

meaning of the Department of Transportation's regulatory policies and procedures. The proposed requirements would impose no new requirements but instead increase manufacturer flexibility by relieving a restriction. Any cost impacts would be in the nature of slight, nonquantifiable cost savings. Since the effects of the proposal, if adopted as a final rule, would be minimal, a full regulatory evaluation has not been prepared.

In accordance with the Regulatory Flexibility Act, NHTSA has evaluated the effects of this action on small entities. Based upon this evaluation, I certify that the proposed amendments would not have a significant economic impact on a substantial number of small entities. Small businesses, small organizations, and small governmental units would be affected by the proposed amendments only to the extent that they purchase motor vehicles. As noted above, the proposed amendments would not significantly affect vehicle price. Accordingly, no regulatory flexibility analysis has been prepared.

The agency has also analyzed this proposed rule for the purpose of the National Environmental Policy Act, and determined that the proposed rule would not have any significant impact on the quality of the human environment.

Finally, this proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12812. It has been determined that the proposed rule does not have sufficient federalism implications to warrant the preparation of a Federal Assessment.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purported confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the

agency's confidential business information regulation. 49 CFR Part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, 49 CFR Part 571 would be amended as follows:

PART 571—[AMENDED]

1. The authority citation for Part 571 would continue to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.102 [Amended]

2. S3.1.4 would be added to § 571.102 to read as follows: S3.1.4 *Identification of shift lever positions.*

S3.1.4.1 Except as provided in S3.1.4.2, identification of shift lever positions, including the position of the gears in relation to each other and the gear position selected, shall be displayed in view of the driver whenever any of the following conditions exist:

(a) The ignition is in a position where the transmission can be shifted.

(b) The transmission is not in park.

S3.1.4.2 Such display need not be provided when the ignition is in a position that is used only to start the vehicle.

3. S3.2 would be revised to read as follows:

S3.2 *Manual transmissions.*

Identification of the shift lever pattern of manual transmissions, except three

forward speed manual transmissions having the standard "H" pattern, shall be permanently displayed in view of the driver.

Issued on August 18, 1988.

Barry Felrice,

Associate Administrator for Rulemaking.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 646

[Docket No. 80624-8124]

Snapper-Grouper Fishery of the South Atlantic

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

ACTION: Proposed rule.

SUMMARY: NOAA proposes to designate two artificial reefs (ARs) off Ft. Pierce, Florida, as special management zones (SMZs) in which specific fishing gear and harvest limitations would apply. The intended effect is to promote orderly use of the fishery resources on the ARs, to reduce potential user-group conflicts, and to maintain the intended socioeconomic benefits of the ARs to the maximum extent practicable.

DATE: Comments on the proposed rule must be received on or before September 26, 1988.

ADDRESS: Comments on the proposed rule and requests for copies of the draft regulatory impact review should be sent to Rodney C. Dalton, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Rodney C. Dalton, 813-893-3722.

SUPPLEMENTARY INFORMATION: Snapper-grouper species are managed under the Fishery Management for the Snapper-Grouper Fishery of the South Atlantic Region (FMP), prepared by the South Atlantic Fishery Management Council (Council), and its implementing regulations at 50 CFR Part 646, under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The FMP provides for designation of ARs and fish attraction devices (FADs) as SMZs, in which specific gear and harvest limitations would apply.

An AR or FAD creates fishing opportunities that would not otherwise exist and an AR may increase biological production. The cost of their construction and maintenance can be substantial and their intended socioeconomic benefits (e.g., recreational fishing or tournaments) can be reduced or eliminated if highly efficient fishing gear and fishing practices are not restrained. Therefore, designation of an AR as an SMZ acts as an incentive for the construction of an AR or FAD.

The Ft. Pierce Sportfishing Club (Club) holder of a permit from the Corps of Engineers to construct the ARs, requested the Council to establish SMZs around two ARs located in the exclusive economic zone off the southeast coast of Florida. FADs are utilized with each AR. The Club requested that the following limitations be applied in these SMZs: (1) Prohibit use of fish traps, (2) prohibit use of bottom longlines, (3) prohibit use of hydraulic and electric reels to fish for snapper-grouper species unless the reels are mounted on hand-held (including rod holder) fishing rod, (4) prohibit spearfishing on the inshore reef, and (5) prohibit harvest or possession of jewfish. The Club expressed concern about the fish traps and bottom longlines that are in the immediate area of the ARs.

In accordance with the FMP, the Council evaluated the Club's request, considering the FMP's criteria of (1) fairness and equity, (2) promotion of conservation, and (3) prevention of excessive shares. The Council also considered possible conflicts among fishermen and impacts on historical uses.

One commercial fish trapper has been identified who fishes between 80 and 120 traps off St. Lucie, Martin, and Indian River Counties. This individual also fishes bottom longline gear. There have been unverifiable reports of an additional one or two individuals who fish with traps, and reports that some commercial divers may use bottom longlines on a part-time basis, though probably not in the specific areas of the ARs. Although fishing occurs off Martin, St. Lucie, and Indian River Counties, the amount that occurs in the immediate vicinity of the ARs is unknown.

Recreational catch information is available only for the east coast of Florida as a whole and is not particularly helpful in ascertaining catches in the Ft. Pierce area. Commercial data (Source: Florida Trip Ticket Program) for all Florida east coast counties north of Palm Beach indicate 892,345 pounds of snappers and groupers were caught in 1985 and

1,072,864 pounds were caught in 1986. Given these catch figures, the total commercial catch from the specific areas that would be regulated through the establishment of SMZs would appear to be relatively small.

The Ft. Pierce sites are located on a relatively wide continental shelf with large sandy areas. Although the site surveys indicate that there are no hard bottom areas within the ARs, the Recreational Use Reefs document (FL Sea Grant MAP-9, 1979; Monitoring Team Report) reports hard bottom in this general area. Most of the information presented at the public hearing supports the position that both of these areas are located in a relatively barren habitat. A commercial diver stated that there is some hard bottom scattered within these sites. Although there is no empirical data on historical use, it is reasonable to assume that there was no significant fishing by the prohibited gear types prior to placement of the ARs and FADs, since the bottom is mostly barren sand.

SMZ designation is consistent with the FMP objective to "promote orderly use of the resource." Although there is limited information that indicates any of the gear types that are proposed to be prohibited has created a problem in the areas under consideration, these efficient gear types have the potential to overfish small, localized areas such as the ARs.

Given the paucity of information available, it is difficult to address conservation in the biological sense. The national standard guidelines indicate that these criteria can also be met by "encouraging a rational, more easily managed use of the resource" or by "optimizing the yield in terms of * * * economics or social benefits of the product." The proposal could be viewed as satisfying these conditions and thus promoting conservation.

The excessive share standard does not appear to be violated because it seems likely that no significant reef fisheries existed near the site prior to the AR and the cumulative impact of SMZs in this area would not appear to be significant at this time.

The natural bottom in and surrounding this area consists of a relatively wide continental shelf with relatively barren sandy habitat. There do not appear to be large areas of natural hard bottom present within the requested areas. There are, however, areas of natural hard bottom outside the SMZs. The distribution of natural bottom serves to minimize the impacts on the historical uses of this area.

An additional problem addressed by this proposed rule is the removal of

jewfish from the ARs. Jewfish are exceptionally large members of the grouper family capable of exceeding a length of 7 feet and a weight of 700 pounds. Although jewfish are not common on these ARs, they represent a unique aesthetic experience for the diving community. The inquisitive nature of jewfish makes them easy prey for spearfishermen, and occasionally a jewfish is taken by hook and line. Once a jewfish is removed from a reef, replacement may not occur for several years. The Club and the Council have concluded that the only equitable way to preserve jewfish for the continuing aesthetic enjoyment of many users is to prohibit any take or possession of jewfish in the SMZ.

After due consideration of the evaluation criteria, supporting data, comments during public hearings, and other relevant information, the Council recommended and the Director, Southeast Region, NMFS, concurs with proposing the establishment of the requested SMZs. Restrictions on fishing gear and fishing practices in these SMZs are intended to (1) promote orderly use of the resource, (2) reduce potential user group conflicts, (3) maintain the intended socioeconomic benefits of the ARs and thereby maintain incentives for the creation of ARs and FADs, (4) optimize use of biological production, and (5) create fishing opportunities that would not otherwise exist.

Requests for Comments

Because establishment of these SMZs would prohibit certain gear and activities within the proposed boundaries, thus altering usage of approximately 5.8 square miles of ocean bottom, the public is asked to pay particular attention to possible impacts of the action on historical users of the area and to the potential changes in fishing opportunities for recreational and commercial fishermen and divers within these SMZs.

Classification

The Assistant Administrator for Fisheries, NOAA, determined that this proposed rule is necessary for the conservation and management of the snapper-grouper fishery and that it is consistent with the Magnuson Act and other applicable law.

These measures are part of the Federal action for which an environmental impact statement (EIS) was prepared. The final EIS for the FMP was filed with the Environmental Protection Agency and the notice of availability was published on August 19, 1983 (48 FR 37702).

The Assistant Administrator initially determined that this proposed rule is not a major rule requiring a regulatory impact analysis under Executive Order 12291. This proposed rule, if adopted, is not likely to result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The Council prepared a draft regulatory impact review (RIR) which concludes that this rule will have the following economic effects.

Specific estimates of benefits of the AR program off Ft. Pierce are not available; however, several factors indicate that positive benefits have occurred in this area. Significant increases in the number of offshore-oriented vessels and expansion of the charterboat industry and local diving community are, in part, a response to the enhanced fishing opportunities created by construction of ARs. Continuing increases in participation in offshore fishing tournaments, many of which center around ARs, is another example of the benefits of reefs.

The actual benefit of restricting use of gear that is incompatible with the intended use of these ARs is to ensure that the benefits associated with ARs will continue to be realized. Establishment of these SMZs is intended to provide AR permittees the necessary incentive to properly maintain existing reefs and construct additional ARs to enhance fishing opportunities where necessary.

Costs in terms of the burden on excluded user groups are minimal. Only one commercial fish trapper fishes this general area (he also fishes bottom longline gear) and his catch from these specific SMZs is unknown but is expected to be small, given that the entire reported commercial snapper-grouper catch off the east coast of Florida was less than 1.1 million pounds in 1988. In considering the impacts on the affected fishermen, it should be noted that these ARs were constructed on a relatively wide continental shelf that provides a large fishing area for the various gear types. Therefore, users of the prohibited gear types do have alternative areas in which to fish. Prohibiting the take, possession, or retention of jewfish within these SMZs does not impose a significant burden. It

is expected that additional Federal enforcement costs resulting from this proposed action will be minimal. Copies for the draft RIR are available (see ADDRESS).

The General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities because its impacts would be limited currently to a very few individuals who may have used gear proposed to be prohibited in the new SMZs. The best available information indicates that fewer than five individuals fish with traps in the general area and there are unverifiable reports of a few individuals using bottom longlines on a part-time basis. These individuals comprise an insignificant percentage of the small business entities involved in the snapper-grouper fishery. Further, the SMZs constitute an extremely small portion of the available fishing grounds and do not appear to have been historical fishing areas prior to construction of the ARs. Prohibiting the harvest of jewfish will have a minimal impact on small entities because jewfish are sporadic inhabitants of ARs and are not sufficiently abundant to support sustained fishing activity. As a result, a regulatory flexibility analysis was not prepared.

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

The Council determined that this rule does not directly affect the coastal zone of any State with an approved coastal zone management program. A letter was sent to Florida, the only State involved, advising of this determination.

This proposed rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

List of Subjects in 50 CFR Part 646

Fisheries, Fishing.

Dated: August 22, 1988.

James W. Brennan,
Assistant Administrator for Fisheries,
National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR Part 646 is proposed to be amended as follows:

PART 646—SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC

1. The authority citation for Part 646 continues to read as follows:

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

2. In § 646.6, paragraphs (l) and (m) are revised and paragraph (n) is removed, to read as follows:

§ 646.6 Prohibitions.

(l) Use prohibited or unauthorized fishing gear in a special management zone, as specified in § 646.24(b)(2) and (c);

(m) Harvest or fail to release a jewfish within a special management zone, or possess a jewfish taken from a special management zone, as specified in § 646.24(b)(1).

3. In § 646.24, new paragraphs (a)(20) and (21) are added, paragraph (b) is revised, and a new paragraph (c) is added, to read as follows:

§ 646.24 Area limitations.

(a) * * *

(20) *Ft. Pierce Inshore Reef*: The area is bounded on the north by 27°26.8' N. latitude; on the south by 27°25.8' N. latitude; on the east by 80°09.24' W. longitude; and on the west by 80°10.36' W. longitude.

(21) *Ft. Pierce Offshore Reef*: The area is bounded by straight lines connecting the following points in the order listed:

Point	Latitude	Longitude
A.....	27°23.68' N.....	80°03.95' W.
B.....	27°22.08' N.....	80°03.06' W.
C.....	27°23.94' N.....	80°00.02' W.
D.....	27°24.85' N.....	80°00.33' W.
A.....	27°23.68' N.....	80°03.95' W.

(b) The following restrictions apply within all of the SMZs specified in paragraph (a) of this section.

(1) Jewfish may not be harvested by any type of gear. Jewfish taken incidentally by hook-and-line gear must be released immediately by cutting the line without removing the fish from the water.

(2) The use of fish traps and bottom longlines is prohibited.

(c) The following additional restrictions apply in the indicated SMZs.

(1) In SMZs specified in paragraphs (a)(1) through (19) of this section,

(i) The use of gill nets and trawls is prohibited; and

(ii) Fishing may be conducted only with hand-held hook-and-line gear (including manual, electric, or hydraulic rod and reel) and spearfishing gear (including powerheads).

(2) In SMZs specified in paragraphs (a)(20) and (21) of this section, hydraulic and electric reels that are permanently affixed to the vessel are prohibited when fishing for fish in the snapper-grouper species.

(3) In the SMZ specified in paragraph (a)(20) of this section, the use of spearfishing gear is prohibited.

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50 CFR Part 675

[Docket No. 80859-8159]

Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Proposed closure modification; request for comments.

SUMMARY: NOAA proposes modification of a closure notice that will allow U.S. vessels processing their catch on board or delivering it to U.S. processors (DAP) to conduct a directed fishery for yellowfin sole and "other flatfish" in the Bering Sea subarea south of 58°00' N. latitude and east of 165°00' W. longitude (Zone 1) under specified conditions intended to limit the incidental or bycatch of Pacific halibut, Tanner crabs (*Chionoecetes bairdi*), and red king crabs. Directed fishing for yellowfin sole and "other flatfish" by DAP fishing vessels and U.S. fishing vessels working in joint ventures with foreign processing vessels (JVP) previously was prohibited on March 8, 1988, due to attainment of the prohibited species catch (PSC) limit for *C. bairdi* Tanner crabs. Subsequent reassessment of data on bycatches of crabs in the directed fisheries for yellowfin sole and "other flatfishes" indicates that the risk of biological harm to Tanner crabs and other prohibited species from reopening Zone 1 to only DAP fishing is not significant. Therefore, the previous closure notice would be modified to allow DAP directed fishing for yellowfin sole and "other flatfishes" in Zone 1 under specified conditions. This action is necessary to increase the flexibility of the developing DAP fishery for yellowfin sole in the Bering Sea. The intended effect is to relax a restriction on certain domestic fishermen while maintaining protective measures for prohibited species.

DATE: Comments on this proposed action and especially on the determinations of the Regional Director are invited until September 21, 1988.

ADDRESS: Send comments to James W. Brooks, Acting Director, Alaska Region, National Marine Fisheries Service, 709 West 9th Street, P.O. Box 21668, Juneau, AK 99802-1668. Copies of the Regional Director's determinations may be

obtained on request from the same address or by calling 907-586-7221.

FOR FURTHER INFORMATION CONTACT: Jay J. C. Ginter, Fishery Management Biologist, NMFS, 907-586-7229.

SUPPLEMENTARY INFORMATION: The domestic and foreign groundfish fisheries in the exclusive economic zone of the Bering Sea and Aleutian Islands (BSAI) area are managed under the Fishery Management Plan for the Groundfish Fishery in the Bering Sea and Aleutian Islands Area (FMP). The FMP was developed by the North Pacific Fishery Management Council (Council) and approved by the Secretary of Commerce (Secretary) in 1981. Federal regulations implementing the FMP and governing domestic fisheries in the BSAI area appear under 50 CFR Part 675.

A principal purpose of these regulations is to prevent overfishing of the target groundfish species. In addition, the regulations provide for control of incidental catches of nongroundfish prohibited species. Controls on foreign fishing bycatches of prohibited species have been effective since the early 1980s. In recent years, domestic (JVP and DAP) groundfish fisheries have replaced foreign fishing effort and similar controls on domestic fisheries have become necessary. In 1986, the Council recommended and the Secretary implemented PSC limits on the bycatches of crabs (red king and *C. bairdi* Tanner) and Pacific halibut by the JVP and DAP fisheries for yellowfin sole and "other flatfish." Other flatfish as defined in the FMP include rock sole, flathead sole, arrowtooth flounder, rex sole, butter sole, longhead dab, Dover sole, starry flounder, Alaska plaice, and longnose plaice.

The Council's purpose in recommending PSC limits for domestic fisheries was to limit the fishing mortality of crabs and halibut while not overly restricting access to Bering Sea flatfish resources by the domestic groundfish fisheries. Of concern was the biological impact of such fishing, especially on crabs which were at historically low levels of abundance, and the economic impact on the directed fisheries for crabs and halibut.

The crab and halibut bycatch controls on domestic fisheries were first implemented by emergency rule in 1986 (June 6, 1986, 51 FR 20652) and subsequently by FMP amendment (March 19, 1987, 52 FR 8592) effective only for the 1987 and 1988 fishing years. These controls (1) established two bycatch limitation zones, (2) specified PSC limits for red king crab, *C. bairdi* Tanner crab, and Pacific halibut applicable to the JVP and DAP fisheries

for yellowfin sole and "other flatfish" which trigger the closure of one or both zones if reached, and (3) closed an area within Zone 1 to all domestic commercial fishing with trawl gear. Any of the following specified PSC limits trigger a closure of Zone 1 to a directed fishery for yellowfin sole and "other flatfish":

—80,000 *C. bairdi* Tanner crabs caught by DAP and JVP vessels in Zone 1 while directed fishing for yellowfin sole and "other flatfish,"

—135,000 red king crabs caught by DAP and JVP vessels in Zone 1 while directed fishing for yellowfin sole and "other flatfish," and

—828,000 Pacific halibut caught by JVP vessels only while directed fishing for yellowfin sole and "other flatfish" anywhere in the BSAI management area.

The PSC limit which triggers the closure of Zone 2 is:

—328,000 *C. bairdi* Tanner crabs caught by DAP and JVP vessels in Zone 2 while directed fishing for yellowfin sole and "other flatfish."

Zone 1 was closed to JVP and DAP directed fishing for yellowfin sole and "other flatfish" on March 8, 1988, after the Regional Director determined that the PSC limit for Tanner crabs in Zone 1 had been taken (March 11, 1988, 53 FR 7941). This determination was based on bycatch data collected from onboard observers in the JVP fishery. Additional bycatches of prohibited species by the DAP fishery for "other flatfish" in Zone 1 up to that time are unknown due to the absence of onboard observers. Estimates of DAP bycatches of Tanner crabs range from 19,000 to 37,000 animals depending on the assumed rate of bycatch per mt of groundfish.

Closure of either zone due to the achievement of any PSC limit is ordinarily effective for the remainder of the fishing year (§ 675.21 (a), (b), and (c)). However, § 675.21(d) provides for the Secretary to " * * * allow some or all vessels to continue or resume directed fishing for yellowfin sole and 'other flatfish' under conditions which will limit fishing by permissible gear, areas, times, and other appropriate factors." In authorizing and conditioning such fishing in an otherwise closed zone, the Secretary is required to take into account five determinations by the Regional Director regarding the probable effects of allowing continued or resumed fishing.

Representatives of DAP fishing interests requested the Regional Director to reopen Zone 1 to DAP fishing only to allow a harvest of up to 25,000 mt of yellowfin sole. The Council