diagonally across the chest without human guidance, as required by FMVSS No. 208, the FTSS and Denton chest flesh assemblies perform statistically the same.

It is debatable whether or not FTSS's dummy improves belt routing, but either way, the Agency considers this information insufficient justification for changing NHTSA's drawing specifications. The Agency must also consider the entire dummy industry and recognizing that there are multiple dummy manufacturers that have been producing the HIII–5F for a significant period of time and continue to produce them, the agency must weigh the benefit of changing a drawing against the adverse impact the change would have on other manufacturers. In this case, revising the Agency's drawing specifications to FTSS's suggested dimensions appears to provide little to no benefit while the adverse impact on other manufacturers could be significant. Consequently, the agency finds no basis to revise the drawings as requested by FTSS.

Conclusion

For the reasons discussed above, NHTSA is denying FTSS's petition for dimensional changes to drawing number 880105–355–E, sheets 1 and 2 of CFR Section 49, Part 572, Subpart O.

Authority: 49 U.S.C. 30162; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.

Issued on: August 3, 2006.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E6–12975 Filed 8–8–06; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 622 and 635

[Docket No. 060425111–6205–02; I.D. 041906B]

RIN 0648–AN09

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 18A

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement Amendment 18A to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (Amendment 18A) prepared by the Gulf of Mexico Fishery Management Council (Council). This final rule prohibits vessels from retaining reef fish caught under the recreational size and bag/possession limits when commercial quantities of Gulf reef fish are on board; adjusts the number of persons allowed on board when a vessel with both commercial and charter vessel/headboat reef fish permits and a U.S. Coast Guard (USCG) Certificate of Inspection (COI) is fishing commercially; prohibits use of Gulf reef fish, except sand perch or dwarf sand perch, as bait in any commercial or recreational fishery in the exclusive economic zone (EEZ) of the Gulf of Mexico, with a limited exception for crustacean trap fisheries; requires a NMFS-approved vessel monitoring system (VMS) on board vessels with Federal commercial permits for Gulf reef fish, including charter vessels/headboats with such commercial permits; and requires owners and operators of vessels with Federal commercial or charter vessel/headboat permits for Gulf reef fish to comply with sea turtle and smalltooth sawfish release protocols, possess on board specific gear to ensure proper release of such species, and comply with guidelines for proper care and release of incidentally caught sawfish and sea turtles. This final rule also requires annual permit application rather than application every 2 years (biennial). In addition, Amendment 18A revises the total allowable catch (TAC) framework procedure to reflect current practices and terminology. The intended effects of this final rule are to improve enforceability and monitoring in the reef fish fishery in the Gulf of Mexico and to reduce mortality of incidentally caught sea turtles and smalltooth sawfish. Finally, NMFS informs the public of approval by the Office of Management and Budget (OMB) of the collection-of-information requirements contained in this final rule and publishes the OMB control numbers for those collections.

DATES: This final rule is effective September 8, 2006, except for the amendments to §§ 622.4 (m)(1) and 622.9, which are effective December 7, 2006, and §§ 622.4(h)(1) and 635.4(m)(1), which are effective September 1, 2006.

ADDRESSES: Copies of the final regulatory flexibility analysis (FRFA) may be obtained from Peter Hood, NMFS, Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701; telephone 727–824–5305; fax 727–824–5308; email *Peter.Hood@noaa.gov*.

Comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted in writing to Jason Rueter at the Southeast Regional Office address (above) and to David Rostker, Office of Management and Budget (OMB), by e-mail at *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*.

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

On April 26, 2006, NMFS published a notice of availability of Amendment 18A and requested public comment (71 FR 24635). On May 18, 2006, NMFS published the proposed rule to implement Amendment 18A and requested public comment on the proposed rule (71 FR 28842). NMFS approved Amendment 18A on July 24, 2006. The rationale for the measures in Amendment 18A is provided in the amendment and in the preamble to the proposed rule and is not repeated here.

Comments and Responses

Following is a summary of comments received on Amendment 18A and the associated proposed rule along with NMFS' responses. A total of 15 comments were received from individuals and organizations.

Comment 1: Not allowing a commercial vessel to retain reef fish species caught under recreational size and bag limits when the vessel has commercial harvests of any reef fish species aboard will do little to help stocks recover.

Response: The primary purpose of this management measure is to improve enforceability of the prohibition on sale of reef fish caught under recreational bag limits. Prohibiting bag limits of reef fish on commercial vessels makes it more difficult for fish caught under a bag limit from entering the market through commercial vessel landings. In addition, this measure resolves confusion that occurs when a commercial season for a species is closed while the recreational season is

still open. For example, during the February 15 to March 15 commercial closed season on red grouper, black grouper, and gag, vessels with a commercial reef fish permit are prohibited from possessing the recreational bag limits of those species (unless the vessel also has a charter permit and is operating as a charter vessel). However, in other instances, commercial reef fish vessels can retain a recreational bag limit of grouper after the commercial grouper quota is met and the commercial fishery is closed. Thus, it can be difficult for a commercial fisherman to determine when a bag limit can be retained.

Comment 2: To reduce confusion, rather than prohibiting commercial fishermen from retaining reef fish bag limits, allow commercial fishermen to retain one bag limit for each crew member regardless of reef fish species so long as the recreational fishery is open.

Response: While the measure proposed by the commenter would reduce confusion with respect to bag limits, it would not fulfill the primary purpose of this measure, which is to improve the enforceability of the provision to prohibit the sale of reef fish caught under the recreational bag limit. It should be noted that the proposed measure does not prohibit commercial fishermen from retaining fish from their commercial catch for personal use. Under current regulations, a commercial reef fish permit allows a vessel to exceed the bag limit for managed reef fish species within certain area, season, trip, and size limits. There is no obligation to sell what is harvested.

Comment 3: Not allowing a commercial vessel to retain reef fish species caught under recreational size and bag limits when the vessel has commercial harvests of any reef fish species aboard limits the ability of a commercial vessel to be profitable, while charter reef fish vessels can reduce the rate for charters if, after filling bag limits, they continue to fish using their commercial reef fish permit.

Response: Current regulations do not allow a vessel having both a charter vessel/headboat reef fish permit and a commercial reef fish permit to act as a for-hire vessel and commercial vessel on the same trip. A for-hire vessel with paying customers aboard is limited to recreational harvest restrictions.

Comment 4: It would be fair and reasonable to allow a maximum crew size of four persons to fish commercially on a vessel having both commercial and for-hire reef fish permits.

Response: The initial regulations limiting the maximum crew size to three on vessels with both commercial and for-hire permits was implemented through Amendment 1 to the Reef Fish FMP to provide consistent regulations with those of the Coastal Migratory Pelagic FMP. This initial three-person crew limit was selected because available data indicated most vessels with both permits did not typically exceed three persons when fishing commercially. In addition, NMFS and the Council were concerned that higher maximum crew sizes might encourage boats under charter to harvest excess amounts of reef fish by claiming to be fishing commercially. The purpose of limiting the maximum crew size on a dual-permitted vessel with a COI to the minimum crew size allowed under the COI when the vessel is underway for more than 12 hours is to create consistency between fishing and USCG regulations, as described above.

Comment 5: Any legally landed fish should be allowed to be used for bait, including sand perch, grunts, porgies, and squirrelfish.

Response: It is illegal to cut-up reef fish at sea for use as bait. However, it is not illegal to use as bait cut-up reef fish purchased on shore, or whole reef fish provided the fish complies with applicable size and bag limits. This creates enforcement difficulties at sea because the origin of a reef fish carcass used for bait could be obtained through legal means (purchased onshore) or illegal means (a fish caught on the fishing trip). Prohibiting the use of reef fish as bait resolves this enforcement problem. The measure does allow for sand perch and dwarf sand perch, traditional bait species in the reef fish management unit, to be used as bait. It also allows other reef fish species not in the management unit, such as grunts, porgies, and squirrelfish, to be used as bait, consistent with the bait definition found in 50 CFR 622.38. To assist the efficiency of the reef fish fishery, the rule will allow reef fish parts purchased on shore to be used as bait in the blue crab, stone crab, deep-water crab, and spiny lobster trap fisheries.

Comment 6: VMS should only be placed on larger vessels or vessels fishing with longlines, and commercial reef fish fishermen below a certain income level should be exempt from VMS requirements.

Response: The Reef Fish FMP contains several area-specific regulations where fishing is restricted or prohibited to protect habitat, protect spawning aggregations, or reduce fishing pressure. Unlike size, bag, and trip limits, where the catch can be monitored when a vessel returns to port, area restrictions require at-sea enforcement. Because of the sizes of these areas and the distances from shore, the effectiveness of enforcement through overflights and at-sea interception is limited. VMS allows a more effective means to monitor vessels for intrusions into restricted areas and could be an important component of a possible future electronic logbook system.

The Council considered placing VMS on just commercial reef fish vessels using longlines. However, they determined requiring VMS on all commercial reef fish vessels rather than just longline vessels was preferred because most of the area restrictions in the Gulf of Mexico, with the exception of the longline/buoy gear boundary and the stressed area boundary, apply to all gear types. An exception was made for vessels fishing exclusively with fish traps. Fish traps are under a closed entry system (no new fish trap endorsements are allowed and transfers are allowed only under limited conditions) and will be prohibited as an allowable gear in the Gulf of Mexico after February 7, 2007. Because these vessels are unlikely to be able to recover the costs of installing a VMS before the phase-out is complete, and because they are fishing under an alternative trip initiation/termination reporting requirement, exempting these vessels for the short period of time until fish traps are prohibited was considered acceptable. This exemption applies only if a fish trap vessel fishes exclusively with traps and no other gear. If any other gear is used, the vessel would be required to have VMS.

Comment 7: The cost of VMS is excessive and will put commercial fishermen out of business. Fishermen are already stressed from the increasing costs of fuel, early closures of the grouper fishery, and damage from storms and red tide.

Response: As stated above, the Council determined, and NMFS agrees, that VMS is necessary to enforce area-specific regulations for the commercial fishery. The Council also considered whether the cost of VMS equipment should be paid by reef fish vessel owners or by NMFS. The Council determined if NMFS were to purchase the equipment, there could be a delay in implementation of the VMS requirement until funding for the VMS units was made available from Congress or other sources. Were such funding not to become available, implementation of a VMS requirement could be delayed indefinitely. Therefore, the Council selected an alternative placing the burden of purchasing a VMS with the vessel owner. However, it should be noted that NMFS has been provided

funds by Congress to purchase VMS units in other fisheries. If such monies were to become available for the reef fish fishery, costs could be defrayed for reef fish vessel owners. The cost of the installation, maintenance, and month-to-month communications would still be paid or arranged for by vessel owners as appropriate.

Comment 8: Requiring VMS only on commercially permitted reef fish vessels and not on other vessels is discriminatory.Response: Commercial fishing vessels have greater fishing power than recreational fishing vessels, which are limited by bag limits. Therefore, commercial fishing vessels fishing within a restricted area are likely to do more harm to protected areas or stocks. In addition, because there are no federal permits for recreational fishermen, it is difficult to discern which recreational vessels would need to have VMS on board. Thus, recreational vessels were not considered for this measure.

Comment 9: Fisherman should not have to pay for VMS if they are charter fishing or operating outside the Gulf of Mexico EEZ waters.

Response: In some circumstances, a vessel owner can apply for a power-down exemption for VMS from NMFS. These circumstances include a vessel that is continuously out of the water for more than 72 consecutive hours, or a vessel fishing with both a valid commercial and a valid for-hire reef fish permit. Under these circumstances, the owner has the ability to sign out of the VMS program for a minimum period of 1 calendar month. The vessel would not be allowed to conduct commercial fishing operations until the VMS unit is reactivated and NMFS personnel verify consistent position reports. Regarding fishing in state waters or outside the Gulf of Mexico EEZ, VMS must be active for a vessel to participate in the commercial reef fish fishery because a vessel can easily transit between jurisdictional boundaries.

Comment 10: With requirements for emergency position indicating radio beacons (EPIRBs) on commercial fishing vessels, VMS will provide little additional protection for commercial reef fish fishermen.

Response: As indicated above, the primary purpose of VMS is to improve the enforcement of restricted fishing areas. A secondary purpose of VMS is to improve safety at sea. Some VMS models provide an optional safety mechanism with a ''panic button'' that can be activated during a vessel emergency so that USCG assets can be directed to the vessel's last known position. Additionally, should a vessel stop sending a signal or not arrive as scheduled, its cruise track can be monitored by NMFS personnel to determine whether the vessel may need assistance.

Comment 11: With the requirement for VMS, position information can be compromised and sold to the public.

Response: VMS location data for vessels are confidential and will not be shared with anyone without written authorization for their release from the vessel owner, except to those responsible for federal fisheries management and/or enforcement, or when required by a court order. Individuals can request location data only for their permitted vessel(s). Computers and monitors showing vessel location data are kept in secured rooms with restricted access to authorized personnel.

Comment 12: Given the cost of VMS and the rare occurrence of turtle interactions with reef fish gear, the additional cost of turtle release gear will create an untenable burden on commercial reef fish fishermen.

Response: A NMFS-issued biological opinion dated February 15, 2005, determined a reasonable and prudent measure to minimize the impacts of the incidental take of sea turtles and smalltooth sawfish during reef fish fishing was to ''ensure that any caught sea turtle or smalltooth sawfish is handled in such a way as to minimize stress to the animal to increase its survival.'' One of the terms and conditions of the opinion to address this reasonable and prudent measure states that ''use of the sea turtle handling and release protocols recently implemented for highly migratory species (HMS) pelagic longline vessels must be considered (50 CFR 635.21(c)(5)(i) and (ii))'' and ''at a minimum, regulations similar to those currently in place for Atlantic HMS bottom longline vessels must be implemented (50 CFR 635.21(a)(3) and 635.21(d)(3)).'' In addition, ''implementation of these requirements and guidelines must occur as soon as operationally feasible and no later than 2007.'' NMFS worked with the Council to develop requirements appropriate for the reef fish fishery. Although the biological opinion estimates that anticipated interactions in the Gulf of Mexico fishery are much less common than in the HMS fisheries, particularly in the HMS pelagic longline fishery, the same techniques for handling and removing gear from any hooked endangered sea turtle or smalltooth sawfish are pertinent.

The total cost for release gear per vessel is estimated to be between $267 and $459. Vessel sizes were taken into consideration, with fewer gear requirements required for vessels having a freeboard height less than 4 feet (1.23 m). For some vessels, the gear costs may be less because they already have some of the required equipment aboard. For example, life rings and life vests are already required items. Additionally, a list of NMFS-approved release gear, including descriptions of turtle release gear, can be found in the final rule implementing sea turtle bycatch and bycatch mortality mitigation measures for Atlantic pelagic longline vessels (69 FR 40734, July 6, 2004). Some of these gears can be constructed rather than purchased, allowing further savings.

Comment 13: The handles on short-handled dehookers are not long enough to release turtles from a vessel with a four foot freeboard or less, and by requiring either an internal or external dehooker, fishermen could damage sea turtles by using the wrong dehooking device to remove a hook.

Response: The requirements specified for vessels with a freeboard height of less than four feet incorporate the best available scientific information, while accounting for differences between HMS commercial longline vessels (for which the release gear was developed) and reef fish vessels. Freeboard height (i.e., the working distance between the top rail of the gunwale to the water's surface) and available deck space, if a turtle were to be boated to remove the hook, were the two main factors believed to affect the way a captured turtle might be handled and what types of measures would be practical. Exempting vessels with a lower freeboard height from the requirement of the long-handled line cutters or long-handled dehooking devices reduces some of the burden to fishermen in terms of the amount of release gear that must be on board, while still increasing the likelihood of successfully releasing sea turtles, provided that the fishermen are proficient in the selection and use of the appropriate gear.

In selecting dehooking devices, internal or external dehookers are allowed because both can remove external hooks. This gives fishermen the option of selecting a dehooker that can remove external hooks, or having a dual-purpose dehooker. Allowing fishermen to use one dehooker reduces some of the burden to fishermen in terms of the amount of release gear that must be carried.

Comment 14: Changing the permit renewal system from biannual to annual will create more paperwork and cost for fishermen.

Response: NMFS believes requiring annual permit renewal provides better

permit accountability. Fees for annual renewal would be half of the current biennial fee; therefore, there would be no increased cost to applicants. The annual renewal requirement will apply to all permits, including those for highly migratory species. The changes will also simplify the income qualification documentation requirements for fisheries having income criteria, thus reducing paperwork requirements.

Classification

The Regional Administrator, Southeast Region, NMFS, determined that Amendment 18A is necessary for the conservation and management of the Gulf reef fish fishery and is consistent with the Magnuson-Stevens Act and other applicable laws.

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

NMFS prepared a final regulatory flexibility analysis (FRFA) for this final rule, based on the regulatory impact review (RIR), initial regulatory flexibility analysis (IRFA) and public comments. NMFS received several public comments on the proposed rule during the comment period. These comments and NMFS' responses are included in the final rule. None of the comments are specific to the IRFA, but some relate to economic and other issues affecting small entities. An outline of these issues and NMFS' responses are included below as part of the FRFA summary.

A major economic issue raised in the comments pertains to the cost of VMS. One comment considered the VMS cost as excessive and could put commercial fishermen out of business. A second comment indicated VMS should be required only on larger vessels or vessels fishing with longlines and should not be required for commercial fishermen below a certain income level. Another comment stated that fishermen should not have to pay for VMS if they are charter fishing or operating outside the Gulf EEZ. NMFS is aware of the cost of VMS and stated in the RIR and IRFA for the proposed rule that the VMS requirement would adversely affect many small entities, particularly the smaller and marginal operations. NMFS, however, concurs with the Council when it considered the necessity of VMS on all commercial reef fish vessels, including dually permitted charter/commercial vessels, in order to enforce area-specific regulations. There are many such areas in the Gulf where fishing is restricted or prohibited to protect habitat, protect spawning aggregations, or reduce fishing pressure. Most of these areas apply to all gear types. Also, if NMFS did not require VMS on charter fishing or fishing outside the Gulf EEZ, it would complicate enforcement as vessels can easily shift from charter to commercial fishing or transit from one jurisdictional area to another. One mitigating factor on these issues is that if funds become available, as in other fisheries requiring VMS, NMFS will pay for part of the VMS cost. Another mitigating factor is the power-down exemption certain vessels may be eligible to obtain from NMFS. In particular, vessels that are continuously out of the water for more than 72 consecutive hours or dually permitted charter/commercial vessels can sign out of the VMS program for 1 calendar month. But these vessels would not be allowed to fish commercially until the VMS unit is verified to be properly functioning.

Another comment stated that given the cost of VMS, the additional cost of turtle release gear will create an untenable burden on commercial reef fish fishermen. As discussed above, the cost of VMS would adversely affect many commercial reef fish vessels. The additional cost of turtle release gear (between $267 and $459 per vessel) is not as large, but nevertheless, would impinge on the profitability of vessels, as discussed in the RIR and IRFA. NMFS worked with the Council to develop requirements appropriate for the reef fish fishery. It should be noted, though, that less gear is required for vessels having a freeboard height of less than 4 feet (1.23 m). In addition, some vessels are already equipped with some of the required gear, such as life rings and life vests, so the additional cost to them would be less than estimated in the RIR and IRFA.

One other comment contended the change in permit renewal from biannual to annual will create more paperwork and cost for fishermen. To an extent, the change from biannual to annual permit renewal would increase paperwork, but not the permit renewal fee since the annual fee is just half of the biannual fee currently charged by NMFS. One should note that accompanying the annual permit requirement is the simplification of income documentation for renewing permits subject to certain qualifying income criteria.

These and other comments have not resulted in changes to final rule, so the economic analysis conducted for the final rule has also not changed. The following completes the FRFA.

The Magnuson-Stevens Act provides the statutory basis for the final rule. The final rule will: (1) Continue allowing vessels to possess both commercial and for-hire vessel (charter vessel/headboat) permits, but disallow retention of reef fish species caught under recreational size and possession limits when the vessel has commercial harvests of any reef fish species aboard; (2) allow a for-hire vessel with a U.S. Coast Guard (USCG) Certificate of Inspection (COI) to increase its crew size but not in excess of its minimum manning requirements outlined in its COI when fishing for reef fish under its commercial fishing license; (3) prohibit the use as bait any species in the reef fish management unit or parts thereof, with certain exceptions; (4) require the use of VMS systems Gulf-wide for all gear types of commercially permitted reef fish vessels, including charter vessels with commercial reef fish permits; (5) modify the TAC framework procedure to incorporate the Southeast Data, Assessment and Review (SEDAR) process; and (6) require vessels with commercial and/or for-hire reef fish permits to comply with sea turtle and smalltooth sawfish release protocols, possess a set of release gear required by the NMFS Office of Protected Resources, and adopt specific guidelines for the proper care of incidentally caught sawfish.

The main objectives of the final rule are to resolve certain issues related to monitoring and enforcement of existing regulations, update the framework procedure for setting TAC to reflect current terminology and stock assessment procedures, and reduce bycatch mortality of incidentally caught endangered sea turtles and smalltooth sawfish.

The final rule would impact three types of businesses in the Gulf reef fish fishery, namely, commercial fishing vessels, recreational for-hire vessels, and fish dealers. At present, the commercial reef fish permits are under a license limitation program and for-hire reef fish permits are under a moratorium, which is proposed to be converted into a license limitation under a separate amendment. Hence, no new commercial or for-hire reef fish permits will be issued when Amendment 18A is implemented. Currently, there are 1,145 commercial and 1,574 for-hire active vessel permits for the Gulf reef fish fishery. Of these permittees, 237 vessels have both commercial and for-hire vessel permits. Reef fish dealers in the Gulf are required to obtain permits to handle reef fish caught in the Gulf. There are currently 227 dealers permitted to buy and sell reef fish caught in the Gulf. The final rule is expected to affect these commercial vessels, for-hire vessels, and fish dealers.

Average annual gross receipts of commercial reef fish vessels in the Gulf

range from $24,095 for low-volume vertical line vessels to $116,989 for high-volume longline vessels. The corresponding annual net incomes range from $4,479 for low-volume vertical line vessels to $28,466 for high-volume vertical line vessels. Permit records indicate that the maximum number of commercial reef fish permits owned by any single entity is six, so at the maximum this entity would generate a total of $701,934 in gross receipts. For the for-hire vessels, gross annual receipts range from $76,960 for charter vessels to $404,172 for headboats. The corresponding annual operating profits range from $36,758 for charter vessels to $338,209 for headboats. Permit records indicate a maximum of 12 permits held by any single entity. At a maximum, this entity would generate a total of $4,850,064 in gross receipts. A fishing business is considered a small entity if it is independently owned and operated and not dominant in its field of operation, and if it has annual receipts not in excess of $4.0 million in the case of commercial harvesting entities or $6.5 million in the case of for-hire entities. Relative to these thresholds, both the commercial vessel and for-hire vessel entities affected by the final rule may be considered small entities.

Employment (both part and full time) by all reef fish processors in the Southeast totaled 700 individuals. There is no information regarding employment by fish dealers, although it is safe to assume that dealers employ fewer individuals than processors. A seafood processor is a small business if it is independently owned and operated, not dominant in its field of operation, and employs 500 or fewer persons on a full-time, part-time, temporary, or other basis. A fish dealer is a small business if it is independently owned and operated, not dominant in its field of operation, and employs 100 or fewer persons on a full-time, part-time, temporary, or other basis. Given the employment information, it is very unlikely for any processor that holds a reef fish dealer permit to employ 500 or more persons. Although there are no actual data on employment by fish dealers, between 1997 and 2000, on average, in excess of 100 reef fish dealers operated in the Gulf. It is assumed that all processors must be dealers, yet a dealer need not be a processor. Total dealer employment, therefore, is expected to be slightly more than 700 individuals. Given the number of reef fish dealers and estimates of dealer employment, it is unlikely that any dealer employs more than 100 persons. Therefore, each dealer may be considered a small entity.

Allowing vessels to be dually permitted (commercial and for-hire) would enable some 227 vessels to continue their usual operations. Disallowing these vessels to possess recreationally caught fish when commercial quantities of reef fish are aboard would improve enforcement without significantly impacting the operations of these dually permitted vessels. Allowing a for-hire vessel to increase its crew size, however, not in excess of its minimum manning requirements outlined in its COI, affords flexibility in operation and helps to ensure safety at sea of the crew, particularly for vessels using spearfish gear. This would also eliminate the discrepancy between current fishing rules and USCG requirements with respect to crew size of for-hire vessels. The prohibition on the use of reef fish, except sand perch and dwarf sand perch, as bait reinforces the current ban on cutting up reef fish at sea and regulations on bait. The economic impact of this provision on commercial and for-hire vessels cannot be quantified but is expected to be relatively small. The VMS requirement is expected to improve the efficacy of enforcement efforts and the effectiveness and timeliness of at-sea rescue efforts. All commercial reef fish vessels, including for-hire vessels with commercial permits, would incur one-time and recurring costs. First-year compliance costs range from $2,032 to $3,651 per vessel. These costs could be substantial, particularly relative to the profits of small-time vessel operations. The changes to the framework procedures are administrative in nature and are not expected to have substantial effects on fishing operations of reef fish vessels. The various requirements addressing the bycatch issue relative to sea turtles and smalltooth sawfish would affect all commercial and for-hire vessels in the reef fish fishery. Out-of-pocket expenses are estimated to be between $267 and $459 per vessel. These are mainly costs for equipping vessels with the required gear. Because some of the gear would last for some time, costs would in effect be spread over a number of years.

The final rule would alter some of the reporting, record-keeping, and other compliance requirements in the reef fish fishery. In particular, the VMS requirement would affect all vessels with commercial and/or for-hire reef fish permits. Including installation by a qualified marine electrician, equipment costs range from $1,600 to $2,900 per vessel. In addition, yearly communication costs range from $432 to $751 per vessel. Compliance with sea turtle and smalltooth sawfish release protocols would also affect all vessels with commercial and/or for-hire reef fish permits. Costs range from $267 to $459 per vessel. In addition, changing the permit renewal from biannual to annual would create additional paperwork from filling and submitting applications but would simplify the documentation of income requirement for permits that have income qualifying criteria.

Other than the provision on vessel manning requirements that removes the conflict between NMFS and USCG regulations, no other Federal rules have been uncovered that would duplicate, overlap, or conflict with the final rule.

The final rule is expected to affect a substantial number of small entities. A total of 908 solely permitted commercial vessels, 1,337 solely permitted for-hire vessels, and 237 dually permitted commercial/for-hire vessels would be affected. Because all entities affected by the final rule are small entities, the issue of disproportional effects on small versus large entities does not arise. Mainly because of the VMS requirement, for which compliance costs range from $1,600 to $2,900 per vessel, and the sea turtle and smalltooth sawfish release protocols, for which compliance costs range from $267 to $459 per vessel, the final rule would have substantial adverse impacts on the profitability of affected vessels, particularly the smaller and marginal operations.

This amendment considered several alternatives to the final rule. Regarding dually permitted vessels (vessels with both commercial and for-hire permits), two other alternatives have been considered. Alternative 1 (status quo) continues to allow vessels to be dually permitted, but it does not resolve the problem of identifying whether caught fish are saleable (commercial trip) or not saleable (charter trip). Alternative 3, which disallows a vessel to be dually permitted, would adversely affect the fishing operations of dually permitted vessels by forcing them to divest of either the commercial or for-hire permit. Regarding crew size of for-hire vessels fishing under their commercial permits, four other alternatives have been considered. Alternative 1 (status quo), which limits for-hire vessel crew size to three persons, would not be compatible with minimum USCG manning requirements. Alternative 3, which is similar to the final rule except for spearfishing vessels, would benefit the spearfishing vessels. However, the crew size for these vessels would be incompatible with USCG manning

requirements. Alternative 4, which allows a maximum crew size of four persons, would also be incompatible with Coast Guard manning requirements. Alternative 5, which removes the maximum crew size requirements for dually permitted vessels, creates the same enforcement problem as the status quo and at the same time affords a potential increase in fishing effort. Regarding use of reef fish as bait, two other alternatives (with various sub-alternatives) have been considered. Alternative 1 (status quo), which allows the use of whole reef fish that meet the specified requirements for bait or cut-up reef fish purchased at shore for bait, complicates the enforcement of the ban on cutting up reef fish at sea as well as potentially increases the mortality of certain reef fish species. Alternative 3, which requires enforcement officials to identify reef fish species used as bait before assessing any potential violation, could potentially complicate enforcement. On the VMS requirement, two other alternatives have been considered. Alternative 1 (status quo), which does not require VMS, is the least costly to small entities but does not address vital enforcement and at-sea rescue issues. Similar to the final rule, Alternative 3 requires VMS; however, this alternative would only require vessel owners to pay for yearly communication costs. If government resources are available, this alternative would be more favorable to the industry than the final rule. Regarding changes to the framework procedure, the only other alternative is the no action alternative, which could potentially create some confusion in the way a TAC is established by the Council. Regarding sea turtle and smalltooth sawfish bycatch, five other alternatives have been considered. Alternative 1 (status quo) is the least costly of all alternatives to small entities, but it would not address the bycatch of sea turtles and smalltooth sawfish in commercial and for-hire reef fish vessels. Alternative 2, which requires commercial vessels to abide by the release protocols in effect in the HMS longline fishery, would impose a compliance cost ranging from $202 to $380. Alternative 3, which requires the commercial reef fish fleet to comply with the more stringent requirement in place in the HMS pelagic longline fishery, would carry a compliance cost of $712 to $1,282 per vessel. Alternative 4 requires for-hire reef fish vessels to comply with either the less stringent release protocol as in Alternative 2 or the more stringent release protocol as in Alternative 3. The corresponding compliance costs per vessel would be similar to those in Alternative 2 or 3. Alternative 5, which requires commercial and for-hire reef fish vessels to comply with the sea turtle release protocols in place for the Atlantic HMS bottom longline vessels, would impose a compliance cost of $202 to $380 per vessel.

Copies of the FRFA are available from NMFS (see **ADDRESSES**).

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' As part of the rulemaking process, NMFS prepared a fishery bulletin, which also serves as a small entity compliance guide. The fishery bulletin will be sent to all vessel permit holders for the Gulf reef fish fishery.

This final rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA) and which have been approved by OMB under control number 0648–0544. Following are estimated average public reporting burdens, per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information: (1) VMS installation—4 hours; (2) completion and submission of certification of VMS installation and activation—15 minutes; (3) transmission of position reports—24 seconds; (4) fishing activity reports—1 minute; (5) annual maintenance of VMS—2 hours; (6) submission of requests for power down exemptions—10 minutes; and (7) annual renewal of all permits—15 minutes. Send comments regarding these burden estimates or any other aspect of the collection-of-information requirements, including suggestions for reducing burden hours, to NMFS (see **ADDRESSES**) and by email to *David_Rostker@omb.eop.gov*, or fax to 202–395–7285.

Notwithstanding any other provision of the 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

50 CFR Part 622

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

50 CFR Part 635

Endangered and threatened species, Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Statistics, Treaties.

Dated: August 3, 2006.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

■ For the reasons set out in the preamble, 50 CFR parts 622 and 635 are amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

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

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

■ 2. In § 622.2, the definitions of ''Charter vessel'' and ''Headboat'' are revised in alphabetical order to read as follows:

§ 622.2 Definitions and acronyms.

* * * * *

Charter vessel means a vessel less than 100 gross tons (90.8 mt) that is subject to the requirements of the USCG to carry six or fewer passengers for hire and that engages in charter fishing at any time during the calendar year. A charter vessel with a commercial permit, as required under § 622.4(a)(2), is considered to be operating as a charter vessel when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew. However, a charter vessel that has a charter vessel permit for Gulf reef fish, a commercial vessel permit for Gulf reef fish, and a valid Certificate of Inspection (COI) issued by the USCG to carry passengers for hire will not be considered to be operating as a charter vessel provided—

(1) It is not carrying a passenger who pays a fee; and

(2) When underway for more than 12 hours, that vessel meets, but does not exceed the minimum manning requirements outlined in its COI for vessels underway over 12 hours; or when underway for not more than 12 hours, that vessel meets the minimum manning requirements outlined in its COI for vessels underway for not more than 12-hours (if any), and does not exceed the minimum manning requirements outlined in its COI for

vessels that are underway for more than 12 hours.

* * * * *

Headboat means a vessel that holds a valid Certificate of Inspection (COI) issued by the USCG to carry more than six passengers for hire.

(1) A headboat with a commercial vessel permit, as required under § 622.4(a)(2), is considered to be operating as a headboat when it carries a passenger who pays a fee or—

(i) In the case of persons aboard fishing for or possessing South Atlantic snapper-grouper, when there are more persons aboard than the number of crew specified in the vessel's COI; or

(ii) In the case of persons aboard fishing for or possessing coastal migratory pelagic fish, when there are more than three persons aboard, including operator and crew.

(2) However a vessel that has a headboat permit for Gulf reef fish, a commercial vessel permit for Gulf reef fish, and a valid COI issued by the USCG to carry passengers for hire will not be considered to be operating as a headboat provided—

(i) It is not carrying a passenger who pays a fee; and

(ii) When underway for more than 12 hours, that vessel meets, but does not exceed the minimum manning requirements outlined in its COI for vessels underway over 12 hours; or when underway for not more than 12 hours, that vessel meets the minimum manning requirements outlined in its COI for vessels underway for not more than 12-hours (if any), and does not exceed the minimum manning requirements outlined in its COI for vessels that are underway for more than 12 hours.

* * * * *

■ 3. In § 622.4, paragraph (h)(1) is revised, and a sentence is added at the end of paragraph (m)(1) to read as follows:

§ 622.4 Permits and fees.

* * * * *

(h) * * *

(1) *Vessel permits, licenses, and endorsements and dealer permits.* A vessel owner or dealer who has been issued a permit, license, or endorsement under this section must renew such permit, license, or endorsement on an annual basis. The RA will mail a vessel owner or dealer whose permit, license, or endorsement is expiring an application for renewal approximately 2 months prior to the expiration date. A vessel owner or dealer who does not receive a renewal application from the RA by 45 days prior to the expiration date of the permit, license, or endorsement must contact the RA and request a renewal application. The applicant must submit a completed renewal application form and all required supporting documents to the RA prior to the applicable deadline for renewal of the permit, license, or endorsement and at least 30 days prior to the date on which the applicant desires to have the permit made effective. If the RA receives an incomplete application, the RA will notify the applicant of the deficiency. If the applicant fails to correct the deficiency within 30 days of the date of the RA's letter of notification, the application will be considered abandoned. A permit, license, or endorsement that is not renewed within the applicable deadline will not be reissued.

* * * * *

(m) * * *

(1) * * * An application for renewal or transfer of a commercial vessel permit for Gulf reef fish will not be considered complete until proof of purchase, installation, activation, and operational status of an approved VMS for the vessel receiving the permit has been verified by NMFS VMS personnel.

* * * * *

■ 4. In § 622.7, paragraph (ff) is added to read as follows:

§ 622.7 Prohibitions.

* * * * *

(ff) Fail to comply with the protected species conservation measures as specified in § 622.10.

■ 5. Section 622.9 is revised to read as follows:

§ 622.9 Vessel monitoring systems (VMSs).

(a) *Requirements for use of a VMS*—(1) *South Atlantic rock shrimp.* An owner or operator of a vessel that has been issued a limited access endorsement for South Atlantic rock shrimp must ensure that such vessel has an operating VMS approved by NMFS for use in the South Atlantic rock shrimp fishery on board when on a trip in the South Atlantic. 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.

(2) *Gulf reef fish.* 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 whether or not the vessel is underway, unless exempted by NMFS under the power down exemption of the NOAA Enforcement Draft Vessel Monitoring System Requirements as included in Appendix E to Final Amendment 18A to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico. The NOAA Enforcement Draft Vessel Monitoring System Requirements document is available from NMFS, Office of Enforcement, 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. 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. 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. The VMS requirements of this paragraph apply throughout the Gulf of Mexico. An owner or operator of a vessel that has been issued a commercial vessel permit for Gulf reef fish with a fish trap endorsement and that fishes exclusively with fish traps is exempt from the VMS requirements of this paragraph through February 7, 2007.

(b) *Installation and activation of a VMS.* Only a VMS that has been approved by NMFS for the applicable fishery may be used, and the VMS must be installed by a qualified marine electrician. When installing and activating the NMFS-approved VMS, or when reinstalling and reactivating such VMS, the vessel owner or operator must—

(1) Follow procedures indicated on a NMFS-approved installation and activation checklist for the applicable fishery, which is available from NMFS, Office of Enforcement, Southeast Region, 263 13th Avenue South, St. Petersburg, FL 33701; phone: 800–758–4833; and

(2) Submit to NMFS, Office of Enforcement, Southeast Region, 263 13th Avenue South, St. Petersburg, FL 33701, a statement certifying compliance with

the checklist, as prescribed on the checklist.

(3) Submit to NMFS, Office of Enforcement, Southeast Region, 263 13th Avenue South, St. Petersburg, FL 33701, a vendor-completed installation certification checklist, which is available from NMFS, Office of Enforcement, Southeast Region, 263 13th Avenue South, St. Petersburg, FL 33701; phone: 800–758–4833.

(c) *Interference with the VMS.* No person may interfere with, tamper with, alter, damage, disable, or impede the operation of the VMS, or attempt any of the same.

(d) *Interruption of operation of the VMS.* When a vessel's VMS is not operating properly, the owner or operator must immediately contact NMFS, Office of Enforcement, Southeast Region, 263 13th Avenue South, St. Petersburg, FL 33701, phone: 800–758–4833, and follow instructions from that office. If notified by NMFS that a vessel's VMS is not operating properly, the owner and operator must follow instructions from that office. In either event, such instructions may include, but are not limited to, manually communicating to a location designated by NMFS the vessel's positions or returning to port until the VMS is operable.

(e) *Access to position data.* As a condition of authorized fishing for or possession of fish in a fishery subject to VMS requirements in this section, a vessel owner or operator subject to the requirements for a VMS in this section must allow NMFS, the USCG, and their authorized officers and designees access to the vessel's position data obtained from the VMS.

■ 6. In subpart A, § 622.10 is added to read as follows:

§ 622.10 Conservation measures for protected resources.

(a) *Atlantic dolphin and wahoo pelagic longliners.* The owner or operator of a vessel for which a commercial permit for Atlantic dolphin and wahoo has been issued, as required under § 622.4(a)(2)(xii), and that has on board a pelagic longline must post inside the wheelhouse the sea turtle handling and release guidelines provided by NMFS. Such owner or operator must also comply with the sea turtle bycatch mitigation measures, including gear requirements and sea turtle handling requirements, as specified in § 635.21(c)(5)(i) and (ii) of this chapter, respectively. For the purpose of this paragraph, a vessel is considered to have pelagic longline gear on board when a power-operated longline hauler, a mainline, floats capable of supporting the mainline, and leaders (gangions) with hooks are on board. Removal of any one of these elements constitutes removal of pelagic longline gear.

(b) *Gulf reef fish commercial vessels and charter vessels/headboats*—(1) *Sea turtle conservation measures.* The owner or operator of a vessel for which a commercial vessel permit for Gulf reef fish or a charter vessel/headboat permit for Gulf reef fish has been issued, as required under §§ 622.4(a)(2)(v) and 622.4(a)(1)(i), respectively, must post inside the wheelhouse, or within a waterproof case if no wheelhouse, a copy of the document provided by NMFS titled, ''Careful Release Protocols for Sea Turtle Release With Minimal Injury,'' and must post inside the wheelhouse, or in an easily viewable area if no wheelhouse, the sea turtle handling and release guidelines provided by NMFS. Those permitted vessels with a freeboard height of 4 ft (1.2 m) or less must have on board a dipnet, short-handled dehooker, long-nose or needle-nose pliers, bolt cutters, monofilament line cutters, and at least two types of mouth openers/mouth gags. This equipment must meet the specifications described in 50 CFR 635.21(c)(5)(i)(E) through (L) with the following modifications: the dipnet handle can be of variable length, only one NMFS approved short-handled dehooker is required (i.e., CFR 635.21(c)(5)(i)(G) or (H)); and life rings, seat cushions, life jackets, and life vests may be used as alternatives to tires for cushioned surfaces as specified in 50 CFR 635.21(c)(5)(i)(F). Those permitted vessels with a freeboard height of greater than 4 ft (1.2 m) must have on board a dipnet, long-handled line clipper, a short-handled and a long-handled dehooker, long-nose or needle-nose pliers, bolt cutters, monofilament line cutters, and at least two types of mouth openers/mouth gags. This equipment must meet the specifications described in 50 CFR 635.21(c)(5)(i)(A) through (L) with the following modifications: only one NMFS approved long-handled dehooker (50 CFR 635.21(c)(5)(i)(B) or (C)) and one NMFS-approved short-handled dehooker (50 CFR 635.21(c)(5)(i)(G) or (H)) are required; and life rings, seat cushions, life jackets, and life vests may be used as alternatives to tires for cushioned surfaces as specified in 50 CFR 635.21(c)(5)(i)(F).

(2) *Smalltooth sawfish conservation measures.* The owner or operator of a vessel for which a commercial vessel permit for Gulf reef fish or a charter vessel/headboat permit for Gulf reef fish has been issued, as required under §§ 622.4(a)(2)(v) and 622.4(a)(1)(i), respectively, that incidentally catches a smalltooth sawfish must—

(i) Keep the sawfish in the water at all times;

(ii) If it can be done safely, untangle the line if it is wrapped around the saw;

(iii) Cut the line as close to the hook as possible; and

(iv) Not handle the animal or attempt to remove any hooks on the saw, except for with a long-handled dehooker.

■ 7. In § 622.31, paragraph (n) is added to read as follows:

§ 622.31 Prohibited gear and methods.

* * * * *

(n) Gulf reef fish other than sand perch or dwarf sand perch may not be used as bait in any fishery, except that, when purchased from a fish processor, the filleted carcasses and offal of Gulf reef fish may be used as bait in trap fisheries for blue crab, stone crab, deep-water crab, and spiny lobster.

■ 8. In § 622.34, a sentence is added at the end of paragraph (l) to read as follows:

§ 622.34 Gulf EEZ seasonal and/or area closures.

* * * * *

(l) * * * Also note that if commercial quantities of Gulf reef fish, i.e., Gulf reef fish in excess of applicable bag/possession limits, are on board the vessel, no bag limit of Gulf reef fish may be possessed, as specified in § 622.39(a)(5).

* * * * *

■ 9. In § 622.36, a sentence is added at the end of paragraph (a) to read as follows:

§ 622.36 Seasonal harvest limitations.

(a) * * * Also note that if commercial quantities of Gulf reef fish, i.e., Gulf reef fish in excess of applicable bag/possession limits, are on board the vessel, no bag limit of Gulf reef fish may be possessed, as specified in § 622.39(a)(5).

* * * * *

■ 10. In § 622.37, paragraph (d)(4) is added to read as follows:

§ 622.37 Size limits.

* * * * *

(d) * * *

(4) A person aboard a vessel that has a Federal commercial vessel permit for Gulf reef fish and commercial quantities of Gulf reef fish, i.e., Gulf reef fish in excess of applicable bag/possession limits, may not possess any Gulf reef fish that do not comply with the applicable commercial minimum size limit.

* * * * *

■ 11. In § 622.38, a sentence is added at the end of paragraph (d)(1) introductory text to read as follows:

§ 622.38 Landing fish intact.

* * * * *

(d) * * *

(1) * * * See § 622.31(m) regarding a prohibition on the use of Gulf reef fish as bait.

* * * * *

■ 12. In § 622.39, paragraph (a)(2)(iii) is revised, and paragraph (a)(5) is added to read as follows:

§ 622.39 Bag and possession limits.

(a) * * *

(2) * * *

(iii) For a species/species group when its quota has been reached and closure has been effected, provided that no commercial quantities of Gulf reef fish, i.e., Gulf reef fish in excess of applicable bag/possession limits, are on board as specified in paragraph (a)(5) of this section.

* * * * *

(5) A person aboard a vessel that has a Federal commercial vessel permit for Gulf reef fish and commercial quantities of Gulf reef fish, i.e., Gulf reef fish in excess of applicable bag/possession limits, may not possess Gulf reef fish caught under a bag limit.

* * * * *

§ 622.41 [Amended]

■ 13. In § 622.41, paragraph (l)(2) is removed and reserved.

■ 14. In § 622.43, paragraph (a)(1)(i) is revised to read as follows:

§ 622.43 Closures.

(a) * * *

(1) * * *

(i) *Commercial quotas.* The application of bag limits described in this paragraph (a)(1)(i) notwithstanding, bag limits of Gulf reef fish may not be possessed on board a vessel with commercial quantities of Gulf reef fish, i.e., Gulf reef fish in excess of applicable bag/possession limits, on board, as specified in § 622.39(a)(5).

(A) If the recreational fishery for the indicated species is open, the bag and possession limits specified in § 622.39(b) apply to all harvest or possession in or from the Gulf EEZ of the indicated species, and the sale or purchase of the indicated species taken from the Gulf EEZ is prohibited. In addition, the bag and possession limits for red snapper, when applicable, apply on board a vessel for which a commercial permit for Gulf reef fish has been issued, as required under § 622.4(a)(2)(v), without regard to where such red snapper were harvested.

(B) If the recreational fishery for the indicated species is closed, all harvest or possession in or from the Gulf EEZ of the indicated species is prohibited.

* * * * *

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

■ 15. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

■ 16. In § 635.4, the second sentence of paragraph (m)(1) is revised to read as follows:

§ 635.4 Permits and fees.

* * * * *

(m) * * *

(1) * * * A renewal application must be submitted to NMFS, at an address designated by NMFS, at least 30 days before a permit's expiration to avoid a lapse of permitted status. * * *

* * * * *

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