

For these same reasons, under 5 U.S.C. 553(d)(3), the AA finds for good cause that a 30-day delay in the effective date of this rule would be contrary to the public interest. However, to allow time for vessels at sea to be notified of the closure of the red porgy fishery and land red porgy on board, the effective date of this rule is delayed for 5 days after the date this rule is published.

Because prior notice and an opportunity for public comment are not required to be provided for this rule by 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

List of Subjects in 50 CFR Part 622

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

Dated: August 27, 1999.

Gary C. Matlock,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

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

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

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

2. In § 622.32, paragraph (b)(4)(vii) is added to read as follows:

§ 622.32 Prohibited and limited-harvest species.

* * * * *

(b) * * *

(4) * * *

(vii) Red porgy may not be harvested or possessed in or from the South Atlantic EEZ. Red porgy caught in the South Atlantic EEZ must be released immediately with a minimum of harm.

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3. In § 622.36, paragraph (b)(5) is suspended.

4. In § 622.37, paragraph (e)(3)(iv) is suspended.

5. In § 622.39, paragraph (d)(1)(vi) is suspended.

6. In § 622.45, paragraph (d)(5) is suspended and paragraph (d)(7) is added to read as follows:

§ 622.45 Restrictions on sale/purchase.

* * * * *

(d) * * *

(7) During March and April, no person may sell or purchase a gag or black grouper harvested from the South Atlantic EEZ or, if harvested by a vessel

for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, harvested from the South Atlantic. The prohibition on sale/purchase during March and April does not apply to gag or black grouper that were harvested, landed ashore, and sold prior to March 1 and were held in cold storage by a dealer or processor. This prohibition also does not apply to a dealer's purchase or sale of gag or black grouper harvested from an area other than the South Atlantic, provided such fish is accompanied by documentation of harvest outside the South Atlantic. Such documentation must contain:

(i) The information specified in 50 CFR part 300 subpart K for marking containers or packages of fish or wildlife that are imported, exported, or transported in interstate commerce;

(ii) The official number, name, and home port of the vessel harvesting the gag or black grouper;

(iii) The port and date of offloading from the vessel harvesting the gag or black grouper; and

(iv) A statement signed by the dealer attesting that the gag or black grouper was harvested from an area other than the South Atlantic.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 990820230-9230-01; I.D. 080599B]

RIN 0648-AM92

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery Off the Southern Atlantic States; Restricted Reopening of Limited Access Permit Application Process

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

ACTION: Emergency interim rule; request for comments.

SUMMARY: This emergency interim rule provides an additional opportunity to obtain snapper-grouper limited access permits for those vessel owners who were previously determined by NMFS to be eligible for such permits but did not submit an application by the

application deadline, on or before October 14, 1998, provided they have not violated the permit requirement in the interim. This rule is intended to avoid adverse social and economic impacts on the affected individuals.

DATES: This rule is effective September 3, 1999 through March 1, 2000. Comments must be received no later than October 4, 1999.

ADDRESSES: Comments on this emergency interim rule must be mailed to, and copies of documents supporting this action may be obtained from, the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Written comments regarding the collection-of-information requirements contained in this rule may be submitted to Edward E. Burgess, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Peter J. Eldridge, 727-570-5305.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery off the southern Atlantic states is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council (Council), approved by NMFS, and implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Background

Amendment 8 to the FMP, approved by NMFS on January 28, 1998, and implemented by final rule (July 16, 1998; 63 FR 38298), limits access to the snapper-grouper fishery. A vessel owner who met certain required landings and permit histories in the snapper-grouper fishery was eligible for an initial limited access permit, provided the vessel owner applied for such a permit by no later than October 14, 1998. NMFS notified each vessel owner of NMFS' initial determination of the individual's eligibility for either a transferable or trip-limited limited access permit. Notifications were sent by regular mail to the owner's address as shown in NMFS' permit records.

For various reasons, including hurricanes Bonnie, Georges, and Mitch, some permit eligibility notifications were not received and/or were not responded to on or before October 14,

1998. Approximately 260 vessel owners who had been determined by NMFS to have met the required landings and permit histories in the snapper-grouper fishery and, thus, were eligible for a limited access permit, did not apply for a permit by the permit application deadline. Because these owners failed to submit applications in a timely manner, their vessels could not fish in the snapper-grouper fishery as of December 14, 1998.

After considerable public input, the Council concluded that there were compelling reasons for a significant number of vessel owners to have missed the permit application deadline. Further, the resultant inability to continue to fish in the snapper-grouper fishery was causing significant economic hardships and adverse community impacts. The Council further concluded that allowing an additional period for applications of owners who were known to have met the initial qualifying criteria would be consistent with the goals of its limited access program. The limited access program had not considered that these owners might not be able to apply in a timely manner for compelling reasons.

At its meeting on June 17, 1999, the Council requested that NMFS implement by emergency rule a limited reopening of the application period for limited access permits in the snapper-grouper fishery.

Limited Reopening of the Application Period

As requested by the Council and implemented in this emergency interim rule, a vessel owner who was determined by NMFS to be eligible for an initial limited access permit, but did not apply in a timely manner, will have an additional 45-day period to apply. However, an owner who has been determined by a final administrative decision to have violated the snapper-grouper permit requirement on or after December 14, 1998, is not eligible to apply. An otherwise qualified owner who has been charged with such a violation, but whose case has not been finally resolved, may apply for a permit, but the issuance will be withheld until the case has been resolved in the applicant's favor.

Each owner who was initially determined by the Southeast Regional Administrator (RA) to be eligible for a transferable permit under Amendment 8 may apply for an unlimited permit. An unlimited permit is similar to the transferable permits initially issued, i.e., it is not subject to a trip limit, but its transferability is significantly restricted as described here. An owner who was

initially determined by the RA to be eligible for a trip-limited permit under Amendment 8 may apply for a trip-limited permit. A trip-limited permit issued under this emergency interim rule does not differ from those initially issued under Amendment 8.

Each owner to whom this limited reopening of the permit application process applies will be so advised by the RA by certified mail, which will include an application form, not later than 5 days after the date of publication of this document. The notification will be sent to the address in NMFS' permit files. An owner who receives such notification must submit an application, postmarked or hand-delivered not later than October 18, 1999 to the RA. Failure to apply in a timely manner will preclude permit issuance.

Upon receipt of a complete application submitted in a timely manner, NMFS will issue an initial limited access permit for the snapper-grouper fishery, either unlimited or trip-limited, as specified in the letter of notification, provided the applicant has not been determined by a final administrative decision to have violated the snapper-grouper permit requirement on or after December 14, 1998.

Limitations on Transfers of Unlimited Permits

The limited access program for the snapper-grouper fishery limits the transfers of both transferable and trip-limited permits. Included in those transfer limitations is a provision that allows a new entrant into the non-trip-limited fishery to obtain a permit only upon obtaining and trading in two existing transferable permits. As a result, existing transferable permits have significantly increased in value. An owner who met the catch and permit history criteria for a transferable limited access permit, but who did not apply for such permit because he/she no longer desired to participate in the fishery, may be tempted to obtain an unlimited permit under this emergency rule solely for the purpose of a windfall profit. This rule is intended to benefit qualified owners who are suffering economic losses as a result of their exclusion from the fishery because of not meeting the permit application deadline rather than owners who opted not to participate in the fishery. To preclude such windfall profits, the Council requested that an unlimited permit obtained under this emergency rule be non-transferable for 3 years, except for a transfer to a replacement vessel owned by the same entity. The permit will become transferable for the purposes of the two-for-one provision only if at least 1,000

lb (453.6 kg) of South Atlantic snapper-grouper are landed by the permitted vessel, or its replacement, in each of the 3 years. If landings in one of these 3 years are less than 1,000 lb (453.6 kg), the permit may be renewed only as a trip-limited permit.

The sole basis for determination of meeting this catch criterion will be the fishing records, which are required by 50 CFR 622.5(a)(1)(iv)(A) for all permitted vessels, that are submitted in a timely manner. The initial 1-year period for meeting the catch criterion will end at the end of the month 12 months after the unlimited permit is issued and similarly for each of the 2 succeeding years.

Because of the requirement that an unlimited permit revert to a trip-limited permit when the landings criterion is not met, an initial unlimited permit issued under this emergency interim rule must have an expiration date that is more than 12 months from the initial date of issue. Otherwise, an owner whose vessel reaches the 1,000-lb (453.6-kg) threshold in the 12th month will be without a valid permit before a renewal permit can be issued. Accordingly, an initial unlimited permit issued under this emergency rule will expire at the end of the month 13 months after it is issued. However, the 1,000-lb (453.6-kg) landing requirement must be met during the first full 12-month period under the permit, and in each succeeding 12-month period, for the full 3-year period. After the initial permit an unlimited permit will be renewed for a 12-month period.

For example, if an initial unlimited permit is issued on January 1, 2000, it will be valid through January 31, 2001, but the 1000-lb (453.6-kg) landing requirement must be met January 1, through December 31, 2000. If the landing requirement is met, the permit will be renewed and will be valid January 31, 2001, through January 31, 2002, and the landing criterion must be met January 1, 2001, through December 31, 2001. If the landing requirement is met, the permit will be renewed and will be valid January 31, 2002, through January 31, 2003, and the landing requirement must be met January 1, 2002, through December 31, 2002. If the 1000-lb (453.6-kg) landing requirement is met for all 3 years, the unlimited permit will become a transferable permit when it is renewed in January 2003.

Criteria for Issuing an Emergency Rule

This emergency interim rule meets NMFS policy guidelines for the use of emergency rules (62 FR 44421, August 21, 1997), because the emergency

situation: Results from recent, unforeseen events, or recently discovered circumstances; presents a serious management problem; and realizes immediate benefits from the emergency rule that outweigh the value of prior notice, opportunity for public comment, and deliberative consideration expected under the normal rulemaking process. When the initial 90-day application period was established, the Council did not foresee the extreme circumstances that would cause some qualified vessel owners to miss the application deadline. The full scope of these circumstances became known only after the application period ended. Further, the full scope of the economic hardships and adverse community impacts were not known until the Council's public hearing on June 16, 1999. These economic hardships and adverse community impacts constitute serious management problems in the fishery, as the fishery includes the fishermen as well as the fish stocks themselves. Economic hardship will be alleviated for up to 260 vessel owners as a result of this emergency interim rule. However, the rule will not adversely affect the benefits that were anticipated from the Council's limited access program. Thus, the benefits of immediate restricted reopening of the application period for limited access permits are considered to outweigh the value of prior notice, opportunity for public comment, and deliberative consideration under the normal rulemaking process.

Period of Effectiveness

This emergency interim rule is effective for not more than 180 days, as authorized by section 305(c) of the Magnuson-Stevens Act. It may be extended for an additional period of not more than 180 days, provided that the public has had an opportunity to comment on it and the Council is actively preparing an amendment to address the emergency on a permanent basis. Public comments on this rule and the Council's actions will be considered in determining whether to extend this rule.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), has determined that this emergency interim rule is necessary to minimize significant adverse social and economic impacts on the affected snapper-grouper vessel owners. The AA has also determined that this rule is consistent with the Magnuson-Stevens Act and other applicable laws.

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

NMFS prepared an economic evaluation of the regulatory impacts associated with this emergency interim rule, which is summarized as follows. The long-term economic consequences of this emergency rule are expected to be very small. The reasoning is that the rule is designed to provide an additional opportunity for fishermen who originally qualified for a permit, but did not apply for reasons beyond their control. This rule applies only to fishermen deemed to qualify originally and will not provide an additional open season for entities not previously in the fishery to enter the fishery. Accordingly, the total number of entities that can engage in the snapper-grouper fishery will not increase beyond the number envisioned by the original action. While the number will not increase, it could actually decrease because some of the eligible entities that did not renew their permits originally may not renew them this time either.

There are 1,167 qualified holders of permits at present. Approximately 260 qualified individuals failed to renew under the original 90-day window. NMFS cannot determine how many of these 260 fishermen will reapply. However, even if all 260 qualified individuals apply and receive permits under the 45-day window established by this emergency interim rule, the resulting number of permitted fishermen would still be less than the number originally contemplated by the Council in Amendment 8. In addition, it is expected that permitted fishing capability would still be smaller than originally envisioned when the decision was made to reissue permits only to those fishermen that were currently active in the fishery. This results from the requirement that the 260 fishermen can only qualify for non-transferable permits, with the limited exception of a transfer to another vessel owned by the same entity. An unlimited permit would become transferable only if the vessel owner recorded 1,000 lb (453.6 kg) of landings of South Atlantic snapper-grouper in each of the next 3 years. If the landings criterion is not met, the permit will revert to a trip-limited permit, i.e., a permit under which a 225-lb (102.1-kg) trip limit applies. Copies of the economic evaluation of this rule are available (see ADDRESSES).

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that

collection of information displays a currently valid OMB control number.

This rule contains two collection-of-information requirements, permit applications and submission of fishing records, that are subject to the Paperwork Reduction Act (PRA). These collections of information have been approved by OMB under control numbers 0648-0205 and 0648-0016, respectively. The public reporting burdens for these collections of information are estimated to average 20 minutes and 10 minutes per response, respectively, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding these burden estimates, or any other aspect of these data collections, including suggestions for reducing the burdens, to NMFS and OMB (see ADDRESSES).

If NMFS does not immediately reopen the snapper-grouper permit application process, approximately 260 vessels, whose owners were determined to be eligible for an initial limited access commercial permit for snapper-grouper, will continue to be denied access to the snapper-grouper fishery because their owners, through no fault of their own, did not submit a permit application by the deadline. It is estimated that the total ex-vessel value of landings for the 260 vessels is about \$90,000 per month. Immediate reopening of the application process and consequent immediate permit issuance is critical to minimize the economic loss qualified vessel owners, their crews, and others dependent upon them, have been experiencing since December 14, 1998. If reopening of the application process is delayed to provide prior notice and opportunity for public comment, they will continue to experience economic harm with no apparent benefit. Accordingly, under authority set forth at 5 U.S.C. 553(b)(B), the AA finds good cause to waive the requirement to provide prior notice and the opportunity for public comment, as such procedures would be contrary to the public interest. Because reopening the application and permit issuance process relieves a restriction, under 5 U.S.C. 553(d)(1), a 30-day delay in the effective date is not required. NMFS will advise the eligible vessel owners, by certified mail, of the reopening of the permit application process.

Because prior notice and an opportunity for public comment are not required to be provided for this rule by 5 U.S.C. 553 or any other law, the analytical requirements of the

Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

List of Subjects in 50 CFR Part 622

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

Dated: August 27, 1999.

Gary C. Matlock,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

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

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

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

2. In § 622.18, the second sentence in paragraph (a) is suspended and paragraph (g) is added to read as follows:

§ 622.18 South Atlantic snapper-grouper limited access.

* * * * *

(g) *Revised implementation procedures.* A permit issued under this paragraph (g) will be either an unlimited permit (a permit not subject to a trip limit but with significant limitations on transferability) or a trip-limited permit.

(1) *Applicability.* (i) The procedures and limitations in this paragraph (g) apply to an owner of a vessel for whom the RD's initial determination under paragraph (d)(1) of this section was that he/she was eligible for an initial limited access commercial vessel permit for South Atlantic snapper-grouper, but who did not apply for such permit in a timely manner.

(ii) The RD's initial determination of eligibility notwithstanding, the procedures in this paragraph (g) do not apply to an owner against whom a final administrative decision has been taken on a Notice of Violation and Assessment (NOVA) for fishing in the snapper-grouper fishery without a permit on or since December 14, 1998. Such owner may not apply for an initial limited access commercial vessel permit for South Atlantic snapper-grouper. (See 15 CFR 904.2 for the definition of "Final administrative decision" and 15 CFR 904.104, 904.271(d), and 904.273(i) for determinations of when final administrative decisions are effective.)

(2) *Notification.* Not later than September 8, 1999, the RD will renotify, by certified mail, each owner to whom this paragraph (g) applies of NMFS' determination of eligibility for either an

unlimited or a trip-limited, limited access commercial permit for South Atlantic snapper-grouper. An owner who was advised under paragraph (b) of this section of eligibility for an initial transferable permit will be advised of eligibility for an unlimited permit under this paragraph (g). All other owners will be advised of eligibility for a trip-limited permit under this paragraph (g). Each notification will include an application for such permit. Addresses for such notifications will be based on NMFS' permit records. A vessel owner who believes he/she qualifies for a limited access commercial permit for South Atlantic snapper-grouper under this paragraph (g) and who does not receive such notification must contact the RD to verify eligibility status for a limited access permit. The RD will either provide such a person notification of eligibility, including an application, or advise him/her of the reasons for ineligibility.

(3) *Applications.* (i) An owner of a vessel who receives the notification specified in paragraph (g)(2) of this section and who desires a limited access commercial permit for South Atlantic snapper-grouper must submit an application for such permit postmarked or hand-delivered not later than October 18, 1999 to the RD. Failure to apply in a timely manner will preclude permit issuance.

(ii) An application for an unlimited permit when the RD's certified mail notification specifies eligibility for a trip-limited permit will not be considered.

(iii) If an application that is postmarked or hand-delivered in a timely manner is incomplete, the RD will notify the vessel owner of the deficiency. If the owner fails to correct the deficiency within 20 days of the date of the RD's notification, the application will be considered abandoned.

(4) *Issuance.* (i) If a complete application is submitted in a timely manner, the RD will issue an initial limited access commercial vessel permit for South Atlantic snapper-grouper. The type of permit issued, unlimited or trip-limited, will be as specified in the RD's certified mail notification specified in paragraph (g)(2) of this section.

(ii) An initial unlimited permit issued under this paragraph (g)(4) will be valid through the end of the month 13 months after its issuance, as specified on the permit. A trip-limited permit issued under this paragraph (g)(4) will be valid through the date specified on the permit.

(iii) The provisions of paragraph (g)(4)(i) of this section notwithstanding,

the RD will not issue a permit to an owner who has been issued a NOVA for fishing in the snapper-grouper fishery without a permit on or since December 14, 1998, until such NOVA is dismissed.

(5) *Transfers of unlimited permits.* (i) An unlimited permit issued under this paragraph (g) may not be transferred for 3 years after it is issued, except that an owner may request that the RD transfer the permit to another vessel owned by the same entity.

(ii) After the 3-year period, an unlimited permit issued under this paragraph (g) will become transferable in accordance with the provisions of paragraph (e)(1) of this section provided at least 1,000 lb (453.6 kg) of South Atlantic snapper-grouper were landed by the permitted vessel, or its replacement, in each of the three 12-month periods after it was initially issued.

(iii) When the landings of a vessel with an unlimited permit, or its replacement, are less than 1,000 lb (453.6 kg) of South Atlantic snapper-grouper in one of these three 12-month periods, the permit may be renewed only as a trip-limited permit.

(iv) Fishing records submitted in a timely manner in accordance with § 622.5(a)(1)(iv) and (a)(2) will be the sole basis for determination of landings of South Atlantic snapper-grouper for the purposes of meeting the 1,000-lb (453.6-kg) landing criterion.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304062-9062-01; I.D. 083099C]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620 of the Gulf of Alaska

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

ACTION: Inseason adjustment; request for comments.

SUMMARY: NMFS issues an inseason adjustment prohibiting directed fishing for pollock in Statistical Area 620 of the Gulf of Alaska (GOA) and extending the C fishing season for pollock in Statistical Area 620 until further notice. This adjustment is necessary to manage the C seasonal allowance of the pollock