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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Parts 622 and 640

[Docket No. 120403251-3787-02]

RIN 0648-BB70

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic

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

ACTION: Final rule.

SUMMARY: NMFS adopts as final with some changes an interim final rule published April 17, 2013, which reorganized the regulations implementing the fishery management plans (FMPs) for the Southeast Region, NMFS, and amended references to the Paperwork Reduction Act (PRA) information-collection requirements. The new part 622 contains regulations implementing management measures contained in the FMPs for the following domestic fisheries in the Caribbean, Gulf of Mexico, and South Atlantic: Caribbean coral, Caribbean reef fish, Caribbean spiny lobster, Caribbean queen conch, Gulf red drum, Gulf reef fish, Gulf shrimp, Gulf coral, Gulf and South Atlantic coastal migratory pelagics, Gulf and South Atlantic spiny lobster, South Atlantic coral, South Atlantic snapper-grouper,

South Atlantic shrimp, Atlantic dolphin and wahoo, South Atlantic golden crab, and South Atlantic pelagic sargassum. The intended effect of this final rule is to improve the organization of these regulations and simplify their use.

DATES: This final rule is effective [insert date of publication in the FEDERAL REGISTER]. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of April 17, 2013.

ADDRESSES: Electronic copies of documents supporting this final rule may be obtained from the Southeast Regional Office Web site at <http://sero.nmfs.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Scott Sandorf, telephone: 727-824-5305 or e-mail: Scott.Sandorf@noaa.gov.

SUPPLEMENTARY INFORMATION: Domestic fisheries in the Caribbean, Gulf of Mexico, and South Atlantic are managed under the FMPs prepared by the Caribbean, Gulf of Mexico, and/or South Atlantic Fishery Management Councils under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.)

On April 17, 2013, NMFS published an interim final rule to reorganize the regulations for the 15 fisheries that had been in part 622, and reorganize and incorporate the part 640 regulations (Gulf and South Atlantic spiny lobster) into part 622 (78 FR 22950). With that incorporation, all Magnuson-

Stevens Act fisheries regulations applicable to the Caribbean, Gulf of Mexico, and South Atlantic are in a single location, part 622. The interim final rule also revised the references for PRA requirements in 15 CFR part 902. The background and rationale for the reorganization were explained in the interim final rule and are not repeated here.

Comments and Responses

NMFS provided a 30-day comment period on the interim final rule for the public to comment on the structure and format of the reorganization of 50 CFR part 622, and not on the regulations currently in effect, which are outside the scope of this rulemaking. NMFS received five comments on the interim final rule, including four comment letters from individuals and one submission from a Federal agency. The Federal agency stated that it had no comment. Two of the comments expressed general support for the reorganization and the other two comments were outside the scope of the rulemaking.

Changes from the Interim Final Rule

Prior to the interim final rule, both part 622 and part 640 contained a general prohibitions section that listed specific management prohibitions. The interim final rule revised this approach by including a generic prohibition under each fishery subpart rather than a list of specific prohibitions. After further consideration during the comment period on the interim

final rule, NMFS decided to include a list of the specific prohibitions in subpart A, instead of including a generic prohibition under each fishery subpart. NMFS has determined that the previous approach is more direct and easier for the public to understand and is not substantively different in its content or applicability. The regulatory text within part 622 is being revised within this final rule to reflect this change.

All other codified text contained in the interim final rule that published on April 17, 2013, remains unchanged.

Classification

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

The Administrator, Southeast Region, NMFS, has determined that this final rule is consistent with the Magnuson-Stevens Act and other applicable laws.

The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause under 5 U.S.C. 553(d)(3) to waive the requirement to delay for 30 days the effectiveness of this rule. Providing a delay of the effectiveness of this rule is unnecessary because this final rule does not make any substantive changes to the regulations. Instead, this final rule makes changes to the reorganizational structure of the regulations implemented in the interim final rule that published on April 17, 2013 (78 FR 22950). Specifically, this final rule

removes the generic prohibitions under each fishery subpart implemented in the interim final rule and adds specific prohibitions in the general prohibitions section in § 622.13, as were in effect before the interim final rule was implemented. NMFS determined that having specific prohibitions in the general prohibitions section is more direct and easier for the public to understand and will avoid confusion. Providing a delay of the effectiveness of this rule is also contrary to the public interest as these regulations are already currently in effect and the intent of the reorganization is to provide the regulations in a format that enhances the public's ability to locate and understand applicable regulatory requirements.

Because prior notice and opportunity for public comment was not required for the interim final 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. were inapplicable. Accordingly, no Regulatory Flexibility Analysis was required and none has been prepared. Additionally, no public comments were received subsequent to publication of the interim final rule regarding this determination and NMFS has not received any new information that would affect this determination.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Gulf of Mexico, Incorporation by reference, Puerto Rico, Reporting and recordkeeping requirements, South Atlantic, Virgin Islands.

Dated: September 12, 2013

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory Programs,
performing the functions and duties of the
Assistant Administrator for Fisheries,
National Marine Fisheries Service.

For the reasons set out in the preamble, the interim final rule amending 15 CFR part 902 and 50 CFR parts 622 and 640 that was published at 78 FR 22950 on April 17, 2013, is adopted as final with the following changes.

50 CFR Chapter VI

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. Section 622.13 is revised to read as follows:

§ 622.13 Prohibitions--general.

In addition to the general prohibitions in § 600.725 of this chapter, it is unlawful for any person to do any of the following:

(a) Engage in an activity for which a valid Federal permit, license, or endorsement is required under this part without such permit, license, or endorsement.

(b) Falsify information on an application for a permit, license, or endorsement or submitted in support of such application, as specified in this part.

(c) Fail to display a permit, license, or endorsement, or other required identification, as specified in this part.

(d) Falsify or fail to maintain, submit, or provide information or fail to comply with inspection requirements or restrictions, as specified in this part.

(e) Fail to make a fish, or parts thereof, available for inspection, as specified in this part.

(f) Falsify or fail to display and maintain vessel and gear identification, as specified in this part.

(g) [Reserved]

(h) [Reserved]

(i) Fail to comply with any requirement or restriction regarding ITQ coupons, as specified in § 622.172.

(j) Possess wreckfish as specified in § 622.172, receive wreckfish except as specified in § 622.172, or offload a wreckfish except as specified in § 622.172.

(k) Transfer -

(1) A wreckfish, as specified in § 622.172;

(2) A limited-harvest species, as specified in this part;

(3) A species/species group subject to a bag limit, as specified in this part;

(4) South Atlantic snapper-grouper from a vessel with unauthorized gear on board, as specified in § 622.188; or

(5) A species subject to a commercial trip limit, as specified in this part.

(l) Use or possess prohibited gear or methods or possess fish in association with possession or use of prohibited gear, as specified in this part.

(m) Fish for, harvest, or possess a prohibited species, or a limited-harvest species in excess of its limitation, sell or purchase such species, fail to comply with release requirements, molest or strip eggs from a lobster, or possess a lobster, or part thereof, from which eggs, swimmerettes, or pleopids have been removed or stripped, as specified in this part.

(n) Fish in violation of the prohibitions, restrictions, and requirements applicable to seasonal and/or area closures, including but not limited to: Prohibition of all fishing, gear restrictions, restrictions on take or retention of fish, fish release requirements, and restrictions on use of an anchor or grapple, as specified in this part or as may be specified under this part.

(o) Harvest, possess, offload, sell, or purchase fish in excess of the seasonal harvest limitations, as specified in this part.

(p) Except as allowed for king and Spanish mackerel and Gulf of Mexico and South Atlantic spiny lobster, possess undersized fish, fail to release undersized fish, or sell or purchase undersized fish, as specified in this part.

(q) Fail to maintain a fish intact through offloading ashore, as specified in this part.

(r) Exceed a bag or possession limit, as specified in this part.

(s) Fail to comply with the limitations on traps and pots, including but not limited to: Tending requirements, constructions requirements, and area specific restrictions, as specified in this part.

(t) Fail to comply with the species-specific limitations, as specified in this part.

(u) Fail to comply with the restrictions that apply after closure of a fishery, sector, or component of a fishery, as specified in this part.

(v) Possess on board a vessel or land, purchase, or sell fish in excess of the commercial trip limits, as specified in this part.

(w) Fail to comply with the restrictions on sale/purchase, as specified in this part.

(x) Interfere with fishing or obstruct or damage fishing gear or the fishing vessel of another, as specified in this part.

(y) Fail to comply with the requirements for observer coverage as specified in this part.

(z) Assault, resist, oppose, impede, intimidate, or interfere with a NMFS-approved observer aboard a vessel.

(aa) Prohibit or bar by command, impediment, threat, coercion, or refusal of reasonable assistance, an observer from conducting his or her duties aboard a vessel.

(bb) Fish for or possess golden crab in or from a fishing zone or sub-zone of the South Atlantic EEZ other than the zone or sub-zone for which the vessel is permitted or authorized, as specified in § 622.241.

(cc) Falsify information submitted regarding an application for testing a BRD or regarding testing of a BRD, as specified in §§ 622.53 and 622.207.

(dd) Make a false statement, oral or written, to an authorized officer regarding the installation, use, operation, or maintenance of a vessel monitoring system (VMS) unit or communication service provider.

(ee) Operate or own a vessel that is required to have a permitted operator aboard when the vessel is at sea or offloading without such operator aboard, as specified in this part.

(ff) When a vessel that is subject to Federal fishing regulations is at sea or offloading, own or operate such vessel with a person aboard whose operator permit is revoked, suspended, or modified.

(gg) Fail to comply with any provision related to a vessel monitoring system (VMS) as specified in this part, including but not limited to, requirements for use, installation, activation, access to data, procedures related to interruption of VMS operation, and prohibitions on interference with the VMS.

(hh) Fail to comply with the protected species conservation measure as specified in this part.

(ii) Fail to comply with any provision related to the IFQ program for Gulf red snapper as specified in § 622.21, or the IFQ program for Gulf groupers and tilefishes as specified in § 622.22.

(jj) Falsify any information required to be submitted regarding the IFQ program for Gulf red snapper as specified in § 622.21, or the IFQ program for Gulf groupers and tilefishes as specified in § 622.22.

(kk) Fail to comply with the Caribbean, Gulf of Mexico, and South Atlantic spiny lobster import prohibitions, as specified in this part.

(ll) Possess a Gulf of Mexico or South Atlantic spiny lobster trap in the EEZ at a time not authorized, as specified in subpart R.

(mm) Harvest or attempt to harvest a Gulf of Mexico or South Atlantic spiny lobster by diving without having and using in the water a measuring device, as specified in subpart R.

(nn) Possess Gulf of Mexico or South Atlantic spiny lobsters aboard a vessel that uses or has on board a net or trawl in an amount exceeding the limits, as specified in subpart R.

(oo) Operate a vessel that fishes for or possesses Gulf of Mexico or South Atlantic spiny lobster in or from the EEZ with spiny lobster aboard in an amount exceeding the cumulative bag and possession limit, as specified in subpart R.

(pp) [Reserved]

(qq) Fail to comply with any other requirement or restriction specified in this part or violate any provision(s) of this part.

§ 622.44 [Removed]

3. Section 622.44 is removed.

§ 622.61 [Removed]

4. Section 622.61 is removed.

§ 622.78 [Removed]

5. Section 622.78 is removed.

§ 622.93 [Removed]

6. Section 622.93 is removed.

§ 622.195 [Removed]

7. Section 622.195 is removed.

§ 622.211 [Removed]

8. Section 622.211 is removed.

§ 622.228 [Removed]

9. Section 622.228 is removed.

§ 622.253 [Removed]

10. Section 622.253 is removed.

§ 622.282 [Removed]

11. Section 622.282 is removed.

§ 622.304 [Removed]

12. Section 622.304 is removed.

§ 622.390 [Removed]

13. Section 622.390 is removed.

§ 622.414 [Removed]

14. Section 622.414 is removed and reserved.

§ 622.441 [Removed]

15. Section 622.441 is removed.

§ 622.460 [Removed]

16. Section 622.460 is removed.

§ 622.475 [Removed]

17. Section 622.475 is removed.

§ 622.498 [Removed]

18. Section 622.498 is removed.

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