

granting them now, transition relief systems will be able to adjust their rates to reflect the same inflation adjustment that the Commission has granted all other operators. Moreover, in the future, all transition relief systems may join other cable operators in making inflation adjustments on an annual basis, no earlier than October 1 of each year and no later than August 31 of the following year to reflect the final GNP-PI through June 30 of the applicable year.

**Administrative Matters**

*Regulatory Flexibility Act Analysis*

Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 601-612, the Commission's final analysis with respect to the Ninth Order on Reconsideration is as follows:

Need and purpose of this action. The Commission, in compliance with section 3 of the Cable Television Consumer Protection and Competition Act of 1992, 47 U.S.C. 543 (1992), pertaining to rate regulation, adopts revised rules and procedures intended to ensure that cable services are offered at reasonable rates with minimum regulatory and administrative burdens on cable entities.

Summary of issues raised by the public in response to the Initial Regulatory Flexibility Analysis. There were no comments submitted in response to the Initial Regulatory Flexibility Analysis. The Chief Counsel for Advocacy of the United States Small Business Administration (SBA) filed comments in the original rulemaking order. The Commission addressed the concerns raised by the Office of Advocacy in the Report and Order and Further Notice of Proposed Rulemaking.

Significant alternatives considered and rejected. In the course of this proceeding, petitioners representing cable interests and franchising authorities submitted several alternatives aimed at minimizing administrative burdens. The Commission has attempted to accommodate the concerns expressed by these parties. In this order, the Commission is providing relief to small systems and low-price systems by permitting them to adjust their transition rates with an inflation adjustment.

**Paperwork Reduction Act**

The requirements adopted herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and are found to impose a new information collection requirement on the public. Implementation of the new requirement

will be subject to approval by the Office of Management and Budget.

**Ordering Clauses**

Accordingly, it is ordered that, pursuant to sections 4(i), 4(j), 303(r), 612, 622(c) and 623 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303(r), 532, 542(c) and 543, the rules, requirements and policies discussed in this Ninth Order on Reconsideration, are adopted and part 76 of the Commission's rules, 47 CFR part 76, is amended as set forth below.

It is further ordered that the Secretary shall send a copy of this Order to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act. Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. 601 et seq. (1981).

It is further ordered that the requirements and regulations established in this decision shall become effective on April 1, 1995.

**List of Subjects in 47 CFR Part 76**

Cable television.

Federal Communications Commission.  
William F. Caton,  
*Acting Secretary.*

Title 47, Part 76 of the Code of Federal Regulations is amended as follows:

**PART 76—CABLE TELEVISION SERVICE**

1. The authority citation for Part 76 continues to read as follows:

Authority: Secs. 2, 3, 4, 301, 303, 307, 308, 309, 48 Stat. as amended, 1064, 1065, 1066, 1081, 1082, 1083, 1084, 1085, 1101; 47 U.S.C. Secs. 152, 153, 154, 301, 303, 307, 308, 309, 532, 535, 542, 543, 552 as amended, 106 Stat. 1460.

2. Section 76.922 is amended by revising paragraph (d)(2) to read as follows:

**§ 76.922 Rates for the basic service tier and cable programming service tiers.**

\* \* \* \* \*

(d) \* \* \*

(2) *Inflation Adjustments.* The residual component of a system's permitted charge may be adjusted annually for inflation. The annual inflation adjustment shall be based on inflation occurring from June 30 of the previous year to June 30 of the year in which the inflation adjustment is made, except that the first annual inflation adjustment shall cover inflation from September 30, 1993 until June 30 of the year in which the inflation adjustment is made. The adjustment may be made after September 30, but no later than

August 31, of the next calendar year. Adjustments shall be based on changes in the Gross National Product Price Index as published by the Bureau of Economic Analysis of the United States Department of Commerce. Cable systems that establish a transition rate pursuant to paragraph (b)(4) of this section may not begin adjusting rates on account of inflation before April 1, 1995. Between April 1, 1995 and August 31, 1995 cable systems that established a transition rate may adjust their rates to reflect the net of a 5.21% inflation adjustment minus any inflation adjustments they have already received. Low price systems that had their March 31, 1994 rates above the benchmark, but their full reduction rate below the benchmark will be permitted to adjust their rates to reflect the full 5.21% inflation factor unless the rate reduction was less than the inflation adjustment received on an FCC Form 393 for rates established prior to May 15, 1994. If the rate reduction established by a low price system that reduced its rate to the benchmark was less than the inflation adjustment received on an FCC Form 393, the system will be permitted to receive the 5.21% inflation adjustment minus the difference between the rate reduction and the inflation adjustment the system made on its FCC Form 393. Cable systems that established a transition rate may make future inflation adjustments on an annual basis with all other cable operators, no earlier than October 1 of each year and no later than August 31 of the following year to reflect the final GNP-PI through June 30 of the applicable year.

\* \* \* \* \*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 642**

[Docket No. 940710-4292; I.D. 022195E]

**Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure of a Commercial Fishery**

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

**ACTION:** Closure of a commercial fishery for king mackerel.

**SUMMARY:** NMFS closes the commercial hook-and-line fishery for king mackerel

in the exclusive economic zone (EEZ) in the Florida west coast sub-zone. This closure is necessary to protect the overfished Gulf king mackerel resource.

**EFFECTIVE DATE:** February 22, 1995, through June 30, 1995.

**FOR FURTHER INFORMATION CONTACT:** Mark F. Godcharles, 813-570-5305.

**SUPPLEMENTARY INFORMATION:** The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, dolphin, and, in the Gulf of Mexico only, bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented by regulations at 50 CFR part 642 under the authority of the Magnuson Fishery Conservation and Management Act.

Catch limits recommended by the Councils and implemented by NMFS for the Gulf of Mexico migratory group of king mackerel set the commercial quota of king mackerel in the Florida west coast sub-zone at 865,000 lb (392,357 kg). That quota was further divided into two equal quotas of 432,500 lb (196,179 kg) for vessels in each of two groups by gear types—vessels fishing with run-around gillnets and those using hook-and-line gear. The quota for vessels using hook-and-line gear was reached and the commercial fishery for vessels using such gear was closed December 20, 1994 (59 FR 66276, December 23, 1994). On February 1, 1995, the fishery was reopened by an emergency interim rule (60 FR 7134, February 7, 1995) that revised the 1994-95 fishing year commercial quota to 732,500 lb (332,256 kg) for vessels using hook-and-line gear and imposed a daily possession/landing

limit of 125 king mackerel for such vessels.

Under the provisions of the emergency interim rule (50 CFR 642.32(c)), NMFS is required to close the commercial fishery for king mackerel for vessels using hook-and-line gear in the Florida west coast sub-zone when the revised quota is reached, or is projected to be reached, by publishing notification in the Federal Register. NMFS has determined that the revised commercial quota of 732,500 lb (332,256 kg) for Gulf group king mackerel for vessels using hook-and-line gear in the Florida west coast sub-zone was reached on February 21, 1995. Hence, the commercial fishery for king mackerel for such vessels in the Florida west coast sub-zone is closed effective 12:01 a.m., local time, February 22, 1995, through June 30, 1995, the end of the fishing year.

The Florida west coast sub-zone extends from the Alabama/Florida boundary (87°31'06" W. long.) to (1) the Dade/Monroe County, Florida boundary (25°20.4' N. lat.) from November 1 through March 31; and (2) the Monroe/Collier County, Florida boundary (25°48' N. lat.) from April 1 through October 31.

NMFS previously determined that the commercial quota of king mackerel from the western zone of the Gulf of Mexico was reached and closed that segment of the fishery on September 24, 1994 (59 FR 49356, September 28, 1994). Subsequently, NMFS determined that the commercial quota of king mackerel for vessels using run-around gillnets in the Florida west coast sub-zone of the eastern zone of the Gulf of Mexico was reached and closed that segment of the fishery on February 3, 1995 (60 FR 7716, February 9, 1995). Thus, with this closure, all commercial fisheries for

king mackerel in the EEZ are closed from the U.S./Mexico border through the Florida west coast sub-zone through June 30, 1995.

Except for a person aboard a charter vessel, during the closure, no person aboard a vessel permitted to fish under a commercial allocation may fish for, retain, or have in possession in the EEZ Gulf group king mackerel from the closed zones. A person aboard a charter vessel may continue to fish for king mackerel in the closed zones under the bag limit set forth in § 642.24(a)(1)(i), provided the vessel is under charter and the vessel has an annual charter vessel permit, as specified in § 642.4(a)(2). A charter vessel with a permit to fish on a commercial allocation is under charter when it carries a passenger who fishes for a fee or when there are more than three persons aboard, including operator and crew.

During the closure, king mackerel from the closed zones taken in the EEZ, including those harvested under the bag limit, may not be purchased, bartered, traded, or sold. This prohibition does not apply to trade in king mackerel from the closed zones that were harvested, landed, and bartered, traded, or sold prior to the closure and held in cold storage by a dealer or processor.

#### Classification

This action is taken under 50 CFR 642.32(c) and is exempt from under E.O. 12866.

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

Dated: February 21, 1995.

David S. Crestin,

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

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