

**Author**

The primary author of this notice is Jeffrey A. Humphrey (see **ADDRESSES**).

**Authority**

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531–1544 *et seq.*).

Dated: September 8, 1995.

**Jay L. Gerst,**

*Acting Director, Fish and Wildlife Service.*

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 641**

[Docket No. 950810–206–5224–02; I.D. 082395A]

RIN 0648–AG29

**Reef Fish Fishery of the Gulf of Mexico; Amendment 11**

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

**ACTION:** Proposed rule, request for comments.

**SUMMARY:** NMFS issues this proposed rule to implement Amendment 11 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). Amendment 11 proposes to revise the framework procedure for modifying management measures, change the definition of optimum yield (OY), restrict the sale/purchase of reef fish harvested from the exclusive economic zone (EEZ) to permitted reef fish vessels/dealers, allow transfer of reef fish permits and fish trap endorsements under specified circumstances, implement a new reef fish permit moratorium, and require charter vessel and headboat permits. NMFS, based on a preliminary evaluation of Amendment 11, has disapproved three of the measures in the amendment because they are inconsistent with the Magnuson Fishery Conservation and Management Act (Magnuson Act). The proposed rule would implement the remaining measures in Amendment 11. The intended effects of the proposed rule are to improve procedures for timely management, relieve restrictions and hardships, and enhance enforceability of the regulations.

**DATES:** Written comments must be received on or before October 27, 1995.

**ADDRESSES:** Comments on the proposed rule must be sent to Robert Sadler, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Requests for copies of Amendment 11, which includes an environmental assessment, a regulatory impact review (RIR), and an initial regulatory flexibility analysis (IRFA), should be sent to the Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 331, Tampa, FL 33609.

Comments regarding the collection-of-information requirement contained in this proposed rule should be sent to Edward E. Burgess, Southeast Regional Office, NMFS, 9721 Executive Center Drive, 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:**

Michael E. Justen or Robert Sadler, 813–570–5305.

**SUPPLEMENTARY INFORMATION:** The reef fish fishery of the Gulf of Mexico is managed under the FMP. The FMP was prepared by the Gulf of Mexico Fishery Management Council (Council) and is implemented through regulations at 50 CFR part 641 under the authority of the Magnuson Act.

**Minor Revisions to the FMP's Procedure**

The Council has proposed editorial changes to the FMP's annual procedure for specifying total allowable catch (TAC) to reflect its current practice of Socioeconomic Panel review of the annual stock assessments. The Council also proposes to specify in the procedure that the recovery period will be set by the Council, not the Stock Assessment Panel. These changes are described in Amendment 11 and are not repeated here.

**Allowance for TAC to Exceed Allowable Biological Catch**

The Council has proposed to modify the language of the procedure to allow TAC to exceed the allowable biological catch (ABC) level specified for stocks not assessed as overfished. The purpose of this measure is to allow a digression from maintaining TAC at or below ABC when necessary to address short-term economic or social concerns. The Council's intent is to ease restrictions in setting TAC, and to make the FMP consistent with similar language in the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic.

This measure does not have any time constraints or upper limits for the digression. Application of this approach is risk prone in that it would not assure the prevention of overfishing before the Council could take corrective action. Therefore, NMFS has determined that this measure is inconsistent with National Standard 1 of the Magnuson Act. Accordingly, the Director, Southeast Region, NMFS (Regional Director), finds that this provision must be disapproved under the Magnuson Act and has not included it in this proposed rule.

**Biological Generation Time**

The FMP's procedure provides for specification of a recovery period for each stock up to 1.5 times the biological generation time. The "biological generation time" specified in the FMP is equal to the age at which the average female achieves half of her expected lifetime egg production. Recovery periods longer than 1.5 times the biological generation time may be proposed by amendment to the FMP.

The Council is proposing to increase the upper limit for specification of the recovery period for red snapper from 1.5 to 2.0 times the biological generation time, or other biologically based recovery period developed by the Reef Fish Stock Assessment Panel, Socioeconomic Panel, Scientific and Statistical Committee, and Advisory Panel and approved by the Council. The upper limit of 2.0 times the biological generation time equates to a maximum recovery target year of 2017, assuming a biological generation time for red snapper of 13.6 years (with a natural mortality rate estimate of  $M = 0.2$ ).

The Council selected this alternative because many fishermen are heavily dependent on red snapper, and the increased flexibility will allow greater consideration of social and economic considerations in the recovery schedule for this species.

Given the known overfished state of the red snapper stock, this change increases the chances of a stock collapse in the event of one or more year class recruitment failures rather than assuring the prevention of overfishing. Accordingly, NMFS has determined that this measure is inconsistent with National Standards 1 (prevention of overfishing) and 2 (best available scientific information). Accordingly, the Regional Director finds that this provision must be disapproved under the Magnuson Act and therefore has not included it in this proposed rule.

### Changes to the FMP's Definition of Optimum Yield

The current definition of OY is to stabilize long-term population levels of all reef fish species by establishing a certain survival rate of biomass into the stock of spawning age to achieve at least 20 percent spawning potential ratio (SPR). The Council considered several OY definitions based on the recommendation of the SPR Strategy Committee that OY should not be the same as the definition of overfishing. The Council proposes to set OY based on an SPR level corresponding to  $F_{0.1}$  until an alternative operational definition that optimizes ecological, economic, and social benefits to the Nation has been developed by Reef Fish Stock Assessment Panel, Socioeconomic Panel, Scientific and Statistical Committee, and Reef Fish Advisory Panel, and approved by the Council. Under current management conditions, SPR at  $F_{0.1}$  is approximately 34 percent for red snapper, 46 percent for red grouper, and 48 percent for gag.

The proposed management regime sets OY for each stock based on a spawning potential ratio (SPR) level corresponding to  $F_{0.1}$  until an alternative operational definition that optimizes ecological, economic and social benefits to the Nation has been developed. However, the Southeast Fisheries Science Center (SEFSC) has determined that the analysis underlying this OY definition is incomplete. For example, the Council's document failed to address the relationship between this formula and the issues of bycatch and minimum size. A complete analysis of the impact of bycatch and minimum size on the formula would reveal extreme ranges in SPR targets from year to year, causing significant instability in the fishery. Without a thorough review of the impacts of this proposed OY definition, this information cannot be considered the best scientific information available. Therefore, NMFS has determined that this measure is inconsistent with National Standard 2. Accordingly, the Regional Director finds that this provision must be disapproved under the Magnuson Act and it is not included in this proposed rule.

Use of  $F_{0.1}$  to define OY also would be inconsistent with National Standard 1. Under National Standard 1, the most important limitation on the specification of OY is that the choice of OY, and the conservation and management measures designed to achieve it, must prevent overfishing. Since use of  $F_{0.1}$  is not appropriate for the reef fish fisheries, there is no assurance that the choice of OY and the

conservation and management measures selected to achieve OY will actually prevent overfishing.

### Restrictions on Reef Fish Transactions

To ensure that catches of reef fish are properly tracked, the sale of reef fish harvested by a vessel with a Federal commercial permit would be allowed only to a federally permitted dealer. A federally permitted dealer would be allowed to purchase reef fish harvested in the EEZ only from a vessel with a Federal commercial reef fish permit. These requirements would: (1) Improve quota monitoring by providing a census of reef fish dealers; (2) enhance the enforceability of the dealer and vessel permit requirements; and (3) aid in verifying required vessel logbook submissions.

### Transfer of Fish Trap Endorsements

Currently, transfer of a fish trap endorsement is allowed upon change of ownership of a vessel with a fish trap endorsement from one to another of the following: Husband, wife, son, daughter, brother, sister, mother, or father. No provisions are made for permanent or temporary transfers of fish trap endorsements when a vessel with such endorsement has a change of ownership that is directly related to the disability or death of the owner. The Council has learned of hardships that have resulted from the non-transferability of fish trap endorsements upon the disability or death of the vessel owner. To alleviate such hardships, the Council proposes that the Regional Director have authority to transfer or revise the fish trap endorsements, either temporarily or permanently, upon the disability or death of such owner. Transfer/revision would be in accordance with instructions of the owner or his/her legal guardian, in the case of a disabled owner, or of the will or executor of the estate, in the case of a deceased owner.

### One-time Transfer of Fish Trap Endorsements

The regulations implementing Amendment 5 (59 FR 966, January 7, 1994) established a fish trap endorsement to the vessel permit that allowed use of fish traps by certain fishermen and established a 3-year moratorium on the issuance of additional endorsements, effective February 7, 1994. To qualify for the endorsement, persons must have had logbook records of landings of reef fish from traps during the period 1991 through November 19, 1992. Some persons who had invested in gear and vessels to participate in the trap fishery, but had not participated prior to

November 19, 1992, were denied the privilege of fishing in that fishery. Amendment 11 would allow a one-time transfer of fish trap endorsements in effect on September 12, 1995, to vessels with a commercial vessel permit whose owners have a record of landings of reef fish from traps in the EEZ, as reported on fishing vessel logbooks received by the Science and Research Director from November 20, 1992, through February 6, 1994. The proposed transfer of current endorsements, some of which are not being used to fish traps, would provide the opportunity to participate in the fish trap fishery for the duration of the moratorium to persons who entered the fishery without being aware of the impending moratorium and were subsequently excluded.

### Moratorium on Reef Fish Commercial Vessel Permits

The current moratorium on issuance of new commercial vessel permits in the reef fish fishery is scheduled to end on December 31, 1995. Amendment 11 proposes a new moratorium while the Council considers limited access for the reef fish fishery. Commercial permits under the new moratorium would be restricted initially to vessels whose permits are eligible for renewal on December 31, 1995. Under the proposed new moratorium, an owner whose earned income qualified for the permit may transfer the permit to the owner of another vessel or to a person purchasing the commercially permitted vessel. Such new owner may receive a commercial permit for that vessel, and renew it for the first calendar year after obtaining it, without meeting the earned income requirement. However, to renew the commercial vessel permit for the second calendar year after the transfer, the new owner must meet the earned income requirement not later than the first calendar year after the vessel acquires the permit.

The proposed moratorium would continue for up to 5 years, that is, through not later than December 31, 2000, while the Council considers a permanent limited access system for the reef fish fishery. Section 303 of the Magnuson Act provides that the Council may establish a system for limiting access to the fishery in order to achieve OY if, in developing such system, the Council takes into account several factors. As the proposed moratorium has implications of limited access, Amendment 11 contains the Council's determinations on those factors.

### Charter Vessel and Headboat Permits

Currently, permits are required to operate as charter vessels or headboats

in the EEZ under the FMP for coastal migratory pelagic resources, but not for reef fish. Amendment 11 proposes that reef fish charter vessels and headboats be required to obtain annual permits. Such permits would aid in monitoring this segment of the fishery and in identifying vessels that may qualify for the 2 day possession limit applicable to charter vessels and headboats under certain conditions. Other benefits include: Use of permit sanctions for curbing the activities of repeat offenders, efficient deployment of enforcement resources, and improvement of basic statistics for use in assessing impacts of alternative regulations.

The Council suggested that, as a criterion for charter vessel/headboat permits, such vessels must possess the appropriate licenses required by the state from which it operates. All of the Gulf states have license requirements. NMFS concurs with the aim of ensuring compatibility of state and Federal requirements in this regard, but finds this suggestion to be unnecessarily burdensome. To put it into effect, the Regional Director would have to know and apply the licensing requirements of each of the five Gulf states. In lieu of such criterion, the Regional Director will periodically advise the appropriate authorities of each state of charter vessel/headboat permits issued for vessels of that state. Each state may then take appropriate action under its authority.

The Council wishes to advise charter vessel and headboat owners and operators that income requirements may be considered as a criterion for charter vessel/headboat permits in a future amendment to the FMP.

#### Availability of Amendment 11

Additional background and rationale for the measures discussed above are contained in Amendment 11, the availability of which was announced in the **Federal Register** (60 FR 45392, August 31, 1995).

#### Classification

Section 304(a)(1)(D) of the Magnuson Act requires NMFS to publish regulations proposed by a Council within 15 days of receipt of an amendment and regulations. At this time, NMFS has not determined that Amendment 11 is consistent with the national standards, other provisions of the Magnuson Act, and other applicable laws, except for those parts of Amendment 11 specifically disapproved, as discussed above. NMFS, in making that determination with respect to the remaining parts of

Amendment 11, will take into account the data, views, and comments received during the comment period.

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

The Council prepared an IRFA as part of the RIR, which describes the impacts this proposed rule would have on small entities, if adopted. The impacts are summarized as follows:

All of the commercial and charter vessel/headboat businesses are small entities that would be affected by one or more of the actions in the proposed rule. In terms of revenues and costs:

(1) The restrictions on reef fish transactions between permitted vessels and permitted dealers would marginally decrease revenues and increase costs; (2) the reduction of restrictions on transfer of fish trap endorsements would increase revenues to fish trappers; (3) the charter vessel/headboat permit requirement would increase costs for that sector; and (4) the new permit moratorium would affect the revenues of current commercial operators in a positive manner relative to the status quo.

Under the status quo, the current permit moratorium would cease and a larger number of entrants to the fishery would be expected. This would tend to decrease the revenues of current participants by more than 5 percent, although neither the number of new entrants nor their combined levels of efforts can be estimated. Hence, the new moratorium can be considered to have a positive effect on revenues greater than 5 percent. No entities are expected to be forced to cease operations. A copy of the IRFA is available from the Council (see ADDRESSES).

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act. This requirement has been submitted to OMB for approval. Specifically, applications would be required for charter vessel/headboat permits. The public reporting burden for this collection of information is estimated to average 20 minutes per response. This rule revises the collections of information relating to applications for commercial vessel permits and applications for fish trap endorsements, which are currently approved under OMB Control No. 0648-0205 and have public reporting burdens estimates of 20 minutes per response, each. Their reporting burden estimates are unchanged. This rule repeats the collection of information requirement for dealer permits, which is currently approved under OMB Control No. 0648-0205 and has a public reporting burden estimate of 5 minutes per response.

Each of the above reporting burden estimates includes 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 any of these reporting burden estimates or any other aspects of the collections of information, including suggestions for reducing the burdens, to NMFS and OMB (see ADDRESSES).

#### List of Subjects in 50 CFR Part 641

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: September 6, 1995.

**Gary Matlock,**

*Program Management Officer, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 641 is proposed to be amended as follows:

#### PART 641—REEF FISH FISHERY OF THE GULF OF MEXICO

1. The authority citation for part 641 continues to read as follows:

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

2. In § 641.4, paragraphs (o) and (p) are removed; paragraphs (a) and (b), the first sentence of paragraph (f)(1), the first sentence of paragraph (h), paragraphs (m) and (n) are revised to read as follows:

#### § 641.4 Permits and fees.

(a) *Applicability*—(1) *Commercial vessel permits.*

(i) As a prerequisite to selling reef fish in or from the EEZ and to be eligible for exemption from the bag limits specified in § 641.24(b) for reef fish in or from the EEZ, an annual commercial vessel permit for reef fish must be issued to the vessel and must be on board. However, see paragraph (m) of this section regarding a moratorium on commercial vessel permits.

(ii) To obtain or renew a commercial vessel permit, the owner or operator of the vessel must have derived more than 50 percent of his or her earned income from commercial fishing, that is, sale of the catch, or from charter or headboat operations during either of the 2 calendar years preceding the application. (See paragraph (m)(3) of this section for a limited exception to this requirement.) For a vessel owned by a corporation or partnership, the earned income requirement must be met by an officer or shareholder of the corporation, a general partner of the partnership, or the vessel operator. A commercial vessel permit issued upon the qualification of

an operator is valid only when that person is the operator of the vessel.

(iii) A qualifying owner or operator of a charter vessel or headboat may obtain a commercial vessel permit. However, a charter vessel or headboat must adhere to the bag limits when operating as a charter vessel or headboat.

(2) *Fish trap endorsements.* To possess or use a fish trap in the EEZ, a commercial vessel permit for reef fish with a fish trap endorsement must be issued to the vessel and must be on board. However, see paragraph (n) of this section regarding a moratorium on fish trap endorsements. In addition, a color code for marking the vessel and trap buoys must be obtained from the Regional Director—see § 641.6.

(3) *Charter vessel/headboat permits.* For a person on board a charter vessel or headboat to fish for or possess a reef fish in or from the EEZ, a charter vessel/headboat permit for reef fish must be issued to the vessel and must be on board.

(4) *Dealer permits.* A dealer who receives from a fishing vessel reef fish harvested from the EEZ must obtain an annual dealer permit. To be eligible for such permit, an 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) *Application for a vessel permit.* (1) An application for a commercial vessel permit or a charter vessel/headboat permit must be submitted to the Regional Director and signed by the owner (in the case of a corporation, a qualifying officer or shareholder; in the case of a partnership, a qualifying general partner) or operator of the vessel. After receipt of a complete application, at least 30 days must be allowed for processing the application and issuing a permit. All permits are mailed to owners, whether the applicant is an owner or an operator.

(2) An applicant must provide the following:

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

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

(iii) The name, address, telephone number, and other identifying information of the owner and of the applicant, if other than the owner.

(iv) Any other information concerning the vessel, gear characteristics, principal fisheries engaged in, or fishing areas requested by the Regional Director.

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

(3) In addition, an applicant for a commercial vessel permit—

(i) Must provide documentation of earned income that meets the criteria of paragraph (a)(1)(ii) of this section; and

(ii) If fish traps will be used to harvest reef fish, must provide the following information:

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

(B) The applicant's desired color code for use in identifying his or her vessel and buoys (white is not an acceptable color code).

\* \* \* \* \*

(f) \* \* \* (1) The Regional Director will issue a permit at any time to an applicant if the application is complete and, in the case of an application for a commercial vessel permit, the applicant meets the earned income requirement specified in paragraph (a)(1)(ii) of this section. \* \* \*

\* \* \* \* \*

(h) \* \* \* A vessel permit or endorsement or dealer permit issued under this section is not transferable or assignable, except as provided under paragraph (m) of this section for a commercial vessel permit or as provided under paragraph (n) of this section for a fish trap endorsement. \* \* \*

\* \* \* \* \*

(m) *Moratorium on commercial vessel permits.* This paragraph (m) is effective through December 31, 2000.

(1) Except for an application for renewal of an existing commercial vessel permit or as provided in paragraphs (m)(2) and (m)(3) of this section, no applications for commercial vessel permits will be accepted.

(2) An owner of a permitted vessel may transfer the commercial vessel permit to another vessel owned by the same entity by returning the existing permit with an application for a commercial vessel permit for the replacement vessel.

(3) An owner whose earned income qualified for the commercial vessel permit may transfer that permit to the owner of another vessel or to the new owner when he or she sells the permitted vessel. The owner of a vessel that is to receive the transferred permit must return the existing permit to the Regional Director with an application for a commercial vessel permit for his or her vessel. Such new owner may receive a commercial vessel permit for that vessel, and renew it for the first calendar year after obtaining it, without meeting the earned income requirement

of paragraph (a)(1)(ii) of this section. However, to renew the commercial vessel permit for the second calendar year after the transfer, the new owner must meet that earned income requirement not later than the first calendar year after the permit transfer takes place.

(4) A commercial vessel permit that is not renewed or that is revoked will not be reissued. A permit is considered to be not renewed when an application for renewal is not received by the Regional Director within 1 year of the expiration date of the permit.

(n) *Moratorium on fish trap endorsements.* The provisions of this paragraph (n) are effective through February 7, 1997.

(1) A fish trap endorsement will not be issued or renewed unless the current owner of the commercially permitted vessel for which the endorsement is requested has a record of landings of reef fish from fish traps in the EEZ of the Gulf of Mexico during 1991 or 1992, as reported on fishing vessel logbooks received by the Science and Research Director on or before November 19, 1992. An owner will not be issued fish trap endorsements for vessels in numbers exceeding the number of vessels for which the owning entity had the requisite reported landings in 1991 or 1992.

(2) An owner of a vessel with a fish trap endorsement may transfer the endorsement to another vessel owned by the same entity by returning the existing endorsement with an application for an endorsement for the replacement vessel.

(3) A fish trap endorsement is not transferable upon change of ownership of a vessel with a fish trap endorsement, except as follows:

(i) A fish trap endorsement is transferable when the change of ownership of the permitted vessel is from one to another of the following: Husband, wife, son, daughter, brother, sister, mother, or father.

(ii) In the event that a vessel with a fish trap endorsement has a change of ownership that is directly related to the disability or death of the owner, the Regional Director may issue a fish trap endorsement, temporarily or permanently, with the reef fish commercial permit that is issued for the vessel under the new owner. Such new owner will be the person specified by the owner or his/her legal guardian, in the case of a disabled owner, or by the will or executor/administrator of the estate, in the case of a deceased owner. (Change of ownership of a vessel with a commercial reef fish permit upon disability or death of an owner is

considered a purchase of a permitted vessel and paragraph (m)(3) of this section applies regarding a commercial reef fish permit for the vessel under the new owner.)

(4) A fish trap endorsement in effect on September 12, 1995, may be transferred to a vessel with a commercial vessel permit whose owner has a record of landings of reef fish from fish traps in the EEZ, as reported on fishing vessel logbooks received by the Science and Research Director from November 20, 1992, through February 6, 1994, and who was unable to obtain a fish trap endorsement under paragraph (n)(1) of this section. The owner of a vessel that is to receive the transferred endorsement must return the currently endorsed commercial permit and the unendorsed permit to the Regional Director with an application for a fish trap endorsement for his or her vessel. Revised commercial permits will be returned to each owner.

(5) If a fish trap endorsement is transferred under paragraph (n)(3) or (n)(4) of this section, the owner of the vessel to which the endorsement is transferred may renew the endorsement without regard to the requirement of paragraph (n)(1) of this section regarding a record of landing of reef fish from fish traps.

(6) A fish trap endorsement that is not renewed or that is revoked will not be reissued. A fish trap endorsement is considered to be not renewed when an application for renewal is not received by the Regional Director within 1 year of the expiration date of the permit.

#### § 641.5 [Amended]

3. In § 641.5, in the first sentence of paragraph (c), the phrase "reef fish

permit" is removed and the phrase "commercial reef fish permit" is added in its place.

4. In § 641.7, paragraphs (a), (y), and (bb) are revised, paragraphs (cc) and (dd) are redesignated as paragraphs (ee) and (ff), respectively, and new paragraphs (cc) and (dd) are added to read as follows:

#### § 641.7 Prohibitions.

\* \* \* \* \*

(a) Falsify information specified in § 641.4(b) or (c) on an application for a permit or endorsement, or information regarding transfer or revision of a permit or endorsement.

\* \* \* \* \*

(y) Use or possess in the EEZ a fish trap without a valid fish trap endorsement, as specified in § 641.4(a)(2).

\* \* \* \* \*

(bb) Receive from a fishing vessel, by purchase, trade, or barter, without a dealer permit, reef fish harvested from the EEZ, as specified in § 641.4(a)(4).

(cc) Sell, trade, or barter or attempt to sell, trade, or barter reef fish harvested on board a vessel for which a commercial permit has been issued under § 641.4 to a dealer that does not have a permit issued under § 641.4, as specified in § 641.28(a).

(dd) As a permitted dealer, purchase, trade, or barter or attempt to purchase, trade, or barter reef fish harvested on board a vessel that does not have a commercial permit issued under § 641.4, as specified in § 641.28(b).

\* \* \* \* \*

5. Sections 641.28 and 641.29 are redesignated as §§ 641.29 and 641.30,

respectively, and new § 641.28 is added to read as follows:

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

(a) A reef fish harvested in the EEZ by a vessel that does not have a valid commercial permit, as required by § 641.4(a)(1), or possessed under the bag limits specified in § 641.24(b), may not be purchased, bartered, traded, or sold, or attempted to be purchased, bartered, traded, or sold.

(b) A reef fish harvested on board a vessel for which a valid commercial permit has been issued under § 641.4 may be sold, traded, or bartered or attempted to be sold, traded, or bartered only to a dealer who has a valid permit issued under § 641.4.

(c) A reef fish harvested in the EEZ may be purchased, traded, or bartered or attempted to be purchased, traded, or bartered by a dealer who has a valid permit issued under § 641.4 only from a vessel for which a valid commercial permit has been issued under § 641.4.

#### §§ 641.2, 641.23, 641.24, 641.25, and 641.27 [Amended]

6. In addition to the amendments set forth above, in 50 CFR part 641 remove the word "permit" and add, in its place, the words "commercial permit" in the following places:

(a) Section 641.2 in the definitions of "Charter vessel" and "Headboat";

(b) Section 641.23(d)(2)(iii);

(c) Section 641.24(a)(1)(ii)(A);

(d) Section 641.25 introductory text; and

(e) Section 641.27(a).

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