1997 at 9:00 a.m. in Washington, D.C. Any person wishing to participate in the hearing should notify the Docket Clerk by telephone (202–632–3198) or by mail at the address provided below at least five working days prior to the date of the hearing and submit three copies of the oral statement that he or she intends to make at the hearing. The notification should identify the party the person represents, and the particular subject(s) the person plans to address. The notification should also provide the Docket Clerk with the participant's mailing address. FRA reserves the right to limit participation in the hearings of persons who fail to provide such notification.

ADDRESSES: (1) *Docket Clerk:* Written notification should identify the docket number and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, RCC–10, 400 Seventh Street, S.W., Washington, D.C. 20590.

(2) *Public Hearing:* The public hearing will be held in the Federal Aviation Administration (FAA) Auditorium, Third Floor, Federal Office Building 10A, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Edward Pritchard, Acting Staff Director, Motive Power and Equipment Division, Office of Safety Assurance and Compliance, FRA, 400 Seventh Street, S.W., Mail Stop 25, Washington, D.C. 20590 (telephone: 202–632–3362); Daniel Alpert, Trial Attorney, Office of Chief Counsel, FRA, 400 Seventh Street, S.W., Mail Stop 10, Washington, D.C. (telephone: 202–632–3186); or Thomas Herrmann, Trial Attorney, Office of Chief Counsel, FRA, 400 Seventh Street, S.W., Mail Stop 10, Washington, D.C. 20590 (telephone: 202–632–3167).

Issued in Washington, D.C., on October 20, 1997.

Jolene M. Molitoris,

Federal Railroad Administrator.

[FR Doc. 97–28148 Filed 10–22–97; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 971009242–7242–01; I.D. 091997B]

RIN 0648–AJ14

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 15

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 15 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). This proposed rule would replace the current commercial red snapper endorsement and trip limit system with a system comprised of two classes of transferrable red snapper licenses and trip limits; starting in 1998, split the red snapper commercial fishing season into two time periods, the first commencing February 1 with two-thirds of the annual quota available and the second commencing on September 1 with the remainder of the annual quota available; open the red snapper commercial fishery at noon on the first of each month and close it at noon on the 15th of each month during the commercial season; prohibit the possession of reef fish in excess of the bag limit on a vessel that has on board, or is tending, a trap other than a fish, stone crab, or spiny lobster trap; increase the minimum size limit for vermilion snapper; close the commercial fishery for greater amberjack each year during March through May; remove sea basses, grunts, and porgies from the FMP; and remove certain species from the aggregate bag limit for reef fish. In addition, NMFS proposes to exclude certain species from the prohibition on their harvest using powerheads in the stressed area. The intended effects of this rule are to conserve and manage the reef fish resources of the Gulf of Mexico.

DATES: Written comments must be received on or before December 8, 1997.

ADDRESSES: Comments on the proposed rule or on the initial regulatory flexibility analysis (IRFA) must be sent to Robert Sadler, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Comments regarding the collection-of-information requirements 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, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

Requests for copies of Amendment 15, which includes an environmental assessment, a regulatory impact review (RIR), and an IRFA, and for copies of a minority report submitted by two members of the Council, should be sent to the Gulf of Mexico Fishery Management Council, Suite 1000, 3018 U.S. Highway 301 North, Tampa, FL, 33619, phone: 813–228–2815; Fax: 813-225-7015.

FOR FURTHER INFORMATION CONTACT: 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 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Red Snapper Licenses and Trip Limits

The current commercial red snapper endorsement and trip limit system would be replaced with a ''two-tier'' license system consisting of Class 1 licenses, holders of which would be restricted to a red snapper trip limit of 2,000 lb (907 kg), and Class 2 licenses, holders of which would be restricted to a red snapper trip limit of 200 lb (91 kg). A Class 1 license would be issued for the vessel specified by the holder of a red snapper endorsement on March 1, 1997, and to a historical captain. The determination of status as a historical captain would be based on information collected under Amendment 9 to the FMP. The definition of historical captain in this proposed rule is unchanged from that published in the final rule to implement Amendment 9 (59 FR 39301, August 2, 1994).

A Class 2 license would be issued for a vessel specified by an owner or operator whose earned income qualified for a Gulf reef fish permit that was valid on March 1, 1997, and whose vessel had recorded a red snapper landing during the period January 1, 1990, through February 28, 1997. Eligibility for a Class 2 license would be based on information collected under Amendment 9 on red snapper landings in the 1990–1992 period. Red snapper landings for the

period January 1, 1993, through February 28, 1997, would be based solely on fishing vessel logbooks received by the Science and Research Director, Southeast Fisheries Science Center, NMFS, not later than March 31, 1997. To establish eligibility for an initial Class 2 license, a vessel's record of red snapper landings may be transferred to the current owner of a reef fish permitted vessel. The specific circumstances for such transfers are designed to protect the reasonable and legitimate rights of owners.

The Regional Administrator, Southeast Region, NMFS (Regional Administrator), would notify each owner of a vessel that had a valid Gulf reef fish permit on March 1, 1997, each operator whose earned income qualified for a valid permit on that date, and each potential historical captain of his or her eligibility for a Class 1 or Class 2 red snapper license. Initial determinations of eligibility would be based on NMFS' records of red snapper endorsements, red snapper landings during the period from January 1, 1990, through February 28, 1997, and applications for historical captain status under Amendment 9 to the FMP. An owner, operator, or potential historical captain who concurs with NMFS' initial determination of eligibility would not need to take further action; if he or she is determined to be eligible, an appropriate license would be issued not later than January 28, 1998.

A person initially determined by the Regional Administrator to be ineligible for historical captain status or a Class 2 red snapper license may appeal that decision to either the Regional Administrator or an ad hoc appeals committee, consisting of the principal state officials who are members of the Council, or their designees. The Regional Administrator and the appeals committee would be empowered only to deliberate whether the eligibility criteria were applied correctly in the appellant's case. In making that determination, the Regional Administrator or the appeals committee members would consider only disputed calculations and determinations based on the documentation provided, including transfers of landings records. Neither the appeals committee nor the Regional Administrator would be empowered to consider whether a person should have been eligible for historical captain status or a Class 2 license because of hardship or other factors.

Amendment 15 would allow transfer of red snapper licenses to permitted reef fish vessels without restriction. This would encourage flexibility in participation in the fishery.

Changes to Timing of Red Snapper Commercial Harvest

Amendment 15 and the proposed rule would split the red snapper commercial fishing season into two time periods starting in 1998, the first commencing February 1 with two-thirds of the annual quota available, and the second commencing on September 1 with the remainder of the annual quota available. This measure is intended to enhance planning of fishing activities by ensuring sufficient advance notification of each year's opening dates. A split commercial harvest period has been implemented in recent years by regulatory amendment.

Amendment 15 and the proposed rule would open the red snapper commercial fishery at noon on the first of each month and close it at noon on the 15th of each month, during the commercial red snapper season. The Council proposed, and NMFS approved, a regulatory amendment that included a similar measure starting September 2, 1997, for the remainder of the 1997 commercial season (62 FR 46677, September 4, 1997). Allowing commercial harvest only during the first 15 days of each month would help extend the length of the fishing season. This extension of the fishing season may reduce ex-vessel prices. Any reduction in revenues would be offset, to some degree, by reduced costs for vessel/gear maintenance and repair (due to preventive maintenance during closed periods) and associated increases in efficiency of fishing operations. However, the 15-day harvest period followed by a 15-day closure could result in a series of mini-derbies as fishermen compete to get their share of the commercial quota.

Monitoring and enforcement costs would increase as a function of the number of 15-day periods the fishery is open. However, closing the commercial red snapper fishery for the rest of the month after the 15-day harvest period should allow fishermen time to perform preventive maintenance and minor repairs before the fishery opens the following month. This should improve safety and avoid the higher repair costs that can occur when normal, preventive maintenance is postponed.

Restriction on Possession of Reef Fish Harvested in Traps Other Than Fish Traps

Current regulations do not limit the amount of reef fish that may be harvested in traps other than fish traps, provided the vessel has a reef fish permit. This creates a loophole for directed harvest of reef fish by other trap gear, including blue crab traps. Anecdotal information indicates that some persons are using blue crab traps to target reef fish in the EEZ off the Big Bend area of Florida. It is believed that these persons do not possess fish trap endorsements and, in some cases, commercial reef fish vessel permits.

To address this loophole, Amendment 15 and the proposed rule would restrict the possession of reef fish on a vessel that has on board, or is tending, a trap other than a stone crab, spiny lobster, or permitted reef fish trap, to the bag limits. The measure should enhance enforcement by discouraging directed harvest of reef fish by fishermen allegedly fishing blue crab traps. Blue crabs are seldom found in the EEZ off Florida, and rarely in commercial quantities.

Increase in the Minimum Size Limit for Vermilion Snapper

Amendment 15 and the proposed rule would extend indefinitely the 10–inch (25.4–cm) minimum size limit established by temporary interim rule (62 FR 47765, September 11, 1997). That temporary interim rule, which expires on March 11, 1997, increased the minimum size limit from 8 inches (20.3 cm) pending the development, approval, and implementation of Amendment 15. Because the interim rule has already appropriately modified the regulatory text for the 10–inch (25.4–cm) minimum size limit, the proposed rule would not modify the regulatory text.

The minimum size limit increase from 8 inches (20.3 cm) to 10 inches (25.4 cm) responds to the 1996 vermilion snapper stock assessment, a 1997 Addendum to that assessment, and Reef Fish Stock Assessment Panel (SAP) Reports. In those documents, fishery scientists concluded that the vermilion snapper resource, while not currently overfished, is undergoing overfishing based on decreasing trends in overall catch, mean size of individual fish, catch-per-unit-effort, and estimated numbers of age–1 fish in the population. The intent of the increase in the minimum size limit is to help mitigate the need for more restrictive vermilion snapper management measures in the future (e.g., quotas, additional increases in minimum size, and reductions in bag limits). A 10–inch minimum size limit reduces fishing mortality, increases the vermilion snapper spawning potential ratio (SPR), and thereby improves the status of the resource.

The Council recognized that, if the declining trends continue, additional regulatory action will be needed to prevent vermilion snapper from becoming overfished. The Council has

requested that a stock assessment on vermilion snapper be completed by the Southeast Fisheries Science Center (SEFSC) in 1998 to allow development of appropriate management actions. Such actions would be accomplished under the FMP's framework procedure, or by an additional FMP amendment.

Seasonal Closure of the Commercial Fishery for Greater Amberjack

NMFS prepared a stock assessment that indicated greater amberjack is relatively healthy (i.e., the SPR was estimated at 43 percent in 1994, well above the overfished threshold). However, given the uncertainty associated with the assessment, and based on recent data showing declines in effort, average size, and landings of greater amberjack, the Council and the Reef Fish Stock Assessment Panel determined that the stock assessment was too optimistic. In response to that information, the Council proposed in Amendment 12, and NMFS implemented, a reduction in the greater amberjack recreational bag limit from three fish to one fish (61 FR 65983, December 16, 1996).

The Council believes a seasonal closure of commercial harvest of greater amberjack is necessary to reduce fishing mortality; ensure that commercial effort does not negate stock rebuilding resulting from the recent bag limit reduction; and provide more equitable sharing of the burden of stock rebuilding between the recreational and commercial sectors. Accordingly, Amendment 15 and the proposed rule would close the commercial fishery during March, April, and May of each year. This measure was found by the SEFSC to be based on the best available scientific information.

Removal of Sea Basses, Grunts, and Porgies From the FMP

Amendment 15 and the proposed rule would remove sea basses, grunts, and porgies from the FMP. Removal of these species was proposed by the Council in response to public testimony that severe, adverse economic effects resulted from Amendment 12's inclusion of sea basses, grunts, and porgies in the 20–fish aggregate bag limit for species for which there is no other bag limit. Public testimony was primarily from headboat operators who indicated that many of their repeat customers had typically harvested these species (primarily grunts) in excess of the 20–fish aggregate bag limit.

Sea basses, grunts, and porgies are harvested predominantly off Florida. The Council determined that if these species were removed from the FMP, they could be effectively managed by Florida without conservation risk. The Council representative from the Florida Marine Fisheries Commission (FMFC) stated that the FMFC has scheduled public hearings on potential management measures for these species.

Since Amendment 15 does not include a delegation of management authority to Florida, although such a delegation can be authorized under Section 306(a)(3)(B) of the Magnuson-Stevens Act, Florida would not be empowered to regulate a person aboard a vessel registered in another state, unless that vessel landed fish in Florida. However, landings of these species are insignificant outside Florida, and, given their relatively low value, the economic incentive for out of state vessels to harvest these species off Florida but land the catch in another state is minimal. Proposal of this measure also is consistent with the President's Regulatory Reinvention Initiative of March 4, 1995, that directs Federal agencies, among several things, to consider eliminating Federal regulations where the states can assume the necessary regulatory function.

Removal of Species From the Aggregate Bag Limit for Reef Fish

The regulations implementing Amendment 12 to the FMP established a 20–fish aggregate bag limit for species of reef fish not otherwise subject to a bag limit. In Amendment 12, the Council intended that the aggregate bag limit apply only to species in the ''management unit'' of the FMP. However, 11 species that are in the FMP, but are not in the ''management unit,'' were inadvertently included in the aggregate bag limit.

The Council concluded that the unintended inclusion of these 11 species in the aggregate bag limit resulted in an unnecessary burden on recreational fishermen, who use some of them (primarily pinfish and sand perch) as bait. Accordingly, Amendment 15 and the proposed rule would exclude these species from the aggregate bag limit. Seven of the 11 species are sea basses, grunts, and porgies. If, as discussed above, sea basses, grunts, and porgies are removed from the FMP, these seven species would be automatically excluded from the aggregate bag limit. The remaining four species—sand perch, dwarf sand perch, hogfish, and queen triggerfish—would be excluded from the aggregate bag limit by this action.

Availability of and Comments on Amendment 15

Additional background and rationale for the measures discussed above are contained in Amendment 15, the availability of which was announced in the **Federal Register** on September 26, 1997 (62 FR 50553). Written comments on Amendment 15 are solicited and must be received by November 25, 1997. Comments that are received by November 25, 1997, whether specifically directed to the amendment or the proposed rule, will be considered in the approval/disapproval decision on Amendment 15. Comments received after that date will not be considered in the approval/disapproval decision. All comments received on Amendment 15 or on this proposed rule during their respective comment periods will be addressed in the preamble to the final rule.

Change Proposed by NMFS

NMFS proposes to exempt four species from the prohibition on their being taken by use of a powerhead in the stressed area, the near-shore portion of the Gulf of Mexico EEZ where the majority of fishing for reef fish occurs. Appendix B, Table 2 of 50 CFR part 622 sets forth the coordinates of the stressed area. As discussed above, there are 11 species in the FMP that are not in the management unit. If Amendment 15's proposal to remove sea basses, grunts, and porgies from the FMP is approved, only sand perch, dwarf sand perch, hogfish, and queen triggerfish would remain in the FMP but not in the management unit.

Commencing with the original regulations implementing the FMP (49 FR 39548, October 9, 1984), the use of a powerhead in the stressed area to take reef fish species in the FMP management unit has been prohibited. Such prohibition did not apply to species in the FMP but not in the management unit. No other management measures distinguished between reef fish species in the management unit and those not in the management unit. By interim final and final rules (61 FR 34930, July 3, 1996, and 61 FR 47821, September 11, 1996), NMFS consolidated 11 CFR parts covering most of the fisheries conducted in the Southeast Region, NMFS, into 50 CFR part 622. In the process of that consolidation, the prohibition on the taking of reef fish species in the stressed area with a powerhead was expanded erroneously to include species in the FMP but not in the management unit. Accordingly, to conform to the intent of the Council regarding species for which

a powerhead may not be used in the stressed area, NMFS proposes to exempt sand perch, dwarf sand perch, hogfish, and queen triggerfish from that prohibition. However, if Amendment 15's proposed removal from the FMP of sea basses, grunts, and porgies is not approved, NMFS would remove all 11 species currently in the FMP but not in the management unit from the powerhead prohibition.

Classification

At this time, NMFS has not determined that the amendment that this rule would implement is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period on Amendment 15.

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

The Council prepared an IRFA that describes the impact this proposed rule, if adopted, would have on small entities. Based on the IRFA, NMFS has concluded that Amendment 15, if approved and implemented through final regulations, would have significant economic impacts on a substantial number of small entities. The IRFA is summarized as follows.

The Council intends that the proposed management measures will: Increase the stability of the commercial red snapper fishery in terms of fishing patterns and markets, while also reducing harvesting capacity; promote flexibility for and safety of commercial red snapper fishermen in their fishing operations; provide for cost-effective and enforceable management of the reef fish fishery by removing certain species from the FMP and restricting use of certain non-fish traps to catch reef fish; reduce fishing mortality of vermilion snapper, which is in danger of becoming overfished, and greater amberjack, which appears to be declining in abundance; and limit the application of the 20–fish aggregate bag limit to species listed in the FMP management unit, thereby relieving recreational fishermen of an unnecessary burden. The Magnuson-Stevens Act provides the legal basis for the rule.

Amendment 15 would affect all of the 1,424 commercial reef fish harvesting firms and 930 for-hire vessels (838 charter vessels and 92 headboats) operating in the Gulf of Mexico. These commercial and recreational entities are considered small business entities for the purposes of the Regulatory Flexibility Act, because their annual gross revenues are less than $3 million and $5 million, respectively. Therefore, a substantial number of small entities are expected to be affected for purposes of the Regulatory Flexibility Act.

The commercial red snapper license and trip limit system is expected to include practically all current participants in the commercial red snapper fishery. Based on historical landings, the potential change in the distribution of revenues could be higher than 5 percent relative to the 1996 share for an unknown number of these vessels. The provisions of Amendment 15 regarding commercial red snapper fishing seasons have potential impacts on revenues. These impacts have been determined to reduce ex-vessel revenues by an unknown amount.

The potential reduction in revenues due to the non-fish trap harvest provision is unknown. The proposed increase in minimum size limit for vermilion snapper would reduce commercial ex-vessel revenues by less than 5 percent, since landings reductions have been estimated to be only about 1.6 percent. On the other hand, the minimum size limit increase would reduce recreational landings by about 23 percent, primarily in the for-hire sector. The proposed removal of species from the FMP and 20–fish aggregate bag limit are not expected to reduce revenues.

Revenue reduction from the proposed spawning season closure for greater amberjack could be as high as 22 percent. While amberjack revenues account for only 4.7 percent of commercial reef fish revenues, a revenue reduction of 22 percent for those fishermen who target amberjack would be significant.

The total public burden to comply with the provisions of Amendment 15 has been estimated at $35,000 annually—an insignificant portion of the total industry costs. However, entry costs by new red snapper fishery participants could account for more than 5 percent of total operating costs. As a result, annual compliance costs (e.g., annualized capital, operating, reporting) could increase total costs of production for some small entities by more than 5 percent.

The IRFA also discusses information available regarding the ability of small business fishing firms to finance items such as a switch to new gear. Available information, however, is not sufficient to estimate whether capital costs of compliance represent a significant portion of capital available to small entities.

It is unknown whether this proposed rule is likely to result in 2 percent of the small entities affected being forced to cease business operations. The adoption of a license limitation system would preclude some vessels from re-entering the commercial red snapper fishery without leasing or buying licenses, but those vessels could still harvest other reef fish if they possess valid commercial reef fish permits. The vermilion snapper minimum size limit and spawning season closure for greater amberjack would reduce revenues of some vessels, but the affected entities are not expected to cease operation.

No duplicative, overlapping, or conflicting Federal rules have been identified. The reporting, recordkeeping, and other compliance requirements of the proposed rule are not materially different from the current practice, with the possible exception of license renewal. No additional professional skills are required to comply with the proposed rule.

The Council considered several types of alternatives designed to meet the FMP objectives. With respect to the license limitation program, the status quo (i.e., continuation of the current endorsement system) is not considered a viable alternative since it provides little opportunity for new entities to enter the fishery. Some unknown amount of revenue could be forgone by adopting the proposed split monthly harvest period alternative. Other specific alternatives were considered, but are generally found to be more costly to the fishery participants.

Regarding vermilion snapper minimum size limits, under the status quo (i.e., an 8–inch (20.3–cm) size limit after expiration of the interim rule) the status of the stocks would deteriorate, which could have potentially significant adverse short-term impacts on the stock and the industry over the long-run. The other rejected vermilion snapper management alternative was a 12–inch (30.5–cm) minimum size limit. This rejected alternative could effect an immediate and substantial revenue reduction on both the commercial vessels and for-hire vessels by potentially causing a loss of as much as 25 percent and 69 percent in landings, respectively.

Regarding the spawning season closure for greater amberjack, both rejected alternatives would have less adverse short-term impacts on fishing participants. However, the proposed spawning season closure responds to landings information indicating a declining status of the stock; therefore, the proposed spawning season closure could prevent potential long-term negative impacts associated with the two rejected alternatives.

The alternatives proposed in the remainder of Amendment 15, compared to the corresponding rejected alternatives, were generally shown to better address problems in the fishery. A copy of the IRFA is available from the Council (see **ADDRESSES**).

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 (PRA) unless that collection of information displays a currently valid OMB Control Number.

This rule contains two new, one-time collection-of-information requirements subject to the PRA—namely, the submission of copies of agreements whereby a vessel's record of landings was not transferred when the vessel was sold and the submission of appeals of the Regional Administrator's initial determination of eligibility for historical captain status or a Class 2 red snapper license. These collection-of-information requirements have been submitted to OMB for approval. The public reporting burdens for these collections of information are estimated at 15 and 45 minutes per response, respectively, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information.

Public comment is sought regarding: Whether these proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the burden estimates; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collections of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these, or any other aspects of the collections of information, to NMFS and OMB (see **ADDRESSES**).

This rule would continue in effect the collection-of-information requirement associated with the transfer or renewal of commercial red snapper endorsements, which would be applied to commercial red snapper licenses under Amendment 15. This collection of information was previously approved by OMB under OMB control number 0648–0205.

List of Subjects in 50 CFR Part 622

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

Dated: October 17, 1997.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

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

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

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

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

2. In § 622.4, paragraph (a) introductory text, paragraph (a)(2) heading, and paragraphs (a)(2)(ix), (d), (g), (i) through (l), and (p) are revised to read as follows:

§ 622.4 Permits and fees.

(a) *Permits required.* To conduct activities in fisheries governed in this part, valid permits, licenses, and endorsements are required as follows:

* * * * *

(2) *Commercial vessel permits, licenses, and endorsements.*

* * * * *

(ix) *Gulf red snapper.* For a person aboard a vessel for which a commercial vessel permit for Gulf reef fish has been issued to retain red snapper under the trip limits specified in § 622.44(e)(1) or (2), a Class 1 or Class 2 Gulf red snapper license must have been issued to the vessel and must be on board. See paragraph (p) of this section regarding initial issue of red snapper licenses.

* * * * *

(d) *Fees.* A fee is charged for each application for a permit, license, or endorsement submitted under this section, for each request for transfer or replacement of such permit, license, or endorsement, and for each fish trap or sea bass pot identification tag required under § 622.6(b)(1)(i). The amount of each fee is calculated in accordance with the procedures of the NOAA Finance Handbook, available from the RD, for determining the administrative costs of each special product or service. The fee may not exceed such costs and is specified with each application form. The appropriate fee must accompany each application, request for transfer or replacement, or request for fish trap/sea bass pot identification tags.

* * * * *

(g) *Transfer.* A vessel permit, license, or endorsement or dealer permit issued under this section is not transferable or assignable, except as provided in paragraph (m) of this section for a commercial vessel permit for Gulf reef fish, paragraph (n) of this section for a fish trap endorsement, or paragraph (p) of this section for a red snapper license. A person who acquires a vessel or dealership who desires to conduct activities for which a permit, license, or endorsement is required must apply for such permit, license, or endorsement in accordance with the provisions of this section. If the acquired vessel or dealership is currently permitted, the application must be accompanied by the original permit and a copy of a signed bill of sale or equivalent acquisition papers.

* * * * *

(i) *Display.* A vessel permit, license, or endorsement issued under this section must be carried on board the vessel. A dealer permit issued under this section, or a copy thereof, must be available on the dealer's premises. In addition, a copy of the dealer's permit must accompany each vehicle that is used to pick up from a fishing vessel reef fish harvested from the Gulf EEZ. The operator of a vessel must present the permit, license, or endorsement for inspection upon the request of an authorized officer. A dealer or a vehicle operator must present the permit or a copy for inspection upon the request of an authorized officer.

(j) *Sanctions and denials.* A permit, license, or endorsement issued pursuant to this section may be revoked, suspended, or modified, and a permit, license, or endorsement application may be denied, in accordance with the procedures governing enforcement-related permit sanctions and denials found at 15 CFR part 904, subpart D.

(k) *Alteration.* A permit, license, or endorsement that is altered, erased, or mutilated is invalid.

(l) *Replacement.* A replacement permit, license, or endorsement may be issued. An application for a replacement permit, license, or endorsement is not considered a new application.

* * * * *

(p) *Gulf red snapper licenses*—(1) *Class 1 licenses.* To be eligible for the 2,000–lb (907–kg) trip limit for Gulf red snapper specified in § 622.44(e)(1), a vessel must have been issued both a valid commercial vessel permit for Gulf reef fish and a valid Class 1 Gulf red snapper license, and such permit and license must be on board.

(2) *Class 2 licenses.* To be eligible for the 200–lb (91–kg) trip limit for Gulf red snapper specified in § 622.44(e)(2), a vessel must have been issued both a

valid commercial vessel permit for Gulf reef fish and a valid Class 2 Gulf red snapper license, and such permit and license must be on board.

(3) *Operator restriction*. An initial Gulf red snapper license that is issued for a vessel based on the qualification of an operator or historical captain is valid only when that operator or historical captain is the operator of the vessel. When applicable, this operator restriction is shown on the license.

(4) *Transfer of Gulf red snapper licenses*. A red snapper license may be transferred to a vessel owner independently of a commercial vessel permit for Gulf reef fish by completing the transfer information on the reverse of the license and returning it to the RD.

(5) *Initial issue of Gulf red snapper licenses*—(i) *Class 1 licenses*. (A) An initial Class 1 license is issued for the vessel specified by the holder of a valid red snapper endorsement on March 1, 1997, and to a historical captain. In the event of death or disability of such holder between March 1, 1997, and the date Class 1 licenses are issued, the Class 1 license is issued for the vessel specified by the person to whom the red snapper endorsement was transferred.

(B) Status as a historical captain is based on information collected under Amendment 9 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). A historical captain is an operator who—

(*1*) From November 6, 1989, through 1993, fished solely under verbal or written share agreements with an owner, and such agreements provided for the operator to be responsible for hiring the crew, who was paid from the share under his or her control;

(*2*) Landed from that vessel at least 5,000 lb (2,268 kg) of red snapper per year in 2 of the 3 years 1990, 1991, and 1992;

(*3*) Derived more than 50 percent of his or her earned income from commercial fishing, that is, sale of the catch, in each of the years 1989 through 1993; and

(*4*) Landed red snapper prior to November 7, 1989.

(ii) *Class 2 licenses*. (A) An initial Class 2 license is issued for the vessel specified by an owner or operator whose income qualified for a commercial vessel permit for reef fish that was valid on March 1, 1997, and such owner or operator was the person whose earned income qualified for a commercial vessel permit for reef fish that had a landing of red snapper during the period from January 1, 1990, through February 28, 1997.

(B) For the purpose of paragraph (p)(5)(ii)(A) of this section, landings of red snapper are as recorded in the information collected under Amendment 9 to the FMP for the period 1990 through 1992 and in fishing vessel logbooks, as required under § 622.5(a)(1)(ii), received by the SRD not later than March 31, 1997, for the period from January 1, 1993, through February 28, 1997.

(C) A vessel's red snapper landings record during the period from January 1, 1990, through February 28, 1997, is retained by the owner at the time of the landings if he or she transferred the permit to another vessel owned by him or her. When a vessel has had a change of ownership and concurrent transfer of its permit, the vessel's red snapper landings record is credited to the owner of that vessel on March 1, 1997, unless there is a legally binding agreement under which a previous owner retained the landings record. An owner who claims such retention of a landings record must submit a copy of the agreement to the RD postmarked or hand delivered not later than January 6, 1998.

(6) *Implementation procedures*—(i) *Initial notification*. The RD will notify each owner of a vessel that had a valid permit for Gulf reef fish on March 1, 1997, each operator whose earned income qualified for a valid permit on that date, and each potential historical captain of his or her eligibility for a Class 1 or Class 2 red snapper license. Initial determinations of eligibility will be based on NMFS' records of red snapper endorsements, red snapper landings during the period from January 1, 1990, through February 28, 1997, and applications for historical captain status under Amendment 9 to the FMP. An owner, operator, or potential historical captain who concurs with NMFS' initial determination of eligibility need take no further action—if determined to be eligible, an appropriate license will be issued not later than January 23, 1998.

(ii) *Appeals*. (A) An appeal of the RD's initial decision regarding eligibility for historical captain status or for a Class 2 red snapper license may be submitted for reconsideration solely by the RD or to an ad hoc appeals committee consisting of the principal state officials who are members of the GMFMC, or their designees.

(B) The RD and the appeals committee are empowered only to deliberate whether the eligibility criteria in paragraph (p)(5) of this section were applied correctly in the appellant's case. In making that determination, the RD or the appeals committee members will consider only disputed calculations and determinations, including disputed transfers of landings records, based on the documentation provided. Neither the appeals committee nor the RD is empowered to consider whether a person should have been eligible for historical captain status or a Class 2 license because of hardship or other factors.

(C) A written request for consideration of an appeal must be submitted to the RD postmarked or hand delivered not later than January 13, 1998, and must provide written documentation supporting the basis for the appeal. An appellant may also make a personal appearance before the appeals committee. If consideration by the appeals committee is requested, such request constitutes the appellant's written authorization under section 402(b)(1)(F) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) for the RD to make available to the appeals committee members such confidential catch and other records as are pertinent to the matter being appealed.

(D) The appeals committee will meet only once to consider appeals submitted within the time period specified in paragraph (p)(6)(iii)(C) of this section. Members of the appeals committee will provide their individual recommendations for each appeal referred to the committee to the RD. Members of the appeals committee may comment upon whether the eligibility criteria were correctly applied in each case, based solely on the available record, including documentation submitted by the appellant. The RD will decide the appeal based on the initial eligibility criteria in paragraph (p)(5) of this section and the available record, including documentation submitted by the appellant and, if the appeal is considered by the appeals committee, the recommendations and comments from members of the appeals committee. The RD will notify the appellant of the decision and the reason therefore, in writing, normally within 15 days of receiving the recommendations of the appeals committee members. The RD's decision will constitute the final administrative action by NMFS on an appeal.

3. In § 622.7, paragraphs (a) through (c) are revised to read as follows:

§ 622.7 Prohibitions.

* * * * *

(a) Engage in an activity for which a valid Federal permit, license, or endorsement is required under § 622.4 or § 622.17 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 § 622.4(b), (g), or (p) or § 622.17.

(c) Fail to display a permit, license, or endorsement, as specified in § 622.4(i) or § 622.17(g).

* * * * *

4. In § 622.34, a sentence is added at the end of paragraph (g)(1) and paragraph (l) is revised to read as follows:

§ 622.34 Gulf EEZ seasonal and/or area closures.

* * * * *

(g) * * *

(1) * * * The provisions of this paragraph (g)(1) do not apply to the following species: dwarf sand perch, hogfish, queen triggerfish, and sand perch.

* * * * *

(l) *Closures of the commercial fishery for red snapper.* The commercial fishery for red snapper in or from the Gulf EEZ is closed from January 1 to noon on February 1 and thereafter from noon on the 15th of each month to noon on the first of each succeeding month. All times are local times. During these closed periods, the possession of red snapper in or from the Gulf EEZ and in the Gulf on board a vessel for which a commercial permit for Gulf reef fish has been issued, as required under § 622.4(a)(2)(v), without regard to where such red snapper were harvested, is limited to the bag and possession limits, as specified in § 622.39(b)(1)(iii) and (b)(2), respectively, and such red snapper are subject to the prohibition on sale or purchase of red snapper possessed under the bag limit, as specified in § 622.45(c)(1).

5. In § 622.36, the introductory text and paragraphs (a), (b), and (c) are redesignated as paragraph (b) introductory text and paragraphs (b)(1), (b)(2), and (b)(3), respectively, and paragraph (a) is added to read as follows:

§ 622.36 Seasonal harvest limitations.

(a) During March, April, and May, each year, the possession of greater amberjack in or from the Gulf EEZ and in the Gulf on board a vessel for which a commercial permit for Gulf reef fish has been issued, as required under § 622.4(a)(2)(v), without regard to where such greater amberjack were harvested, is limited to the bag and possession limits, as specified in § 622.39(b)(1)(i) and (b)(2), respectively, and such greater amberjack are subject to the prohibition on sale or purchase of greater amberjack possessed under the bag limit, as specified in § 622.45(c)(1).

* * * * *

6. In § 622.39, paragraph (a)(2) introductory text is republished, paragraph (a)(2)(iv) is added, and paragraph (b)(1)(v) is revised to read as follows:

§ 622.39 Bag and possession limits.

(a) * * *

(2) Paragraph (a)(1) of this section notwithstanding, bag and possession limits also apply for Gulf reef fish in or from the EEZ to a person aboard a vessel that has on board a commercial permit for Gulf reef fish—

* * * * *

(iv) When the vessel has on board or is tending any trap other than a fish trap authorized under § 622.40(a)(2), a stone crab trap, or a spiny lobster trap.

(b) * * *

(1) * * *

(v) Gulf reef fish, combined, excluding those specified in paragraphs (b)(1)(i) through (iv) of this section and excluding dwarf sand perch, hogfish, queen triggerfish, and sand perch—20.

* * * * *

7. In § 622.42, paragraph (a)(1)(i) is revised to read as follows:

§ 622.42 Quotas.

(a) * * *

(1) * * *

(i) Red snapper—4.65 million lb (2.11 million kg), round weight, apportioned as follows:

(A) 3.06 million lb (1.39 million kg) available at noon on February 1 each year, subject to the closure provisions of §§ 622.34(l) and 622.43(a)(1)(i).

(B) The remainder available at noon on September 1 each year, subject to the closure provisions of §§ 622.34(l) and 622.43(a)(1)(i).

* * * * *

8. In § 622.44, paragraph (e) is revised to read as follows:

§ 622.44 Commercial trip limits.

* * * * *

(e) *Gulf red snapper.* (1) The trip limit for red snapper in or from the Gulf for a vessel that has on board a valid commercial permit for Gulf reef fish and a valid Class 1 red snapper license is 2,000 lb (907 kg), round or eviscerated weight.

(2) The trip limit for red snapper in or from the Gulf for a vessel that has on board a valid commercial permit for Gulf reef fish and a valid Class 2 red snapper license is 200 lb (91 kg), round or eviscerated weight.

(3) The trip limit for red snapper in or from the Gulf for any other vessel for which a commercial permit for Gulf reef fish has been issued is zero.

(4) As a condition of a commercial vessel permit for Gulf reef fish, as required under § 622.4(a)(2)(v), without regard to where red snapper are harvested or possessed, a vessel that has been issued such permit—

(i) May not possess red snapper in or from the Gulf in excess of the appropriate vessel trip limit, as specified in paragraphs (e)(1) through (3) of this section.

(ii) May not transfer or receive at sea red snapper in or from the Gulf.

* * * * *

Appendix A to Part 622 [Amended]

9. In Table 3 of appendix A to part 622, the family Haemulidae—Grunts and the three species and scientific names thereunder are removed; under the family Serranidae, the species Bank sea bass, Rock sea bass, and Black sea bass and their scientific names are removed and the family name ''Serranidae—Sea Basses and Groupers'' is revised to read ''Serranidae—Groupers''; and the family Sparidae—Porgies and the six species and scientific names thereunder are removed.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 101497F]

New England Fishery Management Council; Public Meeting

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

ACTION: Public meeting.

SUMMARY: The New England Fishery Management Council (Council) will hold a 2-day public meeting to consider actions affecting New England fisheries in the exclusive economic zone.

DATES: The meeting will be held on Wednesday, November 5, 1997, at 10 a.m., and on Thursday, November 6, 1997, at 8:30 a.m.

ADDRESSES: The meeting will be held at the Holiday Inn by the Bay, 88 Spring Street, Portland, ME; telephone (207) 775–2311. Requests for special accommodations should be addressed to the New England Fishery Management