

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Manufacturer	VSP	VSA	VCP	Model type(s)	Body	Model year(s)
Toyota	328			RAV4		1996
Toyota	200			Van		1987–1988
Triumph (MC)	311			Thunderbird		1995–1999
Triumph (MC)	409			TSS		1982
Vespa (MC)	378			ET2, ET4		2001–2002
Volkswagen	306			Eurovan		1993–1994
Volkswagen	80			Golf		1988
Volkswagen	159			Golf		1987
Volkswagen	92			Golf III		1993
Volkswagen	467			Golf Rallye		1989
Volkswagen	73			Golf Rallye		1988
Volkswagen	149			GTI (Canadian market)		1991
Volkswagen	274			Jetta		1994–1996
Volkswagen	148			Passat 4-door Sedan		1992
Volkswagen	42			Scirocco		1986
Volkswagen	251			Transporter		1990
Volkswagen	284			Transporter		1988–1989
Volvo	43			262C		1981
Volvo	137			740 GL		1992
Volvo	87			740 Sedan		1988
Volvo	286			850 Turbo		1995–1998
Volvo	95			940 GL		1993
Volvo	137			940 GL		1992
Volvo	132			945 GL		1994
Volvo	176			960 Sedan & Wagon		1994
Volvo	434			C70		2000
Volvo	335			S70		1998–2000
Yamaha (MC)	113			FJ1200 (4 CR)		1991
Yamaha (MC)			23	FJR 1300		2002
Yamaha (MC)	360			R1		2000
Yamaha (MC)	171			RD-350		1983
Yamaha (MC)	301			Virago		1990–1998

Issued on: September 15, 2006.

Nicole R. Nason,
Administrator.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 051128312–6192–02; I.D. 111605A]

RIN 0648–AS15

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery of the Gulf of Mexico; Amendment 13

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 13 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (Amendment 13), as prepared and

submitted by the Gulf of Mexico Fishery Management Council (Council). This final rule establishes a 10-year moratorium on issuance of Federal Gulf shrimp vessel permits; requires owners of vessels fishing for or possessing royal red shrimp from the Gulf of Mexico exclusive economic zone (EEZ) to have a royal red shrimp endorsement; requires owners or operators of all federally permitted Gulf shrimp vessels to report information on landings and vessel and gear characteristics; and requires vessels selected by NMFS to carry observers and/or install an electronic logbook provided by NMFS. In addition, Amendment 13 establishes biological reference points for penaeid shrimp and status determination criteria for royal red shrimp. The intended effects of this final rule are to provide essential fisheries data, including bycatch data, needed to improve management of the fishery and to control access to the fishery. Finally, NMFS informs the public of the 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 October 26, 2006.

ADDRESSES: Copies of the Final Regulatory Flexibility Analysis (FRFA) may be obtained from Steve Branstetter, NMFS, Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701; telephone 727–824–5305; fax 727–824–5308; e-mail Steve.Branstetter@noaa.gov.

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 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: Steve Branstetter, telephone: 727–551–5796; fax: 727–824–5308; e-mail: Steve.Branstetter@noaa.gov.

SUPPLEMENTARY INFORMATION: The shrimp fishery in the Gulf of Mexico is managed under the FMP. The FMP was prepared by the Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

On November 23, 2005, NMFS published a notice of availability of

Amendment 13 and requested public comment (70 FR 70780). On April 5, 2006, NMFS published the proposed rule to implement Amendment 13 and requested public comment on the proposed rule (71 FR 17062). NMFS approved Amendment 13 on February 21, 2006. The rationale for the measures in Amendment 13 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 the comments NMFS received on Amendment 13 and the proposed rule and the respective NMFS' responses.

Comment 1: Penaeid shrimp stocks are not overfished or undergoing overfishing, thus, there is no biological reason for a moratorium on the issuance of new vessel permits in the Gulf penaeid shrimp fishery. The only rationale for such action is based on economics, in violation of national standard 5.

Response: NMFS disagrees there is no biological reason to establish a moratorium in the Gulf shrimp fishery. Although shrimp stocks are not overfished or undergoing overfishing, shrimp effort directly impacts bycatch species, such as the overfished red snapper stock. The intent of the moratorium is to cap the fishery at its recent level of participants and reduce the possibility of future entry into the fishery should the currently poor economic situation change. Capping participation in the fishery reduces the potential for future increases in red snapper bycatch and improves the probability of rebuilding this overfished stock.

Comment 2: The Council violated the National Environmental Policy Act and the Administrative Procedures Act by taking final action on an incomplete document. As requested by the Council, NMFS presented new information to the Council as a hand-out at the meeting. The Council members had little time to review the new information before taking final action on the amendment. The completed analyses were not incorporated into the document when the Council voted to submit the amendment to the Secretary of Commerce.

Response: At its March 2005 meeting, the Council added new alternatives to the document to consider a more recent control date for the fishery. One possible date was May 2, 2005. Analyses of the impacts of this potential control date could not be entirely completed prior to the Council's review of the document during its May 11–12, 2005, meeting. NMFS' preliminary results

presented to the Council at the May 2005 meeting did provide comparative information among the various alternatives, and the results did not change with subsequent post-meeting completion of the analytical report. Therefore, the information before the Council at its May 2005 meeting was accurate, and provided the Council with a sound basis for making an informed decision. The verbatim minutes of the May 2005 Council meeting illustrate the extensive and informed discussions among Council members regarding the comparative impacts and benefits attributable to the various control date alternatives.

Comment 3: The Council considered more current control date alternatives based on public input at the March 2005 meeting from Asian American shrimp fishermen who were not aware permits had been required since December 5, 2002. By adding the new alternatives for a control date, including the May 2, 2005, date, the Council led the public to believe a change to a May 2, 2005, control date was likely. In previous actions to establish permit moratoria in the reef fish fishery, the Council revised control dates to more current dates to better ensure inclusion of active participants. Had the Council chosen the May 2, 2005, control date, an additional 285 vessels would have qualified for a moratorium permit. Maintaining the December 6, 2003, control date specifically affects small isolated fishing communities in violation of national standard 8.

Response: Between December 5, 2002, and May 2, 2005, 2,951 vessels had been issued Federal shrimp permits. Of those, 285 would not meet the December 6, 2003, control date; therefore, the number of permitted vessels under the moratorium would be 2,666. Of the 285 ineligible vessels, NMFS determined 126 were not active in the fishery during 2002 (the last year of data available during the time the Council deliberated on this issue), and may no longer be in the fishery. In addition, 87 of the remaining 159 active vessels only operated in state waters. Therefore, NMFS estimated 72 vessels active in the EEZ fishery would be excluded under the moratorium. Of these vessels, 45 are large and 27 are small, and NMFS estimated most of the impacts would be imposed on the 45 large vessels; the small vessels were more likely to continue fishing in state waters. Nevertheless, vessels can continue to fish in the EEZ by obtaining a moratorium permit through transfer. Given the number of inactive permits identified in the analysis, NMFS believes many latent permits currently

exist. Although at the present time it is not possible to assess the impacts of the very active 2005 hurricane season on the shrimp fleet, many vessels were damaged or stranded on land. These vessels may or may not become active in the fishery again. It is unknown how many were already inactive. Nevertheless, under the moratorium, owners of vessels permitted prior to the December 6, 2003, control date will be eligible for a moratorium permit. Therefore, there is expected to be a surplus of moratorium permits available for those owners of vessels who did not qualify but wish to continue participating in the fishery. Thus, NMFS disagrees that the moratorium is in violation of national standard 8. The moratorium is intended to reduce speculation in the fishery, cap capacity, and provide for the sustained participation of dependent fishing communities. With the availability of moratorium permits through transfer from inactive vessels, the moratorium should not prohibit continued participation by those wishing to do so.

Comment 4: There has been a decline in the number of participating shrimp vessels for the past 3 years due to economic conditions in the fishery. NMFS estimates this trend is expected to continue through 2012. Many permitted vessels are not currently active in the fishery because they cannot do so profitably. Consequently, there is no justification for a moratorium in the foreseeable future.

Response: Although the number of vessels has declined, until the last 2 or 3 years, effort had remained high because of increased efficiency of the vessels in the fishery, including new and larger vessels that have replaced older smaller vessels. Even so, based on the number of permits issued in the fishery, NMFS estimates there is still excess capacity in the fishery, and fewer vessels could harvest the available crop in a more profitable manner. As noted in the previous responses, the intent of the moratorium is to cap the current participation and to prevent future expansion of the fishery should economic conditions improve.

Comment 5: There was insufficient notice to the industry in regard to the permit requirement, the subsequent control date, and the establishment of a moratorium.

Response: Until the shrimp vessel permit system was implemented, NMFS did not have a specific mechanism to contact shrimp vessel owners who fished in the EEZ. However, NMFS made numerous efforts to communicate information regarding the shrimp vessel permit requirements to the industry. In

late 2002, NMFS distributed Gulf shrimp vessel permit applications to various fishermen's associations and unions, including Asian-American groups, throughout the Gulf of Mexico and South Atlantic. Outreach efforts continued through 2003 to these various communities regarding permit requirements. NMFS additionally notified the public of the final rule establishing a requirement for a shrimp vessel permit by publishing the final rule in the **Federal Register** and distributing news bulletins of this new requirement throughout the southeast region. A news bulletin was mailed in August 2002 to all existing commercial permit holders, all state agencies, enforcement groups, other Federal agencies, Sea Grant, the Gulf and Atlantic state commissions, non-governmental organizations, and the media. Another news bulletin was issued in September 2002 announcing the December 5, 2002, effective date of the permit requirement. This bulletin was distributed to all Federal, state and local government groups within NMFS' mail lists, commercial fishing associations, fishing clubs, recreational fishing associations, marinas, fishing centers, and tackle manufacturers. NMFS additionally acquired a list of all Gulf states shrimp license holders from the Gulf States Marine Fisheries Commission, and mailed a bulletin announcing the shrimp vessel permit requirement to each person within that database. In addition to NMFS' efforts during the fall of 2002, the Council distributed a news bulletin to its constituent mail list as well.

When the Council voted to establish the December 6, 2003, control date, NMFS notified the public of this action by publishing a notice in the **Federal Register** in April 2003, and distributed a news bulletin to Federal, state, and local government agencies; commercial, recreational, and non-government organizations and individuals; the media; and to the existing Federal shrimp vessel permit holders. In August 2003, NMFS issued another news bulletin to the public as a reminder to obtain a commercial shrimp vessel permit before the control date. This bulletin was distributed to the following constituent lists: all governments; commercial, recreational, and non-governmental organizations and individuals; rock shrimp permit vessel owners and dealers; and all Gulf shrimp permit vessel owners. The Council distributed a news bulletin to its constituent mail list as well.

The Council added alternatives to establish the shrimp vessel permit moratorium to Amendment 13 at its

May 2004 meeting. This action was announced in its June 2004 news bulletin. Public hearings were held on Amendment 13 throughout the Gulf of Mexico in February 2005. The dates and locations of these public hearings were published in the **Federal Register** as well as in the Council's news bulletin. The Council heard public testimony at its March 2005 meeting.

When the Council voted at its March 2005 meeting to add an alternative to Amendment 13 to consider a new 2005 control date, NMFS again sent a news bulletin to the public reminding them of the permit requirement. In addition to the normal distribution, including all shrimp vessel permit holders, this bulletin was sent to a specially created list of more than 600 known shrimp dealers in the Gulf of Mexico.

Comment 6: If a qualified vessel owned by a corporation is sold, and the corporation is then dissolved, but the officers or individual(s) behind that corporation bought a new vessel and form a new corporation, is the new corporation eligible for a moratorium permit?

Response: Under the moratorium, a person who lost ownership or use of a qualified vessel after the control date, but who obtained and permitted a replacement vessel prior to the publication of this final rule would be eligible for a moratorium permit if they can successfully demonstrate continuity of ownership. NMFS' permit records are the sole basis for determining eligibility based on permit history.

Comment 7: A person who owns a qualified vessel and is issued a moratorium permit will be limited in his/her ability to sell that vessel and upgrade to a newer vessel. Shrimp vessels are rather specialized, with limited other uses. The owner would need to retain the moratorium permit for any new vessel he/she wishes to purchase. Without transferring the shrimp vessel permit with the sale of the original vessel, the value of the original vessel will be less on the open market, if a potential buyer wants to use the vessel in the Gulf of Mexico shrimp fishery. This lower value would restrict the funds available to the owner to purchase or make a down payment on a newer, or larger, or more well-equipped vessel. This could lead to an obsolescence of the fleet.

Response: As noted in the response to Comment #3, NMFS believes there will be a surplus of moratorium permits available for transfer. An owner in such a situation as proposed by the comment has the opportunity to acquire an additional moratorium permit which will allow both his original and

replacement vessel to be permitted to continue operations in the shrimp fishery. In addition, anecdotal evidence indicates many of the vessels being sold, where a different vessel is being purchased as a replacement, are being sold to interests outside the Gulf of Mexico shrimp fishery.

Comment 8: There needs to be a mechanism to allow new entrants into the fishery if the number of moratorium permits issued is not sufficient to allow the fishery to harvest at maximum sustainable yield.

Response: Should only a limited number of moratorium permits be issued, the Council could remove the moratorium in a future amendment to the FMP. However, NMFS estimates that 2,666 shrimp vessels qualify for a moratorium permit, and this number may represent a fleet size that is still larger than the number of vessels required to harvest the available annual production of shrimp in the Gulf of Mexico. NMFS and the Council recognized that numerous vessels are not currently active in the fishery due to economic conditions, and several of these vessels may have left the fishery. In addition, a portion of the shrimp fleet was damaged and perhaps lost during the hurricanes of 2005. However, the inactive vessels would still qualify for a moratorium permit, and these permits could be transferred to a new vessel and owner should someone wish to enter the fishery.

Royal Red Shrimp Permit Endorsement

Comment 9: There is an insignificant number of vessels harvesting royal red shrimp in the Gulf of Mexico. There is no need to impose an additional cost on these vessels by requiring an endorsement to the commercial shrimp vessel permit to harvest royal red shrimp.

Response: NMFS recognizes there are only 10–20 vessels participating in this fishery. However, there is limited information in regard to the catch, effort, and costs associated with this specialized fishery. The requirement for a royal red shrimp endorsement to the shrimp vessel permit will specifically identify the universe of active or potential royal red shrimp fishermen and vessels, facilitating data collection efforts applicable to this fishery.

Reporting Requirements

Comment 10: The requirement to place electronic logbooks (ELBs) on a sample of shrimp vessels will be too big a burden on the industry and small business owners, in general. There are concerns about the reliability of the equipment under shrimping conditions,

and hired captains may not be able to maintain the logbooks in a manner to provide accurate data on bycatch. Observers would be less of a burden for small businesses and would provide unbiased data.

Response: ELBs are used as a measure of effort, not bycatch. Observers will be placed on a second random sample of shrimp vessels to document both effort and bycatch. There is no burden to the industry, or to the vessel crew, in having an ELB onboard. The ELB is designed to use Global Positioning System (GPS) information to automatically track the speed of the vessel. A pilot program using ELBs started in 1999, with increasing coverage each year. The reliability of the units, and the data product retrieved has provided substantial new information regarding the effort of the offshore shrimp fishery. The basis of the ELB program is to monitor vessel activity/movement via the GPS. Subsequent analyses of the data assume three things: (1) if the vessel is not moving, it is not fishing; (2) if the vessel is moving slowly, it is trawling; and (3) if the vessel is moving at a high rate of speed, it is in transit. There is no burden or involvement by the vessel crew in maintaining the electronic logbook onboard. The unit would be installed by an industry partner working cooperatively with NMFS, and at the end of a trip or other time frame, would be removed by the industry partner. The cost of the electronic logbooks is to be borne by NMFS, thus there is no economic cost to the industry or small business owner.

Comment 11: The various data reporting requirements (ELBs, observers, gear characterization, landings) should be voluntary, and not a condition for renewal of a vessel permit.

Response: The Magnuson-Stevens Act requires the Council to establish a standardized bycatch reporting methodology. To ensure standardization, any such methodology must incorporate a random sampling procedure that will accurately capture the various components of the fishery. Depending on the type of information needed (i.e., biological, economic, or social), a particular analysis may need to be stratified in a specific manner. For example, a study could be based on gear types, areas fished, geographic location of the participants, or size of the vessels. The existing voluntary observer program in the Gulf shrimp fishery illustrates the potential for non-representative data. Although this program has produced a large robust data base, it repeatedly used a small sample of vessels, primarily with home ports located in only two of

the five Gulf states. These vessels may not represent a random sample of the fleet. Therefore, to ensure the ability to create a random sample of the existing population of shrimp fishermen and shrimp vessels, detailed information is needed for the entire universe of participants. Providing the reporting forms as part of the permit application provides an efficient mechanism to distribute the reporting forms to the fishermen and for them to return the forms when they submit their application to renew their federal vessel permit.

Classification

The Administrator, Southeast Region, NMFS, determined that Amendment 13 is necessary for the conservation and management of the Gulf shrimp fishery and is consistent with the Magnuson-Stevens Act and other applicable laws.

This final rule has been determined to be significant for purposes of Executive Order 12866.

NMFS prepared an FRFA for this action. The FRFA incorporates the initial regulatory flexibility analysis (IRFA), a summary of the significant issues raised by the public comments in response to the IRFA, NMFS' responses to those comments, and a summary of the analyses completed to support the action. A summary of the analyses follows.

This final rule will: (1) require participants in the royal red shrimp fishery to obtain a royal red shrimp endorsement to the existing commercial shrimp vessel permit; (2) define biological reference points and status determination criteria definitions for the royal red and penaeid shrimp stocks; (3) establish a standardized bycatch reporting methodology by requiring a sample of permitted vessels to carry electronic logbooks (ELBs) and/or observers upon request; (4) require all permitted vessels to submit a vessel and gear characterization form on an annual basis; (5) establish a moratorium on the issuance of new Federal Gulf shrimp vessel permits based on the December 6, 2003 control date; and (6) require all permitted vessels to report and certify their landings.

The purpose of the final rule is to establish status determination criteria for penaeid (brown, white, and pink) and royal red shrimp stocks; enhance the collection of information; improve estimates of effort and bycatch in the fishery; and promote economic stability by reducing permit speculation and increasing vessel owners' flexibility to enter and exit the Gulf shrimp fishery.

Eleven comments were made by the public in response to the proposed rule.

No changes were made in the final rule as a result of these comments. Of the eleven comments, four raised issues regarding the economic impacts of the proposed actions. First, one comment indicated that the requirement to place ELBs on a sample of shrimp vessels will place an excessive burden on the industry and small business owners. Since the cost of the ELBs is to be borne by NMFS, there is no direct economic cost to the industry or small business owners. The only burden to the industry from this requirement is the time necessary to coordinate the installation and removal of the unit by the agency or its contractor. Second, one comment indicated that, since there is an insignificant number of vessels harvesting royal red shrimp in the Gulf of Mexico, there is no need to impose an additional cost on these vessels by requiring an endorsement to the commercial shrimp vessel permit in order to harvest royal red shrimp. The endorsement is necessary to identify the universe of active or potential royal red shrimp fishermen and vessels, and the additional cost of \$20 to obtain the endorsement is not expected to significantly reduce profit for these vessels.

Finally, two comments raised concerns with the economic impacts of the permit moratorium. The first comment stated that these impacts would specifically affect small isolated fishing communities. NMFS identified approximately 72 active vessels in the Gulf shrimp EEZ fishery that will not qualify for moratorium permits and acknowledges that certain small, isolated fishing communities could be impacted by the permit moratorium, particularly if these non-qualifying vessels are forced to cease operations in the EEZ. However, it is estimated that 27 of these vessels are small and could shift activity from the EEZ into state waters, thereby avoiding any impacts to the communities that serve these particular vessels. Furthermore, NMFS estimates that, of the qualifying 2,666 vessels, 438 were not active in the Gulf shrimp fishery in 2002. The moratorium permits issued to these inactive, qualifying vessels should be available for purchase by non-qualifying vessel owners. The expected purchase price was estimated to be approximately \$5,000. However, due to the impacts of hurricanes Rita and Katrina, the number of qualifying inactive vessels is expected to be even higher, thereby increasing the number of moratorium permits available for purchase by non-qualifying vessels, which would in turn reduce the expected purchase price and

further reduce any impacts on small, isolated communities.

The second comment asserted that the moratorium would reduce the value of a qualifying vessel, since a portion of the value would shift to the permit, which would reduce the financial capital available to the owner of the qualifying vessel who wished to sell their original vessel to acquire a newer, larger, or more well-equipped vessel. NMFS agrees that the comment is accurate if the buyer intends to use the vessel in the Federal Gulf shrimp fishery and does not already possess a moratorium permit to place on the vessel. The seller does not have to transfer the permit with the vessel; therefore, the buyer would have to purchase a moratorium permit from another seller. However, if the buyer of the vessel does not intend to use it in the Federal Gulf shrimp fishery, the seller could retain the permit and place it on their new vessel, and the sales price of the original vessel would be reflective of its value in the fishery where it is expected to be used. Considerable anecdotal information suggests that many repossessed Gulf shrimp vessels are being bought for use in other non-shrimp fisheries in the U.S. and abroad.

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

It is estimated that 2,951 small entities will be affected by the final rule. This estimate represents the number of vessels that obtained a Gulf shrimp permit with an effective date on or before May 2, 2005. Certain actions would apply to all permitted vessels, while others would only apply to a subset of those permitted vessels. The actions specific to the royal red shrimp fishery would affect 15 small entities at most, though all but one of these entities is included in the larger group of 2,951.

The average annual gross revenue per permitted vessel is estimated to be \$100,477, with a range of \$0 to \$473,564. This wide range illustrates a high degree of heterogeneity between permitted vessels with respect to their gross revenues. Further, gross revenue earned from the various fisheries these entities operate in differs considerably between vessels. On average, permitted vessels rely on the Gulf food shrimp fishery for nearly 79 percent of their gross revenues. Therefore, most permitted vessels have a relatively high degree of dependency on the Gulf food shrimp fishery. However, some permitted vessels are inactive or "latent" and appear to have no reliance on the Gulf food shrimp fishery. "Small" vessels (vessels less than 60 ft

(18.3 m) in length) generate lower gross revenues on average (\$30,568) relative to "large" vessels (vessels of 60 ft (18.3 m) or more in length) (\$132,890). The range of gross revenues for large vessels is \$0 and \$473,564 while that of small vessels is \$0 and \$246,391. All royal red shrimp vessels fall into the "large" vessel category.

The fleet of permitted vessels is much more homogeneous with respect to its physical characteristics, though some differences do exist. On average, small vessels are smaller in regards to almost all of their physical attributes (e.g., they use smaller crews, fewer and smaller nets, have less engine horsepower and fuel capacity, etc.). Small vessels are also older on average. Large vessels also tend to be steel-hulled. Conversely, fiberglass hulls are most prominent among small vessels, though steel and wood hulls are also common. Nearly two-thirds of the large vessels have freezing capabilities while few small vessels have such equipment. Small vessels rely on ice for refrigeration and storage, though more than one-third of large vessels also rely on ice. Some vessels are so small that they rely on live wells for storage.

An important difference between large and small vessels is with respect to their dependency on the food shrimp fishery. The percentage of gross revenues from food shrimp landings is nearly 87 percent for large vessels, but only slightly more than 61 percent for small vessels. Thus, on average, large vessels are more dependent than their smaller counterparts on the food shrimp fishery. However, dependency on food shrimp is much more variable within the small vessel sector than the large vessel sector. That is, many small vessels are quite dependent on food shrimp landings, while others show little if any dependency.

When examining the distribution of gross revenues across vessels, of the 2,951 permitted vessels, 554 vessels did not have any verifiable Gulf food shrimp landings in 2002. Large and small vessels comprised approximately 75 percent and 25 percent of the active group, respectively. Small vessels represented a majority (53 percent) of the inactive group. If inactive or "latent" vessels are removed from consideration, for the permitted group as a whole, dependency on Gulf shrimp revenues increases to more than 97 percent. For large vessels, dependency on Gulf shrimp revenues increased to nearly 98 percent. Consistent with the statistics above, when the inactive vessels are removed from consideration, the change in dependency on Gulf shrimp revenues is most dramatic for

the small vessels, with nearly 94 percent of their gross revenues coming from Gulf shrimp landings.

According to the most recent projections, on average, both small and large vessels are experiencing significant economic losses, ranging from a -27 percent rate of return in the small vessel sector to a -36 percent rate of return in the large vessel sector, or -33 percent on average for the fishery as a whole. Therefore, almost any but the most minor additional financial burden would be expected to generate a significant adverse impact on directly affected vessels and potentially hasten additional exit from the fishery.

The Small Business Administration defines a small business that engages in commercial fishing as a firm that is independently owned and operated, is not dominant in its field of operation, and has annual receipts up to \$3.5 million per year. There are insufficient data regarding potential ownership affiliation between vessels to identify whether an individual entity controlled sufficient numbers of vessels to achieve large entity status. Therefore, it is assumed that each vessel represents a separate business entity and, based on the revenue profiles provided above, all entities in the Gulf of Mexico shrimp fishery are assumed to be small entities. Since all permitted vessels would be directly affected by one or more of the actions in this final rule and all vessels are considered to be small entities, the final rule will affect a substantial number of small entities. However, as explained below, the vast majority of these vessels will not be impacted under the most significant actions.

The determination of significant economic impact can be ascertained by examining two issues: disproportionality and profitability. The disproportionality question is: will the regulations place a substantial number of small entities at a significant competitive disadvantage to large entities? Even though there is considerable diversity among the permitted vessels with respect to physical and operational characteristics, all entities are considered to be small entities and so disproportionality of impacts between large and small entities is not an issue.

The profitability question is: will the regulations significantly reduce profit for a substantial number of small entities? According to the most recent projections, on average, both small and large vessels are experiencing significant economic losses, ranging anywhere from a -27 percent rate of return in the small vessel sector to a -36 percent rate of return in the large vessel

sector, or -33 percent on average for the fishery as a whole. Therefore, almost any but the most minor additional financial burden would be expected to significantly reduce profit since profits are negative, on average, throughout the fishery.

The royal red shrimp endorsement requirement would result in an additional cost of \$20 to the vessels operating in this fishery. This is a minimal cost and would not significantly reduce profit for the vessels operating in this fishery.

The actions which define biological reference points and establish status determination criteria definitions for the royal red and penaeid shrimp stocks, require a sample of permitted vessels to carry ELBs and/or observers upon request, require all permitted vessels to submit a vessel and gear characterization form on an annual basis, and require all permitted vessels to report and certify their landings would not affect vessel profitability since they impose no direct financial costs. NMFS expects to cover all direct financial costs associated with the ELB and observer programs.

However, it should be noted that the reporting requirements will likely impose a minimal opportunity cost by imposing time burdens. Specifically, the requirement for all permitted vessel owners to submit a vessel and gear characterization form will generate a time burden of approximately 30 minutes per permitted vessel. According to the Bureau of Labor Statistics, the average wage of first line supervisors/managers in the fishing, forestry, and farming industries was \$18.14 per hour as of May 2003, which is the most currently available information. Therefore, the form would create an annual opportunity cost of approximately \$9 per vessel.

Additionally, all permitted vessels will be required to submit their landings information to NMFS. This information could be included on either the vessel and gear characterization form or the existing permit application form without any significant increase in the estimated time burdens associated with either form.

The single action that could impose significant costs and thereby significantly reduce the profitability of the affected small entities is the permit moratorium. The final rule limits participation to those vessels meeting the December 6, 2003 control date. Of the 2,951 permitted vessels, 285 vessels did not obtain their permits by the control date and, therefore, will not be issued a moratorium permit. However, according to the best available data, of

those 285 vessels, 126 were not active in the Gulf shrimp fishery (EEZ or state waters) and an additional 87 vessels were determined to operate exclusively in state waters. It is therefore concluded that these 213 vessels will not experience direct and adverse financial impacts as a result of losing their permits. The remaining 72 vessels, of which 45 are large and 27 are small, were active in the EEZ and therefore would experience direct and adverse financial impacts.

Assuming these 72 vessels would only lose their shrimp landings and gross revenues from the EEZ (i.e. they continue their shrimping operations in state waters), they would face revenue losses ranging between 0.8 percent and 100 percent of their gross revenues, with an average loss of 49.3 percent per vessel. The large vessels will face a larger revenue loss on average (54.3 percent) than the small vessels (29.6 percent). However, if the small vessels shift their effort entirely into state waters and the large vessels exit the Gulf shrimp fishery instead, then only the 45 large vessels would experience a loss in landings and gross revenues, though that loss would be 100 percent of their gross revenues. On the other hand, since the permits would be fully transferrable under the final rule, these 72 vessels may be able and willing to purchase a permit from a permitted vessel in order to continue current operations. Given an estimated permit purchase price of \$5,000, this cost would represent 5.7 percent of these vessels' average gross revenues. Thus, in the current, adverse economic climate in the Gulf shrimp fishery, regardless of which behavioral assumptions are made, profits would be significantly reduced for the 45 to 72 directly affected vessels that would not qualify for a moratorium permit under the final rule.

Two alternatives, including the no action alternative, were considered to the requirement for a royal red shrimp endorsement to the Gulf shrimp permit. One alternative would have created a separate royal red shrimp permit. Although the direct cost of a separate royal red shrimp permit would be the same as for a royal red shrimp endorsement to the Gulf shrimp permit, at least for participants that also possess a Gulf shrimp permit (\$20), this alternative would have eliminated the relationship between participation in the royal red shrimp fishery and possession of a Gulf shrimp permit. As a result, vessels that did not qualify under the permit moratorium action and vessels from other fisheries would be able to obtain royal red shrimp permits, though at a higher cost of \$50 per

permit, and thereby potentially introduce greater instability in the royal red shrimp fishery. Stable participation is particularly important in the royal red shrimp fishery since it is managed under a hard quota of 392,000 lb (177,808 kg). The no action alternative would not have met the Council's objective of creating a readily available means to identify participants and operations in the royal red shrimp fishery.

A total of nine alternatives, including three no action alternatives, were considered for the establishment of a standardized bycatch reporting methodology portion of the final rule. In general, the alternatives not included in the final rule would have either not met required mandates, imposed greater reporting and record keeping burdens, or not met the Council's objectives.

Two alternatives to the final rule would have required paper logbooks. Paper logbooks can impose significant impacts on small entities. Assuming a time burden of 10 minutes per daily form, and an average of 182 days at sea per vessel per year, the average annual time burden per vessel would be approximately 30.33 hours. From an economic perspective, even though there is no direct cash expense from a paper logbook program, there is an opportunity cost associated with any time burden created by additional reporting requirements. As previously noted, opportunity cost is approximated using the average wage or salary of the affected persons, who in this case would be the vessel owners and captains as they would be responsible for submitting the logbook forms. Using the average wage of first line supervisors/managers in the fishing, forestry, and farming industries, which was \$18.14 as of May 2003 according to the BLS, the average annual opportunity cost per vessel of a paper logbook reporting requirement would be approximately \$550.19 (\$18.14/hour * 30.33 hours). If only a sample of vessels were selected to report, which was also considered but not proposed, then the opportunity cost would be proportionally less and dependent on the chosen sampling rate for the fishery as a whole, but still \$550.19 annually per vessel.

An alternative to the ELB requirement would have required all permitted vessels, rather than a statistically valid sample of vessels, to use ELBs. Requiring all vessels to use ELBs would have increased the costs and burden of the program relative to the final rule. Given that the final rule does not require paper logbooks, also selecting the no action alternative for ELBs would have resulted in the Council's objective

of improving estimates of effort and bycatch in the Gulf shrimp fishery to not be met.

An alternative to the observer program would have utilized the existing voluntary observer program. However, such a system does not provide for authority to ensure adequate and random representation of the fleet. Thus, this alternative would not meet the Council's objective of improving estimates of effort and bycatch in the Gulf shrimp fishery. Given that Section 303(a)(11) of the Magnuson-Stevens Act requires the establishment of a standardized bycatch reporting methodology, and bycatch data can only be practically collected by observers in this fishery, the no action alternative would cause the Council to not be in compliance and, thus, was not chosen.

Two alternatives, including the no action alternative, were considered to the vessel and gear characterization form requirement. The no action alternative and the alternative to require only a sample of permitted vessels to submit the vessel/gear characterization form would have reduced the minimal opportunity cost associated with the form. However, since ELBs do not collect gear information and the ELB and observer programs require certain census level information to ensure that statistically valid samples are selected, both alternatives would not have met the Council's objective of improving estimates of effort and bycatch in the Gulf shrimp fishery.

One alternative was considered to the requirement for all vessels to report and certify their landings to NMFS. This alternative would have continued NMFS' current practice of only having selected vessels, as opposed to all vessels, individually report their landings information. Maintaining this current practice would severely limit the Council's ability to determine whether or not permitted vessels are active in the fishery and the extent of that participation. In turn, this lack of information would significantly hamper the Council's ability to potentially develop alternatives for long-term effort management in the fishery in the future, which is inconsistent with the Council's objectives.

Including the no action alternative, three alternatives were considered to the permit moratorium. The no action alternative would not achieve the Council's objective of promoting economic stability by reducing permit speculation and increasing vessel owners' flexibility to enter and exit the Gulf shrimp fishery.

Another alternative would have used a qualification date of May 18, 2004

rather than December 6, 2003 control date. Under this alternative, the number of non-qualifying vessels would be 161, which is 124 fewer vessels than under the final rule. Of those 161 vessels, 68 vessels were not active in the Gulf shrimp fishery and 46 operated in state waters only according to the best available data. Thus, it is concluded that these 114 vessels' profits would not have been affected under this alternative. Assuming that the remaining 47 vessels would lose all their landings and gross revenues from the EEZ, losses per vessel would range between 0.9 percent and 100 percent of their gross revenues, with an average loss in gross revenues of 48.4 percent. Conversely, if it is assumed that small vessels shift their operations into state waters and large vessels exit the fishery, then only the 26 large vessels would be directly impacted. For these vessels, they would lose 100 percent of their gross revenues. However, since the permits would be fully transferrable under this alternative, the 47 vessels that have been active in the EEZ may be able and willing to purchase a permit from a qualifying vessel in order to continue current operations. Given an estimated permit purchase price of \$5,000, this cost would represent 5.2 percent of these vessels' average gross revenues. Although this alternative would generate somewhat less adverse economic impacts relative to the action, it would also allow for a higher number of latent or speculative permit holders, which is contrary to the Council's objectives.

Another alternative would have allowed all vessels that possessed a valid permit within 1 year of the publication date of the final rule implementing these actions to qualify for a moratorium permit. Since the date of the final rule's publication is presently unknown, it was assumed that all vessels that possessed a permit on at least one day during the current calendar year would qualify under this alternative. Thus, using this assumption, 347 vessels would be denied a moratorium permit under this alternative according to currently available information. Of those 347 vessels, 88 were not active in the Gulf shrimp fishery and 72 only operated in state waters. Thus, it is concluded that these 160 vessels' profits would not have been affected under this alternative. The other 187 vessels were active in the EEZ and, thus, would have been directly impacted. Specifically, assuming these vessels would lose all their landings and gross revenues from the EEZ, the percentage losses in gross

revenues would range from 0.2 percent to 100 percent, with an average loss of 71.8 percent. If it is assumed that small vessels shift their operations into state waters and large vessels exit the fishery, then only the 168 large vessels would be directly impacted. These 168 large vessels would lose 100 percent of their gross revenues. However, since the permits would be fully transferrable under this alternative, the 187 vessels active in the EEZ may be able and willing to purchase a permit from a qualifying vessel in order to continue current operations. Given an estimated permit purchase price of \$5,000, this cost would represent 4.3 percent of these vessels' average gross revenues. However, if all the owners of these 187 vessels were to renew their permits prior to the publication of the final rule, then none of these vessels would be impacted under this alternative. Although this alternative could potentially generate less adverse economic impacts than the final rule, based on currently available information, it is more likely that it would generate greater adverse economic impacts. Furthermore, since this alternative would continue to allow individuals to apply for and receive valid permits until the publication of the final rule, it could also lead to a considerably higher number of latent or speculative permit holders, which is contrary to the Council's objectives.

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 an 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 this 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 shrimp fishery.

This final rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA) and which have been approved by OMB. Following are the OMB control numbers and the 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) Application for a royal red shrimp endorsement—0648-0205,

20 minutes; (2) electronic logbook installation and data downloads—0648–0543, 31 minutes; (3) notification for observer placement prior to a trip—0648–0205, 4 minutes; (4) vessel and gear characterization form—0648–0542, 20 minutes; (5) submission of landings data—0648–0205, 5 minutes; and (6) basis for Gulf shrimp moratorium permit—0648–0205, 1 minute. Send comments regarding these burden estimates or any other aspect of the collection-of-information requirements, including suggestions for reducing the burden, to NMFS and by e-mail to OMB (see ADDRESSES).

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 622

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

Dated: September 20, 2006.

Samuel D. Rauch III

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

■ For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

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

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

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

■ 2. In § 622.4, paragraphs (a)(2)(xi) and (g)(1) are revised, and paragraph (s) is added to read as follows:

§ 622.4 Permits and fees.

(a) * * *

(2) * * *

(xi) *Gulf shrimp fisheries*—(A) *Gulf shrimp permit*. For a person aboard a vessel to fish for shrimp in the Gulf EEZ or possess shrimp in or from the Gulf EEZ, a commercial vessel permit for Gulf shrimp must have been issued to the vessel and must be on board. See paragraph (s) of this section regarding a moratorium on commercial vessel permits for Gulf shrimp and the associated provisions. See the following paragraph, (a)(2)(xi)(B) of this section, regarding an additional endorsement requirement related to royal red shrimp.

(B) *Gulf royal red shrimp endorsement*. Effective March 26, 2007,

for a person aboard a vessel to fish for royal red shrimp in the Gulf EEZ or possess royal red shrimp in or from the Gulf EEZ, a commercial vessel permit for Gulf shrimp with a Gulf royal red shrimp endorsement must be issued to the vessel and must be on board.

* * * * *

(g) * * *

(1) *Vessel permits, licenses, and endorsements and dealer permits*. A vessel permit, license, or endorsement or a dealer permit issued under this section is not transferable or assignable, except as provided in paragraph (m) of this section for a commercial vessel permit for Gulf reef fish, in paragraph (n) of this section for a fish trap endorsement, in paragraph (o) of this section for a king mackerel gillnet permit, in paragraph (p) of this section for a red snapper license, in paragraph (q) of this section for a commercial vessel permit for king mackerel, in paragraph (r) of this section for a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish, in paragraph (s) of this section for a commercial vessel moratorium permit for Gulf shrimp, in § 622.17(c) for a commercial vessel permit for golden crab, in § 622.18(e) for a commercial vessel permit for South Atlantic snapper-grouper, or in § 622.19(e) for a commercial vessel permit for South Atlantic rock shrimp. A person who acquires a vessel or dealership who desires to conduct activities for which a permit, license, or endorsement is required must apply for a permit, license, or endorsement in accordance with the provisions of this section. If the acquired vessel or dealership is currently permitted, the application must be accompanied by the original permit and a copy of a signed bill of sale or equivalent acquisition papers. In those cases where a permit, license, or endorsement is transferable, the seller must sign the back of the permit, license, or endorsement and have the signed transfer document notarized.

* * * * *

(s) *Moratorium on commercial vessel permits for Gulf shrimp*. The provisions of this paragraph (s) are applicable through October 26, 2016.

(1) *Date moratorium permits are required*. Beginning March 26, 2007, the only valid commercial vessel permits for Gulf shrimp are those issued under the moratorium criteria in this paragraph (s).

(2) *Initial eligibility for a moratorium permit*. Initial eligibility for a commercial vessel moratorium permit for Gulf shrimp is limited to a person who

(i) Owns a vessel that was issued a Federal commercial vessel permit for Gulf shrimp on or before December 6, 2003; or

(ii) On or before December 6, 2003, owned a vessel that was issued a Federal commercial vessel permit for Gulf shrimp and, prior to September 26, 2006, owns a vessel with a Federal commercial permit for Gulf shrimp that is equipped for offshore shrimp fishing, is at least 5 net tons (4.54 metric tons), is documented by the Coast Guard, and is the vessel for which the commercial vessel moratorium permit is being applied.

(3) *Application deadline and procedures*. An applicant who desires a commercial vessel moratorium permit for Gulf shrimp must submit an application to the RA postmarked or hand delivered not later than October 26, 2007. After that date, no applications for additional commercial vessel moratorium permits for Gulf shrimp will be accepted. Application forms are available from the RA. Failure to apply in a timely manner will preclude permit issuance even when the applicant otherwise meets the permit eligibility criteria.

(4) *Determination of eligibility*. NMFS' permit records are the sole basis for determining eligibility based on permit history. An applicant who believes he/she meets the permit eligibility criteria based on ownership of a vessel under a different name, as may have occurred when ownership has changed from individual to corporate or vice versa, must document his/her continuity of ownership.

(5) *Incomplete applications*. If an application that is postmarked or hand-delivered in a timely manner is incomplete, the RA will notify the applicant of the deficiency. If the applicant fails to correct the deficiency within 30 days of the date of the RA's notification, the application will be considered abandoned.

(6) *Notification of ineligibility*. If the applicant does not meet the applicable eligibility requirements of paragraph (s)(2) of this section, the RA will notify the applicant, in writing, of such determination and the reasons for it.

(7) *Permit transferability*. Commercial vessel moratorium permits for Gulf shrimp are fully transferable, with or without the sale of the vessel. To request that the RA transfer a commercial vessel moratorium permit for Gulf shrimp, the owner of a vessel that is to receive the transferred permit must complete the transfer information on the reverse of the permit and return the permit and a completed application for transfer to the RA. Transfer

documents must be notarized as specified in paragraph (g)(1) of this section.

(8) *Renewal.* (i) Renewal of a commercial vessel moratorium permit for Gulf shrimp is contingent upon compliance with the recordkeeping and reporting requirements for Gulf shrimp specified in § 622.5(a)(1)(iii).

(ii) A commercial vessel moratorium permit for Gulf shrimp that is not renewed will be terminated and will not be reissued during the moratorium. A permit is considered to be not renewed when an application for renewal, as required, is not received by the RA within 1 year of the expiration date of the permit.

■ 3. In § 622.5, paragraph (a)(1)(iii) is revised to read as follows:

§ 622.5 Recordkeeping and reporting.

* * * * *

(a) * * *

(1) * * *

(iii) *Gulf shrimp—(A) General reporting requirement.* The owner or operator of a vessel that fishes for shrimp in the Gulf EEZ or in adjoining state waters, or that lands shrimp in an adjoining state, must provide information for any fishing trip, as requested by the SRD, including, but not limited to, vessel identification, gear, effort, amount of shrimp caught by species, shrimp condition (heads on/ heads off), fishing areas and depths, and person to whom sold.

(B) *Electronic logbook reporting.* The owner or operator of a vessel for which a Federal commercial vessel permit for Gulf shrimp has been issued and who is selected by the SRD must participate in the NMFS-sponsored electronic logbook reporting program as directed by the SRD. In addition, such owner or operator must provide information regarding the size and number of shrimp trawls deployed and the type of BRD and turtle excluder device used, as directed by the SRD. Compliance with the reporting requirements of this paragraph (a)(1)(iii)(B) is required for permit renewal.

(C) *Vessel and Gear Characterization Form.* All owners or operators of vessels applying for or renewing a commercial vessel moratorium permit for Gulf shrimp must complete an annual Gulf Shrimp Vessel and Gear Characterization Form. The form will be provided by NMFS at the time of permit application and renewal. Compliance with this reporting requirement is required for permit issuance and renewal.

(D) *Landings report.* The owner or operator of a vessel for which a Federal commercial vessel permit for Gulf

shrimp has been issued must annually report the permitted vessel's total annual landings of shrimp and value, by species, on a form provided by the SRD. Compliance with this reporting requirement is required for permit renewal.

* * * * *

■ 4. In § 622.8, paragraph (a)(5) is added to read as follows:

§ 622.8 At-sea observer coverage.

(a) * * *

(5) *Gulf shrimp.* A vessel for which a Federal commercial vessel permit for Gulf shrimp has been issued must carry a NMFS-approved observer, if the vessel's trip is selected by the SRD for observer coverage. Vessel permit renewal is contingent upon compliance with this paragraph (a)(5).

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[FR Doc. 06-8257 Filed 9-25-06; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 060418103-6181-02 ; I.D. 091806D]

Fisheries of the Northeastern United States; Spiny Dogfish Fishery; Commercial Period 1 Quota Harvested

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

ACTION: Closure of spiny dogfish fishery.

SUMMARY: NMFS announces that the spiny dogfish commercial quota available to the coastal states from Maine through Florida for the semi-annual quota period, May 1, 2006 – October 31, 2006, has been harvested. Therefore, effective 0001 hours, September 25, 2006, federally permitted commercial vessels may not fish for, possess, transfer, or land spiny dogfish until November 1, 2006, when the Period 2 quota becomes available. Regulations governing the spiny dogfish fishery require publication of this notification to advise the coastal states from Maine through Florida that the quota has been harvested and to advise vessel permit holders and dealer permit holders that no Federal commercial quota is available for landing spiny dogfish in these states. This action is necessary to prevent the fishery from exceeding its Period 1 quota and to

allow for effective management of this stock.

DATES: Quota Period 1 for the spiny dogfish fishery is closed effective at 0001 hr local time, September 25, 2006, through 2400 hr local time October 31, 2006. Effective September 25, 2006, federally permitted dealers are also advised that they may not purchase spiny dogfish from federally permitted spiny dogfish vessels.

FOR FURTHER INFORMATION CONTACT: Don Frei, Fisheries Management Specialist, at (978) 281-9221, or Don.Frei@Noaa.gov.

SUPPLEMENTARY INFORMATION: Regulations governing the spiny dogfish fishery are found at 50 CFR part 648. The regulations require annual specification of a commercial quota, which is allocated into two quota periods based upon percentages specified in the fishery management plan. The commercial quota is distributed to the coastal states from Maine through Florida, as described in § 648.230.

The initial total commercial quota for spiny dogfish for the 2006 fishing year is 4 million lb (1.81 million kg) (71 FR 40436, July 17, 2006). The commercial quota is allocated into two periods (May 1 through October 31, and November 1 through April 30). Vessel possession limits are intended to preclude directed fishing, and they are set at 600 lb (272 kg) for both quota Periods 1 and 2. Quota period 1 is allocated 2.3 million lb (1.05 million kg), and quota Period 2 is allocated 1.7 million lb (763,849 kg) of the commercial quota. The total quota cannot be exceeded, so landings in excess of the amount allocated to quota Period 1 have the effect of reducing the quota available to the fishery during quota Period 2.

The Administrator, Northeast Region, NMFS (Regional Administrator) monitors the commercial spiny dogfish quota for each quota period and, based upon dealer reports, state data, and other available information, determines when the total commercial quota will be harvested. NMFS is required to publish a notification in the **Federal Register** advising and notifying commercial vessels and dealer permit holders that, effective upon a specific date, the Federal spiny dogfish commercial quota has been harvested and no Federal commercial quota is available for landing spiny dogfish for the remainder of that quota period.

Section 648.4(b) provides that Federal spiny dogfish permit holders agree, as a condition of the permit, not to land spiny dogfish in any state after NMFS has published notification in the