

# Tab B, No. 5

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

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

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

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

2. In § 622.2, the definition of "Annual catch target" is added in alphabetical order to read as follows:

### § 622.2 Definitions and acronyms.

\* \* \* \* \*

Annual catch target (ACT) means an amount of annual catch of a stock or stock complex that is the management target of the fishery, and accounts for management uncertainty in controlling the actual catch at or below the ACL.

\* \* \* \* \*

3. In § 622.4, the third sentence of paragraph (a)(2)(v) and the first sentence of paragraph (g) are revised, and paragraph (a)(2)(xiv) is added to read as follows:

### § 622.4 Permits and fees.

\* \* \* \* \*

(a) \* \* \*

(2) \* \* \*

(v) \* \* \* See paragraph (a)(2)(ix) of this section

regarding an IFQ vessel account required to fish for, possess, or

land Gulf red snapper or Gulf groupers and tilefishes and paragraph (a)(2)(xiv) of this section regarding an additional bottom longline endorsement required to fish for Gulf reef fish with bottom longline gear in a portion of the eastern Gulf. \* \* \* \* \*

(xiv) Eastern Gulf reef fish bottom longline endorsement.

For a person aboard a vessel, for which a valid commercial vessel permit for Gulf reef fish has been issued, to use a bottom longline for Gulf reef fish in the Gulf EEZ east of 85°30' W. long., a valid eastern Gulf reef fish bottom longline endorsement must have been issued to the vessel and must be on board. A permit or endorsement that has expired is not valid. This endorsement must be renewed annually and may only be renewed if the associated vessel has a valid commercial vessel permit for Gulf reef fish or if the endorsement and associated permit are being concurrently renewed. The RA will not reissue this endorsement if the endorsement is revoked or if the RA does not receive a complete application for renewal of the endorsement within 1 year after the endorsement's expiration date.

(A) Initial eligibility. To be eligible for an initial eastern Gulf reef fish bottom longline endorsement a person must have been issued and must possess a valid or renewable commercial vessel permit for Gulf reef fish that has bottom longline landings of Gulf reef fish averaging at least 40,000 lb (18,144

kg), gutted weight, annually during the period 1999 through 2007. In addition, for a commercial reef fish permit with reef fish longline landings after February 7, 2007, and with reef fish fish trap landings during 1999 through 2007, such reef fish trap landings may be applied toward satisfaction of the eligibility requirement for an initial eastern Gulf reef fish bottom longline endorsement. All applicable reef fish landings associated with a current reef fish permit for the applicable landings history, including those reported by a person(s) who held the license prior to the current license owner, will be attributed to the current license owner. However, landings accumulated via permit stacking are not creditable for the purpose of determining eligibility for an initial eastern Gulf reef fish bottom longline endorsement. Only legal landings reported in compliance with applicable state and Federal regulations will be accepted.

(B) Initial issuance. On or about [date 30 days after date of publication of the final rule in the FEDERAL REGISTER] the RA will mail each eligible permittee an eastern Gulf reef fish bottom longline endorsement via certified mail, return receipt requested, to the permittee's address of record as listed in NMFS' permit files. An eligible permittee who does not receive an endorsement from the RA, must contact the RA no later than [date 60 days after date of publication of the final rule in the FEDERAL REGISTER] to clarify his/her endorsement status. A

permittee who is denied an endorsement based on the RA's initial determination of eligibility and who disagrees with that determination may appeal to the RA.

(C) Procedure for appealing longline endorsement eligibility and/or landings information. The only items subject to appeal are initial eligibility for an eastern Gulf reef fish bottom longline endorsement based on ownership of a qualifying reef fish permit, the accuracy of the amount of landings, and correct assignment of landings to the permittee. Appeals based on hardship factors will not be considered. Appeals must be submitted to the RA postmarked no later than 120 days after [insert date of publication of the final rule in the FEDERAL REGISTER], and must contain documentation supporting the basis for the appeal. The RA will review all appeals, render final decisions on the appeals, and advise the appellant of the final decision.

(i) Eligibility appeals. NMFS' records of reef fish permits are the sole basis for determining ownership of such permits. A person who believes he/she meets the permit eligibility criteria based on ownership of a vessel under a different name, as may have occurred when ownership has changed from individual to corporate or vice versa, must document his/her continuity of ownership.

(ii) Landings appeals. Appeals regarding landings data for

1999 through 2007 will be based on NMFS' logbook records. If NMFS' logbooks are not available, the RA may use state landings records or data for the period 1999 through 2007 that were submitted in compliance with applicable Federal and state regulations on or before December 31, 2008.

(D) Transferability. An owner of a vessel with a valid eastern Gulf reef fish bottom longline endorsement may transfer that endorsement to an owner of a vessel that has a valid commercial vessel permit for Gulf reef fish.

(E) Fees. There is no fee for initial issuance of an eastern Gulf reef fish bottom longline endorsement. A fee is charged for each renewal, transfer, or replacement of such endorsement. The amount of each fee is calculated in accordance with the procedures of the NOAA Finance Handbook, available from the RA, for determining the administrative costs of each special product or service. The fee may not exceed such costs and is specified with each application form. The appropriate fee must accompany each application for renewal, transfer, or replacement.

\* \* \* \* \*

(g) \* \* \*

(1) A vessel permit, license, or endorsement or a dealer permit or endorsement issued under this section is not transferable or assignable, except as provided in paragraph (m) of this section for a commercial vessel permit for Gulf reef

fish, in paragraph (o) of this section for a king mackerel gillnet permit, in paragraph (q) of this section for a commercial vessel permit for king mackerel, in paragraph (r) of this section for a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish, in paragraph (s) of this section for a commercial vessel moratorium permit for Gulf shrimp, in § 622.17(c) for a commercial vessel permit for golden crab, in § 622.18(b) for a commercial vessel permit for South Atlantic snapper-grouper, in § 622.19(b) for a commercial vessel permit for South Atlantic rock shrimp, or in § 622.4(a)(2)(xiv)(D) for an eastern Gulf reef fish bottom longline endorsement. \* \* \*

\* \* \* \* \*

4. In § 622.34, paragraph (q) is revised to read as follows:

§ 622.34 Gulf EEZ seasonal and/or area closures.

\* \* \* \* \*

(q) Prohibitions applicable to bottom longline fishing for Gulf reef fish. (1) From June through August each year, bottom longlining for Gulf reef fish is prohibited in the portion of the Gulf EEZ east of 85°30' W. long. that is shoreward of rhumb lines connecting, in order, the following points:

Point	North lat.	West long.
A	28°58.70'	85°30.00'
B	28°59.25'	85°26.70'

C	28°57.00'	85°13.80'
D	28°47.40'	85°3.90'
E	28°19.50'	84°43.00'
F	28°0.80'	84°20.00'
G	26°48.80'	83°40.00'
H	25°17.00'	83°19.00'
I	24°54.00'	83°21.00'
J	24°29.50'	83°12.30'
K	24°26.50'	83°00.00'

(2) Within the prohibited area and time period specified in paragraphs (q)(1) of this section, a vessel with bottom longline gear on board may not possess Gulf reef fish unless the bottom longline gear is appropriately stowed, and a vessel that is using bottom longline gear to fish for species other than Gulf reef fish may not possess Gulf reef fish. For the purposes of paragraph (q) of this section, appropriately stowed means that a longline may be left on the drum if all gangions and hooks are disconnected and stowed below deck; hooks cannot be baited; and all buoys must be disconnected from the gear but may remain on deck.

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