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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 120405260-4258-02]

RIN 0648-BC12

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Revisions to Dealer Permitting and Reporting Requirements for Species Managed by the Gulf of Mexico and South Atlantic Fishery Management Councils

**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 Generic Amendment to the Fishery Management Plans (FMPs) in the Gulf of Mexico (Gulf) and South Atlantic Regions (Generic Dealer Amendment). The Generic Dealer Amendment amends the following FMPs: Reef Fish Resources of the Gulf, Red Drum Fishery of the Gulf, Snapper-Grouper Fishery (including wreckfish) of the South Atlantic Region, Golden Crab Fishery of the South Atlantic Region, Shrimp Fishery (excluding penaeid shrimp) of the South Atlantic Region, Dolphin and Wahoo Fishery of the Atlantic, Coastal Migratory Pelagic (CMP) Resources of the Gulf and South Atlantic, and Spiny Lobster Fishery of the Gulf and South Atlantic, as prepared by the Gulf and South Atlantic Fishery Management Councils (Councils). This final rule modifies the permitting and reporting requirements for seafood dealers who first receive species managed by the Councils through the previously mentioned FMPs. These revisions create a single dealer permit for dealers who first receive fish managed by the Councils, require both purchase and non-purchase reports to be submitted online on a weekly basis, prohibit dealers from first receiving fish from federally permitted vessels if they are delinquent in submitting reports, and change the sale and purchase provisions based on the new dealer permitting requirements. This rule also adds regulatory language to clarify the bag limit for private recreational vessels

when a trip exceeds one calendar day. The purpose of this rule is to obtain timelier purchase information from dealers to better monitor annual catch limits (ACLs) and achieve optimum yield (OY) in accordance with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**DATES:** This rule is effective August 7, 2014.

**ADDRESSES:** Electronic copies of the Generic Dealer Amendment, which includes an environmental assessment and a regulatory impact review, may be obtained from the Southeast Regional Office Web site at <http://sero.nmfs.noaa.gov>.

Comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule may be submitted in writing to Anik Clemens, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701; and OMB, by email at [OIRA.Submission@omb.eop.gov](mailto:OIRA.Submission@omb.eop.gov), or by fax to 202-395-7285.

**FOR FURTHER INFORMATION CONTACT:** Rich Malinowski, Southeast Regional Office, NMFS, telephone 727-824-5305; email: [rich.malinowski@noaa.gov](mailto:rich.malinowski@noaa.gov).

**SUPPLEMENTARY INFORMATION:** NMFS and the Councils manage the fisheries for Gulf Reef Fish Resources, Gulf Red Drum, South Atlantic Snapper-Grouper (including wreckfish), South Atlantic Golden Crab, South Atlantic Rock Shrimp, Atlantic Dolphin and Wahoo, Gulf and South Atlantic CMP, and Gulf and South Atlantic Spiny Lobster under their respective FMPs. The FMPs were prepared by the Councils and are implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

On December 19, 2013, NMFS published a notice of availability for the Generic Dealer Amendment and requested public comment (78 FR 76807). On January 2, 2014, NMFS published a proposed rule for the Generic Dealer Amendment and requested public comment (79 FR 81). The proposed rule and the Generic Dealer Amendment outline the rationale for the actions contained in this final rule. A summary of the actions implemented by this final rule is provided below.

This final rule modifies the current permitting and reporting requirements for seafood dealers who first receive fish managed by the Councils through eight FMPs. This final rule creates one universal dealer permit (a Gulf and South Atlantic dealer permit), increases the frequency of dealer reporting,

requires dealers to report purchases and non-purchases electronically, prohibits dealers from continuing to receive fish from federally permitted vessels if they are delinquent in submitting their reports, and revises the sale and purchase provisions for certain federally managed species. Management Measures Contained in this Final Rule

#### Gulf and South Atlantic Dealer Permits

This final rule creates a single dealer permit (a Gulf and South Atlantic dealer permit) that is required to first receive the species currently covered by the six dealer permits (Atlantic Dolphin-Wahoo, Gulf Reef Fish, South Atlantic Golden Crab, South Atlantic Rock Shrimp, South Atlantic Snapper-Grouper and South Atlantic Wreckfish), as well as Gulf and South Atlantic CMP, Gulf and South Atlantic spiny lobster, and Gulf red drum. A Gulf and South Atlantic dealer permit is not required to first receive South Atlantic coral, South Atlantic pelagic *Sargassum*, Gulf coral and coral reef species, and Gulf and South Atlantic penaeid shrimp species.

The Councils exempted penaeid shrimp species from the Gulf and South Atlantic dealer permit because ACLs have not been established for these species (because they have annual life cycles). Thus, the current reporting system is adequate for determining catch and effort for these species and the administrative burden of issuing such a large number of shrimp dealer permits outweighs the benefits of more timely shrimp dealer reports. The Councils did not include corals or pelagic *Sargassum* because coral harvest is limited to octocoral harvest off Florida and does not require a Federal harvest permit if landed in Florida, and there is no recorded harvest of pelagic *Sargassum* from Federal waters.

#### Frequency and Method of Dealer Reporting

This final rule requires federally permitted dealers to submit a detailed electronic report of all fish first received for a commercial purpose via the dealer electronic trip ticket reporting system. These electronic reports must be submitted on a weekly basis and are due by 11:59 p.m., local time, the Tuesday following a reporting week. A reporting week is defined as beginning at 12:01 a.m., local time, on Sunday and ending at 11:59 p.m., local time, the following Saturday. Dealers who first receive Gulf migratory king mackerel harvested by the run-around gillnet sector in the southern Florida west coast subzone must submit their dealer reports for these species on a daily basis. These reports must be submitted through the

dealer electronic trip ticket reporting system by 6 a.m., local time, for the previous day's harvest. In addition to reporting purchases, federally permitted dealers are also required to submit records of no purchases via the dealer electronic trip ticket reporting system at the same frequency and via the same process as records for purchases. The Councils and NMFS allow non-purchases to be reported up to 90 days in advance, if such an option exists in the state reporting system. If, after submitting an advance no purchase report, the dealer does receive fish, then a purchase report must be submitted for those fish.

Every state, except South Carolina, requires dealers to submit reports electronically through the dealer electronic trip ticket reporting system. South Carolina requires paper-based reporting, but does allow electronic reporting in addition to filing paper reports. Therefore, under this final rule dealers in South Carolina would be required to report both by paper (according to state regulations) and electronically (according to Federal regulations). These electronic trip ticket reports would still go first to the state trip ticket reporting system and subsequently to NMFS. The Science and Research Director (SRD), Southeast Fisheries Science Center, NMFS, or the alternate SRD, Northeast Fisheries Science Center, NMFS (for species harvested from Virginia through Maine) receives all of the electronic dealer reports within approximately 3 days of data entry, and uses the data for ACL monitoring. Under this final rule dealers will continue to use their state trip ticket reporting system.

The data elements currently reported through the state trip ticket systems include the trip ticket number, dealer or processor's name, Federal permit number and state dealer license number, vessel name, U.S. Coast Guard documentation number and state registration number, vessel trip report number, date the vessel leaves the dock, date the vessel offloads the catch, date of purchase, species, amount landed, price per unit, port and state of landing, gear used, area fished, size category, and condition and disposition of the catch.

During catastrophic conditions only, this final rule allows dealers to use a paper-based system for submitting dealer reports. The Regional Administrator (RA) will determine when catastrophic conditions exist, the duration of the catastrophic conditions, and which participants are affected. The RA will provide notice of a paper-based system via notification in the **Federal Register**, NOAA weather radio, fishery

bulletins, and other appropriate means and will authorize the use of the paper-based system for the duration of the catastrophic conditions. The paper forms will be available from NMFS.

#### **Non-Reporting**

This final rule stipulates that dealers who are delinquent on submitting their reports are prohibited from receiving fish from federally permitted vessels until they have submitted all required reports. This provision will aid in enforcement efforts to ensure dealer reports are submitted in a timely manner.

#### **Revisions to Sale and Purchase Provisions**

This final rule revises the sale and purchase requirements for federally managed species based on changes to the dealer permitting requirements. This final rule allows federally managed species harvested on board a federally permitted vessel to be sold or transferred to any dealer with a Gulf and South Atlantic dealer permit, instead of just a dealer for a specific fishery (except for individual fishing quota (IFQ) species which are still required to be sold to a dealer with an IFQ dealer endorsement). This final rule also allows dealers with a Gulf and South Atlantic dealer permit to first receive all federally managed species harvested in or from the EEZ by federally permitted vessels (except for IFQ species, in which case the dealer is also required to have an IFQ dealer endorsement).

This final rule also clarifies that federally permitted vessels may sell federally managed species harvested in either Federal waters or adjoining state waters only to a dealer who has a valid Gulf and South Atlantic dealer permit. This provision places restrictions on certain federally permitted vessels that currently are able to sell their catch to non-federally permitted dealers. Through this rulemaking, vessels with commercial or charter vessel/headboat permits for CMP and vessels with Federal commercial permits for spiny lobster, including the Federal tail-separation permit, are allowed to sell federally managed species (including bag-limit caught CMP) that are harvested in either Federal waters or adjoining state waters only to a dealer who has a valid Gulf and South Atlantic dealer permit. In addition, all federally permitted vessels that harvest CMP species under the bag limit in Federal waters or adjoining state waters are required to sell those CMP species only to a dealer who has a valid Gulf and South Atlantic dealer permit.

#### **Other Changes Contained in This Final Rule**

This final rule adds the following sentence to 50 CFR 622.11(a): "Unless specified otherwise, a person is limited to a single bag limit for a trip lasting longer than one calendar day," to clarify the regulations regarding how the bag limit is determined for private recreational vessels when a trip exceeds one calendar day. This clarification reflects the original intent of the Councils. This change is not related to the Generic Dealer Amendment.

#### **Implementation and Compliance Timeline for This Final Rule**

In an effort to minimize the burden on currently permitted dealers, and provide for a smooth transition to the new Gulf and South Atlantic dealer permit, this final rule is effective 4 months after the date of publication, on August 7, 2014. Upon publication of the final rule, on April 9, 2014, dealers that currently do not have a valid Federal dealer permit for any Gulf or South Atlantic fishery may submit an application for a Gulf and South Atlantic dealer permit. Gulf and South Atlantic dealer permits will be issued within 30 days of receipt of a completed dealer permit application, so applicants should submit their application at least 30 days prior to the date upon which they need the permit to be effective. However, the Gulf and South Atlantic dealer permit requirement, and the associated reporting and recordkeeping requirements contained in this final rule, are not effective until August 7, 2014. Therefore, dealers issued Gulf and South Atlantic dealer permits before August 7, 2014 will be required to continue to purchase Gulf and South Atlantic species under existing Federal permitting requirements and are not allowed to operate under the Gulf and South Atlantic permit until August 7, 2014. Likewise, these dealers will not be required to report until August 7, 2014.

For those dealers who already have a valid Federal dealer permit for any Gulf or South Atlantic fishery, NMFS will treat their current permit as a Gulf and South Atlantic dealer permit as of August 7, 2014. These dealers will not be required to apply for a new Gulf and South Atlantic dealer permit until their existing permit(s) expire at some point after August 7, 2014. This means that dealers who currently have a valid Federal dealer permit for any Gulf or South Atlantic fishery may begin to first receive all species covered under the Gulf and South Atlantic dealer permit on August 7, 2014, and must comply with all reporting and recordkeeping

requirements contained in this rule as of August 7, 2014. Therefore, all federally permitted dealers (those with a current valid Federal dealer permit for any Gulf or South Atlantic fishery, and those with a new Gulf and South Atlantic dealer permit), must comply with the dealer reporting and recordkeeping requirements contained in this final rule as of August 7, 2014.

### Comments and Responses

NMFS received five comment submissions on the Generic Dealer Amendment and the proposed rule; two from seafood dealers, one from a non-profit environmental organization, and two from fishing organizations. The non-profit environmental organization expressed general support for the actions contained in the Generic Dealer Amendment and the proposed rule, including the timely transmission of accurate dealer purchase information (including both reports of fish landings and/or of a no landing reports) to monitor ACLs. A summary of the comments and NMFS' responses to those comments appears below.

*Comment 1:* NMFS should send an automated response and time stamp to dealers when a purchase form is received.

*Response:* All data are initially submitted to the states via the trip ticket reporting systems in place. A time stamp is generated by the trip ticket software to indicate when the data were submitted by the dealer. This time stamp is accessible to the dealer if the dealer requests it from the state trip ticket reporting system. NMFS does not have authority over the state trip ticket reporting system, and therefore cannot send automated responses to dealers after they submit information to state-controlled reporting systems; however, dealers may work with the states to get the information they need for their businesses.

*Comment 2:* NMFS should contact dealers if a dealer is out of compliance with the reporting deadline (for both purchase and non-purchase reports) before suspending the dealer's ability to purchase product.

*Response:* It is the dealer's responsibility to ensure compliance with all Federal reporting deadlines. Nonetheless, NMFS is investigating the creation of an email notification system to let dealers know when they become out of compliance with the reporting requirements implemented in this final rule. If NMFS implements such a system in the future, NMFS will notify dealers of this capability.

*Comment 3:* There is no provision in this amendment or rule in the event a

computer hardware, software, or internet access problem occurs. The rule would shut down a business for not submitting electronic reports on time.

*Response:* In the event of technical issues with a dealer's computer equipment or internet access, the dealer will need to utilize other computer resources for timely submission of the electronic reports, such as a mobile device or public access computer. NMFS will allow paper based reporting in the event of catastrophic conditions only. The RA will determine when catastrophic conditions exist, the duration of the catastrophic conditions, and which participants are affected. The RA will provide notice of a paper-based system via notification in the **Federal Register**, NOAA weather radio, fishery bulletins, and other appropriate means and will authorize the use of the paper-based system for the duration of the catastrophic conditions. The paper forms will be available from NMFS.

*Comment 4:* Increasing regulations and reporting frequencies are economically detrimental to smaller businesses. The impacts of reporting were not thoroughly considered, such as the additional cost of computer maintenance. In addition, the assessment understated the significance of the economic effects of the proposed rule on small entities.

*Response:* NMFS agrees that increasing regulations may have adverse economic effects on businesses and the significance of these effects may be greater for smaller businesses; however, NMFS disagrees that the economic effects of the proposed rule on small entities were understated. As stated in the analysis provided in the proposed rule, none of the requirements contained in this final rule require special professional skills and all affected small entities are expected to already have staff with the appropriate skills to meet these requirements. The analysis also provided an estimate of the permitting requirement for entities that do not currently have a Federal permit (\$74.42 per entity), the expected cost of a computer (less than \$750), and the expected cost of internet access (less than \$100 per month) for any entities that do not currently have a computer or internet service. The average annual computer maintenance cost is unknown, but is not expected to increase as a result of the requirements in this rule. Although these expenses may be burdensome to some dealers, overall the requirements are not expected to adversely affect a substantial number of small entities because the use of computers and the internet has become commonplace and a vital tool in

business management and, according to the SBA, in 2010, approximately 94 percent of businesses used computers and 95 percent of these had internet service. Additionally, all affected entities currently operate in states that require electronic reporting, except South Carolina, and South Carolina allows electronic reporting. The estimated number of entities in South Carolina that will be affected by this rule is 38, or approximately 4 percent of the total number of small businesses expected to be affected. Thus, even if none of the small businesses in South Carolina have elected to report electronically, only approximately 4 percent of the affected entities would incur any of the additional reporting costs associated with computer purchase, maintenance, and internet access. For all affected entities, satisfying the reporting frequency requirements of this final rule will only require more frequent submission of the same quantity and quality of data that is already being reported. As a result, because at least 96 percent of the small businesses affected by this rule are expected to already have the required skill, hardware, and internet access to meet state and common general business operational requirements, this final rule will not have a significant impact on a substantial number of small entities.

### Classification

The Regional Administrator, Southeast Region, NMFS, has determined that this final rule is necessary for the management of Gulf reef fish, Gulf red drum, South Atlantic snapper-grouper (including wreckfish), South Atlantic golden crab, South Atlantic rock shrimp, Atlantic dolphin and wahoo, Gulf and South Atlantic CMP, and Gulf and South Atlantic spiny lobster and is consistent with the Generic Dealer Amendment, the FMP, the Magnuson-Stevens Act and other applicable laws.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this rule would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination was published in the proposed rule and is not repeated here. Comments on the economic analysis are addressed in the comments and responses section of this final rule. No changes to the final rule were made in

response to these comments. As a result, a final regulatory flexibility analysis was not required and none was prepared.

This final rule contains collection-of-information requirements subject to the requirements of the Paperwork Reduction Act (PRA), which have been approved by OMB under control numbers 0648–0013 and 0648–0205. NMFS estimates the requirement for dealers to report electronically will decrease the overall dealer reporting burden under OMB control number 0648–0013, because dealers will report all species through the electronic dealer trip ticket reporting system offered in each state, and NMFS will receive these data from the states. This eliminates a duplication of effort on the dealers who were reporting similar information to the states and to NMFS (except for South Carolina, which still requires paper reporting).

NMFS estimates the requirement for dealers to report more frequently (weekly instead of semi-monthly or monthly) will not create more burden on dealers, because the dealers will still be reporting the same amount of information, they will just be submitting the same quantity of data more frequently.

NMFS estimates the reporting burden under OMB control number 0648–0205 will increase because more dealers will be required to apply for a Federal dealer permit through this rulemaking (approximately 1,000 entities, including 300 current dealers and 700 new dealers). NMFS estimates the requirement for dealers to complete the Federal Permit Application for an Annual Dealer Permit to obtain a Gulf and South Atlantic Dealer Permit will average 20 minutes per response (for new permits and renewals). NMFS estimates the requirement to complete “doing business as” (DBA) names and check a box indicating whether or not a business is active with respect to its secretary of state on the Federal Permit Application for an Annual Dealer Permit under OMB control number 0648–0205 will average 1 minute per response.

Finally, NMFS estimates the requirement for dealers to complete their email address on the Federal Permit Application for an Annual Dealer Permit under OMB control number 0648–0205 will average 1 minute per response. These estimates of the public reporting burden include the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection-of-information. Notwithstanding any other provision of law, no person is required to respond to,

nor shall a 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.

#### List of Subjects in 50 CFR Part 622

Dealer, Fisheries, Fishing, Gulf of Mexico, Reporting and recordkeeping requirements, South Atlantic.

Dated: April 4, 2014.

**Samuel D. Rauch III,**  
*Deputy Assistant Administrator for  
Regulatory Programs, 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 OF MEXICO, 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 § 622.2, the definition “reporting week” is added in alphabetical order to read as follows:

#### **§ 622.2 Definitions and acronyms.**

\* \* \* \* \*

*Reporting week* means the period of time beginning at 12:01 a.m., local time, on Sunday and ending at 11:59 p.m., local time, the following Saturday.

\* \* \* \* \*

■ 3. In § 622.4, the third sentence in paragraph (h) is revised to read as follows:

#### **§ 622.4 Permits and fees—general.**

\* \* \* \* \*

(h) \* \* \* In addition, a copy of the dealer’s permit must accompany each vehicle that is used to pick up from a fishing vessel fish harvested from the EEZ. \* \* \*

\* \* \* \* \*

■ 4. In § 622.5, paragraph (c) is added to read as follows:

#### **§ 622.5 Recordkeeping and reporting—general.**

\* \* \* \* \*

(c) *Dealers—(1) Permitted Gulf and South Atlantic dealers.* (i) A person issued a Gulf and South Atlantic dealer permit must submit a detailed electronic report of all fish first received for a commercial purpose within the time period specified in this paragraph, via the dealer electronic trip ticket reporting system. These electronic reports must be submitted at weekly intervals via the dealer electronic trip ticket reporting system by 11:59 p.m., local time, the

Tuesday following a reporting week. If no fish were received during a reporting week, an electronic report so stating must be submitted for that reporting week. Dealers must submit electronic reports for Gulf migratory group king mackerel harvested by the run-around gillnet sector in the southern Florida west coast subzone daily via the dealer electronic trip ticket reporting system by 6 a.m., local time, for the previous day’s harvest. Until the commercial ACL (commercial quota) for the run-around gillnet sector for Gulf migratory group king mackerel is reached, if no king mackerel were received, an electronic report so stating must be submitted for that day.

(ii) Dealers must retain either the paper forms or electronic reports for at least 1 year after the submittal date and must provide such records for inspection upon the request of an authorized officer or the SRD.

(iii) During catastrophic conditions only, the ACL monitoring program provides for use of paper-based components for basic required functions as a backup. The RA will determine when catastrophic conditions exist, the duration of the catastrophic conditions, and which participants or geographic areas are deemed affected by the catastrophic conditions. The RA will provide timely notice to affected participants via publication of notification in the **Federal Register**, NOAA weather radio, fishery bulletins, and other appropriate means and will authorize the affected participants’ use of paper-based components for the duration of the catastrophic conditions. The paper forms will be available from NMFS. During catastrophic conditions, the RA has the authority to waive or modify reporting time requirements.

(iv) Gulf and South Atlantic dealers are not authorized to first receive Gulf reef fish, Gulf red drum, South Atlantic golden crab, South Atlantic snapper-grouper, South Atlantic wreckfish, South Atlantic rock shrimp, coastal migratory pelagic fish, spiny lobster, or Atlantic dolphin or wahoo from a federally permitted vessel if the required reports have not been submitted and received by NMFS according to the reporting requirements under this section. Delinquent reports automatically result in a Gulf and South Atlantic dealer becoming ineligible to first receive such fish, regardless of any notification to dealers by NMFS. Gulf and South Atlantic dealers who become ineligible to receive such fish due to delinquent reports are authorized to first receive such fish only after all required and delinquent reports have been submitted and received by NMFS.

according to the reporting requirements under this section.

(2) *Non-permitted dealers.* See § 622.51 for a person who purchases Gulf shrimp from a vessel, or person, that fishes for shrimp in the Gulf EEZ or in adjoining state waters, or that lands shrimp in an adjoining state.

■ 5. In § 622.11, a sentence is added after the second sentence in paragraph (a)(1) to read as follows:

**§ 622.11 Bag and possession limits—general applicability.**

\* \* \* \* \*

(a) \* \* \*

(1) \* \* \* Unless specified otherwise, a person is limited to a single bag limit for a trip lasting longer than one calendar day. \* \* \*

\* \* \* \* \*

■ 6. In § 622.13, paragraph (h) is added to read as follows:

**§ 622.13 Prohibitions—general.**

\* \* \* \* \*

(h) First receive fish from federally permitted vessels if the required reports have not been submitted in accordance with § 622.5(c).

\* \* \* \* \*

■ 7. In § 622.20, paragraph (c)(1) is revised to read as follows:

**§ 622.20 Permits and endorsements.**

\* \* \* \* \*

(c) \* \* \*

(1) *Permits.* For a dealer to first receive Gulf reef fish harvested in or from the EEZ, a Gulf and South Atlantic dealer permit must be issued to the dealer.

\* \* \* \* \*

■ 8. In § 622.21, paragraph (b)(2) is revised to read as follows:

**§ 622.21 Individual fishing quota (IFQ program) for Gulf red snapper.**

\* \* \* \* \*

(b) \* \* \*

(2) *Gulf IFQ dealer endorsements.* In addition to the requirement for a Gulf and South Atlantic dealer permit as specified in § 622.20(c)(1), for a dealer to first receive red snapper subject to the IFQ program for Gulf red snapper, as specified in paragraph (a)(1) of this section, or for a person aboard a vessel with a Gulf IFQ vessel account to sell such red snapper directly to an entity other than a dealer, such persons must also have a Gulf IFQ dealer endorsement. A dealer with a Gulf and South Atlantic dealer permit can download a Gulf IFQ dealer endorsement from the NMFS IFQ Web site at [ifq.sero.nmfs.noaa.gov](http://ifq.sero.nmfs.noaa.gov). If such persons do not have an IFQ online

account, they must first contact IFQ Customer Service at 1-866-425-7627 to obtain information necessary to access the IFQ Web site and establish an IFQ online account. There is no fee for obtaining this endorsement. The endorsement remains valid as long as the Gulf and South Atlantic dealer permit remains valid and the dealer is in compliance with all Gulf reef fish and IFQ reporting requirements, has paid all IFQ fees required, and is not subject to any sanctions under 15 CFR part 904. The endorsement is not transferable.

\* \* \* \* \*

■ 9. In § 622.22, paragraph (b)(2) is revised to read as follows:

**§ 622.22 Individual fishing quota (IFQ program) for Gulf groupers and tilefishes.**

\* \* \* \* \*

(b) \* \* \*

(2) *Gulf IFQ dealer endorsements.* In addition to the requirement for a Gulf and South Atlantic dealer permit as specified in § 622.20(c)(1), for a dealer to first receive groupers and tilefishes subject to the IFQ program for groupers and tilefishes, as specified in paragraph (a)(1) of this section, or for a person aboard a vessel with a Gulf IFQ vessel account to sell such groupers and tilefishes directly to an entity other than a dealer, such persons must also have a Gulf IFQ dealer endorsement. A dealer with a Gulf and South Atlantic dealer permit can download a Gulf IFQ dealer endorsement from the NMFS IFQ Web site at [ifq.sero.nmfs.noaa.gov](http://ifq.sero.nmfs.noaa.gov). If such persons do not have an IFQ online account, they must first contact IFQ Customer Service at 1-866-425-7627 to obtain information necessary to access the IFQ Web site and establish an IFQ online account. There is no fee for obtaining this endorsement. The endorsement remains valid as long as the Gulf and South Atlantic dealer permit remains valid and the dealer is in compliance with all Gulf reef fish and IFQ reporting requirements, has paid all IFQ fees required, and is not subject to any sanctions under 15 CFR part 904. The endorsement is not transferable.

\* \* \* \* \*

■ 10. Section 622.25 is revised to read as follows:

**§ 622.25 Exemptions for Gulf groundfish trawling.**

Gulf groundfish trawling means fishing in the Gulf EEZ by a vessel that uses a bottom trawl, the unsorted catch of which is ground up for animal feed or industrial products.

(a) Other provisions of this part notwithstanding, the owner or operator of a vessel trawling for Gulf groundfish

is exempt from the following requirements and limitations for the vessel's unsorted catch of Gulf reef fish:

(1) The requirement for a valid commercial vessel permit for Gulf reef fish in order to sell Gulf reef fish.

(2) Minimum size limits for Gulf reef fish.

(3) Bag limits for Gulf reef fish.

(4) The prohibition on sale of Gulf reef fish after a quota or ACL closure.

(b) Other provisions of this part notwithstanding, a dealer in a Gulf state is exempt from the requirement for a Gulf and South Atlantic dealer permit to receive Gulf reef fish harvested from the Gulf EEZ by a vessel trawling for Gulf groundfish.

■ 11. In § 622.26, paragraph (c) is revised to read as follows:

**§ 622.26 Recordkeeping and reporting.**

\* \* \* \* \*

(c) *Dealers.* (1) A dealer who first receives Gulf reef fish must maintain records and submit information as specified in § 622.5(c).

(2) The operator of a vehicle that is used to pick up from a fishing vessel Gulf reef fish must maintain a record containing the name of each fishing vessel from which reef fish on the vehicle have been received. The vehicle operator must provide such record for inspection upon the request of an authorized officer.

■ 12. In § 622.40, paragraphs (b) and (c) are revised to read as follows:

**§ 622.40 Restrictions on sale/purchase.**

\* \* \* \* \*

(b) A Gulf reef fish harvested in or from the EEZ or adjoining state waters by a vessel that has a valid commercial vessel permit for Gulf reef fish may be sold or transferred only to a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.20(c)(1).

(c) A Gulf reef fish harvested in or from the EEZ may be first received by a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.20(c)(1), only from a vessel that has a valid commercial vessel permit for Gulf reef fish.

■ 13. Subpart E is revised to read as follows:

**Subpart E—Red Drum Fishery of the Gulf of Mexico**

Sec.

622.90 Permits.

622.91 Recordkeeping and reporting.

622.92 Prohibited species.

622.93 Adjustment of management measures.

## Subpart E—Red Drum Fishery of the Gulf of Mexico

### § 622.90 Permits.

(a) *Dealer permits and conditions*—(1) *Permits*. For a dealer to first receive Gulf red drum harvested in or from the EEZ, a Gulf and South Atlantic dealer permit must be issued to the dealer.

(2) *State license and facility requirements*. To obtain a dealer permit, the applicant must have a valid state wholesaler's license in the state(s) where the dealer operates, if required by such state(s), and must have a physical facility at a fixed location in such state(s).

(b) *Permit procedures*. See § 622.4 for information regarding general permit procedures including, but not limited to application, fees, duration, transfer, renewal, display, sanctions and denials, and replacement.

### § 622.91 Recordkeeping and reporting.

(a) *Dealers*. A dealer who first receives Gulf red drum must maintain records and submit information as specified in § 622.5(c).

(b) [Reserved]

### § 622.92 Prohibited species.

(a) *General*. The harvest and possession restrictions of this section apply without regard to whether the species is harvested by a vessel operating under a commercial vessel permit. The operator of a vessel that fishes in the EEZ is responsible for the limit applicable to that vessel.

(b) *Red drum*. Red drum may not be harvested or possessed in or from the Gulf EEZ. Such fish caught in the Gulf EEZ must be released immediately with a minimum of harm.

### § 622.93 Adjustment of management measures.

In accordance with the framework procedures of the FMP for the Red Drum Fishery of the Gulf of Mexico, the RA may establish or modify the following items:

(a) Reporting and monitoring requirements, permitting requirements, bag and possession limits (including a bag limit of zero), size limits, vessel trip limits, closed seasons or areas and reopenings, annual catch limits (ACLs), annual catch targets (ACTs), quotas (including a quota of zero), accountability measures (AMs), MSY (or proxy), OY, TAC, management parameters such as overfished and overfishing definitions, gear restrictions (ranging from regulation to complete prohibition), gear markings and identification, vessel markings and identification, ABC and ABC control

rules, rebuilding plans, sale and purchase restrictions, transfer at sea provisions, and restrictions relative to conditions of harvested fish (maintaining fish in whole condition, use as bait).

(b) [Reserved]

■ 14. In § 622.170, paragraph (c)(1) is revised to read as follows:

#### § 622.170 Permits and endorsements.

\* \* \* \* \*

(c) \* \* \*

(1) *Permits*. For a dealer to first receive South Atlantic snapper-grouper (including wreckfish) harvested in or from the EEZ, a Gulf and South Atlantic dealer permit must be issued to the dealer.

\* \* \* \* \*

■ 15. In § 622.172, paragraphs (b), (c)(6), (c)(7), and (d)(4) are revised to read as follows:

#### § 622.172 Wreckfish individual transferable quota (ITQ) system.

\* \* \* \* \*

(b) *List of wreckfish shareholders*.

Annually, on or about March 1, the RA 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.

(c) \* \* \*

(6) The “Fish House” part of each such coupon must be given to the dealer to whom the wreckfish are transferred in amounts totaling the eviscerated weight of the wreckfish transferred to that dealer. Wreckfish may be transferred only to a Gulf and South Atlantic dealer permit holder, as required under § 622.170(c)(1).

(7) A dealer may first receive wreckfish only from a vessel for which a commercial permit for wreckfish has been issued, as required under § 622.170(a)(2). A dealer must receive the “Fish House” part of ITQ coupons in amounts totaling the eviscerated weight of the wreckfish received; enter the permit number of the vessel from which the wreckfish were received, enter the date the wreckfish were received, enter the dealer's permit number, and sign each such “Fish House” part; and submit all such parts with the electronic dealer reports required by § 622.5(c).

\* \* \* \* \*

(d) \* \* \*

(4) If a wreckfish harvested by a vessel that has been issued a commercial vessel permit for South Atlantic snapper-grouper and a commercial vessel permit for wreckfish is to be offloaded at a location other than a fixed

facility of a dealer who holds a Gulf and South Atlantic dealer permit, as required under § 622.170(c)(1), the wreckfish shareholder or the vessel operator must advise the 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.

■ 16. In § 622.176, paragraph (c) is revised to read as follows:

#### § 622.176 Recordkeeping and reporting.

\* \* \* \* \*

(c) *Dealers*. (1) A dealer who first receives South Atlantic snapper-grouper (including wreckfish) must maintain records and submit information as specified in § 622.5(c).

(2) On demand, a dealer who has been issued a Gulf and South Atlantic dealer permit, as required under § 622.170(c)(1), must make available to an authorized officer all records of offloadings, purchases, or sales of South Atlantic snapper-grouper (including wreckfish).

\* \* \* \* \*

■ 17. In § 622.192, paragraphs (b) and (c) are revised to read as follows:

#### § 622.192 Restrictions on sale/purchase.

\* \* \* \* \*

(b) South Atlantic snapper-grouper harvested in or from the EEZ or adjoining state waters by a vessel that has a valid commercial vessel permit for South Atlantic snapper-grouper may be sold or transferred only to a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.170(c)(1).

(c) South Atlantic snapper-grouper harvested in or from the EEZ may be first received by a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.170(a), only from a vessel that has a valid commercial permit for South Atlantic snapper-grouper.

\* \* \* \* \*

■ 18. In § 622.200, the heading of paragraph (c) and paragraph (c)(1) are revised to read as follows:

#### § 622.200 Permits.

\* \* \* \* \*

(c) *Dealer permits and conditions*—(1) *Permits*. For a dealer to first receive South Atlantic rock shrimp harvested in or from the EEZ, a Gulf and South Atlantic dealer permit must be issued to the dealer.

\* \* \* \* \*

■ 19. In § 622.203, paragraph (b) is revised to read as follows:

**§ 622.203 Recordkeeping and reporting.**

\* \* \* \* \*

(b) *South Atlantic rock shrimp dealers.* (1) A dealer who first receives South Atlantic rock shrimp must maintain records and submit information as specified in § 622.5(c).

(2) On demand, a dealer who has been issued a Gulf and South Atlantic dealer permit, as required under § 622.200(c)(1), must make available to an authorized officer all records of offloadings, purchases, or sales of rock shrimp.

■ 20. In § 622.209, paragraphs (a)(2) and (3) are revised to read as follows:

**§ 622.209 Restrictions on sale/purchase.**

(a) \* \* \*

(2) Rock shrimp harvested in or from the EEZ or adjoining state waters by a vessel that has a valid commercial vessel permit for South Atlantic rock shrimp may be sold or transferred only to a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.200(c)(1).

(3) Rock shrimp harvested in or from the EEZ may be first received by a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.200(c)(1), only from a vessel that has a valid commercial vessel permit for rock shrimp.

\* \* \* \* \*

■ 21. In § 622.240, paragraph (b)(1) is revised to read as follows:

**§ 622.240 Permits.**

\* \* \* \* \*

(b) \* \* \*

(1) *Permits.* For a dealer to first receive South Atlantic golden crab harvested in or from the EEZ, a Gulf and South Atlantic dealer permit must be issued to the dealer.

\* \* \* \* \*

■ 22. In § 622.242, paragraph (b) is revised to read as follows:

**§ 622.242 Recordkeeping and reporting.**

\* \* \* \* \*

(b) *Dealers.* A dealer who first receives South Atlantic golden crab must maintain records and submit information as specified in § 622.5(c).

■ 23. In § 622.250, paragraphs (c) and (d) are revised to read as follows:

**§ 622.250 Restrictions on sale/purchase.**

\* \* \* \* \*

(c) A golden crab harvested in or from the EEZ or adjoining state waters by a vessel that has a valid commercial vessel permit for South Atlantic golden crab may be sold or transferred only to a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.240(b)(1).

(d) A golden crab harvested in or from the EEZ may be first received by a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.240(b)(1), only from a vessel that has a valid commercial vessel permit for golden crab.

■ 24. In § 622.270, the heading of paragraph (d) and paragraph (d)(1) are revised to read as follows:

**§ 622.270 Permits.**

\* \* \* \* \*

(d) *Dealer permits and conditions—*  
(1) *Permits.* For a dealer to first receive Atlantic dolphin or wahoo harvested in or from the EEZ, a Gulf and South Atlantic dealer permit must be issued to the dealer.

\* \* \* \* \*

■ 25. In § 622.271, paragraph (c) is revised to read as follows:

**§ 622.271 Recordkeeping and reporting.**

\* \* \* \* \*

(c) *Dealers.* (1) A dealer who first receives Atlantic dolphin or wahoo must maintain records and submit information as specified in § 622.5(c).

(2) *Alternate SRD.* For the purpose of § 622.5(c), in the states from Maine through Virginia, or in the waters off those states, “SRD” means the Science and Research Director, Northeast Fisheries Science Center, NMFS, or a designee.

(3) On demand, a dealer who has been issued a Gulf and South Atlantic dealer permit, as required under § 622.270(d)(1), must make available to an authorized officer all records of offloadings, purchases, or sales of Atlantic dolphin or wahoo.

■ 26. Section 622.279 is revised to read as follows:

**§ 622.279 Restrictions on sale/purchase.**

(a) Dolphin or wahoo harvested in or from the Atlantic EEZ or adjoining state waters by a vessel that has a valid commercial vessel permit for Atlantic dolphin and wahoo, as required under § 622.270(a)(1), or by a vessel authorized a 200-lb (91-kg) trip limit for dolphin or wahoo, as specified in § 622.278(a)(2), may be sold or transferred only to a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.270(d)(1).

(b) In addition to the provisions of paragraph (a)(1) of this section, a person may not sell dolphin or wahoo possessed under the recreational bag limit harvested in the Atlantic EEZ or adjoining state waters by a vessel while it is operating as a charter vessel or headboat. A dolphin or wahoo harvested or possessed by a vessel that

is operating as a charter vessel or headboat with a Federal charter vessel/headboat permit for Atlantic dolphin and wahoo may not be purchased or sold if harvested in or from the Atlantic EEZ or adjoining state waters.

(c) Dolphin or wahoo harvested in or from the Atlantic EEZ may be first received only by a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.270(d)(1), and only from a vessel authorized to sell dolphin and wahoo under paragraph (a)(1) of this section.

■ 27. In § 622.370, paragraph (c) is revised and paragraph (d) is added to read as follows:

**§ 622.370 Permits.**

\* \* \* \* \*

(c) *Dealer permits and conditions—*  
(1) *Permits.* For a dealer to first receive Gulf or South Atlantic coastal migratory pelagic fish harvested in or from the EEZ, a Gulf and South Atlantic dealer permit must be issued to the dealer.

(2) *State license and facility requirements.* To obtain a dealer permit, the applicant must have a valid state wholesaler's license in the state(s) where the dealer operates, if required by such state(s), and must have a physical facility at a fixed location in such state(s).

(d) *Permit procedures.* See § 622.4 for information regarding general permit procedures including, but not limited to application, fees, duration, transfer, renewal, display, sanctions and denials, and replacement.

■ 28. In § 622.374, paragraph (c) is revised to read as follows:

**§ 622.374 Recordkeeping and reporting.**

\* \* \* \* \*

(c) *Dealers.* (1) A dealer who first receives Gulf or South Atlantic coastal migratory pelagic fish must maintain records and submit information as specified in § 622.5(c).

(2) *Alternate SRD.* For the purpose of § 622.5(c), in the states from New York through Virginia, or in the waters off those states, “SRD” means the Science and Research Director, Northeast Fisheries Science Center, NMFS, or a designee.

■ 29. In § 622.386, paragraphs (b) and (c) are added to read as follows:

**§ 622.386 Restrictions on sale/purchase.**

\* \* \* \* \*

(b) Coastal migratory pelagic fish harvested in or from the EEZ or adjoining state waters by a vessel that has a valid Federal commercial vessel permit or a charter vessel/headboat permit may be sold or transferred only to a dealer who has a valid Gulf and



South Atlantic dealer permit, as required under § 622.370(c)(1).

(c) Coastal migratory pelagic fish harvested in or from the Gulf or South Atlantic EEZ may be first received by a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.370(c)(1), only from a vessel that has a valid Federal commercial vessel permit, as required under § 622.370(a), or a charter vessel/headboat permit for coastal migratory pelagic fish, as required under § 622.370(b).

■ 30. In § 622.400, paragraph (a)(5) is added to read as follows:

**§ 622.400 Permits and fees.**

(a) \* \* \*

(5) *Dealer permits and conditions—(i) Permits.* For a dealer to first receive Gulf or South Atlantic spiny lobster harvested in or from the EEZ, a Gulf and South Atlantic dealer permit must be issued to the dealer.

(ii) *State license and facility requirements.* To obtain a dealer permit, the applicant must have a valid state wholesaler's license in the state(s) where the dealer operates, if required by such state(s), and must have a physical facility at a fixed location in such state(s).

\* \* \* \* \*

■ 31. Add § 622.401 to read as follows:

**§ 622.401 Recordkeeping and reporting.**

(a) *Dealers.* A dealer who first receives Gulf or South Atlantic spiny lobster must maintain records and submit information as specified in § 622.5(c).

(b) [Reserved]

■ 32. Add § 622.416 to subpart R to read as follows:

**§ 622.416 Restrictions on sale/purchase.**

(a) Spiny lobster harvested in or from the EEZ or adjoining state waters by a vessel that has a valid Federal commercial vessel permit for spiny lobster, as required under § 622.400(a)(1), or a valid Federal tail-separation permit for spiny lobster, as required under § 622.400(a)(2), may be sold or transferred only to a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.400(a)(5).

(b) Spiny lobster harvested in or from the EEZ may be first received by a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.400(a)(5), only from a vessel that has a valid Federal commercial vessel permit for spiny lobster or a valid Federal tail-separation permit for spiny lobster.

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

[Docket No. 120109034-2171-01]

RIN 0648-XD212

**Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Trimester Closure and Trip Limit Adjustments for the Common Pool Fishery**

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** We are closing the Georges Bank cod Trimester Total Allowable Catch Area for the remainder of Trimester 3, through April 30, 2014. Based on our projection, the common pool fishery has caught 97 percent of its Georges Bank cod Trimester 3 total allowable catch, triggering the regulatory requirement to close that area for the remainder of the trimester. This action is intended to prevent an overage of the common pool's Georges Bank cod quota. Because the common pool catch of Georges Bank cod is not limited to the Georges Bank cod Trimester Total Allowable Catch Area, we are reducing the common pool possession and trip limit for the Georges Bank cod stock to zero, in order to prevent the overharvest of the common pool's fishing year 2013 allocation of Georges Bank cod. We are also increasing the common pool possession and trip limit for Southern New England/Mid-Atlantic winter flounder to allow the common pool fishery to catch more of its quota for that stock.

**DATES:** This action is effective April 9, 2014, through April 30, 2014.

**FOR FURTHER INFORMATION CONTACT:** Liz Sullivan, Fishery Management Specialist, 978-282-8493.

**SUPPLEMENTARY INFORMATION:** The regulations at § 648.82(n)(2)(ii) require the Regional Administrator to close the Trimester Total Allowable Catch (TAC) Area for a stock when 90 percent of the Trimester TAC is projected to be caught. The fishing year (FY) 2013 common pool quota for Georges Bank (GB) cod is 32 mt, which is divided into Trimester TACs. The Trimester 3 TAC is 18.2 mt (revised due to underages from Trimesters 1 and 2). Based on the most recent data, which include vessel trip reports (VTRs), dealer-reported landings, and vessel monitoring system

(VMS) information, we estimate that 97 percent of the Trimester 3 TAC for GB cod has been caught. Therefore, effective April 9, 2014, the GB cod Trimester TAC Area is closed for the remainder of Trimester 3, through April 30, 2014, to all owners or operators of common pool vessels fishing with trawl gear, sink gillnet gear, and longline/hook gear. The GB cod Trimester TAC Area includes statistical areas 521, 522, 525, and 561. The GB cod Trimester TAC Area will reopen to common pool vessels fishing with trawl, sink gillnet, or longline/hook gear at the beginning of FY 2014, on May 1, 2014.

The regulations at § 648.86(o) authorize the Regional Administrator to adjust the possession and trip limits for common pool vessels to prevent the overharvest or underharvest of the common pool quotas. Based on data reported through March 25, 2014, the common pool fishery has caught approximately 98 percent of its GB cod sub-annual catch limit (sub-ACL) for FY 2013. Despite the GB cod Trimester TAC Area closure described above, recent analysis shows that catch from outside the Trimester TAC Area would likely cause the common pool to exceed its allocation for GB cod if further action is not taken. Therefore, the possession and trip limit for GB cod, defined as cod caught outside the Gulf of Maine Regulated Mesh Area (as defined in § 648.80(a)(1)), is set to zero for all common pool vessels, effective April 9, 2014, through April 30, 2014.

Common pool groundfish vessels that have declared their trip through the VMS or IVR system, and crossed the VMS demarcation line prior to April 9, 2014, may complete their trip in part, or all, in the GB cod Trimester TAC Area. Additionally, such vessels will not be subject to the new possession and trip limit for that trip.

The regulations at § 648.86(o) authorize the Regional Administrator to adjust the possession limits for common pool vessels in order to prevent the overharvest or underharvest of the common pool quotas. As of March 25, 2014, the common pool has caught 81 percent of its sub-ACL of Southern New England/Mid-Atlantic (SNE/MA) winter flounder. To allow the common pool fishery to catch more of its quota for that stock, effective April 9, 2014, the possession and trip limit of SNE/MA winter flounder, defined as winter flounder caught within the Inshore GB and SNE/MA Broad Stock Areas (as defined in § 648.10(k)(3)(ii) and (iv)) for all common pool vessels, per day-at-sea, is increased from 300 lb (0.14 mt) to 1,000 lb (0.45 mt), with a maximum trip limit of 2,000 lb (0.9 mt). We estimate