

List of Subjects in 50 CFR Part 622

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

Dated:

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)(2)(vi) is revised, paragraphs (a)(2)(xvi) and (a)(2)(xvii) are added, and the first sentence in paragraph (g)(1) is revised to read as follows:

§ 622.4 Permits and fees.

(a) * * *

(2) * * *

(vi) South Atlantic snapper-grouper. For a person aboard a vessel to be eligible for exemption from the bag limits for South Atlantic snapper-grouper in or from the South Atlantic EEZ, to sell South Atlantic snapper-grouper in or from the South Atlantic EEZ, to engage in the directed fishery for tilefish in the South Atlantic EEZ, to use a longline to fish for South Atlantic snapper-grouper in the South Atlantic EEZ, or to use a sea bass pot in the South Atlantic EEZ between 35°15.19' N. lat. (due east of Cape Hatteras Light, NC) and 28°35.1' N. lat. (due east of the NASA Vehicle Assembly Building, Cape Canaveral, FL), either a commercial vessel permit for South Atlantic snapper-grouper unlimited or a trip-limited permit for South Atlantic snapper-grouper must have been issued to the vessel and must be on board. A vessel with longline gear and more than 200 lb (90.7 kg) of tilefish on board is considered to be in the directed fishery for tilefish. It is a rebuttable presumption that a fishing vessel with more than 200 lb (90.7 kg) of tilefish on board harvested such tilefish in the EEZ. A vessel with a trip-limited commercial permit is limited on any trip to 225 lb (102.1 kg) of snapper-grouper. See § 622.18 for limitations on the use, transfer, and renewal of a commercial vessel permit for South Atlantic snapper-grouper.

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(xvi) South Atlantic golden tilefish hook-and-line endorsement. For a person aboard a vessel, for which a valid commercial vessel permit for South Atlantic snapper-grouper unlimited has been issued, to fish for golden tilefish in the South Atlantic EEZ under the trip limit specified in § 622.44(c)(1)(i) using hook-and-line gear, a valid South Atlantic golden tilefish hook-and-line endorsement must have been issued to the vessel and must be on board. A permit or endorsement that has expired is not valid.

(A) Initial eligibility. To be eligible for an initial South Atlantic golden tilefish hook-and-line endorsement, a person must have been issued and must possess a valid or renewable commercial vessel permit for South Atlantic snapper-grouper unlimited that has golden tilefish landings using hook-and-line gear totaling a harvest level of at least 500 lbs (227 kg), gutted weight, when the best 3 of 6 years from 2005 - 2010 are aggregated. All applicable golden tilefish landings associated with a current South Atlantic snapper-grouper unlimited permit for the applicable landings history, including those reported by a person(s) who held the permit prior to the current permit owner, will be attributed to the current permit

owner. Only legal landings reported in compliance with applicable state and Federal regulations will be accepted.

(B) Initial issuance. On or about [insert date of publication of final rule in the FEDERAL REGISTER], the RA will mail each eligible permittee a golden tilefish hook-and-line endorsement via certified mail, return receipt requested, to the permittee's address of record as listed in NMFS' permit files. An eligible permittee who does not receive an endorsement from the RA, must contact the RA no later than [insert date 30 days after date of publication of final rule in the FEDERAL REGISTER], to clarify his/her endorsement status. A permittee who is denied an endorsement based on the RA's initial determination of eligibility and who disagrees with that determination may appeal to the RA.

(C) Procedure for appealing golden tilefish hook-and-line endorsement eligibility and/or landings information. The only items subject to appeal are initial eligibility for a golden tilefish hook-and-line endorsement based on ownership of a qualifying snapper-grouper permit, the accuracy of the amount of landings, and correct assignment of landings to the permittee. Appeals based on hardship factors will not be considered. Appeals must be submitted to the RA postmarked no later than [insert date 120 days after date of publication of final rule in

the FEDERAL REGISTER], and must contain documentation supporting the basis for the appeal. The RA will review and evaluate all appeals, render final decisions on the appeals, and advise the appellant of the final NMFS decision.

(1) Eligibility appeals. NMFS' records of snapper-grouper permits are the sole basis for determining ownership of such permits. A person who believes he/she meets the permit eligibility criteria based on ownership of a vessel under a different name, as may have occurred when ownership has changed from individual to corporate or vice versa, must document his/her continuity of ownership.

(2) Landings appeals. Appeals regarding landings data for 2005 through 2010 will be based on NMFS' logbook records. If NMFS' logbooks are not available, the RA may use state landings records or data for the period 2005 through 2010 that were submitted in compliance with applicable Federal and state regulations on or before December 31, 2011.

(D) Transferability. A valid or expired golden tilefish hook-and-line endorsement may be transferred between any two individuals or entities that hold or simultaneously obtain a valid or renewable commercial vessel permit for South Atlantic snapper-grouper unlimited. The endorsement and associated landings history of golden tilefish will be transferred only if

the commercial vessel permit for South Atlantic snapper-grouper unlimited is transferred. The landings history remains associated with the endorsement.

(E) Fees. There is no fee for initial issuance of a golden tilefish hook-and-line endorsement. A fee is charged for each renewal, transfer, or replacement of such endorsement. The amount of each fee is calculated in accordance with the procedures of the NOAA Finance Handbook, available from the RA, 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 for renewal, transfer, or replacement.

(xvii) South Atlantic golden tilefish longline endorsement. For a person aboard a vessel, for which a valid commercial vessel permit for South Atlantic snapper-grouper unlimited has been issued, to fish for golden tilefish in the South Atlantic EEZ under the trip limit specified in § 622.44(c)(1)(ii) using longline gear, a valid South Atlantic golden tilefish longline endorsement must have been issued to the vessel and must be on board. A permit or endorsement that has expired is not valid.

(A) Initial eligibility. To be eligible for an initial South Atlantic golden tilefish longline endorsement, a person must have been issued and must possess a valid or renewable

commercial vessel permit for South Atlantic snapper-grouper unlimited that has golden tilefish landings using longline gear totaling a harvest level of at least 10,000 lb (4,536 kg), gutted weight, when the best 3 of 5 years from 2006 - 2010 are aggregated. All applicable golden tilefish landings associated with a current South Atlantic snapper-grouper unlimited permit for the applicable landings history, including those reported by a person(s) who held the permit prior to the current permit owner, will be attributed to the current permit owner. Only legal landings reported in compliance with applicable state and Federal regulations will be accepted.

(B) Initial issuance. On or about [insert date of publication of final rule in the FEDERAL REGISTER], the RA will mail each eligible permittee a golden tilefish longline endorsement via certified mail, return receipt requested, to the permittee's address of record as listed in NMFS' permit files. An eligible permittee who does not receive an endorsement from the RA, must contact the RA no later than [insert date 30 days after date of publication of final rule in the FEDERAL REGISTER], to clarify his/her endorsement status. A permittee who is denied an endorsement based on the RA's initial determination of eligibility and who disagrees with that determination may appeal to the RA.

(C) Procedure for appealing golden tilefish longline endorsement eligibility and/or landings information. The only items subject to appeal are initial eligibility for a golden tilefish longline endorsement based on ownership of a qualifying snapper-grouper permit, the accuracy of the amount of landings, and correct assignment of landings to the permittee. Appeals based on hardship factors will not be considered. Appeals must be submitted to the RA postmarked no later than [insert date 120 days after publication of final rule in the FEDERAL REGISTER], and must contain documentation supporting the basis for the appeal. The RA will review and evaluate all appeals, render final decisions on the appeals, and advise the appellant of the final NMFS decision.

(1) Eligibility appeals. NMFS' records of snapper-grouper permits are the sole basis for determining ownership of such permits. A person who believes he/she meets the permit eligibility criteria based on ownership of a vessel under a different name, as may have occurred when ownership has changed from individual to corporate or vice versa, must document his/her continuity of ownership.

(2) Landings appeals. Appeals regarding landings data for 2006 through 2010 will be based on NMFS' logbook records. If NMFS' logbooks are not available, the RA may use state landings

records or data for the period 2006 through 2010 that were submitted in compliance with applicable Federal and state regulations on or before December 31, 2011.

(D) Transferability. A valid or expired golden tilefish longline endorsement may be transferred between any two individuals or entities that hold or simultaneously obtain a valid or renewable commercial vessel permit for South Atlantic snapper-grouper unlimited. The endorsement may be transferred regardless of whether or not the commercial vessel permit for South Atlantic snapper-grouper unlimited is transferred. The landings history remains associated with the endorsement.

(E) Fees. There is no fee for initial issuance of a golden tilefish longline endorsement. A fee is charged for each renewal, transfer, or replacement of such endorsement. The amount of each fee is calculated in accordance with the procedures of the NOAA Finance Handbook, available from the RA, 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 for renewal, transfer, or replacement.

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(g) * * *

(1) * * * A vessel permit, license, or endorsement or a dealer permit or endorsement 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, in paragraph (o) of this section for a king mackerel gillnet permit, in paragraph (q) of this section for a commercial vessel permit for king mackerel, in paragraph (r) of this section for a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish, in paragraph (s) of this section for a commercial vessel moratorium permit for Gulf shrimp, in § 622.17(c) for a commercial vessel permit for golden crab, in § 622.18(b) for a commercial vessel permit for South Atlantic snapper-grouper, in § 622.19(b) for a commercial vessel permit for South Atlantic rock shrimp, in § 622.4(a) (2) (xiv) (D) for an eastern Gulf reef fish bottom longline endorsement, in § 622.4(a) (2) (xv) (D) for a South Atlantic black sea bass pot endorsement, in § 622.4(a) (2) (xvi) (D) for a South Atlantic golden tilefish hook-and-line endorsement, or in § 622.4(a) (2) (xvii) (D) for a South Atlantic golden tilefish longline endorsement. * * *

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3. In § 622.42, paragraph (e) (2) is revised to read as follows:

§ 622.42 Quotas.

* * * * *

(e) * * *

(2) Golden tilefish. (i) Longline and hook-and-line components combined--541,295 lb (245,527 kg).

(ii) Hook-and-line component--135,324 lb (61,382 kg).

(iii) Longline component--405,971 lb (184,145 kg).

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4. In § 622.44, paragraph (c) (2) is revised to read as follows:

§ 622.44 Commercial trip limits.

* * * * *

(c) * * *

(2) Golden tilefish--(i) South Atlantic snapper-grouper unlimited permit holders with a hook-and-line endorsement.

Until the quota specified in § 622.42(e) (2) (ii) is reached, 300 lb (136 kg), gutted weight; 336 lb (152 kg), round weight.

(ii) South Atlantic snapper-grouper unlimited permit holders with a longline endorsement. Until the quota specified in § 622.42(e) (2) (iii) is reached, 4,000 lb (1,814 kg), gutted weight; 4,480 lb (2,032 kg), round weight.

(iii) South Atlantic snapper-grouper permit holders using hook-and-line gear without a hook-and-line endorsement. Until

the quota specified in § 622.42(e)(2)(ii) is reached, the trip limit for golden tilefish is 200 lb (91 kg), gutted weight; 224 lb (102 kg), round weight. Vessels with snapper-grouper longline endorsements are not eligible to harvest golden tilefish under this hook-and-line trip limit (§ 622.44(c)(2)(iii)).

(iv) See § 622.43(a)(5) for the limitations regarding golden tilefish after the applicable commercial quota is reached.

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5. In § 622.49, paragraph (b)(1)(i) and (ii) are revised to read as follows:

§ 622.49 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

* * * * *

(b) * * *

(1) * * *

(i) Commercial sector. If commercial landings, as estimated by the SRD, reach or are projected to reach the commercial ACL (commercial quota) specified in § 622.42(e)(2)(i), the AA will file a notification with the Office of the Federal Register to close the commercial sector for the remainder of the fishing year.

(ii) Recreational sector. If recreational landings for golden tilefish, as estimated by the SRD, meet or are projected to meet the recreational ACL of 3,019 fish, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year. If recreational landings for golden tilefish, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year, recreational landings will be monitored for a persistence in increased landings and, if necessary, the AA will file a notification with the Office of the Federal Register, to reduce the length of the following recreational fishing season by the amount necessary to ensure recreational landings do not exceed the recreational ACL in the following fishing year. However, the length of the recreational season will also not be reduced during the following fishing year if the RA determines, using the best scientific information available, that a reduction in the length of the following fishing season is unnecessary.

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