

writing, normally within 30 days of receiving the recommendation from the appeals committee members. The RD's decision will constitute the final administrative action by NMFS on an appeal.

(g) *Display*. A commercial vessel permit issued under this section must be carried on board the vessel. The operator of a vessel must present the permit for inspection upon the request of an authorized officer.

(h) *Fishing zones*. (1) The South Atlantic EEZ is divided into three fishing zones for golden crab. A vessel owner must indicate on the initial application for a commercial vessel permit the zone in which the vessel will fish. A permitted vessel may fish for golden crab only in the zone shown on its permit. A vessel may possess golden crab only in that zone, except that other zones may be transited if the vessel notifies NMFS, Office of Enforcement, Southeast Region, St. Petersburg, FL, by telephone (813-570-5344) in advance and does not fish in an unpermitted zone. The designated fishing zones are as follows:

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

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

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

(2) An owner of a permitted vessel may have the zone specified on a permit changed only when the change is from the middle or southern zone to the northern zone. A request for such change must be submitted to the RD with the existing permit.

(i) *Transfer*. (1) A valid golden crab permit may be transferred for use by another vessel by returning the existing permit(s) to the RD along with an application for a permit for the replacement vessel.

(2) To obtain a commercial vessel permit via transfer, the owner of the replacement vessel must submit to the RD a valid permit for a vessel with a documented length overall, or permits for vessels with documented aggregate lengths overall, of at least 90 percent of the documented length overall of the replacement vessel.

(j) *Renewal*. (1) In addition to the procedures and requirements of §622.4(h)

for commercial vessel permit renewals, for a golden crab permit to be renewed, the SRD must have received reports for the permitted vessel, as required by §622.5(a)(1)(v), documenting that at least 5,000 lb (2,268 kg) of golden crab were landed from the South Atlantic EEZ by the permitted vessel during at least one of the two 12-month periods immediately prior to the expiration date of the vessel permit.

(2) An existing permit for a vessel meeting the minimum golden crab landing requirement specified in paragraph (j)(1) of this section may be renewed by following the procedure specified in paragraph (d) of this section. However, documentation of the vessel's initial eligibility need not be resubmitted.

[61 FR 43957, 43959, Aug. 27, 1996]

§622.18 South Atlantic snapper-grouper limited access.

(a) *Applicability*. Beginning December 14, 1998, the only valid commercial vessel permits for South Atlantic snapper-grouper are those that have been issued under the limited access criteria in this section. A vessel may have either a transferable commercial permit or a trip-limited commercial permit for South Atlantic snapper-grouper.

(b) *Initial eligibility*. A vessel is eligible for an initial limited access commercial permit for South Atlantic snapper-grouper if the owner owned a vessel with a commercial vessel permit for South Atlantic snapper-grouper at any time from February 11, 1996, through February 11, 1997, and owned a permitted vessel that had at least one landing of snapper-grouper from the South Atlantic from January 1, 1993, through August 20, 1996, as reported on fishing vessel logbooks received by the SRD on or before August 20, 1996. An owner whose permitted vessels had landings of snapper-grouper from the South Atlantic of at least 1,000 lb (453.6 kg), whole weight, in any one of the years 1993, 1994, or 1995, or in 1996 through August 20, as reported on fishing vessel logbooks received by the SRD on or before August 20, 1996, is eligible for an initial transferable permit. All other qualifying owners are eligible for an initial trip-limited permit.

(c) *Determinations of eligibility*—(1) *Permit history.* The sole basis for determining whether a vessel had a commercial vessel permit for South Atlantic snapper-grouper at any time from February 11, 1996, through February 11, 1997, is NMFS' permit records. An owner of a currently permitted vessel who believes he/she meets the February 11, 1996, through February 11, 1997, permit history criterion 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. No more than one owner of a currently permitted vessel will be credited with meeting the permit history criterion based on a vessel's permit history.

(2) *Landings.* (i) Landings of snapper-grouper from the South Atlantic during the qualifying period are determined from fishing vessel logbooks received by the SRD on or before August 20, 1996. State trip ticket data may be considered in support of claimed landings provided such trip ticket data were received by the state on or before September 20, 1996.

(ii) Only landings when a vessel had a valid commercial permit for snapper-grouper and only landings that were harvested, landed, and sold in compliance with state and Federal regulations may be used to establish eligibility.

(iii) For the purpose of eligibility for a limited access commercial permit for snapper-grouper, the owner of a vessel that had a commercial snapper-grouper permit during the qualifying period retains the snapper-grouper landings record of that vessel during the time of his/her ownership unless a sale of the vessel included a written agreement that credit for such landings was transferred to the new owner. Such transfer of credit must be for the vessel's entire record of landings of snapper-grouper from the South Atlantic.

(d) *Implementation procedures*—(1) *Notification of status.* On or about July 27, 1998, the RD will notify each owner of a vessel that had a commercial permit for South Atlantic snapper-grouper at any time from February 11, 1996, through February 11, 1997, and each owner of a vessel that has a commer-

cial permit for South Atlantic snapper-grouper on July 16, 1998, of NMFS' initial determination of eligibility for either a transferable or a trip-limited, limited access commercial permit for South Atlantic snapper-grouper. Each notification will include an application for such permit. Addresses for such notifications will be based on NMFS' permit records. A vessel owner who believes he/she qualifies for a limited access commercial permit for South Atlantic snapper-grouper and who does not receive such notification must obtain an application from the RD.

(2) *Applications.* (i) An owner of a vessel who desires a limited access commercial permit for South Atlantic snapper-grouper must submit an application for such permit postmarked or hand-delivered not later than October 14, 1998. Failure to apply in a timely manner will preclude permit issuance even when the vessel owner meets the eligibility criteria for such permit.

(ii) A vessel owner who agrees with NMFS' initial determination of eligibility, including type of permit (transferable or trip-limited), need provide no documentation of eligibility with his/her application.

(iii) A vessel owner who disagrees with the initial determination of eligibility or type of permit must specify the type of permit applied for and provide documentation of eligibility. Documentation and other information submitted on or with an application are subject to verification by comparison with state, Federal, and other records and information. Submission of false documentation or information may disqualify an owner from initial participation in the limited access commercial South Atlantic snapper-grouper fishery and is a violation of the regulations in this part.

(iv) If an application that is post-marked or hand delivered in a timely manner is incomplete, the RD will notify the vessel owner of the deficiency. If the owner fails to correct the deficiency within 20 days of the date of the RD's notification, the application will be considered abandoned.

(3) *Issuance.* (i) If a complete application is submitted in a timely manner and the eligibility requirements specified in paragraph (b) of this section are

met, the RD will issue an initial commercial vessel permit, transferable or trip-limited, as appropriate, and mail it to the vessel owner not later than December 3, 1998.

(ii) If the eligibility requirements specified in paragraph (b) of this section are not met, the RD will notify the vessel owner, in writing, not later than November 13, 1998 of such determination and the reasons for it.

(4) *Reconsideration.* (i) A vessel owner may request reconsideration of the RD's determination regarding initial permit eligibility by submitting a written request for reconsideration to the RD. Such request must be postmarked or hand delivered within 20 days of the date of the RD's notification denying initial permit issuance and must provide written documentation supporting permit eligibility.

(ii) Upon receipt of a request for reconsideration, the RD will forward the initial application, the RD's response to that application, the request for reconsideration, and pertinent records to an Application Oversight Board consisting of state directors (or their designees) from each state in the Council's area of jurisdiction. Upon request, a vessel owner may make a personal appearance before the Application Oversight Board.

(iii) If reconsideration by the Application Oversight Board is requested, such request constitutes the vessel owner's written authorization under section 402(b)(1)(F) of the Magnuson-Stevens Act for the RD to make available to the Application Oversight Board members such confidential catch and other records as are pertinent to the matter under reconsideration.

(iv) The Application Oversight Board may only deliberate whether the eligibility criteria specified in paragraph (b) of this section were applied correctly in the vessel owner's case, based solely on the available record, including documentation submitted by the owner. The Application Oversight Board may not consider whether an owner should have been eligible for a commercial vessel permit because of hardship or other factors. The Application Oversight Board members will provide individual recommendations for

each application for reconsideration to the RD.

(v) The RD will make a final decision based on the eligibility criteria specified in paragraph (b) of this section and the available record, including documentation submitted by the vessel owner, and the recommendations and comments from members of the Application Oversight Board. The RD may not consider whether a vessel owner should have been eligible for a commercial vessel permit because of hardship or other factors. The RD will notify the owner of the decision and the reason for it, in writing, within 15 days of receiving the recommendations from the Application Oversight Board members. The RD's decision will constitute the final administrative action by NMFS.

(e) *Transfers of permits.* A snapper-grouper limited access permit is valid only for the vessel and owner named on the permit. To change either the vessel or the owner, an application for transfer must be submitted to the RD.

(1) *Transferable permits.* (i) An owner of a vessel with a transferable permit may request that the RD transfer the permit to another vessel owned by the same entity.

(ii) A transferable permit may be transferred upon a change of ownership of a permitted vessel with such permit from one to another of the following: Husband, wife, son, daughter, brother, sister, mother, or father.

(iii) A transferable permit may be transferred to a vessel whose owner had, as of August 20, 1996, a written contract for the purchase of a vessel that included a provision transferring to the new owner the rights to any limited access permit to which the former owner might become entitled under the provisions for initial issue of limited access permits. To be considered, any such written contract must be submitted to the RD postmarked or hand-delivered on or before December 14, 1998.

(iv) Except as provided in paragraphs (e)(1)(i), (ii), and (iii) of this section, a person desiring to acquire a limited access, transferable permit for South Atlantic snapper-grouper must obtain and exchange two such permits for one new permit.

(v) A transfer of a permit that is undertaken under paragraph (e)(1)(ii), (e)(1)(iii), or (e)(1)(iv) of this section will constitute a transfer of the vessel's entire catch history to the new owner.

(2) *Trip-limited permits.* An owner of a vessel with a trip-limited permit may request that the RD transfer the permit to another vessel owned by the same entity provided the length and gross tonnage of the replacement vessel are equal to or less than the length and gross tonnage of the replaced vessel.

(f) *Renewal.* NMFS will not reissue a commercial vessel permit for South Atlantic snapper-grouper if the permit is revoked or if the RD does not receive an application for renewal within 60 days of the permit's expiration date.

[63 FR 38301, July 16, 1998]

Subpart C—Management Measures

§ 622.30 Fishing years.

The fishing year for species or species groups governed in this part is January 1 through December 31 except for the following:

(a) *Allowable octocoral*— October 1 through September 30.

(b) *King and Spanish mackerel.* The fishing year for the king and Spanish mackerel bag limits specified in § 622.39(c)(1) is January 1 through December 31. The following fishing years apply only for the king and Spanish mackerel quotas specified in § 622.42(c):

(1) *Gulf migratory group king mackerel*— July 1 through June 30.

(2) *All other migratory groups of king and Spanish mackerel*— April 1 through March 31.

(c) *Wreckfish*— April 16 through April 15.

§ 622.31 Prohibited gear and methods.

In addition to the prohibited gear/methods specified in this section, see §§ 622.33, 622.34, and 622.35 for seasonal/area prohibited gear/methods and § 622.41 for species specific authorized and unauthorized gear/methods.

(a) *Explosives.* An explosive (except an explosive in a powerhead) may not be used to fish in the Caribbean, Gulf, or

South Atlantic EEZ. A vessel fishing in the EEZ for a species governed in this part, or a vessel for which a permit has been issued under § 622.4 or § 622.17, may not have on board any dynamite or similar explosive substance.

(b) *Chemicals and plants.* A toxic chemical may not be used or possessed in a coral area, and a chemical, plant, or plant-derived toxin may not be used to harvest a Caribbean coral reef resource in the Caribbean EEZ.

(c) *Fish traps.* (1) A fish trap may not be used in the South Atlantic EEZ.

(2) A fish trap may not be used or possessed in the Gulf EEZ west of 85°30' W. long. and, after February 7, 2007, may not be used or possessed in the Gulf EEZ.

(3) A fish trap used other than where authorized in paragraph (c) (1) or (2) of this section may be disposed of in any appropriate manner by the Assistant Administrator or an authorized officer.

(d) *Longlines for wreckfish.* A bottom longline may not be used to fish for wreckfish in the South Atlantic EEZ. A person aboard a vessel that has a longline on board may not retain a wreckfish in or from the South Atlantic EEZ. For the purposes of this paragraph, a vessel is considered to have a longline on board when a power-operated longline hauler, a cable of diameter suitable for use in the longline fishery longer than 1.5 mi (2.4 km) on any reel, and gangions are on board. Removal of any one of these three elements constitutes removal of a longline.

(e) *Poisons.* (1) A poison, drug, or other chemical may not be used to fish for Caribbean reef fish in the Caribbean EEZ.

(2) A poison may not be used to take Gulf reef fish in the Gulf EEZ.

(3) A poison may not be used to fish for South Atlantic snapper-grouper in the South Atlantic EEZ.

(f) *Power-assisted tools.* A power-assisted tool may not be used in the Caribbean EEZ to take a Caribbean coral reef resource or in the Gulf or South Atlantic EEZ to take allowable octocoral, prohibited coral, or live rock.

(g) *Powerheads.* A powerhead may not be used in the Caribbean EEZ to harvest Caribbean reef fish or in the EEZ