

**List of Subjects in 48 CFR Parts 209 and 223**

Government procurement.

**Michele P. Peterson,**

*Executive Editor, Defense Acquisition Regulations Council.*

Therefore, 48 CFR Parts 209 and 223 are amended as follows:

1. The authority citation for 48 CFR Parts 209 and 223 continues to read as follows:

**Authority:** 41 U.S.C. 421 and 48 CFR Chapter 1.

**PART 209—CONTRACTOR QUALIFICATIONS**

2. Section 209.405 is revised to read as follows:

**209.405 Effect of listing.**

(a) Under 10 U.S.C. 2393(b), when a department or agency determines that a compelling reason exists for it to conduct business with a contractor that is debarred or suspended from procurement programs, it must provide written notice of the determination to the General Services Administration, Office of Acquisition Policy. Examples of compelling Reasons are—

(i) Only a debarred or suspended contractor can provide the supplies or services;

(ii) Urgency requires contracting with a debarred or suspended contractor;

(iii) The contractor and a department or agency have an agreement covering the same events that resulted in the debarment or suspension and the agreement includes the department or agency decision not to debar or suspend the contractor; or

(iv) The national defense requires continued business dealings with the debarred or suspended contractor.

(b)(i) The Procurement Cause and Treatment Code "H" annotation in the GSA List of Parties Excluded from Federal Procurement and Nonprocurement Programs identifies contractors that are declared ineligible for award of a contract or subcontract because of a violation of the Clean Air Act (42 U.S.C. 7606) or the Clean Water Act (33 U.S.C. 1368).

(ii) Under the authority of 40 CFR 32.215(b), the agency head may grant an exception permitting award to a Code "H" ineligible contractor if it is in the paramount interest of the United States.

(A) The agency head may delegate this exception authority to a level no lower than a general or flag officer or a member of the Senior Executive Service.

(B) The official granting the exception must provide written notice to the Environmental Protection Agency debaring official.

**PART 223—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE****Subpart 223.1—[Removed]**

3. Subpart 223.1 is removed.

[FR Doc. 00-22093 Filed 8-30-00; 8:45 am]

**BILLING CODE 5000-04-M**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 622**

[Docket No. 000511131-0234-02; I.D. 021500A]

**RIN 0648-AM75**

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Amendment 12**

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to implement Amendment 12 to the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (Amendment 12). This rule extends the current moratorium on the issuance of commercial vessel permits for king mackerel through October 15, 2005. The intended effects of this final rule are to prevent speculative entry into the fishery and provide stability in the fishery.

**DATES:** This final rule is effective October 2, 2000.

**ADDRESSES:** Comments regarding the collection-of-information requirements contained in this final rule should be sent to Dr. Roy Crabtree, 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). Comments on any ambiguity or unnecessary complexity arising from the language used in this rule should be directed to the Southeast Regional Office, NMFS, at the above address.

**FOR FURTHER INFORMATION CONTACT:** Dr. Steve Branstetter, telephone: 727-570-

5305, fax: 727-570-5583, e-mail: Steve.Branstetter@noaa.gov.

**SUPPLEMENTARY INFORMATION:** The fisheries for coastal migratory pelagic resources are managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared jointly by the Gulf of Mexico Fishery Management Council and the South Atlantic Fishery Management Council (Councils), approved by NMFS, and implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

On March 1, 2000, NMFS announced the availability of proposed Amendment 12 to the FMP and requested comments on it (65 FR 11028). NMFS approved Amendment 12 on May 31, 2000, and on June 1, 2000, published a proposed rule to implement the extended commercial vessel permit moratorium in Amendment 12 (65 FR 35040). The background and rationale for the extended permit moratorium in the amendment and proposed rule are contained in the preamble to the proposed rule and are not repeated here.

**Comments and Responses**

NMFS received comments from five individuals regarding Amendment 12 or the proposed rule. A summary of those comments and NMFS responses follows.

*Comment 1:* All five individuals supported the extension of the permit moratorium because it would maintain stability in the fishery, prevent increasing effort, and aid in maintaining healthy fish stocks and fisheries.

*Response:* NMFS agrees that the action is appropriate. NMFS has approved Amendment 12 and is issuing this implementing final rule.

*Comment 2:* Two commenters offered suggestions for additional management measures for king mackerel, including slot limits, elimination of gears, and separate quotas for the charter industry. The commenters also suggested additional research to address the status of the king mackerel stocks in the Gulf of Mexico and the South Atlantic.

*Response:* NMFS agrees that there are numerous additional management options available to the Councils to effectively manage the coastal migratory pelagic resources of the southeastern United States. However, under the Magnuson-Stevens Act, NMFS cannot substitute measures for, or add measures to, the specific measures proposed by the Councils; NMFS can only approve, disapprove, or partially approve the

proposed measures and implement the approved measures by final rule. NMFS encourages the public to be actively involved in the Council process and provide suggestions to the Councils for their deliberations.

#### Classification

The Administrator, Southeast Region, NMFS, determined that Amendment 12 is necessary for the conservation and management of the Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not prepared.

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 includes collection-of-information requirements that are subject to the PRA. The first collection-of-information pertains to applications for commercial vessel permits. That collection is currently approved under OMB control number 0648-0205 and its public reporting burden is estimated at 20 minutes per response. The second collection-of-information pertains to fishing records of vessels permitted in the commercial king or Spanish mackerel fisheries. That collection is currently approved under OMB control number 0648-0016 and its public reporting burden is estimated at 15 minutes per response. These burden estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these burden estimates, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS and OMB (see ADDRESSES).

The President has directed Federal agencies to use plain language in their communications with the public, including regulations. To comply with

this directive, we seek public comment on any ambiguity or unnecessary complexity arising from the language used in this final rule. Such comments should be directed to NMFS Southeast Regional Office (see ADDRESSES).

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

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

Dated: August 23, 2000.

**William T. Hogarth,**

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

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

#### PART 622—FISHERIES OF THE CARIBBEAN, GULF, 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, the last two sentences of paragraph (a)(2)(iii), the last sentence of paragraph (a)(2)(iv), and paragraph (q) are revised to read as follows:

#### § 622.4 Permits and fees.

(a) \* \* \*

(2) \* \* \*

(iii) \* \* \* To obtain or renew a commercial vessel permit for king mackerel, at least 25 percent of the applicant's earned income, or at least \$10,000, must have been derived from commercial fishing (i.e., harvest and first sale of fish) or from charter fishing during one of the 3 calendar years preceding the application. See paragraph (q) of this section regarding a moratorium on commercial vessel permits for king mackerel, transfers of permits during the moratorium, and limited exceptions to the earned income or gross sales requirement for a permit.

(iv) \* \* \* To obtain or renew a commercial vessel permit for Spanish mackerel, at least 25 percent of the applicant's earned income, or at least \$10,000, must have been derived from commercial fishing (i.e., harvest and first sale of fish) or from charter fishing during one of the 3 calendar years preceding the application.

\* \* \* \* \*

(q) Moratorium on commercial vessel permits for king mackerel. This paragraph (q) is effective through October 15, 2005.

(1) No applications for additional commercial vessel permits for king mackerel will be accepted. Existing vessel permits may be renewed, are subject to the restrictions on transfer or

change in paragraphs (q)(2) through (q)(5) of this section, and are subject to the requirement for timely renewal in paragraph (q)(6) of this section.

(2) An owner of a permitted vessel may transfer the commercial vessel permit for king mackerel issued under this moratorium to another vessel owned by the same entity.

(3) An owner whose percentage of earned income or gross sales qualified him/her for the commercial vessel permit for king mackerel issued under the moratorium may request that NMFS transfer that permit to the owner of another vessel, or to the new owner when he or she transfers ownership of the permitted vessel. Such owner of another vessel, or new owner, may receive a commercial vessel permit for king mackerel for his or her vessel, and renew it through April 15 following the first full calendar year after obtaining it, without meeting the percentage of earned income or gross sales requirement of paragraph (a)(2)(iii) of this section. However, to further renew the commercial vessel permit, the owner of the other vessel, or new owner, must meet the earned income or gross sales requirement not later than the first full calendar year after the permit transfer takes place.

(4) An owner of a permitted vessel, the permit for which is based on an operator's earned income and, thus, is valid only when that person is the operator of the vessel, may request that NMFS transfer the permit to the income-qualifying operator when such operator becomes an owner of a vessel.

(5) An owner of a permitted vessel, the permit for which is based on an operator's earned income and, thus, is valid only when that person is the operator of the vessel, may have the operator qualification on the permit removed, and renew it without such qualification through April 15 following the first full calendar year after removing it, without meeting the earned income or gross sales requirement of paragraph (a)(2)(iii) of this section. However, to further renew the commercial vessel permit, the owner must meet the earned income or gross sales requirement not later than the first full calendar year after the operator qualification is removed. To have an operator qualification removed from a permit, the owner must return the original permit to the RA with an application for the changed permit.

(6) NMFS will not reissue a commercial vessel permit for king mackerel if the permit is revoked or if the RA does not receive an application for renewal within 1 year of the permit's expiration date.

**§§ 622.2, 622.6, 622.41, and 622.44**  
**[Amended]**

3. In addition to the amendments set forth above, in 50 CFR part 622, remove the word "Dade" and add, in its place, the words "Miami-Dade" in the following places:

- (a) Section 622.2, in paragraph (2) of the definition of "Migratory group";
- (b) Section 622.6(b)(2);
- (c) Section 622.41(c)(3)(ii)(B); and
- (d) Section 622.44(a)(1)(iii).

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 000211040-0040-01; I.D. 082500A]

**Fisheries of the Exclusive Economic Zone Off Alaska; Species in the Rock sole/Flathead sole/"Other flatfish" Fishery Category by Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area**

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

**ACTION:** Closure.

**SUMMARY:** NMFS is closing directed fishing for species in the rock sole/flathead sole/"other flatfish" fishery category by vessels using trawl gear in the Bering Sea and Aleutian Islands

management area (BSAI). This action is necessary to prevent exceeding the 2000 Pacific halibut by catch allowance specified for the trawl rock sole/flathead sole/"other flatfish" fishery category.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), August 25, 2000, until 2400 hrs, A.l.t., December 31, 2000.

**FOR FURTHER INFORMATION CONTACT:** Mary Furuness, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The Final 2000 Harvest Specifications of Groundfish (65 FR 8282, February 18, 2000) and subsequent technical amendment (65 FR 42302, June 10, 2000) established the halibut bycatch mortality allowance for the BSAI trawl rock sole/flathead sole/"other flatfish" fishery category, which is defined at § 679.21(e)(3)(iv)(B)(2), as 779 metric tons.

In accordance with § 679.21(e)(7)(v), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2000 halibut bycatch allowance specified for the trawl rock sole/flathead sole/"other flatfish" fishery in the BSAI has been

caught. Consequently, the Regional Administrator is closing directed fishing for species in the rock sole/flathead sole/"other flatfish" fishery category by vessels using trawl gear in the BSAI.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent exceeding the 2000 halibut bycatch allowance specified for the trawl rock sole/flathead sole/"other flatfish" fishery category. Providing prior notice and an opportunity for public comment on this action is impracticable and contrary to the public interest. The fleet will soon take the allowance. Further delay would only result in the 2000 halibut bycatch allowance being exceeded. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under U.S.C. 553(d), a delay in the effective date is hereby waived.

**Classification**

This action is required by 50 CFR 679.21 and is exempt from review under E.O. 12866.

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

**Bruce C. Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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