

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 030303053-3118-02; I.D. 022403C]

RIN 0648-AQ70

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; Revision of Charter Vessel and Headboat Permit Moratorium Eligibility Criterion; Correction

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

ACTION: Final rule; correcting amendment.

SUMMARY: This document contains a correction to the final rule implementing a corrected Amendment for the charter vessel/headboat permit moratorium established in Amendment 14 to the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (Amendment 14) and in Amendment 20 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (Amendment 20). This final rule was published on May 15, 2003. This correction adds regulatory text that was inadvertently removed in the final rule.

DATES: Effective June 24, 2003.

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

SUPPLEMENTARY INFORMATION: The final rule that is the subject of this correction revises, consistent with the actions taken by the Gulf of Mexico Fishery Management Council (Council), one of the eligibility criteria for obtaining a charter vessel/headboat permit under the moratorium; reopens the application process for obtaining Gulf charter vessel/headboat moratorium permits and extends the applicable deadlines; extends the expiration dates of valid or renewable open access permits for these fisheries; clarifies, as requested by the Council, a constraint on issuance of historical captain permits under the moratorium; and extends the expiration date of the moratorium to account for the delay in implementation.

This correction adds regulatory text that was inadvertently removed in the

May 15, 2003 (68 FR 26230) final rule. The proposed rule published on March 12, 2003 (68 FR 11794) made clear that paragraphs (1) through (8) of 50 CFR 622.4(r) were proposed to be revised, and that paragraphs (9) through (12) of that section would be retained without change. The final rule mistakenly directed the Office of the **Federal Register** to remove paragraphs (9) through (12) of § 622.4(r). No proposal was ever made to remove paragraphs (9) through (12). Thus, the public was never provided an opportunity to comment on their removal. Further, NMFS did not provide any explanation for the removal of those paragraphs in the "Changes from the Proposed Rule" section of the preamble to the May 15 final rule. Finally, § 622.4(r)(1) of the May 15 final rule clearly references paragraphs (r)(9) and (r)(10) of that section--two of the paragraphs that the final rule inadvertently removed.

Classification

This rule is a correction of an error in the final rule that made a change to the regulations for which the agency had not provided prior notice and an opportunity for comment. Moreover, this rule merely reinserts, without change, regulatory text that previously existed and was never intended to be removed. Finally, this rule will have little, if any, effect on the regulated community in that this correction is being made within days of the error becoming effective. As such, the Assistant Administrator (AA), NOAA, finds good cause, pursuant to authority at 5 U.S.C. 553(b)(B), to waive the requirement to provide prior notice and an opportunity for public comment as such procedures are unnecessary. Further, if the effective date of this rule to correct this error were to be delayed for 30 days the possibility that this error might have an effect on the regulated community increases. Thus, the AA finds good cause, pursuant to authority at 5 U.S.C. 553(d)(3) to waive the requirement for a 30-day delay in effective date for this rule.

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: June 23, 2003.

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 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 (r)(9) through (r)(12) are added to read as follows:

§ 622.4 Permits and fees.

* * * * *

(r) * * *

(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 side 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