DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration
50 CFR Part 642
(Docket No. 50597-5133)

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

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

ACTION: Final rule.

SUMMARY: NOAA issues a final rule to implement conservation and management measures as prescribed in Amendment 1 (amendment) to the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic (FMP). This final rule provides for measures designed (1) to maintain more effectively the landings and productivity of each fish group to the maximum extent possible; (2) to restore the overfished stock of Gulf king mackerel; and (3) to prevent overfishing of king and Spanish mackerel, and cobia. The intended effect is to rebuild and maintain all stocks at a maximum sustainable yields (MSY) level.


ADDRESSES: Copies of the final supplemental regulatory impact review/regulatory flexibility analysis are available from Donald W. Geagan, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702.

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

SUPPLEMENTARY INFORMATION: The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), approved the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic (FMP) on April 1, 1982, and the Secretary of Commerce (Secretary) implemented final regulations on February 4, 1983 (48 FR 5227), under the authority of the Magnuson Fishery Conservation and Management Act, as amended (Magnuson Act). This final rule implements the amendment to the FMP which was prepared jointly by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils). The FMP manages the coastal migratory pelagic fishery throughout the fishery conservation zone (PCZ) off the South Atlantic coastal states from the Virginia-North Carolina border south and through the Gulf of Mexico to the Texas-Mexico border. The rule applies only to this area. The management unit for the FMP consists of Spanish mackerel, king mackerel, and cobia. Dolphin, bluefish (Gulf of Mexico only), little tunny and cero mackerel are minor species in the fishery, and data collection requirements of the FMP apply only to these seven species. The preamble to the proposed rulemaking for the amendment contained a description of recent data and analyses which indicate there are two migratory groups of king mackerel and that these should be treated as separate stocks for management purposes. In addition, allocations by user groups, quotas, bag limits, statistical reporting, optimum yield, and a flexible management system were discussed in detail. These discussions are not repeated here.

Comments and Responses

Forty-five comments on the proposed rule were received from 18 commenters. Commenters included State marine resource agencies, commercial fishing organizations, the Gulf and South Atlantic Fishery Management Councils, a recreational fishing organization, and fishermen.

Inconsistency With National Standards

A recreational fishing organization stated that the objective of stabilizing yield at MSY is inconsistent with national standard 1. NOAA does not agree. The long-term goal of optimum yield is to achieve MSY as is stated in the definition of the word "optimum" in the Magnuson Act (section 3(XVIII)[B]) and to prevent overfishing, which is the primary objective of national standard 1. Therefore, no change is made in the final rule.

The same recreational fishing organization stated that the rule is inconsistent with national standard 2 because the best scientific information available was not used. NOAA does not agree. All of the best scientific information available, including the catch records identified by the organization, was factored into the scientific assessments. Therefore, no change is made in the final rule.

This recreational fishing organization also stated that the rule is inconsistent with national standard 4 because of the differences in catch reduction among user groups. NOAA does not agree. The percentage reduction in the commercial catch is smaller than the recreational reduction because the Councils took into account the sale of king mackerel by recreational fishermen and thus transferred 2 percent of the recreational allocation to the commercial quota. Therefore, no change is made in the final rule.
The same recreational fishing organization stated that the rule deprives the Secretary of Commerce of approving or rejecting Council plans. NOAA does not agree. The Secretary has delegated authority to the Regional Director to serve as his designee therefore the Secretary is not denied access to the approval process. In addition, the Regional Director may not act arbitrarily if he should deem it appropriate to reject the Council’s recommendations made under § 642.27. To reject a recommendation, the Regional Director must find that the recommendation is inconsistent with the objectives of the FMP, the Magnuson Act or other applicable law. Further, the rejection must be supported in writing. Paragraph § 642.27(d) has been modified to clarify this requirement.

**Boundaries for King Mackerel Stocks**

A commercial fisherman’s non-profit corporation requested that the winter boundary between the Gulf and Atlantic king mackerel stocks be moved to the Volusia/Brevard County, Florida line and one individual recommended a move to Cape Canaveral. The Volusia/Flagler County, Florida line was established based on the best tagging and stock assessment data available. NOAA is currently conducting additional tagging studies to better determine distribution of the two stocks of king mackerel. Therefore, NOAA is implementing the Volusia/Flagler location for the line of separation in the final rule until new data indicate that the issue should be readdressed by the councils.

**Quotas and Allocations**

A recreational fishing organization stated that the number of fish killed and lost by purse seine operations should be counted against the commercial quota. NOAA points out that the amendment establishes a quota for purse seines for the purpose of studying the impacts. The study will be completed on April 30, 1986. Once the study results are available the Councils will readdress the purse seine issue.

A major fishery organization and a commercial non-profit corporation commented that the division of the commercial quota between Florida commercial fisherman and Louisiana commercial fishermen is unfair. A member of the Florida Marine Fisheries Commission expressed concern with the allocation between Louisiana and Florida fishermen but in general agreed with it. NOAA shares this concern and agrees that from a historical perspective Florida fishermen will suffer a greater percentage of the reduced catch.

Nevertheless, NOAA believes it is the Council’s prerogative to distribute the allocations so that one geographical area does not take a disproportionate share of the catch. It should also be noted that the eastern geographical area includes Alabama, Mississippi and Texas in addition to Louisiana. From the perspective that Florida will get 69 percent of the allocation and the western area 31 percent, the allocation does not appear to be unfair to Florida fishermen. Therefore, the measure is implemented in the final rule as proposed.

A non-profit commercial fishing corporation expressed concern over the ratio of recreational and commercial harvest of king mackerel and requested that this be monitored. They were primarily concerned with the sale of recreationally caught fish which are counted against the commercial quota. The harvest of both groups and other issues will be monitored by NMFS through the FMP permit and statistics programs. Should the monitoring program indicate the need to readdress the allocations, they may be modified by FMP amendment. Therefore, NOAA has made no change in the final rule.

A recreational fishing organization stated the rule discriminates against consumers because the netters will take such large quantities in a short period of time that consumers use will be restricted to frozen products. NOAA does not agree. Netting occurs primarily in the winter months on the southeast coast of Florida. The amendment will not change this pattern. Best available data shows that netters take about 44 percent of the commercial catch, yet only 15 percent goes to the frozen market. No changes are made in the final rule because there is no evidence that net catches will increase under this amendment, thus the amount going to the freezer should not increase.

The State of Florida commented that total allowable catch (TAC) for Spanish mackerel was too high and, along with a recreational fishing organization, commented that a recent assessment by Florida’s Department of Natural Resources shows that the Spanish mackerel stock is declining. NOAA concludes that TAC was set based on the best scientific information available at the time the amendment was prepared. Any necessary changes in TAC based on more recent information can be made under provisions set forth in § 642.27 of the rule.

The State of Florida further commented that the TAC for king mackerel should be near 11 million pounds. NOAA does not agree.

Although a TAC of 11 million pounds would rebuild the stock more quickly, the Councils chose the higher range based on lessening the socio-economic impact while simultaneously protecting and rebuilding the stock. Therefore, TAC is set as proposed.

A recreational fishing organization stated that enforcement costs are too low. NOAA’s reassessment of the costs showed they were too low. Revised estimates are $60,000 if the States adopt compatible regulations. Without compatible State regulations, the rules would be extremely expensive to enforce.

**Closing of Fishing**

One individual recommended a two year moratorium on commercial and recreational fishing for king and Spanish mackerel. Another suggested a five year moratorium on net fishing. One sport fishing association and four individuals recommended eliminating fishing with gill nets and purse seines along with the use of spotter planes. The State of Florida and one commercial fishing organization suggested the prohibition of purse seines. The State of Florida also suggested banning the use of roller rigs and deep gill nets in the Spanish mackerel fishery. Two commentators suggested prohibiting all commercial fishing for king mackerel. While data indicate the need for management of the mackerel stocks, there is no justification for implementing such severe measures that would be economically devastating for the commercial fishing industry or that would deny recreational fishermen access to the resource.

Information is being gathered on purse seines through the use of observers authorized under the FMP. This study will terminate in the spring of 1986. When the study data as well as information from other studies become available necessary modification to the FMP will be considered. However, because of the lack of justification NOAA is not implementing the comments’ recommendations in the final rule.

**Bag Limit**

A suggestion was received from one individual recommending a change of the king mackerel bag limit from two fish per person per trip to two fish per person per day. This requirement was considered but abandoned since it is impossible to enforce bag limits on a daily basis because of the question of when a fishing day starts or ends. Therefore, NOAA has made no change in the “per trip” requirements.
A member of the Florida Marine Fisheries Commission agreed with the charterboat bag limit. A major fishing association commented that charterboat captains will suffer more economic loss than anyone else. NOAA shares this concern and agrees that from a perspective of vessel catches, charterboat catches will be reduced by a larger percentage than private boats. However, from a perspective of individual fishermen, anglers aboard charterboats are entitled to 3 fish per trip (excluding captain and crew) which is an advantage over anglers on private boats. While this may be viewed as unfair from the perspective of the anglers aboard private boats, NOAA believes this is an appropriate socio-economic consideration given the importance of the charterboat industry to coastal economies. Therefore, this measure is implemented as proposed.

**Fishing Permits**

One commenter questioned the fairness of the requirement that at least ten percent of an individual’s income must be from fishing during the preceding year in order to qualify for a permit. He was concerned that persons on pensions and/or social security would be denied a permit because their income from commercial fishing would be less than 10 percent of their total income. The criteria for this requirement states “that at least 10 percent of his or her earned income (§ 642.4(b)(6)) was derived from commercial fishing”. The reference to “earned income” excludes income from pensions and/or social security in making the determination of 10 percent. Therefore NOA has made no change to this requirement in the final rule.

One commenter recommended a 2-year moratorium on fishing followed by a requirement for permits for which a fee would be charged. He suggested these monies be used for enforcement purposes. The Magnuson Act prohibits charging fees for permits in excess of the administrative costs of issuing the permit. The $10 charge at §642.4(e) is based upon administrative cost estimates from States that issue and charge for licenses or permits. Because of this limitation NOAA may not collect funds for enforcement purposes, and therefore no change is made in the final rule.

The South Atlantic and Gulf of Mexico Fishery Management Councils recommended that § 642.4(b)(6) be revised to state that earned income was derived from commercial fishing during the previous calendar year rather than the 3 preceding years as published in the proposed rule. NOAA concurs with this recommendation since the 3-year requirement was published in error. The final rule is revised to reflect this change.

The South Atlantic Fishery Management Council (SAFMC) stated it did not approve assessing a fee for any permit under § 642.4(e). No change has been made in the final rule because the SAFMC approved the amendment which allows for an administrative fee up to $10. NMFS, however, does not plan to charge a fee during the initial years of the amendment.

Owners or operators of commercial vessels fishing for Gulf migratory group king mackerel are required to have aboard the vessels a permit issued under § 642.4 during the initial fishing season for that group (September 22, 1965 through June 30, 1966). Applications for permits will be accepted by the Regional Director through November 29, 1965.

**Mandatory Reporting**

The Texas Parks and Wildlife Department objected to mandatory reporting by recreational fishermen. The mandatory reporting requirements for private recreational fishing vessels have been placed in reserve and will not be implemented until NMFS Southeast Fisheries Center determines the exact data requirements and develops a system to collect the data. Data being collected by the State of Texas will be considered in that determination.

**Approval/Disapproval of the Amendment**

A Florida sportfishing club favored approval of the amendment with no changes. A major fishing organization recommended rejecting the amendment and implementing emergency regulations because of discrimination against commercial fishermen. NOAA does not agree because, except for the variable allocation formula which was disapproved, the amendment contains measures that are necessary to protect and rebuild the stock and simultaneously ensure fair and equitable treatment for all user groups. Emergency regulations would be effective for only 90 days with possible extension to 180 days. This would not be sufficient time to protect adequately the stocks since the emergency regulations would expire at the height of the fishing season. Therefore, NOAA implements the FMP amendment, with the exception of the variable allocation program.
Changes From the Proposed Rule

Section 642.4

Paragraph (a) was revised by adding the words "unless they will charter only in the Atlantic migratory group area," to clarify that a charter vessel which fishes in an area occupied by the Gulf group does not qualify for a permit.

In response to the Council's recommendation and because of an error the time period required for qualifying for a permit is changed from three years to one year in paragraph (h)(6).

A new paragraph titled (j) Alteration is added.

A new paragraph titled (k) Replacement is added.

Section 642.5

Paragraph (d) Recreational fishing vessels is reserved in the final rule until more exact information is required than is currently obtained under the NMFS Marine Recreational Fishery Statistics Survey.

Section 642.7

In the final rule paragraph (13) is deleted to eliminate duplication with paragraph (22). Paragraphs (14) through (27) are renumbered (13) through (26).

Section 642.27

In paragraphs (c) and (d) the word "regulations" is removed and the words "draft notice action" inserted for clarification.

In paragraph (d) the wording "written reasons will be provided to the Councils for the rejection and" is inserted between the words "recommendations, existing" for clarification.

The allocation formula in the proposed rule has been disapproved by NOAA, therefore, paragraph (f)(3) is deleted from the final rule and former paragraph (f)(4) in renumbered (f)(3).

Section 642.28

In paragraph (a)(1) the words "captain and" are inserted between the words "vessel crew" in two places for clarification of FMP intent.

Classification

The Regional Director determined that the amendment is necessary for the conservation and management of the coastal migratory pelagic resources of the Gulf of Mexico and the South Atlantic, and that it is consistent with the Magnuson Act and other applicable except for the variable allocation formula.

The Councils prepared a final supplemental environmental impact statement for this amendment that was filed on August 2, 1985, with the Environmental Protection Agency.

The NOAA Administrator determined that this rule is not a "major rule", requiring a regulatory impact analysis under Executive Order 12291. Summary published at 50 FR 24244, June 10, 1985. However, the enforcement costs in the Summary are revised from the estimate of $40,000 with comparable State regulations and $64,000 without such regulations to $90,000 with State regulations and being extremely costly without comparable regulations.

The Councils prepared a final regulatory flexibility analysis which describes the effects this rule will have on small entities. A copy of this analysis may be obtained from the address listed above.

This rule contains a collection of information requirement subject to the Paperwork Reduction Act (PRA). The collection of this information, except for recreational fishermen, has been approved by the Office of Management and Budget, OMB control numbers 0648-0097, -0016, and -0159. When mandatory reporting by selected recreational fisherman is required, an additional request will be submitted to OMB.

The Councils determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of North Carolina, South Carolina, Florida, Alabama, Mississippi, and Louisiana. This determination was submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act.

List of Subjects in 50 CFR Part 642

Fisheries, Fishing, Reporting and recordkeeping requirements.


Carmen J. Blondin,
Deputy Assistant Administrator For Fisheries Resource Management, National Marine Fisheries Services.

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

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

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

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

2. In Part 642, the Table of Contents is amended by rev.ising the headings for § 642.5 from "Recordkeeping and reporting requirements [Reserved]" to read "Reporting requirements", and for § 642.6 from "Vessel identification [Reserved]" to "Vessel identification" and by adding under Subpart B three new section designations to read as follows:

Subpart B—Management Measures

§ 642.27 Stock assessment procedures.

§ 642.28 Bag and possession limits.

§ 642.29 Area and time separation.

3. Section 642.2 is amended by adding the words "or designee" to the end of the definition for Center Director by changing the phrase "U.S. harvested fish" to "U.S.-harvested fish" throughout Part 642, and adding in alphabetical order the new definitions "Acceptable biological catch", "Allocation", "Charter Vessel", "Migratory Group", "Species", "Statistical area", "Total allowable catch", "Total length", and "Trip", to read as follows:

§ 642.2 Definitions.

Acceptable biological catch (ABC) means a range of harvest levels computed from stock assessment parameters that sets forth the levels of harvest which can be taken from a stock or migratory group while maintaining the stock at or near maximum sustainable yield. ABC may vary due to fluctuating recruitment, fluctuating abundance, and intensity of fishing effort.

Allocation means that portion or percentage of the total allowable catch of a stock or migratory group of fish which is allocated to a specific user group for harvest during a fishing year. Harvest levels may be limited to an allocation by specifying harvest quotas or by specifying nonquota restrictions such as bag limits, etc.

Charter vessel (includes headboats) means a boat or vessel whose captain or operator is licensed by the U.S. Coast Guard to carry paying passengers and whose passengers fish for a fee.

Charter vessel crew means those individuals, including the licensed vessel captain, who receive monetary or other compensation from the vessel owner or from the passengers who are engaged in fishing from the vessel as anglers.

Migratory group means a group of fish that may or may not be a separate genetic stock but which for management purposes may be treated as a separate stock. (See Figure 2 and § 642.29 for geographical and seasonal boundaries
between migratory groups of king mackerel.)

Species refers to the specific scientific name for each fish identified under the definition of coastal migratory pelagic fish.

Statistical area means one or more of the statistical grids depicted in Figure 3. Total allowable catch (TAC) means the maximum sustainable level of annual harvest specified for a stock or migratory group after consideration of the biological, economic, and social factors with such level being specified from within the range of acceptable biological catch.

Total length means the distance from the tip of the head to the tip of the tail (caudal fin) while the fish is laying on its side normally extended.

Trip means a fishing trip regardless of number of days duration which begins with departure from a dock, berth, beach, seawall, or ramp and which terminates with return to a dock, berth, beach, seawall, or ramp.

4. Section 642.4 is revised in its entirety to read as follows:

§ 642.4 Permits and fees.

(a) Applicability. Owners or operators of vessels which fish for Gulf migratory group king mackerel under the commercial quotas are required to obtain an annual vessel permit. Owners or operators of charter vessels and headboats are excluded from eligibility for a vessel permit unless they will charter only in the Atlantic migratory group area.

(b) Application for permits. An application for a permit must be submitted and signed by the owner or operator of the vessel. The application must be submitted to the Regional Director or his designee within 60 days prior to July 1 of each year. Owners or operators of newly registered or documented vessels may submit an application at any time during the fishing year provided it is received by the Regional Director within 60 days after registration or documentation. In cases of demonstrated hardship the Regional Director may accept applications at other times. Permit applicants must provide the following information:

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

(2) Name of vessel;

(3) The vessel’s official number;

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

(5) Approximate fish hold capacity of the vessel;

(b) Application for permits. An application for a permit must be submitted and signed by the owner or operator of the vessel. The application must be submitted to the Regional Director or his designee within 60 days prior to July 1 of each year. Owners or operators of newly registered or documented vessels may submit an application at any time during the fishing year provided it is received by the Regional Director within 60 days after registration or documentation. In cases of demonstrated hardship the Regional Director may accept applications at other times. Permit applicants must provide the following information:

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

(2) Name of vessel;

(3) The vessel’s official number;

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

(5) Approximate fish hold capacity of the vessel;

(6) A sworn statement by the owner or operator certifying that at least 10 percent of his or her earned income was derived from commercial fishing during the preceding calendar year (January 1 through December 31), and that the vessel for which the permit is intended will not be operated as a charter vessel in an area in which the Gulf migratory group of king mackerel is occurring; and

(7) Any other information concerning vessel, gear characteristics and fishing area requested by the Regional Director.

(c) Proof of certification. The Regional Director or his designee may require the applicant to provide documentation supporting the sworn statement under paragraph (b)(6) before a permit is issued or to substantiate why such a permit should not be revoked under paragraph (i).

(d) Issuance. The Regional Director or his designee will issue a permit to the applicant only during May and June of each year. The Regional Director will issue permits to newly registered or documented vessels, or cases of demonstrated hardship at other times, as found at paragraph (b) of this section. Until the permit is received, fishermen must comply with the bag limit under § 642.29.

(e) Fees. A fee may be assessed for any permit issued under this section. The cost of the permit, if any, will be posted on the application form and will be limited to the administrative cost of issuing the permit which may not exceed $10.00.

(f) Duration. A permit is valid only for the duration of the year for which it is issued (July 1—June 30) unless revoked or suspended pursuant to Subpart D of 15 CFR Part 904.

(g) Transfer. A permit issued under this section is not transferable or assignable except on sale of the vessel to a new owner. A permit is valid only for the fishing vessel for which it is issued. New owners purchasing a permitted vessel to fish under the Gulf migratory group quota must comply with the provisions of paragraph (b) of this section. The application must be accompanied by an executed (signed) bill of sale. New owners who have purchased a permitted vessel may fish with the preceding owner’s permit until a new permit has been issued, but for a period not to exceed 60 days from date of purchase.

(h) Display. A permit issued under this section must be carried aboard the fishing vessel, and the vessel must be identified as provided for in § 642.6. The operator of a fishing vessel must present the permit for inspection upon request of an authorized officer.

(i) Sanctions. Subpart D of 15 CFR Part 904 governs the imposition of sanctions against a permit issued under this section.

(j) Alteration. Any permit which is altered, erased, or mutilated is invalid.

(k) Replacement. Replacement permits may be issued. An application for a replacement permit will not be considered a new application.

(A) Approved by the Office of Management and Budget under control number 0648-0087

5. A new § 642.5 is added to read as follows:

§ 642.5 Reporting requirements.

(a) Commercial vessel owners and operators. Any person who owns or operates a fishing vessel that fishes for or lands coastal migratory pelagic fish for sale, trade, or barter, or that fishes under a permit required in § 642.4, in the Gulf of Mexico FCZ or South Atlantic FCZ or in adjoining State waters, and who is selected to report must provide the following information regarding any fishing trip to the Center Director:

(1) Name or official number of vessel;

(2) Poundage of catch of any coastal migratory pelagic fish as defined by species;

(3) Depth fished and information regarding fishing location that is specific enough to enable the Center Director to ascertain the statistical area fished (see Figure 3);

(4) Amount and person to whom sold, bartered, or traded;

(5) Number, size and type of gear; and

(6) Period (hours or days) of fishing.

(b) Charter vessel owners and operators. Any person who owns or operates a charter vessel that fishes for or lands coastal migratory pelagic fish in the Gulf of Mexico FCZ or South Atlantic FCZ or adjoining State waters, and who is selected to report must maintain a daily fishing record on forms provided by the Center Director. These forms must be submitted to the Center Director weekly. Information to be included in the forms must include:

(1) Name or official number of vessel;

(2) Operator’s Coast Guard license number;

(3) Date of trip;

(4) Number of fishermen on trip;

(5) Area fished;

(6) Fishing methods and type of gear;

(7) Hours fished;

(8) Species targeted; and

(9) Number and estimated weight of fish caught by species.

(c) Dealers and processors. Any person who receives coastal migratory pelagic fish or parts thereof by way of purchase, barter, trade, or sale from a
fishing vessel or person that fishes for, or lands said fish, or parts thereof in the Gulf of Mexico FCZ or South Atlantic FCZ or in adjoining State waters, and who is selected to report, must provide the following information to the Center Director at monthly intervals, or more frequently if requested, and on forms provided by the Center Director: (1) Dealers or processors name and address; (2) County where fish were landed; (3) Total poundage of each species received during that month, or other requested interval; (4) Average monthly price paid for each species; and (5) Proportion of total poundage landed by each gear type. (Reserved) (e) Any owner or operator of commercial, charter, or recreational vessels, and dealers or processors may be required upon request to make such fish or parts thereof available for inspection by the Center Director for the collection of additional information or for inspection by an authorized officer. (Approved by the Office of Management and Budget under control numbers 0648-0016 and 0648-0017) 7. A new § 642.6 is added to read as follows:

§ 642.6 Vessel identification.

(a) Official number. Each vessel of the United States engaged in commercial fishing for Gulf migratory group king mackerel under a quota and the permit specified in § 642.4 must—

(1) Display its official number on the port and starboard sides of the deckhouse or hull and on an appropriate weather deck so as to be clearly visible from enforcement vessels and aircraft. The official number is the documentation number issued by the Coast Guard for documented vessels or the registration number issued by the State or the Coast Guard for undocumented vessels.

(2) The official number must be in block arabic numerals in contrasting color to the background.

(3) The official number must be at least 18 inches in height for fishing vessels over 65 feet in length and at least 10 inches in height for all other vessels.

(4) The official number must be permanently affixed to or painted on the vessel.

(b) Duties of operator. The operator of each fishing vessel must—

(1) Keep the official number clearly legible and in good repair, and

(2) Ensure that no part of the fishing vessel, its rigging, fishing gear, or any other material aboard obstructs the view of the official number from any enforcement vessel or aircraft.

7. Section 642.7 is amended by revising the introductory text and designating it as paragraph (a), redesignating existing paragraphs (a) through (m) as (1) through (13), revising paragraph (6), removing old paragraph (13), adding new paragraphs (13) through (26), and adding a new paragraph (b) to read as follows:

§ 642.7 Prohibitions.

(a) It is unlawful for any person to do any of the following:

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

(2) Use a fishing gear to take a species of fish other than those species that are the subject of a seasonal or year-round quota and the permit specified in § 642.4;

(3) Fail to transfer or to display a permit as provided for in § 642.4 (g) and (h);

(4) Falsify a permit or fail to report information required to be submitted by § 642.4 and § 642.5;

(5) Fail to make fish available for inspection as required by § 642.5(e);

(6) Falsify or fail to display the official vessel identification number or comply with other provisions for vessel identification as specified in § 642.6;

(7) Purchase, sell, barter, trade, or accept in trade, king mackerel harvested in the FCZ from a specific migratory group or specific allocation zone or by purse seine gear, for the remainder of that fishing year specified in § 642.20, after the quota for that migratory group or allocation zone, or purse seine gear as specified in § 642.21 (a) or (b) has been reached and closure as specified in § 642.22 has been invoked (Table 2). (This prohibition does not apply to trade in king mackerel harvested, landed and bartered, traded or sold prior to the closure and held in cold storage by dealers and processors);

(8) Fish for, retain, or have in possession in the FCZ aboard a vessel permitted under § 642.4 king mackerel from a migratory group or allocation zone after the quota for that migratory group or allocation zone specified in § 642.21(a) has been reached and closure as specified in § 642.22 has been invoked (Table 2);

(9) Fish for king or Spanish mackerel in the FCZ with purse seines after the quotas specified in § 642.21 (b) and (d) have been reached and closure has been invoked as specified in § 642.22 (Table 2);

(10) Fish for or have in possession onboard Spanish mackerel in or from the FCZ or purchase, sell, barter, trade or accept in trade, Spanish mackerel after the total allowable catch specified in § 642.21(c) is reached and closure has been invoked as specified in § 642.22 (Table 2);

(11) Land, consume at sea, sell, or have in possession at sea or time of landing, Gulf migratory group king mackerel harvested from the FCZ in excess of the bag limits specified in § 642.28, except as provided for under § 642.21;

(12) Fish for king mackerel from the Gulf migratory group in the FCZ as defined in § 642.29 under the quotas specified in § 642.21(a) without a permit as specified in § 642.4;

(13) Interfere with, obstruct, delay, or prevent by any means a lawful investigation or search in the process of enforcing this part;

(14) Interfere with, obstruct, delay, or prevent in any manner the seizure of illegally taken coastal migratory pelagic fish or the final disposition of such coastal migratory pelagic fish through the sale of the coastal migratory pelagic fish;

(15) Land king mackerel from the Gulf migratory group in other than an identifiable form as specified in § 642.28(b);

(16) Land Spanish mackerel and cobia without the head and fins intact as required by § 642.22(c).

(b) It is unlawful to violate any other provision of this part, the Magnuson Act, or any regulation or permit issued under the Magnuson Act.

8. Section 642.20 is revised in its entirety to read as follows:

§ 642.20 Seasons.

The fishing year for the Gulf migratory group of king mackerel for the commercial quota including purse seines begins at 0001 hours July 1 and ends at 2400 hours on June 30, local time (see Figure 2). The fishing year for the Atlantic migratory group of king mackerel begins at 0001 hours on April 1 and ends at 2400 hours on March 31, local time. The purse seine quotas for king mackerel begin at 0001 hours on July 1 and end at 2400 hours on June 30, local time. The fishing year for all other coastal migratory pelagic fish begins at 0001 hours on January 1 and ends at 2400 hours on December 31, local time (Table 1).

9. Section 642.21 is revised in its entirety to read as follows:

§ 642.21 Quotas

(a) Commercial quotas for king mackerel. The initial commercial allocation for the Gulf migratory group of king mackerel is 4,552 million pounds per fishing year. This allocation is
divided into quotas as follows: (1) 2,940 million pounds for the eastern allocation zone; (2) 1,328 million pounds for the western allocation zone; and (3) 0.284 million pounds for purse seines (see figure 2 and paragraph [e] of this section for description of allocation zones). The commercial allocation for the Atlantic migratory group of king mackerel is 4,382 million pounds per fishing year. A fish is counted against the commercial quota or allocation when it is first sold (Table 2).

(b) Purse seine quota for king mackerel. The harvest of king mackerel by purse seines from the Gulf migratory group is limited to 284,000 pounds each fishing year. The total harvest of king mackerel by purse seines from the Atlantic Ocean is limited to 400,000 pounds each fishing year. King mackerel harvested by purse seines are counted in the commercial allocations and quotas specified in paragraph (a) of this section (Table 2).

(c) Spanish mackerel. The TAC of Spanish mackerel is 27 million pounds per fishing year in aggregate for all user groups (Table 2).

(d) Purse seine quota for Spanish mackerel. The harvest of Spanish mackerel by purse seines is limited to 300,000 pounds in the Gulf of Mexico and to 300,000 pounds in the Atlantic Ocean per fishing year. Spanish mackerel harvested by purse seines are included in the TAC specified in paragraph (c) of this section (Table 2).

(e) Geographic boundaries and allocation zones. The boundary between the Gulf of Mexico and the Atlantic Ocean begins at the intersection of the outer boundary of the FCZ and 83° W. longitude, proceeds north to 24°33' N. latitude (Dry Tortugas), east to Marquesas Key, then through the Florida Keys to the mainland. The boundary between eastern and western zones established for commercial allocation of the Gulf migratory group of king mackerel is a line beginning at the boundary between the States of Alabama and Florida (30°16'33" N. latitude and 87°31'06" W. longitude) and running directly south to its intersection with the outer limit of the FCZ (Figure 2).

10. Section 642.22 is revised in its entirety to read as follows:

§ 642.22 Closures.

The Secretary, by publication of a notice in the Federal Register, will close the king or Spanish mackerel fishery to fishing in the FCZ for a particular gear type, allocation zone, or user group when the quota for that gear type, allocation zone, or user group under § 642.21 has been reached or is projected to be reached (Table 2). The notice of closure for quotas specified under § 642.21 will also provide notice that the purchase, barter, trade, and sale of king or Spanish mackerel taken from the FCZ after the closure for the migratory group or allocation zone affected is prohibited for the remainder of that fishing year. This prohibition does not apply to trade in Spanish or king mackerel harvested, landed, and bartered, traded or sold prior to the closure and held in cold storage by dealers or processors.

11. In § 642.23, paragraphs (a) and (b) are revised and a new paragraph (c) is added to read as follows:

§ 642.23 Size restrictions.

(a) Spanish mackerel—(1) Minimum size. The minimum size for the possession of Spanish mackerel in or taken from the FCZ is 12 inches (fork length) or 14 inches (total length) for both recreational or commercial fisheries, except for the incidental catch allowance under paragraph (a)(2) of this section.

(b) Cobia. The minimum size limit for the possession of cobia in or taken from the FCZ is 33 inches (fork length) or 37 inches (total length).

(c) All Spanish mackerel and cobia must be landed with the head and fins intact.

12. In § 642.24, paragraph (b)(1)(i) is revised and a new paragraph (c) is added to read as follows:

§ 642.24 Vessel, gear, and equipment limitations.

(b)(1) • • •

(i) at least 30 days in advance of the beginning of the fishing year, or • • •

(c) Purse seine catch allowance and exclusions. A vessel with a purse seine aboard will not be considered as fishing for king or Spanish mackerel for the purposes of paragraph (b) of this section and will not be considered in violation of a purse seine catch closed in accordance with § 642.22 provided the catch of king mackerel or Spanish mackerel does not exceed one or ten percent, respectively, by weight or number (whichever is less) of the catch of all fish aboard the vessel. Such king and Spanish mackerel must be reported in accordance with paragraph (b)(3) of this section and will be counted in the quotas provided for under § 642.21 and subject to the prohibition on sale provided for under § 642.22.

13. A new § 642.27 is added to read as follows:

§ 642.27 Stock assessment procedures.

(a) The Councils will appoint an assessment group (Group) that will assess the condition of each stock of king and Spanish mackerel in the management unit on an annual basis. The Group will present a report of its assessment and recommendations to the Councils.

(b) The Councils will consider the report and recommendations of the Group and hold public hearings at a time and place of the Councils' choosing to discuss the Group's report. The Councils will convene an Advisory Panel and may convene the Scientific and Statistical Committee to provide advice prior to taking final action. After receiving public input, Councils will make findings on the need for changes. (c) If changes are needed in MSY's, TACs, bag limits, quotas, or permits, the Councils will advise the Regional Director in writing of their recommendations, accompanied by the Group's report, relevant background material, and public comment. This report will be submitted each year by such date as agreed upon by the Councils.

(d) The Regional Director will review the Councils' recommendations, supporting rationale, public comments, and other relevant information. In the event the Regional Director rejects the recommendations, he will provide written reasons to the Councils for the rejection and existing regulations will remain in effect until the issue is resolved.

(e) If the Regional Director concurs that the Councils' recommendations are consistent with the goals and objectives of the FMP, the national standards, and other applicable law, the Regional Director will recommend that the Secretary publish notice in the Federal Register of any preliminary changes prior to the appropriate fishing year. A 15-day period for public comment will be afforded. After consideration of public comments, the Secretary may publish notice in the Federal Register of any final changes for that fishing year.

(f) Appropriate adjustments which may be implemented by the Secretary by notice in the Federal Register are:

(i) Adjustment of the point estimates of MSY for mackerel within the following ranges:

(ii) Spanish mackerel—13.5 million pounds to 49.1 million pounds.

(ii) Setting TACs for each stock or group of fish which should be managed separately, as identified in the FMP. The TAC may be increased, not to exceed 30
percent annually when warranted by new information. Any number of increases may be made so long as they do not exceed 30 percent in any one year and provided that no TAC will exceed the best point estimate of MSY by more than ten percent. Downward adjustments of any percentage are allowed in order to protect the stock and prevent overfishing. Reductions or increases in allocations as a result of changes in the TAC are to be as equitable as may be practicable utilizing similar percentage changes to all participants in a fishery. (Changes in bag limit cannot always accommodate the exact desired level of change.)

(3) Implementing or modifying quotas, bag limits, or permits as necessary to limit the catch of each user group to its allocation.

14. A new § 642.28 is added to read as follows:

§ 642.28 Bag and possession limits.

(a) Recreational allocation bag limit. Persons who fish for king mackerel from the Gulf migratory group (see Figure 2) in the FCZ (except those fishing under the permit and quotas specified in § 642.4, § 642.21 and § 642.24(c)) are limited to the following:

(1) Possessing three (3) king mackerel per person per trip, excluding the vessel captain and crew or possessing two (2) king mackerel per person per trip, including the vessel captain and crew, whichever is the greater, when fishing from a charter vessel.

(2) Possessing two (2) king mackerel per person per trip when fishing from other vessels;

(b) All king mackerel from the Gulf migratory group must be landed in an identifiable form as to number and species (with the understanding that head and tail can be removed).

(c) After a closure under § 642.22 is invoked for a migratory group or allocation zone specified in § 642.21 vessels permitted under § 642.4 may not fish for Gulf migratory king mackerel under the bag limit specified under paragraph (a) of this section nor can persons fishing under the bag limit sell their fish.

15. A new § 642.29 is added to read as follows:

§ 642.29 Area and time separation.

(a) Summer separation. During the summer period (April 1 through October 31) the boundary separating the Gulf and Atlantic migratory groups of king mackerel is a line extending directly west from the Monroe/Collier County, Florida boundary (25° 48' N. latitude) to the outer limit of the FCZ (Figure 2).

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

| TABLE 1.—FISHING SEASONS FOR COASTAL MIGRATORY PELAGIC FISH IN THE FCZ |
| --- | --- | --- |
| Type | Begins | Ends |
| King mackerel: | | |
| Gulf migratory group | 0001 hours | 2400 hours |
| July 1 | June 30 |
| Atlantic migratory group | 0001 hours | 2400 hours |
| Apr. 1 | Mar. 31 |
| Purse seine quotas | 0001 hours | 2400 hours |
| July 1 | June 30 |
| Other fish and fishing: | | |
| All other fishing | 0001 hours | 2400 hours |
| Jan. 1 | Dec. 31 |

<p>| TABLE 2.—KING AND SPANISH MACKEREL QUOTAS AND TOTAL ALLOWABLE CATCH (TAC) FOR WHICH CLOSURES ARE INVOKED FOR SPECIFIC MIGRATORY GROUPS OR ALLOCATION ZONES OR GEAR TYPES 1 |
| --- | --- | --- | --- |</p>
<table>
<thead>
<tr>
<th>Migratory group(s)</th>
<th>Fishing year</th>
<th>Gear</th>
<th>Allocation zone</th>
<th>Initial year quota (TAC) (million pounds)</th>
<th>Prohibition on sale and/or catch invoked when</th>
</tr>
</thead>
<tbody>
<tr>
<td>King Mackerel</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Atlantic</td>
<td>1 Apr.–31 Mar.</td>
<td>All types</td>
<td>Entire range 2</td>
<td>4.392</td>
<td>Sales from migratory group are projected to reach quota.</td>
</tr>
<tr>
<td>Gulf</td>
<td>1 July–30 June</td>
<td>All types</td>
<td>Entire range 2</td>
<td>4.555</td>
<td>Sales from migratory group are projected to reach quota.</td>
</tr>
<tr>
<td>Gulf</td>
<td>1 July–30 June</td>
<td>All types</td>
<td>Western zone 3</td>
<td>1.328</td>
<td>Sales from allocation zone are projected to reach quota.</td>
</tr>
<tr>
<td>Gulf</td>
<td>1 July–30 June</td>
<td>P.S. 4</td>
<td>Eastern zone 3</td>
<td>2.940</td>
<td>Landings from migratory group are projected to reach quota.</td>
</tr>
<tr>
<td>Gulf</td>
<td>1 July–30 June</td>
<td>P.S. 4</td>
<td>Entire range 2</td>
<td>0.284</td>
<td>Landings from migratory group are projected to reach quota.</td>
</tr>
<tr>
<td>Gulf</td>
<td>1 July–30 June</td>
<td>P.S. 4</td>
<td>Atlantic Ocean 5</td>
<td>0.400</td>
<td>Landings from migratory group are projected to reach quota.</td>
</tr>
<tr>
<td>Spain</td>
<td>G.A. 6</td>
<td></td>
<td></td>
<td>27.000</td>
<td>When landings are projected to reach TAC.</td>
</tr>
<tr>
<td>Spanish Mackerel</td>
<td>1 Jan.–31 Dec.</td>
<td>All types</td>
<td>Gulf of Mexico 7</td>
<td>0.300</td>
<td>When landings are projected to reach TAC.</td>
</tr>
<tr>
<td></td>
<td>1 Jan.–31 Dec.</td>
<td>P.S. 4</td>
<td>Gulf of Mexico</td>
<td>0.300</td>
<td>When landings are projected to reach TAC.</td>
</tr>
</tbody>
</table>

1 See Figure 2 for delineation of migratory group ranges and allocation zones.
2 The range of migratory groups varies by season (§ 642.29)—See Figure 2.
3 See Figure 2 and § 642.21(e).
4 See § 642.21(e).
5 See § 642.21(e).
6 Purse seine.
7 Gulf & Atlantic.

BILLING CODE 3510-22-M
Figure 2. Range of Gulf and Atlantic migratory groups of king mackerel during winter and spring periods and commercial allocation zones for Gulf Group king mackerel.
Figure 3. Statistical Grids for Reporting the Harvest of Coastal Migratory Pelagic Fish.

Statistical Grids in the Gulf of Mexico

Statistical Grids in the South Atlantic
List of Subjects in 50 CFR Parts 611 and 672

Fisheries. Reporting and recordkeeping requirements.

[16 U.S.C. 1931 et seq.]
Dated: March 17, 1986.

Joseph W. Angelovic,
Deputy Assistant Administrator For Science and Technology, National Marine Fisheries Service.

[F.R. Doc. 86-6095 Filed 3-17-86; 2:02 pm]
BILLING CODE 3510-22-M

50 CFR Part 642

[Docket No. 50642-6042]

Fishery Conservation and Management; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic

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

ACTION: Final rule; change in total allowable catch, permit requirements, and bag limits for the Atlantic migratory group of king mackerel.

SUMMARY: The Secretary of Commerce issues a notice of changes in the total allowable catch (TAC), permitting requirements, and bag limits for the Atlantic migratory group of king mackerel in accordance with the framework procedure under Amendment 1 to the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic. This notice reduces TAC and allocations for the Atlantic migratory group of king mackerel based on recent catch data, requires permits for commercial vessels, and bag limits for recreational fishermen. The intended effects are to protect the Atlantic migratory group of king mackerel and still allow catches by the important recreational and commercial fisheries that are dependent on this species and to implement a permit requirement for commercial vessels for the purpose of improved management.

EFFECTIVE DATE: March 17, 1986.

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

SUPPLEMENTARY INFORMATION: The king mackerel fishery is regulated under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic (FMP) and final regulations (50 CFR Part 642). An amendment to the FMP (Amendment 1) was prepared jointly by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and implemented September 22, 1985 (50 FR 36840, August 28, 1985).

On January 8, 1986 (51 FR 7697) a notice of preliminary changes in the total allowable catch, permitting requirements, and bag limits for the Atlantic migratory group of king mackerel in accordance with the framework procedure under Amendment 1 to the FMP was published for public comment. The comment period ended January 23, 1986.

The preamble to the preliminary notice contained a description of the need and rationale for implementing the changes in TAC, permitting requirements, and bag limits. These discussions are not repeated here.

Comments and Responses

Seventeen comments on the preliminary notice were received from seven commenters including fishermen, a seafood technologist, a recreational fishing organization, a marina operator, and a boat manufacturer.

Sale of Recreational Catches

A recreational fishing organization and a seafood technologist stated that recreational fishermen should not be allowed to sell their catch because they cannot ensure a quality product since they are unfamiliar with proper storage techniques or unable to adequately care for their catch. Both commenters also stated that the sale of recreational catches encourages recreational fishermen to compete with commercial fishermen for the fish and market. NOAA does not agree. Purchasers of the catch determine the quality, thus fishermen with less than adequate quality fish will be unable to sell their catch. The bag limit on recreational fishermen should prevent any significant competition with the unrestricted catch of an individual permitted to fish under the commercial quota.

Quotas and Allocations

A recreational fishing organization stated that the 18 percent reduction in total allowable catch of the Atlantic migratory group was insufficient to prevent the collapse of the resource because the best available scientific information was not used. NOAA does not agree. NOAA acknowledges there are data deficiencies, but concludes that the Councils used the best scientific information available. Allowable catches will be adjusted annually, on a pre-season basis, as additional information is gathered.

One commenter opposed any restrictions because he did not believe that the Councils’ decisions are sound and based on the best scientific information available. NOAA disagrees. As stated above, the Councils utilized the best scientific data available.

Two commenters opposed quotas and allocations because of negative effects on tournaments. One commenter suggested a special concession for major tournaments. The Councils fully considered the impact of the allocations and quotas on tournaments and determined that tournament participants must share the burden for the conservation of king mackerel. NOAA agrees with the Councils’ decision.

Bag Limits

One recreational fisherman questioned whether a size limit rather than a bag limit would achieve the same purpose. The Councils considered the advantages and disadvantages associated with size and bag limits. Since king mackerel are migratory, the Councils selected the bag limit because this allows the residents of different States to participate in this fishery in a fair and equitable manner. A size limit favors the areas where the larger fish occur during migration. NOAA agrees with the Councils’ decision in selecting the bag limit.

One recreational fisherman questioned how the bag limit will be enforced. Based on comments from Federal and State law enforcement personnel, the Councils concluded that the bag limit would be enforceable. NOAA also concluded that this measure was enforceable. The bag limit will be enforced by Federal agencies such as the U.S. Coast Guard and National Marine Fisheries Service and by State agencies through Federal/State cooperative agreements.

One recreational fisherman questioned whether any government body could unilaterally impose such a rule without public participation in the rule-making process. The Councils that developed these measures are composed of representatives from the coastal States’ governments, the recreational and commercial fishing communities, and the Federal government. As required by the Magnuson Act, the Councils obtained public participation through fourteen public hearings held on Amendment 1 under which this notice action has been developed. During these hearings, the Councils solicited public comments on the use of bag limits for the recreational fishery in the area of the Atlantic migratory group. The public had opportunity also to comment during the 15-day public review period for this notice action that ended January 23, 1986.
A recreational fisherman inquired as to why there was no mention of restrictions on the west coast of Florida (including the Keys) and the Gulf of Mexico. This notice action is applicable only to the Atlantic migratory group. In Amendment 1, the Councils previously reviewed the status of the Gulf of Mexico king mackerel migratory group and concluded that this group is overfished. As a result, the total allowable catch was reduced by 22 percent.

A recreational fisherman did not believe that the recreational sector could catch enough king mackerel to overfish the Atlantic migratory group and therefore, should not be included with commercial net vessels. A sport fishing organization recommended that the taking of king mackerel be restricted to hook-and-line commercial and rod and reel recreational fishermen. Historically, the recreational and commercial sectors have taken 62.9 and 37.1 percent, respectively, of the total harvest. The Councils reviewed this information and concluded that both sectors must be managed to prevent overfishing of the Atlantic group. NOAA agrees with the Council’s decision.

A recreational fisherman inquired as to the commercial quota amount, the identity of the enforcing agency, and the foreign catch inside the fishery conservation zone (FCZ). The Councils reviewed the best available scientific information and set the commercial quota at 3.59 million pounds as measured by the commercial sales reported by dealers. The quota will be enforced by NMFS, the U.S. Coast Guard, and State agencies through the Federal/State cooperative agreements. Since the domestic sectors catch the entire optimum yield, there is no surplus available for foreign fishing. Any foreign vessel fishing for king mackerel in the FCZ is in violation of the Magnuson Act. Furthermore, such violation is unlikely since all foreign vessels fishing in the FCZ must have a NMFS observer aboard. NOAA agrees with the Councils’ decision regarding the commercial quotas.

Changes From the Preliminary Notice

Section 642.4

Paragraph (b) is revised to allow commercial king mackerel fishermen to submit one application for permits to fish either or both the Atlantic migratory group and the Gulf migratory group. This will lessen the paperwork burden on fishermen. Permits for fishing the two migratory groups will be issued during the two months prior to the start of the respective migratory groups’ fishing year.

Paragraph (g) is modified to require that a copy of the executed (signed) bill of sale be available for inspection aboard a newly purchased permitted vessel while the new owner is awaiting issuance of a new permit. This will assist in enforcement of the permitting requirement under paragraph (a) and reduce the possibility for inconvenience to the vessel owner in the event he is inspected prior to receipt of his new permit.

Section 642.7

Paragraph (a)(2) is revised by deleting the reference to § 642.22 since closures under this section are addressed in other paragraphs of § 642.7. Paragraphs (a)(17), (19), and (22) are modified to reflect the amended designations for paragraphs (c), (d), and (e) of § 642.21. Paragraph (a)(28) is added to clarify that king mackerel harvested by recreational fishermen may not be sold after closure of the respective king mackerel group allocation or quota under § 642.21. Paragraphs (a)(29) and (30) are added for application of paragraphs at § 642.28 (e) and (f).

Section 642.24

Paragraph (c) is corrected by changing the word “abroad” to “aboard” wherever it occurs in the paragraph.

Section 642.28

Paragraph (c) is revised for clarification and the reference to persons fishing under the bag limit selling their fish has been deleted. Paragraph (d) is added to address the selling of king mackerel harvested under the bag limit.

Paragraph (e) is added to clarify that fishermen may not combine the bag and possession limits applicable to the FCZ and State waters.

Paragraph (f) is added to identify the operator of a vessel as the person responsible for the cumulative bag limit of king mackerel applicable to the vessel. This conforms with the responsibilities of vessel operators described under § 642.2 Definitions.

Changes to the Permit Application Process

Due to procedural delays, applications for 1986-1987 commercial fishing permits to fish the Atlantic migratory group of king mackerel or to fish the Atlantic and Gulf migratory groups of king mackerel will be received until May 19, 1986. The Regional Director or his designee will issue a 1986-1987 commercial fishing permit to fish Atlantic migratory group king mackerel, after a permit application is submitted as specified above. The Atlantic migratory group king mackerel 1986-1987 fishing year will still begin April 1, 1986. Commercial fishermen may fish commercially for Atlantic migratory group king mackerel without a permit during the permit application period, ending May 19, 1986.

Other Matters

This action is taken under the authority of 50 CFR 642.27 and is taken in compliance with Executive Order 12291. This action is covered by the supplemental regulatory impact review and supplemental regulatory flexibility analysis which concluded that the authorizing regulations could have a significant economic impact on a substantial number of small entities. This rule contains a collection of information requirement subject to the Paperwork Reduction Act. The collection of this information has been approved by the Office of Management and Budget. OMB Control Number 0648-0007.

List of Subjects in 50 CFR Part 642

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 17, 1986.

Joseph W. Angelovic,
Deputy Assistant Administrator For Science and Technology; National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR Part 642 is revised as follows:

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

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

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

2. In Part 642, the Table of Contents is amended by revising the heading for § 642.21 from “Quotas” to “Quotas and allocations”.

3. Section 642.2 is amended by revising the definition of “Charter vessel” to read as follows:

§ 642.2 Definitions.

Charter vessel (includes headboats) means a boat or vessel whose captain or operator is licensed by the U.S. Coast Guard to carry paying passengers and whose passengers fish for a fee. Charter vessels with commercial permits to fish Atlantic migratory group king mackerel are under charter when there are more
than three (3) persons aboard including
captain and crew.

4. Section 642.4 is amended by
revising paragraphs (a), (b) introductory
text, (b)(7), (d), (f) and (g), and adding a
new paragraph (b)(8) to read as follows:

§ 642.4 Permits and fees.

(a) Applicability (1) Owners or
operators of fishing vessels which fish
for king mackerel under the commercial
quotas (§ 642.21) are required to obtain
an annual vessel permit.

(2) Owners or operators of charter
vessels and headboats that fish for Gulf
migratory group king mackerel are
excluded from eligibility for a vessel
permit unless they will charter only in
the Atlantic migratory group area.

(3) Owners or operators of charter
vessels may obtain a permit to fish
Atlantic migratory group king mackerel
provided they adhere to bag limits while
under charter.

(b) Application for permits. An
application for a permit must be
submitted and signed by the owner or
operator of the vessel. Applications for
permits to fish both the Atlantic and
Gulf migratory groups of king mackerel
or for a permit to fish only the Atlantic
migratory group of king mackerel must be
submitted to the Regional Director or
his designee within 60 days prior to
April 1 each year. Applications for
permits to fish only the Gulf migratory
group of king mackerel must be
submitted to the Regional Director or
his designee 60 days prior to July 1 of each
year. Owners or operators of newly
registered or documented vessels may
submit an application at any time during
a fishing year provided it is received by
the Regional Director within 60 days
after registration or documentation. In
cases of demonstrated hardship the
Regional Director may accept
applications at other times. Permit
applicants must provide the following
information:

(7) Any other information concerning
vessel, gear characteristics and fishing
area requested by the Regional Director;

(8) The migratory group of king
mackerel that will be fished.

(d) Issuance. The Regional Director or
his designee will issue a permit to the
applicant only during February and
March of each year to fish Atlantic
migratory group king mackerel and May
and June of each year to fish Gulf
migratory group king mackerel, after
permit applications are submitted
according to paragraph (b) of this
section. The Regional Director may issue
permits at other times to newly
registered or documented vessels, or in
case of demonstrated hardship. Until the
permit is received, fishermen must
comply with the bag limits under
§ 642.28 and have a copy of an executed
bill of sale per § 642.4(g).

(f) Duration. A permit is valid only for
the period of the year for which it is
issued (July 1–June 30 for the Gulf
migratory group and April 1–March 31
for the Atlantic migratory group) unless
revoked or suspended pursuant to
Subpart D of 15 CFR Part 904.

(g) Transfer. A permit issued under
this section is not transferable or
assignable except on sale of the vessel
to a new owner. A permit is valid only
for the fishing vessel for which it is
issued. New owners purchasing a
permitted vessel to fish under the Gulf
or Atlantic migratory groups' quotas
must comply with the provisions of
paragraph (b) of this section. The
application must be accompanied by an
executed (signed) bill of sale. New
owners who have purchased a permitted
vessel may fish with the preceding
owner's permit until a new permit has
been issued, but for a period not to
exceed 60 days from date of purchase.
Until a new permit is received, a copy of
the executed (signed) bill of sale must
be aboard the vessel and available for
inspection by an authorized officer.

5. Section 642.6 is amended by
revising paragraph (a) introductory
text to read as follows:

§ 642.6 Vessel identification.

(a) Official number. Each vessel of the
United States engaged in fishing for king
mackerel under a commercial quota and
the permit specified in § 642.4 must—

6. Section 642.7 is amended by
revising paragraphs (a), (2), (3), (4),
(5), and (6); revising the reference that
reads "§ 642.21(b) to "§ 642.21(c)" in paragraph (a)(3);
changing the period at the end of paragraph (a)(3) to a
semicolon and adding new paragraphs (a)(4), (5),
(6), and (7), to read as follows:

§ 642.7 (Amended)

(a) * * *

(2) Fish for king or Spanish mackerel
in violation of any area closures or
season closures as specified in § 642.23;

(19) Fish for king or Spanish mackerel
in the FCZ with purse seines after the
quotas specified in § 642.21(c) and (e)
have been reached and closure has been
invoked as specified in § 642.22 (Table
2);

(20) Fish for or have in possession
above Spanish mackerel in or from the
FCZ or purchase, sell, barter, trade, or
accept in trade, Spanish mackerel after
the total allowable catch specified in
§ 642.21(d) is reached and closure has
been invoked as specified in § 642.22
(Table 2);

(21) Land, consume at sea, sell, or
have in possession at sea or at time of
landing king mackerel in excess of the
bag limits specified in § 642.28 except as
provided for under § 642.21;

(22) Fish for king mackerel from the
Gulf and Atlantic migratory groups in
the FCZ as defined in § 642.22 under
the quotas specified in § 642.21(a) without a
permit as specified in § 642.4;

(23) Land king mackerel in other than
an identifiable form as specified in
§ 642.20(b);

(24) Possess king mackerel harvested
from the FCZ under the recreational
allocation set forth at § 642.21(b) after
closure has been invoked as specified in
§ 642.22;

(25) Sell king mackerel harvested
under the recreational bag limits in
§ 642.28(a) except as specified in
§ 642.28(d);

(30) Combine the bag and possession
limits for king mackerel under
§ 642.28(a) with bag and possession
limits applicable to State waters as
specified under § 642.28(e); or

(31) Operate a vessel that fishes king
mackerel in the FCZ with king mackerel
aboard in excess of the cumulative
bag limit, based on the number of
persons aboard, applicable to the vessel,
as specified in § 642.20(c).

7. Section 642.21 is amended by
revising the last two sentences of
paragraph (a), redesignating existing
paragraphs (b) through (e) as (c), (d), (e)
and (f), and adding a new paragraph (b)
to read as follows:

§ 642.21 Quotas and allocations.

(a) Commercial quotas for king
mackerel. * * * The commercial
allocation for the Atlantic migratory
group of king mackerel is 3.99 million
pounds per fishing year. A fish is
counted against the commercial quota or
allocation when it is first sold (Table 2).

(b) Recreational allocations for king
mackerel. The recreational allocation
for the Atlantic migratory group of king
mackerel is 6.09 million pounds per
fishing year.
8. Section 642.22 is amended by designating the existing paragraph as (a), amending paragraph (a) by inserting the reference "§ 652.21(a), (c), and (e)" in place of "§ 642.21" throughout the paragraph, and adding a new paragraph (b) as follows:

§ 642.22 Closures.

(b) The Secretary, by publication of a notice in the Federal Register, will close the recreational fishery for king mackerel of the Atlantic migratory group when the allocation for that group under § 642.21(b) is reached or is projected to be reached.

§ 642.24 [Amended]

9. In § 642.24, paragraph (c) is amended by changing the word "abroad" to "aboard" wherever it occurs.

10. Section 642.28 is revised to read as follows:

§ 642.28 Bag and possession limits.

(a) Recreational allocation bag limits. Persons who fish for king mackerel from the Gulf or Atlantic migratory group (see Figure 2) in the FCZ, except those fishing under the permits and quotas specified in § 642.4; § 642.21(a); and § 642.24(c), are limited to the following:

(1) Gulf migratory group. (i) Possessing three (3) king mackerel per person per trip, excluding the captain and crew or possessing two (2) king mackerel per person per trip, including the captain and crew, whichever is the greater, when fishing from a charter vessel.

(ii) Possessing two (2) king mackerel per person per trip when fishing from other vessels.

(2) Atlantic migratory group. Possessing three (3) king mackerel per person per trip.

(b) All king mackerel must be landed in an identifiable form as to number and species (with the understanding that head and tail can be removed).

(c) (1) After a closure under § 642.22(a) is invoked for the quota(s) specified in § 642.21(a) for either or both Gulf allocation zone(s), vessels permitted under § 642.4, may not fish for Gulf migratory group king mackerel in that zone(s) under the bag limit specified in paragraph (a) of this section.

(2) Charter vessels permitted to fish under the commercial quota of Atlantic migratory group king mackerel may fish under the bag limit specified in (a)(2) of this section provided they are under charter (more than three (3) persons aboard including captain and crew) and the recreational fishing allocation for Atlantic migratory group king mackerel under § 642.21(b) has not been closed under § 642.22(b).

(d) Recreational fishermen may sell their catch of Gulf and Atlantic migratory group king mackerel taken under the bag limits in paragraph (a) of this section unless the respective king mackerel migratory group allocation or quota in § 642.21 has been closed under § 642.22. King mackerel sold by recreational fishermen are counted against the appropriate commercial allocation or quota in § 642.21(a) for the area where they are in effect.

(e) Persons who fish for king mackerel in the FCZ may not combine the bag and possession limits of this part with any bag or possession limits applicable to State waters.

(f) The operator of a vessel that fishes for king mackerel in the FCZ is responsible for the cumulative bag limit, based on number of persons aboard, applicable to that vessel.

11. Part 642 is amended by designating Tables 1 and 2 and Figures 1 through 3 as Appendix A to the part. Table 2 is amended by revising the "King Mackerel—Atlantic" line and adding a new "King Mackerel—Atlantic Recreational" line to read as follows:

| TABLE 2.—KING AND SPANISH MACKEREL QUOTAS AND TOTAL ALLOWABLE CATCH (TAC) FOR WHICH CLOSURES ARE INVOKED FOR SPECIFIC MIGRATORY GROUPS OR ALLOCATION ZONES OR GEAR TYPES ¹ |
|---------------------------------|----------------|----------------|----------------|-----------------|-----------------|------------------|
| Migratory group(s)             | Fishing year | Gear            | Allocation zone | Fishing year quota / TAC/ (million lbs) | Prohibition on sale and/or catch invoked when— |
| King Mackerel:                 |               |                 |                |                               |                                             |
| Atlantic Commercial            | 1 Apr–31 Mar | All types       | Entire range   | 3,590                        |拒绝销售和/or捕获。 |
| Atlantic Recreational          | 1 Apr–31 Mar | All types       | Entire range   | 6,090                        |拒绝销售和/or捕获。 |

¹ See Figure 2 for delineation of migratory group ranges and allocation zones.

² The range of migratory groups varies by season (§ 642.29). See Figure 2.
permanently affixed to the vehicle, and clearly legible.

The agency is concerned that eliminating the exemption and having each direct importer obtain its own unique "world manufacturer identifier" from the Society of Automotive Engineers, as specified in 49 CFR 565.5(c), could impair the operation of the VIN system by overloading it with such requests, and, more importantly, could adversely affect law enforcement actions. Direct imports are often, though not always, brought into this country by individuals intending to use the vehicle personally, or by small commercial operations bringing in a very small number of vehicles, compared to total U.S. sales. Law enforcement officials have consistently argued to NHTSA that it is preferable to have a vehicle maintain its original VIN, i.e., the one assigned by the assembling manufacturer, even if that number is incompatible with the Federal system, rather than modify that number. These officials are concerned about the confusion which could result if a given vehicle were assigned one VIN by the assembling manufacturer and another by the importer. They are also concerned about the harm which would result if equipment for modifying VIN's became available on a widespread basis, facilitating VIN changes by car thieves.

Moreover, this agency notes that the problems of vehicle theft are addressed by the vehicle theft prevention standard issued on October 24, 1985. (50 FR 43166), as part of its implementation to Title VI (Motor Vehicle Theft Law Enforcement Act of 1984) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2021). In its petition, VWoA's main argument for urging that VIN's meeting the requirements of Standard No. 115 be affixed to direct imports was that this change would aid law enforcement officials in recovering stolen vehicle parts. This is also a primary purpose of the vehicle theft prevention standard which requires that selected high-theft lines of passenger cars have major original and replacement equipment parts marked with identifying numbers. The 17-digit VIN is required to be used as the identifying number on all parts, except for the engine and transmission which may be stamped with a VIN derivative.

The method of compliance with the vehicle theft prevention standard for direct imports was considered thoroughly (50 FR 43181). The preamble discussed the issue raised by the National Automobile Theft Bureau (NATB) that some direct importers have assigned and affixed new 17-digit, U.S.-type VIN's, as urged by VWoA in its petition, to vehicles imported with Euro-VINs. The NATB stated that law enforcement officials, using the new "homemade" VIN assigned by a direct importer, have sometimes been unable to trace a vehicle either to the original, foreign manufacturer or to the direct importer. Therefore, NATB urged this agency to require the use of Euro-VINs by direct importers. The final rule requires the direct importers mark vehicle parts with the Euro-VIN assigned by the original manufacturer before importation into the United States.

The final rule establishing the theft standard also set special provisions for certification of compliance with this standard by direct importers. A direct importer must affix the certification label permanently to the car, identify the model year and line, and the direct importer's corporate or individual name, preceded by "Imported by." NHTSA believes that these provisions will reduce the incidence of motor vehicle thefts of direct imports by facilitating the tracing and recovery of parts from stolen vehicles.

For the foregoing reasons, VWoA's petition is denied.

Issued on: March 27, 1986.

Barry Felrice,
Associate Administrator for Rulemaking.

[FR Doc. 86-7241 Filed 4-1-86; 8:45 am]

BILLING CODE 4910-59-M

49 CFR Part 571

[Docket No. 84-4; Notice 4]

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices and Associated Equipment

Correction

In FR Doc. 86-5962 beginning on page 9454 in the issue of Wednesday, March 19, 1986, make the following corrections:

On page 9457, in § 571.108, in the table labeled Figure 15, in the section under heading "Lower beam", the first entry, in the first column should read "10U-90U"; and the last entry in the first column should read "10H-90H".

BILLING CODE 1505-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 642

[Docket No. 50587-5133]

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

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

ACTION: Final rule; correction.

SUMMARY: This document replaces incorrect statistical grids for reporting the harvest in the final rule for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic that was published August 28, 1985, at 50 FR 34940.

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

The following amendment is made to 50 CFR Part 642:

§ 642.29 [Amended]

In § 642.29 Figure 3 is removed and the following Figure 3 is inserted as a replacement for the Statistical Grids in the Gulf of Mexico and the Statistical Grids in the South Atlantic.


Carmen J. Blondin,
Deputy Assistant Administrator For Fisheries Resource Management, National Marine Fisheries Service.

BILLING CODE 3510-32-M
FIGURE 3 - STATISTICAL GRIDS FOR REPORTING THE HARVEST OF COASTAL MIGRATORY PELAGIC FISH

STATISTICAL GRIDS IN THE GULF OF MEXICO

GULF OF MEXICO
PART 642—[AMENDED]

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

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

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

§ 642.7 [Amended]

2. Section 642.7 is amended in paragraph (a)(6) by removing the reference to § 642.24(c).

§ 642.24 [Amended]

3. Section 642.24 is amended by removing paragraph (b) and redesignating paragraph (c) as (b).

[FR Doc. 86-4949 Filed 4-15-86; 8:45 am]

BILLING CODE 3516-22-M

50 CFR Part 671

[Docket No. 60110-6605]

Fishery Conservation and Management; Tanner Crab off Alaska

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

ACTION: Final rule; technical amendment.

SUMMARY: NOAA issues this final rule implementing a technical amendment to the regulation for the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). This rule deletes the requirement for observers aboard vessels fishing purse seiners for Spanish and king mackerel. The intended effect is to remove a requirement in the regulations that does not reflect the intent of the FMP.


FOR FURTHER INFORMATION CONTACT: Donald W. Geagan, 813–933–3722.

SUPPLEMENTARY INFORMATION: NOAA published a final rule on February 4, 1983 (48 FR 5270), to implement the FMP. The final rule at § 642.24(b) required observers to be aboard vessels using purse seiners to fish for Spanish and king mackerel. The rule did not present any time period for the requirement.

The FMP clearly states that the requirement for observers aboard purse seine vessels was for statistical and scientific purposes and was to be limited to the first three years the FMP was in effect. Therefore, NOAA amends the rule by deleting the requirement for observers effective February 3, 1986, the end of the three-year time period.

Other Matters

This action is taken under the authority of 50 CFR Part 642 and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 642

Fisheries, Fishing, Reporting and recordkeeping requirements.


James E. Douglas, Jr.,
Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.


ADDRESS: Copies of documents supporting this action may be obtained from Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802.

FOR FURTHER INFORMATION CONTACT: Raymond E. Baglin (Fishery Biologist, NMFS), 907–586–7230.

SUPPLEMENTARY INFORMATION:

Background

The Secretary of Commerce (Secretary) issued an emergency interim rule (51 FR 2892, January 22, 1986) delaying the scheduled opening of the 1986 C. bairdi Tanner crab season for 90 days (until April 14, 1986) in the Bering Sea District of Registration Area J, due to the depressed conditions of C. bairdi and red king crab Paralithodes camtschatica, which are caught incidentally in the C. bairdi fishery. The delay was intended to provide the Secretary additional time to evaluate (1) the biological effect of the C. bairdi fishery on these crab stocks, (2) the socioeconomic effects of not allowing the fishery, and (3) the Council’s decisions and recommendations from its January 15–17, 1986, meeting. Public comments were also invited for the duration of the rule. Comments were specifically invited on the necessity of continuing the closure beyond February 1, 1986, and the socioeconomic effects on the industry. The Secretary carefully evaluated each of these factors and concluded that there is no justification at this time to alter the closure of the C. bairdi season in that part of the Bering Sea District east of 164° W. longitude and south of 58° N. latitude until after the 1986 NMFS trawl survey next summer. The Secretary has also concluded, however, that C. bairdi taken incidentally in the C. opilio fishery can be retained without any significant adverse effect on the ability of the C. bairdi stock to rebuild to population levels capable of supporting a directed fishery. This retention of incidentally caught C. bairdi can be allowed because the Secretary is closing the C. opilio fishery in areas where large numbers of C. bairdi might be taken. Based on results of the 1985 NMFS trawl survey, NMFS would expect that less than 0.5 million pounds of C. bairdi will be taken incidentally in all areas where C. opilio fishing will be allowed. This decision was based in part on discussions with NMFS crab biologists and the Alaska
waste or small fish as the boats fish up to two weeks per trip. The incidental catch allowance was instituted to discourage fishing in areas heavily populated by small fish and should not be viewed as a "limit" to be achieved. Hopefully, fishermen catching large numbers of undersized fish would shift their effort to areas populated by larger fish. At any rate, modifying the incidental catch allowance is outside the scope of the proposed rule and is an issue more appropriately addressed by the Council during the FMP amendment process.

The proposed rule to extend the deferral for headboats was initially prepared in response to a June 18, 1985 request by the Council. The Council requested that they were in the process of amending the FMP, and rather than preparing a separate amendment addressing size limits, chose to incorporate this issue in the general FMP amendment that would cover a number of other issues. The general FMP amendment schedule is dependent upon the availability of new stock assessment data, and data from the survival studies to evaluate changes in yield per recruit. These data could lead to a respecification of the size limit or the institution of size limits that vary geographically in accordance with size distribution of red snapper. Since the stock assessments are 6 months behind schedule, the Council has requested an additional 6 month extension of the headboat exemption so that the size limit issue can be addressed in the general FMP amendment.

NOAA believes that the proposed 12-month extension will be adequate for the remaining field and laboratory research and data analysis to be completed in, and therefore does not agree that an 18-month extension is required. Based on the above, the Secretary therefore extends the size limit exemption to the headboat fishery for 12 more months.

Also, the text in § 641.25 is revised to clarify that the limitation of 200 traps applies to those traps actually assigned to a vessel.

Classification

The Assistant Administrator for Fisheries, NOAA, has previously determined that the FMP and implementing regulations, of which this final rule is to be a part, is consistent with the national standards and other provisions of the Magnuson Act and other applicable law (49 FR 39546, October 9, 1984).

It was previously determined, on the basis of a regulatory impact review (RIR) and regulatory flexibility analysis (RFA) that rules to implement the FMP are not major under Executive Order 12291. The RIR and RFA were summarized in the preamble to the final rule for the FMP (see 49 FR 39546) and are not repeated here. This is an extension of the time period for a measure in the final rule and, therefore, a supplemental RIR has not been prepared.

The General Counsel of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities because the rule simply extends an existing deferral for headboats from size limit restrictions in the implementing regulations. The rule will lessen impacts on the headboat fleet for a specified period of time.

Because this is a continuation of a substantive rule which relieves a restriction, the 30-day delayed effectiveness provisions of the Administrative Procedure Act do not apply.

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

List of Subjects in 50 CFR Part 641

Fisheries, Fishing.


Carmen J. blondin,
Deputy Assistant Administrator For Fisheries Resource Management, National Marine Fisheries Service.

PART 641—[AMENDED]

For reasons set forth in the preamble, 50 CFR Part 641 is amended as follows:

1. The authority citation for Part 641 continues to read as follows:

Authority: 16 U.S.C. 1601 et seq.

2. In § 641.23, paragraph (b)(2) is revised to read as follows:

§ 641.23 Size and incidental catch restrictions.

(b) * * * * *

(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, 1987.

* * * * *

3. Section 641.25 is revised to read as follows:

§ 641.25 Effort limitations.

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

[FR Doc. 86-11901 Filed 5-22-86; 4:34 pm]
BILLING CODE 3510-22-M

50 CFR Part 642

[Docket No. 21021-216]

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

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

ACTION: Final rule; technical amendment.

SUMMARY: NOAA issues this final rule implementing a technical amendment to the regulations for the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic (FMP). This rule deletes any remaining language applicable to the terminated requirement for observers aboardpurse seine vessels.

EFFECTIVE DATE: May 28, 1986.

FOR FURTHER INFORMATION CONTACT: Donald W. Geagan, 813-393-3722.

SUPPLEMENTARY INFORMATION: NOAA published a final rule February 4, 1983 (48 FR 5270), to implement the FMP. The final rule at § 642.24(b) required observers to be aboard vessels using purse seine nets to fish for Spanish and king mackerel. The FMP authorized this observer requirement for a three year period which ended February 3, 1986. The observer requirement was removed from the regulations by a technical amendment (51 FR 14867, April 16, 1986), by removing § 642.24(b) and renumbering § 642.24(c) as a new paragraph (b).

Through an oversight, the technical amendment did not delete all reference to the requirement for observers in the renumbered paragraph (b). Therefore, NOAA amends the rule to remove all remaining language concerning observers from the renumbered paragraph (b).

Other Matters

This action is taken under the authority of 50 CFR Part 642 and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 642

Fisheries, Fishing, Reporting and recordkeeping requirements.
PART 642—[AMENDED]

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

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

Authority: 16 U.S.C. 1901 et seq.

2. Section 642.24 is amended by revising paragraph (b) to read as follows:

§ 642.24 Vessel, gear, and equipment limitations.

(b) Purse seine catch allowance. A vessel with a purse seine aboard during a king or Spanish mackerel purse seine closure affected in accordance with § 642.22(a) will be considered to have been fishing for king or Spanish mackerel in violation of the closure when such vessel possesses or lands king or Spanish mackerel in excess of one percent or ten percent, respectively, by weight or number (whichever allows the lesser amount of king or Spanish mackerel) of all fish aboard or landed. King or Spanish mackerel in quantities less than one percent or ten percent are subject to the prohibition on sale provided for under § 642.22(a).

[FR Doc. 98-11950 Filed 5-27-98; 8:45 am]
BILLING CODE 3510-20-M

50 CFR Part 649

[Docket No. 60336-6086]

American Lobster Fishery

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

ACTION: Final rule.

SUMMARY: NOAA issues this final rule implementing Amendment 1 (amendment) to the Fishery Management Plan for the American Lobster Fishery (FMP). These regulations implement the amendment by: (1) Instituting a uniform lobster fishing gear marking system for the offshore lobster fishery; (2) providing the Regional Director the authority to grant research exemptions from any lobster FMP regulations and/or establish closed areas for research purposes; and (3) distinguishing red crab fishing gear, operating deeper than 200 fathoms, from gear capable of taking lobster. The intended effect is to promote fishing efficiency by reducing the incidence of gear conflicts and ensuring that red crab gear is not unnecessarily included in measures intended for the lobster fishery.

EFFECTIVE DATE: June 22, 1998.

ADDRESS: Copies of the amendment, the environmental assessment, and the regulatory impact analysis are available from Mr. Douglas G. Marshall, Executive Director, New England Fishery Management Council, Summer Office Park, 5 Broadway, Saugus, MA 01906.


SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the American Lobster Fishery was prepared by the New England Fishery Management Council (Council). Amendment 1 to the FMP was partially approved by the Administrator of NOAA on May 8, 1998. The approved portions of the amendment: (1) Establish a uniform and identifiable gear marking system that will afford mobile gear operators a chance to avoid fixed lobster gear; (2) provide authority to the Regional Director to allow exemptions from the regulations and to close areas for the purpose of conducting research that will be beneficial to the lobster resource; and (3) clarify that red crab fishing gear, operating deeper than 200 fathoms, is gear not capable of taking lobster, and therefore not subject to the lobster regulations.

The need for a gear marking system arises from the increase in utilization of fishery resources by different gear types which, in turn, increases competition and congestion on fishing grounds and results in a greater incidence of gear conflicts. Gear conflicts are costly in terms of lost fishing gear and fishing time.

The minimum marking standards contained within the amendment consist of the following: (1) The westernmost end of a lobster trawl must be marked by an 8 inch (or larger) standard tetrahedral corner radar reflector and a single flag or pennant; (2) the easternmost end of a trawl must be marked by an 8 inch (or larger) standard tetrahedral corner radar reflector only. In addition, lobster trawls are limited to a length of 1.5 miles.

The amendment provides authority to the Regional Director, upon the recommendation of the New England Fishery Management Council, to allow exemptions from any provisions of the regulations and to close areas to fishing in order to conduct research beneficial to the lobster resource. Closures are to be implemented through a regulatory amendment. If the area to be closed is within the jurisdiction of the Mid-Atlantic Fishery Management Council, then this Council must concur with the recommendation of the New England Fishery Management Council in order for the closure to occur.

The amendment also draws a distinction between red crab fishing gear which is operable deeper than 200 fathoms, and gear capable of taking lobsters. All available evidence indicates that the red crab fishery is devoid of any lobster bycatch and operates in an area where there is no mobile gear. Therefore, it should not be subject to the regulations of the FMP. Such restrictions would preclude the operation of an economically viable red crab fishery.

The Acting Regional Director has disapproved that portion of the amendment which proposes to exempt certain trap gear from the venting requirement of the lobster regulations because that proposal was not necessary and appropriate for the conservation and management of the lobster resource, and it was inconsistent with National Standards. The disapproved provision exempted trap gear capable of taking lobster from the venting requirement of the regulations, if such gear is: (1) Fixed in an area south of Barnegat Light, NJ, and shoreward of the 30 fathom contour; (2) fish in an unlisted condition; and (3) subject to a maximum bycatch of one hundred pounds of lobster per trip.

The intended effect of this provision is to exempt fish trap fishermen, who fish primarily for black sea bass, from the trap venting requirement because a certain portion of marketable fish escape through the vent. However, this provision of the amendment, as written and submitted by the Council, has the unintended effect of creating a geographical area where all traps fished, including lobster traps, would be exempt from the venting requirement.

One of the principal deficiencies of this provision is that it is not based on a substantial weight of evidence to conclude, in accordance with Section 303 of the Magnuson Act, that it is necessary and appropriate for the conservation and management of the lobster resource. Evidence to support the one hundred pound bycatch trip allowance is deficient. At this level of bycatch, a directed fishery for lobsters could develop. While the Council states that the impact on the lobster resource as a whole is minimal, it has failed to examine the impact on the local lobster fishery within the exempted area.