

## 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

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));

(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 December 26, 2002, 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 June 28, 2002, 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 September 26, 2002. For completed applications received by that deadline, the RA will issue the permit no later than December 16, 2002. 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., December 26, 2002). 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 paragraphs (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.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

[Docket No.020325070-3159-06; I.D. 071299C]

RIN 0648-AM91

### Atlantic Highly Migratory Species (HMS); Fishing Vessel Permits; Charter Boat Operations; Temporary Rule

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

**ACTION:** Temporary rule.

**SUMMARY:** This rule provides a mechanism to correct permit errors for a limited time after permit issuance for all Atlantic Tunas and Atlantic HMS permit holders, excluding Atlantic Tunas longline and Purse seine category permits. This mechanism is meant to provide relief for those vessel operators who were issued permits incorrectly due to confusion resulting from the establishment of the new HMS Angling category, unfamiliarity with the automated permit system, or possible administrative error.

**DATES:** Effective June 23, 2003, through December 31, 2003. All permit category corrections for Atlantic Tunas and HMS permits issued prior to or on June 23, 2003 must be made by July 3, 2003. All permit category corrections for permits issued subsequent to June 23, 2003 must be made within 10 days of the date of the issuance of the permit.

**FOR FURTHER INFORMATION CONTACT:** Mark Murray-Brown or Brad McHale at 978-281-9260.

**SUPPLEMENTARY INFORMATION:** A final rule published on December 18, 2002 (67 FR 77434), established a new HMS Angling category vessel permit. This new permit category authorizes recreational anglers to fish for, possess, and retain HMS. Further, the final rule specified that the Atlantic Tunas General category permit, a commercial handgear category, would not authorize persons aboard a vessel to fish for, possess, or retain billfish, swordfish, or sharks in the recreational fisheries. The final rule also re-specified that permit category changes could not be made after a permit is issued for a fishing year. A temporary rule that was published on June 12, 2003 (68 FR 35185), provided a limited time during which Atlantic Tunas General category permit holders could make a one-time change to the new Atlantic HMS