

claim about the overall significance of the Report, the entire Report will be included in the record. Similarly, while we originally included only those parts of the California Medical Association and California Hospital Association Report and the A.M. Best data that pertained to the 1985 NPRM and to comments on the NPRM, the entirety of the Report and the Best publication will be included in the record in response to the commenters' assertions.

(2) The 1978 memorandum referred to by the commenter was part of the eleven-volume rulemaking record for the 1979 malpractice rule. Since one of the commenters on the 1985 NPHM submitted the whole record for the 1979 rule (51 FR 11143 (col. 3)), there was no need to include a second copy of the memorandum in the record.

(3) The unpublished HCFA data on premium cost increases for 1979-80 are derived from the AHA. These data are part of a sequence ranging from 1970 through 1980 (see, 51 FR 11160), all of which is included in the record. (R.R. at 2931, 3549.) The ISO-derived data for the 1961-85 period (51 FR 11160) also is in the record. (R.R. at 3549.)

Comment: In January 1983, HCFA Region IV issued a program validation audit report on malpractice insurance that was described as being part of a national program validation report. Although in the preamble to the interim final rule HCP.4 stated that no national report resulted from the Region IV report, HCFA has not denied that a national program validation report was being prepared and that the Region IV report would become a part of that national report. The commenter stated that HCFA has failed to release the material related to the national report.

IV Participation (1983) ("the Region IV report"), states on page three that the review was "performed in accord with national objectives established for the review of malpractice insurance cost" and the report contains a number of references to a national malpractice insurance review. In addition, a cover letter prepared by the Atlanta Regional Office states that its review was "performed as part of a national review effort," and that the Region IV report was "to be embodied in a national report."

The Region IV review was initiated as part of a national review effort. Although HCFA originally expected to evaluate the results of regional reviews and develop a national report, other priorities resulted in the termination of the planned project. As a result, no national report—either in draft form or final form—was ever prepared. Since there was no material related to a

national report," there was nothing to release to the public.

IV. Regulatory Impact Statement

Executive Order 12291 (E.O. 12291) requires us to prepare and publish a regulatory impact analysis for any major rule. A major rule is any regulation that is likely to result in:

- (1) An annual effect on the economy of \$100 million or more;
- (2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- (3) Significant adverse effects on competition, employment, investment productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In addition, we prepare and publish a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act of 1980 (RFA) (5 U.S.C. 601 through 612), unless the Secretary certifies that implementation of the regulation would not have a significant economic impact on a substantial number of small entities.

We published analyses under E.O. 12291 and the RFA in both the June 17, 1985 proposed rule (50 FR 25178, 25186-88) and the April 1, 1986 interim final rule with comment period (51 FR 11142, 11188-94). However, in this rule, we are not making any changes that would, in themselves, have economic effects that meet the criteria of either E.O. 12291 or the RFA.

We are not able at this time to assess the impact of the planned separate scaling factor Formula values for hospitals excluded from the prospective payment system. When those separate values are published, we will determine whether additional impact analyses are required.

For these reasons, we have determined that a regulatory impact analysis under E.O. 12291 is not required. Furthermore, we have determined, and the Secretary certifies, that this final rule will not have a significant economic impact on a substantial number of small entities, and we have therefore not prepared a regulatory flexibility analysis.

V. List of Subjects in 42 CFR Part 413

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Laboratories, Medicare, Nursing homes, Reporting and recordkeeping requirements. Rural areas, X-rays.

TITLE 42—PUBLIC HEALTH

PART 413—PRINCIPLES OF REASONABLE COST REIMBURSEMENT; PAYMENT FOR END-STAGE RENAL DISEASE SERVICES

Accordingly, the regulation, 42 CFR 413.56, established by the interim final rule published at 51 FR 11142-11196 (April 1, 1986) is confirmed as a final rule.

Authority: Secs. 1102, 1814(b), 1815, 1833(a), 1861(v), 1871, 1881, 1886, and 1887 of the Social Security Act as amended (42 U.S.C. 1302, 1395f(b), 1395(g), 1395l(a), 1395x(v), 1395hh, 1395rr, 1395ww, and 1395xx.)

(Catalog of Federal Domestic Assistance Programs: No. 13.714. Medical Assistance Program No. 13.773, Medicare—Hospital Insurance: No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: January 22, 1987.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved: February 28, 1987.

Don M. Newman,

Undersecretary.

[FR Doc. 87-6550 Filed 3-26-87; 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. 1; Amlt. 1-2161

Organization and Delegation of Powers and Duties

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: This amendment clarifies the delegation to the Assistant Secretary for Administration. The Secretary has determined that the existing delegations to the Assistant Secretary for Administration need to be updated to add an existing delegation that was inadvertently omitted when this part was published. The new provision delegates to the Assistant Secretary for Administration, subject to coordination with the General Counsel, interested administrations and other offices, authority to issue the Department's procurement regulations. These regulations govern the procurement of supplies and services (including construction and concessions) and the procurement of real property by lease.

DATE: The effective date of this amendment is March 27, 1987.

FOR FURTHER INFORMATION CONTACT:

Mr. E. Whitehorn, Office of the General Counsel, Department of Transportation, Washington, DC, (202) 36-9307.

SUPPLEMENTARY INFORMATION: Since this amendment relates to Departmental management, procedures, and practice, notice and comment on it are unnecessary and it may be made effective in fewer than thirty days after publication in the **Federal Register**.

List of Subjects in 49 CFR Part 1

Authority delegations (government agencies): Organization and functions (government agencies); Transportation Department: Procurement and Contracting.

PART 1—[AMENDED]

1. The authority of Part 1 continues to read as follows:

Authority: 49 U.S.C. 322.

2. In consideration of the foregoing, § 1.59 of Part 1 of Title 49, Code of Federal Regulations, is amended by adding paragraph (q) to read as follows:

§ 1.59 [Amended]

(q) Regulations. Issue Department of Transportation procurement regulations, subject to the following limitation:

(i) *Coordination.* The views of the General Counsel, the interested administrations and other offices will be solicited in the development of the procurement regulations. In commenting upon proposed provisions for the procurement regulations, the administrations will indicate the nature and purpose of any additional implementing or supplementing policy guidances which they propose to issue at the administration level.

Issued in Washington, DC, on March 12, 1987.

Elizabeth Hanford Dole,

Secretary of Transportation.

[FR Doc. 87-6830 Filed 3-26-87; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 646**

[Docket No. 60979-70441

Snapper-Grouper Fishery of the South Atlantic

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

ACTION: Final rule.

SUMMARY: The Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP) contains a management measure that provides for designating modified habitats or artificial reefs as special management zones (SMZs). This final regulatory amendment (1) designates specific artificial reefs off the coasts of South Carolina and Georgia as SMZs; (2) prohibits fishing in these areas except with hand-held hook-and-line gear (including manual, electric, or hydraulic rod and reel) and spearfishing gear (including powerheads and spear guns); and (3) prohibits the taking of jewfish within these areas. The intended effect is to establish the designated artificial reefs (ARs) as SMZs and to manage them to promote orderly use of the resource, to reduce user group conflicts, and to maintain the intended socioeconomic benefits of the ARs to the maximum extent practicable.

EFFECTIVE DATE: March 27, 1987.

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

SUPPLEMENTARY INFORMATION: Final regulations implementing the FMP were published August 31, 1983 (48 FR 39466) under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The FMP provides for the designation of specific modified habitats as special management zones (SMZs). This rule establishes 19 SMZs off the coasts of Georgia and South Carolina.

The proposed rule for this action (51 FR 43937, December 5, 1986) contained a discussion justifying the establishment of the SMZs. This discussion is not repeated here.

Comments and Responses

Comments on the proposed rule were received from eight sources. Commenters included the South Atlantic Fishery Management Council (Council), South Carolina Wildlife and Marine Resources Department (SC-W&MRD), United States Department of the Interior (DOI), a recreational fishing organization, and four fishermen. Comments received have been grouped into eight general categories.

Council Comments

The Council objected to the revision of the wording of objective 2 of the proposed rule and suggested that the original wording, as approved and submitted by the Council, be restored. NOAA concurs. The Council also recommended that NOAA clarify that one of the artificial reefs (Hilton Head Reef) as submitted for SMZ

designation by both South Carolina and Georgia but under different names (Georgia refers to that reef as Artificial Reef T). A number of editorial corrections were also suggested. NOAA concurs with these recommendations and has modified the final rule accordingly.

Revision of Artificial Reef Coordinates

A representative of the SC-W&MRD provided corrections to five coordinates listed for the South Carolina reefs. NOAA has made the appropriate revisions in the final rule.

Extension of SMZs to Other Areas

One fisherman supported the SMZ concept, but suggested that SMZs also be established in other States. The scope of the proposed rule was limited to the specific requests submitted by South Carolina and Georgia. The FMP, which contains the provision for establishing SMZs, provides the opportunity for anyone holding an Army Corps of Engineers permit for an artificial reef to apply to the Council for an SMZ designation. Permittees with reefs in Federal waters off North Carolina, South Carolina, Georgia, and the east coast of Florida would be eligible to apply under this provision.

Objections to Allowing Powerheads or Spearguns

One fisherman objected to allowing divers to use powerheads or spearguns within the SMZs, because such gear was too efficient in removing fish. The Council considered prohibiting these types of gear but concluded that a general prohibition was unnecessary. Although divers comprise a small but significant user group on these reefs, no significant conflicts have occurred to date, and the principal target species for hook-and-line fishermen, black sea bass, is not targeted by divers. NOAA agrees with the Council's judgment and has made no change in the final rule based on this comment.

Alleged Violations of National Standards

One fisherman stated that the proposed rule would establish a precedent against commercial interests and in favor of recreational interests and would violate the national standards established in the Magnuson Act. NOAA has reviewed the proposed rule and determined that it is consistent with the national standards. The regulations restrict use of certain types of gear that are incompatible with the intended use of the artificial reefs. Commercial fishermen may fish within

the SMZs with allowable gear. Each request for an SMZ is reviewed independently and its impacts on all users are carefully evaluated. Further, the opportunity to establish SMZs is available to both the recreational and commercial sectors. NOAA does not believe there is any inherent bias associated with the SMZ concept.

Support for the SMZ Concept

Two fishermen submitted comments generally in support of the proposed rule. One of the fishermen also recommended adding SMZs around six additional artificial reefs. This recommendation is beyond the scope of the proposed rule, which was limited to the specific request by Georgia and South Carolina, but the permittee for these additional reefs could submit a request to the Council for future consideration.

Potential Impacts of SMZ Designation on Development of Other Natural Resources

A representative of DOI's Minerals Management Service expressed concern about potential impacts of SMZ designation on existing Federal natural resources programs such as mineral exploration. The Magnuson Act, which provides the ultimate authority for establishing these SMZs, regulates only fishing and fishing activities and would have no direct impact on other legitimate uses of the high seas. Further, requests for SMZ designation are considered only for artificial reefs that have been permitted by the U.S. Corps of Engineers (Corps). The Corps' permitting process includes public hearings and public comment periods where concerns could be identified and addressed. In addition, each SMZ request undergoes a structured review that requires a public comment period, which may include public hearings, prior to implementing and SMZ.

The commenter also asked for clarification of the need to establish SMZs that encompass areas substantially larger than the actual artificial reefs. The SMZs include the area permitted by the Corps plus a 500-meter buffer zone. Reef material is often placed in numerous locations within the permitted site. The 500-meter buffer was recommended to protect species throughout the range of their daily movements around the reefs. NOAA concludes that establishment of SMZs will not impact mineral exploration or related activities and that the SMZ boundaries are justified.

Changes from the Proposed Rule

Section 646.2

The definition of "Fishery conservation zone (FCZ)" has been deleted and replaced by a definition of "Exclusive economic zone (EEZ)"; "EEZ" has been substituted for "FCZ" throughout the regulations.

Section 646.24

Coordinates in paragraphs (a)(1), (3), (5), (7), and (12) were corrected as requested by SC-W&MRD.

The heading of paragraph (a)(12) was changed to read "Hilton Head Reef/Artificial Reef T" to reflect that this reef was constructed jointly by South Carolina and Georgia and is known by different names in these two States.

Classification

The Director, Southeast Region, NMFS, determined that this regulatory amendment is necessary for the conservation and management of the snapper-grouper fishery and that it is consistent with the Magnuson Act and other applicable law.

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

It was previously determined, on the basis of a regulatory impact review (RIR) and regulatory flexibility analysis (RFA) summarized in the final rule implementing the FMP (48 FR 39466, August 31, 1983) that the rule is not major under Executive Order 12291. A supplemental RIR was prepared for this proposed rule; it indicates that the anticipated benefits exceed the compliance cost to the public.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this rule will not have significant economic impact on a substantial number of small entities. As a result, a regulatory flexibility analysis was not prepared.

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

The Assistant Administrator for Fisheries, NOAA, found that it would be contrary to the public interest in effective management of the artificial reefs and their fish resources to delay for 30 days the effective date of this rule. January through April is the peak period for trap fishing which would be prohibited once the rule goes into effect. To allow trap fishing to continue into

late April instead of being prohibited in late March would have a detrimental effect on the fish populations associated with the SMZs for the remainder of the year.

The Council determined that this rule does not directly affect the coastal zone of any State with an approved coastal management program. Letters were sent to the appropriate States advising them of this determination.

List of Subjects in 50 CFR Part 646

Fisheries, Fishing.

Dated: March 24, 1987.

James E. Douglas, Jr.,

Deputy Assistant Administrator For Fisheries, National Marine Fisheries Service.

PART 646—SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC

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

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

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

2. In Part 646, in the Table of Contents under Subpart B, a new section title is added, to read as follows:

Sec.

• * * * *
646.24 Area limitations.

3. Section 646.2 is amended by removing the definition for *Fishery conservation zone (FCZ)* and inserting in alphabetical order the definition for *Exclusive economic zone (EEZ)* to read as follows:

§ 646.2 Definitions.

• . * * * .

Exclusive economic zone [EEZ] means the zone established by Presidential Proclamation 5030, dated March 10, 1983, and is that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

• . * * * .

4. Section 646.6 is amended by removing the word "or" at the end of paragraph (a)(17), changing the period at the end of paragraph (a)(18) to a semicolon, and adding new paragraphs (a)(19), (20), and (21), to read as follows:

§ 646.6 Prohibitions.

•

(19) Fish with any type of fishing gear except hand-held hook-and-line gear or spearfishing gear as specified in § 646.24(b) (1) and (2);

(20) Possess or retain jewfish taken by any type of fishing gear or take any jewfish with spearfishing gear as specified in § 646.24(b) (3); or

Fail to release immediately in the water any incidentally caught jewfish as specified in § 646.24(b)(3).

5. A new § 646.24 is added to Subpart B to read as follows:

§ 646.24 Area limitations.

(a) The following artificial reefs and surrounding areas are established as Special Management Zones (SMZs):

(1) *Little River Reef*: The area is bounded by straight lines connecting the following points:

A 33°49.60' N., 78°30.51' W.

B 33°48.95' N., 78°31.30' W.

C 33°48.92' N., 78°29.72' W.

D 33°48.40' N., 78°30.50' W.

(2) *Paradise Reef*: The area is bounded on the north by 33°31.59' N. latitude; on the south by 33°30.51' N. latitude; on the east by 78°57.55' W. longitude; and on the west by 78°58.85' W. longitude.

(3) *Ten Mile Reef*: The area is bounded on the north by 33°26.65' N. latitude; on the south by 33°24.80' N. latitude; on the east by 78°51.08' W. longitude; and on the west by 78°52.97' W. longitude.

(4) *Pauleys Island Reef*: The area is bounded on the north by 33°28.58' N. latitude; on the south by 33°25.76' N. latitude; on the east by 79°00.29' W. longitude; and on the west by 79°01.24' W. longitude.

(5) *Georgetown Reef*: The area is bounded on the north by 33°14.90' N. latitude; on the south by 33°13.85' N. latitude; on the east by 78°59.45' W. longitude; and on the west by 79°00.65' W. longitude.

(6) *Capers Reef*: The area is bounded on the north by 32°45.45' N. latitude; on the south by 32°43.91' N. latitude; on the east by 79°33.81' W. longitude; and on the west by 79°35.10' W. longitude.

(7) *Kiawah Reef*: The area is bounded on the north by 32°29.78' N. latitude; on

the south by 32°28.25' N. latitude; on the east by 79°59.08' W. longitude; and on the west by 80°00.95' W. longitude.

(8) *Edisto Offshore Reef*: The area is bounded on the north by 32°15.30' N. latitude; on the south by 32°13.90' N. latitude; on the east by 79°50.25' W. longitude; and on the west by 79°51.45' W. longitude.

(9) *Hunting Island Reef*: The area is bounded on the north by 32°13.72' N. latitude; on the south by 32°12.30' N. latitude; on the east by 80°19.23' W. longitude; and on the west by 80°21.00' W. longitude.

(10) *Fripp Island Reef*: The area is bounded on the north by 32°15.92' N. latitude; on the south by 32°14.75' N. latitude; on the east by 80°21.62' W. longitude; and on the west by 80°22.90' W. longitude.

(11) *Betsy Ross Reef*: The area is bounded on the north by 32°03.60' N. latitude; on the south by 32°02.88' N. latitude; on the east by 80°24.57' W. longitude; and on the west by 80°25.50' W. longitude.

(12) *Hilton Head Reef/Artificial Reef-T*: The area is bounded on the north by 32°00.71' N. latitude; on the south by 31°59.42' N. latitude; on the east by 80°35.23' W. longitude; and on the west by 80°36.37' W. longitude.

(13) *Artificial Reef-A*: The area is bounded on the north by 30°56.4' N. latitude; on the south by 30°55.2' N. latitude; on the east by 81°15.4' W. longitude; and on the west by 81°16.5' W. longitude.

(14) *Artificial Reef-C*: The area is bounded on the north by 30°51.4' N. latitude; on the south by 30°50.1' N. latitude; on the east by 81°09.1' W. longitude; and on the west by 81°10.4' W. longitude.

(15) *Artificial Reef-C*: The area is bounded on the north by 30°59.1' N. latitude; on the south by 30°57.8' N. latitude; on the east by 80°57.7' W. longitude; and on the west by 80°59.2' W. longitude.

(16) *Artificial Reef-F*: The area is bounded on the north by 31°06.6' N. latitude; on the south by 31°05.6' N. latitude; on the east by 81°11.4' W. longitude; and on the west by 81°13.3' W. longitude.

(17) *Artificial Reef-L*: The area is bounded on the north by 31°36.7' N. latitude; on the south by 31°35.7' N. latitude; on the east by 80°47.0' W. longitude; and on the west by 80°48.1' W. longitude.

(18) *Artificial Reef-L*: The area is bounded on the north by 31°46.2' N. latitude; on the south by 31°45.1' N. latitude; on the east by 80°35.8' W. longitude; and on the west by 80°37.1' W. longitude.

(19) *Artificial Reef-KC*: The area is bounded on the north by 31°51.2' N. latitude; on the south by 31°50.3' N. latitude; on the east by 80°46.0' W. longitude; and on the west by 80°47.2' W. longitude.

(b) The following restrictions apply within the SMZs.

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

(2) The use of fish traps, bottom longlines, gill nets, and trawls is prohibited.

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

§§ 646.1, 646.2, 646.3, 646.5, 646.6, 646.21, and 646.22 [Amended]

6. In addition to the amendments set forth above, Part 646 is amended as follows:

A. In § 646.1(b), the words "fishery conservation zone (FCZ)" are removed and the initials "EEZ" are added in their place.

B. The initials "FCZ" are removed and the initials "EEZ" are added in their place in the following places: Section 648.2, in the definition for *South Atlantic*;

Section 646.3(c);

Section 646.5 (a), (e), and (f);

Section 646.6(a)(4), (5), (6), (7), (9), (16), and (18);

Section 646.21 (a), (b), and (c); and Section 646.22(b) (4) and (5).

[FR Doc. 87-6816 Filed 3-26-87; 8:45 am]

BILLING CODE 3510-22-48

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[49 CFR Part 11

(OST Docket No. 1; Amdt. 1-216)

ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Final Rule

SUMMARY: This amendment clarifies the delegation to the Assistant Secretary for Administration.

DATE: The effective date of this amendment is the date of publication.

FOR FURTHER INFORMATION CONTACT: Samuel E. Whitehorn, Office Of the General Counsel, Department of Transportation, Washington, D.C., (202) 366-9307.

SUPPLEMENTARY INFORMATION: Since this amendment relates to Departmental management, procedures, and practice, notice and comment on it are unnecessary and it may be made effective in fewer than thirty days after publication in the Federal Register.

The Secretary has determined that the existing delegations to the Assistant Secretary for Administration need to be updated to add an existing delegation that was inadvertently omitted when this part was published. The new provision delegates to the Assistant Secretary for Administration, subject to coordination with the General **Counsel**, interested administrations and other offices, authority to issue the Department's procurement regulations. These regulations govern the procurement of supplies and services (including construction and concessions) and the procurement of real property by lease.

List of Subjects in 49 CFR Part 1:

Authority delegations (government agencies);
Organization and functions (government agencies);
Transportation Department:
Procurement and Contracting.

1. The authority of Part 1 continues to read as follows:

AUTHORITY: 49 U.S.C. §322

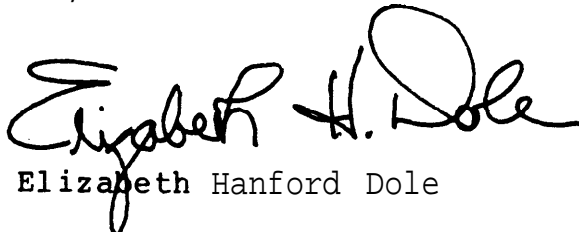
2. In consideration of the foregoing, Section 1.59 of Part 1 of Title 49, Code of Federal Regulations, is amended by adding paragraph (q) to read as follows:

* * *

(q) **Regulations.** Issue Department of Transportation procurement regulations, subject to the following limitation:

(1) Coordination: The views of the General Counsel, the interested administrations and other offices will be solicited in the development of the procurement regulations. In commenting upon proposed provisions for the procurement regulations, the administrations will indicate the nature and purpose of any additional implementing or supplementing policy guidances which they propose to issue at the administration level.

Issued in Washington, D.C., on March 12, 1987



Elizabeth Hanford Dole

Secretary of Transportation