

so on numerically, the figures of the symbols always representing the number of the supplement to the same tariff from which the reissued item is brought forward. If items in a tariff or supplement are made effective on dates other than the general effective date shown on the title page, reissue of such items may be indicated in later publications by showing a letter suffix or other symbol in connection with, and as a part of, the letter T or the numerals in squares as authorized in this paragraph. When the reissued item became effective in a supplement to another tariff, the ICC number of that tariff must also be given.

(e) * * *

(11) Changes must be indicated as required by § 1300.2(a).

(h) *Supplement to tariff filed but not yet effective.*

After a tariff is filed on statutory notice canceling another tariff, a supplement to the tariff to be so canceled may be issued to become effective before the general effective date of the new tariff. When such supplement adds to or changes the rates or provisions which were brought forward unchanged in the new tariff, the supplement shall also be issued as a supplement to the new tariff and be given the ICC numbers of both the tariff in effect and the new tariff. In other words, such items must be a supplement both to the old and new tariffs and copies must be posted and filed accordingly. Only one such supplement may be in effect at any time.

§ 1300.10 [Amended]

3. The words "thirty days" are revised to read "statutory" in the last sentence of § 1300.10(i)(1) and the words "rule 10(i) of Tariff Circular No. 20" are revised to read "49 CFR 1300.10(1)" in the first sentence of § 1300.10(i)(2).

§ 1300.14 [Amended]

4. The words "30 days" are revised to read "statutory" in the first sentence of § 1300.14(f)(4).

Paragraph (a) of § 1300.14 is revised to read as follows:

§ 1300.14 Statutory notice: additional procedure in filing tariffs.

(a) Except as otherwise authorized by the Commission, and except with regard to railroad contract rates filed under 49 U.S.C. 10713 (§ 1300.300 of this part), the notice period for tariff publications shall be:

(1) 30 days for tariffs issued by non-rail carriers;

(2) 20 days for rates or provisions published by rail carriers in connection with new service or changes resulting in increased rates or decreased value of service; and

(3) 10 days for changes published by rail carriers resulting in decreased rates or increased value of service, or changes resulting in neither increases nor reductions.

§ 1300.54 [Removed]

6. Section 1300.54 is removed.

§ 1300.58 [Amended]

7. The following revisions, additions and removals are made in § 1300.58:

(a) "Section 6" is revised to read "Section 10762" in the title of § 1300.58 and in the first sentence of § 1300.58(a).

(b) The phrase "a notice of less than 30 days" is revised to read "less than statutory notice" in the third sentence of § 1300.58(a).

(c) Remove the phrase "Tariff Circular 20" and the parentheses from around the words "this part" in the second sentence of § 1300.58(b).

(d) Remove the phrase "sixth section" from the first sentence of § 1300.58(c) and revise the words "30 days" to read "statutory" in the first sentence of § 1300.58(c).

(e) Remove the phrase "the sixth" from the last sentence of § 1300.58(c) and add "10762" after "section" in the same sentence.

(f) Remove the word "sixth" in the second sentence of § 1300.58(d) and add "10762" between "section" and "application" in the same sentence.

(g) Remove the phrase "Tariff Circular 20" and the parentheses from around the words "this part" in the first sentence of § 1300.58(e) and revise "6" to read "10762" in the first sentence under "Form of Application" in § 1300.58(e).

PART 1303—PASSENGER SERVICE SCHEDULES: RAIL AND WATER CARRIERS

8. Paragraph (g) § 1303.11 is removed and reserved and paragraph (f)(1) of § 1303.11 is revised to read as follows:

§ 1303.11 Filing tariffs; rejections.

(f) *Period of Notice.* (1) Except as otherwise authorized by the Commission, and except with regard to contract rates filed under Section 10713 of the Act, the notice period for tariff publications shall be:

(i) 30 days for tariffs issued by non-rail carriers;

(ii) 20 days for rates or provisions published by rail carriers in connection with new service or changes resulting in

increased rates or decreased value of service; and

(iii) 10 days for changes published by rail carriers resulting in decreased rates or increased value of service, or changes resulting in neither increases nor reductions.

(g) [Reserved]

PART 1305—POSTING TARIFFS AT STATIONS

9. Section 1305.5 is revised to read as follows:

§ 1305.5 Time of posting.

Except as otherwise provided, each tariff shall be posted at least 30 days prior to its effective date. When the Interstate Commerce Act or the Commission permits a different notice period for filing, the tariff publication shall be posted at least that number of days before the effective date.

[FR Doc. 83-26748 Filed 9-30-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 1 and 2

Definitions and Field Organization; Updating Field Organization Description

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service is publishing an administrative update to reflect field organization changes and to remove gender specific wording in Parts 1 and 2. These changes are administrative and editorial in nature and are done as a matter of reader convenience in conjunction with the next revised edition (October 1, 1983) of Title 50, Code of Federal Regulations.

EFFECTIVE DATE: September 30, 1983.

FOR FURTHER INFORMATION CONTACT: Arthur J. Ferguson, Office of Information Resources Management, Fish and Wildlife Service, Washington, D.C. 20240, telephone 202-653-7499.

SUPPLEMENTARY INFORMATION: On October 1, 1982, eighteen area offices, established in 1976 as components of line management in the Service, were closed. That organizational decision was based generally on an identified need to streamline and shorten the chain of command to field stations, to increase operational responsibility, accountability, and liaison in the

regional offices, and to reduce management operating costs in future years. Another field organization change upgraded the former Alaska Area Office to a regional office status.

Since this update is purely for reader convenience, it is not a rule as contemplated in Executive Order 12291, or the Act of September 19, 1980 (94 Stat. 1164; 5 U.S.C. 601), commonly cited as the "Regulatory Flexibility Act." Therefore, the provisions of that Executive order and act are not applicable to this final rule. Further, it is the general policy of the Department of the Interior to allow time for interested parties to take part in the rulemaking process. However, this rule is entirely administrative and editorial in nature and for the benefit of the public. Therefore, notice and public procedure are unnecessary and contrary to the public interest. The Service also finds that "good cause" exists within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and this rule will, therefore, take effect immediately upon publication.

List of Subjects in 50 CFR Parts 1 and 2

Organization and functions
(Government agencies).

PART 1—DEFINITIONS

Accordingly, 50 CFR Part 1 is amended as follows:

1. Section 1.4 is revised to read as follows:

§ 1.4 Director.

"Director" means the Director, U.S. Fish and Wildlife Service or the authorized representative of such official.

2. Section 1.5 is revised to read as follows:

§ 1.5 Officer in Charge.

"Officer in Charge" means any person in charge of a national fish hatchery, national wildlife refuge, research center, or other U.S. Fish and Wildlife Service installation, or the authorized representative of such official.

3. Section 1.7 is revised to read as follows:

§ 1.7 Regional director.

"Regional director" means the official in charge of a region of the U.S. Fish and Wildlife Service or the authorized representative of such official.

4. Section 1.8 is revised to read as follows:

§ 1.8 Secretary.

"Secretary" means the Secretary of the Interior or the authorized representative of such official.

§ 1.9 [Removed]

5. Section 1.9 "Area manager" is removed.

6. 50 CFR Part 2 is revised to read as follows:

PART 2—FIELD ORGANIZATION

Sec.

2.1 Regional offices.

2.2 Locations of regional offices.

Authority: 5 U.S.C. 301.

§ 2.1 Regional offices.

The program operations of the U.S. Fish and Wildlife Service are performed at various types of field installations, such as ecological services stations, endangered species stations, fishery assistance offices, national fish hatcheries, national wildlife refuges, research laboratories and wildlife assistance offices. Generally, field installations are responsible to the regional director who has jurisdiction over Service activities in the State(s) encompassed by the region. Unless otherwise stated for a particular matter in the regulations, all persons may secure from the regional offices information or make submittals or requests, as well as obtain forms and instructions as to the scope and contents of papers or reports required of the public.

§ 2.2 Locations of regional offices.

The geographic jurisdictions and addresses of the U.S. Fish and Wildlife regional offices are as follows:

(a) Portland Regional Office (Region 1—comprising the States of California, Hawaii, Idaho, Nevada, Oregon and Washington), 500 N.E. Multnomah Street, Suite 1692, Portland, Oregon 97232.

(b) Albuquerque Regional Office (Region 2—comprising the States of Arizona, New Mexico, Oklahoma and Texas), 500 Gold Avenue, SW, Room 9018, (P.O. Box 1306), Albuquerque, New Mexico 87103.

(c) Twin Cities Regional Office (Region 3—comprising the States of Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin), Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

(d) Atlanta Regional Office (Region 4—comprising the States of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee; and Puerto Rico and the Virgin Islands), Richard B. Russell Federal Building, Room 1200, 75 Spring Street, SW, Atlanta, Georgia 30303.

(e) Boston Regional Office (Region 5—comprising the States of Connecticut,

Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia; and the District of Columbia), One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

(f) Denver Regional Office (Region 6—comprising the States of Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming), 134 Union Boulevard (P.O. Box 25486), Denver Federal Center, Denver, Colorado 80225.

(g) Alaska Regional Office (Region 7—comprising the State of Alaska), 1011 E. Tudor Road, Anchorage, Alaska 99503.

Dated: September 20, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-20683 Filed 9-29-83; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 30923-194]

Atlantic Tuna Fisheries

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

ACTION: Rule-related notice; closure.

SUMMARY: NOAA issues this notice to close the fishery for giant Atlantic bluefin tuna conducted by vessels permitted in the General category east of a line at 72°50'W. longitude. Closure of this segment of the fishery is necessary because heavy landings from this area threaten to consume the overall quota for Atlantic bluefin tuna. Upon closure, vessels permitted in this category will be prohibited from retaining giant Atlantic bluefin tuna captured in the area east of the above coordinates for the remainder of the 1983 fishing season.

EFFECTIVE DATE: 0001 hours local time September 28, 1983.

FOR FURTHER INFORMATION CONTACT: William G. Jerome, Jr., 617/281-3600, ext. 325, or David S. Crestin, 617/281-3600, extension 253.

SUPPLEMENTARY INFORMATION: Regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971-971h) regulating the take of Atlantic bluefin tuna by persons and vessels subject to

U.S. jurisdiction were published in the Federal Register on June 17, 1983 (48 FR 27745).

Section 286.22(a) of the regulations provides for an annual quota of 650 short tons (st) of giant Atlantic bluefin tuna to be taken by vessels permitted in the General category in the Regulatory Area. The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), is authorized under § 285.20(b)(1) to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the total catch of Atlantic bluefin tuna will equal any quota under § 285.22. The Assistant Administrator, further, is authorized under § 285.20(b)(1) to prohibit the fishing for, or retention of, Atlantic bluefin tuna by the type of vessels subject to the quotas. The Assistant Administrator has determined, based on the reported catch of giant Atlantic bluefin tuna of 650 st, that the annual quota of giant Atlantic bluefin tuna available to vessels permitted in the General category in 1983 has been attained. The Assistant Administrator is also authorized under § 285.22(g), to release amounts from the reserve for inseason adjustments to increase the quota for any fishery segment.

The unanticipated high catch rate of giant bluefin tuna has undermined the intent of the regulation to permit the traditional giant bluefin tuna fishery to occur in the New York Bight area. To allow this traditional fishery and ensure that the limited overall quota of Atlantic bluefin tuna accorded to United States fishermen is used to the maximum extent practicable, the closure will be limited to the area east of a straight line originating at the southern coast of Long Island at 72°50'W. longitude (approximately the town of Moriches) and running SSE 150° true. Closure of this segment of the fishery is necessary because continuing good weather conditions and the distribution of giant Atlantic bluefin tuna is making them readily available to fishermen and a significant risk of exceeding the overall quota of Atlantic bluefin tuna exists.

Under this inseason adjustment authority, the balance of giant Atlantic bluefin tonnage which has not been harvested is hereby transferred to the General category to be taken in the area described. Due to a lag in reporting of giant bluefin tuna landings, the exact amount available is not known. Despite this, an amount sufficient to proceed for a reasonable period exists. This year, only five giant bluefin tuna have been caught west of 72°50'W. longitude in the General category. The record catch of giant bluefin tuna in this fishery was

about 25 tons. Use of the inseason adjustment authority will allow fishermen a reasonable opportunity to fish without risking exceeding the overall quota. Therefore, fishing for, and retention of, giant Atlantic bluefin tuna by vessels in the General category east of 72°50'W. longitude must cease at 0001 Eastern Daylight Time on September 28, 1983.

The effects of this closure on the participants in the fishery were considered in the design of the final regulations. This action is taken under the authority specified at 50 CFR 285.20(b)(1), and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 285

Administrative practice and procedure, Fish, Fisheries, Fishing, Imports, International operations, Penalties, Reporting and recordkeeping requirements.

(16 U.S.C. 971 *et seq.*)

Dated: September 27, 1983.

Carmen J. Blondin,

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

[FR Doc. 83-26707 Filed 9-27-83; 11:42 am]

BILLING CODE 3510-22-M

MARINE MAMMAL COMMISSION

50 CFR Part 540

Information Security; Correction

AGENCY: Marine Mammal Commission.

ACTION: Final Rule; Correction.

SUMMARY: This document corrects an erroneous citation to a portion of Part 540 which was amended by a final rule that was published December 10, 1982 (47 FR 55488-55489). The references in the final rule to § 540.3(a)(2) should have been to the third sentence of § 540.3(a), since there is no § 540.3(a)(2) as it appears in 50 CFR.

FOR FURTHER INFORMATION CONTACT:

Robert Eisenbud, General Counsel, Marine Mammal Commission, 1625 I Street NW., Room 307, Washington, D.C. 20006, (202) 653-6237.

§ 540.3 (Amended)

Accordingly, the third sentence of 50 CFR 540.3(a) reads as follows:

"Requests for declassification shall be acted upon promptly providing that the request reasonably describes the information which is the subject of the request for declassification."

Dated: September 27, 1983.

John R. Twiss, Jr.,

Executive Director.

[FR Doc. 83-26763 Filed 9-29-83; 8:45 am]

BILLING CODE 6820-31-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 655

[Docket No. 30920-192]

Foreign Fishing, and Atlantic Mackerel, Squid, and Butterfish Fisheries

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

ACTION: Final rule.

SUMMARY: NOAA issues a final rule to implement Amendment No. 3 to the Fishery Management Plans for Atlantic Mackerel, Squid, and Butterfish Fisheries. This rule will provide a single regime for managing the Atlantic mackerel, squid, and butterfish fisheries until 1986. The regulations are intended to promote development and orderly operation of the U.S. fishery.

EFFECTIVE DATE: September 28, 1983, through March 31, 1986.

ADDRESS: Copies of the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries, the environmental assessment, regulatory impact review, and the regulatory flexibility analysis are available from Executive Director, Mid-Atlantic Fishery Management Council, Room 2115 Federal Building, 300 South New Street, Dover, Delaware, 19901-6790.

FOR FURTHER INFORMATION CONTACT: Salvatore A. Testaverde, 617-281-3600, extension 273.

SUPPLEMENTARY INFORMATION: The Assistant Administrator for Fisheries, NOAA (Assistant Administrator) approved Amendment No. 3, which provided one plan for the management of fisheries formerly managed under the following fishery management plans: Squid Fishery of the Northwest Atlantic Ocean (approved June 6, 1979, extended indefinitely on July 3, 1980, at 45 FR 45296); Mackerel Fishery of the Northwest Atlantic Ocean (approved July 3, 1979, extended through March 31, 1983, on April 9, 1982, at 47 FR 15341); and the Fishery Management Plan for Atlantic Butterfish (approved November 9, 1979, also extended through March 31, 1983, on April 9, 1982, at 47 FR 15341).

The new plan created by Amendment No. 3, the Fishery Management Plan for the Atlantic Mackerel, Squid, and

Butterfish Fisheries (FMP) was prepared by the Mid-Atlantic Fishery Management Council (Council). It extends the management of the Atlantic mackerel, squid, and butterfish fisheries under a single management regime for three fishing years, ending on March 31, 1986. The management unit is all Atlantic mackerel (*Scomber scombrus*), squid (*Loligo pealei* and *Illex illecebrosus*) and butterfish (*Peprius triacanthus*), under U.S. jurisdiction, excluding the Gulf of Mexico and the Caribbean Sea.

In addition to merging management of the mackerel, squid, and butterfish fisheries and extending their regulations for three more years, key changes from the individual fishery management plans include: (1) The Secretary of Commerce will make annual determinations of the optimum yields (OYs) and the amounts apportioned among the component parts of the OYs; and (2) the total allowable levels of foreign fishing (TALFFs) for butterfish and mackerel are specified as percentages of amounts of the species allocated for foreign fishing in other fisheries. The procedure and criteria for determination of these amounts by the Secretary are discussed in detail below. Final initial annual specifications for the 1983-84 fishing year of optimum yields, domestic annual harvests (DAH), domestic annual processing (DAP), TALFF, and Reserves were published on July 20, 1983 (48 FR 33001), following a 30-day comment period.

The FMP also adopts the Voluntary Three-Tier Fishery Information Collection System (Three-Tier System) to collect data in the domestic squid, mackerel, and butterfish fisheries. The first two tiers (voluntary dealer/processor reports and interviews of vessel captains by National Marine Fisheries Service (NMFS) port agents) were approved by the Office of Management and Budget (OMB). The third tier (voluntary reporting of specific tow information from a rotating sample of vessels) will be implemented at a later time; until then, § 655.5 is reserved. The Three-Tier System will provide uniform reporting procedures for all domestic fisheries within this area. The FMP and these regulations also require the Regional Director, in consultation with the Council, to continue to survey processors on anticipated processing capacity and the extent to which they intend to process the regulated species. This survey has been approved by OMB under the current FMPs for use through December 31, 1983 (OMB Control #0648-0114).

The Assistant Administrator approved the FMP on October 14, 1982.

An emergency interim rule implemented the FMP for 90 days effective April 1, 1983 (48 FR 14554, April 4, 1983). The emergency interim rule provided a 45-day period for public review and comment on the FMP and regulations, ending on May 19, 1983. The emergency interim rule was extended for an additional 90-day period through September 27, 1983 (48 FR 29703, June 28, 1983).

The preamble to the emergency interim rule provided a detailed discussion of the management measures imposed by the FMP. The discussion is not repeated here. This final rule is essentially identical to the emergency interim rule, with several minor changes for clarity and to respond to public comments. The changes do not represent any significant differences in the provisions imposed under the emergency interim rule. Comments received on the rule, and NOAA's responses, are discussed below.

Response to Public Comment

Written comments were submitted by the Mid-Atlantic Fishery Management Council, the New England Fishery Management Council, the U.S. Coast Guard, the National Fisheries Institute, the Atlantic Offshore Fishermen's Association, the Government of Japan, the Association of Spanish Fishermen (ANAVAR), and the Japan Deep Sea Trawlers Association. A mailgram was received from the National Federation of Fishermen.

Comment 1: The Mid-Atlantic Fishery Management Council, the New England Fishery Management Council, the National Fisheries Institute, the Atlantic Offshore Fishermen's Association, and the National Federation of Fishermen stated that § 655.21(b)(1) of the interim regulations, pertaining to the determinations of annual OYs for squids, is inconsistent with the intent of the FMP as approved by the Assistant Administrator. The commenters maintained that the Council intended to have wide ranging flexibility in setting the annual OY's for squids, including the ability to adjust OYs to respond to biological and socio-economic circumstances in order to achieve the objectives of the FMP. The commenters argued that the constraint on the flexibility in setting annual OYs contained in § 655.21(b)(1) is inconsistent with the intent of the Council.

The Council suggested that the inconsistency could be remedied by revising the language of § 655.21(b)(1) to permit the setting of an "initial OY," which could then be adjusted for biological and socio-economic reasons

based on the application of criteria which could be identified in the revised regulations.

Response: A review of Amendment No. 3 and its record shows that the Council has broad-ranging objectives for the FMP, with emphasis on improving the position of the U.S. fishing industry in the three fisheries covered by the FMP. Neither the FMP nor its record, however, contains the degree of flexibility indicated by the commenters for setting the annual OYs for squids.

NOAA has concluded that no foundation exists in the FMP to permit wider ranging flexibility in setting the annual OYs for squids than the flexibility incorporated in the interim regulations at § 655.21(b)(1). Flexibility provisions as contained in the FMP and implemented in this section allow the Secretary to lower OYs by as much as 7,000 and 5,000 metric tons (mt) of *Loligo* and *Illex* squids, respectively, in the event that either initial DAH or both in a given year will not reach these levels. In this circumstance, the annual OYs could be less than the maximum OYs only by the amount which the domestic harvests fall below 7,000 or 5,000 mt. The mechanism also effectively limits the maximum potential TALFFs for the two squid species to 37,000 and 25,000 mt, respectively.

No criteria or other mechanisms were provided in the FMP, however, to permit additional adjustments to the squids' OYs based on biological and socio-economic factors. The suggestion of the Mid-Atlantic Council to revise § 655.21(b)(1) to provide for "initial OYs" adjusted for biological and economic reasons based on identifiable criteria is being prepared by the Council as an amendment to the FMP.

Comment 2: Criticism was also raised by some of the above commenters to the designation of the Secretary rather than the Regional Director as the official to set final annual amounts under § 655.22(d). Commenters stated that this was at variance with the intent of the Council, which had designated in its FMP that the Regional Director would be the official responsible for setting annual amounts after consultation with the Council and after publication of notice and an invitation to comment on proposed amounts.

Response: No substantial effect is anticipated on determinations of the initial annual amounts because of the procedure outlined in § 655.22. Inseason adjustment authority will be exercised by the Regional Director, subject to the Secretary's approval. These decisions will be based on the Council's recommendations as to the annual

amounts and information determined by the Regional Director to be appropriate for consideration. Public comments will be important factors in determining of the final initial annual amounts. Thus, the substantive nature of the procedure for determining the initial annual amounts remains basically regional in nature.

Comment 3: The Atlantic Offshore Fishermen's Association criticized the characterization in the preamble to the interim regulations of the years "1978-84" as a "trial period for domestic fishermen" during which "(t)heir performance . . . will be analyzed carefully before DAH is determined for the 1984-85 fishery year".

Response: The reference to the years "1978-84" in the April 4th preamble was a typographical error which should have read "1983-84". Since under the normal procedure, harvesters' performance in prior years is a standard reference point for setting annual amounts (§ 655.22(e)(3)), the intended reference in the preamble to 1983-84 as a "trial year" does not constitute a substantive change in the operation of the FMP.

Comment 4: ANAVAR challenged the validity of the interim regulations on the grounds that there was no basis for invoking section 305(e) of the Magnuson Act for promulgating regulations on an emergency basis for management of the squid fisheries. In the presumed absence of grounds for emergency promulgation of regulations, ANAVAR argued that the publication of the regulations was in violation of the Administrative Procedure Act, 5 U.S.C. 553 (b) and (c), for failure to provide notice and opportunity to comment upon the regulations prior to their being placed in effect.

Response: The explanation provided in the "Emergency Action" section of the preamble to the April 4th, interim regulations, indicated that the terms of Amendment No. 1 to the squid plan would constrain the operation of the fishery in fishing year 1983-84. Particularly, the prior management regime would have limited approval of joint ventures for *Illex* to 13,000 mt because subsequent determinations indicated that of the total DAH and reserve, 5,000 mt were needed for DAP. At the same time, applications for joint ventures for *Illex* totalled over 42,000 mt. Under the interim regulations, NOAA had authority to approve *Illex* joint ventures for 22,100 mt, or 9,100 mt over the amount approvable under the former squid plan. Delaying implementation of the interim regulations but continuing management of the fishery under Amendment No. 1 to the squid plan would thus have inhibited

an opportunity for full utilization of the fishery during the 1983-84 fishing year. The preamble to the interim rule provided adequate grounds for invoking section 305(e) of the Magnuson Act.

Moreover, the record of preparation of the FMP shows that there was opportunity for public comment on the terms of the FMP. The FMP was discussed at open meetings of the Council and at public hearings held by the Council in September, 1981. Subsequent revisions were discussed at Council meetings. Since the basis of the regulation is contained in its authorizing FMP, there was sufficient opportunity to comment on these regulations prior to emergency implementation.

Comment 5: Japan Deep Sea Trawlers Association also challenged the validity of the promulgation of the interim regulations. This association stated that the interim regulations contained a material change, a "floating" OY for squids, which had not been submitted for public hearing as required under the Magnuson Act.

Response: The interim regulations contain OY specifications for squid which may differ from, but which have substantially the same effect as those appearing in the Council's September, 1981, hearing document. No material change was made in the interim regulations which would have violated the Magnuson Act. The hearing draft discussed OY specifications of 44,000 mt and 30,000 mt for *Loligo* and *Illex*, respectively. That draft proposed minimum DAHs of 7,000 mt and 5,000 mt for the two species. Thus, under conditions of minimum U.S. harvest, maximum TALFFs of 37,000 mt and 25,000 mt would be available. In the interim regulations, instead of setting minimums for DAH, the same allowances for domestic harvest were built into the OY calculations. This was done by limiting TALFFs plus reserves to maximums of 37,000 mt and 25,000 mt and allowing the OYs for each species to be adjusted between the maximum TALFFs and the maximum OYs, if domestic harvest levels fell below minimum DAHs. Amounts available for foreign allocations and for domestic harvests remained the same; therefore, no material change was made by this change in the FMP.

The foreign commenters may have assumed the procedures for OY calculations for squids in the interim regulations were more flexible squid OY calculation methods. Such procedures had been discussed by the Council but were not included in the interim rule. The FMP and the interim rule do not allow the high degree of flexibility to vary from the maximum OYs for squids

(44,000 mt *Loligo*, 30,000 mt *Illex*), as is suggested by the comments of the Government of Japan, and Japan Deep Sea Trawlers Association.

Comment 6: ANAVAR challenged NOAA's conclusion that the interim regulations are not a major rule under E.O. 12291. The Japan Deep Sea Trawlers made similar comments as to the adequacy of the draft regulatory impact review (RIR) analysis.

Response: Analysis provided by the Council in the final RIR prepared for the FMP supports NOAA's initial determination that the interim regulations are not a major rule within E.O. 12291. The Council's estimates of calculable costs totalled \$5.4 million, including over \$400,000 of loss of foreign fees and \$5 million for loss of purchases of U.S. goods and services by foreign vessels. The Council concluded, based on a detailed analysis of market conditions and trends, that prices to consumers could be lower and that the competitive position of U.S. industry would be enhanced by implementation of the FMP.

In its comment, ANAVAR referred to a \$43-45 million dollar value for potential loss of foreign fishing fees, presumably in relation to this FMP. This figure approximates the total of all foreign fishing fees for all fisheries in all sections of the country, not just fees related to the three Northwest Atlantic fisheries covered by the FMP.

Comment 7: ANAVAR criticized the squid regulations as violating provisions of the Magnuson Act requiring optimum utilization of species. ANAVAR specifically cited two provisions included in the regulations as potentially wasteful of the squid resources and wished to have provisions adopted which would require additional apportionments to TALFFs.

Response: NOAA concludes that the regulations are consistent with the Magnuson Act. ANAVAR first criticized as potentially wasteful, the flexibility to set 5,000 and 7,000 mt minimum DAHs in the OY calculations for *Illex* and *Loligo*, respectively. Landing statistics for fishing year 1982-83 indicate it is likely that these amounts will be caught by domestic harvesters since 5,772 mt of *Illex* and 4,894 mt of *Loligo* were caught by domestic harvesters by the end of fishing year 1982-83. Preliminary catches in the 1983-84 fishing year indicate U.S. fishermen have harvested over 8,700 mt of *Loligo* and 4,200 mt of *Illex*. The projected needs for domestic processors (DAP) and for joint venture processing (JVP) have caused NOAA to set initial annual estimates of DAHs for fishing year 1983-84 at 27,100 mt for

Illex and 22,000 mt for *Loligo*. NOAA believes there is a potential to achieve the estimates this year, especially because of the lack of *Illex* availability in Canadian waters. Shortfalls in these harvests, however, may occur and be taken into account in future DAH projections.

This response also applies to the comments of the Government of Japan and of Japan Deep Sea Trawlers Association, who objected to "floating OYs" for squids. As discussed in an earlier response, the flexibility in the OY calculation is limited under the interim regulations which embody the FMP; also, if domestic harvests continue at recent levels, it is unlikely that the "floating OYs" as provided in the FMP will operate frequently to establish minimum domestic harvests. Moreover, the maximum TALFFs of 37,000 mt and 25,000 mt for *Loligo* and *Illex*, respectively, which are part of the OY calculations described above, are not restrictive on foreign allocations when compared to recent foreign catches of these species.

ANAVAR and the Japan Deep Sea Trawlers Association also commented that a provision should have been included to permit the reallocation of unused portions of DAH to TALFF. Section 655.22 sets our procedures for determining the initial annual amounts including DAH, for squid, mackerel, and butterfish. This procedure requires NOAA consideration of various sources of information, consultation with the affected Regional Fishery Management Councils, public notice and comment on proposed amounts, and evaluation of all data and comments. Information pertaining to the DAP and JVP portions of DAH is also included in this review process. Since the DAHs are based on substantive data and reviews by various parties, a reallocation mechanism is not necessary. Reserves were created in Amendment No. 1 to the squid plan to account for uncertainties in the U.S. catch and in prior years substantial amounts were released to TALFF. The total combined TALFF and reserve amounts were not harvested by foreign vessels in any year, however.

Two of ANAVAR's comments were directed specifically at the methods for calculating TALFF. ANAVAR claimed that a disproportionately small amount of the potential annual TALFF allocations are made available at the outset of the fishing year because (1) § 655.21 with regard to squid requires half of the difference between OY and DAH to be assigned to reserve; and, (2) section 201(e)(1)(C) of the Magnuson Act which limits to 50 percent of the annual

allocation, the amount which may initially be allocated to TALFF. Under the squid regulations, foreign fishing vessels have only a putative claim to the reserve portion of the difference between OY and DAH at the beginning of the fishing year. This reserve would first be available to supplement DAH, depending upon the experience of the fishing year. Thus, the reserve amounts should not be considered a withheld portion of the annual TALFF at the beginning of the fishing year, as ANAVAR has done.

Section 201(e)(1)(C) of the Magnuson Act is a statutory embodiment of an existing policy under which the last 50 percent of the aggregate annual foreign allocations to a foreign nation are distributed only after that nation has demonstrated a willingness to take steps which are beneficial to the United States and its fishing interests. To this extent, the actual effect of the statute on TALFF allocations is influenced by the foreign nation itself. Also, the statute allows allocations in excess of the initial 50 percent to accommodate discrete needs of a particular fishery. Thus, the restrictiveness of the Magnuson Act's allocations provisions specifically applicable to this FMP are not as rigid as described by ANAVAR.

ANAVAR and Japan Deep Sea Trawlers Association criticized the lack of an automatic regulatory provision for reallocating from reserve to TALFF. This criticism overlooks the requirements for NOAA to perform evaluative reviews which are not automatic in nature incident to reallocating reserve to TALFF. NOAA must gather and evaluate data to make an accurate projection of domestic annual harvest for the remaining portion of the fishing year. These evaluations cannot be performed on an "automatic" basis as suggested by ANAVAR, and require the procedures included in § 655.23 for developing and issuing public notice on projections of the U.S. harvest.

Japan Deep Sea Trawlers Association also challenged the inclusion of joint venture harvest in projections of the domestic harvests for the entire fishing year on the grounds that the joint venture projections may not be reliable. NOAA does not accept a characterization of joint venture projections as unreliable. Projections are based upon data on the proposed joint ventures that are reviewed by both the Councils and the agency, and which are available for public comment prior to approval. [See 48 FR 33001, July 20, 1983. Final Initial Annual Specifications for the Squids, Atlantic Mackerel, and Butterfish fisheries.]

ANAVAR's criticisms of the interim regulations appear to assume that each metric ton identified for annual harvest in OY must be marked for domestic harvest by a point in time in the fishing year or be immediately apportioned to TALFF. This assumption is not correct. Achieving OY is not a quota but a goal. The management measures adopted for achieving OY on an annual basis need only approximate its achievement. Also, the OY which by definition can incorporate a number of objectives for the fishery, may be implemented by measures which favor the U.S. fishermen over foreign fishermen for the harvesting of certain species. Thus, NOAA concludes that ANAVAR's comment is in error in that taking steps to minimize foreign allocations is not contrary to provisions of the Magnuson Act.

Comment 8: ANAVAR and Japan Deep Sea Trawlers Association argued that reduced squid OYs and foreign allocations run counter to NOAA's trade policies and to its obligations under GIFAs and the Trade Act of 1974, 19 U.S.C.A. 2118.

Response: The OYs for squid have only limited flexibility to range between the maximum TALFFs and the maximum OYs for *Illex* (i.e., between 25,000 mt and 30,000 mt) and *Loligo* (i.e., between 37,000 mt and 44,000 mt). The maximum TALFFs of 25,000 mt and 37,000 mt, respectively, are not restrictive and provide a generous margin for foreign allocations unless restricted by high DAH levels which must take precedence over the TALFFs. For the 1983-84 fishing season, DAHs have been set at higher levels than in previous years because of projected demands for domestic harvests for domestic processing and joint ventures. See notice, final initial annual specifications, [48 FR 33001, July 20, 1983]. Resulting lower foreign allocations are, therefore, consistent with the Magnuson Act and are not in violation of NOAA's fishery trade policies and obligations.

Comment 9: Japan Deep Sea Trawlers Association raised a number of objections to the specifications for butterfish. It objected to the specification of OY as the sum of DAH plus an incidental level TALFF. The Government of Japan and Japan Deep Sea Trawlers Association both criticized limiting the butterfish TALFF to an incidental catch level.

Response: The butterfish specifications in the FMP continue to reflect the objectives adopted in the butterfish plan promulgated in 1980, (45 FR 71358, October 28, 1980), i.e., to promote the growth of the export market

while providing foreign harvesters sufficient TALFF to pursue other fisheries in which butterflyfish is intermixed. The statute allows for incorporation of social, economic, and biological factors in the specification of OY. In this case, the OY is expressed as a sum of DAH and TALFF sufficient for the foreign incidental catch in other fisheries in order to promote export markets for the U.S. fishing industry.

Fostering growth in the U.S. butterflyfish fishery is continued as an objective in this plan. Domestic harvests have grown in recent years and were especially high in the 1982-83 fishing year. Interest of domestic processors in processing butterflyfish has grown as is evident from statements made at open Council meetings in which proposed joint ventures for butterflyfish were discussed. Domestic processors stated that they could process all butterflyfish harvested by U.S. harvesters. These statements were acknowledged in the initial annual specifications for butterflyfish for the 1983-84 fishing year. The specifications provide that joint ventures for butterflyfish, which would have a greater priority than that assigned to foreign fishing, would be considered only if domestic shoreside landings had concluded. The Japan Deep Sea Trawlers Association's comment that a "surplus" will exist, to which it should be granted access, is not correct because demand for the species for domestic processing has grown and there may be additional markets for U.S. fishermen if shoreside landings are terminated.

The TALFF level adopted is adequate to meet the incidental catch levels of foreign harvesters in intermixed fisheries. (Background Paper No. 2 prepared by the Mid-Atlantic Council, revised November, 1982.)

Comment 10: The Government of Japan and the Japan Deep Sea Trawlers Association both objected to § 655.21(b)(2) under which the TALFF for mackerel may be calculated at the incidental catch level. This term applies in both Case (1) for calculation of mackerel values if the spawning stock size is less than or equal to 600,000 mt and in Case (2) when the spawning stock size exceeds 600,000 mt if OY minus DAH is less than 10,000 mt.

Response: The TALFF for mackerel is reduced to incidental catch levels to promote the growth of the U.S. commercial fishery, including the fishery for export. If foreign nations are not permitted to harvest mackerel directly, they will have a greater incentive to purchase the fish from U.S. harvesters and processors. Reducing the foreign allocations to the incidental level also provides an incentive for developing

joint ventures in this fishery. Recent experience shows that these ventures are developed randomly throughout the year and that their catch requirements cannot be forecast. Reducing the TALFF to the incidental catch level ensures that a sufficient DAH is available for these joint ventures to proceed immediately if they are approved. Sufficient U.S. harvesting capacity is available which could enter the fishery to harvest mackerel not apportioned to TALFF.

Comment 11: The Government of Japan commented that the closure provision in § 655.24 should not be applied to the foreign fishery.

Response: The closure provision of § 655.24 was not intended to apply to foreign fisheries and this has been clarified in the final rule. The regulation requires closure of the respective U.S. fisheries if U.S. fishermen have harvested 80 percent of the allowable domestic harvest. Accordingly, § 655.24 would not constrain foreign fishermen from harvesting a TALFF which had already been allocated.

Other Comments

Written comments were also received from the U.S. Coast Guard. Additionally, one verbal comment was received concerning definition of joint venture from the Division of Marine Fisheries, Commonwealth of Massachusetts. Changes were recommended to provide consistent regulations throughout the Northwest Atlantic Area. A number of comments were received concerning definitions in § 655.2. The commenters suggested adding the definitions of "fish" and "owner", and revising the wording for "fishing trip", "operator" and "joint venture harvest." Technical revisions were also made to clarify §§ 655.4(a)(b)(2)(xi), 655.6(b), 655.7, and 655.8(c)(2).

Additionally, the NMFS added to § 655.3 information on the Submarine Cable Act and the Large Mesh Area under the optional settlement.

Classification

The Administrator determined that implementation of Amendment No. 3 is necessary for the conservation and management of the Atlantic mackerel, squid, and butterflyfish fisheries and that it is consistent with the Magnuson Act and other applicable law.

A final regulatory impact review prepared by the Council supported a determination by NOAA's Administrator that these regulations do not constitute a major rule requiring a regulatory impact analysis under Executive Order 12291. The General Counsel of the Department of Commerce certified to the Small Business

Administration that the rule will not have a significant economic impact on a substantial number of small entities. (Summary published at 48 FR 14555, April 4, 1983.) As a result, a regulatory flexibility analysis was not prepared.

The Council prepared an Environmental Assessment (EA) in accordance with the National Environmental Policy Act for this FMP amendment and concluded that there will be no significant impact on the environment as a result of this rule. Copies of the EA can be obtained from the Council at the address above.

This rule contains a collection of information requirement subject to the Paperwork Reduction Act. The collection of this information has been approved by the Office of Management and Budget, OMB Control Numbers 0648-0114 (until December 31, 1983) and 0648-0097 (until March 31, 1986). Section 655.5, Recordkeeping and reporting requirements, has been reserved pending the full implementation of the provisions of the NMFS Three Tier Fishery Information Collection System to be used under this FMP. Section 655.4, Vessel permits, has been approved by OMB, OMB Control Number 0648-0097 (until March 31, 1986).

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of nine states on the eastern United States coast. This determination was submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act. The Council received no negative findings from any of the nine states.

These final regulations must be effective on September 28, 1983, to continue management of the Atlantic mackerel, squid and butterflyfish fisheries. The regulations which would be contained at § 611.51 provide authority for current joint venture fisheries for *Loligo* and *Illex* squids. Additionally, unless final regulations are promulgated, there would be no codified regulatory authority to manage the foreign *Loligo* squid fishery which is expected to begin this fall. Therefore, a lapse in the regulations would have a detrimental effect on both U.S. and foreign fishermen. To avoid such a lapse, the Assistant Administrator finds for good cause that it would be contrary to the public interest to delay the effective date of these regulations for the 30-day period otherwise required under § 553(d) of the Administrative Procedure Act. Therefore, these regulations are effective September 28, 1983.

List of Subjects in 50 CFR Part 655

Administrative practice and procedure, Fish, Fisheries, Reporting and recordkeeping requirements.

Dated: September 27, 1983.

Carmen J. Blondin,

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

For the reasons set out in the preamble, the interim rule published on April 4, 1983 (48 FR 14554) amending 50 CFR Parts 611, 655, 656 and 657 is adopted as final with the following changes:

PART 655—ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FISHERIES

1. The authority citation for 50 CFR Part 655 is as follows:

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

2. Section 655.2 is amended by revising the title of the definition "Operator" to read "Owner" and the title of the definition "Fishing trip" to read "Fishing trip or trip", by adding in appropriate alphabetical order new definitions for "Fish" and "Operator", and by revising the definition of "Joint venture harvest" to read as follows:

§ 655.2 Definitions.

Fish includes Atlantic mackerel (*Scomber scombrus*), squid (*Loligo pealei* and *Illex illecebrosus*), and Atlantic butterfish (*Pepilus triacanthus*).

Joint venture harvest means U.S.-harvested Atlantic mackerel, squid, or butterfish transferred to foreign vessels in the FCZ or in the internal waters of a State. Transfers to foreign vessels in the internal waters of a State are governed under Section 306(c), of the Magnuson Act, foreign fish processing in internal waters.

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

3. Section 655.3 is amended by adding new paragraphs (c) and (d) to read as follows:

§ 655.3 Relation to other laws.

(c) Fishing vessel operators shall exercise due care in the conduct of fishing activities near submarine cables. Damage to submarine cables resulting from intentional acts or from the failure to exercise due care in the conduct of fishing operations subjects the fishing vessel operator to the criminal penalties prescribed by the Submarine Cable Act (47 U.S.C. 21) which implements the

International Convention for the Protection of Submarine Cables. Fishing vessel operators also should be aware that fishing operations may not be conducted at a distance of less than one nautical mile from a vessel engaged in laying or repairing a submarine cable, or at a distance of less than one quarter nautical mile from a buoy intended to mark the position of a cable when being laid, or when out of order, or broken.

(d) Vessels fishing within the Large Mesh Area (47 FR 43705, October 4, 1982) for Atlantic mackerel, squid, and butterfish with cod-end mesh size of less than five and one-half inches must apply to fish under the optional settlement program under the interim groundfish regulations at 50 CFR 651.22 (47 FR 43705, October 4, 1982).

4. Section 655.4 is amended by revising paragraph (a) to read as follows:

§ 655.4 Vessel permits.

(a) *General.* Any vessel of the United States which catches 100 pounds or more each of Atlantic mackerel, *Illex*, *Loligo*, or butterfish per trip must have a permit issued under this section.

5. Section 655.6 is amended by revising paragraph (b) to read as follows:

§ 655.6 Vessel identification.

(b) *Numerals.* The official number must contrast with the background and be in block Arabic numerals at least 18 inches in height for vessels equal to or over 65 feet, and at least 10 inches in height for all other vessels over 25 feet in length.

6. Section 655.7 is changed by redesignating paragraphs (d) through (m) as paragraphs (e) through (n) and adding a new paragraph (d) to read as follows:

§ 655.7 General prohibitions.

(d) To make any false statement, written or oral, to an authorized officer, concerning the taking, catching, landing, purchase, sale, or transfer of any mackerel, squid, or butterfish.

7. Section 655.8 is amended by revising paragraph (c)(2) to read as follows:

§ 655.8 Enforcement.

(c) * * *
(2) Provide a safe ladder, illumination, and a safety line when necessary or

requested by the authorized officer to facilitate boarding and inspection; and

8. Section 655.21 is changed by revising paragraph (b)(1)(iii) to read as follows:

§ 655.21 Allowable levels of harvest.

(b) * * *
(1) * * *
(iii) "For *Illex*, TALFF plus Reserve equals 30,000 mt minus initial DAH, or 25,000 mt, whichever is less. For *Loligo*, TALFF plus Reserve equals 440,000 mt minus initial DAH, or 37,000 mt, whichever is less. TALFF and Reserve initially will be equal amounts. If a larger TALFF is required for incidental catch, releases will then be made to it from the reserve as needed.

9. Section 655.24 is amended by revising paragraph (a) to read as follows:

§ 655.24 Closure of the fishery.

(a) *General.* The Secretary shall close any domestic fishery in the FCZ for any species when U.S. fishermen have harvested 80 percent of the allowable domestic harvest (see § 655.21(c)), if such closure is necessary to prevent the allowable domestic harvest from being exceeded. The closure will be in effect for the remainder of the fishing year.

(FR Doc. 83-26790 Filed 9-27-83; 4:59 pm)
BILLING CODE 3510-22-M

50 CFR Part 661

[Docket No. 30429-72]

Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California; Correction

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

ACTION: Emergency interim rule and request for comment; correction.

SUMMARY: This document corrects an emergency interim rule for the ocean salmon fisheries off Washington, Oregon, and California, that was published on May 11, 1983 (48 FR 21135).

FOR FURTHER INFORMATION CONTACT: Donna D. Turgeon, 202-634-7432.

The following correction is made on page 21142, first column, under paragraph (9). The last line is changed to read "paragraph (b)(1) of this section."