

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 622**

[Docket No. 070719385-7397-01]

RIN 0648-AV59

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Revision of Vessel Monitoring System (VMS) Requirements for Commercial Gulf Reef Fish Vessels**

**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 revise VMS requirements applicable to the commercial reef fish fishery in the Gulf of Mexico (Gulf) and to revise the allowable methods for complying with the advance notification of landing requirement in the Gulf red snapper individual fishing quota (IFQ) program. Regarding the VMS program, this proposed rule would allow commercial reef fish vessel owners or operators to reduce the frequency of VMS transmissions while in port; extend the existing power-down exemption to include reef fish vessels while in port; and add a grandfather clause to address VMS units approved for use in the Gulf reef fish fishery. Regarding the IFQ program, this proposed rule would expand the allowable methods for communicating the required advance notification of landing. The intended effects of this proposed rule are to resolve an unanticipated technological problem with the VMS draining power from vessels that are in port without access to external power sources; provide a grandfather clause for previously approved Gulf reef fish VMS units; and facilitate compliance with the advance notification of landing requirement in the IFQ program.

**DATES:** Written comments must be received on or before August 21, 2007.

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

- E-mail: 0648-AV59.Proposed@noaa.gov. Include in the subject line the following document identifier: 0648-AV59.
- Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

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

Copies of documents supporting this proposed rule, which include a regulatory impact review (RIR) and an initial regulatory flexibility analysis (IRFA) may be obtained from NMFS at the address above.

Comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted in writing to Jason Rueter, NMFS, Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701; telephone 727-824-5305; fax 727-824-5308; email [Jason.Rueter@noaa.gov](mailto:Jason.Rueter@noaa.gov) and to David Rostker, Office of Management and Budget (OMB), by e-mail at [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov), or by fax to 202-395-7285.

**FOR FURTHER INFORMATION CONTACT:** Peter Hood, telephone 727-824-5305; fax 727-824-5308; e-mail [peter.hood@noaa.gov](mailto:peter.hood@noaa.gov).

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

**Gulf Reef Fish VMS***Background*

The final rule to implement Amendment 18A to the FMP (71 FR 45428, August 9, 2006) requires an owner or operator of a vessel with a commercial vessel permit for Gulf reef fish, including a charter vessel/headboat with a commercial reef fish vessel permit even when under charter, to ensure an operating VMS approved by NMFS for the Gulf of Mexico reef fish fishery is on board at all times. This requirement is applicable regardless of whether the vessel is underway unless exempted by NMFS. An operating VMS includes an operating mobile transmitting unit on the vessel and a functioning communication link between the unit and NMFS as provided by a NMFS-approved communication service provider. The effective date for that VMS requirement was May 6, 2007 (72 FR 10088, March 7, 2007). The August 9, 2006 final rule also requires that, unless exempted under the power

down exemption, a VMS must transmit a signal indicating the vessel's accurate position at least once an hour, 24 hours a day every day.

These regulatory requirements are also set forth in the NOAA Enforcement Vessel Monitoring System Requirements document, which is available from the NMFS Office for Law Enforcement (OLE), Southeast Region, 263 13th Avenue South, St. Petersburg, FL 33701; phone: 800-758-4833.

*Need for VMS Revisions*

NMFS has recently been advised by a number of commercial reef fish vessel owners and operators that the amount of power drawn by some of the VMS units when complying with the requirements for continuous operation and hourly transmissions can drain all power from a vessel that is not underway and has no access to an external power source. In some circumstances, this could result in failure of critical vessel safety equipment such as bilge pumps, thereby potentially jeopardizing vessel and crew safety. VMS manufacturers have confirmed the potential for power drain under such circumstances and are pursuing technological solutions, i.e., configuring VMS units to include the capability to reduce frequency of transmissions.

The current regulations provide for an exemption from the continuous VMS operation and hourly transmission requirements, but only for vessels that are "out of the water" for more than 72 hours or vessels that sign out of the VMS program for a minimum of 1 month and do not embark on any trip until the VMS is turned back on and verified by NMFS VMS personnel. These current exemptions do not address the power drain issue for vessels that remain in the water, in port, for more than 72 hours but less than 1 month; nor do they address vessels that may be "out of the water", e.g., dry-docked or trailered, for less than 72 hours. Additional rulemaking is necessary to address these situations and avoid power loss and potential vessel and crew safety issues.

*Proposed VMS Revisions*

This proposed rule would revise the VMS requirements applicable to Gulf of Mexico commercial reef fish vessels to establish an "in-port" exemption to the hourly transmission requirement and to expand the current power-down exemption to include vessels "in port" for more than 72 consecutive hours. For the purposes of the Gulf of Mexico VMS requirements, "in port" would be defined to mean secured at a land-based facility, or moored or anchored after the

return to a dock, berth, beach, seawall, or ramp.

Specifically, this proposed rule would provide an "in-port" exemption that would allow vessels "in port" to transmit vessel location information every 4 hours rather than hourly. This would address the power-drain issue for vessels that are "in port" (whether the vessel is in the water or out of the water, consistent with the definition of "in port") for less than 72 consecutive hours or for vessels that may be "in port" somewhat longer than 72 hours but whose owner or operator elects not to obtain the broader power-down exemption. The proposed expansion of the current power-down exemption, which is limited to vessels "out of the water", to include vessels "in port" for more than 72 consecutive hours would address the power-drain issue for vessels that remain in the water, within the definition of "in port." Some such vessels use port locations that do not provide access to external power sources, and the existing VMS requirements could result in excessive power drain and potential vessel safety issues. NMFS believes, after discussion with VMS manufacturers, some of the affected fishery participants, and NMFS law enforcement personnel, that these limited exemptions would adequately address the unanticipated power-drain issue while maintaining the necessary enforcement capability.

Finally, this proposed rule would allow continued use of a VMS unit that was previously approved for the Gulf reef fish fishery if that unit is subsequently removed from the approved list of approved VMS units. At the end of such a VMS unit's service life, it would have to be replaced with a currently approved unit.

### Gulf Red Snapper IFQ

#### Background

The final rule to implement Amendment 26 to the FMP (71 FR 67447, November 22, 2006) established an IFQ program for the commercial red snapper sector of the Gulf reef fish fishery. One of the requirements of the IFQ program is an advance notification of landing. Currently, an owner or operator of a vessel landing IFQ red snapper is responsible for calling NMFS Office for Law Enforcement (OLE) at least 3 hours, but no more than 12 hours, in advance of landing to report the time and location of landing and the name of the IFQ dealer where the red snapper are to be received. Reliance on a single notification method, e.g., telephone, has proven to be impractical in some circumstances -e.g., cell phone

range is sometimes inadequate. Additional options for complying with the advance notification of landing are needed.

#### Proposed Revisions to the IFQ Advance Notification Requirement

This proposed rule would authorize new electronic methods, in addition to the current telephone method, that would be acceptable for complying with the advance notification of landing requirement. Under this proposed rule, authorized methods for contacting NMFS and submitting the report would include calling NMFS Office for Law Enforcement at 1-866-425-7627, completing and submitting to NMFS the advance notification form provided through the VMS unit, or providing the required information to NMFS through the web-based form available on the IFQ website at [ifq.seo.nmfs.noaa.gov](http://ifq.seo.nmfs.noaa.gov). As new technology becomes available, NMFS would add other authorized methods for complying with the advance notification requirement via appropriate rulemaking. NMFS would list all authorized methods on the IFQ website at [ifq.seo.nmfs.noaa.gov](http://ifq.seo.nmfs.noaa.gov) along with instructions for completing the report. This proposed expansion of allowable methods for advance notification of landing is intended to facilitate compliance and improve monitoring of the fishery.

#### Other Non-substantive Revisions Related to VMS

This proposed rule would: (1) rearrange the codified text in § 622.9(a)(2), relating to VMS requirements for the Gulf reef fish fishery, in a more logical order; (2) remove the existing power-down exemption option for vessels not making any trip for more than 1 month because this would be covered by the proposed exemption for vessels "in port" for more than 72 consecutive hours; and (3) clarify that the VMS requirements apply throughout the Gulf of Mexico including the adjacent states, e.g., requirements also apply to vessels with commercial vessel permits for Gulf reef fish that are dry-docked or trailered on land.

#### Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, I have determined that this proposed rule is consistent with the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

NMFS prepared an IRFA, as required by section 603 of the Regulatory Flexibility Act, for this proposed rule. The IRFA 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. A copy of the full analysis is available from NMFS (see **ADDRESSES**). A summary of the IRFA follows.

This proposed rule would allow vessels "in port" to send a VMS position report once every 4 hours, rather than every hour, and extend the VMS power-down exemption to vessels that are "in port," subject to obtaining a letter of exemption and following OLE notification and confirmation procedures, rather than require removal of the vessel from the water (dry-docking) for the exemption. This proposed rule would also allow continued use of a VMS unit that was previously approved for the Gulf reef fish fishery if that unit is subsequently removed from the approved list. This grandfathering is limited to the life of the grandfathered VMS unit. Once the grandfathered unit is no longer functional, a VMS unit from the approved list is required. Finally, this proposed rule would broaden allowable methods for advance notification of landing in the commercial red snapper fishery.

The objectives of this proposed rule are to address an unanticipated technological problem in the VMS requirements for the Gulf of Mexico commercial reef fish fishery that could result in power drainage of vessels "in port" that lack an external power source, include a grandfather clause in the VMS requirements, and expand the methods for advance notification of landing in the commercial red snapper fishery. The Magnuson-Stevens Act provides the legal basis for the rule.

The VMS components of the proposed rule would apply to all vessels permitted to operate in the Gulf of Mexico commercial reef fish fishery. Some for-hire vessels also participate in the commercial reef fish fishery, and this sector is included in the following description of affected entities. The advance notification of landing component of the proposed rule would apply to only that subset of the commercial reef fish fishery vessels that also operate in the commercial red snapper fishery.

The Small Business Administration (SBA) has established size criteria for all major industry sectors in the U.S.

including fish harvesters and for-hire operations. A business involved in fish harvesting is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined average annual total receipts not in excess of \$4.0 million (NAICS code 114111, finfish fishing) for all affiliated operations worldwide. For for-hire operations, the other qualifiers apply and the annual receipts threshold is \$6.5 million (NAICS code 713990, recreational industries).

Approximately 1,145 vessels are estimated to be permitted to operate in the Gulf of Mexico commercial reef fish fishery. Over the period 2001–2003, an average of 1,050 vessels per year landed an average total of 19.2 million lb (8.7 million kg) gutted weight (GW) of Gulf reef fish per year with an ex-vessel value of \$50.75 million (2006 dollars). Median annual reef fish landings were 5,705 lb (2,588 kg) per vessel. The median vessel took 12 trips per year, spent approximately 31 days at sea annually, and derived approximately 98 percent of its gross revenues from reef fish harvests. Median gross revenues from all species harvested by these vessels, which includes non-reef fish species, were approximately \$19,000 (2006 dollars) for each of the 3 years.

The commercial reef fish fishery is conducted using two primary gears, longlines and hand or vertical lines. Within the longline fleet, over the same period (2001–2003), an average of 166 vessels per year landed an average total of approximately 6.5 million lb (3.0 million kg) GW of reef fish per year with an ex-vessel value of approximately \$17.64 million (2006 dollars). The median vessel took 14 trips per year, spent 113–121 days at sea annually, and derived approximately 97 percent of its gross revenues from reef fish harvests. Median gross revenues per year from all species harvested by these vessels ranged from approximately \$109,000 (2006 dollars) to \$115,000 (2006 dollars).

Within the vertical-line fleet, over the same period (2001–2003), an average of 899 vessels per year landed an average total of approximately 11.6 million lb (5.3 million kg) GW of reef fish per year with an ex-vessel value of approximately \$30.44 million (2006 dollars). The median vessel took 14 trips per year, spent 33–35 days at sea annually, and derived approximately 97 percent of its gross revenues from reef fish harvests. Median gross revenues from all species harvested by these vessels were approximately \$15,000 (2006 dollars) for each of the 3 years.

Alternative estimates derived from 1994 fishery data of the performance of vessels in this fishery show annual average gross and net revenues per vessel range from approximately \$27,000 (2006 dollars) in gross revenues and \$5,000 (2006 dollars) in net revenues for low-volume handline vessels to approximately \$133,000 (2006 dollars) (\$25,000 net) for high-volume longline vessels. These values are comparable to the more recent estimates of ex-vessel revenues and provide insight to net revenue estimates, which are not available from the more recent data.

Vessels that operate in the commercial red snapper fishery are part of the commercial reef fish fishery and are included in the description of the reef fish vessels provided above. With the implementation of the two-class license system in the red snapper fishery in 1998, 764 vessels were licensed to participate in the commercial red snapper fishery, though only 616 vessels recorded landings through 2004. Summary statistics specific to the red snapper fishery comparable to those of the reef fish fishery as a whole are not available. Further, substantial changes in the composition and characteristics of the commercial red snapper fleet are anticipated to develop under the individual fishing quota (IFQ) program implemented in January 2007.

Projections of fleet size under the IFQ program, expected to result from consolidation of quota shares, do not exceed 100 vessels. Total fleet-wide net revenues to owners, captain and crew from all species harvested by vessels operating in the red snapper fishery are estimated to range from approximately \$14.5 million (2006 dollars) to approximately \$26 million (2006 dollars) under annual total allowable catch (TAC) levels for harvest from all sectors of 5.0 million lb (2.3 million kg) and 9.12 million lb (4.14 million kg), respectively, of which the commercial fishery is allocated 51 percent of the TAC. Based on these revenue projections, the average net revenue per vessel would range from \$145,000 to \$260,000 (2006 dollars) if the fleet consolidates to 100 vessels, or \$290,000 to \$520,000 (2006 dollars) if the fleet consolidates to 50 vessels.

Approximately 237 vessels permitted to participate as for-hire vessels (charterboats or headboats) also possess commercial reef fish permits. While these vessels are included in the description of commercial vessels provided above, in general, for-hire vessels would be expected to have different production profiles than

vessels that operate exclusively as commercial vessels. Production characteristics likely vary by the extent to which a vessel operated primarily as a commercial vessel or a for-hire vessel. However, information is only available on the for-hire fleet as a whole, and production characteristics for vessels that operate in both commercial fisheries and the for-hire fishery are unknown. On average, charterboats, which charge a fee on a boat-wide basis, generate approximately \$82,000 (2006 dollars) in annual revenues and approximately \$39,000 in annual operating profits. The average headboat, which charges a fee on the individual passenger (head) basis, generates approximately \$431,000 (2006 dollars) in annual revenues and approximately \$361,000 in annual operating profits.

Some fleet activity exists in the commercial red snapper fishery and in the commercial finfish fisheries in general, but the extent of such activity is unknown. The maximum number of reef fish permits reported owned by the same entity is six permits. Additional affiliation may exist between permits (and the revenues associated with those permits) and an entity, but cannot be identified using existing data. Given the average economic performance provided above, NMFS determines that all entities operating in the Gulf of Mexico commercial reef fish fishery are, for purposes of this analysis, small business entities.

The proposed rule would reduce current electronic reporting requirements when a vessel is “in port” and simplify conditions for power-down exemptions. The requirement for these vessels to have a type-approved VMS unit would remain, and the operation of these units does not require specialized skill. The email notification requirements and power-down exemption application procedures would remain unchanged and do not require special skills. The expansion of landing notification methods would encompass other electronic means. The commercial red snapper IFQ program was designed around and requires an electronic environment in order to set up accounts and manage transactions. Therefore, the new methods are unlikely to require new or special skills by fishery participants. Further, no single method would be required, such that a participant could select the method that best fits his skills and circumstances.

No duplicative, overlapping, or conflicting Federal rules have been identified.

All Gulf of Mexico commercial reef fish permitted vessels would be affected by the proposed rule. Because all said

entities have been determined for the purpose of this analysis to be small business entities, it is determined that this proposed rule would be expected to affect a substantial number of small entities. Because all entities that would be affected by this proposed rule have been determined to be small business entities, the issue of disproportionality of impacts between large and small entities does not arise.

No direct or indirect adverse economic effects on any affected entities are expected to occur as a result of this proposed rule. Therefore, no reductions in profitability for any entities would be expected. The proposed rule would reduce the frequency with which the required VMS units would be required to send an electronic location signal when vessels are "in port" and not actively fishing. This would be expected to reduce the power requirements for vessel operation, reducing the likelihood of battery drainage and compromised vessel operation and safety. The proposed rule would also expand qualification conditions for vessels seeking power-down exemptions to the VMS operating requirements to apply to vessels being "in port" and not require removal of the vessel from the water (dry-docking). This would be expected to further reduce the power requirements and compliance costs to qualify for exemption, because vessels could remain on the water. The grandfather clause allowing the continued use of a VMS unit that is removed from the list of type-approved units would be expected to reduce the need to replace units before the end of their service life, allowing vessels to receive the full economic benefits of their units. Finally, expanding the methods that vessels in the commercial red snapper fishery can use to satisfy the advance landing notification requirements would be expected to reduce the likelihood that unloading and sale of their harvests would be delayed, thereby avoiding the costs of such delay and increasing the profitability of their operation.

The alternative considered to the proposed rule is the status quo, or no action. The status quo would maintain current VMS program requirements, maintain the current unanticipated technological problem associated with potential power drainage, require vessels to replace VMS units that were previously type-approved but are removed from the approved list, and limit vessels in the commercial red snapper fishery to a single method of satisfying the advance landing notification requirement. Thus, the

status quo would not achieve the NMFS objectives.

This rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA) that have been approved by OMB under Control Number 0648-0544 for VMS reporting requirements and Control Number 0648-0551 for Gulf red snapper IFQ reporting requirements. Public reporting for the VMS-related requirements is estimated to average 24 seconds for transmission of position reports and 10 minutes for submission of requests for power-down exemptions. Public reporting for the IFQ-related advance notification of landing is estimated to average 3 minutes. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these burden estimates or any other aspect of this data collection, including suggestions for reducing burden hours, to NMFS (see **ADDRESSES**) and by email to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov), or fax to 202-395-7285.

Notwithstanding any other provision of law, no person is required to respond to, and no person shall be subject to 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: July 31, 2007.

**John Oliver,**

*Deputy Assistant Administrator for Operations, 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 § 622.9, paragraph (a)(2) is revised to read as follows:

##### **§ 622.9 Vessel monitoring systems (VMSs).**

(a) \* \* \*

(2) *Gulf reef fish.* The VMS requirements of this paragraph (a)(2) apply throughout the Gulf of Mexico and adjacent states.

(i) *General VMS requirement.* An owner or operator of a vessel that has been issued a commercial vessel permit for Gulf reef fish, including a charter vessel/headboat issued such a permit even when under charter, must ensure that such vessel has an operating VMS approved by NMFS for use in the Gulf reef fish fishery on board at all times, regardless of whether the vessel is underway, unless exempted by NMFS under the power down exemptions specified in paragraph (a)(2)(iv) of this section. These regulatory requirements are also set forth in the NOAA Enforcement Vessel Monitoring System Requirements for the Reef Fish Fishery of the Gulf of Mexico which is available from NMFS, Office for Law Enforcement (OLE), Southeast Region, 263 13th Avenue South, St. Petersburg, FL 33701; phone: 800-758-4833. An operating VMS includes an operating mobile transmitting unit on the vessel and a functioning communication link between the unit and NMFS as provided by a NMFS-approved communication service provider. NMFS OLE maintains a current list of approved VMS units and communication providers which is available from the VMS Support Center, NMFS OLE, 8484 Georgia Avenue, Suite 415, Silver Spring, MD 20910 or by calling toll free 888-219-9228. If a VMS unit approved for the Gulf reef fish fishery is removed from the approved list by NMFS OLE, a vessel owner who purchased and installed such a VMS unit prior to its removal from the approved list will be considered to be in compliance with the requirement to have an approved unit, unless otherwise notified by NMFS OLE. At the end of a VMS unit's service life, it must be replaced with a currently approved unit for the fishery.

(ii) *Hourly reporting requirement.* An owner or operator of a vessel subject to the requirements of paragraph (a)(2) of this section must ensure that the required VMS unit transmits a signal indicating the vessel's accurate position at least once an hour, 24 hours a day every day unless exempted under paragraphs (a)(2)(iii) or (iv) of this section.

(iii) *In-port exemption.* While in port, an owner or operator of a vessel with a type-approved VMS unit configured with the 4-hour reporting feature may utilize the 4-hour reporting feature rather than comply with the hourly reporting requirement specified in paragraph (a)(2)(ii) of this section. Once the vessel is no longer in port, the hourly reporting requirement specified in paragraph (a)(2)(ii) of this section applies. For the purposes of paragraph (a)(2) of this section, "in port" means

secured at a land-based facility, or moored or anchored after the return to a dock, berth, beach, seawall, or ramp.

(iv) *Power-down exemptions.* An owner or operator of a vessel subject to the requirement to have a VMS operating at all times as specified in paragraph (a)(2)(i) of this section can be exempted from that requirement and may power down the required VMS unit if--

(A) The vessel will be continuously out of the water or in port, as defined in paragraph (a)(2)(iii) of this section, for more than 72 consecutive hours;

(B) The owner or operator of the vessel applies for and obtains a valid letter of exemption from NMFS OLE VMS personnel as specified in the NOAA Enforcement Vessel Monitoring System Requirements for the Reef Fish Fishery of the Gulf of Mexico. This is a one-time requirement. The letter of exemption must be maintained on board the vessel and remains valid for all subsequent power-down requests conducted consistent with the provisions of paragraphs (a)(2)(iv)(C) and (D) of this section.

(C) Prior to each power down, the owner or operator of the vessel files a report to NMFS OLE VMS program personnel, using the VMS unit's e-mail, that includes the name of the person filing the report, vessel name, vessel U.S. Coast Guard documentation number or state registration number, commercial vessel reef fish permit number, vessel port location during VMS power down, estimated duration of the power down exemption, and reason for power down; and

(D) The owner or operator enters the power-down code through the use of the VMS Declaration form on the terminal and, prior to powering down the VMS, receives an e-mail confirmation of the power-down authorization from NMFS OLE.

(v) *Declaration of fishing trip and gear.* Prior to departure for each trip, a vessel owner or operator must report to NMFS any fishery the vessel will participate in on that trip and the specific type(s) of fishing gear, using NMFS-defined gear codes, that will be on board the vessel. This information may be reported to NMFS using the toll-free number, 888-219-9228, or via an attached VMS terminal.

\* \* \* \* \*

3. In § 622.16, paragraph (c)(3)(i) is revised to read as follows:

**§ 622.16 Gulf red snapper individual fishing quota (IFQ) program.**

\* \* \* \* \*

(c) \* \* \*

(3) \* \* \*

(i) *Advance notice of landing.* For the purpose of this paragraph, landing means to arrive at a dock, berth, beach, seawall, or ramp. The owner or operator of a vessel landing IFQ red snapper is responsible for ensuring that NMFS is contacted at least 3 hours, but no more than 12 hours, in advance of landing to report the time and location of landing and the name of the IFQ dealer where the red snapper are to be received. Authorized methods for contacting NMFS and submitting the report include calling NMFS Office for Law Enforcement at 1-866-425-7627, completing and submitting to NMFS the notification form provided through the VMS unit, or providing the required information to NMFS through the web-based form available on the IFQ website at [ifq.sero.nmfs.noaa.gov](http://ifq.sero.nmfs.noaa.gov). As new technology becomes available, NMFS will add other authorized methods for complying with the advance notification requirement via appropriate rulemaking. Failure to comply with this advance notice of landing requirement will preclude authorization to complete the landing transaction report required in paragraph (c)(1)(iii) of this section and, thus, will preclude issuance of the required transaction approval code.

\* \* \* \* \*

[FR Doc. E7-15231 Filed 8-3-07; 8:45 am]

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

[Docket No. 070706268-7275-01]

RIN 0648-AV21

**Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; Framework Adjustment 7**

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes to implement Framework Adjustment 7 (Framework 7) to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP), developed by the Mid-Atlantic Fishery Management Council (Council). Framework 7 would broaden the FMP stock status determination criteria for summer flounder, scup, and black sea bass, while maintaining

objective and measurable criteria for identifying when the FMP stocks are overfished or approaching an overfished condition. The framework action would also establish acceptable categories of peer review for providing new or revised stock status determination criteria for the Council to use in its annual management measures for each species. This action is necessary to ensure that changes or modification to the stock status determination criteria constituting the best available peer reviewed scientific information are accessible for the management of these three species in as timely a manner as is possible. The intended effect of this action is to improve the timeliness and efficiency of incorporating the best available scientific information, consistent with National Standards 1 and 2 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), into the management processes for the three species covered by the FMP.

**DATES:** Written comments must be received no later than 5 p.m. local time on September 5, 2007.

**ADDRESSES:** You may submit comments by any of the following methods:

- E-mail: [FSB.framework7@noaa.gov](mailto:FSB.framework7@noaa.gov). Include in the subject line the following identifier: "Comments on FSB Framework Adjustment 7."

- Federal e-rulemaking portal: <http://www.regulations.gov>

- Mail: Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope: "Comments on FSB Framework Adjustment 7."

- Fax: (978) 281-9135

Copies of Framework Adjustment 7 are available from Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901-6790. The framework document is also accessible via the Internet at <http://www.nero.noaa.gov>.

**FOR FURTHER INFORMATION CONTACT:** Michael Ruccio, Fishery Policy Analyst, (978) 281-9104.

**SUPPLEMENTARY INFORMATION:**

**Background**

The current stock status determination criteria for these three species are found in Amendment 12 to the FMP. To modify or replace these stock status determination criteria, the Council must enact a framework adjustment or an amendment to the FMP.