

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 622

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

Dated:

For the reasons set out in the preamble, 15 CFR Chapter IX and 50 CFR Chapter VI are proposed to be amended as follows:

15 CFR Chapter IX

PART 902--NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 et seq.

2. In § 902.1, paragraph (b), under "50 CFR", the entry "622.17" is added, and the entry "622.20" is revised, in

numerical order, to read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

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(b) * * *

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648-)
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50 CFR

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622.17	-0551
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622.20	-0551
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50 CFR Chapter VI

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

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

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

4. In § 622.4, paragraph (a)(2)(x) is revised, paragraph (a)(4)(iv) is added, and a new sentence is added after the fourth sentence in paragraph (i) to read as follows:

§ 622.4 Permits and fees.

* * * * *

(a) * * *

(2) * * *

(x) South Atlantic golden crab. For a person aboard a vessel to fish for golden crab in the South Atlantic EEZ, possess golden crab in or from the South Atlantic EEZ, off-load golden crab from the South Atlantic EEZ, or sell golden crab in or from the South Atlantic EEZ, a commercial vessel permit for golden crab must have been issued to the vessel and must be on board, and an IFQ vessel account for South Atlantic golden crab must have been established. As a condition of the IFQ vessel account, a person aboard such vessel must comply with the requirements of § 622.17 when fishing for golden crab. An owner of a vessel with a valid commercial vessel permit for South Atlantic golden crab, who has established an IFQ account for golden crab, as specified in § 622.17(a)(3)(i), online via the NMFS IFQ Web site at <http://ifq.ser.nmfs.noaa.gov>, may establish a vessel account through that IFQ account for the permitted vessel. If such owner does not have an IFQ online account, the

owner must first contact IFQ Customer Service at 1-866-425-7627 to obtain information necessary to access the IFQ Web site and establish an IFQ online account. There is no fee to set-up an IFQ account or a vessel account. Only one vessel account may be established per vessel. An owner with multiple vessels may establish multiple vessel accounts under each IFQ account. The purpose of the vessel account is to hold IFQ allocation that is required to land golden crab. A vessel account must hold sufficient IFQ allocation, at least equal to the pounds in round weight of the golden crab on board, from the time of advance notice of landing through landing (except for any overage allowed as specified in § 622.17(c)(1)(ii)). The vessel account remains valid as long as the vessel permit for golden crab remains valid; the vessel has not been sold or transferred; and the vessel owner is in compliance with all golden crab and IFQ reporting requirements, has paid all applicable IFQ fees, and is not subject to sanctions under 15 CFR part 904. The vessel account is not transferable. It is a rebuttable presumption that golden crab on board a vessel in the South Atlantic or off-loaded from a vessel in a port adjoining the South Atlantic was harvested from the South Atlantic EEZ. See § 622.17 for provisions pertinent to the South Atlantic golden crab IFQ program and limitations on the use, transfer, and renewal of a

commercial vessel permit for golden crab.

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(4) * * *

(iv) South Atlantic golden crab IFQ dealer endorsements.

In addition to the requirement for a dealer permit for golden crab as specified in paragraph (a)(4)(i) of this section, for a dealer to receive golden crab subject to the South Atlantic golden crab IFQ program, as specified in § 622.17(a)(1), or for a person aboard a vessel with a valid IFQ vessel account for South Atlantic golden crab to sell such golden crab directly to an entity other than a dealer, such persons must also have a South Atlantic golden crab IFQ dealer endorsement. A dealer with a dealer permit for South Atlantic golden crab can download an IFQ dealer endorsement from the NMFS IFQ Web site at <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 Web site and establish an IFQ online account. There is no fee for obtaining this endorsement. The endorsement remains valid as long as the dealer permit for South Atlantic golden crab remains valid and the dealer is in compliance with all South Atlantic golden crab 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 endorsement is not transferable. See § 622.17 regarding other provisions pertinent to the South Atlantic golden crab IFQ program.

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(i) * * * A South Atlantic golden crab IFQ dealer endorsement must accompany each vehicle that is used to transport South Atlantic golden crab. * * *

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5. In § 622.7, paragraph (z) is removed and reserved and paragraphs (kk) and (ll) are added to read as follows:

§ 622.7 Prohibitions.

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(kk) Fail to comply with any provision related to the South Atlantic golden crab IFQ program, as specified in § 622.17.

(ll) Falsify any information required to be submitted regarding the South Atlantic golden crab IFQ program, as specified in § 622.17.

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6. In § 622.9, paragraph (a)(2)(i) and the first sentence in paragraph (a)(2)(iv)(B) are revised and paragraph (a)(3) is added to read as follows:

§ 622.9 Vessel monitoring systems (VMSs).

(a) * * *

(2) * * *

(i) General VMS requirement. An owner or operator of a vessel that has been issued a commercial vessel permit for Gulf reef fish, including a charter vessel/headboat issued such a permit even when under charter, must ensure that such vessel has an operating VMS approved by NMFS for use in the Gulf reef fish fishery on board at all times whether or not the vessel is underway, unless exempted by NMFS under the power-down exemptions specified in paragraph (a)(2)(iv) of this section. An operating VMS includes an operating mobile transmitting unit on the vessel and a functioning communication link between the unit and NMFS as provided by a NMFS-approved communication service provider. NMFS OLE maintains a current list of approved VMS units and communication providers which is available from the VMS Support Center, NMFS OLE, 8484 Georgia Avenue, Suite 415, Silver Spring, MD 20910 or by calling toll free 888-219-9228. If a VMS unit approved for the Gulf reef fish fishery is removed from the approved list by NMFS OLE, a vessel owner who purchased and installed such a VMS unit prior to its removal from the approved list will be considered to be in compliance with the requirement to have an approved unit, unless otherwise notified by NMFS OLE. At the end of a VMS unit's service life,

it must be replaced with a currently approved unit for the fishery.

* * * * *

(iv) * * *

(B) The owner or operator of the vessel applies for and obtains a valid letter of exemption from NMFS OLE VMS personnel.

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(3) South Atlantic golden crab. The VMS requirements of this paragraph (a)(3) apply throughout the South Atlantic and adjacent states.

(i) General VMS requirement. An owner or operator of a vessel that has been issued a commercial vessel permit for South Atlantic golden crab must ensure that such vessel has an operating VMS approved by NMFS for use in the South Atlantic golden crab fishery on board at all times whether or not the vessel is underway, unless exempted by NMFS under the power-down exemptions specified in paragraph (a)(3)(iv) of this section. An operating VMS includes an operating mobile transmitting unit on the vessel and a functioning communication link between the unit and NMFS as provided by a NMFS-approved communication service provider. NMFS OLE maintains a current list of approved VMS units and communication providers which is available from

the VMS Support Center, NMFS OLE, 8484 Georgia Avenue, Suite 415, Silver Spring, MD 20910 or by calling toll free 888-219-9228. If a VMS unit approved for the South Atlantic golden crab fishery is removed from the approved list by NMFS OLE, a vessel owner who purchased and installed such a VMS unit prior to its removal from the approved list will be considered to be in compliance with the requirement to have an approved unit, unless otherwise notified by NMFS OLE. At the end of a VMS unit's service life, it must be replaced with a currently approved unit for the fishery.

(ii) Hourly reporting requirement. An owner or operator of a vessel subject to the requirements of paragraph (a)(3) of this section must ensure that the required VMS unit transmits a signal indicating the vessel's accurate position at least once an hour, 24 hours a day every day unless exempted under paragraphs (a)(2)(iii) or (iv) of this section.

(iii) In-port exemption. While in port, an owner or operator of a vessel with a type-approved VMS unit configured with the 4-hour reporting feature may utilize the 4-hour reporting feature rather than comply with the hourly reporting requirement specified in paragraph (a)(3)(ii) of this section. Once the vessel is no longer in port, the hourly reporting requirement specified in paragraph (a)(3)(ii) of this section

applies. For the purposes of this paragraph (a)(3) of this section, "in port" means secured at a land-based facility, or moored or anchored after the return to a dock, berth, beach, seawall, or ramp.

(iv) Power-down exemptions. An owner or operator of a vessel subject to the requirement to have a VMS operating at all times as specified in paragraph (a)(3)(i) of this section can be exempted from that requirement and may power down the required VMS unit if--

(A) The vessel will be continuously out of the water or in port, as defined in paragraph (a)(3)(iii) of this section, for more than 72 consecutive hours;

(B) The owner or operator of the vessel applies for and obtains a valid letter of exemption from NMFS OLE VMS personnel. This is a one-time requirement. The letter of exemption must be maintained on board the vessel and remains valid for all subsequent power-down requests conducted consistent with the provisions of paragraphs (a)(3)(iv)(C) and (D) of this section.

(C) Prior to each power-down, the owner or operator of the vessel files a report to NMFS OLE VMS program personnel, using the VMS unit's e-mail, that includes the name of the person filing the report, vessel name, vessel U.S. Coast Guard documentation number or state registration number, commercial

vessel reef fish permit number, vessel port location during VMS power down, estimated duration of the power down exemption, and reason for power down; and

(D) The owner or operator enters the power-down code through the use of the VMS Declaration form on the terminal and, prior to powering down the VMS, receives a confirmation, through the VMS terminal, that the form was successfully delivered.

(v) Declaration of fishing trip and gear. Prior to departure for each trip, a vessel owner or operator must report to NMFS any fishery the vessel will participate in on that trip and the specific type(s) of fishing gear, using NMFS-defined gear codes, that will be on board the vessel. This information may be reported to NMFS using the toll-free number, 888-219-9228, or via an attached VMS terminal.

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7. Section 622.17 is revised to read as follows:

§ 622.17 South Atlantic golden crab IFQ program.

(a) General. This section establishes an IFQ program for the South Atlantic golden crab fishery. Under the IFQ program, the RA initially will assign eligible participants IFQ shares equivalent to a percentage of the commercial annual catch level (ACL), as specified in § 622.49(g) of this part. Shares determine the amount of golden crab allocation, in pounds round

weight, a shareholder is authorized to possess, land, or sell in a given calendar year. Participants in the golden crab IFQ program may possess IFQ shares and allocation only if they are U.S. citizens or permanent resident aliens and have a valid or renewable commercial vessel permit for golden crab. Shares and annual pounds of allocation are transferable, however, only to valid commercial vessel permit holders. See § 622.4(a)(2)(x) regarding a requirement for a vessel to have a valid commercial vessel permit for golden crab and an IFQ vessel account to fish for, possess, off-load or sell South Atlantic golden crab. See § 622.4(a)(4)(iv) regarding a requirement for a South Atlantic golden crab IFQ dealer endorsement. See § 622.9 for the requirement to have an operating VMS approved by NMFS for use in the South Atlantic golden crab fishery on board when on a trip in the South Atlantic. Details regarding eligibility, applicable landings history, account setup and transaction requirements, constraints on transferability, and other provisions of this IFQ program are provided in the following paragraphs of this section.

(1) Scope. The provisions of this section regarding the harvest and possession of South Atlantic golden crab apply to South Atlantic golden crab in or from the South Atlantic EEZ and, for a person aboard a vessel with a South Atlantic golden

crab IFQ vessel account as required by § 622.4(a)(2)(x) or for a person with a South Atlantic golden crab IFQ dealer endorsement as required by § 622.4(a)(4)(iv), these provisions apply to South Atlantic golden crab regardless of where harvested or possessed.

(2) Duration. The golden crab IFQ program established by this section will remain in effect until it is modified or terminated; however, the program will be evaluated by the South Atlantic Fishery Management Council every 5 years, from date of implementation of the program.

(3) Electronic system requirements. (i) The administrative functions associated with this IFQ program, (e.g. registration and account setup, landing transactions, and transfers) are designed to be accomplished online; therefore, a participant must have access to a computer, Internet access, and set up an appropriate IFQ account to participate. The computer must have browser software installed (e.g. Internet Explorer, Chrome, Mozilla Firefox), and Adobe Flash Player software. Assistance with online functions is available from IFQ Customer Service by calling 1-866-425-7627 Monday through Friday between 8 a.m. and 4:30 p.m. eastern time.

(ii) The RA will mail initial shareholders and dealers with South Atlantic golden crab dealer permits information and

instructions pertinent to setting up an IFQ online account. Other eligible persons who desire to become IFQ participants through the purchasing of IFQ shares or pounds of allocation or as a dealer must contact IFQ Customer Service at 1-866-425-7627 to obtain information necessary to set up the required IFQ online account. Each IFQ participant must monitor his/her online account and all associated messages and comply with all IFQ reporting requirements.

(iii) During catastrophic conditions only, the IFQ program provides for use of paper-based components for basic required functions as a backup. The 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. NMFS will provide each IFQ dealer the necessary paper forms, sequentially coded, and instructions for submission of the forms to the RA. The paper forms will also be available from the RA. The program functions available to participants or geographic areas deemed affected by

catastrophic conditions will be limited under the paper-based system. There will be no mechanism for transfers of IFQs or allocation under the paper-based system in effect during catastrophic conditions. Assistance in complying with the requirements of the paper-based system will be available via IFQ Customer Service 1-866-425-7627 Monday through Friday between 8 a.m. and 4:30 p.m. eastern time.

(b) Procedures for initial implementation--(1)

Determination of eligibility for initial IFQ shares. To be eligible as an initial golden crab IFQ shareholder a person must possess a valid or renewable commercial South Atlantic golden crab permit as of [insert date of publication of final rule in the FEDERAL REGISTER]. NMFS' permit records are the sole basis for determining eligibility for the golden crab IFQ program. No more than one initial eligibility will be granted based upon a given commercial vessel permit for South Atlantic golden crab.

(2) Calculation of initial IFQ shares and allocation--(i)

IFQ shares. The RA will distribute initial golden crab IFQ shares based on the following. Twenty-five percent of initial IFQ shares will be distributed equally among eligible permit holders. The other 75 percent of initial IFQ shares will be distributed among eligible participants based on the aggregate annual golden crab landings from logbooks associated with their

current permit(s) during the time period 1997 through 2010. All golden crab logbook landings associated with a current golden crab permit, 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.

(ii) Initial share set-aside to accommodate resolution of appeals. During the first year of implementation of this IFQ program only, the RA will reserve 2 percent of the IFQ shares prior to the initial distribution of shares to accommodate resolution of appeals, if necessary. Any portion of the 2-percent share set-aside remaining after the appeals process is completed will be distributed as soon as possible among initial shareholders in direct proportion to the percentage share each shareholder was initially allocated. If the amount of IFQ shares set aside for appeals is exceeded, then the IFQ shares and allocation of all IFQ shareholders would be proportionately adjusted.

(iii) IFQ allocation (annual pounds). IFQ allocation is the amount of South Atlantic golden crab, in pounds round weight, an IFQ shareholder or allocation holder is authorized to possess, land, or sell during a given fishing year. IFQ

allocation is derived at the beginning of each year by multiplying a shareholder's IFQ share by the current fishing year's commercial ACL for golden crab.

(3) Shareholder notification regarding landings history, initial determination of IFQ shares and allocations, and IFQ account setup information. (i) On or about [insert date], the RA will mail each South Atlantic golden crab permittee, information pertinent to the IFQ program. This information will include--

(A) Annual South Atlantic golden crab landings associated with the South Atlantic golden crab commercial vessel permit from 1997 through 2010;

(B) The permittee's initial IFQ share;

(C) The permittee's initial IFQ allocation;

(D) Instructions for appeals;

(E) General instructions regarding procedures related to setting up an IFQ online account; and

(F) A user identification number; and a personal identification number (PIN).

(ii) The RA will provide this information, via certified mail return receipt requested, to the permittee's address of record as listed in NMFS' permit files. A permittee who does not receive such notification from the RA, must contact the RA

by [insert date], to clarify eligibility status and landings and initial share information.

(4) Procedure for appealing IFQ share eligibility and/or landings information. The only items subject to appeal under this IFQ program are initial eligibility for IFQ shares based on ownership of a commercial vessel permit for golden crab and the accuracy of the amount of landings. Appeals based on hardship factors will not be considered. Appeals must be submitted to the RA postmarked no later than [insert date 90 days after date of implementation of final rule], and must contain documentation supporting the basis for the appeal. The RA will review all appeals, render final decisions on the appeals, and advise the appellant of the final decision.

(i) Eligibility appeals. NMFS' records of commercial vessel permits for golden crab are the sole basis for determining ownership of such permits. A person who believes he or 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.

(ii) Landings appeals. Appeals regarding landings data for 1997 through 2010 will be based on NMFS' logbook records, submitted on or before December 31, 2011. If NMFS' logbooks are

not available, the RA may use state landings records or data that were submitted in compliance with applicable Federal and state regulations, on or before December 31, 2011.

(5) Dealer notification and IFQ online account setup information. On or about [insert date], the RA will mail each dealer with a valid or renewable South Atlantic golden crab dealer permit information pertinent to the golden crab IFQ program. The information package will include general information about the IFQ program and instructions for accessing the IFQ Web site and establishing an IFQ dealer account.

(c) IFQ operations and requirements--(1) IFQ landing and transaction requirements. (i) South Atlantic golden crab subject to this IFQ program can only be possessed or landed by a vessel with an IFQ vessel account for South Atlantic golden crab. Such golden crab can only be received by a dealer with a valid South Atlantic golden crab dealer permit, a valid IFQ dealer endorsement and a valid IFQ dealer account. The vessel landing golden crab must have sufficient IFQ allocation, at least equal to the pounds in round weight of golden crab to be landed, from the time of advance notice of landing through landing, except as provided in paragraph (c)(1)(ii) of this section. Such golden crab can only be received by a dealer with a golden crab IFQ dealer endorsement.

(ii) A person on board a vessel with an IFQ online account that contains shares may once-per-year legally exceed the shareholder's only remaining allocation, by up to 20 percent, on the last fishing trip of the fishing year. Any such overage will be deducted from the shareholder's applicable allocation for the subsequent fishing year. Shareholder accounts that do not contain shares cannot legally land any excess pounds. From the time of the overage until January 1 of the subsequent fishing year, the IFQ shareholder must retain sufficient shares to account for the allocation that will be deducted the subsequent fishing year. Share transfers that would violate this requirement will not be approved.

(iii) The dealer is responsible for completing a landing transaction report for each landing and sale of South Atlantic golden crab via the IFQ Web site at <http://ifq.sero.nmfs.noaa.gov> at the time of the transaction in accordance with the reporting form(s) and instructions provided on the Web site. This report includes, but is not limited to, date, time, and location of the transaction; weight and actual ex-vessel value of golden crab landed and sold; and information necessary to identify the fisherman, vessel, and dealer involved in the transaction. The fisherman must validate the dealer transaction report by entering the unique PIN for the vessel

account when the transaction report is submitted. After the dealer submits the report and the information has been verified by NMFS, the online system will send a transaction approval code to the dealer and the allocation holder.

(iv) If there is a discrepancy regarding the landing transaction report after approval, the dealer or IFQ account holder (or his or her authorized agent) must initiate a landing transaction correction form to correct the landing transaction. This form is available via the IFQ Web site at <http://ifq.sero.nmfs.noaa.gov>. The dealer must then print out the form, both parties must sign it, and the form must be mailed to NMFS. The form must be received by NMFS no later than 15 days after the date of the initial landing transaction.

(2) IFQ cost recovery fees. As required by section 304(d)(2)(A)(i) of the Magnuson-Stevens Act, the RA will collect a fee to recover the actual costs directly related to the management and enforcement of the IFQ program for South Atlantic golden crab. The fee cannot exceed 3 percent of the ex-vessel value of South Atlantic golden crab landed under the IFQ program as described in the Magnuson-Stevens Act. Such fees will be deposited in the Limited Access System Administration Fund (LASAF). Initially, the fee will be 3 percent of the actual ex-vessel value of South Atlantic golden crab landed under the IFQ

program, as documented in each landings transaction report. The RA will review the cost recovery fee annually to determine if adjustment to the fee is warranted. Factors considered in the review include the catch subject to the IFQ cost recovery, projected ex-vessel value of the catch, costs directly related to the management and enforcement of the IFQ program, the projected IFQ cost recovery balance in the LASAF, and expected non-payment of fee liabilities. If the RA determines that a fee adjustment is warranted, the RA will publish a notification of the fee adjustment in the Federal Register.

(i) Payment responsibility. The IFQ allocation holder specified in the documented IFQ landing transaction report for South Atlantic golden crab is responsible for payment of the applicable cost recovery fees.

(ii) Collection and submission responsibility. (A) An IFQ dealer who receives South Atlantic golden crab subject to the IFQ program is responsible for collecting the applicable cost recovery fee for each IFQ landing from the IFQ allocation holder specified in the IFQ landing transaction report. Such dealer is responsible for submitting all applicable cost recovery fees to NMFS on a quarterly basis. The fees are due and must be submitted, using www.pay.gov via the IFQ system, at the end of each calendar-year quarter, but no later than 30 days after the

end of each calendar-year quarter. Fees not received by the deadline are delinquent. Authorized payment methods are credit card, debit card, or automated clearing house (ACH). Payment by check will be authorized only if the RA has determined that the geographical area or an individual(s) is affected by catastrophic conditions.

(iii) Fee reconciliation process--delinquent fees. The following procedures apply to an IFQ dealer whose cost recovery fees are delinquent.

(A) On or about the 31st day after the end of each calendar-year quarter, the RA will send the dealer an electronic message via the IFQ Web site and official notice via mail indicating the applicable fees are delinquent, and the dealer's IFQ account has been suspended pending payment of the applicable fees.

(B) On or about the 91st day after the end of each calendar-year quarter, the RA will refer any delinquent IFQ dealer cost recovery fees to the appropriate authorities for collection of payment.

(3) Measures to enhance IFQ program enforceability--(i) Advance notice of landing. For the purpose of this paragraph, landing means to arrive at a dock, berth, beach, seawall, or ramp. The owner or operator of a vessel landing golden crab is

responsible for ensuring that NMFS is contacted at least 3 hours, but no more than 12 hours, in advance of landing to report the time and location of landing, estimated golden crab landings in pounds round weight, vessel identification number (Coast Guard registration number or state registration number), and the name and address of the IFQ dealer where the golden crab are to be received. The vessel landing golden crab must have sufficient IFQ allocation at least equal to the pounds in round weight of all golden crab on board (except for any overage up to the 20 percent allowed on the last fishing trip of the fishing year) from the time of the advance notice of landing through landing. Authorized methods for contacting NMFS and submitting the report include calling IFQ Customer Service at 1-866-425-7627, completing and submitting to NMFS the notification form provided through the VMS unit, or providing the required information to NMFS through the web-based form available on the IFQ Web site at <http://ifq.sero.nmfs.noaa.gov>. As new technology becomes available, NMFS will add other authorized methods for complying with the advance notification requirement, via appropriate rulemaking. Failure to comply with this advance notice of landing requirement is unlawful and will preclude authorization to complete the landing transaction report required in paragraph (b)(1)(iii) of this section and, thus,

will preclude issuance of the required transaction approval code.

(ii) Time restriction on offloading. For the purpose of this paragraph, offloading means to remove IFQ golden crab from a vessel. Golden crab may be offloaded only between 6 a.m. and 6 p.m., local time.

(iii) Restrictions on transfer of golden crab. At-sea or dockside transfer of golden crab from one vessel to another vessel is prohibited.

(iv) Requirement for transaction approval code. If golden crab are offloaded to a vehicle for transportation to an IFQ dealer or are on a vessel that is trailered for transport to a dealer, on-site capability to accurately weigh the golden crab and to connect electronically to the IFQ online system to complete the transaction and obtain the transaction approval code is required. After a landing transaction has been completed, a transaction approval code verifying a legal transaction of the amount of golden crab in possession and a copy of the IFQ dealer endorsement must accompany any golden crab from the landing location through possession by a dealer. This requirement also applies to golden crab possessed by a vessel that is trailered for transport to an IFQ dealer.

(v) Approved landing locations. Landing locations must be

approved by NMFS Office for Law Enforcement, in consultation with the applicable state law enforcement agency, prior to landing or offloading at these sites. Proposed landing locations may be submitted online via the IFQ Web site at <http://ifq.sero.nmfs.noaa.gov>, or by calling IFQ Customer Service at 1-866-425-7627, at any time; however, new landing locations will be approved only at the end of each calendar-year quarter. To have a landing location approved by the end of the calendar-year quarter, it must be submitted at least 45 days before the end of the calendar-year quarter. NMFS will evaluate the proposed sites based on, but not limited to, the following criteria:

(A) Landing locations must have a street address. If there is no street address on record for a particular landing location, global positioning system (GPS) coordinates for an identifiable geographic location must be provided. (B) Landing locations must be publicly accessible by land and water, and must satisfy the following criteria:

(1) Vehicles must have access to the site via public roads;

(2) Vessels must have access to the site via navigable waters;

(3) No other condition may impede free and immediate access to the site by an authorized law enforcement officer. Examples

of such conditions include, but are not limited to: A locked gate, fence, wall, or other barrier preventing 24-hour access to the site; a gated community entry point; a guard animal; a posted sign restricting access to the site; or any other physical deterrent.

(4) Transfer of IFQ shares and allocation. IFQ shares and allocations can be transferred only to a person who holds a valid commercial vessel permit for South Atlantic golden crab. However, a valid commercial vessel permit for South Atlantic golden crab, an IFQ vessel account for South Atlantic golden crab, and IFQ allocation for South Atlantic golden crab are required to possess (at and after the time of the advance notice of landing), land or sell South Atlantic golden crab.

(i) Share transfers. Share transfers are permanent, i.e., they remain in effect until subsequently transferred. Transfer of shares will result in the corresponding allocation being automatically transferred to the person receiving the transferred shares when pounds are redistributed to share holders (i.e., at the beginning of the fishing year following the year the transfer occurred, or mid-year if there is a quota increase that occurs during the fishing year). However, within the fishing year the share transfer occurs, transfer of shares and associated allocation are independent--unless the associated

allocation is transferred separately, it remains with the transferor for the duration of that fishing year. A share transfer transaction that remains in pending status, i.e., has not been completed and verified with a transaction approval code, after 30 days from the date the shareholder initiated the transfer, will be cancelled, and the pending shares will be re-credited to the shareholder who initiated the transfer.

(ii) Share transfer procedures. Share transfers must be accomplished online via the IFQ Web site. An IFQ shareholder must initiate a share transfer request by logging onto the IFQ Web site at <http://ifq.sero.nmfs.noaa.gov>. An IFQ shareholder who is subject to a sanction under 15 CFR part 904 is prohibited from any share transfer. An IFQ shareholder who is subject to a pending sanction under 15 CFR part 904 must disclose in writing to the prospective transferee the existence of any pending sanction at the time of the transfer. Following the instructions provided on the Web site, the IFQ shareholder must enter pertinent information regarding the transfer request including, but not limited to: Amount of shares to be transferred, which must be a minimum of 0.0001 percent; name of the eligible transferee; and the value of the transferred shares. The IFQ online system will verify the information entered. If the information is not accepted, the IFQ online

system will send the shareholder an electronic message explaining the reason(s). If the information is accepted, the IFQ online system will send the transferee an electronic message of the pending transfer. The transferee must approve the share transfer by electronic signature. If the transferee approves the share transfer, the IFQ online system will send a transaction approval code to both the transferor and transferee confirming the transaction. All share transfers must be completed and the transaction approval code received prior to December 31 at 6 p.m. eastern time each year.

(iii) Allocation transfers. An allocation transfer is valid only for the remainder of the fishing year in which it occurs; it does not carry over to the subsequent fishing year. Any allocation that is unused at the end of the fishing year is void. Allocation may be transferred to a vessel account from any IFQ account. Allocation held in a vessel account, however, may only be transferred back to the IFQ account through which the vessel account was established.

(iv) Allocation transfer procedures. Allocation transfers must be accomplished online via the IFQ Web site. An IFQ account holder must initiate an allocation transfer by logging onto the IFQ Web site at <http://ifq.sero.nmfs.noaa.gov>, entering the required information, including but not limited to, name of

an eligible transferee and amount of IFQ allocation to be transferred and price per pound, and submitting the transfer electronically. An IFQ allocation holder who is subject to a sanction under 15 CFR part 904 is prohibited from any allocation transfer. An IFQ allocation holder who is subject to a pending sanction under 15 CFR part 904 must disclose in writing to the prospective transferee the existence of any pending sanction at the time of the transfer. If the transfer is approved, the online system will provide a transfer approval code to the transferor and transferee confirming the transaction.

(5) Restricted transactions during the 20-hour online maintenance window. All electronic IFQ transactions (regarding allocation, shares, or landings) must be completed by December 31 at 6 p.m. eastern time each year. Electronic IFQ functions will resume again on January 1 at 2 p.m. eastern time the following fishing year. The remaining 6 hours prior to the end of the fishing year, and the 14 hours at the beginning of the next fishing year, are necessary to provide NMFS time to reconcile IFQ accounts, adjust allocations for the upcoming year if the commercial ACL for South Atlantic golden crab has changed, and update shares and allocations for the upcoming fishing year. No electronic IFQ transactions will be available during these 20 hours. An advance notice of landing may still

be submitted during the 20-hour maintenance window by using the vessel's VMS unit or calling IFQ Customer Service at 1-866-425-7627.

(6) IFQ share and allocation caps. A corporation's total IFQ share (or allocation) is determined by adding the corporation's IFQ shares (or allocation) to any other IFQ shares (or allocation) the corporation owns in another corporation. In the situation where an individual IFQ shareholder is also a shareholder in a corporation that holds IFQ shares, an individual's total IFQ share (or allocation) is determined by adding the applicable IFQ shares (or allocation) held by the individual and the applicable IFQ shares (or allocation) equivalent to the corporate share (or allocation) the individual holds in a corporation.

(i) IFQ share cap. No person, including a corporation or other entity, may individually or collectively hold IFQ shares in excess of 49 percent of the total shares. A corporation must provide the RA the identity of the shareholders of the corporation and their percent of shares in the corporation, and provide updated information to the RA within 30 days of when changes occur. This information must also be provided to the RA any time a commercial vessel permit for golden crab is renewed or transferred.

(ii) IFQ allocation (annual pounds) cap. No person, including a corporation or other entity, may individually or collectively hold, cumulatively during any fishing year, IFQ allocation in excess of the total allocation cap. The total allocation cap is the IFQ share cap, as specified in paragraph (c)(6)(i) of this section, multiplied by the commercial ACL for golden crab, as specified in § 622.49(g).

(7) Redistribution of shares resulting from inactive shares. Shares that remain inactive for 3 consecutive fishing years will be revoked and redistributed by the RA proportionately among remaining **active (?)** shareholders (subject to share cap restrictions) based upon the amount of shares each held just prior to the redistribution. For the purposes of this paragraph (b)(7), "inactive shares" mean those shares that have associated landings, which are less than 20 percent of a shareholder's annual pounds, calculated in sum over a 3-year running average period. Inactive shares will be redistributed at the beginning of the fishing year, following the 3-year running average period. The allocation to be redistributed is based on the allocation distributed at the beginning of the fishing year.

Comment [ac1]: We need to ask the Council if there are multiple shareholders with inactive shares, will the redistribution of inactive shares go to all shareholders or only active shareholders?

(8) Redistribution of shares resulting from permit termination or permanent permit revocation. If a shareholder's

commercial vessel permit for South Atlantic golden crab has been terminated, or permanently revoked under provisions of 15 CFR part 904, the RA will redistribute the IFQ shares associated with the terminated or revoked permit proportionately among remaining shareholders (subject to cap restrictions) based upon the amount of shares each held just prior to the redistribution. During December of each year, the RA will determine the amount of terminated or revoked shares, if any, to be redistributed, and the shares will be distributed at the beginning of the subsequent fishing year.

(9) Annual recalculation and notification of IFQ shares and allocation. On or about January 1 each year, IFQ shareholders will be notified, via the IFQ Web site at <http://ifq.sero.nmfs.noaa.gov>, of their IFQ shares and allocations for the upcoming fishing year. These updated share values will reflect the results of applicable share transfers and any redistribution of shares (subject to cap restrictions) resulting from permanent revocation of applicable permits under 15 CFR part 904. Allocation is calculated by multiplying the IFQ share times the ACL. Updated allocation values will reflect any change in IFQ, any change in the ACL, and any debits required as a result of prior fishing year overages as specified in paragraph (c)(1)(ii) of this section. IFQ program

participants can monitor the real-time status of their shares and allocation throughout the year via the IFQ Web site.

(d) Fishing zones--(1) Designation of fishing zones. The South Atlantic EEZ is divided into three fishing zones for golden crab as follows:

(i) Northern zone--the South Atlantic EEZ north of 28° N. lat.

(ii) Middle zone--the South Atlantic EEZ from 28° N. lat. to 25° N. lat.

(iii) Southern zone--the South Atlantic EEZ south of 25° N. lat.

(2) Authorization to fish in zones. Each vessel permit for South Atlantic golden crab indicates one of the zones specified in paragraph (d)(1) of this section. Participants may possess only one permit per zone. Participants in the golden crab IFQ program may fish in any zone for which they possess a permit and they may fish in multiple zones on a single fishing trip. A vessel may possess golden crab in or from any zone provided they have enough allocation in the shareholder's IFQ vessel account, except that other zones may be transited if the vessel notifies NMFS Office for Law Enforcement, Southeast Region, St. Petersburg, FL, by telephone (727-824-5344) in advance and does not fish in a zone in which it is not authorized to fish.

Comment [ac2]: Does the Council prefer to have one permit per zone and potentially multiple permits issued to one vessel, or multiple zones per permit and just one permit issued per vessel? The processors and database personnel find it more difficult to process multiple permits per vessel. However, if there is one permit with multiple zones, if all the zones are transferred, you're left with a permit with no vessel attached. Then what can the permittee do with that kind of permit? Can they renew it? Transfer it?

(3) Procedure for changing zones. Upon request from an owner of a permitted vessel, the RA will change the zone specified on a permit from the middle or southern zone to the northern zone. An owner of a permitted vessel who desires a change to the northern zone must submit his/her request with the existing permit to the RA.

(e) Transferring permits between vessels--(1) Procedure for transferring. An owner of a vessel who desires a golden crab permit may request that NMFS transfer an existing permit or permits to his or her vessel by returning an existing permit or permits to the RA with an application for a permit for the replacement vessel.

(2) Vessel size limitations on transferring. (i) To obtain a permit for the middle or southern zone via transfer, the documented length overall of the replacement vessel may not exceed the documented length overall, or aggregate documented lengths overall, of the replaced vessel(s) by more than 35 percent. The owner of a vessel permitted for the middle or southern zone who has requested that NMFS transfer that permit to a smaller vessel (i.e., downsized) may subsequently request NMFS transfer that permit to a vessel of a length calculated from the length of the permitted vessel immediately prior to downsizing.

(ii) There are no vessel size limitations to obtain a permit for the northern zone via transfer.

(f) Permit renewal. Golden crab permits are issued on a fishing-year (calendar-year basis). NMFS will not renew a commercial vessel permit for South Atlantic golden crab if the permit is revoked or if the RA does not receive a required application for renewal within 6 months after the permit's expiration.