

unless we delay the effective date of revised § 414.50 with respect to anatomic pathology diagnostic testing services furnished in space that: (1) Is utilized by a physician group practice as a “centralized building” (as defined at § 411.351 of this chapter) for purposes of complying with the physician self-referral rules; and (2) does not qualify as a “same building” under § 411.355(b)(2)(i) of this chapter. Likewise, if we do not make this final rule effective upon publication, patient care may be significantly disrupted during the interim period between the issuance of the rule and a delayed effective date.

IV. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

V. Regulatory Impact Statement

We do not believe that this delay in the date of applicability will result in any significant economic impact on any small entity. Until January 1, 2009, the majority of billing suppliers affected by the revised § 414.50 do not have to comply with the revised requirements in § 414.50.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: December 18, 2007.

Kerry Weems,

Acting Administrator, Centers for Medicare & Medicaid Services.

Approved: December 27, 2007.

Michael O. Leavitt,

Secretary.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 622

[Docket No. 070518142–7238–02]

RIN 0648–AV45

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Gulf of Mexico Vermilion Snapper Fishery Management Measures

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement a regulatory amendment to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP) prepared by the Gulf of Mexico Fishery Management Council (Council). This final rule reduces the minimum size limit for vermilion snapper to 10 inches (25.4 cm) total length (TL), eliminates the 10–fish recreational bag limit for vermilion snapper within the existing 20–fish aggregate reef fish bag limit, and eliminates the 40-day commercial closed season for vermilion snapper (from April 22 through May 31 each year). NMFS is also implementing through this rule clarifications for the Gulf of Mexico red snapper individual fishing quota (IFQ) program, as well as non-substantive changes to codified text, including removing obsolete language regarding the use of fish traps in the Gulf of Mexico, removing outdated and redundant language, revising phone numbers and an outdated definition, and revising incorrect references. The intended effects of this final rule are to help achieve optimum yield (OY) by reducing vermilion snapper harvest limitations consistent with the findings of the recent stock assessment and to clarify and update existing regulations. **DATES:** This rule is effective February 4, 2008, except for the amendments to § 622.16(c)(3)(i) and (ii) which are effective January 3, 2008 and the amendment to § 622.39(b)(1)(x) which is effective February 4, 2008 through March 28, 2008.

ADDRESSES: Copies of the final regulatory flexibility analysis (FRFA) may be obtained from Sarah DeVido, NMFS, Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701; telephone 727–824–5305; fax

727–824–5308; email sarah.devido@noaa.gov.

FOR FURTHER INFORMATION CONTACT: Sarah DeVido, telephone 727–824–5305; fax 727–824–5308; e-mail sarah.devido@noaa.gov.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the FMP. The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

In accordance with the FMP’s framework procedure, the Council recommended, and NMFS published, a proposed rule to implement the regulatory amendment and requested public comment through May 14, 2007 (72 FR 20980, April 27, 2007). The rationale for the measures contained in the regulatory amendment, is provided in the preamble to the proposed rule and the responses to comment below and is not repeated here. A summary of the public comments received by NMFS on the proposed rule and NMFS’ responses are provided below.

Comments and Responses

A total of 83 individuals submitted comments during the comment period on the proposed rule to reduce the size limit, relax the recreational bag limit, and remove a commercial closure. Of these, 68 of the commenters expressed support for one, two or all three of the proposed actions, and did not express any specific objections. The remaining 15 commenters opposed one or more of the proposed actions.

Comment 1: The regulations for vermilion snapper should remain as they are. Of special concern is the proposal to remove the 10–fish bag limit restriction. Such an action is not in line with a conservation-oriented approach to recreational fishing. The upcoming reductions in bag limits for red snapper and gray triggerfish may cause an effort shift to vermilion snapper, which could lead to increased harvests of this species. Optimistic assumptions regarding current low fishing mortality should not be relied upon. Effort shifts could substantially increase fishing mortality, and the regulations would have to be revised to ensure the vermilion snapper stock does not become overfished or undergo overfishing.

Response: Fishery stocks should be managed conservatively, with a goal of achieving optimum yield (OY) from the fishery. The 2006 stock assessment for vermilion snapper incorporated new

information unavailable for the 2001 assessment. The results of the 2006 stock assessment concluded vermilion snapper was neither overfished nor undergoing overfishing. Currently, the vermilion snapper fishery is being fished at a rate below OY. The assessment suggests fishing mortality (F) may exceed FOY by 2012, but should not exceed the maximum fishing mortality threshold, i.e., the overfishing threshold, through 2017. The regulations implemented through Amendment 23 were overly restrictive and can be removed to allow the fishery to better achieve OY.

Comment 2: There was general support for the proposed reduction in the size limit, but mixed opinions regarding the changes to the bag limit and the commercial closure. Most comments did not provide a rationale for their support or opposition. Several commenters opposed the removal of the commercial closed season, but supported the removal of the 10–fish bag limit restriction within the 20–fish aggregate bag limit. Some supported the change in the size limit, but opposed the other two proposed actions. Some commenters apparently misinterpreted the “removal” of the 10–fish bag limit as meaning the bag limit would be set to zero. A few commenters focused on a possible reallocation of catches between commercial and recreational sectors if the commercial closure were rescinded but the 10–fish bag limit were retained.

Response: Given the vermilion snapper fishery is not achieving optimum yield, the relaxation of harvesting restrictions is intended to allow the fishery to better optimize this resource. The size limit reduction is expected to increase recreational catch by as much as 20 percent, and commercial harvest by 12 percent, while reducing discard mortalities. Elimination of the recreational bag limit is not expected to greatly increase harvest; before this restriction was implemented, less than 2 percent of anglers harvested more than 10 fish. However, removal of the bag limit restriction would allow anglers to take more fish if they choose. Eliminating the commercial closure is expected to increase commercial harvest by as much as 16 percent. In total, these actions should allow increases of over 25 percent for both the recreational and commercial sectors, which will maintain current allocation ratios while allowing fishery participants to derive greater benefit from the vermilion snapper resource.

Clarification of Language

In § 622.16(c)(3)(i) and (ii), NMFS clarifies language regarding the Gulf of Mexico red snapper IFQ program relating to a requirement for advanced notification of landing and a restriction on time of offloading IFQ red snapper. NMFS believes that the current regulatory text does not sufficiently distinguish between the terms “landing” and “offloading” and, therefore, is not consistent with the intended regulatory effect. The current wording of § 622.16(c)(3)(i) refers to landing which, by definition, includes not only landing but also offloading. The intent was to constrain the landing of a vessel with IFQ red snapper on board to an allowable time period no less than 3 hours and no more than 12 hours after the time of advanced notification of landing. However, the current wording also constrains offloading of IFQ red snapper to this same time period. To correct this unintentional effect, this rule defines “landing”, for purposes of § 622.16(c)(3)(i) only, in a way that removes any reference to “offloading.”

In § 622.16(c)(3)(ii), the current regulatory text refers to both “landing” (or “land”) and “offloading” (or “offload”) and restricts both to an allowable time period of 6 a.m. to 6 p.m. The intent was to restrict offloading of IFQ red snapper to the 6 a.m. to 6 p.m. time period, not to restrict landing the vessel to that time frame. To correct this unintentional effect, this rule deletes reference to “landing” and “land” in § 622.16(c)(3)(ii).

Other Non-Substantive Changes Implemented by NMFS

Revision to Definition

In § 622.2, NMFS revises the definition of “Regional Administrator” to incorporate a change of address.

Revision to References

In § 622.7 and § 622.16, NMFS revises incorrect references to other sections in part 622.

Revision to Phone Numbers

In § 622.15, § 622.17, and § 622.41, the phone numbers for NMFS Office for Law Enforcement, Southeast Region, are updated.

Removal of Outdated Language

In § 622.17, references to fishing for South Atlantic golden crab in the northern zone through May 3, 2005 are outdated and therefore removed.

In § 622.42, the reference to the South Atlantic snowy grouper quota that commences January 1, 2006 is outdated

and therefore removed, and the remaining paragraphs are redesignated.

In § 622.44, the reference to the South Atlantic snowy grouper commercial trip limit for 2006 is outdated and therefore removed, and the remaining paragraphs are redesignated.

Removal of Redundant Language

In § 622.37, the minimum size limit for South Atlantic vermilion snapper is 12 inches (30.5 cm) for those that are subject to the bag limit and those that are not subject to the bag limit. This language has been simplified to state that the minimum size limit for South Atlantic vermilion snapper is 12 inches (30.5 cm).

Consistency of Language

In § 622.39, the language specifying the Gulf grouper zero bag limit for captain and crew has been revised to be consistent with the language specifying the Gulf red snapper zero bag limit for captain and crew.

Removal of Obsolete Language

NMFS published a final rule in the **Federal Register** on March 25, 1997 (62 FR 13983) prohibiting the use of fish traps in the exclusive economic zone (EEZ) of the Gulf of Mexico beginning February 8, 2007. Therefore, this final rule removes obsolete language regarding the use and/or possession of fish traps in the Gulf of Mexico and revises several paragraphs to account for the removal of this language.

General Prohibitions (§ 600.725)

In the table under paragraph (v), under the heading “IV. Gulf of Mexico Fishery Management Council,” entry 3.B. is removed because the use of fish traps in the Gulf is no longer allowed. Also, under the heading “III. South Atlantic Fishery Management Council,” entry 6.B. is revised to reflect only the use of sea bass pots in the South Atlantic EEZ. The use of fish traps in the South Atlantic has been prohibited since January 1, 1992 (56 FR 56016, October 31, 1991), however, this language was inadvertently not removed at that time.

Permits and Fees (§ 622.4)

Paragraphs (a)(2)(i) and (n) are removed because fish traps are no longer allowed to be used and/or possessed in the Gulf of Mexico. Paragraph (a)(4)(i) is revised to clarify language regarding dealer permit requirements for the specified species in the Gulf, South Atlantic, and Atlantic EEZs. Paragraphs (b)(3)(ii)(G), (d), and (g)(1) are revised to eliminate language allowing fish traps in the Gulf but retain

language allowing the use and possession of sea bass pots in the South Atlantic EEZ.

Recordkeeping and Reporting (§ 622.5)

Paragraphs (a)(1)(ii)(A) and (B) are removed because the use and/or possession of fish traps is no longer allowed in the Gulf of Mexico.

Vessel and Gear Identification (§ 622.6)

Paragraphs (a)(1)(ii), (b)(1)(i)(B), and (b)(1)(ii)(B) are revised to eliminate fish trap language but retain sea bass pot language for use and/or possession in the South Atlantic EEZ.

Vessel Monitoring Systems (VMSs) (§ 622.9)

The last sentence of paragraph (a)(2) is removed because it is no longer effective.

Prohibited Gear and Methods (§ 622.31)

Paragraphs (c)(1) through (c)(3) are removed, however, paragraph (c) is retained and revised to include language which prohibits the use and/or possession of fish traps in both the South Atlantic and Gulf EEZs.

Gulf EEZ Seasonal and/or Area Closures (§ 622.34)

Paragraph (g)(3) is removed because fish traps are no longer allowed to be used or possessed in the Gulf EEZ.

Bag and Possession Limits (§ 622.39)

Paragraph (a)(2)(iv) is revised to eliminate language pertaining to fish traps.

Limitations on Traps and Pots (§ 622.40)

Paragraphs (a)(2), (b)(2), (c)(2), and (d)(1) are removed to eliminate the use and/or possession of fish traps in the Gulf. The subsequent paragraphs are redesignated for clarity and flow. Paragraph (d)(2) is added and reserved to avoid confusion.

Species Specific Limitations (§ 622.41)

Paragraph (i) is revised to eliminate outdated language implying use and/or possession of fish traps in the Gulf of Mexico is allowed.

Classification

The Administrator, Southeast Region, NMFS determined the regulatory amendment is necessary for the management of the Gulf of Mexico vermilion snapper fishery and is consistent with the Magnuson-Stevens Act and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

A final regulatory flexibility analysis (FRFA) was prepared. The FRFA incorporates the initial regulatory flexibility analysis (IRFA), a summary of significant economic issues raised by public comments, NMFS responses to those comments, and a summary of the analyses completed to support the action. A copy of the full analysis is available from the NMFS (see ADDRESSES). A summary of the analysis follows.

This rule will reduce the minimum size limit for vermilion snapper to 10 inches (25.4 cm) TL, eliminate the 10-fish vermilion snapper recreational bag limit but include vermilion snapper in the 20-fish aggregate bag limit, and eliminate the April 22 through May 31 commercial closed season. The purpose of this action is to eliminate management measures that are causing the vermilion snapper fishery to be fished at a rate below OY, which is resulting in the unnecessary loss of social and economic benefits. These regulations have been determined to no longer be required because the vermilion snapper stock has been determined to be healthy, not overfished, nor undergoing overfishing.

No significant economic issues were raised by public comments. Therefore, no changes were made in the final rule as a result of such comments.

The measures in this rule are expected to affect commercial reef fish operations, for-hire vessels operating in the reef fish fishery, and dealers and processors that receive vermilion snapper. As of October 2003, there were 1,158 active commercial reef fish permits. Of these entities, 441 vessels reported logbook landings of vermilion snapper, with most using vertical line gear. During the period 2000–2004, the average vessel operating in the commercial vermilion snapper fishery generated revenues of \$65,200 of which \$7,400 was from vermilion snapper harvests. These estimates included all vessels that landed at least 1 lb (0.5 kg) of vermilion snapper and all the trips taken by these vessels regardless of whether vermilion snapper was caught on that trip. These estimates are assumed to be lower bound estimates, however, since landings of all commercial species, whether from Federal or state fisheries, are not required to be recorded or captured by the logbook program, which captures only reef fish and coastal pelagic harvests.

An estimated 1,625 for-hire vessels are currently permitted to harvest reef fish in the Gulf of Mexico. This sector is comprised of charter boats that are generally smaller and charge a fee on a

per-vessel basis, and headboats that are larger and charge a fee per angler. On average, charter boats are estimated to generate gross revenues ranging from \$58,000 in the eastern Gulf to \$81,000 in the western Gulf, or an overall average of \$64,000. The comparable values for headboats are \$281,000 and \$550,000, or an overall average of \$400,000.

The Small Business Administration (SBA) defines a small business operating in the finfish industry as one that is independently owned and operated, is not dominant in its field of operation, and has average annual receipts not in excess of \$4.0 million (NAICS code 114111, finfish fishing). The appropriate revenue benchmark for a vessel operating in the for-hire sector is \$6.5 million (NAICS code 713990, amusement and recreation industries). Based on the gross revenue estimates presented above, all commercial and for-hire fishing vessels potentially affected by this rule are determined, for the purpose of this analysis, to be small business entities.

Instead of a receipts threshold, the SBA uses an employment threshold for seafood dealers and processors, with the appropriate values of fewer than 100 employees per dealer and fewer than 500 employees per processor. A Federal permit is required for a fish dealer to purchase reef fish from commercial vessels. Based on permits files, there are currently 227 dealers holding permits to buy and sell reef fish species. All reef fish processors would be included in this total since a processor must be a dealer. Dealers often hold multiple types of permits and operate in both Federal and state fisheries. It is unknown what percentage of any of the average dealer's business comes from the vermilion snapper fishery.

Average employment information per reef fish dealer is unknown. Although dealers and processors are not synonymous entities, total employment for reef fish processors in the Southeast is estimated at approximately 700 individuals, both part and full time. While all processors must be dealers, a dealer need not be a processor. Further, processing is a much more labor-intensive exercise than dealing. Therefore, given the employment estimate for the processing sector (700 persons) and the total number of dealers operating in the reef fish fishery (227), NMFS determines that the average number of employees per dealer and processor does not surpass the SBA employment benchmark and, for the purpose of this analysis, NMFS determines that all dealers potentially affected by this rule are small entities.

None of the measures in this rule will alter existing reporting and record-keeping requirements.

The rule is expected to increase net revenues in the commercial vermilion snapper fishery by approximately \$1.443 million, or approximately 3.5 percent of total average net revenues relative to the 2000–2002 fishery. If spread over the average 441 vessels that operated in the fishery from 2000–2004, the increased net revenues expected to be generated as a result of the rule equate to approximately \$3,300 per vessel or approximately 5 percent of average gross revenues.

Within the for-hire sector, the rule is expected to result in an increase of approximately \$3.158 million in net revenues. It is not possible to determine how many of the 1,625 entities permitted to operate in this fishery will be affected. If evenly distributed across all said entities, the expected increase in net revenues equates to approximately \$1,900 per entity, or approximately 12 percent per entity. Since not all of the vessels permitted to operate in the for-hire reef fish fishery are expected to participate in the vermilion snapper fishery, actual increases in net revenue per vessel for those vessels fishing for vermilion snapper are expected to exceed these estimates.

The impact of the rule on reef fish dealers cannot be determined with available data. However, although the current measures were originally projected to result in an approximate 26-percent reduction in vermilion snapper harvests, which are expected to be recovered under the rule, the vermilion snapper fishery comprises less than 10 percent of the total commercial reef fish fishery. Hence, the additional commercial harvests, and resultant effect on revenues or profits, expected to occur as a result of the rule, are not expected to be substantial relative to overall commercial reef fish sales.

Two alternatives to the measures in this final rule, including the status quo, were considered. The status quo would maintain current regulations in the fishery that are not biologically supported and would result in the loss of economic benefits. The second alternative allowed the continuation or suspension of the individual components of current vermilion snapper regulations. The continuation of any of these individual components would be expected to, similar to the status quo, result in the continued loss of economic benefits to the fishery. The rule will rescind current regulations that have been determined to be unnecessary from a biological perspective and is

expected to result in increased economic and social benefits to the fishery.

Pursuant to 5 U.S.C. 533(b)(B), NMFS finds good cause to waive notice and comment on the non-substantive measures contained in this rule. These measures, which remove obsolete text regarding the use of fish traps in the Gulf of Mexico, remove outdated and redundant language, revise phone numbers and an outdated definition, and revise incorrect references, simply clarify and update existing regulations to eliminate confusion among the regulated communities. No additional regulatory requirements are imposed by these measures. Therefore, providing notice and comment would be unnecessary and contrary to the public interest.

NMFS also finds good cause to waive notice and comment, and the 30-day delay in effective date, pursuant to 5 U.S.C. 533(d)(3), on language clarifying Gulf of Mexico red snapper IFQ program components. The current definition of “landing” includes both arrival of a vessel at a dock, berth, beach, seawall, or ramp, and offloading of the catch, which therefore constrains fishers to complete both of these activities during the 6 a.m. to 6 p.m. time frame. However, NMFS’ intent was to restrict only offloading to this time period. The current regulatory text creates unnecessary safety issues for IFQ fishers that must stay out longer waiting for the offloading window. It is frequently difficult to predict arrival time due to variable weather conditions, vessel operational problems, or at-sea boardings that occur after advanced notification of landing is given. Vessels waiting offshore to land their vessels and offload their catch will add to navigational congestion and increased vessel traffic, raising concerns about vessel traffic safety. Being required to wait offshore also increases the risk of fuel shortages, and in turn bilge failure, adding to the potential for vessel damage or loss. Providing an opportunity for public notice and comment would delay implementation of these measures beyond the imminent opening date of the commercial fishery on January 1, 2008, which would extend these risks and is therefore unnecessary and contrary to the public interest. For all of these reasons, NMFS finds good cause to waive notice and comment and the 30-day delay in effective date on these measures.

List of Subjects

50 CFR Part 600

Administrative practice and procedures, Confidential business

information, Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics.

50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: December 28, 2007

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

■ For the reasons set out in the preamble, 50 CFR parts 600 and 622 are amended as follows:

PART 600—MAGNUSON-STEVENS ACT PROVISIONS

■ 1. The authority citation for part 600 continues to read as follows:

Authority: 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

■ 2. In § 600.725, in paragraph (v), in the table under heading “IV. Gulf of Mexico Fishery Management Council,” entry 3.B. is removed entries 3.C. and 3.D. are redesignated as 3.B. and 3.C., respectively and under heading “III. South Atlantic Fishery Management Council,” entry 6.B. is revised to read as follows.

§ 600.725 General prohibitions.

* * * * *
(v) * * *

Fishery	Authorized gear types
* * * * *	*
III. South Atlantic Fishery Management Council	
* * * * *	*
6. * * * B. Black sea bass pot fishery	B. Pot. *
* * * * *	

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

■ 3. The authority citation for part 622 continues to read as follows:

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

■ 4. In § 622.2, the definition for “Regional Administrator” is revised to read as follows:

§ 622.2 Definitions and acronyms.

* * * * *

Regional Administrator (RA), for the purposes of this part, means the

Administrator, Southeast Region, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701, or a designee.

■ 5. In § 622.4, paragraphs (a)(2)(i) and (n) are removed and reserved; and paragraph (a)(4)(i), (b)(3)(ii)(G), the first and last sentence of paragraph (d), and the first sentence of paragraph (g)(1) are revised to read as follows:

§ 622.4 Permits and fees.

- (a) * * *
(4) * * *

(i) Permits. For a dealer to receive Gulf reef fish harvested from the Gulf EEZ; golden crab, South Atlantic snapper-grouper, rock shrimp, or wreckfish harvested from the South Atlantic EEZ; or dolphin or wahoo harvested from the Atlantic EEZ; a dealer permit for Gulf reef fish, golden crab, South Atlantic snapper-grouper, rock shrimp, wreckfish, or Atlantic dolphin and wahoo, respectively, must be issued to the dealer.

- (b) * * *
(3) * * *
(ii) * * *

(G) If a sea bass pot will be used, the number, dimensions, and estimated cubic volume of the pots that will be used and the applicant's desired color code for use in identifying his or her vessel and buoys (white is not an acceptable color code).

(d) Fees. Unless specified otherwise, a fee is charged for each application for a permit, license, or endorsement submitted under this section, for each request for transfer or replacement of such permit, license, or endorsement, and for each sea bass pot identification tag required under § 622.6(b)(1)(i)(B). * * * The appropriate fee must accompany each application, request for transfer or replacement, or request for sea bass pot identification tags.

- (g) * * *

(1) Vessel permits, licenses, and endorsements and dealer permits. A vessel permit, license, or endorsement or a dealer permit or endorsement issued under this section is not transferable or assignable, except as provided in paragraph (m) of this section for a commercial vessel permit for Gulf reef fish, in paragraph (o) of this section for a king mackerel gillnet permit, in paragraph (q) of this section for a commercial vessel permit for king mackerel, in paragraph (r) of this section for a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish, in paragraph (s) of this

section for a commercial vessel moratorium permit for Gulf shrimp, in § 622.17(c) for a commercial vessel permit for golden crab, in § 622.18(b) for a commercial vessel permit for South Atlantic snapper-grouper, or in § 622.19(b) for a commercial vessel permit for South Atlantic rock shrimp.

§ 622.5 [Amended]

- 6. In § 622.5, paragraphs (a)(1)(ii)(A) and (B) are removed.
■ 7. In § 622.6, the first sentence in paragraph (a)(1)(ii), the first sentence in paragraph (b)(1)(i)(B), and paragraph (b)(1)(ii)(B) are revised to read as follows:

§ 622.6 Vessel and gear identification.

- (a) * * *
(1) * * *

(ii) Official number and color code. The following vessels must display their official number as specified in paragraph (a)(1)(i) of this section and, in addition, must display their assigned color code: A vessel for which a permit has been issued to fish with a sea bass pot, as required under § 622.4(a)(2)(vi); a vessel in the commercial Caribbean reef fish fishery fishing with traps; and a vessel in the Caribbean spiny lobster fishery.

- (b) * * *
(1) * * *
(i) * * *

(B) South Atlantic EEZ. A sea bass pot used or possessed in the South Atlantic EEZ between 35°15.19' N. lat. (due east of Cape Hatteras Light, NC) and 28°35.1' N. lat. (due east of the NASA Vehicle Assembly Building, Cape Canaveral, FL), or a sea bass pot on board a vessel with a commercial permit for South Atlantic snapper-grouper, must have a valid identification tag issued by the RA attached.

- (ii) * * *

(B) South Atlantic EEZ. In the South Atlantic EEZ, buoys are not required to be used, but, if used, each buoy must display the official number and color code assigned by the RA. However, no color code is required on a buoy attached to a golden crab trap.

- 8. In § 622.7, paragraph (w) is revised to read as follows:

§ 622.7 Prohibitions.

(w) Fail to comply with the requirements for observer coverage as specified in § 622.8.

§ 622.9 [Amended]

- 9. In § 622.9, the last sentence of paragraph (a)(2) is removed.
■ 10. In § 622.15, paragraph (d)(4) is revised to read as follows:

§ 622.15 Wreckfish individual transferable quota (ITQ) system.

- (d) * * *

(4) If a wreckfish is to be offloaded at a location other than a fixed facility of a dealer who holds a dealer permit for wreckfish, as required under § 622.4 (a)(4), the wreckfish shareholder or the vessel operator must advise NMFS Office for Law Enforcement, Southeast Region, St. Petersburg, FL, by telephone (727-824-5344), of the location not less than 24 hours prior to offloading.

- 11. In § 622.16, a sentence is added to the beginning of paragraph (c)(3)(i), and the last sentence of paragraph (c)(3)(i) and paragraph (c)(3)(ii) are revised to read as follows:

§ 622.16 Gulf red snapper individual fishing quota (IFQ) program.

- (c) * * *
(3) * * *

(i) Advance notice of landing. For the purpose of this paragraph, landing means to arrive at a dock, berth, beach, seawall, or ramp. * * * Failure to comply with this advance notice of landing requirement is unlawful and will preclude authorization to complete the landing transaction report required in paragraph (c)(1)(iii) of this section and, thus, will preclude issuance of the required transaction approval code.

(ii) Time restriction on offloading. IFQ red snapper may be offloaded only between 6 a.m. and 6 p.m., local time.

- 12. In § 622.17, paragraph (b)(4)(ii) is removed and reserved, and the third and fourth sentences in paragraph (b)(2) are revised to read as follows:

§ 622.17 South Atlantic golden crab controlled access.

- (b) * * *
(2) * * *

A vessel with a documented length overall greater than 65 ft (19.8 m) with a permit to fish for golden crab in the southern zone may fish in that zone, consistent with the provisions of paragraph (b)(3) of this section. A vessel may possess golden crab only in a zone in which it is authorized to fish, except that other zones may be transited if the vessel notifies NMFS Office for Law Enforcement, Southeast Region, St. Petersburg, FL, by telephone (727-824-5344) in advance and does not fish in a zone in which it is not authorized to fish.

■ 13. In § 622.31, paragraph (c) is revised to read as follows:

§ 622.31 Prohibited gear and methods.

* * * * *

(c) *Fish traps.* A fish trap may not be used or possessed in the Gulf or South Atlantic EEZ. A fish trap deployed in the Gulf or South Atlantic EEZ may be disposed of in any appropriate manner by the Assistant Administrator or an authorized officer.

* * * * *

§ 622.34 [Amended]

■ 14. In § 622.34, paragraph (g)(3) is removed, and paragraph (n) is removed and reserved.

■ 15. In § 622.37, paragraphs (d)(1)(ii) and (e)(1)(ii) are revised to read as follows:

§ 622.37 Size limits.

* * * * *

(d) * * *

(1) * * *

(ii) Vermilion snapper—10 inches (25.4 cm), TL.

* * * * *

(e) * * *

(1) * * *

(ii) Vermilion snapper—12 inches (30.5 cm), TL.

* * * * *

■ 16. In § 622.39, paragraphs (a)(2)(iv), and (b)(1)(ii) are revised; paragraph (b)(1)(ix) is removed and reserved; and paragraph (b)(1)(x) is added to read as follows:

§ 622.39 Bag and possession limits.

* * * * *

(a) * * *

(2) * * *

(iv) When the vessel has on board or is tending any trap other than a stone crab trap or a spiny lobster trap.

* * * * *

(b) * * *

(1) * * *

(ii) Groupers, combined, excluding goliath grouper and Nassau grouper—5 per person per day, but not to exceed 1 speckled hind or 1 warsaw grouper per vessel per day or 1 red grouper per person per day. However, no grouper may be retained by the captain or crew of a vessel operating as a charter vessel or headboat. The bag limit for such captain and crew is zero.

* * * * *

(x) Gulf reef fish, combined, excluding those specified in paragraphs (b)(1)(i), (ii), (iv), (vi), (vii), and (viii) of this section and excluding dwarf sand perch and sand perch—20.

* * * * *

§ 622.40 [Amended]

■ 17. In § 622.40, paragraphs (a)(2), (b)(2), (c)(2), and (d)(1) are removed;

paragraphs (a)(3), (b)(3), (c)(3), and (d)(2) are redesignated as paragraphs (a)(2), (b)(2), (c)(2), and (d)(1), respectively, and paragraph (d)(2) is added and reserved.

■ 18. In § 622.41, paragraphs (a)(4) and (i) are revised to read as follows:

§ 622.41 Species specific limitations.

(a) * * *

(4) Not less than 24 hours prior to harvest of aquacultured live rock, the owner or operator of the harvesting vessel must provide the following information to the NMFS Office for Law Enforcement, Southeast Region, St. Petersburg, FL, by telephone (727-824-5344):

* * * * *

(i) Gulf reef fish exhibiting trap rash. Possession of Gulf reef fish in or from the Gulf EEZ that exhibit trap rash is prima facie evidence of illegal trap use and is prohibited. For the purpose of this paragraph, trap rash is defined as physical damage to fish that characteristically results from contact with wire fish traps. Such damage includes, but is not limited to, broken fin spines, fin rays, or teeth; visually obvious loss of scales; and cuts or abrasions on the body of the fish, particularly on the head, snout, or mouth.

* * * * *

§ 622.42 [Amended]

■ 19. In § 622.42, paragraph (e)(1)(i) is removed and paragraphs (e)(1)(ii) and (iii) are redesignated as (e)(1)(i) and (ii), respectively.

§ 622.44 [Amended]

■ 20. In § 622.44, paragraph (c)(3)(i) is removed and paragraphs (c)(3)(ii) through (iv) are redesignated as paragraphs (c)(3)(i) through (iii), respectively.

§ 622.45 [Amended]

■ 21. In § 622.45, paragraph (c)(5) is removed.

■ 22. In addition to the amendments set forth above, in 50 CFR part 622, revise all references to “NMFS, Office of Enforcement”; “NMFS Office of Enforcement”; “NMFS Office of Law Enforcement”; and “NMFS Law Enforcement Office” to read “NMFS Office for Law Enforcement” wherever they occur.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 061109296-7009-02]

RIN 0648-XE43

Fisheries of the Northeastern United States; Atlantic Bluefish Fishery; Quota Transfer

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

ACTION: Temporary rule; inseason quota transfer.

SUMMARY: NMFS announces that the State of Florida is transferring commercial bluefish quota to the State of New York from its 2007 quota. By this action, NMFS adjusts the quotas and announces the revised commercial quota for each state involved.

DATES: Effective December 28, 2007 through December 31, 2007.

FOR FURTHER INFORMATION CONTACT: Emily Bryant, Fishery Management Specialist, (978) 281-9244, fax (978) 281-9135.

SUPPLEMENTARY INFORMATION:

Regulations governing the Atlantic bluefish fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota that is apportioned among the coastal states from Florida through Maine. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.160.

Two or more states, under mutual agreement and with the concurrence of the Administrator, Northeast Region, NMFS (Regional Administrator), can transfer or combine bluefish commercial quota under § 648.160(f). The Regional Administrator is required to consider the criteria set forth in § 648.160(f)(1) in the evaluation of requests for quota transfers or combinations.

Florida has agreed to transfer 100,000 lb (45,359 kg) of its 2007 commercial quota to New York. The Regional Administrator has determined that the criteria set forth in § 648.160(f)(1) have been met. The revised bluefish quotas for calendar year 2007 are: New York, 1,334,278 lb (605,218 kg); and Florida, 453,488 lb (205,699 kg).

Classification

This action is taken under 50 CFR part 648 and is exempt from review under Executive Order 12866.

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