Atlantic and that it is consistent with the Magnuson Act and other applicable law.

This action 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 when the proposed rule was published that it would not have a significant economic impact on a substantial number of small entities. The reasons for this certification were published in the preamble to the proposed rule (60 FR 21493, May 2, 1995). As a result, a regulatory flexibility analysis was not prepared.

The incorporation by reference of certain sections of the Florida Administrative Code and Florida Statutes does not constitute a substantive rule, as they are not changing the regulation, but, rather, are correcting the process by which those sections were previously incorporated. Thus, pursuant to 5 U.S.C. 553(d) there is no need to delay the effective date of those provisions. Additionally, due to the fact that the fishery for spiny lobster opened on August 6, 1995, the Assistant Administrator for Fisheries, NOAA, finds that good cause exists, under 5 U.S.C. 553(d)(3), to waive the 30-day delay in effective date with respect to the provisions of this rule that specify the daily bag or possession limit of spiny lobster. The conservation and management needs that lead NMFS to impose the limit, as described in the proposed rule, along with the fact that it takes little, if any, time to come into compliance with such a limit make a delay in effective date contrary to the public interest and unnecessary, respectively. However, in order to provide time for notice of the bag limit to be provided to fishermen, NMFS will delay the effective date of this provision for 7 days.

List of Subjects in 50 CFR Part 640

Fisheries, Fishing, Incorporation by reference, Reporting and recordkeeping requirements.

Dated: August 9, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 640 is amended as follows:

PART 640—SPINY LOBSTER FISHERY OF THE GULF OF MEXICO AND SOUTH ATLANTIC

1. The authority citation for part 640 continues to read as follows:

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

2. In § 640.2, definitions for "Off the Gulf states, other than Florida" and "Off the southern Atlantic states, other than Florida" are added, in alphabetical order, to read as follows:

§ 640.2 Definitions.

* * * * *

Off the Gulf states, other than Florida means the area from the coast to the outer limit of the EEZ between the Texas/Mexico border to the Alabama/Florida boundary (87°31′06″ W. long.).

Off the southern Atlantic states, other than Florida means the area from the coast to the outer limit of the EEZ between the Virginia/North Carolina boundary (36°34′55″ N. lat.) to the Georgia/Florida boundary (30°42′45.6″ N. lat.).

3. In § 640.4, paragraph (a)(1) is revised to read as follows:

§ 640.4 Permits and fees.

(a) * * *

(1) Licenses, certificates, and permits—(i) EEZ off Florida and spiny lobster landed in Florida. For a person to sell, trade, or barter, or attempt to sell, trade, or barter, a spiny lobster harvested or possessed in the EEZ off Florida, or harvested in the EEZ other than off Florida and landed from a fishing vessel in Florida, or for a person to be exempt from the daily bag and possession limit specified in § 640.23(b)(1) for such spiny lobster, such person must have the licenses and certificates specified to be a "commercial harvester," as defined in Rule 46-24.002(2), Florida Administrative Code, in effect as of June 1, 1994. This incorporation by reference was approved by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Florida Marine Fisheries Commission, 2540 Executive Center Circle West, Suite 106, Tallahassee, FL 32301; telephone: 904-487-0554. Copies may be inspected at the Office of the Regional Director; the Office of Fisheries Conservation and Management, NMFS, 1315 East-West Highway, Silver Spring, MD; or the Office of the Federal Register, 800 North Capitol Street NW, Suite 700, Washington, DC.

(ii) EEZ other than off Florida. For a person to sell, trade, or barter, or

attempt to sell, trade, or barter, a spiny lobster harvested in the EEZ other than off Florida or for a person to be exempt from the daily bag and possession limit specified in § 640.23(b)(1) for such spiny lobster, a Federal vessel permit must be issued to the harvesting vessel and must be on board. However, see paragraph (a)(1)(i) of this section for the licenses and certificates required for a person to possess or land spiny lobster harvested in the EEZ other than off Florida and subsequently possessed in the EEZ off Florida or landed from a fishing vessel in Florida.

4. In § 640.6, in paragraph (c), the word "Secretary" is revised to read "Assistant Administrator" and paragraph (a) is revised to read as follows:

§ 640.6 Vessel and gear identification.

- (a) *EEZ off Florida*. (1) An owner or operator of a vessel that is used to harvest spiny lobsters by traps in the EEZ off Florida must comply with the vessel and gear identification requirements applicable to the harvesting of spiny lobsters by traps in Florida's waters in sections 370.14(2)(a) and (3) and 370.142(2)(b), Florida Statutes, in effect as of July 1, 1994, and in Rule 46–24.006(3), (4), and (5), Florida Administrative Code, in effect as of June 1, 1994.
- (2) An owner or operator of a vessel that is used to harvest spiny lobsters by diving in the EEZ off Florida must comply with the vessel identification requirements applicable to the harvesting of spiny lobsters by diving in Florida's waters in Rule 46–24.006(6), Florida Administrative Code, in effect as of June 1, 1994.
- (3) The incorporation by reference in paragraphs (a)($\overline{1}$) and (a)($\overline{2}$) of this section of sections 370.14(2)(a) and (3) and 370.142(2)(b), Florida Statutes, and Rule 46–24.006(3), (4), (5), and (6), Florida Administrative Code, was approved by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Florida Marine Fisheries Commission, 2540 Executive Center Circle West, Suite 106, Tallahassee, FL 32301; telephone: 904-487-0554. Copies may be inspected at the Office of the Regional Director; the Office of Fisheries Conservation and Management, NMFS, 1315 East-West Highway, Silver Spring, MD; or the Office of the Federal Register, 800 North Capitol Street NW, Suite 700, Washington, DC.

* * * * *