

5. Provide periodic earnings reports with adequate information for management and the board of directors to assess earnings performance.

\* \* \* \* \*

By order of the Board of Directors.  
Dated at Washington, D.C. this 13th day of August 1996.  
Federal Deposit Insurance Corporation.  
Jerry L. Langley,  
*Executive Secretary.*  
Office of Thrift Supervision  
12 CFR CHAPTER V  
Authority and Issuance

For the reasons set forth in the joint preamble, part 570 of chapter V of title 12 of the Code of Federal Regulations is amended as follows:

**PART 570—SUBMISSION AND REVIEW OF SAFETY AND SOUNDNESS COMPLIANCE PLANS AND ISSUANCE OF ORDERS TO CORRECT SAFETY AND SOUNDNESS DEFICIENCIES**

1. The authority citation for part 570 continues to read as follows:

Authority: 12 U.S.C. 1831p-1.

2. The table of contents of appendix A to part 570 is amended by adding entries for II.G. and II.H. to read as follows:

Appendix A to Part 570—Interagency Guidelines Establishing Standards for Safety and Soundness

Table of Contents

\* \* \* \* \*

II. \* \* \*

G. Asset quality.

H. Earnings.

\* \* \* \* \*

3. Item II of appendix A to part 570 is amended by adding paragraphs G and H to read as follows:

\* \* \* \* \*

*II. Operational and Managerial Standards*

\* \* \* \* \*

G. *Asset quality.* An insured depository institution should establish and maintain a system that is commensurate with the institution's size and the nature and scope of its operations to identify problem assets and prevent deterioration in those assets. The institution should:

1. Conduct periodic asset quality reviews to identify problem assets;
2. Estimate the inherent losses in those assets and establish reserves that are sufficient to absorb estimated losses;
3. Compare problem asset totals to capital;
4. Take appropriate corrective action to resolve problem assets;

5. Consider the size and potential risks of material asset concentrations; and

6. Provide periodic asset reports with adequate information for management and the board of directors to assess the level of asset risk.

H. *Earnings.* An insured depository institution should establish and maintain a system that is commensurate with the institution's size and the nature and scope of its operations to evaluate and monitor earnings and ensure that earnings are sufficient to maintain adequate capital and reserves. The institution should:

1. Compare recent earnings trends relative to equity, assets, or other commonly used benchmarks to the institution's historical results and those of its peers;
2. Evaluate the adequacy of earnings given the size, complexity, and risk profile of the institution's assets and operations;
3. Assess the source, volatility, and sustainability of earnings, including the effect of nonrecurring or extraordinary income or expense;
4. Take steps to ensure that earnings are sufficient to maintain adequate capital and reserves after considering the institution's asset quality and growth rate; and
5. Provide periodic earnings reports with adequate information for management and the board of directors to assess earnings performance.

\* \* \* \* \*

Dated: June 3, 1996.

John F. Downey,  
*Executive Director, Supervision.*  
[FR Doc. 96-21590 Filed 8-26-96; 8:45 am]  
BILLING CODE 4810-33-P, 6210-01-P, 6714-01-P, 6720-01-P

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Parts 27 and 29**

[Docket No. 28008; Amdt. 27-33, 29-40]

RIN 2120-AF65

**Rotorcraft Regulatory Changes Based on European Joint Airworthiness Requirement; Correction**

**AGENCY:** Federal Aviation Administration (FAA), DOT.  
**ACTION:** Final rule; correction.

**SUMMARY:** This document contains a correction to the final rule published in the Federal Register on May 10, 1996 (61 FR 21904). That final rule amended the airworthiness standards for normal

and transport category rotorcraft under parts 27 and 29 of Title 14, Code of Federal Regulations (CFR) relating to performance systems, propulsion and airframes.

**FOR FURTHER INFORMATION CONTACT:**  
Carroll Wright, (817) 222-5120.

**Need for Correction**

In the final rule document (FR Doc. 96-11493) published in the Federal Register on May 10, 1996, (61 FR 21904), on page 21908, at the end of the first column, Item No. 14 is corrected to read as follows:

14. Section 29.1305 is amended by redesignating existing paragraphs (a)(6) through (a)(25) as paragraphs (a)(7) through (a)(26), by adding a new paragraph (a)(6), and by changing the words "paragraph (a)(13)" in the text of redesignated paragraph (a)(13) to read as "paragraph (a)(14)".

**§ 29.1305 [Corrected]**

(a) \* \* \*

(6) An oil pressure indicator for each pressure-lubricated gearbox.

\* \* \* \* \*

(13) A tachometer for each engine that, if combined with the applicable instrument required by paragraph (a)(14) of this section, indicates rotor r.p.m. during autorotation.

\* \* \* \* \*

Issued in Washington, DC, on August 22, 1996.

Donald P. Byrne,  
*Assistant Chief Counsel for Regulations.*  
[FR Doc. 96-21853 Filed 8-26-96; 8:45 am]  
BILLING CODE 4910-13-M

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**15 CFR Part 902**

**50 CFR Part 622**

[Docket No. 950316075-6222-03; I.D. 022696A]

RIN 0648-AH86

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Golden Crab Fishery Off the Southern Atlantic States; Initial Regulations; OMB Control Numbers**

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

**SUMMARY:** NMFS issues this final rule to implement the approved measures of

the Fishery Management Plan for the Golden Crab Fishery of the South Atlantic Region (FMP) and to revise the definition of fish trap applicable in the exclusive economic zone (EEZ) off the southern Atlantic states. This rule restricts the harvest or possession of golden crab in or from the EEZ off the southern Atlantic states and controls access to the fishery. In addition, NMFS informs the public of the approval by the Office of Management and Budget (OMB) of the collection-of-information requirements contained in this rule and publishes the OMB control numbers for these collections. The intended effect of this rule is to conserve and manage the golden crab fishery.

**EFFECTIVE DATES:** September 26, 1996; except that the amendments to 15 CFR part 902, 50 CFR 622.1, 622.2, 622.4(d), and 622.7(b) and the additions 50 CFR 622.17 (b) through (f) and (h) are effective August 27, 1996; and the amendments to 50 CFR 622.4(a)(4), 622.5, 622.6, 622.7 (a) and (c), and 622.40(a)(3) and the additions 50 CFR 622.7(z), 622.17 (a), (g), (i), and (j), and 622.45(f) (2) through (4) are effective October 28, 1996.

**ADDRESSES:** Comments regarding the collection-of-information requirements contained in this rule should be sent to Edward E. Burgess, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702, and to the Office of Information and Regulatory Affairs, OMB, Washington, DC 20503 (Attention: NOAA Desk Officer).

**FOR FURTHER INFORMATION CONTACT:** Peter J. Eldridge, 813-570-5305.

**SUPPLEMENTARY INFORMATION:** The FMP was prepared by the South Atlantic Fishery Management Council (Council) under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The background and rationale for the measures in the FMP, and the rationale for the disapproval at the proposed rule stage of the measure that would have required 100 percent of the owners or operators of permitted vessels to maintain and submit vessel logbook information, were contained in the preamble to the proposed rule (61 FR 16076, April 11, 1996) and are not repeated here.

#### Comments and Responses

*Comment:* The U.S. Fish & Wildlife Service stated that it had participated in the development of the golden crab FMP and recommends its approval and implementation.

*Response:* NMFS agrees.

*Comment:* The Council reiterated its support for the FMP. The Council

emphasized that the FMP was necessary to protect the biological integrity of the golden crab resource and to maintain economic and social benefits from the fishery by establishing a controlled access program. The Council remains concerned about the potential for overfishing this resource. Finally, the Council disagrees with NMFS concerning the mandatory 100 percent logbook action that NMFS disapproved.

*Response:* NMFS agrees with the Council concerning the need for the FMP. As stated in the proposed rule, NMFS intends to select 100 percent of vessels for sampling until circumstances change. NMFS believes that the Southeast Regions' Science and Research Director (SRD) should determine the sampling protocol for this fishery.

*Comment:* Four fishing companies and one seafood retailer, located in Florida, strongly supported the golden crab FMP. They noted that this is a new fishery and they prefer that NMFS act before overfishing occurs or conflicts arise among user groups.

*Response:* NMFS agrees.

*Comment:* Five golden crab fishermen strongly supported the FMP. They noted the opportunity to manage a resource from the fishery's inception. They are concerned about the golden crab resource and strongly support management to prevent future problems.

*Response:* NMFS agrees.

*Comment:* One golden crab consumer reported she supports the FMP because it will prevent depletion of the resource.

*Response:* NMFS agrees.

*Comment:* A citizen concerned about overfishing strongly supported the FMP. He noted the importance of protecting the golden crab resource and biodiversity. He also stated that the FMP would protect fishermen by minimizing the possibility of overfishing.

*Response:* NMFS agrees.

An early participant in the golden crab fishery made a number of comments, summarized as follows:

*Comment:* The 18-month transition period for evaluation of the use of wire cable for mainlines and buoy lines is needed. Eliminating wire cable may actually increase, rather than decrease, the risk of habitat damage.

*Response:* NMFS supports the evaluation period to determine the effects of wire cable.

*Comment:* The requirement that all golden crabs be landed whole is too restrictive. Specifically, taking females and undersized males is an unlikely problem because processing them would not be profitable. Also, it would not be profitable to operate large processing vessels in this fishery; thus,

the Council should allow at-sea processing. Finally, the quality and value of golden crab processed at sea would be greater than crabs landed alive and whole.

*Response:* NMFS agrees with the Council's position that landing crabs whole is necessary to ensure that females and undersized crabs are not taken.

*Comment:* The commenter questioned the necessity of owning a vessel in order to obtain a permit.

*Response:* Among the factors considered by the Council in determining the criteria for initial permits is current participation in the fishery. NMFS concurs in the Council's use of the requirement as an indication of current participation in the fishery.

*Comment:* The middle zone should be combined with the northern zone for fishing purposes.

*Response:* The Council decided to establish three zones based on historical fishing patterns, an estimate of the potential number of fishermen that would select each zone, and the probable abundance of golden crab in each zone. The southern zone is the Florida Keys area which has a very narrow shelf. Consequently, most fishermen in this area have relatively small vessels. These fishermen exploit a number of species including golden crab, which is taken most often during the warmer months of the year. The potential for user conflict is greatest in this area because the narrow shelf concentrates users in the same area. Fishermen in the Florida Keys were particularly concerned about unfair competition with large vessels.

The middle zone is the east coast of Florida north of Miami. The shelf is also relatively narrow in this area. In addition, fewer fishing opportunities exist here than in the southern zone. The relatively small vessels that fish in this zone are heavily dependent upon the golden crab resource. Again, fishermen in this zone were concerned about unfair competition with larger vessels.

The northern zone is much larger than either the southern or middle zones and fishing grounds are much further offshore. Sea and weather conditions are more severe in this zone. Consequently, larger vessels are required for fishing operations in this area. Because of the sparse catch data for the northern zone, less is known concerning the abundance of golden crab. However, if abundance is proportional to area, there may be more crabs available in this zone.

The Council wishes to minimize user conflict, especially between smaller and larger vessels. Since fishermen in the

southern and middle zones have relatively small vessels and a narrow area to fish, separating the southern and middle zones from the northern zone will minimize user conflict and avoid unfair competition. Because historical fishing patterns (and opportunities) are substantially different between the southern and middle zones, separating these areas is appropriate.

In the spring of 1995, an analysis of the Florida golden crab catch data revealed that most vessels in the golden crab fishery were small and fished either in the middle or southern zones. At that time, several owners of large vessels had expressed their intent to conduct preliminary fishing operations in the northern zone. Because of this possibility, the Council established the September 1, 1995, qualifying criterion. The Council did not constrain any vessel concerning selection of a fishing zone because of the low number of large vessels involved, although it was hoped that the large vessels would select the northern zone. If this occurs, user conflict will be minimized in the other zones and additional catch data will be obtained from the northern zone. For the reasons summarized above, NMFS agrees with the Council's separation of the middle and northern zones.

*Comment:* A minimum size limit should be required in the future.

*Response:* The Council and NMFS agree. If required, a minimum size limit may be implemented under the FMP's framework procedure for new management measures.

*Comment:* A quota is not necessary at this time.

*Response:* The Council and NMFS agree and note that, if necessary, a quota may be implemented under the framework procedure.

*Comment:* The commenter supports the FMP.

*Response:* NMFS agrees.

*Comment:* Another commenter believes that NMFS will not require vessel logbooks for the golden crab fishery. Specifically, NMFS has disapproved the mandatory vessel logbook action and logbooks are necessary to determine the status of the fishery.

*Response:* NMFS agrees that logbooks are necessary to monitor the fishery, but disagrees that the sampling levels are an appropriate matter for the Council to decide. NMFS intends initially to select 100 percent of vessels for logbook reporting and continue this level of sampling as long as necessary. If circumstances change, or a better sampling procedure is developed, NMFS needs the flexibility to

implement a more efficient sampling protocol.

*Comment:* A fisherman reported that he had caught golden crabs since the control date but implied that he would not qualify for a permit because he did not catch sufficient crabs prior to September 1, 1995, to obtain a permit. He believes his exclusion from the fishery is unfair.

*Response:* The Council originally announced a control date of April 7, 1995. However, during the public hearing process it became evident that the number of participants was increasing rapidly off the east coast of Florida, but only a few vessels were fishing north of Florida (northern zone). The Council relaxed the original control date by adding a second criterion for entry; namely, a vessel owner who documents landings of 2,500 lb by September 1, 1995, would be eligible for a commercial vessel permit for the fishery. This was designed to provide vessel owners an additional 5 months to qualify for entry. The Florida fish trip ticket records indicate that most golden crab fishermen can catch one to several thousand pounds per trip (average trips run 3 to 4 days). Accordingly, such fishermen could easily catch the required 2,500 lbs within the additional five months allowed by the Council's extended qualifying date.

#### Changes From the Proposed Rule

Since the proposed rule was published, NMFS, as part of the President's Regulatory Reinvention Initiative, consolidated most of its fishery regulations for the Southeast Region into 50 CFR part 622 (61 FR 34930, July 3, 1996). Accordingly, this final rule, instead of adding a new part to title 50 of the CFR to implement the FMP as proposed by the Council and approved by NMFS, implements the FMP by amending 50 CFR part 622. As a result, general provisions that are common to all federally managed fisheries in the Southeast Region, already contained in part 622, are not included in this final rule. In addition, minor changes in language have been made to conform to the standards in part 622. Substantive changes from the proposed rule are as follows.

The proposed rule would have allowed 90 days from the date of publication of the final rule before vessel permits would be required in the fishery. NMFS now finds that it can issue initial vessel permits earlier than previously anticipated. Accordingly, the final rule requires that vessel permits be obtained within 60 days after the date of publication of this final rule.

Because the eligibility requirements for initial vessel permits can be met only by owners, the option for either the owner or the operator to apply for a permit is removed—only vessel owners may apply for a permit.

At § 622.17(b), the final rule clarifies that the use of landings records to establish qualifications for an initial vessel permit is restricted to either the owner of a vessel at the time of the landings or to a subsequent owner of that vessel. That is, landings records may be transferred only in connection with a change of ownership of the harvesting vessel.

Language is added to clarify the time frame during which the Director, Southeast Region, NMFS (RD), will advise an applicant for a vessel permit that he or she has not met the eligibility criteria.

For consistency and clarification, NMFS extends the prohibition at § 622.7(b), regarding falsification of information on or submitted with a permit application, to information on or submitted with a request for transfer of a permit.

Under NOAA Administrative Order 205-11, 7.01, dated December 17, 1990, the Under Secretary for Oceans and Atmosphere has delegated to the Assistant Administrator for Fisheries, NOAA, the authority to sign material for publication in the Federal Register.

#### Classification

The RD, with concurrence by the NOAA Assistant Administrator for Fisheries, determined that the FMP is necessary for the conservation and management of the golden crab fishery off the southern Atlantic states and that it is consistent with the Magnuson Act and other applicable laws, with the exception of the measure that was previously disapproved. See the proposed rule for a discussion of the disapproved measure.

This final rule has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The reasons for this certification were published in the preamble to the proposed rule (61 FR 16076, April 11, 1996) and are not repeated here. As a result, a regulatory flexibility analysis was not prepared.

Notwithstanding any other provision of law, no person is required to respond

to, nor shall a person be subject to, a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB control number.

This rule contains collection-of-information requirements subject to the PRA—namely, (1) initial vessel permit applications, (2) vessel permit renewals, (3) vessel permit appeals, (4) dealer permit applications, (5) vessel reports, (6) dealer reports, (7) notification requirements for purposes of accommodating observer coverage, (8) notification requirements for vessels transiting golden crab zones, (9) gear identification, and (10) vessel identification. The existing vessel identification requirements contained in 50 CFR 622.6(a)(1)(i) and (a)(2) are made applicable to a vessel in the golden crab fishery by requiring such vessel to obtain a permit—each vessel for which a permit has been issued under 50 CFR 622.4 or 622.17 is required to comply with those requirements. These collections have been approved by OMB under OMB control numbers as follows: Items (1) through (4), (7), and (8)—0648-0205; item (5)—0648-0016; item (6)—0648-0013; item (9)—0648-0305, and item (10)—0648-0306. The public reporting burdens for these collections of information are estimated to average 20, 20, 30, 15, 10, 15, 3, 2, 7, and 45 minutes per response, respectively, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding these reporting burden estimates or any other aspect of the collections of information, including suggestions for reducing the burdens, to NMFS and OMB (see **ADDRESSES**).

The publication of the OMB control numbers for approved collection-of-information requirements at 15 CFR part 902, and the addition to the table of FMPs implemented under part 622 are not substantive rules within the meaning of 5 U.S.C. 553 and, pursuant

to 5 U.S.C. 553(d), are not subject to a delay in effective date. The revision of the definition of “fish trap,” while a substantive rule, relieves a restriction and, pursuant to 5 U.S.C. 553(d)(1), is not subject to a delay in effective date. The addition to the regulations at 50 CFR 622.17(b) through (f) and (h), and the amendments to the associated provisions at 50 CFR 622.4(d) and 622.7(b), set forth administrative procedures and authority necessary for timely implementation of the controlled access program for commercial vessel permits. Consistent with the FMP, these regulations require that applications for initial vessel permits be submitted within 30 days after the date of publication of this rule in the Federal Register. The class of persons affected by the controlled access program is very small, and all such affected persons should be aware of the provisions of the controlled access system, including the vessel permit requirements and, in particular, the time provided for permit application. Virtually all affected commercial golden crab fishermen have been involved fully in the Council process of developing the FMP, which included numerous public hearings with opportunities for being informed of and commenting on the Council’s proposed management measures. It is extremely unlikely that any persons affected by the controlled access program are unaware of the terms of the FMP, or the timing aspects of its implementation. It is also unlikely that any affected persons will require additional time to adjust to this regulation. Rather, virtually all industry participants are anticipating implementation of the FMP and are ready to apply for their vessel and dealer permits. Furthermore, NMFS can identify virtually all eligible fishermen for this golden crab fishery and will give actual notice to those individuals immediately upon filing of this final rule with the Office of the Federal Register. Accordingly, a period of delayed effectiveness for the administrative procedures for implementing the controlled access system in this instance is unnecessary.

It is noted that the administrative procedures for implementing the controlled access system involve references to the definitions added to 50 CFR 622.2. For these reasons, the Assistant Administrator for Fisheries, NOAA, finds that, pursuant to 5 U.S.C. 553(d)(3), good cause exists to waive the 30-day delay in effective date of the amendments to 50 CFR 662.2, 622.4(d) and 622.7(b) and the addition of 50 CFR 622.17(b) through (f) and (h). To allow time for determination of permit eligibility and issuance of permits, NMFS makes the provisions of this final rule that require permits, or that are dependent on the possession of a permit, effective October 28, 1996.

#### 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: August 21, 1996.

C. Karnella,

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

For the reasons set out in the preamble, 15 CFR part 902 and 50 CFR part 622 are amended as follows:

#### **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. Effective August 27, 1996, in § 902.1, paragraph (b) table, in the entries for 50 CFR, the following entries are added in numerical order to read as follows:

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

\* \* \* \* \*

(b) \* \* \*

CFR part or section where the information collection requirement is located

Current  
OMB con-  
trol number  
(all numbers  
begin with  
0648—)

50 CFR	*	*	*	*	*	*	*
622.10	*	*	*	*	*	*	*

CFR part or section where the information collection requirement is located

Current  
OMB con-  
trol number  
(all numbers  
begin with  
0648-)

*	*	*	*	*	*	*
622.17	.....	.....	.....	.....	.....	-0205

**PART 622—FISHERIES OF THE  
CARIBBEAN, GULF, AND SOUTH  
ATLANTIC**Authority: 16 U.S.C. 1801 *et seq.***§ 622.1 Purpose and Scope**

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

4. In § 622.1, table 1, effective August 27, 1996, the following entry is added in alphabetical order to read as follows:

TABLE 1.—FMPs IMPLEMENTED UNDER PART 622

FMP title	Respon- sible Fish- ery Man- agement council(s)	Geographical area
FMP for the Golden Crab Fishery of the South Atlantic Region	SAFMC	South Atlantic

5. In § 622.2, effective August 27, 1996, in the definition of "Fish trap", paragraph (3) is revised and definitions of "Golden crab" and "Golden crab trap" are added in alphabetical order to read as follows:

**§ 622.2 Definitions and acronyms.**

\* \* \* \* \*

Fish trap \* \* \*

(3) In the South Atlantic EEZ, a trap and its component parts (including the lines and buoys), regardless of the construction material, used for or capable of taking fish, except a sea bass pot, a golden crab trap, or a crustacean trap (that is, a type of trap historically used in the directed fishery for blue crab, stone crab, red crab, jonah crab, or spiny lobster and that contains at any time not more than 25 percent, by number, of fish other than blue crab, stone crab, red crab, jonah crab, and spiny lobster).

\* \* \* \* \*

*Golden crab* means the species *Chaceon feneri*, or a part thereof.

*Golden crab trap* means any trap used or possessed in association with a directed fishery for golden crab in the South Atlantic EEZ, including any trap that contains a golden crab in or from the South Atlantic EEZ or any trap on

board a vessel that possesses golden crab in or from the South Atlantic EEZ.

\* \* \* \* \*

6. In § 622.4, effective October 28, 1996, the first sentence of paragraph (a)(4) and, effective August 27, 1996, the first sentence of paragraph (d) are revised to read as follows:

**§ 622.4 Permits and fees.**

(a) \* \* \*

(4) \* \* \* For a dealer to receive Gulf reef fish, golden crab harvested from the South Atlantic EEZ, South Atlantic snapper-grouper, or wreckfish, a dealer permit for Gulf reef fish, golden crab, South Atlantic snapper-grouper, or wreckfish, respectively, must be issued to the dealer. \* \* \*

\* \* \* \* \*

(d) \* \* \* A fee is charged for each permit application submitted under paragraph (b) of this section or under § 622.17(d) and for each fish trap or sea bass pot identification tag required under § 622.6(b)(1)(i). \* \* \*

\* \* \* \* \*

7. In § 622.5, effective October 28, 1996, the text of paragraph (a)(2) is redesignated as paragraph (a)(2)(i); the heading of paragraph (a)(2) is revised; and paragraphs (a)(1)(v), (a)(2)(ii), and (c)(6) are added to read as follows:

**§ 622.5 Recordkeeping and reporting.**

\* \* \* \* \*

(a) \* \* \*

(1) \* \* \*

(v) *South Atlantic golden crab.* The owner or operator of a vessel for which a commercial permit for golden crab has been issued, as required under § 622.17(a), who is selected to report by the SRD must maintain a fishing record on a form available from the SRD.

(2) *Reporting deadlines.* \* \* \*

(ii) Reporting forms required in paragraph (a)(1)(v) of this section must be submitted to the SRD postmarked not later than 30 days after sale of the golden crab offloaded from a trip. If no fishing occurred during a calendar month, a report so stating must be submitted on one of the forms postmarked not later than 7 days after the end of that month. Information to be reported is indicated on the form and its accompanying instructions.

\* \* \* \* \*

(c) \* \* \*

(6) *South Atlantic golden crab.* A dealer who receives from a fishing vessel golden crab harvested from the South Atlantic EEZ and who is selected by the SRD must provide information on receipts of, and prices paid for, South Atlantic golden crab to the SRD at monthly intervals, postmarked not later than 5 days after the end of each month.

Reporting frequency and reporting deadlines may be modified upon notification by the SRD.

\* \* \* \* \*

8. In § 622.6, effective October 28, 1996, in paragraph (a)(1)(i) introductory text, the reference “§ 622.4” is removed and the reference “§ 622.4 or § 622.17” is added in its place; in the first sentence of paragraph (c) and in paragraph (d), the phrase “a golden crab trap,” is added after “a fish trap,”; a sentence is added at the end of paragraph (b)(1)(ii); and a sentence is added at the end of paragraph (b)(2)(ii) to read as follows:

**§ 622.6 Vessel and gear identification.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(ii) \* \* \* A golden crab trap used or possessed in the South Atlantic EEZ or on board a vessel with a commercial permit for golden crab must have the commercial vessel permit number permanently affixed so as to be easily distinguished, located, and identified; an identification tag issued by the RD may be used for this purpose but is not required.

(2) \* \* \*

(i) \* \* \* However, no color code is required on a buoy attached to a golden crab trap.

\* \* \* \* \*

9. In § 622.7, effective August 27, 1996, paragraph (b) is revised; effective September 26, 1996, paragraphs (w), (x), and (y) are added; and effective October 28, 1996, paragraphs (a) and (c) are revised and paragraph (z) is added to read as follow:

**§ 622.7 Prohibitions.**

(a) Engage in an activity for which a valid Federal permit is required under § 622.4 or § 622.17 without such permit.

(b) Falsify information on a permit application or submitted with such application, as specified in § 622.4 (b) or (g) or § 622.17.

(c) Fail to display a permit or endorsement, as specified in § 622.4(i) or § 622.17(g).

\* \* \* \* \*

(w) Fail to comply with the requirements for observer coverage as specified in § 622.10.

(x) Assault, resist, oppose, impede, intimidate, or interfere with a NMFS-approved observer aboard a vessel.

(y) Prohibit or bar by command, impediment, threat, coercion, or refusal of reasonable assistance, an observer from conducting his or her duties aboard a vessel.

(z) Fish for or possess golden crab in or from a designated fishing zone of the

South Atlantic EEZ other than the zone for which the vessel is permitted, as specified in § 622.17(h).

10. Effective September 26, 1996, § 622.8 is added to subpart A to read as follows:

**§ 622.8 At-sea observer coverage.**

(a) If a vessel's trip is selected by the SRD for observer coverage, the owner or operator of a vessel for which a commercial permit for golden crab has been issued, as required under § 622.17(a), must carry a NMFS-approved observer.

(b) When notified in writing by the SRD that his or her vessel has been selected to carry an NMFS-approved observer, an owner or operator must advise the SRD in writing not less than 5 days in advance of each trip of the following:

(1) Departure information (port, dock, date, and time).

(2) Expected landing information (port, dock, and date).

(c) An owner or operator of a vessel on which a NMFS approved observer is embarked must:

(1) Provide accommodations and food that are equivalent to those provided to the crew.

(2) Allow the observer access to and use of the vessel's communications equipment and personnel upon request for the transmission and receipt of messages related to the observer's duties.

(3) Allow the observer access to and use of the vessel's navigation equipment and personnel upon request to determine the vessel's position.

(4) Allow the observer free and unobstructed access to the vessel's bridge, working decks, holding bins, weight scales, holds, and any other space used to hold, process, weigh, or store golden crab.

(5) Allow the observer to inspect and copy the vessel's log, communications logs, and any records associated with the catch and distribution of golden crab for that trip.

11. Effective August 27, 1996, § 622.17, is added to subpart B to read as follows:

**§ 622.17 South Atlantic golden crab controlled access.**

(a) [Reserved]

(b) *Initial eligibility.* A vessel is eligible for an initial commercial vessel permit for golden crab if the owner meets the documentation requirements described in paragraph (c) of this section substantiating his or her landings of golden crab harvested from the South Atlantic EEZ in quantities of at least 600 lb (272 kg) by April 7, 1995,

or at least 2,500 lb (1,134 kg) by September 1, 1995. Only the owner of a vessel at the time landings occurred may use those landings to meet the eligibility requirements described in this paragraph, except if that owner transferred the right to use those landings to a subsequent owner in writing as part of the vessel's sales agreement. If evidence of such agreement is provided to the RD, the subsequent owner may use those landings to meet the eligibility requirements instead of the owner of the vessel at the time the landings occurred.

(c) *Documentation of eligibility.* The documentation requirements described in this paragraph are the only acceptable means for an owner to establish a vessel's eligibility for an initial permit. Failure to meet the documentation requirements, including submission of data as required, will result in failure to qualify for an initial commercial vessel permit. Acceptable sources of documentation include: Landings documented by the trip ticket systems of Florida or South Carolina as described in paragraph (c)(1) of this section and data substantiating landings that occurred prior to establishment of the respective trip ticket systems or landings that occurred in North Carolina or Georgia as described in paragraph (c)(2) of this section.

(1) *Trip ticket data.* NMFS has access to records of golden crab landings reported under the trip ticket systems in Florida and South Carolina. No further documentation or submission of these records is required if the applicant was the owner of the harvesting vessel at the time of the landings documented by these records. An applicant will be given printouts of trip ticket records for landings made when the applicant owned the harvesting vessel, and an applicant will have an opportunity to submit records of landings he or she believes should have been included on such printouts or to clarify allocation of landings shown on such printouts. Landings reported under these trip ticket systems and received by the respective states prior to December 31, 1995, with such adjustments/clarifications for landings for which there is adequate documentation that they should have been included on the printouts, are conclusive as to landings in the respective states during the period that landing reports were required or voluntarily submitted by a vessel. For such time periods, landings data from other sources will not be considered for landings in these states.

(2) *Additional landings data.* (i) An owner of a vessel that does not meet the criteria for initial eligibility for a

commercial vessel permit based on landings documented by the trip ticket systems of Florida or South Carolina may submit documentation of required landings that either occurred prior to the implementation of the respective trip ticket systems or occurred in North Carolina or Georgia. Acceptable documentation of such landings consists of trip receipts or dealer records that definitively show the species known as golden crab; the vessel's name, official number, or other reference that clearly identifies the vessel; and dates and amounts of South Atlantic golden crab landings. In addition, a sworn affidavit may be submitted to document landings. A sworn affidavit is a notarized written statement wherein the individual signing the affidavit affirms under penalty of perjury that the information presented is accurate to the best of his or her knowledge, information, and belief.

(ii) Documentation by a combination of trip receipts and dealer records is acceptable, but duplicate records for the same landings will not result in additional credit.

(iii) Additional data submitted under paragraph (c)(2) of this section must be attached to a Golden Crab Landings Data form, which is available from the RD.

(3) *Verification.* Documentation of golden crab landings from the South Atlantic EEZ and other information submitted under this section are subject to verification by comparison with state, Federal, and other records and information. Submission of false documentation or information may disqualify a person from initial participation under the South Atlantic golden crab controlled access program.

(d) *Application procedure.* Permit application forms are available from the RD. An application for an initial commercial vessel permit that is postmarked or hand-delivered after September 26, 1996, will not be accepted.

(1) An application for a commercial vessel permit must be submitted and signed by the vessel owner (in the case of a corporate-owned vessel, an officer or shareholder who meets the requirements of paragraph (b) of this section; in the case of a partnership-owned vessel, a general partner who meets these requirements).

(2) An owner must provide the following:

(i) A copy of the vessel's valid U.S. Coast Guard certificate of documentation or, if not documented, a copy of its valid state registration certificate.

(ii) Vessel name and official number.

(iii) Name, address, telephone number, and other identifying information of the vessel owner.

(iv) Documentation of initial eligibility, as specified in paragraphs (b) and (c) of this section.

(v) The fishing zone in which the vessel will fish, as specified in paragraph (h) of this section.

(vi) Any other information concerning the vessel, gear characteristics, principal fisheries engaged in, or fishing areas, as specified on the application form.

(vii) Any other information that may be necessary for the issuance or administration of the permit, as specified on the application form.

(e) *Issuance.* (1) The RD will mail an initial commercial vessel permit to an applicant no later than October 28, 1996, if the application is complete and the eligibility requirements specified in paragraph (b) of this section are met.

(2) Upon receipt of an incomplete application that is postmarked or hand-delivered on or before September 26, 1996, the RD will notify the applicant of the deficiency. If the applicant fails to correct the deficiency within 30 days of the date of the RD's notification, the application will be considered abandoned.

(3) The RD will notify an applicant, in writing, no later than October 28, 1996, if the RD determines that the applicant fails to meet the eligibility requirements specified in paragraph (b) of this section.

(f) *Appeals.* (1) An appeal of the RD's decision regarding initial permit eligibility may be submitted to an ad hoc appeals committee appointed by the SAFMC.

(2) The appeals committee is empowered only to deliberate whether the eligibility criteria specified in paragraph (b) of this section were applied correctly to the appellant's application. In making that determination, the appeals committee members will consider only disputed calculations and determinations based on documentation provided as specified in paragraph (c) of this section, including transfers of landings records. The appeals committee is not empowered to consider whether a person should have been eligible for a commercial vessel permit because of hardship or other factors.

(3) A written request for consideration of an appeal must be submitted within 30 days of the date of the RD's notification denying permit issuance and must provide written documentation supporting the basis for the appeal. Such a request must contain the appellant's acknowledgment that the confidentiality provisions of the

Magnuson Act at 16 U.S.C. 1853(d) and subpart E of part 600 of this chapter are waived with respect to any information supplied by the RD to the SAFMC and its advisory bodies for purposes of receiving the recommendations of the appeals committee members on the appeal. An appellant may also make a personal appearance before the appeals committee.

(4) The appeals committee will meet only once to consider appeals submitted within the time period specified in paragraph (f)(3) of this section. Members of the appeals committee will provide their individual recommendations for each appeal to the RD. Members of the appeals committee may comment upon whether the eligibility criteria, specified in the FMP and in paragraph (b) of this section, were correctly applied in each case, based solely on the available record, including documentation submitted by the appellant. The RD will decide the appeal based on the initial eligibility criteria in paragraph (b) of this section and the available record, including documentation submitted by the appellant and the recommendations and comments from members of the appeals committee. The RD will notify the appellant of the decision and the reason therefore, in 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) [Reserved]

(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.

12. In § 622.17, effective October 28, 1996, paragraphs (a), (g), (i), and (j) are added to read as follows:

**§ 622.17 South Atlantic golden crab controlled access.**

(a) *Applicability.* 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 be issued to the vessel and must be on board. It is a rebuttable presumption that a golden crab on board or off-loaded from a vessel in the South Atlantic was harvested from the South Atlantic EEZ.

\* \* \* \* \*

(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.

\* \* \* \* \*

(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.

13. In § 622.32, effective September 26, 1996, paragraphs (b)(4)(v) and (vi) are added to read as follows:

**§ 622.32 Prohibited and limited-harvest species.**

\* \* \* \* \*

(b) \* \* \*

(4) \* \* \*

(v) It is intended that no female golden crabs in or from the South Atlantic EEZ be retained on board a vessel and that any female golden crab in or from the South Atlantic EEZ be released in a manner that will ensure maximum probability of survival. However, to accommodate legitimate incidental catch and retention, the number of female golden crabs in or from the South Atlantic EEZ retained on board a vessel may not exceed 0.5 percent, by number, of all golden crabs on board. See § 622.45(f)(1) regarding the prohibition of sale of female golden crabs.

(vi) South Atlantic snapper-grouper may not be possessed in whole, gutted, or filleted form by a person aboard a vessel fishing for or possessing golden crab in or from the South Atlantic EEZ or possessing a golden crab trap in the South Atlantic. Only the head, fins, and backbone (collectively the "rack") of South Atlantic snapper-grouper may be possessed for use as bait.

\* \* \* \* \*

14. In § 622.35, effective September 26, 1996, paragraph (f) is added to read as follows:

**§ 622.35 South Atlantic EEZ seasonal and/or area closures.**

\* \* \* \* \*

(f) *Golden crab trap closed areas.* In the golden crab northern zone, a golden crab trap may not be deployed in waters less than 900 ft (274 m) deep. In the golden crab middle and southern zones, a golden crab trap may not be deployed in waters less than 700 ft (213 m) deep. See § 622.17(h) for specification of the golden crab zones.

15. In § 622.38, effective September 26, 1996, paragraph (f) is added to read as follows:

**§ 622.38 Landing fish intact.**

\* \* \* \* \*

(f) A golden crab in or from the South Atlantic EEZ must be maintained in whole condition through landing ashore. For the purposes of this paragraph, whole means a crab that is in its natural condition and that has not been gutted or separated into component pieces, e.g., clusters.

16. In § 622.40, effective October 28, 1996, paragraph (a)(3) is revised; and, effective September 26, 1996, paragraph (d)(2) existing text is redesignated as paragraph (d)(2)(i) and paragraphs (b)(3)(ii), (c)(3)(ii), and (d)(2)(ii) are added to read as follows:

**§ 622.40 Limitations on traps and pots.**

(a) \* \* \*

(3) *South Atlantic EEZ.* A sea bass pot or golden crab trap in the South Atlantic EEZ may be pulled or tended only by a person (other than an authorized officer) aboard the vessel permitted to fish such pot or trap or aboard another vessel if such vessel has on board written consent of the owner or operator of the vessel so permitted. For golden crab only, a vessel with written consent on board must also possess a valid commercial vessel permit for golden crab.

(b) \* \* \*

(3) \* \* \*

(ii) A golden crab trap that is used or possessed in the South Atlantic EEZ must have at least one escape gap or escape ring on each of two opposite vertical sides. The minimum allowable inside dimensions of an escape gap are 2.75 by 3.75 inches (7.0 by 9.5 cm); the minimum allowable inside diameter of an escape ring is 4.5 inches (11.4 cm). In addition to the escape gaps—

(A) A golden crab trap constructed of webbing must have an opening (slit) at least 1 ft (30.5 cm) long that may be closed (relaced) only with untreated cotton string no larger than 3/16 inch (0.48 cm) in diameter.

(B) A golden crab trap constructed of material other than webbing must have an escape panel or door measuring at least 12 by 12 inches (30.5 by 30.5 cm), located on at least one side, excluding top and bottom. The hinges and fasteners of such door or panel must be made of either ungalvanized or uncoated iron wire no larger than 19 gauge (0.04 inch (1.0 mm) in diameter) or untreated cotton string no larger than 3/16 inch (4.8 mm) in diameter.

(c) \* \* \*

(3) \* \* \*

(ii) A golden crab trap deployed or possessed in the South Atlantic EEZ may not exceed 64 ft<sup>3</sup> (1.8 m<sup>3</sup>) in volume in the northern zone or 48 ft<sup>3</sup> (1.4 m<sup>3</sup>) in volume in the middle and southern zones. See § 622.17(h) for specification of the golden crab zones.

(d) \* \* \*

(2) \* \* \*

(ii) Rope is the only material allowed to be used for a mainline or buoy line attached to a golden crab trap, except that wire cable is allowed for these purposes through January 31, 1998.

17. In § 622.41, effective September 26, 1996, paragraph (e) is added to read as follows:

**§ 622.41 Species specific limitations.**

\* \* \* \* \*

(e) *South Atlantic golden crab.* Traps are the only fishing gear authorized in



directed fishing for golden crab in the South Atlantic EEZ. Golden crab in or from the South Atlantic EEZ may not be retained on board a vessel possessing or using unauthorized gear.

18. In § 622.45, effective September 26, 1996, paragraph (f)(1) is added and, effective October 28, 1996, paragraphs (f)(2) through (4) are added to read as follows:

**§ 622.45 Restrictions on sale/purchase.**

\* \* \* \* \*

(f) *South Atlantic golden crab.* (1) A female golden crab in or from the South Atlantic EEZ may not be sold or purchased.

(2) A golden crab harvested in the South Atlantic EEZ on board a vessel that does not have a valid commercial permit for golden crab, as required under § 622.17(a), may not be sold or purchased.

(3) A golden crab harvested on board a vessel that has a valid commercial permit for golden crab may be sold only to a dealer who has a valid permit for golden crab, as required under § 622.4(a)(4).

(4) A golden crab harvested in the South Atlantic EEZ may be purchased by a dealer who has a valid permit for golden crab, as required under § 622.4(a)(4), only from a vessel that has a valid commercial permit for golden crab.

19. In § 622.48, effective September 26, 1996, paragraph (g) is added to read as follows:

**§ 622.48 Adjustment of management measures.**

\* \* \* \* \*

(g) *South Atlantic golden crab.* MSY, ABC, TAC, quotas (including quotas equal to zero), trip limits, minimum sizes, gear regulations and restrictions, permit requirements, seasonal or area closures, time frame for recovery of golden crab if overfished, fishing year (adjustment not to exceed 2 months), observer requirements, and authority for the RD to close the fishery when a quota is reached or is projected to be reached.

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## DEPARTMENT OF THE TREASURY

### Customs Service

#### 19 CFR Part 12

[T.D. 96-64]

RIN 1515-AB94

#### Emissions Standards for Imported Nonroad Engines

**AGENCY:** Customs Service, Department of the Treasury.

**ACTION:** Final rule.

**SUMMARY:** This document sets forth amendments to the Customs Regulations which conform to regulations that have already been adopted by the Environmental Protection Agency (EPA), in order to ensure the compliance of imported nonroad engines with applicable EPA emissions standards required by law.

**EFFECTIVE DATE:** August 27, 1996.

**FOR FURTHER INFORMATION CONTACT:** Leo Wells, Trade Compliance Division, (202-927-0771).

#### SUPPLEMENTARY INFORMATION:

##### Background

The Clean Air Act, as amended, (42 U.S.C. 7401 *et seq.*), which has long authorized the Environmental Protection Agency (EPA) to regulate on-highway motor vehicle and engine emissions, was amended in 1990 to extend EPA's regulatory authority to include as well nonroad engines and related vehicles and 2 equipment (see 42 U.S.C. 7521-7525, 7541-7543, 7547, 7549, 7550, 7601(a)). In brief, EPA was given authority, *inter alia*, to regulate those categories or classes of new nonroad engines and associated vehicles and equipment that contribute to air pollution, if such nonroad emissions have been determined to be significant.

To this end, the EPA has since conducted the requisite studies, and issued regulations in 40 CFR parts 89 and 90, which set emission standards for certain nonroad engines, specifically new nonroad compression-ignition engines at or above 50 horsepower (37 kilowatts) (nonroad large CI engines) as well as new nonroad spark-ignition engines at or below 25 horsepower (19 kilowatts) (nonroad small SI engines). For a complete discussion of the background and development of EPA's regulations concerning emissions standards for nonroad large CI and small SI engines, see 59 FR 31306 (June 17, 1994) and 60 FR 34582 (July 3, 1995), respectively. The Customs Regulations set forth in this document are applicable to all nonroad engines incorporated into

nonroad vehicles or nonroad equipment imported into the United States.

Nonconforming nonroad large CI engines may only be imported by independent commercial importers (ICIs) who hold valid certificates of conformity issued by the EPA (see § 12.74(c)(2), *infra*), unless an exemption or exclusion otherwise applies thereto. The ICI will be responsible for assuring that subsequent to importation, the nonroad engine is properly modified and/or tested to comply with EPA emission and other requirements over its useful life.

By contrast, no ICI program exists for nonconforming nonroad small SI engines. However, an individual may import on a single occasion up to three nonconforming nonroad small SI engines, vehicles or equipment items for personal use (and not for purposes of resale). In fact, with specific exceptions, nonconforming nonroad small SI engines, vehicles and equipment are generally not permitted to be imported for resale. After an individual's limit of three, or after the first importation, additional small SI engines, vehicles, or equipment are not permitted importation, unless an exception or exclusion otherwise so provides.

Exemptions or exclusions to the general restrictions on importing nonconforming nonroad engines are similar to those contained in § 12.73, Customs Regulations (19 CFR 12.73) for nonconforming motor vehicles and their engines, and include exemptions for repair and alteration, testing, precertification, display, national security, hardship, use in competition, and certain nonroad engines proven to be identical, in all material respects, to their corresponding U.S. versions. Furthermore, foreign diplomatic or military personnel on assignment in the U.S. may import a nonconforming nonroad engine exempt from emissions requirements. In addition, nonroad engines greater than 20 original production years old are not subject to EPA emissions requirements.

Accordingly, Customs is amending its regulations to add a new § 12.74 which conforms to the regulations that have already been adopted by EPA, in order to ensure the compliance of imported nonroad engines with applicable EPA emissions standards required by law.

Inapplicability of Public Notice and Comment and Delayed Effective Date Requirements, the Regulatory Flexibility Act, and Executive Order 12866

Inasmuch as these amendments merely conform the Customs Regulations to existing law and