

**Tab E, No. 5**

For the reasons set out in the preamble, 50 CFR parts 622 and 640 are 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 § 622.2, the definition "reporting week" is added in alphabetical order to read as follows:

§ 622.2 Definitions and acronyms.

\* \* \* \* \*

Reporting week means the period of time beginning at 12:01 a.m., local time, on Sunday and ending at 11:59 p.m., local time, the following Saturday.

\* \* \* \* \*

3. In § 622.4, paragraphs (a)(4)(i) and (ii) are revised to read as follows:

§ 622.4 Permits and fees.

(a) \* \* \*

(4) \* \* \*

(i) Permits. For a dealer to first receive Gulf reef fish, Gulf red drum, South Atlantic golden crab, South Atlantic snapper-grouper, South Atlantic wreckfish, South Atlantic rock shrimp, Gulf or South Atlantic coastal migratory pelagic fish, Gulf or South Atlantic spiny lobster, or Atlantic dolphin or

wahoo harvested in or from the EEZ; a Gulf and South Atlantic dealer permit must be issued to a dealer.

(ii) Gulf IFQ dealer endorsements. In addition to the requirement for a Gulf and South Atlantic dealer permit as specified in paragraph (a)(4)(i) of this section, for a dealer to first receive red snapper subject to the Gulf red snapper IFQ program, as specified in § 622.16(a)(1), or groupers and tilefishes subject to the IFQ program for Gulf groupers and tilefishes, as specified in § 622.20(a)(1), or for a person aboard a vessel with a Gulf IFQ vessel account to sell such red snapper or groupers and tilefishes directly to an entity other than a dealer, such persons must also have a Gulf IFQ dealer endorsement. A dealer with a Gulf and South Atlantic dealer permit can download a Gulf IFQ dealer endorsement from the NMFS IFQ website at [ifq.sero.nmfs.noaa.gov](http://ifq.sero.nmfs.noaa.gov). If such persons do not have an IFQ online account, they must first contact IFQ Customer Service at 1-866-425-7627 to obtain information necessary to access the IFQ website and establish an IFQ online account. There is no fee for obtaining this endorsement. The IFQ dealer endorsement remains valid as long as the Gulf and South Atlantic dealer permit remains valid and the dealer is in compliance with all Gulf reef fish and IFQ reporting requirements, has paid all IFQ fees required under paragraph (c)(2) of this section, and is not subject to any sanctions under 15 CFR part 904. The IFQ

dealer endorsement is not transferable. See § 622.16 regarding other provisions pertinent to the Gulf red snapper IFQ system and § 622.20 regarding other provisions pertinent to the IFQ system for Gulf groupers and tilefishes.

\* \* \* \* \*

4. In § 622.5, paragraph (c) is revised to read as follows:

§ 622.5 Recordkeeping and Reporting.

\* \* \* \* \*

(c) Dealers--(1) Gulf and South Atlantic dealers. (i) A person issued a Gulf and South Atlantic dealer permit must submit a detailed electronic report of all fish first received for a commercial purpose, other than solely for transport on land, within the time period specified in this paragraph, via the dealer electronic trip ticket reporting system. These electronic reports must be submitted at weekly intervals via the dealer electronic trip ticket reporting system by 11:59 p.m., local time, the Tuesday following a reporting week. **If no fish were received during a reporting week, an electronic report so stating must be submitted for that reporting week.** Dealers must submit electronic reports for Gulf migratory group king mackerel harvested by the run-around gillnet sector in the southern Florida west coast subzone daily via the dealer electronic trip ticket reporting system by 6:00 a.m., local time, for the

**Comment [ac1]:** If Council selects Alt 2 in Action 3 as preferred, this text would apply.

previous day's harvest. Until the commercial ACL (commercial quota) for the run-around gillnet sector for Gulf migratory group king mackerel is reached, if no king mackerel were received, an electronic report so stating must be submitted for that day. The information to be reported by all Gulf and South Atlantic dealers includes, but is not limited to, the following:

**Comment [ac2]:** If Council selects Alt 2 in Action 3 as preferred, this text would apply.

- (A) Trip ticket number
- (B) Dealer or processor's name and Federal permit number and state dealer license number
- (C) Vessel name and U.S. Coast Guard documentation number and state registration number
- (D) Vessel Trip Report (VTR) number from vessel logbook form
- (E) Date vessel leaves a dock, berth, beach, seawall, or ramp for a fishing trip
- (F) Date vessel offloads the catch
- (G) Date of purchase
- (H) Species
- (I) Amount landed (pounds, bushels, etc.)
- (J) Price per unit (\$) landed weight
- (K) Port and state of landing
- (L) Gear used
- (M) Area fished
- (N) Size category (small, large)

(O) Condition (gutted, headed, cored, etc.)

(P) Disposition (food, bait, pet food or reduction)

(ii) Dealers must retain either the paper forms or electronic reports for at least 1 year after the submittal date and must provide such records for inspection upon the request of an authorized officer or the SRD.

(iii) The operator of a car or truck that is used to pick up from a fishing vessel reef fish harvested from the Gulf must maintain a record containing the name of each fishing vessel from which reef fish on the car or truck have been received. The vehicle operator must provide such record for inspection upon the request of an authorized officer.

(iv) During catastrophic conditions only, the ACL monitoring program provides for use of paper-based components for basic required functions as a backup. The Regional Administrator (RA) will determine when catastrophic conditions exist, the duration of the catastrophic conditions, and which participants or geographic areas are deemed affected by the catastrophic conditions. The RA will provide timely notice to affected participants via publication of notification in the Federal Register, NOAA weather radio, fishery bulletins, and other appropriate means and will authorize the affected participants' use of paper-based components for the duration of the catastrophic conditions. The paper forms will be available

from NMFS. During catastrophic conditions, the RA has the authority to waive or modify reporting time requirements.

(v) Gulf and South Atlantic dealers are not authorized to first receive Gulf reef fish, Gulf red drum, South Atlantic golden crab, South Atlantic snapper-grouper, South Atlantic wreckfish, South Atlantic rock shrimp, coastal migratory pelagic fish, spiny lobster, or Atlantic dolphin or wahoo, if the required electronic reports have not been submitted and received by NMFS according to the reporting requirements under this section. Delinquent reports automatically result in a Gulf and South Atlantic dealer becoming ineligible to first receive such fish, regardless of any notification to dealers by NMFS. Gulf and South Atlantic dealers who become ineligible to receive such fish due to delinquent reports are authorized to first receive such fish only after all required and delinquent reports have been submitted and received by NMFS according to the reporting requirements under this section.

**Comment [ac3]:** If Council selects Alt 2 in Action 3 as preferred, this text would apply.

(2) [Reserved]

5. In § 622.7, paragraph (kk) is added to read as follows:

§ 622.7 Prohitibions.

\* \* \* \* \*

(kk) First receive fish if the required electronic reports have not been submitted in accordance with § 622.5(c).

**Comment [ac4]:** If Council selects Alt 2 in Action 3 as preferred, this text would apply.

6. In § 622.15, paragraphs (b), (c)(6), (c)(7), and (d)(4)

are revised to read as follow:

§ 622.15 Wreckfish individual transferable quota (ITQ) system.

\* \* \* \* \*

(b) List of wreckfish shareholders. Annually, on or about March 1, the RA will provide each wreckfish shareholder with a list of all wreckfish shareholders and their percentage shares, reflecting share transactions on forms received through February 15.

(c) \* \* \* \*

(6) The "Fish House" part of each such coupon must be given to the dealer to whom the wreckfish are transferred in amounts totaling the eviscerated weight of the wreckfish transferred to that dealer. Wreckfish may be transferred only to a Gulf and South Atlantic dealer permit holder, as required under § 622.4(a)(4).

(7) A dealer may first receive wreckfish only from a vessel for which a commercial permit for wreckfish has been issued, as required under § 622.4(a)(2)(vii). A dealer must receive the "Fish House" part of ITQ coupons in amounts totaling the eviscerated weight of the wreckfish received; enter the permit number of the vessel from which the wreckfish were received, enter the date the wreckfish were received, enter the dealer's permit number, and sign each such "Fish House" part; and submit

all such parts with the electronic dealer reports required by § 622.5(c)(5)(i).

\* \* \* \* \*

(d) \* \* \*

(4) If a wreckfish harvested by a vessel that has been issued a commercial vessel permit for South Atlantic snapper-grouper and a commercial vessel permit for wreckfish is to be offloaded at a location other than a fixed facility of a dealer who holds a Gulf and South Atlantic dealer permit, as required under § 622.4(a)(4), the wreckfish shareholder or the vessel operator must advise the NMFS Office for Law Enforcement, Southeast Region, St. Petersburg, FL, by telephone (727-824-5344), of the location not less than 24 hours prior to offloading.

7. In § 622.45, paragraphs (c)(2), (c)(3), (d)(2), (d)(3), (f)(3), (f)(4), (g)(2), (g)(3), (h), and (i) are revised to read as follow:

§ 622.45 Restrictions on sale/purchase.

\* \* \* \* \*

(c) \* \* \*

(2) A Gulf reef fish harvested in or from the EEZ may only be first received by a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.4(a)(4).

(3) A person who has a valid commercial permit for Gulf

reef fish may sell or transfer Gulf reef fish harvested in or from the EEZ or adjoining state waters only to a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.4(a)(4).

(d) \* \* \*

(2) A South Atlantic snapper-grouper harvested in or from the EEZ may only be first received by a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.4(a)(4).

(3) A person who has a valid commercial permit for South Atlantic snapper-grouper may sell or transfer South Atlantic snapper-grouper harvested in or from the EEZ or adjoining state waters only to a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.4(a)(4).

\* \* \* \* \*

(f) \* \* \*

(3) A golden crab harvested in or from the EEZ may only be first received by a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.4(a)(4).

(4) A person who has a valid commercial permit for golden crab may sell or transfer golden crab harvested in or from the EEZ or adjoining state waters only to a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.4(a)(4).

(g) \* \* \*

(2) Rock shrimp harvested in or from the EEZ may only be first received by a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.4(a)(4).

(3) A person who has a valid commercial permit for rock shrimp may sell or transfer rock shrimp harvested in or from the EEZ or adjoining state waters only to a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.4(a)(4).

(h) Coastal migratory pelagic fish. (1) A person may not sell or purchase a cut-off (damaged) king or Spanish mackerel that does not comply with the minimum size limits specified in § 622.37(c)(2) or (c)(3), respectively, or that is in excess of the trip limits specified in § 622.44(a) or (b), respectively.

(2) Coastal migratory pelagic fish harvested in or from the EEZ may only be first received by a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.4(a)(4).

(3) A person who has a valid Federal permit for coastal migratory pelagic fish may sell or transfer coastal migratory pelagic fish harvested in or from the Gulf or South Atlantic EEZ or adjoining state waters only to a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.4(a)(4).

Comment [ac5]: The Council needs to discuss this requirement.

(i) Atlantic dolphin and wahoo. (1) Atlantic dolphin and wahoo harvested in or from the Atlantic EEZ may only be first received by a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.4(a)(4).

(2) A person who has a valid commercial permit for Atlantic dolphin and wahoo or a vessel authorized a 200-lb (91-kg) commercial trip limit for dolphin or wahoo, as specified in § 622.44(f)(2), may sell or transfer dolphin and wahoo harvested in or from the Atlantic EEZ or adjoining state waters only to a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.4(a)(4).

(3) In addition to the provisions of paragraphs (i)(1) and (i)(2) of this section, a person may not sell dolphin or wahoo possessed under the recreational bag limit harvested in the Atlantic EEZ or adjoining state waters by a vessel while it is operating as a charter vessel or headboat. A dolphin or wahoo harvested or possessed by a vessel that is operating as a charter vessel or headboat with a Federal charter vessel/headboat permit for Atlantic dolphin and wahoo may not be purchased or sold if harvested in or from the Atlantic EEZ or adjoining state waters.

8. Section 622.45 is revised to read as follow:

§ 622.47 Gulf groundfish trawling.

Gulf groundfish trawling means fishing in the Gulf EEZ by a

vessel that uses a bottom trawl, the unsorted catch of which is ground up for animal feed or industrial products.

(a) Other provisions of this part notwithstanding, the owner or operator of a vessel trawling for Gulf groundfish is exempt from the following requirements and limitations for the vessel's unsorted catch of Gulf reef fish:

(1) The requirement for a valid commercial vessel permit for Gulf reef fish in order to sell Gulf reef fish.

(2) Minimum size limits for Gulf reef fish.

(3) Bag limits for Gulf reef fish.

(4) The prohibition on sale of Gulf reef fish after a quota closure.

(b) Other provisions of this part notwithstanding, a dealer in a Gulf state is exempt from the requirement for a Gulf and South Atlantic dealer permit to receive Gulf reef fish harvested from the Gulf EEZ by a vessel trawling for Gulf groundfish.

PART 640--SPINY LOBSTER FISHERY OF THE GULF OF MEXICO AND SOUTH ATLANTIC

9. The authority citation for part 640 continues to read as follows:

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

9. Section 640.45 is added to read as follows:

§ 640.45 Restrictions on sale/purchase.

(a) Spiny lobster harvested in or from the EEZ may only be first received by a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.4(a)(4).

(b) A person who has a valid commercial permit for spiny lobster, other than for off Florida, and a person who has the licenses and certificates to be a spiny lobster "commercial harvester", as defined in the Rule 68B-24.002, Florida Administrative Code, in effect as of July 1, 2008 (incorporated by reference, see § 640.29), may sell or transfer spiny lobster harvested in the Gulf or South Atlantic EEZ or adjoining state waters only to a dealer who has a valid Gulf and South Atlantic dealer permit, as required under § 622.4(a)(4).

**Comment [ac6]:** The Council needs to discuss this requirement.