *Rhomboplites aurorabens*

**Groupers—Serranidae Family**

Rock hind, *Epinephelus adscensionis*  
Speckled hind, *Epinephelus drummondhayi*  
Yellowedge grouper *Epinephelus flavolimbatus*  
Red hind, *Epinephelus guttatus*  
Jewfish, *Epinephelus itajara*  
Red grouper, *Epinephelus mario*  
Misty grouper, *Epinephelus mystacinus*  
Warsaw grouper, *Epinephelus nigritus*  
Snowy grouper, *Epinephelus niveatus*  
Nassua grouper, *Epinephelus striatus*  
Black grouper, *Mycteroperca bonaci*  
Yellowmouth grouper, *Mycteroperca interstitialis*  
Gag, *Mycteroperca microlepis*  
Scamp, *Mycteroperca phenax*  
Yellowfin grouper, *Mycteroperca venosa*

**Sea Basses—Serranidae Family**

Southern sea bass, *Centropristis melano*  
Bank sea bass, *Centropristis ocyurus*  
Rock sea bass, *Centropristis philadelphica*

(b) **Fishery**—species in the reef fishery that are taken incidental to the directed fishery for reef fish includes the following:

**Tilefishes—Branchiostegidae Family**

Great northern tilefish, *Lopholatilus chamaeleonticeps*  
Tilefish, *Caulolatilus* spp.

**Jacks—Carangidae Family**

Amerjacks, *Seriola* spp.

**Triggerfishes—Balistidae Family**

Gray triggerfish, *Balistes capriscu*

**Wrasses—Labridae Family**

Hogfish, *Lachnolaimus aximus*

**Grunts—Haemulidae Family**

Tomtate, *Haemulon aurolineatum*  
White grunt, *Haemulon plumieri*  
Pigfish, *Orthopristis chrysoptera*

**Porgies—Sparidae Family**

Grass porgy, *Calamus arctifrons*  
Jolthead porgy, *Calamus bajonado*  
Knobbed porgy, *Calamus nodosus*  
Littlehead porgy, *Calamus proridens*  
Pinfish, *Lagodon rhomboides*  
Red porgy, *Pagrus sedecim*

**Sand Perches—Serranidae Family**

Dwarf sand perch, *Diplectrum bivittatum*  
Sand perch, *Diplectrum formosum*

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

**Roller trawl** means a trawl net equipped with rollers on a separate cable or line with spaces connecting the cable or line to the footrope, which makes it possible to fish the gear over rough bottom, i.e., in areas unsuitable for fishing conventional shrimp trawls. Ridg framed trawls adapted for

shrimping over uneven bottom, and in wide use along the west coast of Florida, are not considered roller trawls.

*Secretary* means the Secretary of Commerce or a designee.

*Total length* means the distance from the tip of the snout to the furthestmost tip of the tail (caudal fin) depressed. (See Figure 1.)

*U.S.-harvested fish* means fish caught, taken or harvested by U.S. citizens on fixed structures and vessels of the United States within any 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 and measuring less than 5 net tons; or
- (c) Any vessel numbered under the Federal Boat Safety Act of 1971 and used exclusively for pleasure.

#### § 641.3 Relationship 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 or enforcement may be performed by authorized State personnel under cooperative agreements entered into by the State, the U.S. Coast Guard, and the Secretary.

#### § 641.4 Permits.

(a) *Applicability.* Fishing vessels from which fish traps are deployed and individuals fishing with fish traps from fixed structures are required to obtain a permit.

(b) *Application for permit.* An application for a fish trap permit must be submitted and signed by the owner or operator of the vessel or by the person fishing traps from a structure. The application must be submitted to the Regional Director 45 days prior to the date on which the applicant desires to have the permit made effective.

(1) Permit applicants fishing from vessels must provide all the following information:

(i) Name, mailing address including zip code, and telephone number of the owner of the vessel;

(ii) Name of the vessel;

(iii) The vessel's official number;

(iv) Home port or principal port of landing, gross tonnage, radio call sign, and length of the vessel;

(v) Engine horsepower and year the vessel was built;

(vi) Approximate fish hold capacity of the vessel;

(vii) Number, dimensions and estimated cubic volume of the fish traps that will be fished;

(viii) Any other information concerning vessel and gear characteristics requested by the Regional Director; and

(ix) A statement that the applicant will allow authorized officers reasonable access to his property (vessel and dock) to inventory fish traps for compliance with these regulations.

(2) Applicants fishing from fixed structures must provide the following information:

(i) Applicant's name, mailing address, and telephone number;

(ii) Name and number of the oil or gas structure or the most descriptive identification for other types of structures;

(iii) Approximate location of the structure in miles offshore and direction from principal port or latitude and longitude of the structure;

(iv) Number, dimensions, and estimated cubic volume of the fish traps that will be fished; and

(v) A statement that the applicant will allow authorized officers reasonable access to his property (structure) to inventory fish traps for compliance with these regulations.

(3) Any change in the information specified in paragraph (b) of this section must be submitted in writing to the Regional Director by the permit holder within 15 days of any such change. Failure to notify the Regional Director of any change in the required information will result in a rebuttable presumption that the information is still accurate and current.

(c) *Issuance.* Except as provided in Subpart D of 15 CFR Part 904, the Regional Director will issue a permit and numbered tag(s) to the applicant not later than 30 days from the date of receipt of a completed application and will designate a color code to be used for identification of vessels fishing fish traps and buoys used by such vessels.

(d) *Fees.* No fee will be assessed for any permit issued under this section.

(e) *Duration.* Permits will remain valid unless revoked, suspended, or modified pursuant to Subpart D of 15 CFR Part 904.

(f) *Transfer.* A permit issued under this section is not transferable or assignable. A permit is valid only for the fishing vessel and owner, or the person fishing traps from a structure, for which it is issued.

(g) *Display.* A permit issued under this section must be carried on board the fishing vessel or on the fixed structure at all times. The operator of a fishing vessel, or the person fishing fish traps

from a structure, must present the permit for inspection upon request of any authorized officer.

(h) *Sanctions.* Procedures governing permit sanctions and denials are found at Subpart D of 15 CFR Part 904.

(Approved by the Office of Management and Budget under OMB control number 0648-0097)

#### § 641.5 Recordkeeping and reporting requirements. [Reserved]

#### § 641.6 Vessel and gear identification.

(a) Vessels and fixed structures from which fish traps are fished must identify, in conformance with this paragraph, the vessel or structure, fish traps and buoys by the number and/or color code designated by the Regional Director under § 641.4(c) of this part.

(1) *Vessels or structures.* Vessels or structures must permanently and conspicuously display the permit number and the color code designated by the Regional Director under § 641.4(c) of this part in a manner as to be readily identifiable from the air and water; such color representation must be in the form of a circle at least 20 inches in diameter and the permit number must be at least 10 inches high.

(2) *Fish traps.* Each fish trap must have affixed to it permanently a metal or plastic identification tag supplied by the Regional Director, which displays the assigned permit and fish trap number.

(3) *Buoys.* Each fish trap, or the opposite ends of a string of fish traps, must be marked by a floating buoy or by a buoy designed to be submerged and automatically released. All buoys used to mark fish traps must display the designated color code and permit number so as to be easily distinguished, located, and identified.

(b) Fish traps fished in the FCZ will be presumed to be the property of the most recently documented owner. This presumption will not apply with respect to reef fish traps which are lost or sold if the owner of such traps reports the loss or sale within 15 days to the Regional Director.

(c) Unmarked reef fish traps deployed in the FCZ are illegal and may be disposed of in any appropriate manner by the Secretary (including an authorized officer). If owners of the unmarked traps can be ascertained, those owners remain subject to appropriate civil penalties.

#### § 641.7 Prohibitions.

It is unlawful for any person to:

(a) Fish for reef fish with fish traps without a valid permit, as required by § 641.4;



(b) Fish for reef fish with fish traps without a valid permit number, or possess on board a fishing vessel (or structure) unmarked fish traps or buoys, or falsify, or fail to affix and maintain vessel (or structure) or gear markings as required by § 641.6;

(c) Pull or tend fish traps except during the hours specified in § 641.21(a);

(d) Tend, open, pull, or otherwise molest or have in one's possession aboard a fishing vessel another person's fish traps except as provided in § 641.21(b);

(e) Use powerheads to fish for reef fish or use fish traps or roller trawls in the stressed area, as specified in § 641.22;

(f) Possess red snapper under the minimum size limit specified in § 641.23(a), except as specified in § 641.23(b);

(g) Possess red snapper in the FCZ, or land red snapper taken from the FCZ, without the head and fins intact as specified in § 641.23(c);

(h) Fish for reef fish with poisons or explosives, as specified in § 641.24(a);

(i) Fish with fish traps in the FCZ in areas other than the stressed area unless such traps are constructed as specified in § 641.24(b);

(j) Fish in the FCZ with more than 200 fish traps per vessel, as specified in § 641.25;

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

(l) Fail to comply immediately with enforcement and boarding procedures specified in § 641.8;

(m) Refuse to permit an authorized officer to board a fishing vessel subject to such person's control or to come onto a structure 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;

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

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

(p) 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;

(q) Transfer directly or indirectly, or attempt to so transfer, any U.S.-harvested reef 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 reef fish; or

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

#### § 641.8 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 communicating 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 may be dropped 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, radiotelephone, 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 radiotelephone 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 man rope 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 radiotelephone. 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 necessity for the vessel to stop instantly.

(1) "AA repeated." (-.-) <sup>1</sup> is the call to an unknown station. The operator of the signaled vessel should respond by identifying the vessel by radiotelephone or by illuminating the vessel's identification.

(2) "RY-CY" (-.-.-.-) 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" (...-.-.-) means "you should stop or heave to; I am going to board you."

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

#### § 641.9 Penalties.

Any person or fishing vessel found to be in violation of this part will be 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

##### § 641.20 Fishing year.

The fishing year for reef fish begins on January 1 and ends on December 31.

##### § 641.21 Harvest limitations.

(a) Reef fish traps may be pulled or tended only during the period from

<sup>1</sup>(.) means a short flash of light.

<sup>2</sup>(-) means a long flash of light.

official (civil) sunrise to official (civil) sunset.

(b) Reef fish traps may be tended only by persons (other than authorized officers) aboard the fish trap owner's vessel(s), or aboard another vessel if

such vessel has on board written consent of the fish trap owner.

**§ 641.22 Area limitations.**

The stressed area is that portion of

the management area which is enclosed by the inner boundary of the FCZ and the discontinuous line connecting the points of latitude and longitude listed in Table 1 (also see Figure 2).

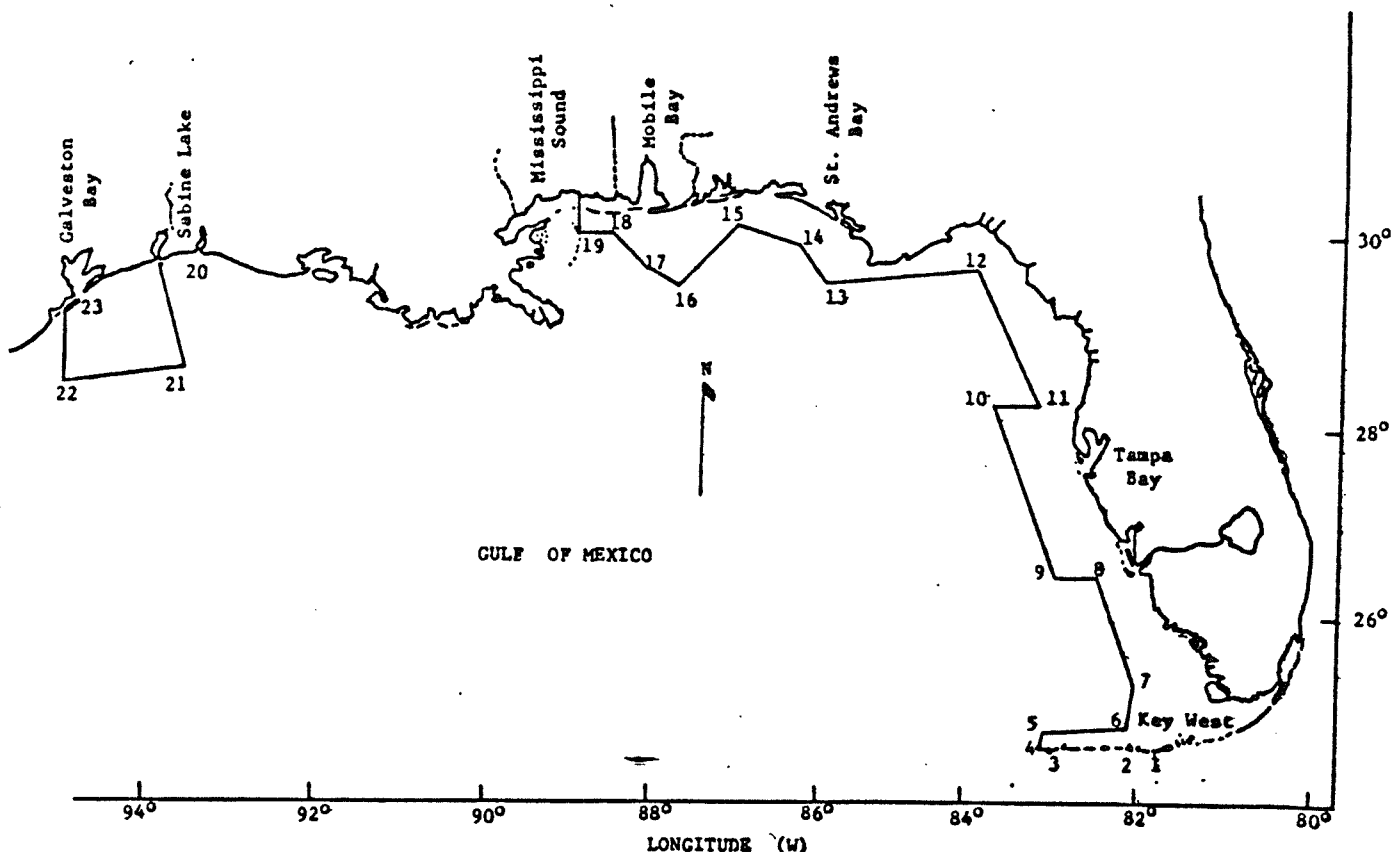


FIGURE 2. MAP OF THE STRESSED AREA.

(a) The stressed area is closed to the use of powerheads for the taking of reef fish in the management unit. The possession of a powerhead and mutilated reef fish from the management unit while in the stressed area will constitute *prima facie* evidence that reef fish were taken with a powerhead in the stressed area.

(b) The stressed area is closed to the use of roller trawls and fish traps. Fish traps in the stressed area will be considered unclaimed or abandoned property and may be disposed of according to § 641.8(c).

**§ 641.23 Size and incidental catch restrictions.**

(a) The minimum size limit for the possession of red snapper harvested in the FCZ is 12 inches fork length (13 inches total length), except as specified in paragraph (b) of this section.

(b) *Exceptions.* (1) An incidental catch of five red snappers under 12 inches fork length (13 inches total length) per person per trip is allowed.

(2) Persons fishing from headboats in the FCZ are exempt from the minimum size limit and incidental catch limit for red snapper until May 8, 1986.

(3) Persons lawfully fishing with trawls from domestic vessels in the FCZ

are exempt from the minimum size limit for red snapper.

(c) All red snapper harvested in the FCZ must be landed with the head and fins intact.

**§ 641.24 Gear limitations.**

(a) Poisons or explosives may not be used in the taking of reef fish in the management unit; however, explosives in powerheads may be used outside the stressed area.

(b) Fish traps fished in the FCZ are subject to the following requirements and limitations:

(1) Fish traps are required to have panels or access door-hinging devices and door fasteners which will degrade

or self-destruct and which must be constructed of one of the following degradable materials: (i) Untreated hemp, jute, or cotton string of 3/16-inch diameter or smaller; (ii) magnesium alloy, time float releases (pop-up devices) or similar magnesium alloy fasteners; or (iii) ungalvanized or uncoated iron wire at 0.055-inch diameter or smaller;

(2) The opening covered by the degradable panel or access door must be 144 square inches or larger, with one dimension of the area equal to or larger

than the largest interior axis of the trap's throat (funnel) with no other dimension less than 6 inches;

(3) One degradable panel or access door must be located opposite each of the sides of the trap that has a funnel;

(4) Effective November 8, 1985, the minimum mesh size for all fish traps within the FCZ will be 1x2 inches, and a minimum of two 2x2-inch escape windows will be required on each of two sides of the trap; and

(5) The maximum allowable size for fish traps fished in the FCZ shoreward

of the 50-fathom isobath (300-foot contour) is 33 cubic feet in volume. There is no size limitation for fish traps fished seaward of the 50-fathom isobath.

**§ 641.25 Effort limitations.**

The maximum number of fish traps that may be fished by a vessel in the FCZ is 200.

**§ 641.26 Specifically authorized activities.**

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

TABLE 1.—POINTS FOR THE DISCONTINUOUS LINE DELINEATING THE STRESSED AREA

| Point No.   | Reference location <sup>1</sup>     | Latitude (North) | Longitude (West) | Loran C coordinates <sup>2</sup> |         |         |         |
|---|-------------------------------------|------------------|------------------|----------------------------------|---------|---------|---------|
|   |                                     |                  |                  | W                                | X       | Y       | Z       |
| Starting at the mainland of Florida at the Dade/Monroe county line and proceeding down the Florida Keys island chain (as delineated by the highway U.S. Route 1) to the following points: |                                     |                  |                  |                                  |         |         |         |
| 1   | Key West                            | 24°33.0'         | 81°48.0'         |                                  |         |         |         |
| 2   | Marquesas Key                       | 24°35.0'         | 82°06.2'         | 13927.8                          | 30238.2 | 43654.2 | 62655.1 |
| 3   | Gulf/South Atlantic Boundary        | 24°35.0'         | 83°00.0'         | 13884.5                          | 30189.2 | 43748.8 | 62726.6 |
| 4   | Tortugas Bank South                 | 24°36.0'         | 83°06.0'         | 13768.5                          | 29992.2 | 44049.2 | 62941.1 |
| 5   | Tortugas Bank North                 | 24°44.0'         | 83°04.0'         | 13753.4                          |         | 44084.4 | 62965.5 |
| 6   | West of Smith Shoal                 | 24°48.0'         | 82°06.5'         | 13772.3                          |         | 44067.4 | 62960.3 |
| 7   | Off Cape Sable                      | 24°15.0'         | 82°02.0'         | 13915.1                          |         | 43760.2 | 62727.7 |
| 8   | Off Sanibel Island (Inshore)        | 26°26.0'         | 82°29.0'         | 13974.7                          |         | 43759.8 | 62704.9 |
| 9   | Off Sanibel Island (Offshore)       | 26°26.0'         | 82°29.0'         | 14060.3                          |         | 43117.4 | 62824.3 |
| 10  | Off Anclote Keys (Offshore)         | 26°26.0'         | 82°59.0'         | 13990.0                          |         | 43347.6 | 62970.7 |
| 11  | Off Anclote Key (Inshore)           | 26°10.0'         | 83°45.0'         | 14145.8                          |         | 45328.0 | 63266.6 |
| 12  | Off Deadman Bay                     | 26°10.0'         | 83°14.0'         | 14224.3                          |         | 45092.0 | 63066.4 |
| 13  | SW of Cape San Blas                 | 29°38.0'         | 84°00.0'         | 14412.4                          |         | 45167.7 | 63442.2 |
| 14  | Off St. Andrews Bay                 | 29°30.5'         | 85°52.0'         | 13873.2                          |         | 46702.0 | 63976.2 |
| 15  | Desoto Canyon                       | 29°53.0'         | 86°10.0'         | 13816.5                          |         | 46922.3 | 64050.8 |
| 16  | Alabama/Florida line                | 30°06.0'         | 86°55.0'         | 13434.6                          |         | 47045.8 |         |
| 17  | Off Mobile Bay                      | 29°34.5'         | 87°38.0'         | 12971.5                          | 30600.6 | 46886.0 |         |
| 18  | Mississippi/Alabama line            | 29°41.0'         | 88°00.0'         | 12766.5                          | 29841.2 | 46930.9 |         |
| 19  | Chandeleur Islands                  | 30°01.5'         | 88°23.7'         | 12537.8                          | 29697.7 | 47029.3 |         |
|   | Closing at the Mississippi Mainland | 30°01.5'         | 88°51.0'         | 12262.0                          | 29422.2 | 47028.6 |         |
|   |                                     | 30°23.4'         | 88°51.0'         | and                              |         |         |         |
| Starting at the west bank of Sabine Pass, Texas to the following points:  |                                     |                  |                  |                                  |         |         |         |
| 20  | Sabine Pass                         |                  |                  |                                  |         |         |         |
| 21  | Texas/Louisiana line, south         | 29°39.0'         | 93°49.5'         | 11027.8                          | 26367.1 | 46966.6 |         |
| 22  | Off Galveston Island                | 28°38.0'         | 93°32.0'         | 11139.4                          | 26220.7 | 46815.1 |         |
| 23  | Off Galveston Island                | 28°28.0'         | 95°00.0'         | 11086.2                          | 25308.9 | 46817.0 |         |
|   |                                     | 29°09.5'         | 95°00.0'         | 11036.9                          | 25551.4 | 46909.0 |         |

<sup>1</sup>Nearest identifiable landfall, boundary, navigation aid or submarine area.

<sup>2</sup>Loran coordinates are provided to aid the fishermen affected by the measures and are subject to local variations due to atmospheric conditions, therefore, are not used as part of the legal description of the stressed area.

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44117.4  
44347.6