determination, will take into account the data, views, and comments received during the comment period.

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

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. Under a previous rulemaking all current participants in the wild live rock fishery must cease business by 1997. This proposed rule merely accelerates the phaseout of wild live rock harvesting off the Panhandle area and is expected to affect up to 5 small businesses, which may relocate their operations from the closed area and continue operations until 1997. The measures in Amendment 3 would not: (1) Reduce annual gross revenues in excess of 5 percent; (2) significantly increase compliance or production costs of participants; (3) require capital investment to comply with the rule; or (4) require current participants to cease business. All entities involved are small entities. As a result, a regulatory flexibility analysis was not prepared.

List of Subjects in 50 CFR Part 638

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: July 31, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 638 is proposed to be amended as follows:

PART 638—CORAL AND CORAL REEFS OF THE GULF OF MEXICO AND SOUTH ATLANTIC

1. The authority citation for part 638 continues to read as follows:

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

2. In § 638.2, the definition for "Allowable octocoral" is revised to read as follows:

§ 638.2 Definitions.

* * * * *

Allowable octocoral means an erect, nonencrusting species of the subclass Octocorallia, except the seafans Gorgonia flabellum and G. ventalina, plus the attached substrate within 1 inch (2.54 cm) of an allowable octocoral.

3. In § 638.7, paragraphs (m), (n), and (p) are revised to read as follows:

§ 638.7 Prohibitions.

* * * * *

- (m) Harvest or possess wild live rock in the EEZ off the southern Atlantic states north of 25°58.5′ N. lat., as specified in § 638.25(a), or in the Gulf of Mexico EEZ north and west of a line extending in a direction of 235° from true north from the Levy/Dixie County, Florida boundary or south of 25°20.4′ N. lat., as specified in § 638.26(a).
- (n) Harvest wild live rock by chipping or possess wild live rock taken by chipping in the EEZ off the southern Atlantic states south of 25°58.5′ N. lat., as specified in § 638.25(b).
- (p) Harvest or possess in the Gulf of Mexico EEZ from a line extending in a direction of 235° from true north from the Levy/Dixie County, Florida boundary to 25°20.4′ N. lat. wild live rock taken other than by hand or by chipping with a nonpower-assisted, hand-held hammer and chisel, as specified in § 638.26(b).
- 4. Section 638.26, is revised to read as follows:

§ 638.26 Wild live rock in the Gulf of Mexico.

- (a) *Closed areas*. No person may harvest or possess wild live rock in the Gulf of Mexico EEZ—
- (1) North and west of a line extending in a direction of 235° from true north from the Levy/Dixie County, Florida boundary, that is, from a point at the mouth of the Suwannee River at 29°17.25′ N. lat., 83°09.9′ W. long.; or
- (2) South of 25°20.4′ N. lat. (extension of the Monroe/Collier County, Florida boundary).

- (b) Gear limitations. In the Gulf of Mexico EEZ from the line described in paragraph (a)(1) of this section to 25°20.4′ N. lat., wild live rock may be harvested only by hand, without tools, or by chipping with a nonpowerassisted, hand-held hammer and chisel, and no person may possess in that area wild live rock taken other than by hand, without tools, or by chipping with a nonpower-assisted, hand-held hammer and chisel.
- (c) Harvest and possession limits. Through December 31, 1996, a daily vessel limit of twenty-five 5-gallon (19–L) buckets, or volume equivalent (16.88 ft³ (478.0 L)), applies to the harvest or possession of wild live rock in or from the Gulf of Mexico EEZ from the line described in paragraph (a)(1) of this section south to 25°20.4′ N. lat., regardless of the number or duration of trips. Commencing January 1, 1997, the daily vessel limit is zero.
 - (d) Quota and closure.
- (1) The annual quota for wild live rock from the EEZ from the line described in paragraph (a)(1) of this section south to 25°20.4′ N. lat. is 500,000 lb (226,796 kg) for the fishing years that begin January 1, 1995, and January 1, 1996. Commencing with the fishing year that begins January 1, 1997, the quota is zero.
- (2) When the quota specified in paragraph (d)(1) of this section is reached, or is projected to be reached, the Assistant Administrator will file notification to that effect with the Office of the Federal Register. Harvest and purchase, barter, trade, or sale, or attempted purchase, barter, trade, or sale of wild live rock taken on or after the effective date of such notification would be prohibited. But the prohibition on purchase, barter, trade, or sale, or attempted purchase, barter, trade, or sale, of wild live rock in or from the EEZ of the Gulf of Mexico, after the effective date of the closure, would not apply to wild live rock harvested and landed prior to that date.

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