

FOR FURTHER INFORMATION CONTACT For clarification of content, contact Ms. Cecelia Davis, Procurement Analyst, at (202) 219-0202. The TTY Federal Relay Number for further information is 1-800-877-8973. For information pertaining to status or publication schedules, contact the FAR Secretariat at (202) 501-4755. Please cite FAR case 2005-041.

SUPPLEMENTARY INFORMATION:

A. Background

The internet protocol is one of the primary mechanisms that define how and where information moves across networks, e.g., voice, video, and text. Currently Internet Protocol Version 4 (IPv4) is the industry standard used and has about 4.3 billion address spaces. Key characteristics of IPv6 are designed to significantly increase internet address space, promote flexibility and functionality, and enhance security. Agencies can reduce costly upgrades and the complexity of transitioning to IPv6 by proactively integrating IPv6 requirements into Federal contracts.

On August 2, 2005, OMB issued a memo (Memorandum M-05-22, Transition Planning for Internet Protocol Version 6 (IPv6)) giving guidance to agencies to transition from IPv4 to IPv6, and required agencies to implement full use of IPv6 in network backbones by June 2008. OMB further requires, to the maximum extent practicable, all new IT procurements include IPv6 capable products and systems. Any exceptions to the use of IPv6 will require advance written approval from the agency CIO.

This rule proposes amending the FAR by—

1. Adding a new paragraph (A)(2) in FAR 7.105 (b)(4)(ii) to ensure agency planners comply with the Internet Protocol Version 6 (IPv6) capability requirements as a part of acquisition planning;

2. Adding paragraph (e) to FAR 12.202 to state that requirements documents for information technology shall include Internet Protocol Version 6 (IPv6) capable products and services; and

3. Adding paragraph (e) to FAR 39.101 to state when acquiring information technology, agencies shall include the appropriate requirements for Internet Protocol Version 6 (IPv6) capable products and services, and for agencies to establish procedures for granting exceptions.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This

rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Councils do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because IPv6 requires use of commercially available products, and no new standards or testing is required. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR Parts 7, 12, and 39 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, et seq. (FAR case 2005-041), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Parts 7, 12, and 39

Government procurement.

Dated: August 16, 2006.

Ralph De Stefano, Director, Contract Policy Division.

Therefore, DoD, GSA, and NASA propose amending 48 CFR parts 7, 12, and 39 as set forth below:

1. The authority citation for 48 CFR parts 7, 12, and 39 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 7—ACQUISITION PLANNING

2. Amend section 7.105 by revising paragraph (b)(4)(ii)(A) to read as follows:

7.105 Contents of written acquisition plans.

* * * * *

- (b) * * *
(4) * * *
(ii) * * *

(A) For information technology acquisitions—

(1) How the capital planning and investment control requirements of 40 U.S.C. 11312 and OMB Circular A-130 will be met (see 7.103(t) and Part 39); and

(2) How the acquisition will comply with the Internet Protocol Version 6

(IPv6) capability requirements as outlined in OMB Memorandum M-05-22, Transition Planning for Internet Protocol Version 6 (IPv6), and additional requirements for IPv6 at http://www.cio.gov.

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PART 12—ACQUISITION OF COMMERCIAL ITEMS

3. Amend section 12.202 by adding paragraph (e) to read as follows:

12.202 Market research and description of agency need.

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(e) Requirements documents for information technology solutions must include Internet Protocol Version 6 (IPv6) capability as outlined in the OMB Memorandum M-05-22, Transition Planning for Internet Protocol Version 6 (IPv6), and additional requirements for IPv6 at http://www.whitehouse.gov/omb/memoranda/fy2005/m05-22.pdf.

PART 39—ACQUISITION OF INFORMATION TECHNOLOGY

4. Amend section 39.101 by adding paragraph (e) to read as follows:

39.101 Policy.

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(e) In acquiring information technology solutions, agencies must include the appropriate Internet Protocol Version 6 (IPv6) capability requirements as outlined in the OMB Memorandum M-05-22, Transition Planning for Internet Protocol Version 6 (IPv6). Agencies must establish procedures for exceptions.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 060731206-6206-01; I.D. 072806A]

RIN 0648-AS67

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 26

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule that would implement Amendment 26 to the Fishery Management Plan for the Reef Fish Fishery of the Gulf of Mexico (FMP). Amendment 26 would establish an individual fishing quota (IFQ) program for the commercial red snapper sector of the reef fish fishery in the Gulf of Mexico. Initial participants in the IFQ program would receive percentage shares of the commercial quota of red snapper based on specified historical landings criteria. The percentage shares of the commercial quota would equate to annual IFQ allocations. Both shares and IFQ allocations would be transferable. The intended effect of this rule is to manage the commercial red snapper sector of the reef fish fishery to preserve its long-term economic viability and to achieve optimum yield from the fishery.

DATES: Written comments must be received on or before September 28, 2006.

ADDRESSES: You may submit comments on the proposed rule by any of the following methods:

- E-mail: 0648-

AS67.Proposed@noaa.gov. Include in the subject line the following document identifier: 0648-AS67.

- Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Mail: Phil Steele, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.
- Fax: 727-824-5308; Attention: Phil Steele.

Copies of Amendment 26, which includes a supplemental environmental impact statement (SEIS), a regulatory impact review (RIR), and an initial regulatory flexibility analysis (IRFA), may be obtained from the Gulf of Mexico Fishery Management Council, 2203 N. Lois Avenue, Suite 1100, Tampa, FL 33607; telephone: 813-348-1630; fax: 813-348-1711; e-mail: gulfcouncil@gulfcouncil.org. In addition, copies of the final SEIS, a revised RIR, and a revised IRFA, prepared by NMFS are also available from the Council at the address above. Copies of all of these documents may also be downloaded from the Council's website at www.gulfcouncil.org.

Comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted in writing to Jason Rueter at the Southeast Regional Office address (above) and to David Rostker, Office of Management and Budget (OMB), by e-mail at David_Rostker@omb.eop.gov, or by fax to 202-395-7285.

FOR FURTHER INFORMATION CONTACT: Phil Steele, telephone 727-824-5305; fax 727-824-5308; e-mail Phil.Steele@noaa.gov.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the FMP. The FMP was prepared by the Gulf of Mexico Fishery Management Council (Council) and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

Background

A red snapper individual transferable quota (ITQ) program, proposed in Amendment 8 to the FMP and approved by NMFS in 1995, was never implemented because of action taken through the 1996 Sustainable Fisheries Act to place a moratorium on the development or implementation of new ITQ programs until October 1, 2000. The Council and commercial fishermen remained concerned about the continuing problems associated with overcapacity in the fishery and the adverse impacts associated with the derby fishery, i.e., the competitive race for available fish. This proposed rule would implement an IFQ program to address these issues.

IFQ Program

Scope

The provisions of this IFQ program would apply to Gulf red snapper in or from the Gulf EEZ and, for a person aboard a vessel with a Gulf red snapper IFQ vessel endorsement or for a person with a Gulf red snapper IFQ dealer endorsement, these provisions would apply to Gulf red snapper regardless of where harvested or possessed.

Duration

The IFQ program would remain in effect until it is modified or terminated; however, the program would be evaluated by the Council every 5 years.

Electronic System Requirements, Account Setup, and Information

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 would have to have access to a computer and Internet access and set up an appropriate IFQ online account to participate. Assistance with online functions would be 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.

The IFQ program would provide for use of paper-based components for basic

required functions as a backup only during catastrophic conditions. The Regional Administrator, Southeast Region, NMFS, (RA) would 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 would provide timely notice to affected participants via publication of notification in the **Federal Register**, NOAA weather radio, fishery bulletins, and other appropriate means and would authorize the affected participants' use of paper-based components for the duration of the catastrophic conditions. NMFS would provide each IFQ dealer the necessary paper forms. The paper forms would also be available from the RA. The program functions available to participants or geographic areas deemed affected by catastrophic conditions would be limited under the paper-based system. There would be no mechanism for transfers of IFQ shares or allocation under the paper-based system in effect during catastrophic conditions. Assistance in complying with the requirements of the paper-based system would be available via IFQ Customer Service 1-866-425-7627 Monday through Friday between 8 a.m. and 4:30 p.m. eastern time.

As soon as possible after publication of the final rule that would implement Amendment 26, the RA would mail an IFQ information package to eligible IFQ participants. The package would include information for accessing the online IFQ system at ifq.sero.nmfs.noaa.gov and establishing an online account, general instructions related to online transaction procedures and requirements, and where appropriate, information regarding historical landings and initial IFQ shares and allocation.

IFQ Shares and Allocation

An IFQ share is the percentage of the commercial quota of red snapper proportioned to each eligible person based on specified landings data. An IFQ allocation is the actual poundage of red snapper, measured in gutted weight, each IFQ shareholder is ensured the opportunity to land during a given fishing year. The allocation granted each IFQ shareholder would be derived by multiplying their IFQ share times the annual red snapper commercial quota. A person would be required to have an annual allocation or portion thereof, to harvest, possess, or sell red snapper. IFQ shares and annual allocations can be transferred separately or together to other eligible persons.

Adjustments in Commercial Quota and Allocation

The Council periodically reviews and adjusts the commercial quota for Gulf red snapper in response to new data and information, which generally take the form of new or updated red snapper stock assessments. As the quota is adjusted, shareholder's IFQ allocations would be proportionately adjusted based on the IFQ share each shareholder has at the time of the adjustment.

Special Procedure for Initial Calculation of 2007 IFQ Allocations

Because of uncertainty regarding the 2007 commercial quota for Gulf red snapper and the timing of its implementation and to avoid the possibility of having to revoke some proportion of initial allocation if the quota was subsequently reduced, the RA may initially calculate the 2007 IFQ allocations based on a proxy commercial quota. If a commercial quota adjustment for Gulf red snapper has not been submitted for review by the Secretary of Commerce in time for calculation of 2007 IFQ allocations, the RA would initially calculate 2007 allocations based on a proxy commercial quota of 2.55 million lb (1.16 million kg). Alternatively, if a commercial quota adjustment for Gulf red snapper has been submitted for review by the Secretary of Commerce in time to allow calculation of 2007 allocations, the RA would base 2007 IFQ allocations on the proposed quota. Under either scenario, as soon as the actual 2007 commercial quota is final, but no later than July 1, 2007, the RA would adjust the 2007 IFQ allocations, as necessary, consistent with the actual quota.

IFQ Share Eligibility and Share Calculation

Eligibility for initial issuance of IFQ shares would be restricted to persons who own a Class 1 or Class 2 license as of the date of publication of the final rule implementing Amendment 26. An owner of a license is defined as the person who actually controls transfer of the Class 1 or Class 2 license and is listed as the qualifier on the face of the license. NMFS would calculate initial IFQ shares based on the highest average annual landings of Gulf red snapper associated with each shareholder's current Class 1 or Class 2 license(s) during the applicable landings history unless the shareholder selects other years of landings consistent with the applicable landing history. For a Class 1 license holder whose license was not issued based on historical captain

status, the 10 consecutive years between 1990 and 2004 with the highest average landings would be used. For a Class 1 license holder whose license was issued on the basis of historical captain status, all years of landings data from 1998 through 2004 would be used. For a Class 2 license holder, the 5 years between 1998 and 2004 with the highest average landings would be used.

All landings associated with a current Class 1 or Class 2 license for the applicable landings history, including those reported by a person who held the license prior to the current license owner, would be attributed to the current license owner. Only legal landings reported in compliance with applicable state and Federal regulations would be accepted. Each shareholder's initial IFQ share would be derived by dividing the shareholder's highest average annual landings during the applicable landings history by the sum of the highest average annual landings of all shareholders during the respective applicable landings histories. Initial IFQ shares would not be issued in denominations of less than 0.0001 percent.

Appeals Process

The only items subject to appeal under this IFQ system would be initial eligibility for IFQ shares based on ownership of a Class 1 or Class 2 license, the accuracy of the amount of landings, and correct assignment of landings to the license owner. The RA would review, evaluate, and render final decisions on appeals. Appeals would have to be submitted to the RA postmarked no later than 90 days after the effective date of the final regulations implementing the IFQ program and would have to contain documentation supporting the basis for appeal. Hardship arguments would not be considered. Landings data from 1990 through 1992 would not be subject to appeal. Landings records appeals for 1993–2004 would be based on NMFS logbook data. If NMFS logbooks are not available; state landings records or data submitted on or before June 30, 2005, could be used. During the first year of the IFQ program only, the RA initially would reserve a 3-percent IFQ share, prior to initial distribution of shares, to be used to resolve appeals. Any portion of the 3-percent share reserve remaining after the appeals process has been completed would be proportionately distributed back to the initial recipients as soon as possible that year. If resolution of appeals requires more than a 3-percent share, the shares of all initial shareholders would be reduced proportionately to accommodate the

required shares in excess of the 3-percent reserve.

IFQ Share Cap—NMFS Solicits Public Comment

To prevent any entity from obtaining excessive shares under this IFQ program, as mandated by National Standard 4 of the Magnuson–Stevens Act, a share cap would be established. No person would be allowed to own at any time IFQ shares exceeding the maximum share initially issued to any person for the 2007 fishing year, as of the date appeals are resolved and shares are adjusted accordingly. NMFS estimates this would cap ownership of shares at approximately 8 percent of total shares. If an ownership cap is too high, market power may become too consolidated and produce an unduly anti-competitive market. However, setting the limit too low can also have adverse effects on the price of fish. This can happen in cases where it is less costly overall for fewer entities to each catch more fish than it is for lots of entities to each catch smaller amounts of fish.

Aside from considerations of controlling the undue consolidation of market power and maintaining a fair level of competition, Section 303(b)(6) of the Magnuson–Stevens Act requires consideration of several factors in establishing a limited access program such as the red snapper IFQ program. Those factors include, but are not limited to: present participation in the fishery, historical fishing practices in, and dependence on, the fishery; the economics of the fishery; and the cultural and social framework relevant to the fishery and any affected fishing communities. Although the approximately 8 percent cap may not result in consolidation that rises to the level of presenting an undue concentration of market power or chilled competition, a higher cap could result in levels of consolidation producing effects that are problematic under the Magnuson–Stevens Act. Examples would include potentially eliminating numerous small-scale historical participants, adversely affecting the social and cultural framework of the fishery by adversely affecting working conditions and wages for crew, and potentially adversely affecting prices.

NMFS is seeking comments on whether the proposed cap of approximately 8 percent is appropriate. According to the "Horizontal Merger Guidelines" (Guidelines) issued jointly by the Department of Justice and the Federal Trade Commission (<http://www.usdoj.gov/atr/public/guidelines/>

hmg.pdf, see especially pp 15–17), even under conservative assumptions a limit of 10 percent (or possibly higher under less restrictive assumptions) would be unlikely to have adverse competitive effects. Accordingly, NMFS seeks specific comments on the appropriateness and magnitude of the proposed ownership cap.

Permit and IFQ Endorsement Requirements

For a person aboard a vessel, for which a commercial vessel permit for Gulf reef fish has been issued, to fish for, possess, or land Gulf red snapper, regardless of where harvested or possessed, a Gulf red snapper IFQ vessel endorsement would have to be issued to the vessel and be on board, and such person would have to hold or be assigned sufficient IFQ allocation to account for all red snapper on board or landed. As a condition of the IFQ vessel endorsement, a person aboard such vessel would have to comply with the requirements of the IFQ program regardless of where red snapper are harvested or possessed.

All dealers who purchase red snapper from an IFQ share/allocation holder would be required to possess a valid Federal dealer permit for Gulf reef fish and a red snapper IFQ dealer endorsement without which possessing, transporting, selling, purchasing, or processing red snapper would be prohibited.

The red snapper IFQ vessel endorsement and red snapper IFQ dealer endorsement would be available for download from the IFQ website, ifq.sero.nmfs.noaa.gov, at no cost to those individuals who possess a valid Gulf reef fish permit or a valid Gulf reef fish dealer permit, respectively, and request the endorsements. If such individuals do not have an IFQ online account, they would have to first contact IFQ Customer Service at 1–866–425–7627 to obtain information necessary to access the IFQ website and establish an IFQ online account. The red snapper IFQ vessel endorsement and dealer endorsement would remain valid as long as the individual possesses a valid Gulf reef fish permit or reef fish dealer permit, respectively, abides by all reporting and cost recovery requirements of the IFQ program, and is not subject to sanctions under 15 CFR part 904. The IFQ vessel endorsement and the dealer endorsement are not transferable.

Fleet Management and Assignment of Allocation

An IFQ shareholder or IFQ allocation holder who owns more than one vessel

with a valid Gulf reef fish vessel permit and a valid Gulf red snapper IFQ vessel endorsement may assign IFQ allocation to a person aboard such vessel and provide that person the IFQ account information necessary to conduct landing transactions. This assignment of allocation, which does not constitute a transfer or sale of allocation, can be accomplished by the shareholder or allocation holder online via the IFQ website.

Electronic Reporting of IFQ Transactions

IFQ share and allocation transactions would be tracked using an online accounting system developed by NMFS, in which the IFQ share/allocation holder, IFQ dealer, and appropriate NOAA personnel would participate. The IFQ share/allocation holder and IFQ dealer accounts would record IFQ share/allocation transactions into the online system using unique user ID numbers and personal identification numbers (PIN) issued to them by NMFS. Transaction approval codes obtained from NMFS via the online accounting system would be required for the following transactions: (1) share transfers; (2) allocation transfers; and (3) landings/sales transactions. The transaction approval code would verify the IFQ share/allocation holders involved in the transaction are eligible participants and, in the case of landings/sale, have sufficient allocation to conduct the sales transaction.

Data managed through the online accounting system would include, but not be limited to:

1. The identities and certificate numbers of IFQ share holders and their associated vessel ID numbers;
2. The identities of persons and corporations holding and fishing IFQ allocations and their associated vessel ID numbers;
3. The dates, times, and types of IFQ share and allocation transactions;
4. The identities and locations of IFQ dealerships;
5. The dates, times, and places of landing/sales transactions;
6. The identities of the dealers and fishermen conducting landing/sales transactions;
7. The price of red snapper recorded during each landing/sales transaction; and
8. The biological data recorded during each landing/sales transaction.

Landings/Sale Transactions

At the time of landing/sale of IFQ red snapper, the dealer would be responsible for initiating transactions in the online accounting system. The

fisherman would validate the transaction online by entering his unique PIN number at the point of transaction submittal. The information required to be recorded in the online accounting system for each landing/sale transaction at the point of sale would include, but not be limited to:

1. The date and time of landing/sale;
2. The weight of red snapper purchased;
3. The share/allocation holder account number from which the catch should be debited;
4. The ID number of the vessel used to harvest the fish;
5. The IFQ endorsement number of the authorized dealer;
6. The PIN numbers of both the dealer and fishermen; and
7. The actual ex-vessel unit price of the red snapper.

Limited Landings Overage Allowance

On the last fishing trip of the fishing year permitted by the shareholder's annual allocation, a shareholder would be permitted to land up to 10 percent more than the remaining allocation, without purchasing additional allocation. Any such overages would be deducted from the next year's allocation associated with the shareholder's IFQ share.

This carryover provision would not apply to a person who only possesses IFQ allocation and no IFQ shares because there would be no reliable mechanism for compensating for the overage in the following fishing year. Such a person would not be permitted to land any red snapper in excess of his/her current allocation.

Cost Recovery

Section 304(d)(2)(A) of the Magnuson-Stevens Act requires the Secretary of Commerce to establish a fee to assist in recovering the actual costs directly related to the management and enforcement of any IFQ program. Currently, such a fee may not exceed 3 percent of the ex-vessel value of fish harvested under any such program, and must be collected at either the time of landing, filing of a landing report, or sale of such fish during a fishing season or in the last quarter of the calendar year in which the fish is harvested. Fees collected must be in addition to any other fees charged under the Magnuson-Stevens Act and must be deposited in the Limited Access System Administration Fund (LASAF) established under Section 305(h)(5)(B) of the Magnuson-Stevens Act. Initially, the fee would be 3 percent of the actual ex-vessel value of Gulf red snapper landed under the IFQ program, as

