

and that reply comments are to be filed on December 23, 1991.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91-26956 Filed 11-7-91; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 91-316, RM-7834]

Radio Broadcasting Services; Corrales, NM

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by LV Broadcasting Educational Foundation, Inc., seeking the substitution of Channel 236C1 for Channel 236A at Corrales, New Mexico, and the modification of Station K5VA's construction permit to specify operation on the higher class channel. Channel 236C1 can be allocated to Corrales in compliance with the Commission's minimum distance separation requirements with a site restriction of 24.5 kilometers (15.2 miles) southwest to accommodate petitioner's desired transmitter site, at coordinates North Latitude 35-03-55 and West Longitude 106-46-27. In accordance with Section 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest in use of Channel 236C1 at Corrales or require the petitioner to demonstrate the availability of an additional equivalent class channel.

DATES: Comments must be filed on or before December 30, 1991, and reply comments on or before January 14, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Donald E. Martin, Esq., Spencer W. Weisbroth, Esq., Donald E. Martin, P.C., 2000 L Street, NW., suite 200, Washington, DC 20036 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 91-316, adopted October 24, 1991, and released November 5, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC

Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91-27036 Filed 11-7-91; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 91-315, RM-7830]

Radio Broadcasting Services; Perham, MN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by John A. Brush, Yvonne M. Brush and Amy C. Rutledge, requesting the allotment of Channel 258A to Perham, Minnesota, as that community's first FM broadcast service. Canadian concurrence will be requested for this allotment at coordinates 46-35-42 and 95-34-24.

DATES: Comments must be filed on or before December 30, 1991, and reply comments on or before January 14, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: John A. Brush, Yvonne M. Brush, Amy C. Rutledge, P.O. Box 4, Perham, Minnesota 56573.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of

Proposed Rule Making, MM Docket No. 91-315, adopted October 24, 1991, and released November 5, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1714 21st Street, NW., Washington, DC 20036, (202) 452-1422.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91-27035 Filed 11-7-91; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 646

[Docket No. 911063-1263]

RIN 0648-AD57

Snapper-Grouper Fishery of the South Atlantic

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

ACTION: Proposed rule.

SUMMARY: NOAA issues this proposed rule to implement Amendment 5 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). This proposed rule would (1) implement a limited entry program for the wreckfish sector of the snapper-grouper fishery consisting of transferable percentage shares of the annual total allowable catch (TAC) of wreckfish and individual transferable

quotas (ITQs) based on a person's share of each TAC; (2) require a dealer to obtain a dealer permit to receive wreckfish; (3) remove the 10,000-pound (4,536-kilogram) trip limit for wreckfish; (4) require that wreckfish be off-loaded from fishing vessels only between 8 a.m. and 5 p.m.; (5) reduce the occasions when 24-hour advance notice must be made to NMFS Law Enforcement of off-loading of wreckfish; and (6) make other minor modifications and clarifications to the regulations. In addition, Amendment 5 would (1) revise the lists of problems in the snapper-grouper fishery and objectives of the FMP; and (2) specify the procedure for the initial distribution of percentage shares of the wreckfish TAC. The intended effect of this rule is to manage the wreckfish sector of the snapper-grouper fishery so that its long-term economic viability will be preserved.

DATES: Written comments must be received on or before December 19, 1991.

ADDRESSES: Comments on the proposed rule should be sent to Peter J. Eldridge, Southeast Region, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702.

Comments on the information collection requirements that would be imposed by this rule should be sent to Edward E. Burgess, Southeast Region, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702; and to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Washington, DC 20503, (Attention: Desk Officer for NOAA).

Requests for copies of Amendment 5, which includes a regulatory impact review and an environmental assessment, should be sent to the South Atlantic Fishery Management Council, Southpark Building, suite 306, One Southpark Circle, Charleston, SC 29407-4699.

FOR FURTHER INFORMATION CONTACT: Peter J. Eldridge, 813-893-3161.

SUPPLEMENTARY INFORMATION: Snapper-grouper species are managed under FMP prepared by the South Atlantic Fishery Management Council (Council), and its implementing regulations at 50 CFR part 646, under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

Background

The directed fishery for wreckfish began with two vessels harvesting approximately 29,000 pounds (13,154 kilograms) in 1987. The fishery developed rapidly after 1987 and by 1990, 70 to 80 vessels were believed to be targeting wreckfish with annual

landings exceeding 4 million pounds (1.8 million kilograms). Under the management measures implemented in Amendment 3 to the FMP in 1990, a classic fishing "derby" evolved where approximately 80 vessels were in competition for the 2 million-pound (.9 million-kilogram) quota for the 1990 fishing year. A substantial number of vessels added wreckfish reels to catch fish faster, thereby garnering more of the available total allowable catch (TAC), while others began to use bottom longline gear to catch wreckfish more rapidly, despite reportedly significant gear conflicts and losses using bottom longlines.

As the pace of wreckfish landings increased in 1990, exvessel prices decreased substantially. The fact that as many as 80 vessels were fishing for wreckfish on the relatively small rock ridge areas known to have concentrations of wreckfish created a potential for conflicts among harvesters and vessel safety problems.

Although still one of the most profitable fishing opportunities in the Southeast in 1990, the wreckfish fishery had already begun to show signs of excess capacity and over-capitalization by the end of that year. Public comment stressed the detrimental effects of continued entry and competitive fishing practices under a restrictive TAC. Along with the economic problems of over-capitalization and excess capacity common to open access fisheries managed by TAC, public comment stressed the absence of conservation incentives and probable lack of regulatory compliance in the fishery. Comments from wreckfish dealers pointed to the tendency for markets to become flooded as the pace of wreckfish harvest increased beyond their ability to move the product through the market chain. Other marketing problems resulting from inconsistent supply when TAC was met were also identified.

Concurrent with the evolving fishing derby for wreckfish in 1990 and 1991, the Council began to consider alternative management for the wreckfish fishery. As the Council explored options to preserve and enhance the economic and socio-economic viability of the fishery in the face of continued incentives for entry and competition, it became evident that an individual transferable quota (ITQ) system held the most promise for management of the burgeoning wreckfish fishery.

The ITQ System

The ITQ system proposed in Amendment 5 is based on percentage shares. The size of a person's percentage share and the available TAC

would determine how many pounds of wreckfish a shareholder may harvest each year, subject to the spawning-season closure. The TAC would be set for the wreckfish fishery each year. Percentage shares in the wreckfish fishery would be for an indefinite duration. Percentage shares may be held until revoked for noncompliance or until the ITQ system is modified or revoked through plan amendment or emergency action. Percentage shares could be sold; however, sales of percentage shares would not be final until the sale had been recorded by the Regional Director, Southeast Region, NMFS (Regional Director).

A person holding a percentage share would receive coupons equaling his individual quota (in eviscerated weight) each year. Coupons could be sold, leased, or loaned, but only to a person who holds a percentage share in the wreckfish fishery at the time of the sale, lease, or loan. Sales of quota coupons would be recorded on the sale endorsement portion of coupons and the buyer would be responsible for entering this wreckfish vessel permit number on the appropriate portion of the coupons purchased.

Eligibility for and Initial Allocation of Shares

Percentage shares would be allocated initially to wreckfish vessel owners applying for percentage shares who could document wreckfish landings by a vessel the applicant owned during the period January 1, 1989, to September 24, 1990, the latter date being the date of publication of a notice that a control date was being established for future access to the wreckfish fishery (55 FR 39039). To be eligible, an applicant would also have to document that vessels owned by him landed at least 5,000 pounds (dressed weight) of wreckfish in aggregate between January 1, 1987, and September 24, 1990, the base period. An applicant may apply for an initial percentage share with documentation of wreckfish landings from one or more vessels or from a vessel he no longer owns, provided proper documentation is provided of vessel ownership during the base period.

The initial allocation of percentage shares to eligible applicants would be based on a distribution formula that divides 50 of the 100 available shares equally among eligible applicants. The remaining 50 shares would be divided based on an applicant's total documented catch during the base period divided by total catch of all eligible applicants over the same period.

An applicant's initial percentage share would be the sum of his share from the equal and weighted portions of the distribution formula. The maximum limit of an individual's or business entity's initial percentage share would be 10 percent.

The initial allocation of percentage shares would begin after Amendment 5 is approved by the Secretary of Commerce (Secretary). Wreckfish fisherman would be requested to send in fish house receipts of their wreckfish catch for the base period. Where fish house receipts do not identify wreckfish as "wreckfish" or "wreck grouper," or fish house receipts have not been retained, an applicant may submit copies of dealer records that identify the individual and/or vessel from whom wreckfish were purchased, accompanied by sworn affidavits confirming the accuracy and authenticity of the records. In addition to fish house receipts, or dealer records and sworn affidavits, each applicant would have to submit a copy of the portion of his Federal income tax return that documents revenues from fishing for each year the applicant claimed wreckfish landings. Such copies would be treated as confidential data but would be subject to verification with the Internal Revenue Service.

The initial allocations would be made by Council staff with assistance from state and Federal personnel who have access to catch records. The initial allocation process would be conducted over a limited period of time, probably one month. Fisherman have been and are advised to begin collecting their records so they will have ample time to apply for initial percentage shares. As the initial allocation period approaches, fishermen would again be notified by the Council of the upcoming initial allocation and would be given instructions on how to apply.

For a limited period of time, approximately one month, after applicants are advised of the initial allocations of percentage shares, an Application Oversight Committee (AOC) would consider requests from persons wishing to contest the initial allocations. The AOC would be empowered to consider only allegations of improper calculations or improper determinations based on documentation submitted with an application. The AOC would not be empowered to reconsider an application from a person not meeting the criteria for eligibility or initial allocation or from a person who believes he should be eligible because of extenuating circumstances or other factors.

ITQ Coupons

Individual quotas would be tracked by the "fisherman's side" of ITQ coupons. Fishermen would be required to submit the fisherman's side to the Regional Director along with logbook sheets showing catch and effort after trips are completed. Returned coupons would be checked against dealer reporting and the "fish house side" of ITQ coupons that dealers would be required to submit to the Regional Director each month. A dealer would be required to obtain a Federal wreckfish dealer's permit under Amendment 5. The requirements to obtain that permit would be a state wholesaler's permit and a physical facility at a fixed location in the state where the wholesaler's permit is held.

Fishermen would be required to possess a wreckfish vessel permit, logbook, and ITQ coupons equaling the approximate weight of catch in their possession. Such coupons would have to be signed and dated by the time of landing. Amendment 5 recommends that the penalties for significant violations of the regulations, such as non-reporting, exceeding individual quotas, and fishing during the spawning season, should include forfeitures of shares, forfeitures of individual quotas, and/or vessel or dealer permit sanctions.

Amendment 5 contains a requirement that unused ITQ coupons be returned to the Regional Director at the end of each fishing year. When preparing this proposed rule, the Council and NMFS concluded that such a requirement would not contribute to effective management of the ITQ system because the coupon would be clearly marked to indicate their period of validity. Accordingly, as a further refinement contemplated by the amendment, this requirement is deleted.

Other Management Measures

Amendment 5 proposes a requirement that all offloading of wreckfish occur between 8 a.m. and 5 p.m., and that 24-hour notice be given to the NMFS Law Enforcement Office if wreckfish are to be off-loaded at a location other than one of the fixed facilities of a federally permitted wreckfish dealer. The current regulations require 24-hour notice before all off-loadings of wreckfish. Amendment 5 proposes elimination of the 10,000-pound trip limit for wreckfish. A trip limit, which was designed to be an interim measure to control the pace of harvest under open access, will no longer be necessary or beneficial.

In its future framework actions under the FMP, the Council will probably

remove the current quarterly apportionment of the wreckfish TAC.

Information on the proposed additions to the problems in the snapper-grouper fishery and the proposed new objectives of the FMP and additional information and rationale for the measures in this proposed rule are contained in Amendment 5, the availability of which was announced in the *Federal Register* (56 FR 50551, October 7, 1991).

Additional Changes Proposed by NMFS

The current regulations require that an application for a vessel permit must be submitted at least 60 days prior to the date on which the applicant desires to have the permit made effective. This rule would reduce that period to 30 days. Except for brief periods when applications for permits are extremely numerous, NMFS is able to process and issue a permit in significantly less time than 30 days. However, an application at least 30 days before it is needed provides time to clear up discrepancies in its initial submission. Persons are encouraged to submit applications well in advance of their required use.

This rule would clarify that a fee is charged for each application for a permit, rather than for each permit issued, and for each sea bass trap identification tag issued. NMFS's costs in administering the permit system are incurred for each application, rather than for each permit issued. Further, the amount of the fee would be included with each application form but would not be included in the regulations. The Magnuson Act authorizes a level of fees not exceeding the administrative costs in issuing the permits. Such costs are computed at least annually in accordance with the NOAA Finance Handbook. The fees thus calculated are subject to change for a number of reasons, including increases due to Federal pay raises and reductions due to improved efficiency in the permitting system. Reference in the regulations to the NOAA Finance Handbook regarding the computation of fees would preclude the necessity for regulatory amendments when the computations indicate a new level of fees. Currently, a fee of \$34 would be charged for each application for a vessel or dealer permit, \$7 for a replacement permit, and \$1 for each sea bass trap identification tag.

This rule would require any change in application information to be reported within 15 days of the change. Effective administration of the permit system requires more timely receipt of changed information than is provided by the current requirement to report changes within 30 days.

This rule would change the submission of logbook forms, which are required to be maintained by certain permitted vessels, from a monthly basis to a trip-by-trip basis. The Science and Research Director, Southeast Region, NMFS, is in the process of standardizing the logbook forms of the fisheries where they are required. Under the proposed logbooks and revised procedure, a vessel would not be selected to maintain and submit the logbook forms in more than one fishery, as may occur now. A necessary element of the revised procedure is uniformity of submission requirements among the fisheries. Although not essential for the management of the snapper-grouper fishery, submission of logbook forms on a trip-by-trip basis is required in other fisheries and should not present a significant problem in the snapper-grouper fishery.

Classification

Section 304(a)(1)(D)(ii) of the Magnuson Act, as amended, requires the Secretary to publish regulations proposed by a council within 15 days of receipt of an FMP amendment and regulations. At this time, the Secretary has not determined that Amendment 5, which this proposed rule would implement, is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making that determination, will take into account the data, views, and comments received during the comment period.

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has initially determined that this proposed rule is not a "major rule" requiring the preparation of a regulatory impact analysis under E.O. 12291. This proposed rule, if adopted, is not likely to result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Council prepared a regulatory impact review (RIR) for Amendment 5, which concludes that this rule, if adopted, would have overall net economic benefits, summarized as follows. The ITQ program is expected to increase benefit to wreckfish harvesters by decreasing fishing costs and allowing them to harvest wreckfish when it is optimal in terms of exvessel prices and

other factors. Benefits to the processing/distribution sector should accrue because ITQ management should facilitate the establishment of product continuity and may allow for investment in marketing of wreckfish so that product identification can be achieved. Exploration of potentially valuable ethnic markets and other market niches should be facilitated with ITQs. Net benefits to society should increase because over-capitalization should be reduced, making that excess capital available for more productive uses. Consumer benefits should be enhanced because consumers should receive a high quality product that is available for a longer portion of the year. The degree to which production cost efficiencies under ITQs may or may not be passed on to consumers cannot be determined because information on the price elasticity of demand for wreckfish is not available at this time. A copy of the RIR is available (see ADDRESSES).

The General Counsel of the Department of Commerce has certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities because management measures in Amendment 5 are not expected to result in a reduction in gross revenues by more than 5 percent. As with the overall economic effects, the positive long-term impacts on small businesses are expected to outweigh negative short-term impacts, if any.

The Council prepared an environmental assessment (EA) that discusses the impact on the environment as a result of this rule. A copy of the EA is available (see ADDRESSES) and comments on it are requested.

The Council has determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of Florida, South Carolina, and North Carolina. Georgia does not participate in the coastal zone management program. These determinations have been submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act.

Amendment 5 would require a new, one-time collection-of-information to initiate the limited entry program for wreckfish. This proposed rule contains two new collection-of-information requirements and revises three existing requirements subject to the Paperwork Reduction Act. A request to collect this information has been submitted to the Office of Management and Budget for approval. The new requirements are (1)

submission of information for the initial allocation of wreckfish percentage shares; (2) applications for dealer permits for dealers who receive wreckfish; and (3) reports of transfer of percentage shares in the wreckfish fishery. The public reporting burdens for these collections of information are estimated to average 240, 15, and 15 minutes, respectively, per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Revisions to the existing requirements are as follows: (1) All vessels that harvest wreckfish, in lieu of only those specifically selected, must maintain and submit trip reports, and all such vessels must submit ITQ coupons with each report. The requirement to maintain and submit trip reports by vessels that do not harvest wreckfish remains on an if-selected basis. Further, trip reports must be postmarked not later than the third day after sale of the fish off-loaded from a trip, in lieu of "on a monthly basis (or more frequently, if requested by the Science and Research Director)." (OMB Control No. 0648-0016) (2) All dealers that receive wreckfish, in lieu of only those specifically selected, must submit reports on such receipt, and all such dealers must submit ITQ coupons with each report. (OMB Control No. 0648-0013) (3) The requirement to provide 24-hour notice preceding the landing of wreckfish is removed when the wreckfish are to be off-loaded at a facility of a permitted dealer. Twenty-four-hour notice is required only when wreckfish are to be off-loaded at a facility other than that of a permitted dealer. (OMB Control No. 0648-0016) The public reporting burdens for these revised collections of information are estimated to average 10, 20, and 3 minutes, respectively, per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. This proposed rule restates the collection of information on applications for vessel permits to distinguish between permits for snapper-grouper, excluding wreckfish, and permits for wreckfish. This collection of information was previously approved by OMB under Control No. 0648-0205, with a public reporting burden estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing

the collection of information. Send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing the burdens, to Edward E. Burgess, NMFS, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (see ADDRESSES).

This proposed rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

List of Subjects in 50 CFR Part 646

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: November 4, 1991.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 646 is proposed to be amended as follows:

Part 646--SNAPPER-GROUPER FISHERY OF THE SOUTH ATLANTIC

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

Authority: 16 U.S.C. 1862 *et seq.*

2. Section 646.4 is revised to read as follows:

§ 646.4 Permits and fees.

(a) *Applicability*—(1) *Annual vessel permits for snapper-grouper, excluding wreckfish.* (i) To be eligible for exemption from the bag limits specified in § 646.23(b) to engage in a directed fishery for tilefish in the EEZ; or to use a sea bass trap in the EEZ north of Cape Canaveral, Florida, an owner or operator of a vessel must have a permit for snapper-grouper, excluding wreckfish. A vessel with longline gear and more than 200 pounds (90.7 kilograms) of tilefish aboard is considered to be in a directed fishery for tilefish. It is a rebuttable presumption that a fishing vessel with more than 200 pounds of tilefish aboard harvested such tilefish in the EEZ.

(ii) A qualifying owner or operator of a charter vessel or headboat may obtain a permit for snapper-grouper, excluding wreckfish. However, such vessel must adhere to the bag limits when operating as a charter vessel or headboat.

(iii) For a vessel owned by a corporation or partnership to be eligible for a vessel permit for snapper-grouper, excluding wreckfish, the earned income qualification specified in paragraph (b)(2)(vii) of this section must be met by, and the statement required by that paragraph must be submitted by, an officer or shareholder of the corporation,

a general partner of the partnership, or the vessel operator.

(iv) An owner or operator of a vessel using or possessing a sea bass trap in the EEZ must obtain a permit for snapper-grouper, excluding wreckfish, a color code, and a trap identification tag from the Regional Director.

(v) A permit for snapper-grouper, excluding wreckfish, issued upon the qualification of an operator is valid only when that person is the operator of the vessel.

(2) *Annual vessel permits for wreckfish.* To harvest or possess wreckfish in or from the EEZ, off-load wreckfish from the EEZ, or sell wreckfish in or from the EEZ, a wreckfish shareholder must have a vessel permit for wreckfish.

(3) *Annual dealer permits for wreckfish.* A dealer who receives a wreckfish must obtain an annual dealer permit. To be eligible for such permit, an applicant must possess a valid state wholesaler's license in the state where he operates and is required to have a physical facility at a fixed location in that state.

(b) *Application for a vessel permit for snapper-grouper, excluding wreckfish.*

(1) An application for a vessel permit for snapper-grouper, excluding wreckfish, must be submitted and signed by the owner (in the case of a corporation, a qualifying officer or shareholder; in the case of a partnership, a qualifying general partner) or operator of the vessel. The application must be submitted to the Regional Director at least 30 days prior to the date on which the applicant desires to have the permit made effective.

(2) A permit applicant must provide the following information:

(i) A copy of the vessel's U.S. Coast Guard certificate of documentation or, if not documented, a copy of its state registration certificate;

(ii) The vessel's name and official number;

(iii) Name, mailing address including zip code, and telephone number of the owner of the vessel;

(iv) Name, mailing address including zip code, and telephone number of the applicant, if other than the owner;

(v) Social security number and date of birth of the applicant and the owner (if the owner is a corporation, the employer identification number, if one has been assigned by the Internal Revenue Service);

(vi) If a sea bass trap will be used,

(A) The number, dimensions, and estimated cubic volume of the traps that will be used;

(B) The applicant's desired color code for use in identifying his or her vessel and buoys; and

(C) A statement that the applicant will allow an authorized officer reasonable access to his or her property (vessel, dock, or structure) to examine traps for compliance with these regulations;

(vii) A sworn statement by the applicant certifying that, during one of the 3 calendar years preceding the application,

(A) More than 50 percent of his or her earned income was derived from commercial, charter, or headboat fishing; or

(B) His or her gross sales of fish were more than \$20,000; or

(C) For a vessel owned by a corporation or partnership, the gross sales of fish of the corporation or partnership were more than \$20,000;

(viii) Documentation supporting the statement of income, if required by paragraph (b)(3) of this section;

(ix) Any other information concerning vessel and gear characteristics requested by the Regional Director; and

(x) Any other information that may be necessary for the issuance or administration of the permit.

(3) The Regional Director may require the applicant to provide documentation supporting the sworn statement under paragraph (b)(2)(vii) of this section before a permit is issued. Such required documentation may include copies of appropriate forms and schedules from the applicant's income tax return. Copies of income tax forms and schedules are considered confidential data but are subject to verification with the Internal Revenue Service.

(c) *Application for a vessel permit for wreckfish.* (1) An application for a vessel permit for wreckfish must be submitted and signed by a wreckfish shareholder. If the wreckfish shareholder is a corporation, an officer or shareholder of the corporation must sign the application; if the wreckfish shareholder is a partnership, a general partner must sign the application. The application must be submitted to the Regional Director at least 30 days prior to the date on which the wreckfish shareholder desires to have the permit made effective.

(2) An applicant must provide the following information:

(i) A copy of the vessel's U.S. Coast Guard certificate of documentation or, if not documented, a copy of its state registration certificate;

(ii) The vessel's name and official number;

(iii) Name, mailing address including zip code, and telephone number of the wreckfish shareholder;

(iv) Social security number and date of birth of the wreckfish shareholder (if the wreckfish shareholder is a corporation, the employer identification number, if one has been assigned by the Internal Revenue Service);

(v) Name, mailing address including zip code, telephone number, social security number, and date of birth of the owner of the vessel, of other than the wreckfish shareholder (if the vessel owner is a corporation and is other than the wreckfish shareholder, the employer identification number, if one has been assigned by the Internal Revenue Service);

(vi) If the wreckfish shareholder is not the vessel owner, as shown on the vessel's U.S. Coast Guard certificate of documentation or, if not documented, on the state registration certificate, a sworn statement by the wreckfish shareholder certifying that the vessel owner or operator is an employee, contractor, or agent of the shareholder;

(vii) Documentation supporting the sworn statement of paragraph (c)(2)(vi) of this section, if required by paragraph (c)(3) of this section;

(viii) Any other information concerning vessel and gear characteristics requested by the Regional Director; and

(ix) Any other information that may be necessary for the issuance or administration of the permit.

(3) The Regional Director may require the wreckfish shareholder to provide documentation supporting the sworn statement under paragraph (c)(2)(vi) of this section before a permit is issued. Such required documentation may include copies of appropriate forms and schedules from the shareholder's income tax return; articles of incorporation for a corporate-owned vessel; a partnership agreement for a partnership-owned vessel; a lease on the vessel for which a permit is requested; or an employment or other contract, or agency agreement that demonstrates an agency, employment, or contract relationship between the wreckfish shareholder and the vessel owner or operator. Copies of such required documentation are considered confidential data but are subject to verification with the Internal Revenue Service and other appropriate authorities.

(d) *Application for an annual dealer permit.* (1) An application for a dealer permit must be submitted and signed by the dealer or an officer of a corporation acting as a dealer. The application must be submitted to the Regional Director at least 30 days prior to the date on which

the applicant desires to have the permit made effective.

(2) A permit applicant must provide the following information:

(i) A copy of each state wholesaler's license held by the dealer;

(ii) Business name, address including zip code of the business office, and employer identification number, if one has been assigned by the Internal Revenue Service;

(iii) A list, by state where licensed, of each physical facility at a fixed location where the business receives or stores fish.

(iv) Name, official capacity in the business, mailing address including zip code, telephone number, social security number, and date of birth of the applicant.

(v) Any other information that may be necessary for the issuance or administration of the permit.

(e) *Fees.* A fee is charged for each permit application submitted under paragraph (b), (c), or (d) of this section and for each sea bass trap identification tag required under § 646.6(d). The amount of the fee is calculated in accordance with the procedures of the NOAA Finance Handbook for determining the administrative costs of each special product or service. The fee may not exceed such costs and is specified with each application form. The appropriate fee must accompany each application.

(f) *Issuance.* (1) The Regional Director will issue a permit at any time to an applicant if the application is complete; in the case of an application for a vessel permit for snapper-grouper, excluding wreckfish, the applicant meets the earned income requirement specified in paragraph (b)(2)(vii) of this section; and, in the case of an applicant for a vessel permit for wreckfish, a wreckfish shareholder is the owner of the vessel or the vessel owner or operator is an employee, contractor, or agent of the shareholder, as certified in the statement specified in paragraph (c)(2)(vi) of this section. An application is complete when all requested forms, information, and documentation have been received and the applicant has submitted all applicable reports specified at § 646.5.

(2) Upon receipt of an incomplete application, the Regional Director will notify the applicant of the deficiency. If the applicant fails to correct the deficiency with 30 days of the date of the Regional Director's letter of notification, the application will be considered abandoned.

(g) *Duration.* A permit remains valid for the remainder of the period for which it is issued unless revoked, suspended,

or modified pursuant to subpart D of 15 CFR part 904. In addition, a vessel permit for wreckfish remains valid only when a wreckfish shareholder is an owner of the permitted vessel, or the vessel owner or operator is an employee, contractor, or agent of the shareholder, as certified in the statement specified in paragraph (c)(2)(vi) of this section.

(h) *Transfer.* (1) A vessel permit issued under paragraph (b) or (c) of this section is not transferable or assignable. A person purchasing a permitted vessel who desires to conduct activities for which a permit is required must apply for a permit in accordance with the provisions of paragraph (b) or (c) of this section. The application must be accompanied by a copy of a signed bill of sale.

(2) A dealer permit issued under paragraph (d) of this section may be transferred upon sale of the dealer's business. Information on the original application that is changed as a result of the sale must be reported to the Regional Director within 15 days of any such change.

(i) *Display.* A vessel permit issued under paragraph (b) or (c) of this section must be carried on board the fishing vessel and such vessel must be identified as provided for in § 630.6. A dealer permit issued under paragraph (d) of this section must be available on the dealer's premises. The operator of a fishing vessel or a dealer must present the permit for inspection upon request of an authorized officer.

(j) *Sanctions and denials.* Procedures governing enforcement-related permit sanctions and denials are found at subpart D of 15 CFR part 904.

(k) *Alteration.* A permit that is altered, erased, or mutilated is invalid.

(l) *Replacement.* A replacement permit may be issued. An application for a replacement permit will not be considered a new application. A fee, the amount of which is stated with the application form, must accompany each request for a replacement permit.

(m) *Change in application information.* The owner or operator of a vessel with a permit for snapper-grouper, excluding wreckfish, the wreckfish shareholder of a vessel with a permit for wreckfish, or a dealer with a permit must notify the Regional Director within 15 days after any change in the application information required by paragraph (b), (c), or (d) of this section. The permit is void if any change in the information is not reported within 15 days.

3. In § 646.5, paragraphs (a) and (c) are revised to read as follows:

§ 646.5 Recordkeeping and reporting.

(a) *Permitted vessels.* The owner or operator of a vessel for which a permit for snapper-grouper, excluding wreckfish, has been issued under § 646.4(b) and that is selected by the Science and Research Director, and the wreckfish shareholder or operator of a vessel for which a permit for wreckfish has been issued under § 646.4(c) must maintain a daily logbook form for each fishing trip on a form available from the Science and Research Director. The logbook forms will provide a record of fishing locations, time fished, fishing gear used, numbers of each species caught, and numbers of each species discarded. Logbook forms must be submitted to the Science and Research Director postmarked not later than the third day after sale of the fish off-loaded from a trip. If no fishing occurred during a month, a report so stating must be submitted in accordance with instructions provided with the forms.

(c) *Dealers.* A person who receives fish in the snapper-grouper fishery by way of purchase, barter, or trade that were harvested from the EEZ off the South Atlantic states or from adjoining state waters and who is selected by the Science and Research Director, and a dealer who has been issued an annual dealer permit for wreckfish under § 646.4(d) must provide information on receipts of such fish and prices paid, by species, to the Science and Research Director at monthly intervals, or more frequently if requested.

4. In § 646.6, paragraph (a) introductory text is revised to read as follows:

§ 646.6 Vessel and gear identification.

(a) *Official number.* A vessel for which a permit has been issued under § 646.4 (b) or (c) must display its official number—

5. Section 646.7 is revised to read as follows:

§ 646.7 Prohibitions

In addition to the general prohibitions specified in § 620.7 of this chapter, it is unlawful for any person to do any of the following:

(a) Engage in a directed fishery for tilefish in the EEZ or use a sea bass trap in the EEZ north of Cape Canaveral, Florida, without a vessel permit for snapper-grouper, excluding wreckfish, as specified in § 646.4(a)(1).

(b) Harvest or possess wreckfish in or from the EEZ, off-load wreckfish from the EEZ, or sell wreckfish in or from the

EEZ without a vessel permit for wreckfish, as specified in § 646.4(a)(2).

(c) As a dealer, receive wreckfish without a dealer permit, as specified in § 646.4(a)(3).

(d) Falsify information specified in § 646.4(b)(2), (c)(2), (c)(3), or (d)(2) on an application for a permit.

(e) Fail to display a permit, as specified in § 646.4(i).

(f) Falsify or fail to maintain or provide information required to be submitted or reported, as specified in § 646.5 (a) through (d).

(g) Fail to make fish in the snapper-grouper fishery, or parts thereof, available for inspection, as specified in § 646.5(e)(1).

(h) Fail to make available records of off-loadings, purchases, barter, or sales of wreckfish, as specified in § 646.5(e)(2); or fail to make available individual transferable quota (ITQ) coupons, as specified in § 646.10 (c)(5) and (c)(6).

(i) Falsify or fail to display and maintain vessel and gear identification, as specified in § 646.6(a) through (e).

(j) Possess an ITQ coupon not issued to him or, if received by transfer, without all required sale endorsements properly completed thereon, as specified in § 646.10(c)(3).

(k) Possess wreckfish on board a fishing vessel in an amount exceeding the total of the ITQ coupons on board the vessel or without a vessel permit or the form for recording the fishing trip on board, as specified in § 646.10(c)(4).

(l) Fail to sign and date the "Fisherman's Side" of ITQ coupons or submit such sides with the record of the fishing trip, as specified in § 646.10(c)(5).

(m) Fail to give a dealer the "Fish House Side" of ITQ coupons or transfer a wreckfish to a dealer who does not hold a permit, as specified in § 646.10(c)(5).

(n) Receive a wreckfish from a vessel that does not have a vessel permit for wreckfish, as specified in § 646.10(c)(6).

(o) Fail to receive the "Fish House Side" of ITQ coupons from a fisherman, to enter the date of receipt and dealer's permit number on such sides, to sign such sides, and to submit such sides with the dealer report, as specified in § 646.10(c)(6).

(p) Possess a fish in the snapper-grouper fishery smaller than the minimum size limit, as specified in § 646.21(a)(1).

(q) Sell, purchase, trade, or barter, or attempt to sell, purchase, trade, or barter fish in the snapper-grouper fishery smaller than the minimum size limit, as specified in § 646.21(a)(2).

(r) Possess a fish in the snapper-grouper fishery without its head and fins intact, as specified in § 646.21(b).

(s) Operate a vessel with fish in the snapper-grouper fishery aboard that are smaller than the minimum size limits, do not have head and fins intact, or are in excess of the cumulative bag limit, as specified in § 646.21(c) and § 646.23(e).

(t) Transfer wreckfish at sea, as specified in § 646.21(d)(1).

(u) Off-load a wreckfish at a time not authorized or without prior notification, as specified in § 646.21 (d)(3) and (d)(4).

(v) Harvest or possess a jewfish or Nassau grouper in or from the EEZ or fail to release a jewfish or Nassau grouper taken in the EEZ, as specified in § 646.21 (e) and (f).

(w) During the wreckfish spawning-season closure or after a wreckfish quota closure, harvest or possess wreckfish in or from the EEZ; off-load wreckfish from the EEZ; sell, purchase, trade, or barter wreckfish in or from the EEZ; or attempt any of the foregoing, as specified in § 646.21(g) and § 646.24(b).

(x) During the greater amberjack and mutton snapper spawning seasons, exceed the bag limits for those species, as specified in § 646.21 (h) and (i).

(y) Fish with poisons or explosives or possess on board a fishing vessel any dynamite or similar explosive substance, as specified in § 646.22(a).

(z) Use a fish trap in the EEZ, or use a sea bass trap in the EEZ south of Cape Canaveral, Florida, as specified in § 646.22 (b) and (c)(1).

(aa) When using or possessing a sea bass trap north of Cape Canaveral, Florida, possess fish in the snapper-grouper fishery exceeding the limits, as specified in § 646.22(c)(2).

(bb) Use or possess in the EEZ north of Cape Canaveral, Florida, a sea bass trap that does not conform to the requirements for degradable openings and mesh sizes specified in § 646.22 (c)(3) and (c)(4).

(cc) Pull or tend another person's sea bass trap except as specified in § 646.22(c)(5).

(dd) Aboard a vessel that possesses or uses a crustacean trap in the EEZ, possess fish in the snapper-grouper fishery exceeding the limits, as specified in § 646.22(d).

(ee) Use trawl gear in a directed snapper-grouper fishery in the EEZ between Cape Hatteras, North Carolina and Cape Canaveral, Florida, as specified in § 646.22(e)(1).

(ff) Transfer at sea any fish in the snapper-grouper fishery from a vessel with trawl gear aboard to another vessel, or receive at sea any such fish, as specified in § 646.22 (e)(2) and (e)(3).

(gg) Use an entanglement net to fish for fish in the snapper-grouper fishery in the EEZ; or, aboard a vessel that fishes in the EEZ on a trip with an entanglement net on board, possess fish in the snapper-grouper fishery exceeding the limits, as specified in § 646.22(f).

(hh) Use a longline to fish for fish in the snapper-grouper fishery in the EEZ where the charted depth is less than 50 fathoms (91.5 meters) or without a permit issued under § 646.4(b) on board; or, aboard a vessel with a longline on board that fishes on a trip in the EEZ where the charted depth is less than 50 fathoms (91.5 meters) or without a permit specified in § 646.4(b) on board, possess fish in the snapper-grouper fishery exceeding the limits, as specified in § 646.22(g)(1).

(ii) Fish for wreckfish with a bottom longline; or possess a wreckfish aboard a vessel that has a longline aboard, as specified in § 646.22(g)(2).

(jj) Exceed the bag and possession limits, as specified in § 646.23 (a) through (c).

(kk) Transfer at sea fish in the snapper-grouper fishery subject to a bag limit, as specified in § 646.23(f).

(ll) Use prohibited or unauthorized fishing gear in a special management zone, as specified in § 646.26 (b) and (c).

(mm) Interfere with, obstruct, delay, or prevent by any means an investigation, search, seizure, or disposition of seized property in connection with enforcement of the Magnuson Act.

6. A new § 646.10 is added to subpart A to read as follows:

§ 646.10 Wreckfish individual transferable quota (ITQ) system:

(a) *Percentage shares.* (1) In accordance with the procedure specified in the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region, as amended, a person will be assigned initial percentage shares of the annual total allowable catch (TAC) of wreckfish. Each person will be notified by the Regional Director of his or her initial percentage shares.

(2) All or a portion of a person's percentage shares may be transferred to another person. Transfer of shares must be reported on a form available from the Regional Director. The Regional Director will confirm, in writing, each transaction. The effective date of each transaction is the confirmation date provided by the Regional Director. The confirmation date will normally be not later than three working days after receipt of a properly completed transaction form. A fee is charged for each transaction of percentage shares. The amount of the fee is calculated in

accordance with the procedures of the NOAA Finance Handbook for determining the administrative costs of each special product or service provided by NOAA to non-Federal recipients. The fee may not exceed such costs and is specified with each transaction form. The appropriate fee must accompany each transaction form.

(b) *Lists of wreckfish shareholders and permitted vessels.* Annually on or about March 1, the Regional Director will provide each wreckfish shareholder with a list of all wreckfish shareholders and their percentage shares, reflecting share transactions on forms received through February 15. Annually by April 15, the Regional Director will provide each dealer who holds a permit issued under § 646.4(d) with a list of vessels for which wreckfish permits have been issued under § 646.4(c). Annually by April 15, the Regional Director will provide each wreckfish shareholder with a list of dealers who have permits issued under § 646.4(d). From April 16 through January 14, updated lists will be provided when required. Updated lists may be obtained at other times or by a person who is not a wreckfish shareholder or dealer permit holder by written request to the Regional Director.

(c) *Individual transferable quotas.* (1) Annually, as soon after March 1 as the TAC for wreckfish for the fishing year that commences April 16 is known, the Regional Director will calculate each wreckfish shareholder's ITQ. Each ITQ is the product of the wreckfish TAC, in whole weight, for the ensuing fishing year, the factor for converting whole weight to eviscerated weight, and each wreckfish shareholder's percentage share, reflecting share transactions reported on forms received by the Regional Director through February 15. Thus, the ITQs will be in terms of eviscerated weight of wreckfish.

(2) The Regional Director will provide each wreckfish shareholder with ITQ coupons in various denominations, the total of which equals his ITQ, and a copy of the calculations used in determining his ITQ. Each coupon will be coded to indicate the initial recipient.

(3) An ITQ coupon may be transferred from one wreckfish shareholder to another by completing the sale endorsement thereon, including the date of transfer, the name of the recipient, and the signature of the seller. An ITQ coupon may be possessed only by the shareholder to whom it has been issued, or by his employee, contractor or agent unless the ITQ coupon has been transferred to another shareholder. An ITQ coupon that has been transferred to another shareholder may be possessed only by the shareholder named on the

coupon as the recipient, or by his employee, contractor, or agent, and with all required sale endorsements properly completed.

(4) Wreckfish may not be possessed on board a fishing vessel—

(i) In an amount exceeding the total of the ITQ coupons on board the vessel;

(ii) That does not have on board a vessel permit for wreckfish issued under § 646.4(c); or

(iii) That does not have on board logbook forms for that fishing trip, as required by § 646.5(a).

(5) Prior to termination of a trip, a signature and date signed must be affixed in ink to the "Fisherman's Side" of ITQ coupons totalling the eviscerated weight of the wreckfish on board. The "Fisherman's Side" of each such coupon must be separated from the coupon and submitted with the logbook forms required by § 646.5(a) for that fishing trip.

(6) The "Fish House Side" of such coupons must be given to each dealer to whom the wreckfish are transferred in amounts totalling the eviscerated weight of the wreckfish transferred to that dealer. A wreckfish may be transferred only to a dealer who holds a permit issued under § 646.4(d).

(7) An owner or operator of a vessel must make available for inspection to an authorized officer all ITQ coupons in his or her possession upon request.

(8) A dealer may receive a wreckfish only from a vessel for which a wreckfish permit has been issued under § 646.4(c). A dealer must receive the "Fish House Side" of ITQ coupons in amounts totalling the eviscerated weight of the wreckfish received; indicate date received, enter the dealer's permit number, and sign each such "Fish House Side"; and submit all such sides with the dealer reports required by § 646.5(b). A dealer must make available for inspection to an authorized officer all ITQ coupons in his possession upon request.

7. In § 646.21, paragraph (d) is revised to read as follows.

§ 646.21 Harvest limitations.

(d) *Wreckfish limitations.* (1) A wreckfish taken in the EEZ may not be transferred at sea, regardless of where the transfer takes place; and a wreckfish may not be transferred in the EEZ, regardless of where the wreckfish was taken.

(2) A wreckfish possessed by a fisherman or dealer shoreward of the outer boundary of the EEZ or in an Atlantic coastal state will be presumed to have been harvested from the EEZ

unless accompanied by documentation that it was harvested from other than the EEZ.

(3) A wreckfish may be off-loaded from a fishing vessel only between 8 a.m. and 5 p.m., local time.

(4) If a wreckfish is to be off-loaded at a location other than at a fixed facility of a dealer who holds a permit issued under § 646.4(c), the wreckfish shareholder or the vessel operator must advise the NMFS Law Enforcement Office, Southeast Area, St. Petersburg, FL, telephone (813) 893-3145, of the location not less than 24 hours prior to off-loading.

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