

(b) *Effective date.* This section is effective from 8 p.m. until 10:30 p.m. on August 11, 2002.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone will be prohibited unless authorized by the Captain of the Port Boston.

(2) All vessel operators shall comply with the instructions of the COTP or the designated on-scene U.S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels.

Dated: March 1, 2002.

B.M. Salerno,

Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.

[FR Doc. 02-7002 Filed 3-22-02; 8:45 am]

BILLING CODE 4910-15-U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 152-1152; FRL-7163-1]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the state of Missouri which provides for the attainment and maintenance of the sulfur dioxide (SO₂) National Ambient Air Quality Standard (NAAQS) in Springfield (Greene County), Missouri. This revision approves a Consent Agreement which requires SO₂ emission reductions from a major air emissions source in Springfield. Approval of this SIP revision will make the Consent Agreement Federally enforceable. In the final rules section of the **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct

final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed action must be received in writing by April 24, 2002.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551-7603.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Dated: March 14, 2002.

James B. Gulliford,

Regional Administrator, Region 7.

[FR Doc. 02-7093 Filed 3-22-02; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 020313055-2055-01; I.D. 021902F]

RIN 0648-AO62

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Charter Vessel and Headboat Permit Moratorium

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 to implement Amendment 14 to the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (Amendment 14) and Amendment 20 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (Amendment 20). This proposed rule would establish a 3-year moratorium on the issuance of charter vessel or headboat (for-hire) permits for the reef fish fishery and coastal

migratory pelagics fishery in the exclusive economic zone (EEZ) of the Gulf of Mexico. In addition, as a consequence of the proposed moratorium, the current charter vessel/headboat permit system for coastal migratory pelagic fish would be restructured to provide separate permits for the Gulf of Mexico and South Atlantic. The intended effect of this rule is to cap the number of for-hire vessels operating in these respective fisheries at the current level while the Gulf of Mexico Fishery Management Council (Council) evaluates the need for further management actions that may be needed to rebuild these fishery resources, and to promote attainment of optimum yield.

DATES: Comments must be received no later than 5 p.m., eastern daylight savings time, on May 9, 2002.

ADDRESSES: Written comments on the proposed rule must be sent to Phil Steele, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Comments also may be sent via fax to 727-570-5583. Comments will not be accepted if submitted via e-mail or Internet. Copies of the initial regulatory flexibility analysis (IRFA) prepared by NMFS for this proposed rule are available from the same address.

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

Copies of Amendments 14 and 20, which include an environmental assessment, and a regulatory impact review (RIR), and copies of two related minority reports opposing implementation of the proposed moratorium may be obtained from the Gulf of Mexico Fishery Management Council, Suite 1000, 3018 U.S. Highway 301 North, Tampa, FL 33619; telephone: 813-228-2815; fax: 813-225-7015; e-mail: Gulf.Council@noaa.gov.

FOR FURTHER INFORMATION CONTACT: Phil Steele, telephone: 727-570-5305, fax: 727-570-5583, e-mail: Phil.Steele@noaa.gov.

SUPPLEMENTARY INFORMATION: The fishery for reef fish is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (Reef Fish FMP) that was prepared by the Council. The fisheries for coastal migratory pelagic resources are managed under the Fishery Management Plan for the Coastal

Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (Coastal Migratory Pelagics FMP) that was prepared jointly by the Council and the South Atlantic Fishery Management Council. These FMPs were approved by NMFS and implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Background

The Council, in cooperation with the Gulf charter vessel/headboat industry, developed Amendments 14 and 20 to address issues of increased fishing mortality and fishing effort in the for-hire sector of the recreational fishery. There are an estimated 3,220 recreational for-hire vessels in the Gulf of Mexico. Of these for-hire vessels, there are an estimated 1,275 charter vessels and 92 headboats; the remainder are probably smaller guide boats that usually fish inshore. The number of charter boats operating in the Gulf of Mexico has increased from 516 in 1981 to 1,275 in 1998 (147 percent), while the number of headboats has remained relatively stable during the same period. Further, the number of individual angler charter vessel trips increased by approximately 51 percent (through 1998) over the average number of trips from the previous decade.

During this same period, there has been an increase in the number of fish stocks identified as overfished or approaching an overfished state. In the January 2001 report to Congress on the Status of U.S. Fisheries, red snapper and red grouper were classified as being overfished and undergoing overfishing. Gag grouper was classified as undergoing overfishing and approaching an overfished state. King mackerel was classified as overfished and vermilion snapper was classified as undergoing overfishing. Further, the Council was notified, by a letter from NMFS in January, 2001, that greater amberjack was overfished.

While all sectors have contributed to the overfished status of these important fisheries, higher catch rates by the for-hire sector in recent years have substantially increased the proportion of landings attributed to that sector. The percent of recreational red grouper landed by number by charter vessel and headboats increased from 14 percent (1988–1989) to 32 percent (1996–1997); the percent of recreational red snapper landed by number increased from 34 percent (1981–1982) to 62 percent (1988–1989) to 71 percent (1996–1997). This increase in catch rate by the recreational for-hire sector has

contributed to the progressively earlier closures of the red snapper recreational fishery each year. This fishery was closed on November 27 in 1997, September 30 in 1998, and August 29 in 1999. This progressively longer closure period is adversely impacting the charter vessel headboat sector that is dependent on this stock. Additionally, for king mackerel, the percent of total recreational landings by number landed by charter vessel and headboats increased from 17 percent in 1983, to 32 percent in 1988, and to 62 percent in 1997, almost doubling between each period. The landings for gag grouper increased from 15 percent during 1981–1982 to 33 percent during 1995–1996, i.e., essentially doubling between the first and last period. Further, the recreational for-hire vessels historically have landed most of the recreational landings of vermilion snapper (90 percent) and greater amberjack (63 percent) during the period 1995/1996.

In conjunction with existing bag limits and size limits, the proposed rule would further moderate short-term future increases in fishing effort in the for-hire sector of the recreational fishery by limiting the number of vessels in the fishery. The proposed moratorium is a form of limited access management that is intended to temporarily stabilize this effort. It would allow the Council the time necessary to develop a more comprehensive approach to help restore overfished stocks possibly including further effort limitation, and would promote attainment of optimum yield during the interim.

Provisions of the Proposed Charter Vessel/Headboat Moratorium in the Gulf of Mexico EEZ

This proposed rule would establish a 3-year moratorium on the issuance of charter vessel/headboat permits for Gulf reef fish or Gulf coastal migratory pelagic fish. Beginning 150 days after the effective date of the final rule that would implement this proposed moratorium, the only valid charter vessel/headboat permits for those two fisheries would be those permits issued under the provisions of the moratorium. In addition, any person who has a valid charter vessel/headboat permit for coastal migratory pelagic fish (valid in the Gulf or South Atlantic) should note that this proposed rule would result in a restructuring of that permit--voiding the existing permit, effective 150 days after the effective date of the final rule implementing this moratorium, and creating two new separate permits: one for Gulf coastal migratory pelagic fish (subject to the moratorium provisions); and one for South Atlantic coastal

migratory pelagic fish (not subject to the moratorium provisions). See Change Proposed by NMFS--Requirement for a New Permit for South Atlantic Coastal Migratory Pelagic Fish for additional details.

Eligibility Requirements for the Gulf Charter Vessel/Headboat Permits

Under the proposed moratorium, initial eligibility for a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish would be limited to the following—

(1) An owner of a vessel that had a valid charter vessel/headboat permit for Gulf reef fish or coastal migratory pelagic fish, or whose application for such permit had been received by NMFS, at some time during the period March 29, 2000, through March 29, 2001, and who has such a valid permit on the effective date of the final rule that would implement this proposed moratorium.

(2) Any person who can provide NMFS with documentation verifying that, prior to March 29, 2001, he/she had a charter vessel or headboat under construction and that the associated expenditures were at least \$5,000 as of that date. If the vessel owner was constructing the vessel, the vessel owner must provide NMFS with receipts for the required expenditures. If the vessel was being constructed by someone other than the owner, the owner must provide NMFS with a copy of the contract and/or receipts for the required expenditures.

(3) An historical captain, defined for the purposes of this proposed rule as a person who provides NMFS with documentation verifying that—

(A) Prior to March 29, 2001, he/she was issued either a United States coast Guard (USCG) Operator of Uninspected Passenger Vessel license (commonly referred to as a 6-pack license) or a USCG Masters license and operated, as a captain, a federally permitted charter vessel or headboat in the Gulf reef fish and/or coastal migratory pelagic fisheries that was not permitted in his/her name or the name of a corporation in which he/she was a shareholder; and

(B) At least 25 percent of his/her earned income was derived from charter vessel or headboat fishing in one of the years 1997, 1998, 1999, or 2000.

NMFS' permit records would be the sole basis for determining eligibility based on permit or application history (i.e., eligibility criterion 1). No more than one owner of a currently permitted vessel would be credited with meeting the permit history criterion based on a vessel's permit history. An owner would not be issued initial charter vessel/

headboat permits for Gulf coastal migratory pelagic fish or Gulf reef fish under the moratorium in excess of the number of federally permitted charter vessels and/or headboats that he/she owned simultaneously at some time during the period March 29, 2000, through March 29, 2001.

Application Requirements and Procedures

An applicant who desires a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish would be required to submit an application for such permit to the Regional Administrator, Southeast Region, NMFS (RA) postmarked or hand-delivered not later than 90 days after the effective date of the final rule implementing this proposed moratorium. Failure to apply in a timely manner would preclude permit issuance even when the applicant meets the eligibility criteria for such permit. Application forms would be available from the RA. The information requested on the application form varies according to the eligibility criterion that the application is based upon as indicated in proposed § 622.4(r)(5).

On or about the effective date of any final rule implementing this moratorium, the RA would automatically mail an application to each owner of a vessel who, based on NMFS' permit records, is eligible based on the permit history or permit application criterion. The RA would also mail each such owner a notice that his/her existing charter vessel/headboat permit(s) for coastal migratory pelagic fish and/or Gulf reef fish would expire 150 days after any effective date of the final rule implementing this moratorium and that the new permit(s) required under such a moratorium would be required as of that date. A vessel owner who believes he/she qualifies for a charter vessel/headboat permit for Gulf coastal migratory pelagic fish and/or Gulf reef fish based on permit or application history, but who does not receive an application from the RA, would have to request an application from the RA and provide documentation of eligibility.

Any person applying based on the eligibility criteria related to vessel construction or historical captain status would have to request a permit application from the RA and provide the required documentation of vessel construction and associated costs, as indicated in proposed § 622.4(r)(2)(ii), or documentation of historical captain status, as indicated in proposed § 622.4(r)(2)(iii), as applicable. Information to document historical

captain status would include income tax records pertinent to verifying earned income; a copy of the applicable USCG license and/or Certificate of Inspection; and a notarized affidavit signed by a vessel owner certifying the period the applicant served as captain of a charter vessel or headboat permitted for Gulf reef fish and/or coastal migratory pelagic fish, whether the charter vessel or headboat was permitted for Gulf reef fish or coastal migratory pelagic fish or both, and whether the charter vessel or headboat was uninspected (i.e., 6-pack) or had a USCG Certificate of Inspection.

Issuance of Initial Permits/Letter of Eligibility

If a complete application is submitted in a timely manner and the applicable eligibility requirements specified in proposed § 622.4(r)(2) are met, the RA would issue a charter vessel/headboat permit for Gulf coastal migratory pelagic fish and/or Gulf reef fish or a letter of eligibility for such fisheries, as appropriate, and mail it to the applicant not later than 140 days after the date the final rule is effective (i.e., at least 10 days before the permit(s) is required).

A person whose eligibility is based on historical captain status would be issued a letter of eligibility by the RA. The letter of eligibility could be redeemed through the RA for a charter vessel/headboat permit for Gulf coastal migratory pelagic fish and/or Gulf reef fish, with a historical captain endorsement. The letter of eligibility would be valid for the duration of the moratorium; would be valid only for a vessel of the same authorized passenger capacity as the vessel used to document earned income requirement in proposed § 622.4(r)(2)(iii)(B); and would be valid only for the fisheries certified on the application under proposed § 622.4(r)(2)(iii)(A) (i.e., only those fisheries in which the required participation was documented). A charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish with a historical captain endorsement would be valid only on a vessel that the historical captain operates as a captain.

Appeals Process Regarding Initial Eligibility

An applicant would be allowed to request an appeal of the RA's determination regarding initial permit eligibility by submitting a written request for reconsideration to the RA with copies of the appropriate records for establishing eligibility. Such request would have to be postmarked or hand-delivered within 30 days after the date of the RA's notification of ineligibility

and could include a request for an oral hearing. If an oral hearing is granted, the RA would notify the applicant of the place and date of the hearing and would provide the applicant a maximum of 30 days prior to the hearing to provide information in support of the appeal.

The RA could independently review the appeal or could appoint one or more appellate officers to review the appeal and make independent recommendations to the RA. The RA and appellate officer(s) could only deliberate whether the eligibility criteria were applied correctly. Hardship or other factors would not be considered in determining eligibility. The RA would make the final determination regarding granting or denying the appeal. The RA would notify the applicant of the decision regarding the appeal within 30 days after receipt of the request for appeal or within 30 days after the conclusion of the oral hearing, if applicable.

Transferability of Permits

A charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish that does not have a historical captain endorsement would be transferable, with or without sale of the permitted vessel, except that no transfer would be allowed to a vessel with a greater authorized passenger capacity than that of the vessel from which the permit was transferred.

A charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish that has a historical captain endorsement could only be transferred to a vessel operated by the historical captain, could not be transferred to a vessel with a higher authorized passenger capacity than the vessel from which the permit was transferred, and would not otherwise be transferable.

To request that the RA transfer a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish, the owner of a vessel that is to receive the transferred permit would have to complete the transfer information on the reverse of the permit and return the permit and a completed application for transfer to the RA.

Permit Renewal

Permit renewal would be contingent upon the permitted vessel and/or captain, as appropriate, being included in an active survey frame for, and, if selected to report, providing the information required in NMFS' Marine Recreational Fishing Vessel Directory Telephone Survey (charter vessels only), NMFS' Southeast Headboat Survey (logbooks), Texas Parks and Wildlife

Marine Recreational Fishing Survey, or a data collection system that replaces one or more of those surveys.

A permit that is not renewed or that is revoked by NMFS would not be reissued during the moratorium. A permit would be considered to be not renewed when an application for renewal, as required, is not received by the RA within 1 year of the expiration date of the permit.

Vessel Decal Requirement

Upon issuance, renewal, or transfer of a permit under this proposed moratorium, the RA would issue the owner or eligible historical captain of the permitted vessel a vessel decal for the applicable permitted fishery or fisheries. The vessel decal would have to be displayed on the port side of the deckhouse or hull and would have to be maintained so that it is clearly visible.

Change Proposed by NMFS— Requirement for a New Permit for South Atlantic Coastal Migratory Pelagic Fish

Formerly, the charter vessel/headboat permit for coastal migratory pelagic fish applied in the EEZ of both the Gulf of Mexico and South Atlantic. The establishment of a separate charter vessel/headboat permit for Gulf coastal migratory pelagic fish under this proposed moratorium would necessitate that a separate charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish also be established and that the former charter vessel/headboat permit for coastal migratory pelagic fish (applicable in both the Gulf and South Atlantic) be voided. All of these actions would be effective 150 days after the effective date of the final rule implementing the proposed moratorium. The new separate charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish would not be subject to the provisions of the moratorium.

Approximately 5 months prior to the date that the new permit would be required, the RA, based on NMFS' permit records, would mail an application for an initial charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish to each owner of a vessel with a valid charter vessel/headboat permit for coastal migratory pelagic fish. Any such owner who desires an initial charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish would have to submit the completed application to the RA. To avoid any lapse in authorization to fish for coastal migratory species in the South Atlantic EEZ (i.e., valid permit status), such owners would have to submit the

completed application to the RA postmarked or hand-delivered not later than 90 days after the effective date of the final rule implementing the moratorium. For completed applications received by that deadline, the RA would issue the permit no later than 140 days after the effective date of the final rule implementing this moratorium (i.e., at least 10 days before the permit is required). Applications will be accepted at any time, but if received after the deadline (90 days after effective date), the permit may not be issued prior to the date that the permit is first required. These special procedures would apply only to the application and issuance of the initial permit; subsequent permitting activities would be conducted in accordance with the standard permitting procedures as specified in 50 CFR 622.4(b) through (l).

An owner or operator of a vessel who desires a charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish and who does not have a valid charter vessel/headboat permit for coastal migratory pelagic fish would be required to obtain a permit application from the RA. For additional permitting procedures, see 50 CFR 622.4(b) through (l).

Minority Reports

Two nearly identical minority reports objecting to the implementation of the proposed charter vessel/headboat permit moratorium were submitted--each signed by two Council members, a total of three different Council members. The primary objections expressed in these minority reports were that the moratorium is not necessary, would not accomplish its stated goal, would reduce competition in the for-hire industry, would create a windfall profit for a select group of people and deny others the right to pursue an occupation of their own choice, would result in unnecessary social engineering, and would violate national standards 4 and 8 of the Magnuson-Stevens Act. Copies of the minority reports are available from the Council (see **ADDRESSES**).

Classification

At this time, NMFS has not determined whether Amendments 14 and 20, that this proposed rule would implement, are consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period on Amendments 14 and 20.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared an IRFA that describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. Paperwork and reporting requirements are described below in the PRA discussion. This proposed rule would not duplicate any other requirements. A summary of the analysis follows.

The Magnuson-Stevens Act provides the statutory basis for the rule. The objective of the proposed rule is to cap the number of for-hire vessels permitted to fish for reef fish or coastal migratory pelagics in the EEZ of the Gulf of Mexico at the current level while the Council assesses the actions necessary to restore overfished reef fish and king mackerel stocks and determine whether a more comprehensive effort management system is appropriate for these fisheries. The proposed rule would: create a new for-hire vessel permit for the Gulf EEZ for vessels fishing for reef fish and/or coastal migratory pelagics; establish a 3-year moratorium on the issuance of new for-hire vessel permits effective the date that the final rule implementing Amendments 14 and 20 becomes effective; establish eligibility requirements for the permits that would accommodate owners of vessels that possessed or had applied for charter/headboat reef fish and/or coastal migratory pelagic permits on or before March 29, 2001 and who possess such permit(s) as of the effective date of the final rule implementing this moratorium, new for-hire vessels contracted for or under construction prior to March 29, 2001, and historical captains; allow full transference of permits during the moratorium with or without the vessel but without any increase in the passenger capacity of the recipient vessel (permits with a historical captain endorsement may only be transferred to a vessel operated by the historical captain); not allow permit renewal during the moratorium for permits not renewed within one year of expiration; allow an appeal process to resolve issues related to initial eligibility; and, establish reporting and permit renewal conditions.

The creation of a for-hire permit and implementation of a 3-year moratorium for the issuance of new permits would provide some stability for the for-hire sector in terms of number of

participating vessels while the need for a more comprehensive controlled access or effort management system is evaluated. The specific number of vessels accommodated by the rule is unknown since it is not known how many individuals will qualify and seek permits under the boat construction or historical captain provisions. The moratorium will also not produce a hard cap on effort in the form of angler trips since current vessels may be operating under less than full passenger capacity and will retain the flexibility to increase the frequency of partial-day trips. Nevertheless, the rule will limit expansion to the capacity of current participants. This will allow identification and enumeration of vessels in these fisheries to support essential data collection and establish a more stable environment for assessing the status of the fishery in support of subsequent regulation.

The proposed rule would effectively allow status quo operation by current participants in the fishery who had such permits (or applied for such) at some time during March 29, 2000, to March 29, 2001, and who also have a valid permit on the date the final rule becomes effective. The eligibility provisions for new vessel construction and historical captains will further protect the opportunities of individuals who have demonstrated a dependence on the fishery through capital investment or historical participation. The only impediment to the status quo business practices of such initial qualifiers is the limitation on vessel passenger capacity upgrades under the current permit. Such upgrade would be possible, however, through the purchase of the appropriate permit from another vessel. The liberal provisions for permit transfer support business upgrade, allow the entrance of new operators or buy-outs by more efficient operators, and create a marketable asset that may enhance the value of the vessel and client lists should a participant decide to sell his/her business. The eligibility and transfer provisions are, thus, consistent with the intent to allow status quo participation while it is determined whether current effort levels are appropriate, rather than legislate reductions. The appeals process will afford valid participants the opportunity to address record discrepancies that adversely affect their eligibility. Finally, the renewal provisions support the fishery management process by aiding in the collection of essential harvest and participation information.

Business operations in the for-hire sector consist primarily, if not exclusively, of small business entities.

For-hire vessel operations are considered small business entities if they generate receipts of less than \$6.0 million per year. The average gross revenues for charter boats operating in 1997 was \$83,000 for vessels in Alabama through Texas (based on average numbers of trips per vessel and average fee per trip) and \$68,000 for vessels in Florida, while the average gross revenues for head boats/party boats was \$328,000 in Alabama through Texas and \$324,000 in Florida. Current revenues may exceed those of 1997, but the revenue performance of the fishery clearly qualifies the participants as small business entities.

All for-hire vessels that fish for reef fish or coastal migratory pelagics in the Gulf of Mexico EEZ will be affected by the proposed rule. However, all of these vessels are currently required to possess the appropriate for-hire permits for the fisheries in which they participate. Hence, the proposed rule only creates one additional permit, by requiring vessels expecting to fish for coastal migratory pelagics in both the Gulf of Mexico and South Atlantic to obtain two permits, one for each subregion, instead of the current single permit which allows fishing in either subregion. This will require an additional \$20 application fee for the second permit. As of the control date of March 29, 2001, there were 2,226 permitted for-hire vessels, of which 1,737 had both reef fish and coastal migratory pelagic charter permits, 123 had only the reef fish charter permit, and 366 had only the coastal migratory pelagic charter permit. These totals are substantially greater than those at the previous control date of November 18, 1998, when there were only 940 permitted for-hire vessels, of which 723 had both permits, 58 had only the reef fish permit and 159 had only the coastal migratory pelagic permit. While total permit numbers more than doubled during this time span, a potentially substantial portion of the increase is likely attributable to vessels that were previously operating in the fishery without the proper permits, since a frequent comment at public hearings was that operators were unaware of the current permit requirements. Thus, not all of the increase is believed to be due to either new participation or speculative purchase. It is not currently known how many vessels obtained their first for-hire permit after the cut-off date and would, therefore, not be eligible for the initial receipt of the permit. Nor is it known how many vessels might be expected to enter the fishery during the proposed moratorium period in the

absence of a moratorium. The large increase in permits suggests that a substantial number of vessels interested in participating in the fishery have already established qualification, and the liberal qualification and transfer provisions of the rule should allow further entry by interested individuals, albeit at a larger cost due to the need to purchase a permit from a current operation.

Six alternatives to the proposed moratorium were considered. These were: a 5-year moratorium instead of the proposed 3-year moratorium; status quo; a 50-percent income requirement for renewal in lieu of a moratorium; for-hire species quotas; a 3 or 5 year moratorium in combination with species quotas; and a 3-year moratorium with mandatory expiration should the red snapper restrictions become more severe. Since the status quo alternative would not accomplish the Council's goals, among the remaining alternatives, including the proposed rule, the proposed rule was determined to have the least impact on small entities. The 5-year alternative would provide a more stable planning horizon for industry participants, but extend the period during which capacity expansion would be limited and restrictions on new entry would be imposed. The 50-percent income requirement would result in contraction of existing participants beyond the intent of the Council, which is to stabilize rather than contract the fishery while a more comprehensive evaluation is conducted and management program is designed. Species quotas would subject the fishery to disruptive closures. Linkage to the red snapper management environment was determined to be indefensible and, therefore, would not allow implementation of the proposed rule and would forego the perceived benefits of stabilization. In summary, the proposed rule would best accomplish the Council's intent while minimizing impacts.

Seven alternatives to the proposed form of the permit (i.e., a new for-hire permit with species endorsements) were considered. These were: limiting the new permit to the coastal migratory pelagic fishery; status quo; a new for-hire permit with species endorsements that encompass transferable and non-transferable endorsements; income-based renewal requirements; an option to allow commercial participants in the coastal migratory pelagic fishery to qualify for the for-hire permit; a fully transferable new permit with endorsements (i.e., no separate classes of transferability); and a special

guideboat permit (with no moratorium) for vessels carrying fewer than 4 anglers with species endorsements. Maintaining the status quo would not support the Council's goals. Income requirements were rejected since they would result in contraction of the fishery rather than stabilize participation. The allowance for commercial operators to qualify would allow expansion of participation, which is, again, contrary to the Council's intent. Limiting the permit to the coastal migratory pelagic fishery would not be sufficiently inclusive to accomplish the Council's goals. The guideboat permit would allow unlimited expansion of this sector and, although these vessels may infrequently fish in the EEZ, would run counter to the Council's intent to stabilize all for-hire participation in the EEZ and pressure on respective stocks. The remaining alternatives reflect variations on the types of endorsements required (species covered) or class of endorsements (transferability conditions). The variations on endorsement types primarily affects paperwork requirements and these effects are insignificant. The transferability effects will be discussed below. In summary, the proposed rule best accomplishes the Council's intent while minimizing impacts.

Ten alternatives to the initial eligibility requirements were considered. These were: allowing all persons who held a for-hire permit on the date of implementation of the amendment; allowing all persons who held a for-hire permit on either September 16, 1999 or November 11, 1999; using a control date of November 18, 1998 and allowing for continuous participation under permit, vessel replacement by current permitted participant and issuance of new permit, purchase of permitted vessel, or purchase of a new vessel and issuance of a new permit; establishment and eligibility requirements for a Class 1 (fully transferable) species endorsement; establishment and eligibility requirements for a Class 2 (non-transferable) species endorsement; historical captain permit/endorsement provisions (2 alternatives); boat-under-construction provisions (2 alternatives); and allowing all persons who held a for-hire permit on or before January 1, 2002. Since the intent of the Council is to accommodate actual participation existent at the time of amendment development and the perception was strong that many active participants did not possess the required permits, control dates more restrictive than the proposed control date would increase

the negative impacts on the fishery through the exclusion of active participants, contrary to the intent of the Council. More liberal control dates, however, while reducing the potential universe of excluded vessels, would also be contrary to the Council's intent of stabilizing participation at the level existent at the time of amendment development. Restrictions on transferability could result in contraction of the fleet, contrary to the intent of stabilization, and would increase the negative impacts on the fishery. The alternative historical captain provisions would have increased the burden of eligibility and increased the negative impacts. The alternative provisions for boats under construction are more restrictive than those of the proposed rule and would have increased the negative impacts on the fishery. In summary, the proposed rule accomplishes the Council's intent while minimizing impacts.

Five alternatives to the permit/endorsement transferability allowance were considered. These were: limiting the transfer to vessels owned by the same permit holder; transfer of permits/endorsements with or without transfer of the vessel; prohibition of transfer for the first year of the moratorium; prohibition of transfer throughout the moratorium; and, transfer provisions based on endorsement class. Allowing transfer between vessels held by the same permittee would reduce the costs and profitability impacts associated with capacity upgrade, but would run counter to the intent of the Council to stabilize the fishery at the current level of effort, in this case, angler platform opportunities. If operations were allowed to freely upgrade passenger capacity, while the number of vessel/small business participants would remain stable, the effective angler effort, which ultimately determines fish harvest pressure, would be allowed to increase unimpeded. This is counter to the Council's intent. All other alternatives would increase the negative impacts on the fishery relative to the proposed rule. In summary, one alternative is counter to the Council's intent, while all other alternatives would increase the negative impacts on the fishery. Thus, the proposed rule accomplishes the Council's intent while minimizing impacts.

Five alternatives to the passenger restrictions on permit transfers were considered. These were: no restriction; no transfers between different classes (based on passenger capacity) of USCG certified; allowing passenger capacity upgrade if USCG certification is received; transfer only between vessels

of equal or lower passenger capacity based on USCG certification; and establishment of two classes – uninspected/uncertified and certified with transfers limited to within class. Since stability of the fishery is the stated intent of the Council, any alternative that allows passenger capacity to increase would, while mitigating the adverse impacts of upgrade limitations, be counter to the Council's intent. The proposed rule simplifies the passenger-related transfer restrictions while accomplishing the Council's intent and minimizing impacts.

Two alternatives to the re-issue of non-renewed or revoked permits were considered. These were: re-issue of 50 percent of these permits to either a list of interested persons or to persons that were either excluded from the initial issuance of permits or can document prior experience in the for-hire fishery. Not re-issuing these permits would increase the negative impacts on the fishery associated with vessels excluded from participation. The proposed alternative will simplify the management of the program, but the primary Council justification for its selection is that any reduction in fishery effort will help address problems related to too much competition in the fishery. Increased profitability may accrue to remaining participants. Whether these increased profits will exceed the foregone profits by excluded entities cannot be determined.

Six alternatives to the appeals process were considered. These were: no appeal; establish an appeals board that makes recommendations to the Regional Administrator (RA) on permit eligibility; an appeals process limited to owners and operators of vessels prior to the control date or persons who contracted for the construction of a vessel prior to the control date November 28, 1998; an appeals process that accommodates both hardships and data and/or record disputes between vessel owners and NMFS; no hardship appeals; and no appeals process if the control date selected is January 1, 2002. Not allowing an appeals process will increase the negative impacts on persons excluded from the initial issuance of permits.

The proposed rule accommodates the impact mitigation benefits of the various alternatives with the exception of the disallowance of hardship appeals. Disallowance of hardship appeals will simplify the management of the program, while increasing the impacts on those excluded. The number of potential hardship appeals cannot be precisely estimated, but is not expected to be large. The proposed rule, therefore, while not fully mitigating the impacts

on excluded participants, will mitigate the impacts on those excluded due to permit record discrepancies and establish a more simplified management program.

Two alternatives to the reporting and renewal requirements were considered. These were: require charter logbooks; and status quo. Logbooks are already mandatory for the headboat fishery. Requiring logbooks for the charter sector would increase the economic burden on the charter sector without mitigating the impacts of potential permit non-renewal. Allowing the status quo would allow all charter vessels to renew their permit without having to participate in any data collection programs and, thus, would mitigate any adverse effects that would accrue to any vessels not having their permit renewed. Such action would not, however, satisfy the Council's intent to support comprehensive systematic data collection for this fishery. Thus, the proposed rule will satisfy the Council's intent while minimizing impacts.

This proposed rule contains five collection-of-information requirements subject to the Paperwork Reduction Act (PRA)—namely a requirement to submit a charter vessel/headboat permit application, submission of information on vessel construction, submission of information on historical captain eligibility, submission of appeals of NMFS' initial denial of a charter vessel/headboat permit, and mandatory responses to NMFS' (voluntary) Marine Recreational Fishing Vessel Directory Telephone Survey (charter vessels only). Requests to collect this information have been submitted to OMB for approval. The public reporting burdens for these collections of information are estimated to average 20 minutes, 2 hours, 2 hours, 5 hours, and 7 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. In addition, § 622.5(b)(1) of this proposed rule revises slightly (i.e., revises the names of the applicable permits consistent with this proposed rule) the requirement for charter vessel/headboat submission of a fishing trip record if selected by the Science and Research Director. The requirement applicable to headboats has been approved by OMB under control number 0648-0016 with an estimated time per response of 12 minutes. NMFS does not currently have PRA approval to select any charter vessels for this reporting and would obtain OMB clearance prior to making any selection.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments regarding this burden estimate or any other aspect of the collection of information requirement, including suggestions for reducing the burden, to NMFS and to OMB (see **ADDRESSES**).

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 PRA unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 622

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

Dated: March 19, 2002.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

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 § 622.4, paragraphs (a)(1) and (g) are revised and paragraph (r) is added to read as follows:

§ 622.4 Permits and fees.

(a) * * *

(1) *Charter vessel/headboat permits.*

(i) For a person aboard a vessel that is operating as a charter vessel or headboat to fish for or possess, in or from the EEZ, species in any of the following species groups, a valid charter vessel/headboat permit for that species group must have been issued to the vessel and must be on board—

(A) Gulf coastal migratory pelagic fish.

(B) South Atlantic coastal migratory pelagic fish.

(C) Gulf reef fish.

(D) South Atlantic snapper-grouper.

(ii) See paragraph (r) of this section regarding a moratorium on Gulf charter vessel/headboat permits and the associated provisions.

(iii) See paragraph (r)(12) of this section for an explanation of the requirement for the new charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish and for procedures for initial application and issuance of that permit.

(iv) A charter vessel or headboat may have both a charter vessel/headboat permit and a commercial vessel permit. However, when a vessel is operating as a charter vessel or headboat, a person aboard must adhere to the bag limits. See the definitions of "Charter vessel" and "Headboat" in § 622.4 for an explanation of when vessels are considered to be operating as a charter vessel or headboat, respectively.

* * * * *

(g) *Transfer.* A vessel permit, license, or endorsement or dealer permit 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 (n) of this section for a fish trap endorsement, in paragraph (o) of this section for a Gulf king mackerel gillnet endorsement, in paragraph (p) of this section for a red snapper license, in paragraph (q) of this section for a king mackerel permit, in paragraph (r) of this section for a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish, in § 622.17(c) for a commercial vessel permit for golden crab, or in § 622.18(e) for a commercial vessel permit for South Atlantic snapper-grouper. A person who acquires a vessel who desires to conduct activities for which a permit or endorsement is required must apply for a permit or endorsement in accordance with the provisions of this section. If the acquired vessel is currently permitted, the application must be accompanied by the original permit and a copy of the vessel's new USCG documentation or state registration.

* * * * *

(r) *Moratorium on charter vessel/headboat permits for Gulf coastal migratory pelagic fish and Gulf reef fish.* The provisions of this paragraph (r) are applicable through the date that is 3 years after the effective date of the final rule that contains this paragraph (r).

(1) *Applicability.* Beginning 150 days after the effective date of the final rule that contains paragraph (r)(1) of this section, the only valid charter vessel/headboat permits for Gulf coastal migratory pelagic fish or Gulf reef fish

are those that have been issued under the moratorium criteria in paragraph (r) of this section. No applications for additional charter vessel/headboat permits for these fisheries will be accepted. Existing permits may be renewed, are subject to the transferability provisions in paragraph (r)(9) of this section, and are subject to the requirement for timely renewal in paragraph (r)(10) of this section.

(2) *Initial eligibility.* Initial eligibility for a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish is limited to the following—

(i) An owner of a vessel that had a valid charter vessel/headboat permit for Gulf reef fish or coastal migratory pelagic fish, or whose application for such permit had been received by NMFS, at some time during the period March 29, 2000, through March 29, 2001, and who has such a valid permit on the effective date of the final rule that contains this paragraph (r)(2)(i) of this section.

(ii) Any person who can provide NMFS with documentation verifying that, prior to March 29, 2001, he/she had a charter vessel or headboat under construction and that the associated expenditures were at least \$5,000 as of that date. If the vessel owner was constructing the vessel, the vessel owner must provide NMFS with receipts for the required expenditures. If the vessel was being constructed by someone other than the owner, the owner must provide NMFS with a copy of the contract and/or receipts for the required expenditures.

(iii) A historical captain, defined for the purposes of paragraph (r) of this section as a person who provides NMFS with documentation verifying that—

(A) Prior to March 29, 2001, he/she was issued either a USCG Operator of Uninspected Passenger Vessel license (commonly referred to as a 6-pack license) or a USCG Masters license and operated, as a captain, a federally permitted charter vessel or headboat in the Gulf reef fish and/or coastal migratory pelagic fisheries that was not permitted in his/her name or the name of a corporation in which he/she was a shareholder; and

(B) At least 25 percent of his/her earned income was derived from charter vessel or headboat fishing in one of the years, 1997, 1998, 1999, or 2000.

(3) *Special conditions applicable to eligibility based on historical captain status.* A person whose eligibility is based on historical captain status will be issued a letter of eligibility by the RA. The letter of eligibility may be redeemed through the RA for a charter

vessel/headboat permit for Gulf coastal migratory pelagic fish and/or Gulf reef fish, with a historical captain endorsement. The letter of eligibility is valid for the duration of the moratorium; is valid only for a vessel of the same authorized passenger capacity as the vessel used to document earned income in paragraph (r)(2)(iii)(B) of this section; and is valid only for the fisheries certified on the application under paragraph (r)(2)(iii)(A) of this section. A charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish with a historical captain endorsement is valid only on a vessel that the historical captain operates as a captain.

(4) *Determination of eligibility based on permit history.* NMFS' permit records are the sole basis for determining eligibility based on permit or application history. An owner of a currently permitted vessel who believes he/she meets the permit or application history criterion based on ownership of a vessel under a different name, as may have occurred when ownership has changed from individual to corporate or vice versa, must document his/her continuity of ownership. No more than one owner of a currently permitted vessel will be credited with meeting the permit history criterion based on a vessel's permit history. An owner will not be issued initial charter vessel/headboat permits for Gulf coastal migratory pelagic fish or Gulf reef fish under the moratorium in excess of the number of federally permitted charter vessels and/or headboats that he/she owned simultaneously at some time during the period March 29, 2000 through March 29, 2001.

(5) *Application requirements and procedures—(i) General.* An applicant who desires a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish must submit an application for such permit to the RA postmarked or hand-delivered not later than 90 days after the effective date of the final rule implementing this moratorium. Application forms are available from the RA. The information requested on the application form varies according to the eligibility criterion that the application is based upon as indicated in paragraphs (r)(5)(ii), (iii), and (iv) of this section; however, all applicants must provide a copy of the applicable, valid USCG Operator of Uninspected Passenger Vessel license or Masters license and valid USCG Certificate of Inspection. Failure to apply in a timely manner will preclude permit issuance even when the applicant meets the eligibility criteria for such permit.

(ii) *Application based on the prior permit/application history criterion.* On or about the effective date of the final rule implementing this moratorium, the RA will mail an application for a charter vessel/headboat permit for Gulf coastal migratory pelagic fish and/or Gulf reef fish to each owner of a vessel who, according to NMFS' permit records, is eligible based on the permit or application history criterion in paragraph (r)(2)(i) of this section. Information requested on the application is consistent with the standard information required in paragraph (b)(3)(ii) of this section. The RA will also mail each such owner a notice that his/her existing charter vessel/headboat permit(s) for coastal migratory pelagic fish and/or Gulf reef fish will expire 150 days after the effective date of the final rule implementing this moratorium and that the new permit(s) required under this moratorium will be required as of that date. A vessel owner who believes he/she qualifies for a charter vessel/headboat permit for Gulf coastal migratory pelagic fish and/or Gulf reef fish based on permit or application history, but who does not receive an application from the RA, must request an application from the RA and provide documentation of eligibility. The RA will mail applications and notifications to vessel owner addresses as indicated in NMFS' permit records.

(iii) *Application based on a charter vessel/headboat under construction prior to March 29, 2001.* A person who intends to obtain a charter vessel/headboat permit for Gulf coastal migratory pelagic fish and/or Gulf reef fish based on the vessel-under-construction eligibility criterion in paragraph (r)(2)(ii) of this section must obtain an application from the RA. Information requested on the application includes the standard information required in paragraph (b)(3)(ii) of this section and the documentation of construction and associated costs as specified in paragraph (r)(2)(ii) of this section.

(iv) *Application based on historical captain status.* A person who intends to obtain a charter vessel/headboat permit for Gulf coastal migratory pelagic fish and/or Gulf reef fish based on historical captain status must obtain an application from the RA. Information requested on the application includes the standard information required in paragraph (b)(3)(ii) of this section and documentation of the criteria specified in paragraphs (r)(2)(iii)(A) and (B) of this section. Such documentation includes income tax records pertinent to verifying earned income; a copy of the

applicable USCG license and/or Certificate of Inspection; and a notarized affidavit signed by a vessel owner certifying the period the applicant served as captain of a charter vessel or headboat permitted for Gulf reef fish and/or coastal migratory pelagic fish, whether the charter vessel or headboat was permitted for Gulf reef fish or coastal migratory pelagic fish or both, and whether the charter vessel or headboat was uninspected (i.e., 6-pack) or had a USCG Certificate of Inspection.

(v) *Incomplete applications.* If an application that is postmarked or hand-delivered in a timely manner is incomplete, the RA will notify the applicant of the deficiency. If the applicant fails to correct the deficiency within 20 days of the date of the RA's notification, the application will be considered abandoned.

(6) *Issuance of initial permits.* If a complete application is submitted in a timely manner and the applicable eligibility requirements specified in paragraph (r)(2) of this section are met, the RA will issue a charter vessel/headboat permit for Gulf coastal migratory pelagic fish and/or Gulf reef fish or a letter of eligibility for such fisheries, as appropriate, and mail it to the applicant not later than 140 days after the date the final rule is effective.

(7) *Notification of ineligibility.* If the applicant does not meet the applicable eligibility requirements of paragraph (r)(2) of this section, the RA will notify the applicant, in writing, of such determination and the reasons for it not later than 120 days after the date the final rule is effective.

(8) *Appeal process.* (i) An applicant may request an appeal of the RA's determination regarding initial permit eligibility, as specified in paragraph (r)(2) of this section, by submitting a written request for reconsideration to the RA with copies of the appropriate records for establishing eligibility. Such request must be postmarked or hand-delivered within 30 days after the date of the RA's notification of ineligibility and may include a request for an oral hearing. If an oral hearing is granted, the RA will notify the applicant of the place and date of the hearing and will provide the applicant a maximum of 30 days prior to the hearing to provide information in support of the appeal.

(ii) A request for an appeal constitutes the appellant's authorization under section 402(b)(1)(F) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et. seq.) for the RA to make available to the appellate officer(s) such confidential records as are pertinent to the appeal.

(iii) The RA may independently review the appeal or may appoint one or more appellate officers to review the appeal and make independent recommendations to the RA. The RA will make the final determination regarding granting or denying the appeal.

(iv) The RA and appellate officer(s) are empowered only to deliberate whether the eligibility criteria in paragraph (r)(2) of this section were applied correctly. Hardship or other factors will not be considered in determining eligibility.

(v) The RA will notify the applicant of the decision regarding the appeal within 30 days after receipt of the request for appeal or within 30 days after the conclusion of the oral hearing, if applicable. The RA's decision will constitute the final administrative action by NMFS.

(9) *Transfer of permits—* (i) *Permits without a historical captain endorsement.* A charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish that does not have a historical captain endorsement is fully transferable, with or without sale of the permitted vessel, except that no transfer is allowed to a vessel with a greater authorized passenger capacity than that of the vessel from which the permit was transferred. The determination of authorized passenger capacity will be based on the USCG Certificate of Inspection or USCG Operator of Uninspected Passenger Vessel license associated with the vessels involved in the transfer. If no valid Certificate of Inspection is provided for a vessel, that vessel will be considered an uninspected vessel with an authorized passenger capacity restricted to six or fewer passengers.

(ii) *Permits with a historical captain endorsement.* A charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish that has a historical captain endorsement may only be transferred to a vessel operated by the historical captain, cannot be transferred to a vessel with a higher authorized passenger capacity than the vessel from which the permit was transferred, and is not otherwise transferable.

(iii) *Procedure for permit transfer.* To request that the RA transfer a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish, the owner of a vessel that is to receive the transferred permit must complete the transfer information on the reverse of the permit and return the permit and a completed application for transfer to the RA.

(10) *Renewal.* (i) Renewal of a charter vessel/headboat permit for Gulf coastal

migratory pelagic fish or Gulf reef fish is contingent upon the permitted vessel and/or captain, as appropriate, being included in an active survey frame for, and, if selected to report, providing the information required in one of the following—

(A) NMFS' Marine Recreational Fishing Vessel Directory Telephone Survey (conducted by the Gulf States Marine Fisheries Commission);

(B) NMFS' Southeast Headboat Survey (as required by § 622.5(b)(1) of this part);

(C) Texas Parks and Wildlife Marine Recreational Fishing Survey; or

(D) A data collection system that replaces one or more of the surveys in paragraph (r)(10)(i)(A)(B) or (C) of this section.

(ii) A charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish that is not renewed or that is revoked will not be reissued during the moratorium. A permit is considered to be not renewed when an application for renewal, as required, is not received by the RA within 1 year of the expiration date of the permit.

(11) *Requirement to display a vessel decal.* Upon issuance, renewal, or transfer of a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish, the RA will issue the owner of the permitted vessel a vessel decal for the applicable permitted fishery or fisheries. The vessel decal must be displayed on the port side of the deckhouse or hull and must be maintained so that it is clearly visible.

(12) Requirement and procedure for obtaining an initial charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish. (i) General. This paragraph (r)(12) explains the necessity of requiring and the procedure for obtaining an initial charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish. Formerly, the charter vessel/headboat permit for coastal migratory pelagic fish applied in the EEZ of the Gulf and South Atlantic. The establishment of a separate charter vessel/headboat permit for Gulf coastal migratory pelagic fish under the moratorium established by paragraph (r) of this section necessitates that a separate charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish also be established effective 150 days after the effective date of the final rule implementing the moratorium and that the former charter vessel/headboat permit for coastal migratory pelagic fish (applicable in both the Gulf and South Atlantic) be voided effective as of that same date. The newly required charter vessel/headboat permit for

South Atlantic coastal migratory pelagic fish is not subject to the provisions of the moratorium in paragraphs (r)(1) through (11) of this section.

(ii) *Application for and issuance of an initial charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish*— (A) *Owner of a vessel with a valid charter vessel/headboat permit for coastal migratory pelagic fish.* On or about the effective date of the final rule implementing the moratorium in paragraph (r) of this section, the RA, based on NMFS' permit records, will mail an application for an initial charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish to each owner of a vessel with a valid charter vessel/headboat permit for coastal migratory pelagic fish. Any such owner who desires an initial charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish must submit the completed application to the RA. To avoid any lapse in authorization to fish for coastal migratory species in the South Atlantic EEZ (i.e., valid permit status), such owners must submit the completed application to the RA postmarked or hand-delivered not later than 90 days after the effective date of the final rule implementing the moratorium. For completed applications received by that deadline, the RA will issue the permit no later than 140 days after the effective date of the final rule implementing this moratorium. Applications will be accepted at any time, but if received after the deadline, the permit may not be issued prior to the date that the permit is first required (i.e., 150 days after the effective date of the final rule

implementing the moratorium). These special procedures apply only to the application and issuance of the initial permit; subsequent permitting activities will be conducted in accordance with the standard permitting procedures as specified in paragraph (b) through (l) of this section.

(B) *Owner or operator of a vessel without a valid charter vessel/headboat permit for coastal migratory pelagic fish.* An owner or operator of a vessel who desires a charter vessel/headboat permit for South Atlantic coastal migratory pelagic fish and who does not have a valid charter vessel/headboat permit for coastal migratory pelagic fish must obtain a permit application from the RA. For additional permitting procedures, see paragraphs (b) through (l) of this section.

3. Section 622.5 (b)(1) is revised to read as follows:

§ 622.5 Recordkeeping and reporting.

* * * * *

(b) * * *

(1) *Coastal migratory pelagic fish, reef fish, and snapper-grouper.* The owner or operator of a vessel for which a charter vessel/headboat permit for Gulf coastal migratory pelagic fish, South Atlantic coastal migratory pelagic fish, Gulf reef fish, or South Atlantic snapper-grouper has been issued, as required under § 622.4(a)(1), or whose vessel fishes for or lands such coastal migratory pelagic fish, reef fish, or snapper-grouper in or from state waters adjoining the Gulf or South Atlantic EEZ, who is selected to report by the SRD must maintain a fishing record for each trip, or a portion of such trips as specified by the SRD, on

forms provided by the SRD and must submit such record as specified in paragraph (b)(2) of this section.

* * * * *

4. In § 622.7, paragraphs (b) and (f) are revised to read as follows:

§ 622.7 Prohibitions.

* * * * *

(b) Falsify information on an application for a permit, license, or endorsement or submitted in support of such application, as specified in § 622.4(b), (g), (p), (q), or (r) or in § 622.18.

* * * * *

(f) Falsify or fail to display and maintain vessel and gear identification, as specified in § 622.6(a) and (b) or § 622.4(r)(11).

* * * * *

5. Section 622.43 (a)(3)(ii) is revised to read as follows:

§ 622.43 Closures.

(a) * * *

(3) * * *

(ii) A person aboard a vessel for which valid charter vessel/headboat permits for Gulf coastal migratory pelagic fish or South Atlantic coastal migratory pelagic fish and a valid commercial vessel permit king or Spanish mackerel have been issued may continue to retain fish under a bag and possession limit specified in § 622.39(c), provided the vessel is operating as a charter vessel or headboat.

* * * * *

[FR Doc. 02-7128 Filed 3-22-02; 8:45 am]

BILLING CODE 3510-22-S