

FOR FURTHER INFORMATION CONTACT:

Regina L. Spallone, Fishery Policy Analyst, 508-281-9221.

SUPPLEMENTARY INFORMATION:

Regulations implementing Amendment 2 to the Fishery Management Plan for the Summer Flounder Fishery (FMP) are found at 50 CFR part 625. The regulations require annual specification of a commercial quota that is apportioned among the coastal states from North Carolina through Maine. The process to set the annual commercial quota and the percentage allocated to each state is described in § 625.20.

The commercial quota for summer flounder for the 1995 calendar year was set equal to 14,690,407 lb (6,663,456 kg), and the allocations to each state were published February 16, 1995 (60 FR 8958). At that time, Maryland was allocated a quota of 299,551 lb (135,874 kg), and New York was allocated a quota of 1,123,374 lb (509,554 kg). On November 17, 1995, Maryland transferred 50,000 lb (22,680 kg) of its commercial quota to New York (60 FR 57685). As a result of that transfer, the commercial quotas for Maryland and New York were set to equal 249,551 lb (113,194 kg), and 1,173,374 lb (532,233 kg), respectively.

The final rule implementing Amendment 5 to the FMP was published December 17, 1993 (58 FR 65936), and allows two or more states, under mutual agreement and with the concurrence of the Director, Northeast Region, NMFS (Regional Director), to transfer or combine summer flounder commercial quota. The Regional Director is required to consider the criteria set forth in § 625.20(f)(1), in the evaluation of requests for quota transfers or combinations.

Section 625.20(f)(3) further states that a state may not submit a request to transfer or combine quota if a request to which it is a party is pending before the Regional Director. While New York is receiving two transfers from Maryland, the Regional Director considered and approved the first transfer request before the second transfer request was submitted. For efficiency's sake, these two transfers are being filed together.

Maryland has agreed to make two additional transfers of commercial quota to New York. The first is for 30,000 lb (13,608 kg) and the second for 20,000 lb (9,072 kg). The original transfer of 30,000 lb (13,608 kg) was arranged to prevent a state closure and allow federally-permitted vessels to land summer flounder that would otherwise be discarded. Subsequently, landings reports indicated that 30,000 lb (13,608 kg) would not be sufficient to prevent a

closure, and therefore, a second transfer was agreed upon. As a result, NMFS is filing these transfers totalling 50,000 lb (22,680 kg). The Regional Director has determined that the criteria set forth in § 625.20(f)(1) have been met, and publishes this notification of quota transfers. The revised quotas for the calendar year 1995 are: Maryland, 199,551 lb (90,515 kg); and New York, 1,223,374 lb (554,913 kg).

This action does not alter any of the conclusions reached in the environmental impact statement prepared for Amendment 2 to the FMP regarding the effects of summer flounder fishing activity on the human environment. Amendment 2 established procedures for setting an annual coastwide commercial quota for summer flounder and a formula for determining commercial quotas for each state. The quota transfer provision was established by Amendment 5 to the FMP and the environmental assessment prepared for Amendment 5 found that the action had no significant impact on the environment. Under section 6.02b.3(b)(i)(aa) of NOAA Administrative Order 216-6, this action is categorically excluded from the requirement to prepare additional environmental analyses. This is a routine administrative action that reallocates commercial quota within the scope of previously published environmental analyses.

Classification

This action is taken under 50 CFR part 625 and is exempt from review under E.O. 12866.

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

Dated: December 12, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

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50 CFR Part 641

[Docket No. 95081020-5286-04; I.D. 082395A]

RIN 0648-AG29

Reef Fish Fishery of the Gulf of Mexico; Amendment 11; OMB Control Numbers

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement certain provisions of Amendment 11 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). These provisions revise the framework procedure for modifying management measures, 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. In addition, NMFS informs the public of the approval by the Office of Management and Budget (OMB) of the collection-of-information requirement contained in this rule. The intended effects of the final rule are to improve procedures for timely management, relieve restrictions and hardships, and enhance enforceability of the regulations.

EFFECTIVE DATES: The amendments in this rule are effective January 1, 1996, except for the amendments to, or additions of, the following sections, which are effective April 1, 1996: In § 641.4, paragraph (a)(3), the new paragraph (o), and the second amendment of paragraph (a)(4); in § 641.7, paragraphs (g), (r), and (x), (gg), and (jj)(1), and the second amendment of paragraph (bb); § 641.10, paragraphs (b)(4), (b)(6), and (b)(7).

ADDRESSES: Comments regarding the collection-of-information requirement contained in this rule should be sent to Edward E. Burgess, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702 and to the Office of Information and Regulatory Affairs, 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 Fishery Conservation and Management Act (Magnuson Act).

Based on a preliminary evaluation of Amendment 11 at the beginning of formal agency review, NMFS disapproved three of its measures after determining that they were inconsistent with the provisions of the Magnuson Act and other applicable law. NMFS published a proposed rule to implement

the remaining measures of Amendment 11 (60 FR 47341, September 12, 1995). The rationale for the remaining measures of Amendment 11, as well as the reasons for the disapproval of the three Amendment 11 measures at the beginning of formal agency review, are contained in the preamble of the proposed rule and are not repeated here. On November 24, 1995, NMFS approved the remaining measures of Amendment 11; this final rule implements those approved measures.

Comments and Responses

Eight individuals submitted comments on Amendment 11 and the proposed rule as follows.

Comment: One commenter opposed allowing fish trap endorsements to be transferred. This final rule permits a fish trap endorsement in effect on September 12, 1995, to be transferred to an otherwise ineligible vessel if that vessel participated in the fishery and reported landings of reef fish from traps in the EEZ from November 20, 1992, through February 6, 1994. The commenter noted that NMFS had provided information on the moratorium prior to these fishermen entering the fishery. Therefore, these fishermen should have known that they may be ineligible for a fish trap endorsement under Amendment 5 and should not be allowed to qualify for a transfer under Amendment 11.

Response: NMFS agrees that proper notice of the moratorium was provided. However, the Council is free to revisit previously decided issues any time new information or considerations become available. Indeed, as noted on page 29 of Amendment 11, whatever permanent measure replaces the moratorium may be more restrictive, including a possible ban on fish traps altogether. However, the amendment further states that some of the current fish trap endorsements are not being used, and certain fishermen invested in gearing up for this fishery unaware of the moratorium notwithstanding its widespread announcement. The limited ability to transfer which is implemented here will restrain effort at the level which the Council previously established, yet provide an equitable resolution of these issues.

Comment: One commenter indicated that the new reef fish permit moratorium on January 1, 1996, would prohibit him from entering the fishery. Therefore, the start of the new moratorium should occur after a window of opportunity was provided for him to get a reef fish permit.

Response: The existing reef fish permit moratorium, which was imposed to prevent continued speculative entry

while the Council considered other reef fish effort management alternatives, expires on December 31, 1995. The alternative for red snapper chosen by the Council and approved by NMFS, was contained in Amendment 8, which established an individual transferable quota system. The Council is now considering establishing a limited access system for the other species in the reef fish complex. The Council determined that imposing a new moratorium effective upon expiration of the old moratorium was needed to stabilize participation in the fishery during these considerations. The Council considered options, including allowing the moratorium to expire, but felt that this would unnecessarily disrupt the fishery. The Council also recognized that the new moratorium should not be continued indefinitely. In Amendment 11, the Council proposed and NMFS implemented a new moratorium to be in effect for not more than 5 years, that is, through December 31, 2000.

Comment: Three commenters supported the one-time transfer of existing fish trap endorsements.

Response: NMFS agrees with these commenters and has approved these management measure for the reasons previously stated.

Comment: Four commenters supported allowing the transfer of reef fish permits and two supported allowing the transfer of fish trap endorsements in the event of death or disability.

Response: NMFS agrees with these comments and has approved these management measures.

Comment: One commenter objected to the charter vessel/headboat permit requirement. The commenter believes that (1) the current regulations adequately define when a vessel is operating as a charter vessel or headboat and (2) headboats can be readily identified by their required U.S. Coast Guard Certificate of Inspection.

Response: NMFS does not dispute the information contained in the comment. For-hire vessels (i.e., charter vessels and headboats) constitute an important part of the recreational fishery for reef fish. However, accurate information is not available on how many for-hire vessels are engaged in the reef fish fishery. As stated in Amendment 11, the Council perceives the following benefits of a charter vessel/headboat permit: (1) Determination of the number and distribution of charter vessels/headboats, (2) compilation of a mailing list that could be used to distribute information of interest to the recreational fishery, (3) identification of

the universe of recreational for-hire vessels in the event that logbooks or other data collection systems are implemented or that limited access for the recreational for-hire sector of the fishery is implemented, and (4) creation of a means of curbing the activities of repeat violators, that is, through permit sanctions. Accordingly, NMFS implemented the Council's requirement for charter vessel/headboat permits.

Comments Outside the Scope of the Proposed Rule

Comment: One commenter supported the 2.0 biological generation time provision for the framework procedure that was previously disapproved by NMFS based on a preliminary review of Amendment 11. The commenter felt that the existing 1.5 generation time limit was arbitrary.

Response: NMFS disapproved this provision based on a preliminary review of Amendment 11. This comment, therefore, is outside the scope of the proposed rule.

Changes from the Proposed Rule

Publication of the final rule to implement Amendment 8 to the FMP (60 FR 61200, November 29, 1995) requires changes from the proposed rule in this final rule. In this final rule, some of the changes that are effective January 1, 1996, recodify, restate, or otherwise modify paragraphs that are being changed in the Amendment 8 final rule with an effective date of April 1, 1996. For clarity, this final rule contains revisions/additions, effective April 1, 1996, that supersede revisions/additions contained in the final rule to implement Amendment 8 that were to be effective April 1, 1996, as follows: (1) Amendment 8's revised first sentence of § 641.4(a)(2) is superseded by this final rule's revised first sentence of § 641.4(a)(4); (2) Amendment 8's revised § 641.7(g), (r), and (bb) are superseded by this final rule's § 641.7(g), (r), and (bb); and (3) Amendment 8's added § 641.7(q) is superseded by this final rule's added § 641.7(o).

For compatibility with the final rule to implement Amendment 8, this final rule changes the designation of paragraphs in § 641.7.

At § 641.4(a)(3), the requirement for a charter vessel/headboat permit is clarified. A vessel that is used as a charter vessel or headboat in a fishery other than reef fish is not required to have a reef fish charter vessel/headboat permit, in addition to its reef fish commercial permit, to fish for reef fish under the commercial quota. A prohibition is added at § 641.7(x)

regarding the requirement for charter vessel/headboat permits.

At § 641.4(n)(4), the criteria for eligibility to receive a transferred fish trap endorsement is clarified. An owner of a vessel that had qualifying landings for such transfer may obtain by transfer a fish trap endorsement for that vessel even if the owner currently has a fish trap endorsement based on the landings of another vessel.

This final rule removes § 641.24(g). The management measure currently in § 641.24(g) is included in § 641.28(a) in this final rule.

Classification

The Regional Director, Southeast Region, NMFS, determined that Amendment 11 is necessary for the conservation and management of the reef fish fishery of the Gulf of Mexico and that it is consistent with the Magnuson Act and other applicable law, with the exception of those measures that were previously disapproved. (See the proposed rule (60 FR 47341, September 12, 1995) for a discussion of the disapproved measures.)

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

The Council prepared an initial regulatory flexibility analysis (IRFA) as part of its regulatory impact review of Amendment 11. The IRFA described the impacts the proposed rule would have on small entities, if adopted. Those impacts were summarized in the proposed rule. NMFS has adopted the IRFA as a final regulatory flexibility analysis without change.

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 Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act, specifically, applications for charter vessel/headboat permits. This collection has been approved by OMB under OMB control number 0648-0205. 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 number 0648-0205 and have public reporting burdens estimates of 20 minutes per response, each. The reporting burden

estimates are unchanged. This rule repeats the collection-of-information requirement for dealer permits, which is currently approved under OMB control number 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).

The provisions in this final rule that implement a new reef fish permit moratorium must be effective January 1, 1996, immediately following the current permit moratorium. Otherwise, the number of vessels with reef fish permits could increase, thus subverting the intended effects of the new moratorium, as discussed in Amendment 11 and the proposed rule. Accordingly, under section 553(d)(3) of the Administrative Procedure Act (APA), the Assistant Administrator for Fisheries, NOAA (AA), finds for good cause that it is contrary to the public interest to delay for 30 days the effective date of the provisions for a new reef fish permit moratorium.

The provisions in this final rule that allow transfer of reef fish permits and fish trap endorsements relieve restrictions. Accordingly, under section 553(d)(1) of the APA, a 30-day delay in effectiveness of these provisions is not required.

All permitted reef fish dealers and all owners of permitted reef fish vessels were advised in writing on or about December 1, 1995, that the provisions in this final rule that restrict the sale/purchase of reef fish harvested from the EEZ to permitted reef fish vessels/dealers would be implemented on January 1, 1996. Thus, actual notice approximately 30 days prior to effectiveness has been provided to persons affected. In view of the proliferation of effective dates for changes to the reef fish regulations under Amendments 8 and 11, that is, November 24, 1995, and April 1, 1996, under Amendment 8 and January 1 and April 1, 1996, under Amendment 11, avoidance of yet another effective date is highly desirable for ease of understanding and transition to the new management measures for reef fish. Accordingly, under section 553(d)(3) of the APA, the AA finds for good cause that it is contrary to the public interest

to delay for 30 days the effective date of the restrictions on sale/purchase of reef fish harvested from the EEZ.

To allow time for the dissemination, completion, receipt, and processing of applications, and for issuance of permits, NMFS makes the provisions of this final rule requiring charter vessel/headboat permits effective on April 1, 1996.

List of Subjects in 50 CFR Part 641

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: December 7, 1995.

Rolland A. Schmittin,

*Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 641 is 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), and paragraphs (m) and (n) are revised to read as follows. (Note: This amendment supersedes the amendment to § 641.4(a)(2) that was published on November 29, 1995 (60 FR 61207).)

§ 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) [Reserved]

(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 fish trap endorsement 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 for such vessel 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.

3. In § 641.4, effective April 1, 1996, paragraphs (a)(3) and (o) are added, and the first sentence of newly revised paragraph (a)(4) is revised to read as follows:

§ 641.4 Permits and fees.

(a) * * *

(3) *Charter vessel/headboat permits.*

For a person on board a vessel that is operating as 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) * * * A dealer who receives from a fishing vessel reef fish harvested from the EEZ, or red snapper from adjoining state waters harvested by or possessed on board a vessel with a commercial permit issued under this section, must obtain an annual dealer permit. * * *

(o) *Permit conditions.* (1) As a condition of a commercial vessel permit issued under this section, without regard to where red snapper are harvested or possessed, a vessel with a commercial permit—

(i) Must comply with the red snapper individual transferrable quota requirements of § 641.10(b).

(ii) May not transfer or receive red snapper at sea.

(iii) Must maintain red snapper with head and fins intact through landing, and the exceptions to that requirement contained in § 641.21(b)(3) and (b)(4) do not apply to red snapper. Such red snapper may be eviscerated, gilled, and scaled but must otherwise be maintained in a whole condition.

(2) As a condition of a dealer permit issued under this section, without regard to where red snapper are harvested or possessed, a permitted dealer must comply with the red snapper individual transferrable quota requirements of § 641.10(b).

§ 641.5 [Amended]

4. 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.

5. In § 641.7, paragraphs (a), (s), (y), and (bb) are revised and new paragraphs (ll) and (mm) 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.

* * * * *

(s) Purchase, barter, trade, or sell, or attempt to purchase, barter, trade, or sell, a reef fish—

(1) Harvested from the EEZ by a vessel that does not have a valid commercial permit, or

(2) Possessed under the bag limits—as specified in § 641.28(a).

* * * * *

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

* * * * *

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

* * * * *

(ll) 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(b).

(mm) 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(c).

6. In § 641.7, effective April 1, 1996, paragraphs (g), (r), and newly revised (bb) are revised and paragraph (x) is added to read as follows:

§ 641.7 Prohibitions.

* * * * *

(g) Possess a finfish without its head and fins intact, as specified in § 641.21(b); or a red snapper without its head and fins intact, as specified in § 641.4(o)(1)(iii).

* * * * *

(r) Transfer reef fish at sea, as specified in § 641.24(f); or transfer or receive red snapper at sea, as specified in § 641.4(o)(1)(ii).

* * * * *

(x) Own or operate a vessel that fishes for or possesses reef fish in or from the EEZ, when such vessel is operating as a charter vessel or headboat without a charter vessel/headboat permit, as specified in § 641.4(a)(3).

* * * * *

(bb) Without a dealer permit, receive from a fishing vessel, by purchase, trade, or barter, reef fish harvested from the EEZ, or red snapper from adjoining state waters harvested by or possessed on board a vessel with a commercial permit, as specified in § 641.4(a)(4).

* * * * *

§ 641.24 [Amended]

7. In § 641.24, paragraph (g) is removed.

§§ 641.28 and 641.29 [Redesignated as §§ 641.29 and 641.30]

8. 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 on board 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]

9. In addition to the amendments set forth above, effective January 1, 1996, 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).

§§ 641.7 and 641.10 [Amended]

10. Effective April 1, 1996, in 50 CFR part 641 remove the word "permit" and add, in its place, the words "commercial permit" in the following places:

(a) Section 641.7(gg);
(b) Section 641.7(jj)(1);
(c) Section 641.10(b)(4);
(d) Section 641.10(b)(6), first occurrence only; and
(e) Section 641.10(b)(7), second occurrence only.

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