

SUPPLEMENTARY INFORMATION:

I. Background

Since July 1, 1993, the date of the most recent revision to the *Code of Federal Regulations* (30 CFR part 700 to End), the addresses of certain State and Federal offices involved in the State regulatory program have changed. The addresses were corrected in order to indicate where copies of the State programs are available for inspection in accordance with the provisions of 30 CFR 900.12(a).

Need for Correction

As published the final regulation contained incorrect information for Kentucky's Abandoned Mine Land Reclamation Plan.

Correction of Publication

Accordingly, the final rule technical amendment which was published on April 15, 1994 (State Program Amendments; Alabama et al.), at 59 FR 17928 is corrected as follows:

1. On page 17929, in the second column, in § 917.20, paragraph (b) is corrected to read as follows:

§ 917.20 Approval of the Kentucky abandoned mine reclamation plan.

(b) Commonwealth of Kentucky, Natural Resources and Environmental Protection Cabinet, Division of Abandoned Lands, 618 Teton Trail, Frankfort, Kentucky 40601.

2. On page 17929, in the third column, in § 917.21, paragraphs (a)(1) and (b)(1) are corrected to read as follows:

§ 917.21 Amendment to approved Kentucky abandoned mine land reclamation plan.

(a) * * *

(1) Commonwealth of Kentucky, Natural Resources and Environmental Protection Cabinet, Division of

Abandoned Lands, 618 Teton Trail, Frankfort, Kentucky 40601.

(b) * * *

(1) Commonwealth of Kentucky, Natural Resources and Environmental Protection Cabinet, Division of Abandoned Lands, 618 Teton Trail, Frankfort, Kentucky 40601.

Dated: May 19, 1994.

Robert J. Biggi,

Acting Assistant Director, Eastern Support Center.

[FR Doc. 94-12861 Filed 5-25-94; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.
ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Judge Advocate General of the Navy has determined that USS MERRILL (DD 976) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special functions as a naval destroyer. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: May 9, 1994.

FOR FURTHER INFORMATION CONTACT:

Captain R.R. Rossi, JAGC, U.S. Navy Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA

22332-2400, telephone number: (703) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Judge Advocate General of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS MERRILL (DD 976) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with the following specific rule of 72 COLREGS: In that portion of Annex I, Section 3(a) pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with its special functions as a naval vessel. The Judge Advocate General of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR part 706 is amended as follows:

1. The authority citation for 32 CFR part 706 continues to read:

Authority: 33 U.S.C. 1605.

2. The entry for USS MERRILL (DD 976) in Table Five of 706.2 is revised to read as follows:

TABLE FIVE

Vessel	No.	Masthead lights not over all other lights and obstructions. annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. annex I, sec. 3(a)	After masthead light less than 1/2 ship's length aft of forward masthead light. annex I, sec. (3)(a)	Percentage horizontal separation attained
USS MERRILL	DD 976			X	46.1

Date: May 9, 1994.

Approved:

R.E. Grant,

Rear Admiral, JAGC, U.S. Navy, Judge
Advocate General.

[FR Doc. 94-12841 Filed 5-25-94; 8:45 am]

BILLING CODE 3810-AE-P

32 CFR Part 706**Certifications and Exemptions Under
the International Regulations for
Preventing Collisions at Sea, 1972;
Amendment**AGENCY: Department of the Navy, DOD.
ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Judge Advocate General of the Navy has determined that USS SQUALL (PC 7), USS ZEPHYR (PC 8), USS CHINOOK (PC 9), USS FIREBOLT (PC 10), USS WHIRLWIND (PC 11), USS THUNDERBOLT (PC 12), USS SHAMAL (PC 13) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with their special functions as naval patrol vessels. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: May 6, 1994.

FOR FURTHER INFORMATION CONTACT:

Captain R.R. Rossi, JAGC, U.S. Navy,
Admiralty Counsel, Office of the Judge
Advocate General, Navy Department,
200 Stovall Street, Alexandria, VA
22332-2400, Telephone number: (703)
325-9744.

SUPPLEMENTARY INFORMATION:

Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Judge Advocate General of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS SQUALL (PC 7), USS ZEPHYR (PC 8), USS CHINOOK (PC 9), USS FIREBOLT (PC 10), USS WHIRLWIND (PC 11), USS THUNDERBOLT (PC 12), USS SHAMAL (PC 13) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with 72 COLREGS, Rule 23(a)(ii), pertaining to display of a masthead light and a second (after) masthead light on vessels exceeding 50 meters in length; Annex I, paragraph 2(k), pertaining to the vertical distance between the forward and after anchor lights and the height of the forward anchor light above the hull; Rule 21(c), pertaining to location of the sternlight, without interfering with their special functions as naval patrol vessels. The Judge Advocate General of the Navy has also certified that the number of

masthead lights displayed and the location of the other mentioned lights are in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the number and placement of lights on USS SQUALL (PC 7), USS ZEPHYR (PC 8), USS CHINOOK (PC 9), USS FIREBOLT (PC 10), USS WHIRLWIND (PC 11), USS THUNDERBOLT (PC 12), USS SHAMAL (PC 13) in a manner differently from that prescribed herein will adversely affect the vessels ability to perform their military functions.

List of Subjects in 32 CFR Part 706

Marine Safety, Navigation (Water),
and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR part 706 is amended as follows:

1. The authority citation for 32 CFR part 706 continues to read:

Authority: 33 U.S.C. 1605.

2. Table Three of 706.2 is amended by revising the column headings and adding the following ships:

TABLE THREE

Vessel	No.	Masthead lights arc of visibility; rule 21(a)	Side lights arc of visi- bility; rule 21(b)	Stern light arc of visi- bility; rule 21(c)	Side lights distance in- board of ship's sides in meters § 3(b) annex 1	Stern light, distance for- ward of stern in me- ters; rule 21(c)	Forward an- chor light, height above hull in meters; § 2(K) annex 1	Anchor lights rela- tionship of aft light to forward light in meters § 2 (K) annex 1
USS SQUALL	PC 7					125.5	3.0	1.0
USS ZEPHYR	PC 8					125.5	3.0	1.0
USS CHINOOK	PC 9					125.5	3.0	1.0
USS FIREBOLT	PC 10					125.5	3.0	1.0
USS WHIRLWIND	PC 11					125.5	3.0	1.0
USS THUNDERBOLT	PC 12					125.5	3.0	1.0
USS SHAMAL	PC 13					125.5	3.0	1.0

¹ Only when towing.

Date: May 6, 1994.

Approved:

H.E. Grant,

Rear Admiral, JAGC, U.S. Navy, Judge Advocate General.

[FR Doc. 94-12842 Filed 5-25-94; 8:45 am]

BILLING CODE 3810-AE-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 301

[Docket No. 940381-4144; I.D. 031194B]

RIN 0648-AG09

Pacific Halibut Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement allocative regulations governing fishing for halibut in Regulatory Area 4B as recommended by the North Pacific Fishery Management Council (Council). This action is necessary to enhance the fishing opportunities of small, locally based vessels in Area 4B. It is intended to further the conservation and management objectives of the Council with respect to the Pacific halibut fishery.

EFFECTIVE DATE: June 6, 1994, at 12:00 hours Alaska local time.

ADDRESSES: Copies of the Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA) may be obtained by contacting the Council, P.O. Box 103136, Anchorage, AK 99510, 907-271-2809.

FOR FURTHER INFORMATION CONTACT: Jay J. C. Ginter, Fisheries Management Division, NMFS, Alaska Region, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

The fishery for Pacific halibut (*Hippoglossus stenolepis*) off the coasts of Alaska, British Columbia, Washington, Oregon, and California is governed by the Convention for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and the Bering Sea (Convention). The Convention is carried out by the International Pacific Halibut Commission (IPHC), which develops regulations to manage the fishery. The

Northern Pacific Halibut Act of 1982 (Halibut Act) was subsequently enacted to give effect to the 1979 Protocol to the Convention.

Section 5(c) of the Halibut Act provides for the appropriate Regional Fishery Management Council under the Magnuson Fishery Conservation and Management Act to develop regulations, including limited access regulations, governing the United States portion of Convention waters and applicable to nationals or vessels of the United States, which are in addition to, and not in conflict with, regulations adopted by the IPHC. Since 1987, NMFS has interpreted this provision to mean that regulations having domestic allocation of the Pacific halibut resource as a primary purpose would be developed by the Council with respect to Alaska and by the Pacific Fishery Management Council with respect to Washington, Oregon, and California.

Area 4B Allocation

This action is designed to ameliorate the effects caused by the differing harvest abilities of vessels that catch and land all their halibut harvest in Area 4B, principally at the Aleutian Islands community of Atka (single-area vessels), and vessels that catch and land halibut in other areas as well as Area 4B (multiple-area vessels). Most single-area vessels are small relative to most multiple-area vessels. This size differential means that multiple-area vessel operators have an advantage in fishing power (i.e., a larger vessel has more space for fish, fuel, and crew) and in fishing time (i.e., a larger vessel can be fished in weather conditions that would prevent smaller vessels from being fished).

To limit this competitive disadvantage, the Council, after reviewing data presented in the EA/RIR/Initial Regulatory Flexibility Analysis and public testimony, decided at its January 1994 meeting to recommend to the Secretary of Commerce that 15 percent of the Area 4B catch limit be reserved for the early season fishery, in which there would be a 10,000 lb (4.5 mt) fishing period (trip) limit. The IPHC, at its meeting of January 25-28, 1994, established the 1994 halibut catch limit for Area 4B to be 2,100,000 lb (953 mt); 15 percent of this amount is 315,000 lb (143 mt). The IPHC also established the Area 4B early season to include one 24-hour period on June 6 through 7, 1994, followed by 31 12-hour periods to occur on every other day between June 15 and August 14, 1994. The IPHC will close all remaining 12-hour periods after the 315,000 lb (143 mt) early season catch limit is reached or add the unharvested

remainder to the subsequent unrestricted fishing periods scheduled by the IPHC to begin on August 15, 1994.

A proposed rule to implement the Council's recommended action was published in the *Federal Register* April 4, 1994 (59 FR 15700). A complete description and justification for this action was presented in the preamble to the proposed rule. Additional information is also available in the EA/RIR/FRFA. Comments on the proposed rule were invited through April 28, 1994. No comments were received during the comment period.

Classification

Analysis supporting this action can be found in the EA/RIR/FRFA (see ADDRESSES).

This final rule has been determined to be not significant for purposes of E.O. 12866.

The Assistant Administrator for Fisheries, NOAA (AA), has determined under section 553(d)(3) of the Administrative Procedure Act that good cause exists for waiving the 30-day delayed effectiveness period for this action. NMFS has proceeded with rulemaking expeditiously after receiving the EA/RIR/FRFA from the Council on February 7, 1994. The 10,000 pound (4.5 mt) fishing period (trip) limit established for the early season fishery in Regulatory Area 4B must be effective upon the opening date of that fishery (June 6, 1994). To delay the effective date beyond June 6 would severely undermine the intent of the Council to provide single-area vessels additional harvest opportunities in the halibut fishery of Regulatory Area 4B. To meet the intent of the Council for the 1994 fishery, the AA is waiving the 30-day delayed effectiveness period for this action.

List of Subjects in 50 CFR Part 301

Fisheries, Treaties.

Dated: May 20, 1994.

Charles Karnella,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 301 is amended as follows:

PART 301—PACIFIC HALIBUT FISHERIES

1. The authority citation for 50 CFR part 301 continues to read as follows:

Authority: 5 UST 5; TIAS 2900; 16 U.S.C. 773-773k.

2. Section 301.7, paragraph (f) is revised to read as follows:

§ 301.7 Fishing periods.

(f) Notwithstanding paragraph (a) of this section, Area 4B will be closed to halibut fishing when 315,000 pounds (143 mt) of the catch limit specified in § 301.10(a) has been taken, and will reopen as scheduled on August 15 for the remaining catch limit.

3. Section 301.11, paragraph (g) is revised to read as follows:

§ 301.11 Fishing period limits.

(g) Notwithstanding paragraph (e) of this section, all vessels fishing in Area 4B shall be limited to a maximum catch of 10,000 pounds (4.5 mt) of halibut per fishing period from June 6 through August 14 inclusive.

[FR Doc. 94-12833 Filed 5-25-94; 8:45 am]
BILLING CODE 3510-22-P

50 CFR Part 646

[Docket No. 940246-4137; I.D. 013194B]

RIN 0648-AE51

Snapper-Grouper Fishery of the South Atlantic

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement Amendment 6 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic (FMP). Amendment 6 establishes management measures necessary to conserve overfished stocks of snowy grouper, golden tilefish, speckled hind, and warsaw grouper in the South Atlantic exclusive economic zone (EEZ). The intended effects of this rule are to rebuild the snapper-grouper resources and to clarify the regulations implementing the FMP.

EFFECTIVE DATE: June 27, 1994, except for § 646.25, which is effective June 6, 1994.

ADDRESSES: Copies of Regulatory Impact Review, Regulatory Flexibility Analysis and Environmental Assessment are available from the South Atlantic Fishery Management Council, 1 Southpark Circle, suite 306, Charleston, SC 29407-4699; FAX 803-769-4520.

FOR FURTHER INFORMATION CONTACT: Peter J. Eldridge, 813-893-3161.

SUPPLEMENTARY INFORMATION: Snapper-grouper species off the southern

Atlantic states are managed under the FMP. The FMP was prepared by the South Atlantic Fishery Management Council (Council) and is implemented through regulations at 50 CFR part 646 under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

Detailed description, background, and rationale for the management measures in Amendment 6 and the additional measures proposed by NMFS were included in the proposed rule (59 FR 9721, March 1, 1994) and are not repeated here.

Comments and Responses

Eighteen comments were received during the public comment period. Most of the comments concerned the proposed closure of the Oculina Bank habitat area of particular concern (HAPC) to fishing for species in the snapper-grouper management unit.

Comment: Five commercial fishermen opposed the closure of the HAPC to fishing for snapper-grouper species. They stated that the closure would reduce income to fishermen and reduce the supply of locally caught fish to wholesale and retail dealers. They also stated that the closure of the HAPC to bottom fishing could result in a shift of fishing effort to adjacent areas and result in overfishing of species in the open areas. They concluded that the action would result in a negative economic impact for the Fort Pierce area, which is adjacent to the HAPC.

Response: In general, the Council and NMFS agree that some fishing income could be lost and a reduction may occur in the flow of locally caught fish to commercial channels. Also, some fishing effort may shift to open areas. A minor negative economic impact on local communities may occur. Fishermen may target other species within the HAPC and fish in other nearby areas; however, quantitative data do not exist to estimate these potential impacts. The HAPC is not a major fishing area for snapper-grouper species and commercial landings from that area have never been sufficient to supply local demand. The closure will not create a shortage of seafood in the Fort Pierce area. Some fishing effort may shift to open areas; however, there are sufficient management measures in place and under development to regulate any additional fishing effort.

Presently, 13 species in the snapper-grouper fishery management unit are overfished and 14 others, with similar life history characteristics, are thought to be overfished. The Council is concerned that traditional fishery management measures, such as

minimum size limits and quotas, may not be sufficient to protect fully the snapper-grouper resource. The Council considered establishing marine reserves in the EEZ off the southern Atlantic states but deferred action after considering public opposition and lack of information on benefits derived from marine reserves. This HAPC closure is a management experiment to determine the consequences of establishing a marine reserve. This measure will "sunset" after 10 years if not reauthorized by the Council. NMFS is to report to the Council on the effectiveness of the closure as soon as data are available, but no later than the end of 2000. The HAPC area was selected because it is relatively small compared to the total area that may be fished, will have a relatively small impact on fishermen, is already familiar to the industry, and is already subject to certain fishing restrictions under regulations implementing the Fishery Management Plan for Coral and Coral Reefs of the Gulf of Mexico and the South Atlantic and the FMP (see 50 CFR parts 638 and 646). The Council believes, and NMFS agrees, that the benefits derived from this management experiment will exceed the temporary costs to some fishermen.

Comment: Five recreational fishermen and two sports fishing clubs opposed closure of the HAPC because it may result in reduced catches. They claimed that recreational anglers might not come to the Fort Pierce area to fish, which would be detrimental to the local economy. Also, they stated that fishing effort would shift to open areas and result in overfishing.

Response: The Council and NMFS agree that some reductions in catch may occur and some anglers may switch to other fishing grounds within and outside of the Fort Pierce area. Resulting impacts on the local economy are uncertain, but are not expected to be significant. Since anglers can still target pelagic species such as mackerels, billfish, and sharks in the HAPC and surrounding areas, the impacts on overall catch rates should not be major. No significant net change in domestic economic activity will result if anglers switch to other fishing grounds located in U.S. waters. The majority of recreational anglers do not possess vessels of sufficient size to fish the HAPC. As stated earlier, the Council and NMFS agree that there may be some temporary, relatively minor negative impacts. In this context, if fish become abundant in the HAPC as expected, some will move into adjacent open areas where they will be available to fishermen. Also, total recruitment may

be increased, which would result in higher catches in open areas due to the increased abundance of spawners in the HAPC. The Council believes, and NMFS agrees, that the benefits derived from this management experiment will exceed the temporary costs to some fishermen. If this experiment does not produce desired benefits, the fishing restrictions will be reconsidered.

Comment: The Deputy Executive Director of the Council commented that the proposed rule does not prohibit anchoring in the HAPC, contrary to Amendment 6.

Response: Amendment 6 includes a prohibition on anchoring in the HAPC as an aid to enforcement of the prohibition on fishing in the HAPC for snapper-grouper species. Under the Magnuson Act, the scope of these regulations may not extend to a *per se* anchoring prohibition in the HAPC, or to non-fishing vessels. The Council did not intend to prohibit fishing in the HAPC for fish other than snapper-grouper species. Accordingly, a prohibition on the combination of fishing and anchoring in the HAPC more effectively meets the intent of the Council. NMFS is not aware of any fishing that would be conducted while anchored in the HAPC other than fishing for snapper-grouper species. Accordingly, the proposed rule and this final rule establish a rebuttable presumption that fishing while anchored in the HAPC constitutes fishing for snapper-grouper species, which is prohibited. Further, snapper-grouper species taken in the HAPC may not be retained. Thus, a vessel fishing in the HAPC, whether or not anchored, may not possess snapper-grouper species.

NMFS believes this final rule meets the intent of the Council regarding anchoring in the HAPC, to the extent allowable under the Magnuson Act.

Comment: Two fishermen stated that anchoring in the HAPC should not be prohibited because of safety reasons.

Response: NMFS agrees; this final rule merely establishes a rebuttable presumption that a vessel fishing while at anchor in the HAPC is fishing for snapper-grouper.

Comment: One fisherman stated that the HAPC coordinates were not published in the public hearing draft of Amendment 6; therefore, no one knew where the area was proposed to be situated. He concluded that this resulted in reduced public comment during public hearings.

Response: The coordinates of the HAPC were published on page 25 of the public hearing draft under Action 9. Figure 3 of the same document showed

the location of the HAPC, including major cities in the immediate area. Each participant at the public hearings received a copy of Figure 3. Final Amendment 6 and the proposed rule provide similar information. Moreover, the coordinates of the HAPC have been established in Federal regulations since July 23, 1984 (50 CFR 638.22(c)). Appendix E (Summary of Public Comments) in Amendment 6 shows that five comments favored closing the HAPC to fishing, while seven comments opposed it. The above information indicates that the public had adequate notice concerning the location of the HAPC during the public hearing and proposed rule stages.

Comment: One fisherman stated that a plan for scientific study of fish stocks in the HAPC was lacking and this was a violation of the Magnuson Act.

Response: Basic research needs are listed and updated periodically for each fishery management plan in the southeastern United States. In addition, NMFS and Council staff prepare annual research plans for each fishery management plan. Research pertaining to the HAPC will be addressed by the NMFS Science and Research Director and incorporated into the annual research plans. NMFS must present the results of the research to the Council no later than the end of the year 2000. Finally, sections III. B. and III. C. of FMP Amendment 4 also specifically provide for fishery data collection and periodic scientific assessment of the condition of managed snapper and grouper stocks; these particular FMP provisions fulfill sections 303(a) (3) and (5) of the Magnuson Act requiring the evaluation of the condition of fish stocks. In summary, the Council and NMFS are meeting research needs indicated in this instance and are in compliance with the Magnuson Act.

Comment: Two commercial fishermen opposed the quotas for snowy grouper and golden tilefish because they believed that the quotas would discriminate against fishermen with smaller vessels, especially those that fished in the Florida Keys. A representative of a commercial fishing organization opposed the quotas because he felt they were not needed.

Response: Both snowy grouper and golden tilefish are overfished. Therefore, regulatory guidelines require stock rebuilding programs. The Council and NMFS believe that fishing pressure must be reduced to rebuild these species. The use of commercial quotas is an acceptable and traditional method to reduce fishing pressure. The Council has chosen to implement quota reductions over a 3-year period to

minimize the economic impact upon commercial fishermen. Also, the Council recognizes that some snowy grouper and golden tilefish would likely be taken as bycatch by fishermen targeting other species. Consequently, the Council is reserving a portion of the annual snowy grouper and golden tilefish quotas as a bycatch allowance. Fishermen will be allowed a trip limit (allowance) of 300 pounds (lb) (136 kilograms (kg)) after initial quotas are reached. Since fishermen in the Florida Keys with smaller vessels rarely catch 300 lb (136 kg) of either species in a trip, their catches should not be affected by either quota.

Comment: Two fishermen in the Florida Keys, who represented fishermen with smaller vessels, supported trip limits for snowy grouper and golden tilefish. A representative of a commercial fishing organization located in the Florida Keys did not think trip limits would adversely affect the members of that organization.

Response: NMFS agrees that the commercial trip limits for snowy grouper and golden tilefish, together with the bycatch allowance (300 lb (136 kg)) that applies after the fishing year quotas are filled, should not adversely affect fishermen with smaller vessels.

Comment: Three commercial fishermen and a representative of a commercial fishing organization were opposed to the prohibition on sale of warsaw grouper and speckled hind. They stated that harvest of warsaw grouper and speckled hind is rare, and these species would not survive release because of the depth of capture. One of the fishermen stated that it would not be practical to donate these fish to a charitable organization. The representative of the commercial fishing organization stated that the prohibition on sale would create confusion in the market and result in law enforcement difficulties.

Response: Warsaw grouper and speckled hind are rare and overfished. The Council recognizes that most harvest of warsaw and speckled hind is bycatch and that survival of released individuals is low. However, the Council is following stock rebuilding guidelines with regard to these species. The Council received public testimony that some fishermen may target these species at certain times during the year. The Council proposed the prohibition on sale to reduce directed fishing mortality, but allowed retention of one warsaw and one speckled hind per vessel per trip to minimize waste. Fishermen are encouraged to donate these fish to "good causes," such as charitable organizations. Many marine

species in the United States are subject to restrictions on sale, either seasonally or geographically. Both the market and law enforcement agencies have adjusted accounting procedures and other practices to implement such restrictions.

Partial Disapproval of Amendment 6

On May 5, 1994, the Regional Director, Southeast Region, NMFS (Regional Director), partially disapproved Amendment 6. Specifically, the Regional Director disapproved Action 12 of the amendment, which would have required all permitted vessels to maintain and submit vessel logbooks. The Regional Director believes that the methods of obtaining necessary management data and the appropriate sampling system for such data are determinations properly made by NMFS.

The regulations at 50 CFR 646.5(a) require vessel logbooks to be maintained and submitted by all vessels fishing for wreckfish and for other permitted vessels selected by the Science and Research Director, Southeast Fisheries Science Center, NMFS. Currently all permitted vessels are selected to maintain and submit logbooks.

Vessel logbooks provide catch and effort data, which the Council believes are needed for quota monitoring, stock assessments, catch histories, and indications of shifts in fishing effort. NMFS agrees that catch and effort data via logbooks are needed for all of these purposes except for quota monitoring. In the snapper-grouper fishery, NMFS has chosen to use dealer reports for quota monitoring rather than vessel logbooks. These collections of information have been approved previously under Office of Management and Budget control numbers 0648-0016 (logbooks) and 0648-0013 (dealer reports). NMFS agrees with the Council that good and sufficient reasons continue to exist for the current requirement that all permitted vessels maintain and submit vessel logbooks. Accordingly, NMFS intends to continue to select all permitted vessels to maintain and submit logbooks. When NMFS believes that the 100-percent level of submission is no longer required, it will reduce the percentage of vessels required to maintain and submit logbooks, without the necessity of amending the FMP.

Changes From the Proposed Rule

As a consequence of the partial disapproval of Amendment 6, discussed above, the proposed change to § 646.5(a)(1) is not included in this final

rule and the proposed change to § 646.5(d) introductory text is modified.

Classification

The Regional Director determined that Amendment 6 is necessary for the conservation and management of the snapper-grouper fishery and that it is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law, with the exception of the measure that would have required all permitted vessels to maintain and submit vessel logbooks.

This final rule has been determined to be not significant for purposes of E.O. 12866.

The Council prepared an initial regulatory flexibility analysis (initial RFA) for this action. The initial RFA has been adopted as final without change. The final RFA concludes that this final rule may have a significant economic impact on a substantial number of small entities, as summarized in the proposed rule.

The commercial vessel trip limits established in § 646.25 of this final rule are intended to prolong the commercial seasons for snowy grouper and golden tilefish under the newly established commercial quotas. Prolonging the seasons will have considerable economic benefits for the fisheries. Delay in implementing these trip limits will reduce significantly the potential benefits. However, immediate implementation might adversely affect commercial fishermen when this final rule is published because they may be at sea. Accordingly, to maximize the potential economic benefits of the trip limits without undue adverse effect on fishermen now on fishing trips, the Assistant Administrator for Fisheries, NOAA, finds for good cause under section 553(d)(3) of the Administrative Procedure Act that the effective date of § 646.25 should not be delayed beyond 10 days from the date of publication of this final rule.

List of Subjects in 50 CFR Part 646

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 20, 1994.

Charles Karmella,

Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 646 is 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 § 646.1, paragraph (b) is revised to read as follows:

§ 646.1 Purpose and scope.

(b) This part governs conservation and management of fish in the snapper-grouper fishery in or from the South Atlantic EEZ, except that §§ 646.5 and 646.24 also apply to such fish in or from adjoining state waters.

§ 646.2 [Amended]

3. In § 646.2, in the definition for "Fish in the snapper-grouper fishery", under the family designation "Tilefishes—Malacanthidae", the listing for "Tilefish (Golden)" is revised to read "Golden tilefish"; and the family designation "Triggerfishes—Balistidae" is revised to read "Leatherjackets—Balistidae"; and in the definition for "Sea bass pot", in paragraph (3) introductory text, the parenthetical phrase "(see Figure 3)" is revised to read "(see Figure 2)".

§ 646.4 [Amended]

4. In § 646.4, in paragraph (b)(2)(vi)(A), the word "and" is added after the concluding semi-colon; in paragraph (b)(2)(vi)(B), the concluding word "and" is removed; and paragraph (b)(2)(vi)(C) is removed.

5. In § 646.5, paragraphs (d) introductory text and (d)(4) are revised to read as follows:

§ 646.5 Recordkeeping and reporting.

(d) *Commercial vessel, charter vessel and headboat inventory.* A person described under paragraphs (a) or (b) of this section who is not selected to report must provide the following information when interviewed by the Science and Research Director:

(4) Fishing areas;

6. In § 646.7, paragraph (kk) is revised; paragraph (mm) is redesignated as paragraph (ss); and new paragraphs (mm) through (rr) are added to read as follows:

§ 646.7 Prohibitions.

(kk) Transfer at sea—
(1) Warsaw grouper or speckled hind, as specified in § 646.21(j)(6);
(2) Fish in the snapper-grouper fishery subject to a bag limit, as specified in § 646.23(f); or
(3) Snowy grouper or golden tilefish, as specified in § 646.25(e).

(mm) Fish for fish in the snapper-grouper fishery in the Oculina Bank

habitat area of particular concern (HAPC), retain such fish in or from the Oculina Bank HAPC, or fail to release immediately such fish taken in the Oculina Bank HAPC by hook-and-line gear, as specified in § 646.26(d)(2).

(nn) Possess a warsaw grouper or speckled hind in excess of the vessel trip limit, as specified in § 646.21 (j)(1) or (j)(2).

(oo) Sell, purchase, trade, or barter, or attempt to sell, purchase, trade, or barter, a warsaw grouper or speckled hind, as specified in § 646.21(j)(3).

(pp) Exceed a commercial trip limit for snowy grouper or golden tilefish, as specified in § 646.25 (a) or (b).

(qq) Sell, purchase, trade, or barter, or attempt to sell, purchase, trade, or barter, snowy grouper or golden tilefish in excess of an applicable trip limit, as specified in § 646.25(f).

(rr) Make any false statement, oral or written, to an authorized officer concerning the taking, catching, harvesting, landing, purchase, sale, possession, or transfer of a fish in the snapper-grouper fishery.

7. Section 646.20 is revised to read as follows:

§ 646.20 Fishing years.

(a) The fishing year for wreckfish begins on April 16 and ends on April 15.

(b) The fishing year for fish in the snapper-grouper fishery other than wreckfish begins on January 1 and ends on December 31.

8. In § 646.21, a new paragraph (j) is added to read as follows:

§ 646.21 Harvest limitations.

(j) *Warsaw grouper and speckled hind.* (1) The possession of warsaw grouper in or from the EEZ is limited to one per vessel per trip.

(2) The possession of speckled hind in or from the EEZ is limited to one per vessel per trip.

(3) A warsaw grouper or a speckled hind in or from the EEZ may not be sold, purchased, traded, or bartered, or attempted to be sold, purchased, traded, or bartered.

(4) A person who fishes in the EEZ may not combine a possession limit specified in paragraph (j)(1) or (j)(2) of this section with a bag or possession limit applicable to state waters.

(5) The operator of a vessel that fishes in the EEZ is responsible for the possession limit applicable to that vessel.

(6) A warsaw grouper or speckled hind taken in the EEZ may not be transferred at sea, regardless of where

such transfer takes place; a warsaw grouper or speckled hind may not be transferred at sea in the EEZ, regardless of where such warsaw grouper or speckled hind was taken.

9. In § 646.23, a new paragraph (a)(4) is added and paragraph (b)(3) is revised to read as follows:

§ 646.23 Bag and possession limits.

(a) * * *

(4) Special limitations on possession of warsaw grouper and speckled hind apply. (See § 646.21(j).)

(b) * * *

(3) Groupers, excluding jewfish and Nassau grouper, and tilefishes, combined—5.

* * * * *

10. Section 646.24 is revised to read as follows:

§ 646.24 Commercial quotas.

Persons who are not subject to the bag limits are subject to the following quotas. (See § 646.23(a)(1) for applicability of the bag limits.)

(a) *Wreckfish* (whole weight)—2 million pounds (907,185 kg) each fishing year.

(b) *Snowy grouper* (gutted weight, that is, eviscerated but otherwise whole)—

(1) 540,314 pounds (245,082 kg) in the fishing year that commences January 1, 1994.

(2) 442,448 pounds (200,691 kg) in the fishing year that commences January 1, 1995.

(3) 344,508 pounds (156,266 kg) in the fishing year that commences January 1, 1996.

(c) *Golden tilefish* (gutted weight, that is, eviscerated but otherwise whole)—

(1) 1,475,795 pounds (669,409 kg) in the fishing year that commences January 1, 1994.

(2) 1,238,818 pounds (561,918 kg) in the fishing year that commences January 1, 1995.

(3) 1,001,663 pounds (454,347 kg) in the fishing year that commences January 1, 1996.

§§ 646.27 and 646.25 [Redesignated as §§ 646.28 and 646.27]

11. Section 646.27 is redesignated as § 646.28; § 646.25 is redesignated as § 646.27; and a new § 646.25 is added to read as follows:

§ 646.25 Commercial trip limits.

Persons who are not subject to the bag limits and who fish in the EEZ on a trip are subject to the following vessel trip limits. (See § 646.23(a)(1) for applicability of the bag limits.)

(a) *Snowy grouper* (whole weight or gutted weight, that is, eviscerated but otherwise whole).

(1) Until the fishing year quota specified in § 646.24(b) is reached, 2,500 pounds (1,134 kg).

(2) After the fishing year quota specified in § 646.24(b) is reached, 300 pounds (136 kg).

(b) *Golden tilefish* (whole weight or gutted weight, that is, eviscerated but otherwise whole).

(1) Until the fishing year quota specified in § 646.24(c) is reached, 5,000 pounds (2,268 kg).

(2) After the fishing year quota specified in § 646.24(c) is reached, 300 pounds (136 kg).

(c) *Reduction of trip limits.* When a commercial quota specified in § 646.24(b) or (c) is reached, or is projected to be reached, the Assistant Administrator will file a notice to that effect with the Office of the Federal Register. On and after the effective date of such notice, for the remainder of the fishing year, the appropriate trip limit applies.

(d) A person who fishes in the EEZ may not combine a trip limit under this section with any trip or possession limit applicable to state waters.

(e) A snowy grouper or golden tilefish taken in the EEZ may not be transferred at sea, regardless of where such transfer takes place; a snowy grouper or golden tilefish may not be transferred at sea in the EEZ, regardless of where such snowy grouper or golden tilefish was taken.

(f) Snowy grouper or golden tilefish in excess of an applicable trip limit specified in paragraph (a) or (b) of this section may not be sold, purchased, traded, or bartered, or attempted to be sold, purchased, traded, or bartered.

12. In § 646.26, a new paragraph (d) is added to read as follows:

§ 646.26 Area limitations.

* * * * *

(d) *Habitat area of particular concern (HAPC).* (1) The Oculina Bank, which is a coral HAPC under § 638.23(c) of this chapter, is bounded on the north by 27°53'N. latitude, on the south by 27°30'N. latitude, on the east by 79°56'W. longitude, and on the west by 80°00'W. longitude.

(2) No fishing for fish in the snapper-grouper fishery may be conducted in the Oculina Bank HAPC; such fish may not be retained in or from the Oculina Bank HAPC. Fish in the snapper-grouper fishery taken incidentally in the Oculina Bank HAPC by hook-and-line gear must be released immediately by cutting the line without removing the fish from the water. It is a rebuttable presumption that fishing aboard a vessel that is anchored in the HAPC constitutes

fishing for fish in the snapper-grouper fishery.

(3) See § 638.23(c) of this chapter for prohibitions on fishing with bottom longlines, traps, pots, dredges, and bottom trawls in the Oculina Bank HAPC.

Figure 3 to Part 646 [Redesignated as Figure 2 to Part 646]

13. Figure 2 to part 646 is removed and Figure 3 to part 646 is redesignated as Figure 2 to part 646.

[FR Doc. 94-12897 Filed 5-25-94; 8:45 am]
BILLING CODE 3510-22-P

50 CFR Part 675

[Docket No. 931100-4043; I.D. 052394A]

Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for aggregate species in the Greenland turbot/arrowtooth flounder/

sablefish trawl fishery category by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary because the 1994 Pacific halibut bycatch mortality allowance specified for that category has been reached.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), May 23, 1994, until 12 midnight, A.l.t., December 31, 1994.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Senior Inseason Manager, Fisheries Management Division, NMFS, 907-586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for the Groundfish Fishery of the BSAI (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

The 1994 Pacific halibut bycatch mortality allowance for the Greenland turbot/arrowtooth flounder/sablefish trawl fishery category, which is defined

at § 675.21(b)(1)(iii)(C), is 137 metric tons (59 FR 7656, February 16, 1994).

The Director, Alaska Region, NMFS, has determined, in accordance with § 675.21(c)(1)(iv), that the Pacific halibut bycatch mortality allowance specified for that category has been reached. Therefore, NMFS is prohibiting directed fishing for aggregate species of the Greenland turbot/arrowtooth flounder/sablefish trawl fishery category by vessels using trawl gear in the BSAI from 12 noon, A.l.t., May 23, 1994, until 12 midnight, A.l.t., December 31, 1994.

Directed fishing standards for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under § 675.21 and is exempt from OMB review under E.O. 12866.

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

Dated: May 23, 1994.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 94-12896 Filed 5-23-94; 4:45 pm]

BILLING CODE 3510-22-P

Proposed Rules

Federal Register

Vol. 59, No. 101

Thursday, May 26, 1994

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL RESERVE SYSTEM

12 CFR Part 208

[Regulation H; Docket No. R-0838]

Membership of State Banking Institutions in the Federal Reserve System

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board is proposing to amend Regulation H to implement section 6(b) of the Depository Institutions Disaster Relief Act of 1992, which authorizes state member banks to make investments designed primarily to promote the public welfare to the extent permissible under state law and subject to regulation by the Board. The proposed amendment would permit state member banks to make certain public welfare investments without specific Board approval and other public welfare investments with specific approval. The proposed rule also addresses the procedural aspects of these investments.

DATES: Comments must be submitted on or before July 22, 1994.

ADDRESSES: Comments, which should refer to Docket No. R-0838, may be mailed to the Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, Attention: Mr. William W. Wiles, Secretary; or may be delivered to Room B-2223 between 8:45 a.m. and 5:15 p.m. All comments received at the above address will be made available to the public, and may be inspected at the Freedom of Information Office, Room B-1122 between 8:45 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Manley Williams, Attorney (202/736-5565), Legal Division; Sandra Braunstein, Program Manager for Community Affairs, (202/452-3378), Division of Consumer and Community Affairs; Larry Cunningham, Senior Financial Analyst (202/452-2701), Division of Banking Supervision and

Regulation, Board of Governors of the Federal Reserve System. For the hearing impaired *only*, Telecommunications Device for the Deaf (TDD), Dorothea Thompson (202/452-3544), Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Section 6(b) of the Depository Institutions Disaster Relief Act of 1992 added paragraph 23 to section 9 of the Federal Reserve Act, 12 U.S.C. 338a. Section 6(b) removes the restriction on the ability of state member banks to purchase, sell, underwrite, and hold investment securities provided that the investment is designed primarily to promote the public welfare and that the investment meets certain other criteria. Specifically, the investment must not violate state law or expose the bank to unlimited liability. The aggregate of the bank's public welfare investments must not exceed the sum of five percent of the bank's capital stock actually paid in and unimpaired and five percent of its unimpaired surplus fund. The Board may waive this limit by order, on a case-by-case basis, however, and permit a bank to make investments in an amount not exceeding the sum of ten percent of the capital stock actually paid in and unimpaired and ten percent of the unimpaired surplus fund of the bank. Finally, the Board must limit a bank's investments in any one project.

In the past, requests by state member banks to make public welfare investments have been dealt with on a case-by-case basis. To reflect section 6(b)'s amendment of the Federal Reserve Act and to facilitate public welfare investments under that section, the Board is publishing for comment an amendment to Regulation H to be incorporated in a new section entitled Community Development and Public Welfare Investments. This amendment would permit, in many cases, public welfare investments without Board approval.

Core Public Welfare Investments

The proposed rule identifies classes of public welfare investments that do not require Board approval, leaving less common investments and investments of more than five percent of a bank's capital subject to case-by-case review. The proposed rule's classification seeks to distinguish public welfare investments from entrepreneurial

investments--section 6(b) merely states that public welfare investments include investments designed primarily to promote the welfare of low- and moderate-income communities or families. Under the proposed rule, a state member bank may invest, without Board approval, only in a corporation, limited partnership, or other entity established solely to engage in the following activities: low- and moderate-income housing; nonresidential real-estate development in a low- or moderate-income area if that real-estate is used primarily by low- and moderate-income persons; job training or placement for low- and moderate-income persons; small business development in a low- or moderate-income area; technical assistance and credit counseling to benefit community development; and job creation in a low- or moderate-income area for low- and moderate-income persons. The Board is particularly interested in comments on whether the test for low- and moderate-income housing should be based on whether a majority of the units are occupied by low- and moderate-income persons or on other Federal programs such as the low income housing credit in section 42 of the Internal Revenue Code.

In defining low- and moderate-income persons and low- or moderate-income area, the proposed rule uses definitions that will permit a state member bank to look to readily obtainable data. Specifically, the proposed rule uses the Department of Housing and Urban Development's Chapter 69 Community Development definition of low- and moderate-income persons. Similarly, low- or moderate-income area is defined as an area in which the median family income is less than eighty percent of the median family income of the Metropolitan Statistical Area, or, for non-metropolitan areas, the state. Finally, the proposed rule uses the Small Business Administration's definition of small business.

Substantive Requirements

The proposed rule contains a number of substantive requirements based on section 6(b). Specifically, the investment must not violate state law or expose the bank to unlimited liability. In addition, without Board approval, a state member bank's aggregate public welfare investments must not exceed

the sum of 5 percent of the bank's capital stock actually paid in and unimpaired and 5 percent of the bank's unimpaired surplus fund. The Board has previously determined that undivided profits may be considered part of the capital stock and surplus of a state member bank (12 CFR 250.152). Accordingly, the proposed rule limits aggregate public welfare investments without Board approval to up to five percent of the capital stock and surplus of the state member bank.

Section 6(b) also requires that the Board limit investments by a state member bank in any one public welfare investment. Investment of up to two percent of the bank's capital and surplus would not threaten the safety or soundness of a well-run adequately-capitalized bank. In addition, previous community development investments by state member banks have not approached this ceiling. Accordingly, the proposed rule limits a state member bank to investing not more than two percent of its capital and surplus in a single investment without Board approval.

The proposed rule also establishes certain non-statutory substantive requirements for state member banks seeking to make public welfare investments without Board approval. Specifically, the bank must be at least adequately capitalized and rated a composite CAMEL "1" or "2", and the bank must not be subject to any written agreement, cease and desist order, capital directive, or prompt corrective action directive issued by the Board or a Federal Reserve Bank acting under delegated authority. These requirements help to ensure that the investment is consistent with the safe and sound operation of the bank.

Procedural Requirements

The proposed rule sets forth four procedural requirements. First, to keep Federal Reserve Banks apprised of public welfare investments, within 30 days after making a public welfare investment, a state member bank must advise its Reserve Bank of the amount of the investment and the identity of the corporation, limited partnership, or other entity in which the investment is made. Second, a bank seeking to make an investment that falls outside of the investments specified in the proposed rule must receive Board approval. In no event may aggregate investments exceed ten percent of the bank's capital stock and surplus. Third, if a public welfare investment entered into under the proposed rule ceases to meet the statutory requirements or any requirements established by the Board

in granting approval, the bank must divest itself of the investment to the extent that the investment ceases to meet those requirements.¹ Finally, if a preexisting public welfare investment meets the requirements for investments which do not need Board approval, or if the Board approved the investment, the bank need only notify its Reserve Bank of the investment within sixty days after the effective date of the final rule. For other preexisting public welfare investments, the bank should apply to the Board for approval of the investment within one year after the final rule's effective date.

Bank Holding Company Investments

In the event that the Board adopts a final rule permitting state member banks to make the proposed public welfare investments discussed above, the Board will consider revising its interpretation of Regulation Y to permit the same class of investments to be made by bank holding companies. If revised accordingly, a bank holding company could apply to make those investments under the existing expedited notice procedures.

To deal with proposed public welfare investments by state member banks during the pendency of the proposed rule, the Board has delegated to the Director of the Division of Bank Supervision and Regulation, in consultation with the General Counsel and the Director of the Division of Consumer and Community Affairs, the authority to approve investments that meet the requirements of the proposed rule.

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*), the Board certifies that the proposed amendment will not have a significant economic impact on a substantial number of small entities, and that any impact on those entities should be positive. The proposed amendments will reduce the regulatory burden for many state member banks by permitting them to make certain investments that had previously required Board approval, and will have no effect in other cases.

¹ This divestiture is governed by the same requirements as divestitures of interests acquired by a lending subsidiary of a bank holding company or a bank holding company itself in satisfaction of a debt previously contracted.

Divestiture is not required if the investment ceases to meet the non-statutory requirements concerning capital, CAMEL ratings, and enforcement actions.

List of Subjects in 12 CFR Part 208

Accounting, Agriculture, Banks, banking, Confidential business information, Currency, Federal Reserve System, Reporting and recordkeeping requirements, Securities.

For the reasons set forth in the preamble, the Board is proposing to amend 12 CFR part 208 as follows:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM (REGULATION H)

1. The authority citation for part 208 is revised to read as follows:

Authority: 12 U.S.C. 36, 248(a), 248(c), 321-338a, 371d, 461, 481-486, 601, 611, 1814, 1823(j), 1828(o), 1831o, 1831p-1, 3105, 3310, 3331-3351, and 3906-3909; 15 U.S.C. 1(b), 1(g), 1(i), 78b, 78o-4(c)(5), 78q, 78q-1, and 78w; 31 U.S.C. 5318.

2. Section 208.21 is added to subpart A to read as follows:

§ 208.21 Community development and public welfare investments.

(a) *Definitions*—(1) *Low- or moderate-income area* means:

(i) One or more census tracts in a Metropolitan Statistical Area where the median family income adjusted for family size in each census tract is less than eighty percent of the median family income adjusted for family size of the Metropolitan Statistical Area; or

(ii) If not in a Metropolitan Statistical Area, one or more census tracts or block-numbered areas where the median family income adjusted for family size in each census tract or block-numbered area is less than eighty percent of the median family income adjusted for family size of the State.

(2) *Low- and moderate-income persons* has the same meaning as low- and moderate-income persons as defined in 42 U.S.C. 5302a(20)(A).

(3) *Small business* means a business that meets the size eligibility standards of 13 CFR 121.802(a)(2).

(b) *Investments that do not require prior Board approval.* Notwithstanding the provisions of R.S. 5136, 12 U.S.C. 24 (Seventh) made applicable to State member banks by paragraph 20 of section 9 of the Federal Reserve Act (12 U.S.C. 335), a State member bank may make an investment, without prior Board approval, if the following conditions are met:

(1) The investment is in a corporation, limited partnership, or other entity:

(i) Where the Board has determined that an investment in that entity is a public welfare investment under paragraph 23 of section 9 of the Federal Reserve Act (12 U.S.C. 338a), or a

community development investment under Regulation Y (12 CFR 225.25(b)(6)); or

(ii) Where that entity engages solely in one or more of the following community development activities:

(A) Investing in, developing, rehabilitating, managing, selling, or renting residential property if a majority of the units will be occupied by low- and moderate-income persons;

(B) Investing in, developing, rehabilitating, managing, selling, or renting nonresidential real property or other assets located in a low- or moderate-income area and to be used primarily by low- and moderate-income persons;

(C) Investing in one or more small businesses located in a low- or moderate-income area to stimulate economic development;

(D) Investing in, developing, or otherwise assisting job training or placement facilities or programs that will be used primarily by low- and moderate-income persons;

(E) Investing in an entity located in a low- or moderate-income area if that entity creates long-term employment opportunities, a majority of which (based on full time equivalent positions) will be held by low- and moderate-income persons; and

(F) Providing technical assistance, credit counseling, research, and program development assistance to low- and moderate-income persons, small businesses, or nonprofit corporations to help achieve community development;

(2) The investment is permitted by State law;

(3) The investment will not expose the bank to liability beyond the amount of the investment;

(4) The investment does not exceed the sum of two percent of the bank's capital stock and surplus as defined under 12 CFR 250.162;

(5) The aggregate of all such investments of the bank does not exceed the sum of five percent of its capital stock and surplus as defined under 12 CFR 250.162;

(6) The bank is well capitalized or adequately capitalized under § 208.33(b)(1) and (2);

(7) The bank received a composite CAMEL rating of "1" or "2" under the Uniform Financial Institutions Rating System as of its most recent examination, and

(8) The bank is not subject to any written agreement, cease and desist order, capital directive, or prompt corrective action directive issued by the Board or a Federal Reserve Bank.

(c) *Notice.* Not more than 30 days after making an investment under paragraph

(b) of this section, the bank shall advise its Federal Reserve Bank of the investment, including the amount of the investment and the identity of the entity in which the investment is made.

(d) *Investments requiring Board approval.* With prior Board approval, a State member bank may make public welfare investments under paragraph 23 of section 9 of the Federal Reserve Act (12 U.S.C. 338a), other than those specified in paragraph (b) of this section.

(e) *Divestiture of investments.* A bank shall divest itself of an investment made under paragraph (b), (d) or (f) of this section to the extent that the investment exceeds the scope of, or ceases to meet, the requirements of paragraphs (b)(1) through (5), or paragraph (d) of this section. The divestiture shall be made in the manner specified in Regulation Y (12 CFR 225.140) for interests acquired by a lending subsidiary of a bank holding company or the bank holding company itself in satisfaction of a debt previously contracted.

(f) *Preexisting investments.* (1) For ongoing investments made prior to [the final rule's effective date] that are covered by paragraph (b) of this section, a State member bank shall notify its Federal Reserve Bank of the investment not more than sixty days after [the final rule's effective date].

(2) For other ongoing investments made prior to [the final rule's effective date], a State member bank shall request Board approval not more than one year after [the final rule's effective date].

By order of the Board of Governors of the Federal Reserve System, May 19, 1994.

William W. Wiles,

Secretary of the Board.

[FR Doc. 94-12718 Filed 5-25-94; 8:45 am]

BILLING CODE 8210-01-F

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94-SW-03-AD]

Airworthiness Directives: Terra Corporation TRT 250 Series Transponder

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to the Terra Corporation TRT 250 series

transponder (transponder). This proposal would require removing the transponder from the aircraft, inspecting it to determine if the AD applies, and replacing any affected transponder with a modified Terra Corporation transponder or another transponder that responds properly to Mode S interrogations from both an ATCRBS/Mode S ground station and TCAS II airborne equipment. This proposal is prompted by FAA tests that show that the transponder does not reply to certain interrogations by a Mode S or Traffic Collision Avoidance System (TCAS) II signal. The actions specified by the proposed AD are intended to prevent failure of the transponder to reply to Mode S interrogations from both Mode S ground stations and TCAS II airborne equipment which could result in loss of airspace separation. DATES: Comments must be received by June 27, 1994.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 94-SW-03-AD, 2601 Meacham Boulevard, room 663, Fort Worth, Texas 76137-4298. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Terra Corporation, 3520 Pan American Freeway NE, Albuquerque, New Mexico 87107-4796. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Boulevard, room 663, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. George R. Hash, Aerospace Engineer, Airplane Certification Office, FAA, Rotorcraft Directorate, 2601 Meacham Boulevard, Fort Worth, Texas 76137, telephone (817) 222-5134, fax (817) 222-5959.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.