

be imported. Only persons who are incorporated, licensed, or doing business in the United States may be principal importers.

(6) "Process for commercial purposes" means the preparation of a chemical substance or mixture, after its manufacture, for distribution in commerce with the purpose of obtaining an immediate or eventual commercial advantage for the processor. Processing of any amount of a chemical substance or mixture is included. If a chemical or mixture containing impurities is processed for commercial purposes, then those impurities are also processed for commercial purposes.

(7) "Small quantities solely for research and development" (or "small quantities solely for purposes of scientific experimentation or analysis or chemical research on, or analysis of, such substance or another substance, including such research or analysis for the development of a product") means quantities of a chemical substance manufactured, imported or processed or proposed to be manufactured, imported or processed solely for research and development that are not greater than reasonably necessary for such purposes.

(8) "Technically qualified individual" means a person or persons: (i) Who, because of education, training, or experience, or a combination of these factors, is capable of understanding the health and environmental risks associated with the chemical substances which are used under his or her supervision, (ii) who is responsible for enforcing appropriate methods of conducting scientific experimentation, analysis, or chemical research to minimize such risks, and (iii) who is responsible for the safety assessments and clearances related to the procurement, storage, use, and disposal of the chemical substances as may be appropriate or required within the scope of conducting a research and development activity.

(9) "Metalworking fluid" means a liquid of any viscosity or color containing intentionally added water and is used in machining operations for the purpose of cooling or lubricating.

(c) *Persons who must report.* Any person who intends to manufacture, import (other than as part of an article), or process the substance listed in paragraph (a) of this section for the significant new uses defined in that paragraph must submit a notice to the EPA Office of Toxic Substances in Washington, D.C. under the provisions of section 5(a)(1)(B) of TSCA and this section. Any notice of import must be submitted by the principal importer.

(d) *Notice requirements and*

procedures. Each person who is required to submit a significant new use notice under this section must submit the notice at least 90 calendar days before commencing an activity with respect to that use. The submitter must comply with any applicable requirement of section 5(b) of TSCA, and the notice must include the information and test data specified in section 5(d)(1).

(e) *Exemptions and exclusions.* The chemical substances and categories of chemical substances listed in Subpart B of this Part are not subject to the notification requirements of this Part if they meet any of the applicable exemption requirements of TSCA section 5(h), including the exemptions of subsection 5(h)(1) for test marketing substances and subsection 5(h)(3) for substances manufactured only in small quantities solely for research and development.

(f) *Enforcement.* (1) Failure to comply with any provision of this part is a violation of TSCA section 15 (15 U.S.C. 2614).

(2) Using for commercial purposes a chemical substance or mixture which a person knew or had reason to know was manufactured, processed, or distributed in commerce in violation of a Significant New Rule is a violation of section 15 of TSCA (15 U.S.C. 2614).

(3) Failure or refusal to permit access to or copying of records, as required by TSCA, is a violation of TSCA section 15 (U.S.C. 2614).

(4) Failure or refusal to permit entry or inspection, as required by TSCA section 11, is a violation of section 15 of TSCA (15 U.S.C. 2614).

(5) Violators may be subject to the civil and criminal penalties in TSCA section 16 (15 U.S.C. 2615) for each violation. Persons who submit materially misleading or false information in connection with the requirement of any provision of a Significant New Use Rule may be subject to penalties calculated as if they never filed their notices.

(6) EPA may seek to enjoin the manufacture or processing of a chemical substance in violation of a Significant New Use Rule or act to seize any chemical substance manufactured or processed in violation of a Significant New Use Rule or take other actions under the authority of TSCA section 7 or 17 (15 U.S.C. 2606 or 2616).

[FR Doc. 83-23199 Filed 8-23-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 78-72; Phase III]

MTS and WATS Market Structure; Establishment of Physical Connections and Through Routes Among Carriers, et al.; Order Extending Time for Filing Comments

Correction

In FR Doc. 83-22427, appearing on page 37235, in the issue of Wednesday, August 17, 1983, the CFR heading should read as it appears above.

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 210

[Docket No. RNE-2; Notice No. 1]

Railroad Noise Emission Compliance Regulations

Correction

In FR Doc. 83-21711 beginning on page 36487 in the issue of Thursday, August 11, 1983, make the following corrections:

- On page 36492, in the table:
 - (1) Wherever "L₆₀" appears (six places), it should read "L₇₀";
 - (2) In the 3rd, 4th, and 5th columns, the seventh line should be even with the twelfth line in the 2nd column;
 - (3) In the second column, sixteenth line, "Rail Care" should read "Rail Cars"; and
 - (4) In the 3rd, 4th, and 5th columns, fifteenth line should be even with the twenty-third line of the 2nd column.

BILLING CODE 1505-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 641

[Docket No. No. 30623-113]

Reef Fish Fishery of the Gulf of Mexico

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

ACTION: Proposed rule and notice of availability of plan.

SUMMARY: The Assistant Administrator for Fisheries, NOAA, has initially approved the Fishery Management Plan

for the Reef Fish Resources of the Gulf of Mexico (FMP). NOAA announces that copies of the FMP are available, issues this proposed rulemaking to implement the FMP, and requests comments on the FMP and implementing regulations. The FMP and proposed implementing regulations would: (1) Establish limitations on the use of certain gear in specified fishing areas, (2) establish construction requirements and maximum size and numerical limits for fish traps, (3) require those using fish traps to obtain permits and mark their vessels and gear, (4) establish a minimum size limit for red snapper, and (5) prohibit the taking of reef fish with poisons or explosives. The regulations are designed to rebuild the declining reef fish stocks.

DATES: Comments on FMP and proposed rule must be received on or before October 11, 1983.

ADDRESS: Comments and requests for copies of the FMP and the regulatory impact review/initial regulatory flexibility analysis should be sent to Jack T. Brawner, Regional Director, Southeast Region, National Marine Fisheries Service (NMFS), 9450 Koger Boulevard, St. Petersburg, Florida 33702.

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

SUPPLEMENTARY INFORMATION: The Assistant Administrator for Fisheries, NOAA (Assistant Administrator) approved the Fishery Management Plan for Reef Fish Resources of the Gulf of Mexico (FMP) on June 3, 1983, under the authority of the Magnuson Fishery Conservation and Management Act, as amended (Magnuson Act). These proposed regulations implement the FMP which was prepared by the Gulf of Mexico Fishery Management Council (Council).

The FMP addresses the reef fish resources through out the fishery conservation zone (FCZ) in the Gulf of Mexico (Gulf). The reef fish fishery generally has targeted on numerous species of grouper, snapper, and sea bass. Certain tilefish, amberjacks, triggerfish, hogfish, grunts, porgies, and sand perches are taken incidental to directed fishing effort. Historically, the fishery has been conducted within waters shallower than 100 fathoms, the approximate outer edge of the continental shelf in the Gulf. The Gulf reef fish fishery began in northern Florida in the early 1850's and gradually expanded with the introduction of larger vessels and improved ice-making technology. The chief target of this hook and line fishery was the red snapper. Because of the strong demand for red snapper, the fishery spread throughout

the Gulf and into Mexican waters. Grouper and other related species that were originally sold as low value, incidental catch became more important as red snapper catches stabilized.

Commercial reef fish landings in the Gulf from 1957-1976 ranged from 16 million pounds (1958) to a maximum of 24.7 million pounds in 1965. Since the early 1970's, landings have been relatively stable at about 17-18 million pounds. The value has increased steadily over the period 1957-1976 and peaked at \$10.6 million in 1976. In 1974 there were an estimated 1,705 commercial fishermen in the fishery, with Florida residents accounting for over half that number. Residents of all five Gulf States are represented in the fishery. The dominant gear is baited hooks on lines operated with manual or electric reels. Information received since the FMP was prepared indicates the number of hook-and-line vessels increased by 58 percent between 1970 and 1977. Additional commercial effort is expected as U.S. vessels are forced to leave foreign waters (e.g., Mexico). In light of this increased effort, commercial and recreational catches of red snapper have declined appreciably since 1975.

Shrimp trawlers capture reef fish as an incidental catch. About four percent of the reef fish landings are by shrimpers but only the larger, more valuable fish are retained; the rest are discarded at sea, few of which survive.

The trap fishery is conducted in the Gulf primarily off the west coast of Florida. The use of this gear has been a minor component of the fishery during the 1960's and 1970's. Fishermen in other fisheries (e.g., stone crab fishery) began to diversify and use baited, wire fish traps as energy-efficient harvesting devices in response to changing economic conditions (e.g., rapidly rising vessel fuel costs). This shift in gear-use provoked strong opposition from commercial hook-and-line fishermen and recreational fishermen who claimed interference with their accustomed fishing activities, depletion of reef fish populations, and damage to reef habitat. Recent studies indicate traps are generally set adjacent to, rather than on reefs, thus minimizing physical damage to the reef environment. Trap fishing can be highly efficient when traps are emptied and rebaited every few days.

Recently, some fishermen have begun to use longlines with many baited hooks which are fished on the bottom. Also, some vessels operating in areas of irregular bottom equip their trawls with large rollers that allow a trawl to harvest fish despite such obstructions. These relatively new elements of the fishery are undoubtedly contributing

additional pressure of those species already experiencing some degree of overfishing.

The recreational fishery normally occurs in nearshore waters due to the limited capacity of recreational boats to withstand offshore sea conditions and the longer time and additional fuel required to make more distant fishing trips. Reef fish are a major target of charter boats and party or head boats. Such boats are an integral part of the recreational and tourism industries, especially in Florida. From 50 to 95 percent of recreational fishermen fish for reef fish, depending on seasonal availability of other species such as tarpon or king mackerel. Information received since the FMP was prepared indicated that the number of recreational fishermen increased by 286 percent between 1970 and 1979.

As a result of analyses of records for U.S. commercial and recreational catches and the Cuban fishery that existed prior to 1977, the Council concluded that some snapper and grouper species are overfished in the nearshore waters and red snapper are overfished throughout the management area. The form of overfishing is "growth overfishing," which means that the fish are being harvested before reaching their optimum harvest size; this results in a decreased yield from the fishery. The causes are directed fishing by recreational fishermen, who are the primary users, commercial fishermen, and incidental catches in other fisheries. Many commercial fishermen have shifted their efforts into the offshore waters, beyond the range of most recreational vessels, in order to maintain profitable catches of large reef fish. The fish harvested by those commercial fishermen are generally of a size at or above that consistent with achieving maximum sustainable yield from the fishery. Except for red snapper, there is no growth overfishing in offshore waters.

Data that have been compiled by NMFS after the Council submitted the FMP indicate a further decline in reported catch of snappers. This trend suggests that growth overfishing has become more pronounced in recent years; however, there are sufficient adults in the population to provide for sustained reproduction and recruitment into the fishery.

The following comprise the FMP's management regime for the reef fish fishery in the Gulf.

1. Optimum Yield

The FMP establishes maximum sustainable yields (MSYs) and optimum

yields (OYs) only for reef fish taken in the directed fishery; these species are considered to be the management unit. Data were insufficient to allow specification of MSYs for reef fish taken incidentally in the directed fishery (e.g., tilefish, jacks, triggerfish, hogfish, grunts, porgies, and sand perches).

The FMP estimates MSY as 51 million pounds for all species of snapper and grouper combined, and 0.5 million pounds for sea basses (three species). The council established optimum yield (OY) for snappers and groupers at 45 million pounds, six million pounds less than MSY, with the intention that the management regime will facilitate the rebuilding of the inshore reef fish populations and eventually allow OY to be raised to the MSY level. The OY for sea bass is set equal to MSY because, given the limited information available, there was no reason to establish a different harvest level.

Snappers and groupers are treated as a unit because they occur together on the fishing grounds and are subject to capture by the recreational and commercial fishing gear historically and currently used. Identification by species is difficult and poorly documented in landings.

It is anticipated OY will be harvested by domestic fishermen; therefore, there is no surplus available for foreign fishing.

2. Prohibited Gear in Stressed Areas

Concentrated fishing occurs in certain areas, particularly the nearshore waters that are fished principally by recreational fishermen. The Council has designated these locations as stressed areas. Prohibition of the use of fish traps, roller trawls, and power heads in these areas to harvest reef fish is proposed to reduce fishing mortality on stocks in the stressed areas and, at the same time, to minimize the potential for conflicts among users in areas of concentrated effort.

Fish traps could seriously reduce the catch per unit effort for persons using traditional (hook-and-line) fishing gear and aggravate resource-user conflicts. Roller trawls have the potential to be highly effective for taking reef fish and are non-selective of species harvested. Prohibiting fish traps and roller trawls would prevent the imposition of relatively new fisheries with more efficient gear on stressed reef fish populations in nearshore waters. These prohibitions would help in rebuilding declining stocks only marginally, except in some areas such as off the south coast of Florida; however, the restrictions would prevent further decline in most of the overfished areas.

Power heads can selectively take the largest spawning individuals of many species. These large specimens do not constitute a significant portion of the harvest, but because fecundity increases with size the large individuals contribute relatively more to the spawning capacity of the stocks. Power heads are used almost exclusively by divers who dive in water depths not usually in excess of 50 to 100 feet, which generally is the water depth of the outer boundary of the stressed area. Hence, it is much more probable than not that a person in a stressed area with a power head and mutilated reef fish in his possession would have taken the reef fish in the stressed area, rather than in the deeper waters seaward of the stressed area. No prohibition is proposed on the use of power heads as a protection device against sharks and other predators; however, their use in taking reef fish in the stressed area will be prohibited.

3. Harvest Restrictions

The FMP prohibits, with certain exceptions, the possession of red snappers less than 12 inches in fork length. This size limitation will result in an estimated 14 to 32 percent increase in potential yield and some red snappers of this size will spawn before being harvested. This restriction will rebuild the red snapper population which has been identified as the major stressed species in the reef fish fishery. The minimum size requirement will be enforced by prohibiting the possession of undersized red snapper (subject to the exceptions specified below). The prohibition will apply to fishermen, processors, and dealers with respect to red snapper, without regard to where the undersized red snapper were taken. This prohibition is considered necessary and appropriate since very few red snapper are harvested in State waters and because it will permit dockside monitoring of the minimum size limit and eliminate the necessity for burdensome and expensive at-sea enforcement. Because such possession prohibitions are a relatively new type of measure under the Magnuson Act, public comment on this proposed measure is particularly encouraged.

The FMP provides three exceptions from the prohibition against possessing undersized red snapper. First, an allowance of five undersized fish is provided. This allowance will prevent waste of incidentally taken fish that are dead or will probably die. Second, vessels fishing trawls, with the exception of roller trawls in the stressed area, are exempt from the red snapper size limitation. This exception takes into

consideration the following factors: (a) Virtually all the vessels fishing trawls are not directed toward capture of reef fish, but take them incidentally; (b) reef fish are usually dead when taken by trawls and returning undersized red snapper to the water does not promote conservation; (c) some vessels (e.g., groundfish vessels) do not sort their catch at sea and may be in technical violation of a possession limit when landing the catch; and (d) because of the small size of the majority of specimens taken as incidental catch, they are not acceptable as human food. Third, imported red snapper will not be subject to the minimum size limit if accompanied by documentation indicating that such fish were harvested beyond the FCZ.

4. Gear Limitations and Requirements

The use of poisons or explosives is prohibited for the taking of reef fish except those explosives in power heads used outside the stressed area. This will prevent habitat damage and waste of reef fish.

Fish traps may be used in the FCZ beyond the stressed areas, providing that the applicable requirements have been met. All vessels fishing traps and all individuals fishing traps from fixed structures are required to have a permit issued by the Regional Director. The collection of information involved in the permit application process has been approved by the Office of Management and Budget (OMB) under the provisions of Paperwork Reduction Act and has been assigned the OMB control #0648-0097; the approval is effective through March 31, 1986. The vessels and structures must display the assigned number and color code. Each trap must have a tag, issued with the permit, permanently affixed. In addition, buoys must be identified by the assigned color code. This vessel and gear marking will be utilized by the NMFS as an identification and enforcement aid. All deployed gear not properly identified may be seized. It should be noted that not all the procedures required to administer the gear identification (number and color code) system have been developed. In the event that they are not developed in a timely manner, § 641.6 will be reserved in the final regulations.

Each vessel is limited to fishing a maximum of 200 traps in the FCZ, and those traps fished within the 300-foot contour are limited to a maximum volume of 33 cubic feet. These measures will allow for a viable commercial enterprise while providing a reasonable limitation on the total fishing effort in

waters that border the "stressed areas." Currently, vessels utilize around 25 fish traps; therefore, the limit of 200 traps have no initial impact on individual fishermen.

All fish traps must be equipped with a degradable panel or a door with a degradable hinging device. This will allow fish to escape from traps that have been abandoned or lost. One year after implementation of these regulations, all fish traps in use will be required to be constructed of a material with a mesh size of 1 inch \times 2 inches or larger, and to have a minimum of two 2 \times 2-inch escape windows on each of two sides of the trap.

The FMP requires that reef fish be harvested from traps only between sunrise and sunset and prohibits the pulling of another person's traps without the written consent of that person. These measures have been included to reduce conflicts within the fishery and to aid in the enforcement of the regulations.

5. Procedures for Modifying the Management Regime

The FMP contains two framework measures which permit modification of the management regime without having to amend the FMP. Both of these measures entail regulatory amendment, meaning that rules will be proposed and requisite regulatory, environmental,

and other analyses will be performed at the time that some change becomes appropriate.

(a) Modification of fishing gear measures

NMFS and the Council will periodically review and assess information which pertains to the selectiveness of and mortality associated with various mesh sizes of traps. NMFS and the Council will determine whether to implement regulations to adjust trap mesh size, or construction features, or both, when information demonstrates (1) a level of mortality occurring to reef fish which may adversely affect recruitment to the adult population; (2) a level of mortality to species taken incidentally to the directed fishery that may adversely limit the abundance of that species; (3) that the fishing effectiveness of traps is not adversely affected by larger meshes; or (4) that there is excessive mortality of juvenile fish confined in lost traps.

The NMFS and the Council will also monitor statistical information collected through implementation of the FMP and that provided from other surveys and research to assess the effect of each type of gear on reef fish stocks and reef habitat. NMFS and the Council will

determine whether additional regulations are necessary to correct the situation when information demonstrates: (1) The use of any gear is resulting in an increase in growth overfishing or may lead to recruitment overfishing; (2) an adverse impact on historical users of the resource; (3) persistent user-group conflicts; (4) excessive mortality of reef fish or species incidentally harvested to the directed fishery; (5) major destruction to reef habitat; or (6) that catch is expected to exceed OY before the end of the calendar year. These additional regulations may modify use of a gear; require changes in gear construction; limit the size and number of gear units that may be used; require permits and more detailed statistical information from participants using gear which has adverse effects on stocks; or prohibit the use of a gear from a specific area.

If modification of fishing gear measures becomes necessary on the basis of any of the criteria identified above, the Council Chairman may schedule meetings of the Advisory Panel and Scientific and Statistical Committee for advice. Public hearings will also be scheduled. If NMFS finds that the recommended modification is necessary, the Secretary of Commerce will propose rules to implement the modification.

(b) Adjustments when OY is exceeded

After the end of the fishing year, if analysis of catch data indicates that the harvest of reef fish exceeded OY, the Secretary will impose one or more management measures by regulatory amendment, following public hearings as appropriate. These measures may include size limits, bag limits, closed areas, and closure of the entire fishery to assure that OY is not exceeded in subsequent fishing years.

6. Statistical Reporting

Information is needed for effective management of the reef fish fishery. Currently, statistics on commercial landings are based only on data obtained through fish dealers. This method understates actual landings because it fails to account for that portion of the catch that is sold directly by fishermen and thus bypasses fish dealers. Another weakness of the present system is that effort data are collected by point of landing and do not identify areas fished. This makes it difficult to assess accurately the catch per unit of effort and the MSY for the U.S. fishery.

Obtaining complete, detailed biological, social, and economic data from each user would be prohibitively expensive. Therefore, NMFS is

developing a mandatory reporting system that utilizes sampling methods whenever a sample will provide adequate information. The Center Director, Southeast Fisheries Center, NMFS, Miami, Florida, will determine the appropriate number of individuals selected, the reporting interval, and the duration of reporting based on the data required for specific management needs.

Because this system has not been completely developed and forms have not yet been prepared, the proposed regulations reserve § 641.5, "Recordkeeping and reporting requirements." It is anticipated that the mandatory reporting system will be proposed as soon as sampling procedures and reporting forms are developed and approved. Those forms will be submitted on OMB for clearance under provisions of the Paperwork Reduction Act.

7. Fish Trap Abandonment Procedures

The regulations provide abandonment procedures for unmarked fish trap gear and for fish traps being fished in the "stressed area." These procedures authorize the disposition of the traps by the Secretary of Commerce or an authorized officer. The procedures supplement the procedures provided for seizure, forfeiture, and disposal in 50 CFR Part 219. Special characteristics of the trap fishery necessitate this additional method of abandonment and disposal of unmarked fish trap gear and traps being fished in the "stressed area." First, the traps are heavy and bulky, which makes them difficult to handle without proper equipment. Currently, this equipment is not available to law enforcement officers. Second, limited resources, both in terms of time and money, make it impracticable, if not impossible, for authorized enforcement officers to haul all illegal traps to shore and to store them for the one-year time period required by 50 CFR 219.29 before the traps can be destroyed. Finally, improper trap marking makes it difficult to determine ownership. The notification process of Part 219, therefore, cannot be effectively applied to the reef fish trap fishery. The procedure of abandonment and destruction provided in these regulations will discourage fishing with illegal fish trap gear.

Classification

The Assistant Administrator for Fisheries, NOAA, has determined that the FMP's management measures 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.

The adoption and implementation of the FMP is considered to be a major Federal action that will have a significant impact on the quality of the human environment under the National Environmental Policy Act and NOAA Directive 02-10. A draft environmental impact statement (EIS) was filed with the Environmental Protection Agency, and a notice of its availability was published on March 24, 1980.

The Administrator, NOAA, has determined that these proposed regulations are not major under Executive Order 12291. However, these regulations will have significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act. A regulatory impact review (RIR), which includes the requirements of an initial regulatory flexibility analysis, has been prepared. That document, summarized here, analyzes the expected benefits and costs of the regulatory action. Potential benefits are significantly greater than expected costs. Benefits are expected from increases in reef fish landings and in the productivity of vessels fishing reef fish. Benefits expected to accrue from the FMP include the prevention of overfishing and the conservation of the reef fish stocks in general and the red snapper stocks in particular. The latter will result from the 12-inch minimum size limit for red snapper and the possession limit of five fish less than 12 inches. This measure will allow the red snapper stocks to rebuild from past overfishing and increase the potential yield between 14 and 32 percent. Using 1981 exvessel value, the prevention of overfishing and conservation of the red snapper stock is estimated to be worth from \$4.1 to \$13.8 million to the commercial sector and an unknown but significant amount to the recreational sector over the next four years. 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 the cost incurred by the Federal government in managing the fishery (including enforcement). Compliance with the regulations will impose minimal burdens on the user groups since the FMP is designed to maintain the status quo in the fishery while allowing the stocks to rebuild.

Regulations presently being proposed contain a collection of information requirement for purposes of the Paperwork Reduction Act: this collection relates to the permit

requirement for trap fishermen. OMB has already approved this collection (see discussion under "4. Gear limitations and requirements." above). A comprehensive statistical reporting system contemplated by the FMP will not be implemented at this time. Prior to implementation of that system, forms will be submitted to OMB for approval.

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

List of Subjects in 50 CFR Part 641

Fish, Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: August 18, 1983.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

For the reasons set forth in the preamble, Chapter VI of 50 CFR is proposed to be 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 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 fishing vessels of the United States within that portion of the FCZ in the Gulf of Mexico.

§ 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 Commandant of the U.S. Coast Guard to enforce the provisions of the Magnuson Act; or

(d) Any U.S. Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

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 (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;

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

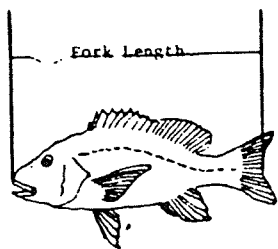


Figure 1. Method of measuring fork length

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), 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.

Power head 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 10 categories:

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

Snapper—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 mahagoni*
Lane snapper—*Lutjanus synagris*
Silk snapper—*Lutjanus vivanus*
Yellowtail snapper—*Ocyurus chrysurus*
Wenchman—*Pristipomoides aquilonaris*
Voraz—*Pristipomoides macrphthalmus*
Vermillion snapper—*Rhomboplites aurorubens*

Groupers—Serranidae Family

Rock hind—*Epinephelus adscensionis*
Speckled hind—*Epinephelus drummondhayi*
Yellowedge grouper—*Epinephelus flavilimbatus*
Red hind—*Epinephelus guttatus*
Jewfish—*Epinephelus itajara*
Red grouper—*Epinephelus maria*
Misty grouper—*Epinephelus mystacinus*
Warsaw grouper—*Epinephelus nigritus*
Snowy grouper—*Epinephelus niveatus*
Nassau grouper—*Epinephelus striatus*
Black grouper—*Mycteroperca bonaci*
Yellowmouth grouper—*Mycteroperca interstitialis*
Gag—*Mycteroperca microlepis*
Scamp—*Mycteroperca phenax*
Yellowfin grouper—*Mycteroperca venenosa*

Sea Basses—Serranidae Family

Southern sea bass—*Centropristis melana*
Bank sea bass—*Centropristis acyurus*
Rock sea bass—*Centropristis philadelphica*

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

Tilefishes—Branchiostegidae Family

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

Jacks—Carangidae Family

Amberjacks—*Seriola* spp.

Triggerfishes—Balistidae Family

Gray triggerfish—*Balistes capricus*

Wrasse—Labridae Family

Hogfish—*Lachnolaimus maximus*

Grunts—Haemulidae Family

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

Porgies—Sparidae Family

Grass porgy—*Calamus arcifrons*
Jolthead porgy—*Calamus bajonado*
Knobbed porgy—*Calamus nodosus*
Littlehead porgy—*Calamus pridents*
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 spacers 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. Rigid-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.

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

Vessels 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 fish traps from fixed structures are required to obtain a permit.

(b) *Application for permits*. 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) Applicant's 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.* 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.

(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.* Subpart D of 50 CFR Part 621 governs the imposition of sanctions against a permit issued under this section. As specified in Subpart D of that part, a vessel permit may be revoked, modified, or suspended if the permitted fishing vessel is used in the commission of an offense prohibited by the Magnuson Act or this part; or if a civil penalty or criminal fine imposed under the Magnuson Act, and pertaining to such a vessel, is not paid.

(Approved by the Office of Management and Budget under Control Number 0648-0097).

§ 641.5 Recordkeeping and reporting requirements. (Reserved)

§ 641.6 Vessels 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 issued by the Regional Director under § 641.4(c) of this part.

(1) *Vessels or structures.* Vessels or structures must permanently and conspicuously display the number and color code 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 identification 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 vessel (or structure) 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 after a certain time. All buoys used to mark fish traps must display the assigned color code so as to be easily distinguished, seen, and located.

(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 vessel (or structure) 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) Willfully 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 power heads 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 in the FCZ or land red snapper harvested from waters shoreward of the seaward delimitation of 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 in the FCZ in areas other than the stressed area with fish traps unless 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 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 owner or operator of any fishing vessel subject to this part shall immediately comply with instructions issued by an authorized officer to facilitate safe boarding and inspection of the vessel, its gear, equipment, fishing record, if any, and

for purposes of enforcing the Magnuson Act and this part.

(b) *Signals.* Upon being approached by a U.S. Coast Guard vessel or aircraft or other vessel or aircraft authorized to enforce the Magnuson Act, the operator of a fishing vessel shall be alert for signals conveying enforcement instructions. The VHF-FM

radiotelephone is the normal method of communicating between vessels. However, visual methods or loudhailer may be used if the radio does not work. The following signals, extracted from U.S. Hydrographic Office publication H.O. 102 International Code of Signals, may be communicated by flashing light or signal flags:

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

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

(3) "AA AA AA etc.", meaning "Call for unknown station or general call," to which the operator should respond by identifying his vessel by radio, visual signals, or illumination of his official number; and

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

(c) *Boarding.* The operator of a vessel signaled to stop or heave to for boarding must—

(1) Stop immediately and lay to or maneuver in such a way so as to permit the authorized officer and the boarding party to come aboard; and

(2) Provide a ladder, illumination, and safety line, and take other actions when necessary or requested by the authorized officer to facilitate boarding and inspection.

§ 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 620 (Citations), 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 official sunrise to official 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 shoreward of and encompassed by the discontinuous line connecting the points listed in Table 1 (also see Figure 2).

(a) The stressed area is closed to the use of powerheads for the taking of reef fish. The possession of a power head 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 power head 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 § 641.6(c).

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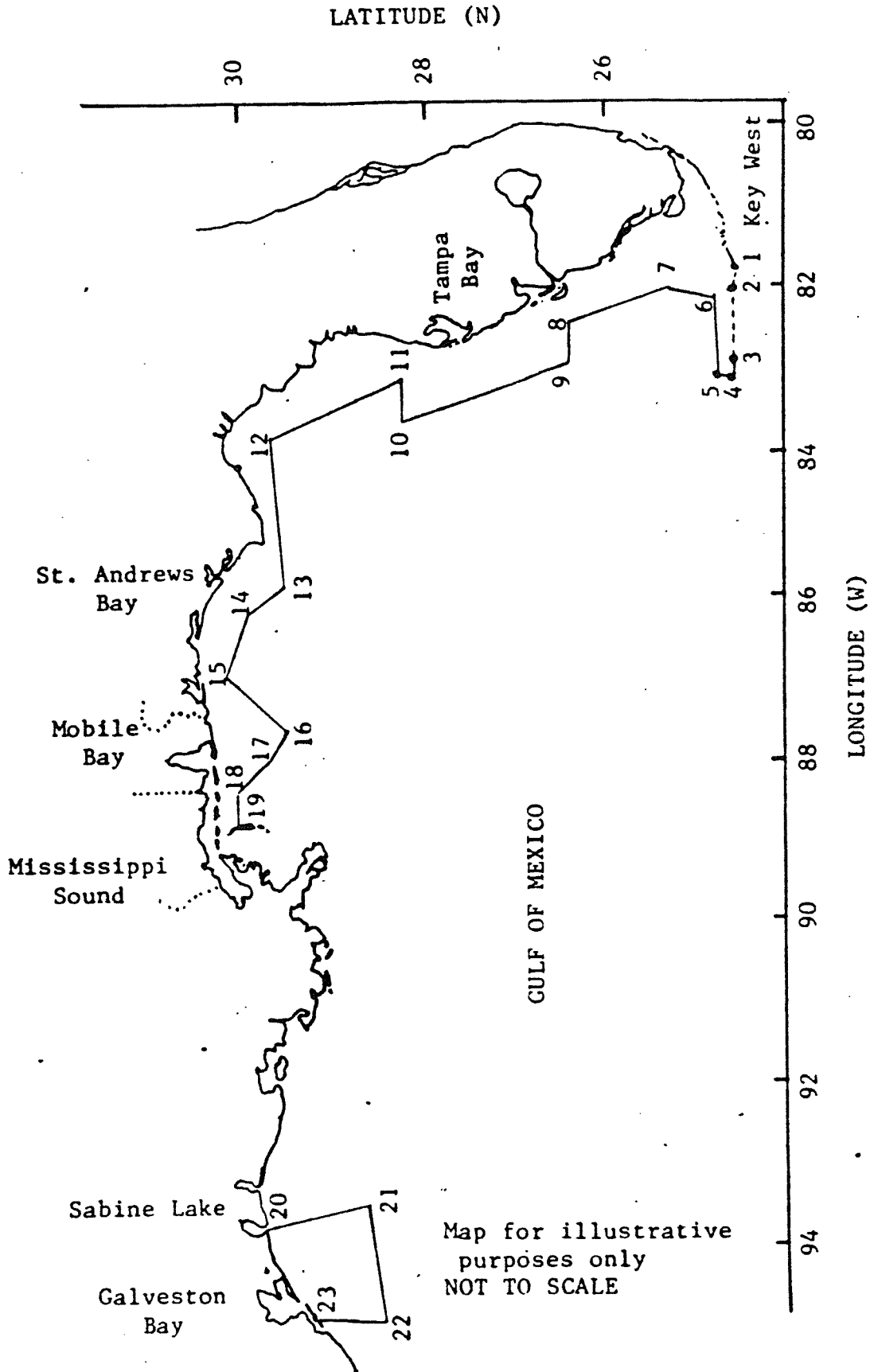
Table 1. Points for the Discontinuous Line Delineating the Stressed Area

Point No.	Reference Location ^{1/}	Latitude		Longitude		Loran C Coordinates ^{2/}		
		(North)	(West)	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°48.7'	13927.8	30238.2	43654.2	62655.1	
2	Marquesas Key	24°35.0'	82°06.2'	13894.5	30189.2	43748.8	62726.6	
3	Gulf/South Atlantic Boundary	24°35.0'	83°00.0'	13768.5	29992.2	44049.2	62941.1	
4	Tortugas Bank South	24°36.0'	83°06.0'	13753.4		44084.4	62965.5	
5	Tortugas Bank North	24°44.0'	83°04.0'	13772.3		44087.4	62960.3	
6	West of Smith Shoal	24°48.0'	82°06.5'	13915.1		43760.2	62727.7	
7	Off Cape Sable	25°15.0'	82°02.0'	13974.7		43759.8	62704.9	
8	Off Sanibel Island (Inshore)	26°26.0'	82°29.0'	14060.3		43117.4	62824.3	
9	Off Sanibel Island (Offshore)	26°26.0'	82°59.0'	13990.0		43347.6	62970.7	
10	Off Anclote Keys (Offshore)	28°10.0'	83°45.0'	14145.8		45328.0	63266.8	
11	Off Anclote Keys (Inshore)	28°10.0'	83°14.0'	14224.3		45092.0	63086.4	
12	Off Deadman Bay	29°38.0'	84°00.0'	14412.4		45167.7	63442.2	
13	SW of Cape San Blas	29°30.5'	85°52.0'	13873.2		46702.0	63976.2	
14	Off St. Andrews Bay	29°53.0'	86°10.0'	13816.5		46922.3	64050.8	
15	Desoto Canyon	30°06.0'	86°55.0'	13434.6	30600.6	47045.8		
16	Alabama/Florida line	29°34.5'	87°38.0'	12971.5	30023.4	46886.0		
17	Off Mobile Bay	29°41.0'	88°00.0'	12766.5	29841.2	46930.9		
18	Mississippi/Alabama line	30°01.5'	88°23.7'	12537.6	29697.7	47029.3		
19	Chandeleur Islands	30°01.5'	88°51.0'	12262.0	29422.2	47028.6		
Closing at the Mississippi Mainland								
Starting at the west bank of Sabine Pass, Texas to the following points:								
20	Sabine Pass	29°39.0'	93°49.5'	11027.8	26367.1	46966.6		
21	Texas/Louisiana line, south	28°38.0'	93°32.0'	11139.4	26220.7	46815.1		
22	Off Galveston Island	28°28.0'	95°00.0'	11086.2	25308.9	45817.0		
23	Off Galveston Island	29°09.5'	95°00.0'	11036.9	25551.4	46909.0		

^{1/} Nearest identifiable landfall, boundary, navigation aid or submarine area.

^{2/} 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.

FIGURE 2. MAP OF STRESSED AREA



§ 641.23 Size restrictions.

(a) The minimum size limit for the possession of red snapper harvested in waters shoreward of the seaward delimitation of the FCZ is 12 inches (fork 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) per fisherman is allowed.

(2) Domestic vessels lawfully fishing trawls in the FCZ are exempt from the minimum size limit for red snapper.

(3) Imported red snapper accompanied by a proper bill of lading or other proof indicating lawful harvest outside the FCZ are excluded from the 12-inch minimum size limitation.

(c) All red snapper harvested in waters shoreward of the seaward delimitation of 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 power heads may be used outside the stressed area.

(b) Fish traps fished in the FCZ in areas other than the stressed area are subject to the following requirements and limitations:

(1) Fish traps are required to have panels or access doorhinging 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 0.55-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);

(3) One degradable panel or access

door must be located opposite each of the sides of the trap that has a funnel;

(4) Effective [insert date one year after effective date of final rules], 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 shoreward of the 300-foot contour is 33 cubic feet in volume. There is no size limitation for fish traps fished seaward of the 300-foot contour.

§ 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.

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