

If a commenter wishes to submit certain information under a claim of confidentiality, 3 copies of the complete submission including the purportedly confidential business information should be submitted to the Chief Counsel, NHTSA at the street address shown above, and 7 copies from which the purportedly confidential information has been expunged should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in 49 CFR 512, the agency's confidential business information regulation.

All comments received on or before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available to the public for examination in the docket at the above address both before and after the closing date. To the extent possible, comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for public inspection in the docket. NHTSA will continue file relevant information in the docket after the closing date, and it is recommended that interested persons continue to monitor the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed stamped postcard in the envelope with their comments. Upon receiving the comments the docket supervisor will return the postcard by mail.

#### List of Subjects in 49 CFR Part 571

Imports, Motor vehicles, Motor vehicle safety, Rubber and rubber products, Tires.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR part 571 as follows:

#### **PART 571—[AMENDED]**

1. The authority citation for part 571 would continue to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.108 would be amended by adding in S4, in alphabetical order, definitions of "fully opened" and "headlamp concealment device," moving S11 *Photometric Test* from its position in the text following the "Note" which appears after Table IV, to a position immediately following paragraph S10(b), and adding S12 *Headlamp Concealment Devices* to read as follows:

#### **§ 571.108 Standard No. 108, Lamps, reflective devices, and associated equipment.**

\* \* \* \* \*

#### **S4. Definitions**

\* \* \* \* \*

*Fully opened* means the position of the headlamp concealment device in which the headlamp is in the design open operating position.

*Headlamp concealment device* means a device, with its operating system and components, that provides concealment of the headlamp when it is not in use, including a movable headlamp cover and a headlamp that displaces for concealment purposes.

\* \* \* \* \*

#### **S12. Headlamp Concealment Devices**

S12.1 While the headlamp is illuminated, its fully opened headlamp concealment device shall remain fully opened should any loss of power to or within the headlamp concealment device occur.

S12.2 Whenever any malfunction occurs in a component that controls or conducts power for the actuation of the concealment device, each closed headlamp concealment device shall be capable of being fully opened by a means not requiring the use of any tools. Thereafter, the headlamp concealment device must remain fully opened until intentionally closed.

S12.3 Each headlamp concealment device shall be installed so that the headlamp may be mounted, aimed, and adjusted without removing any component of the device, other than components of the headlamp assembly.

S12.4 Except for cases of malfunction covered by S12.2, each headlamp concealment device shall, within an ambient temperature range of  $-20^{\circ}$  to  $+120^{\circ}$  F., be capable of being fully opened in not more than 3 seconds after the actuation of a driver-operated control.

\* \* \* \* \*

#### **§ 571.108 [Amended]**

3. In § 571.108, a new heading is added following § 12.4 and preceding the figures to read "Figures to § 571.108".

4. In § 571.108, Figures 1a, 1b and 1c which follow § 5.1.1.6 and Figure 2 which follows § 5.1.1.18 are moved to appear after the heading "Figures to § 571.108" in numerical order.

#### **§ 571.112 [Removed and reserved]**

5. Section 571.112 would be removed in its entirety and reserved.

Issued on: April 2, 1996.

Barry Felrice,

*Associate Administrator for Safety Performance Standards.*

[FR Doc. 96-8655 Filed 4-10-96; 8:45 am]

BILLING CODE 4910-59-P

## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Parts 646 and 686**

[Docket No. 950316075-6098-02; I.D. 022696A]

RIN 0648-AH86

#### **Golden Crab Fishery Off the Southern Atlantic States; Initial Regulations; Snapper-Grouper Fishery Off the Southern Atlantic States; Revision of Definition**

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

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

**SUMMARY:** NMFS issues this proposed rule to implement all but one measure of the Fishery Management Plan for the Golden Crab Fishery of the South Atlantic Region (FMP) and to revise a complementary definition in the regulations implementing the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region. Based on a preliminary evaluation of the FMP, NMFS disapproved a measure that would require 100 percent of vessel owners/operators to maintain and submit vessel logbooks. This rule proposes restrictions on the harvest or possession of golden crab in or from the exclusive economic zone (EEZ) off the southern Atlantic states and proposes controlled access to the fishery. The intended effect of the FMP and this rule is to conserve and manage the golden crab fishery.

**DATES:** Written comments must be received by May 28, 1996.

**ADDRESSES:** Comments on the proposed rule must be sent to the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Requests for copies of the FMP, which includes a regulatory impact review (RIR), social impact assessment, and an environmental assessment, should be sent to the South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407-

4699, telephone 803-571-4366, FAX 803-769-4520.

Comments regarding the collection-of-information requirements contained in this proposed rule should be sent to Edward E. Burgess, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

**FOR FURTHER INFORMATION CONTACT:** Peter J. Eldridge, 813-570-5305.

**SUPPLEMENTARY INFORMATION:** The FMP was prepared by the South Atlantic Fishery Management Council (Council) under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

#### Background

The FMP and proposed rule address conservation and management of golden crab in or from the EEZ along the U.S. Atlantic coast from the east coast of Florida, including the Atlantic side of the Florida Keys, to the North Carolina/Virginia boundary. The FMP was developed to protect the biological integrity of the golden crab resource and to maintain economic and social benefits from the fishery by establishing a controlled access program. Because the distribution of golden crabs off the southern Atlantic states is believed to be restricted to the EEZ and the historical fishery in that area has been conducted exclusively in the EEZ, it is a rebuttable presumption of the proposed rule that all golden crab possessed were harvested from the EEZ.

The Council and NMFS are concerned about potential overfishing of the golden crab resource and overcapitalization of the fishery. Golden crabs are relatively long-lived and have slow growth rates, making them more vulnerable to overfishing. Currently the golden crab fishery is unregulated. Restrictions in other fisheries, notably net and fish trap bans in Florida and harvest restrictions in the New England groundfish and Alaskan crab fisheries, have contributed to increased interest and participation in the golden crab fishery in recent years. The Council believes that further increases in the number of vessels participating in the fishery will result in harvest capacity that greatly exceeds the maximum sustainable yield (MSY). Additional vessels entering the fishery would also contribute to overcapitalization and other social and economic problems commonly associated with open access.

This rule would: (1) Establish a controlled access program that includes

initial eligibility criteria for vessel permits, restricted fishing zones, and procedures for appeals, transfers, and renewal of permits; (2) specify authorized gear for the fishery; (3) establish gear identification requirements; (4) specify maximum allowable trap sizes; (5) require escape gaps and a degradable panel on each trap; (6) establish minimum depth limits for use of traps; (7) prohibit tending of traps by unauthorized individuals; (8) modify the definition of the term "crustacean trap" in the regulations governing the South Atlantic snapper-grouper fishery (50 CFR part 646) to accommodate use of traps in the golden crab fishery; (9) prohibit the sale of female golden crabs and limit retention of female crabs to no more than 0.5 percent, by number, of all golden crabs on board the vessel; (10) require that golden crabs be landed whole; (11) limit sale of golden crabs by permitted vessels to permitted golden crab dealers; (12) require that permitted golden crab dealers purchase golden crabs caught in the EEZ only from permitted vessels; (13) prohibit possession of snapper-grouper species in whole, gutted, or filleted form on board a vessel fishing for or possessing golden crabs; (14) establish permit and reporting requirements for fishermen and dealers; (15) require mandatory observer coverage if a vessel is selected; and (16) establish a framework regulatory adjustment procedure (framework procedure) to allow timely implementation of changes in the FMP's management measures.

Additionally, the FMP would have required that 100 percent of the owners or operators of permitted vessels maintain and submit vessel logbook information. Based on a preliminary evaluation of the FMP, the Director, Southeast Region, NMFS, (Regional Director) disapproved this measure. The Regional Director concluded that the methods of obtaining the necessary management data, and the appropriate sampling system for such data, are operational determinations properly made by NMFS. Accordingly, the Regional Director determined that the level of vessel coverage or sampling is not a matter of sufficient scope and substance warranting review under section 304(a)(1)(A) of the Magnuson Act. NMFS agrees with the Council that there is current ample justification for requiring all permitted vessels to maintain and submit vessel logbooks. Therefore, NMFS intends to select all permitted vessels to submit logbooks, for as long as that level of coverage is deemed necessary. If NMFS

subsequently determines that 100 percent logbook reporting is not required, the level of coverage can be reduced to the appropriate level without amending the FMP.

#### Permit Requirements

Permits would be required for vessels and dealers involved in the golden crab fishery in the EEZ to ensure that the universe of participants in the fishery is defined accurately and to facilitate essential data collection. For a person aboard a fishing vessel to fish for golden crab in the EEZ, possess golden crab in or from the EEZ, off-load golden crab from the EEZ, or sell golden crab in or from the EEZ, a vessel permit for golden crab would have to be issued for the vessel and would be required to be on board. An application for a vessel permit, except for permit renewal or transfer, would be required to be submitted to the Regional Director postmarked no later than 30 days after the date the final rule implementing the FMP is published in the Federal Register. No additional applications for initial vessel permits would be accepted after that date. See the discussion of the controlled access program below regarding additional restrictions related to vessel permits.

A dealer who receives from a fishing vessel golden crab harvested from the EEZ would be required to obtain a dealer permit for golden crab. To be eligible for a dealer permit, an applicant would be required to have a valid state wholesaler's license in the state where he or she operates and have a physical facility for the receipt of fish at a fixed location in that state. A dealer application would be required to be submitted to the Regional Director at least 30 days prior to the desired effective date of the permit. Dealer permits for golden crab would not be transferable or assignable.

Applications for vessel and dealer permits would be subject to a fee to cover administrative costs of issuing the permits.

#### Controlled Access Program

The Council and many participants in the golden crab fishery are concerned about the adverse impacts that could result from allowing continued open access to the fishery, e.g., overfishing, overcapitalization, intensified competition for available harvest levels, and gear and user conflict. To address these concerns, the FMP would establish a controlled access program that includes provisions for vessel permit eligibility, an appeals process, restricted fishing zones, and transfer and renewal of annual vessel permits.

Under the controlled access program, a vessel permit would be issued to the vessel owner for the vessel only if the owner meets the required documentation requirements substantiating landings of golden crab harvested from the EEZ off the southern Atlantic states (North Carolina, South Carolina, Georgia, and the Florida east coast) in quantities of at least 600 lb (272 kg) by April 7, 1995, or at least 2,500 lb (1,134 kg) by September 1, 1995. Acceptable documentation of the required landings would include landings documented by the trip ticket systems of Florida or South Carolina and trip receipts or dealer records for landings off other southern Atlantic states or for landings that occurred prior to establishment of the trip ticket systems in Florida and South Carolina, as specified in 50 CFR 686.4(a)(3). Landings history would be attributed to the owner of the vessel at the time the landings occurred unless a written agreement expressly transferred the vessel's landings history to a new owner (i.e., the landings history does not automatically transfer with a change in vessel ownership). Initial vessel permits would be issued to current vessel owners.

Appeals of the Regional Director's decision regarding initial permit eligibility would be addressed by an ad hoc appeals committee appointed by the Council and consisting only of Council members. The appeals committee would be empowered only to determine whether the permit eligibility criteria were applied correctly to the applicant's application; hardship appeals would not be considered. An applicant whose initial application was denied would have to submit a written appeal within 30 days of the Regional Director's initial decision and would have to provide written documentation explaining the basis for the appeal. An appellant would also be allowed to testify before the appeals committee. The appeals committee would meet only once to consider all appeals. Each member of the appeals committee would provide individual recommendations for each appeal to the Regional Director. The Regional Director's written decision would constitute the final administrative action by NMFS on an appeal.

As part of the controlled access program, the FMP would establish three designated fishing zones that are intended to help stabilize and optimize the distribution of fishing effort throughout the range of the fishery. The three zones are: (1) The Northern zone—that area of the EEZ north of 28° N. lat. to the North Carolina/Virginia boundary

(36°44'55" N. lat.); (2) the Middle zone—that area of the EEZ from 28° N. lat. to 25° N. lat.; and (3) the Southern zone—that area of the EEZ south of 25° N. lat. to the boundary between the jurisdictions of the South Atlantic and Gulf of Mexico Fishery Management Councils (see 50 CFR 601.11(c)). An applicant for a vessel permit would be required to specify in which zone the vessel would fish, and the permit would be valid only for that zone. Other zones could be transited only if the vessel operator notifies NMFS Southeast Law Enforcement Division in advance and does not fish in an unpermitted area.

Under the controlled access program, the transfer and renewal of vessel permits would be restricted. A vessel permit would only be transferable to a vessel that would fish for golden crab exclusively within the designated zone indicated on the permit or to a vessel that would fish exclusively in the northern zone. To obtain a vessel permit via transfer, the owner of the receiving vessel would have to acquire a permit or permits from a vessel or vessels with documented length overall, or aggregate lengths overall, of at least 90 percent of the documented overall length of the receiving vessel.

A vessel permit would be renewable only if the Science and Research Director, Southeast Fisheries Center, NMFS, (Science and Research Director), had received the required vessel logbook reports documenting that at least 5,000 lb (2,268 kg) of golden crab landed from the EEZ off the southern Atlantic states had been attributed to the permitted vessel during at least one of the two 12-month periods prior to the expiration date of the current vessel permit.

#### Reporting Requirements

Permitted vessels and dealers would be required to maintain and submit basic information essential for proper management of the fishery. Additional data may be collected by authorized statistical reporting agents or authorized officers.

The owner or operator of a permitted vessel that is selected by the Science and Research Director would be required to maintain a daily logbook form for each fishing trip. Logbook forms would have to be submitted to the Science and Research Director postmarked not later than 30 days after sale of the golden crab off-loaded from a trip. If no fishing occurred during a month, a report so stating would have to be submitted in accordance with instructions on the form. A permitted vessel selected for observer coverage

would be required to accommodate a NMFS-certified observer.

A permitted dealer who is selected by the Science and Research Director would be required to provide information to the Science and Research Director on receipts of golden crab and prices paid at monthly intervals, or more frequently if requested, postmarked not later than 5 days after the end of each month. The Council intends that, to the extent possible, the required information be provided through existing state/Federal cooperative agreements for data collection. The Science and Research Director would select a dealer to report only if the essential information were not otherwise available through the state/Federal cooperative data collection system.

#### Gear Restrictions and Requirements

A number of gear-related measures are proposed to address concerns about potential overfishing; incidental mortality of small crabs and female crabs; crab mortality due to lost traps; habitat damage; user conflict; and enforceability. Traps would be the only gear authorized for use in the directed golden crab fishery. Rope would be the only material allowed for use as a mainline or buoy line, except that wire cable would be allowed for 18 months after publication of the final rule implementing the FMP to accommodate evaluation of the impacts of that material. Traps and buoys (if used) would be required to be identified with a permanently affixed and legible permit number. Standard vessel identification requirements would be mandatory. A biodegradable escape panel and escape gaps would be required on each trap. Maximum trap volume would be 64 cubic feet (ft<sup>3</sup>) (1.81 cubic meters (m<sup>3</sup>)) in the northern zone and 48 ft<sup>3</sup> (1.36 m<sup>3</sup>) in the middle and southern zones. The minimum depths for deployment and use of golden crab traps would be 900 ft (274.3 m) in the northern zone and 700 ft (213.4 m) in the middle and southern zones. Traps could be pulled or tended only by a person on board the vessel permitted for those traps or by a person on board a permitted vessel with written authorization to pull or tend the traps.

#### Harvest and Possession Restrictions

To maximize the reproductive capacity of the stock and reduce the probability of overfishing, mortality of female crabs must be minimized. It is intended that there be no deliberate harvest of female crabs. However, a maximum retention of female crabs not to exceed 0.5 percent, by number, of all

golden crabs on board the vessel would be allowed to accommodate unavoidable incidental harvest and retention of female golden crabs. Sale of female golden crabs would be prohibited.

The proposed rule would require that golden crabs be landed whole (i.e., unprocessed). This constraint is necessary to provide effective enforcement of the restrictions on retention and sale of female golden crabs. It would be impossible to distinguish female crabs if on board processing were allowed. Landing whole crabs is consistent with current industry practice.

Possession of any species of fish in the snapper-grouper fishery in whole, gutted, or filleted form would be prohibited on board a vessel fishing for or possessing golden crab in or from the EEZ or possessing golden crab traps. (See 50 CFR 646.2 for definition and listing of such fish.) Only the skeletal remains (racks) of such fish could be possessed for use as bait. This restriction is necessary to ensure that golden crab traps would not be used to harvest snapper-grouper species.

#### Restrictions on Sale

Restrictions on sale of golden crab are proposed to ensure that the fishery is conducted only by properly permitted individuals and to assure that all landings are documented through the proposed data collection system. The proposed rule would require that golden crab harvested in the EEZ by a permitted vessel be sold, traded, or bartered only to a permitted dealer. Similarly, a permitted dealer would be allowed to purchase, barter, or trade golden crab harvested from the EEZ only from a permitted vessel. Golden crab do not occur in state waters.

#### Framework Procedure

The FMP includes a framework procedure for establishing or modifying management measures, including in-season adjustments, pertinent to the golden crab fishery. The framework procedure is intended to provide a more flexible management system that would minimize regulatory delay and allow timely management response to new information about the fishery while retaining substantial Council and public involvement in management decisions.

The following is an overview of how the framework procedure would operate. The Council would appoint an assessment panel (Panel) that would periodically assess the biological, economic, and social information relevant to the golden crab fishery and provide a report and recommendations

to the Council. The Council could take action based on the Panel's report or based on other information or issues that arise from other sources, e.g., public comment. Information from sources other than a Panel report would be compiled and analyzed in a Council staff report.

To evaluate a Panel or Council staff report, the Council would consult with the Golden Crab Advisory Panel and the Scientific and Statistical Committee and hold at least one public hearing to receive public input prior to deciding whether a management change would be necessary. If the Council concluded that a management change was needed, the Council would recommend the change, in writing, to the Regional Director. The Council's recommendations would be accompanied by the Panel or Council staff report, relevant background material, draft regulations, an RIR, a social impact statement, and public comments. This report would be submitted at least 60 days prior to the desired implementation date. The Regional Director would review the Council's recommendations, supporting rationale, public comments, and other relevant information. If the Regional Director concludes that the Council's recommendations are consistent with the goals and objectives of the FMP, the Magnuson Act's national standards, and other applicable law, the Regional Director would recommend that NMFS publish proposed and final rules in the Federal Register to implement any changes. The public comment period on the proposed rule would not be less than 15 days. If the Regional Director rejected the recommendations, he or she would provide written reasons to the Council for the rejection, and existing regulations would remain in effect pending any subsequent action.

The proposed rule would allow changes, in accordance with the framework procedures and limitations of the FMP, to the following management measures: MSY, acceptable biological catch, total allowable catch, quotas, trip limits, minimum sizes, gear restrictions, permit requirements, seasonal or area closures, time frame for recovery of golden crab if overfished, fishing year, observer requirements, and authority for the Regional Director to close the fishery when a quota is reached or is projected to be reached.

#### Magnuson Act Considerations

Section 303 of the Magnuson Act provides that a council may establish a system for limiting access to the fishery in order to achieve optimum yield if, in developing such system, the council

takes into account the following factors: (1) Present participation in the fishery; (2) historical fishing practices in, and dependence on the fishery; (3) the economics of the fishery; (4) the capability of fishing vessels used in the fishery to engage in other fisheries; (5) the cultural and social framework relevant to the fishery; and (6) any other relevant considerations.

#### Additional Information

Additional background and rationale for all management measures in this rule are contained in the FMP, the availability of which was announced in the Federal Register on March 5, 1996, (61 FR 8564).

#### Classification

Section 304(a)(1)(D) of the Magnuson Act requires NMFS to publish regulations proposed by a council within 15 days of receipt of an FMP and regulations. At this time NMFS has not determined that the FMP is consistent with the national standards, other provisions of the Magnuson Act, and other applicable laws, except for the provision of the FMP specifically disapproved, as discussed above. NMFS, in making that determination with respect to the remaining provisions of the FMP, will take into account the data, views, and comments received during the comment period.

The proposed rule has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed rule would: (1) Affect a small number of small entities; (2) result in loss of sales and value to these entities of less than 5 percent of sales; (3) not increase production or compliance costs on small entities by more than 5 percent; (4) not require capital investment to comply with the rule; and (5) not require a small entity with significant economic dependence on the golden crab fishery to cease business. As a result, a regulatory flexibility analysis was not prepared.

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 Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB control number.

This rule contains collection-of-information requirements subject to the PRA—namely, (1) initial vessel permit applications; (2) vessel permit renewals; (3) vessel permit appeals; (4) dealer permit applications; (5) vessel reports; (6) dealer reports; (7) notification requirements for purposes of accommodating observer coverage; and (8) vessel and gear identification. These requirements have been submitted to OMB for approval. The public reporting burdens for these collections of information are estimated to average 20, 15, 30, 15, 10, 15, 3, and 395 minutes per response, respectively, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding these reporting burden estimates or any other aspect of the collections of information, including suggestions for reducing the burdens, to NMFS and OMB (see ADDRESSES).

List of Subjects in 50 CFR Parts 646 and 686

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: April 5, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR chapter VI is proposed to be amended as follows:

## 50 CFR Chapter VI

### PART 646—SNAPPER-GROUPER FISHERY OFF THE SOUTHERN ATLANTIC STATES

1. The authority citation for part 646 continues to read as follows:

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

2. In § 646.2, the definition of “Crustacean trap” is revised to read as follows:

#### § 646.2 Definitions.

\* \* \* \* \*

*Crustacean trap* means a type of trap historically used in the directed fishery for blue crab, stone crab, golden crab, red crab, jonah crab, or spiny lobster and that contains at any time not more than 25 percent, by number, of fish other than blue crab, stone crab, golden crab, red crab, jonah crab, and spiny lobster.

\* \* \* \* \*

3. Part 686 is added to read as follows:

### PART 686—GOLDEN CRAB FISHERY OFF THE SOUTHERN ATLANTIC STATES

#### Subpart A—General Provisions

Sec.

- 686.1 Purpose and scope.
- 686.2 Definitions.
- 686.3 Relation to other laws.
- 686.4 Controlled access, permits, and fees.
- 686.5 Recordkeeping and reporting.
- 686.6 Vessel and gear identification.
- 686.7 Prohibitions.
- 686.8 Facilitation of enforcement.
- 686.9 Penalties.
- 686.10 At-sea observer coverage.

#### Subpart B—Management Measures

- 686.20 Fishing year.
- 686.21 Harvest and possession limitations.
- 686.22 Gear restrictions.
- 686.23 Restrictions on sale.
- 686.24 Adjustment of management measures.

686.25 Specifically authorized activities.

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

#### Subpart A—General Provisions

##### § 686.1 Purpose and scope.

(a) The purpose of this part is to implement the Fishery Management Plan for the Golden Crab Fishery of the South Atlantic Region (FMP) prepared by the South Atlantic Fishery Management Council under the Magnuson Act.

(b) This part governs conservation and management of golden crab in or from the EEZ off the southern Atlantic states. “EEZ” in this part refers to the EEZ in that geographical area, unless the context clearly indicates otherwise.

##### § 686.2 Definitions.

In addition to the definitions in the Magnuson Act and in § 620.2 of this chapter, the terms used in this part have the following meanings:

*Authorized statistical reporting agent* means:

- (1) Any person so designated by the Science and Research Director; or
- (2) Any person so designated by the head of any Federal or State agency which has entered into an agreement with the Assistant Administrator to collect fishery data.

*Golden crab* means the species *Chaceon fenneri*.

*Golden crab trap* means any trap used or possessed in association with a directed fishery for golden crab in or from the EEZ, including any trap that contains a golden crab in or from the EEZ or any trap on board a vessel that possesses golden crab in or from the EEZ.

*Off the southern Atlantic states* means the waters off the east coast from 36°34'55" N. lat. (extension of the Virginia/North Carolina boundary) to

the boundary between the Atlantic Ocean and the Gulf of Mexico, as specified in § 601.11(c) of this chapter.

*Regional Director* means the Director, Southeast Region, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702, telephone 813-570-5301; or a designee.

*Science and Research Director* means the Science and Research Director, Southeast Fisheries Science Center, NMFS, 75 Virginia Beach Drive, Miami, FL 33149, telephone 305-361-5761; or a designee.

*Whole*, when referring to golden crab, means a crab that is in its natural condition and that has not been gutted or separated into component pieces, e.g., clusters.

##### § 686.3 Relation to other laws.

The relation of this part to other laws is set forth in § 620.3 of this chapter.

##### § 686.4 Controlled access, permits, and fees.

(a) *Vessel permits—controlled access.*

(1) *Applicability.* Vessel permits are subject to a controlled access program. For a person aboard a vessel to fish for golden crab in the EEZ, possess golden crab in or from the EEZ, off-load golden crab from the EEZ, or sell golden crab in or from the EEZ, a vessel permit for golden crab must be issued for the vessel and be on board. It is a rebuttable presumption that a golden crab on board or off-loaded from a vessel off the southern Atlantic states was harvested from the EEZ.

(2) *Initial Eligibility.* The owner of a vessel is eligible to receive an initial vessel permit to fish for, possess, offload, or sell golden crab if the owner meets the documentation requirements described in paragraph (a)(3) of this section substantiating his or her landings of golden crab harvested from the EEZ off the southern Atlantic states in quantities of at least 600 lb (272 kg) by April 7, 1995, or at least 2,500 lb (1,134 kg) by September 1, 1995. Only the owner of a vessel at the time landings occurred may use those landings to meet the eligibility requirements described in this paragraph (a)(2), except if that person transferred the right to use those landings to another person through a written agreement. If evidence of such agreement is provided to the Regional Director, the person who received the rights to the landings may use those landings to meet the eligibility requirements instead of the owner of the vessel at the time the landings occurred.

(3) *Documentation of eligibility.* The documentation requirements described in this paragraph are the only acceptable

means for an owner to establish eligibility for an initial vessel permit. Failure to meet the documentation requirements, including submission of data as required, will result in failure to qualify for an initial vessel permit. Acceptable sources of documentation include: Landings documented by the trip ticket systems of Florida or South Carolina as described in paragraph (a)(3)(i) of this section and data substantiating landings that occurred prior to establishment of the respective trip ticket systems or landings that occurred in North Carolina or Georgia as described in paragraph (a)(3)(ii) of this section.

(i) *Trip ticket data.* NMFS has access to records of golden crab landings reported under the trip ticket systems in Florida and South Carolina. No further documentation or submission of these records is required if the applicant was the owner of the harvesting vessel at the time of the landings documented by these records. Landings reported under these trip ticket systems and received by the respective states prior to December 31, 1995, are conclusive as to landings in the respective states during the period that landing reports were required or voluntarily submitted by a vessel. For such time periods, landings data from other sources will not be considered for landings in these states. An applicant will be given printouts of trip ticket records for landings made when the applicant owned the harvesting vessel. An applicant will have an opportunity to submit records they believe were omitted or to clarify allocation of landings.

(ii) *Additional landings data.* (A) An owner of a vessel that does not meet the criteria for initial eligibility for a vessel permit based on landings documented by the trip ticket systems of Florida or South Carolina may submit documentation of required landings that either occurred prior to the implementation of the respective trip ticket systems or occurred in North Carolina or Georgia. Acceptable documentation of such landings consists of trip receipts or dealer records that definitively show the species known as golden crab, the vessel's name, official number, or other reference that clearly identifies the vessel, and dates and amounts of golden crab landings. In addition, a sworn affidavit may be submitted to document landings. A sworn affidavit is a notarized written statement wherein the individual signing the affidavit affirms under penalty of perjury that the information presented is accurate to the best of his or her knowledge, information, and belief.

(B) Documentation by a combination of trip receipts and dealer records is acceptable, but duplicate records for the same landings will not result in additional credit.

(C) Additional data submitted under paragraph (a)(3)(ii) of this section must be attached to a Golden Crab Landings Data form, which is available from the Regional Director, and must be postmarked not later than 30 days after the publication date of the final rule implementing the FMP.

(iii) *Verification.* Documentation of golden crab landings and other information submitted under this section are subject to verification by comparison with state, Federal, and other records and information. Submission of false documentation or information may disqualify a person from initial participation under the golden crab controlled access program.

(4) *Application procedure.* Permit application forms are available from the Regional Director. An application for an initial vessel permit that is postmarked or hand-delivered after the date 30 days after publication of the final rule implementing the FMP will not be accepted. Application for renewal of an existing vessel permit may be submitted up to 2 months prior to expiration. Application for transfer of an existing vessel permit may be submitted at any time.

(i) An application for a vessel permit must be submitted and signed by the owner (in the case of a corporation, an officer or shareholder who meets the requirements of § 686.4(a)(2); in the case of a partnership, a general partner who meets these requirements) or operator of the vessel. All permits are mailed to owners, whether the applicant is an owner or an operator.

(ii) A permit applicant must provide the following information:

(A) A copy of the vessel's valid U.S. Coast Guard certificate of documentation or, if not documented, a copy of its valid state registration certificate.

(B) Vessel name and official number.

(C) Name, address, telephone number, and other identifying information of the vessel owner and of the applicant, if other than the owner.

(D) Documentation of initial eligibility as specified in paragraphs (a)(2) and (a)(3) of this section.

(E) The designated fishing zone, as specified in paragraph (a)(8) of this section, in which the vessel will fish.

(F) Any other information concerning the vessel, gear characteristics, principal fisheries engaged in, or fishing areas requested by the Regional Director.

(G) Any other information that may be necessary for the issuance or administration of the permit, as requested by the Regional Director and included on the application form.

(5) *Issuance.* (i) Under the controlled access program, there will be only one period for the issuance of vessel permits, except for renewals or transfers of existing permits. The Regional Director will issue an initial vessel permit to an applicant no later than 90 days after publication of the final rule implementing the FMP if the application is complete and the eligibility requirements specified in paragraph (a)(2) of this section are met.

(ii) Upon receipt of an incomplete application, the Regional Director will notify the applicant of the deficiency. If the applicant fails to correct the deficiency within 30 days of the date of the Regional Director's notification, the application will be considered abandoned.

(6) *Appeals.* (i) An appeal of the Regional Director's decision regarding initial permit eligibility will be addressed by an ad hoc appeals committee appointed by the South Atlantic Fishery Management Council.

(ii) The appeals committee is empowered only to deliberate whether the eligibility criteria specified in paragraph (a)(2) of this section were applied correctly to the appellant's application. In making that determination, the appeals committee will consider only disputed calculations and determinations based on documentation provided as specified in paragraph (a)(3) of this section, including transfers of such landings records. The appeals committee is not empowered to consider whether a person should have been eligible for a vessel permit because of hardship or other factors.

(iii) A written request for consideration of an appeal must be submitted within 30 days of an initial decision by the Regional Director denying permit issuance and must provide written documentation supporting the basis for the appeal. Such a request must contain the appellant's acknowledgment that the confidentiality provisions of the Magnuson Act at 16 U.S.C. 1853(d) and 50 CFR part 603 are waived with respect to any information supplied by the Regional Director to the Council and its advisory bodies for purposes of receiving the recommendations of the appeals committee members on the appeal. An appellant may also make a personal appearance before the appeals committee.

(iv) The appeals committee will meet only once to consider appeals submitted within the time period specified in paragraph (a)(6)(iii) of this section. Members of the appeals committee will provide their individual recommendations for each appeal to the Regional Director. Members of the appeals committee will comment upon whether the eligibility criteria, specified in the FMP and in paragraph (a)(2) of this section, were correctly applied in each case, based solely on the available record, including documentation submitted by the appellant. The Regional Director will decide the appeal based on the the initial eligibility criteria in paragraph (a)(2) of this section and the available record, including documentation submitted by the appellant and the recommendations and comments from members of the appeals committee. The Regional Director will notify the appellant of his decision and the reason therefore, in writing, normally within 30 days of receiving the recommendations from the appeals committee members. The Regional Director's decision will constitute the final administrative action by NMFS on an appeal.

(7) *Display.* A vessel permit issued pursuant to this section must be carried on board the vessel, and such vessel must be identified as provided for in § 686.6. The operator of a vessel must present the permit for inspection upon request of an authorized officer.

(8) *Designated fishing zones.* The EEZ is divided into three designated fishing zones. A vessel owner must indicate on the permit application which zone the vessel will fish. A vessel is restricted to fishing in the zone for which it is permitted. In the EEZ, golden crab may be possessed on board a vessel only in the zone for which the vessel is permitted, except that other zones may be transited if the vessel notifies NMFS Southeast Enforcement Division (telephone: 1-800-286-1116) in advance and does not fish in an unpermitted zone. It is a rebuttable presumption that all golden crab on board a vessel were harvested from the EEZ. The designated fishing zones are defined as follows:

(i) Northern zone—that portion of the EEZ north of 28°N. lat. to the North Carolina/Virginia boundary (36°34'55" N. lat.).

(ii) Middle zone—that portion of the EEZ from 25°N. lat. to 28°N. lat.

(iii) Southern zone—that portion of the EEZ south of 25°N. lat. to the boundary between the Atlantic Ocean and the Gulf of Mexico, as specified in § 601.11(c) of this chapter.

(9) *Transfer.* (i) A vessel permit may be transferred but, when reissued by the Regional Director for the vessel, it will be designated at the owner's request to authorize fishing for golden crab in either the fishing zone indicated on the original permit or in the northern zone.

(ii) An owner of a vessel with a valid golden crab permit may transfer the permit or for use with another vessel by returning the existing permit to the Regional Director along with an application for a permit for the replacement vessel.

(iii) To obtain a permit via permit transfer, the owner of the replacement vessel must submit to the Regional Director a valid permit for a vessel with a documented length overall or permits for vessels with documented aggregate length overall of at least 90 percent of the documented length overall of the replacement vessel.

(10) *Renewal.* (i) Vessel permits will be effective for 1 year. Application for permit renewal is required only every 2 years. In the interim years, a vessel permit will be renewed automatically (without application) if the renewal requirements under paragraph (a)(10)(ii) are met. A permitted vessel owner who does not meet the renewal requirements will be notified by the Regional Director approximately 2 months prior to the expiration of the current vessel permit. The notification will specify the reasons the owner is not eligible for permit renewal and will provide an opportunity for the owner to correct the deficiencies. For years in which permit renewal application is required, the Regional Director will mail an application form to each permitted vessel owner approximately 2 months prior to expiration of the current permit. Any vessel owner who does not receive a renewal application must contact the Regional Director to obtain a renewal application.

(ii) The vessel permit renewal requirements are:

(A) All reports required under the Magnuson Act for the vessel have been submitted;

(B) The Science and Research Director has received reports for the permitted vessel, as required by § 686.5(a), documenting that at least 5,000 lb (2,268 kg) of golden crab landed from the EEZ off the southern Atlantic states has been attributed to the permitted vessel during at least one of the two 12-month periods immediately prior to the expiration date of the current vessel permit; and

(C) The vessel permit has not been revoked, suspended, or denied under paragraph (e) of this section. (iii) An existing permit for a vessel meeting the minimum golden crab landing

requirement specified in paragraph (a)(10)(ii) of this section may be renewed by following the procedure specified in paragraph (a)(4) of this section. However, documentation of the vessel's initial eligibility need not be resubmitted.

(b) *Dealer permits.* (1) *Applicability.* A dealer who receives from a fishing vessel golden crab harvested from the EEZ must obtain a dealer permit for golden crab.

(2) *Eligibility.* To be eligible for a dealer permit, an applicant must have a valid state wholesaler's license in the state where he or she operates, if such license is required in that state, and must have a physical facility at a fixed location in that state.

(3) *Application procedure.* (i) Permit application forms are available from the Regional Director. An application for a dealer permit must be submitted and signed by the dealer or an officer of a corporation acting as a dealer. The application must be submitted to the Regional Director at least 30 days prior to the desired effective date of the permit.

(ii) A permit applicant must provide the following information:

(A) A copy of each state wholesaler's license held by the dealer.

(B) Business name; mailing address, including zip code, of the principal office of the business; telephone number; employer identification number, if one has been assigned by the Internal Revenue Service; and date the business was formed.

(C) The address of each physical facility at a fixed location where the business receives golden crab.

(D) Applicant's name; official capacity in the business; address, including zip code; telephone number; and identifying information specified on the application form.

(E) If the acquired dealership is currently permitted, the application must be accompanied by the permit and a copy of a signed bill of sale or equivalent acquisition papers.

(F) Any other information requested by the Regional Director that may be necessary for the issuance or administration of the permit.

(4) *Issuance.* (i) The Regional Director will issue a dealer permit if the application is complete and the specific requirements for the requested permit have been met. An application is complete when the Regional Director has received all required forms, information, and documentation.

(ii) Upon receipt of an incomplete application, the Regional Director will notify the applicant of the deficiency. If the applicant fails to correct the

deficiency within 30 days of the date of the Regional Director's letter of notification, the application will be considered abandoned.

(5) *Display.* A dealer permit issued pursuant to this section must be available on the dealer's premises. A dealer must present the permit for inspection upon request of an authorized officer.

(6) *Transfer.* A dealer permit issued under this section is not transferable or assignable. A person who acquires a dealership who desires to conduct activities for which a permit is required must apply for a permit in accordance with the paragraph (b)(3) of this section.

(7) *Renewal.* Dealer permits will be effective for 1 year. Application for permit renewal is required only every 2 years. In the interim years, permits will be renewed automatically (without application) if the dealer has submitted all reports required under the Magnuson Act, and the dealer's permit has not been revoked, suspended, or denied under paragraph (e) of this section. A permitted dealer who does not meet the renewal requirements will be notified by the Regional Director approximately 2 months prior to the expiration of the current dealer permit. The notification will specify the reasons the dealer is not eligible for permit renewal and will provide an opportunity for the dealer to correct the deficiencies. For years in which permit renewal application is required, the Regional Director will mail an application form to each permitted dealer approximately 2 months prior to expiration of the current permit. Any dealer who does not receive a renewal application must contact the Regional Director to obtain a renewal application.

(c) *Fees.* A fee is charged for each permit application submitted pursuant to this section. The amount of the fee is calculated in accordance with the procedures of the NOAA Finance Handbook for determining the administrative costs of each special product or service. The fee may not exceed such costs and is specified with each application form. The appropriate fee must accompany each application.

(d) *Duration.* A permit remains valid for the period for which it is issued unless revoked, suspended, or modified pursuant to subpart D of 15 CFR part 904.

(e) *Sanctions and denials.* A permit issued pursuant to this section may be revoked, suspended, or modified, and a permit application may be denied, in accordance with the procedures governing enforcement-related permit sanctions and denials found at subpart D of 15 CFR part 904.

(f) *Alteration.* A permit that is altered, erased, or mutilated is invalid.

(g) *Replacement.* The Regional Director may issue a replacement permit. An application for a replacement permit will not be considered a new application. A fee, the amount of which is stated with the application form, must accompany each request for a replacement permit.

(h) *Change in application information.* The owner or operator of a vessel with a permit for golden crab or a dealer with a permit issued pursuant to this section must notify the Regional Director within 15 days after any change in the application information required by paragraphs (a)(4) or (b)(2) of this section. The permit is void if any change in the information is not reported within 15 days.

#### § 686.5 Recordkeeping and reporting.

(a) *Permitted vessels.* The owner or operator of a vessel for which a permit for golden crab has been issued, as required by § 686.4(a)(1), and that is selected by the Science and Research Director must maintain a daily logbook form for each fishing trip on a form available from the Science and Research Director. Among other things, information to be reported includes a record of fishing locations, time fished, fishing gear used, amount of golden crab caught, numbers of each species discarded, and such basic economic data as may be included on the form. Logbook forms must be submitted to the Science and Research Director, and must be delivered or postmarked not later than 30 days after sale of the golden crab off-loaded from a trip. If no fishing occurred during a month, a report so stating must be submitted in accordance with instructions provided with the forms.

(b) *Dealers.* A dealer with a permit required by § 686.4(b)(1) who is selected by the Science and Research Director must provide information on receipts of golden crab and prices paid, to the Science and Research Director at monthly intervals, postmarked not later than 5 days after the end of each month. Such information must be submitted at more frequent intervals if requested by the Science and Research Director.

(c) *Additional data and inspection.* Additional data will be collected by authorized statistical reporting agents, as designees of the Science and Research Director, and by authorized officers. An owner or operator of a fishing vessel and a dealer possessing golden crab in or from the EEZ are required upon request to make golden crab, or parts thereof, available for

inspection by the Science and Research Director or an authorized officer.

#### § 686.6 Vessel and gear identification.

(a) *Official number.* The owner and operator of a vessel with a valid permit, as required under § 686.4, must ensure that the vessel's official number is displayed—

(1) On the port and starboard sides of the deckhouse or hull, and on a weather deck, so as to be clearly visible from an enforcement vessel or aircraft;

(2) In block arabic numerals in contrasting color to the background;

(3) At least 18 inches (45.7 cm) in height for fishing vessels over 65 ft (19.8 m) in length and at least 10 inches (25.4 cm) in height for all other vessels; and

(4) Permanently affixed to or painted on the vessel.

(b) *Duties of operator.* The operator of a vessel with a valid vessel permit, as required under § 686.4, must—

(1) Keep the official number clearly legible and in good repair; and

(2) Ensure that no part of the fishing vessel, its rigging, fishing gear, or any other material aboard obstructs the view of the official number from an enforcement vessel or aircraft.

(c) *Traps.* Each golden crab trap used or possessed in the EEZ must have the vessel permit number permanently affixed. Trap tags with permit numbers are available from the Regional Director at cost, but they are not required. Any method of permanently affixing a legible permit number to a trap so as to be easily distinguished, located, and identified is acceptable.

(d) *Buoys.* The use of buoys to identify golden crab traps is not required. However, if a buoy is used to identify a trap, the buoy must display the vessel permit number so as to be easily distinguished, located, and identified. The permit number must be affixed to the buoy in legible figures at least 2 inches (5.1 cm) in height.

(e) *Presumption of ownership.* A golden crab trap in the EEZ will be presumed to be the property of the most recently documented owner. This presumption will not apply with respect to traps that are lost or sold if the owner reports the loss or sale within 15 days to the Regional Director.

(f) *Unmarked traps.* An unmarked golden crab trap deployed in the EEZ is illegal. It may be considered abandoned and may be disposed of in any appropriate manner by the Regional Director. If an owner of an unmarked or improperly marked trap can be determined, such owner is subject to appropriate civil penalties.



**§ 686.7 Prohibitions.**

In addition to the general prohibitions specified in § 620.7 of this chapter, it is unlawful for any person to do any of the following:

(a) Fish for, possess, or sell golden crab in or from the EEZ without a valid vessel permit, as specified in § 686.4(a)(1).

(b) As a dealer, receive golden crab from the EEZ without a valid dealer permit, as specified in § 686.4(b)(1).

(c) Falsify information specified in § 686.4(a)(4)(ii) or (b)(3)(ii) on an application for a permit.

(d) Fail to display or present a permit, as specified in § 686.4(a)(7) or (b)(5).

(e) Fish for or possess golden crab in or from the EEZ in a designated fishing zone other than the zone for which the vessel is permitted, except as specified in § 686.4(a)(8).

(f) Falsify or fail to maintain, submit, or provide information required to be maintained, submitted, or provided, as specified in § 686.5(a) through (c), or as may be required by § 686.25.

(g) Fail to make a golden crab in or from the EEZ, or parts thereof, available for inspection, as specified in § 686.5(c).

(h) Falsify or fail to display and maintain vessel and gear identification, as required by § 686.6(a) through (d).

(i) Fail to carry an observer on a trip when selected, as specified in § 686.10(a).

(j) Falsify or fail to provide requested information regarding a vessel's trip, as specified in § 686.10(b).

(k) Assault, resist, oppose, impede, harass, intimidate, or interfere with a NMFS-approved observer aboard a vessel.

(l) Prohibit or bar by command, impediment, threat, coercion, or refusal of reasonable assistance, an observer from conducting his or her duties aboard a vessel.

(m) Fail to provide an observer with the required food, accommodations, access, and assistance, as specified in § 686.10(c).

(n) Possess or land golden crab in or from the EEZ in other than whole condition, as specified in § 686.21(a).

(o) Possess on board a vessel or land female golden crabs in or from the EEZ in excess of the maximum amount specified in § 686.21(b).

(p) Possess any species of fish in the snapper-grouper fishery in whole, gutted, or filleted form on board a vessel fishing for or possessing golden crab in or from the EEZ, as specified in § 686.21(c).

(q) Engage in a directed fishery for golden crab in the EEZ with unauthorized gear or retain golden crab in or from the EEZ on board a vessel

possessing or using unauthorized gear, as specified in § 686.22(a).

(r) Use or possess in the EEZ a golden crab trap in excess of the maximum size specified in § 686.22(b).

(s) Use or possess in the EEZ a golden crab trap not in conformance with the required escape mechanisms, as specified in § 686.22(c).

(t) Use a golden crab trap in the EEZ in depths less than the minimum depths specified in § 686.22(d).

(u) Pull or tend another person's golden crab trap, except as specified in § 686.22(e).

(v) Sell, trade, or barter or attempt to sell, trade, or barter golden crab harvested in the EEZ to a dealer who does not have a permit, as specified in § 686.23(b).

(w) Purchase, trade, or barter or attempt to purchase, trade, or barter golden crab harvested in the EEZ unless the harvesting vessel has a permit for golden crab, as specified in § 686.23(c).

(x) Sell, trade, or barter or attempt to sell, trade, or barter a female golden crab in or from the EEZ, as specified in § 686.23(d).

(y) Make any false statement, oral or written, to an authorized officer concerning the taking, catching, harvesting, landing, purchase, sale, possession, or transfer of golden crab.

(z) Interfere with, obstruct, delay, or prevent by any means an investigation, search, seizure, or disposition of seized property in connection with enforcement of the Magnuson Act.

**§ 686.8 Facilitation of enforcement.**

See § 620.8 of this chapter.

**§ 686.9 Penalties.**

See § 620.8 of this chapter.

**§ 686.10 At-sea observer coverage.**

(a) If a vessel's trip is selected by the Science and Research Director for observer coverage, the owner or operator of such vessel must carry a NMFS-approved observer.

(b) When notified in writing by the Science and Research Director that his or her vessel has been selected to carry an NMFS-approved observer, an owner or operator of a vessel for which a vessel permit has been issued under § 686.4 must advise the Science and Research Director in writing not less than 5 days in advance of each trip of the following:

(1) Departure information (port, dock, date, and time); and

(2) Expected landing information (port, dock, and date).

(c) An owner or operator of a vessel on which a NMFS-approved observer is embarked must—

(1) Provide accommodations and food that are equivalent to those provided to the crew;

(2) Allow the observer access to and use of the vessel's communications equipment and personnel upon request for the transmission and receipt of messages related to the observer's duties;

(3) Allow the observer access to and use of the vessel's navigation equipment and personnel upon request to determine the vessel's position;

(4) Allow the observer free and unobstructed access to the vessel's bridge, working decks, holding bins, weight scales, holds, and any other space used to hold, process, weigh, or store golden crab; and

(5) Allow the observer to inspect and copy the vessel's log, communications logs, and any records associated with the catch and distribution of golden crab for that trip.

**Subpart B—Management Measures****§ 686.20 Fishing year.**

The fishing year for golden crab begins on January 1 and ends on December 31.

**§ 686.21 Harvest and possession limitations.**

(a) *Carcass condition.* A golden crab possessed in or from the EEZ must remain in whole condition through landing.

(b) *Female crabs.* It is intended that no female golden crabs in or from the EEZ be retained on board a vessel and that any female golden crab in or from the EEZ be released in a manner that will ensure maximum probability of survival. However, to accommodate legitimate incidental catch and retention, a maximum incidental catch allowance is established. The number of female golden crabs in or from the EEZ retained on board a vessel may not exceed 0.5 percent, by number, of all golden crabs on board. See § 686.23(d) regarding the prohibition of sale of female golden crabs.

(c) *Snapper-grouper species.* No person aboard a vessel fishing for or possessing golden crab in or from the EEZ or possessing golden crab traps may possess any species of fish in the snapper-grouper fishery in whole, gutted, or filleted form. Only the head, fins, and backbone (collectively the "rack") of these species may be possessed for use as bait. See 50 CFR 646.2 for the definition of fish in the snapper-grouper fishery.

**§ 686.22 Gear restrictions.**

(a) *Authorized gear.* Traps are the only fishing gear authorized in the

directed golden crab fishery in the EEZ. Rope is the only material allowed to be used for mainlines and buoy lines, except that wire cable will be allowed for these purposes for 18 months after [publication of the final rule implementing the FMP]. Golden crab in or from the EEZ may not be retained on board a vessel possessing or using unauthorized gear.

(b) *Maximum trap size.* The maximum volume of a trap deployed or possessed in the EEZ is 64 cubic feet (ft<sup>3</sup>) (1.81 cubic meters (m<sup>3</sup>)) in the northern zone and 48 ft<sup>3</sup> (1.36 m<sup>3</sup>) in the middle and southern zones. See § 686.4(a)(8) for a description of the respective zones.

(c) *Trap escape mechanisms.* (1) *Escape gaps.* Each trap must have at least one escape gap or escape ring on each of two opposite vertical sides. The minimum inside dimensions of an escape gap are 2.75 by 3.75 inches (6.99 by 9.53 cm); the minimum inside diameter of an escape ring is 4.5 inches (11.4 cm).

(2) *Biodegradable escape mechanism.* In addition to the escape gaps required by paragraph (c)(1) of this section, each trap, except as noted in paragraph (c)(3) of this section, must have a biodegradable escape panel or door measuring at least 12 by 12 inches (30.5 by 30.5 cm), located on at least one side, excluding top and bottom. The hinges and fasteners of each door or panel must be made of one of the following degradable materials:

(i) Ungalvanized or uncoated iron wire no larger than 19-gauge or 0.041-inch (0.10-cm) diameter;

(ii) Untreated cotton string of 3/1609 inch (0.4809 cm) diameter or smaller.

(3) *Traps constructed of webbing.* The provisions of paragraph (c)(2) of this section notwithstanding, traps constructed of webbing must have an opening (slit) at least 1 foot (30.5 cm) in length that may be closed (relaced) only with cotton string of 3/1609 inch (0.4809 cm) diameter or smaller.

(d) *Depth limitations.* In the northern zone, traps may not be deployed in waters of less than 900 ft (274 m) depth. In the middle and southern zones, traps may not be deployed in waters of less than 700 ft (213 m) depth. See § 686.4(a)(8) for a description of the respective zones.

(e) *Tending traps.* A golden crab trap may be pulled or tended only by a person (other than an authorized officer) aboard the vessel permitted to fish such trap, or aboard another vessel if such vessel has on board written consent of the vessel permit holder and possesses a valid golden crab vessel permit.

#### § 686.23 Restrictions on sale.

(a) No person may purchase, barter, trade, or sell, or attempt to purchase, barter, trade, or sell, a golden crab harvested in the EEZ by a vessel for which a valid permit has not been issued under § 686.4.

(b) No person may sell, trade, or barter, or attempt to sell, trade, or barter, a golden crab harvested in the EEZ by a vessel permitted under § 686.4 to a dealer who does not have a valid permit issued under § 686.4.

(c) No dealer who has a valid permit issued under § 686.4 may purchase, trade, or barter, or attempt to purchase, trade, or barter, a golden crab harvested in the EEZ from a vessel for which a valid permit has not been issued under § 686.4.

(d) The sale, trade or barter or attempted sale, trade, or barter of a female golden crab harvested from the EEZ is prohibited.

#### § 686.24 Adjustment of management measures.

In accordance with the procedures and limitations of the FMP, the Regional Director may establish or modify the following items relating to the golden crab fishery: Maximum sustainable yield, acceptable biological catch, total allowable catch, quotas (including quotas equal to zero), trip limits, minimum sizes, gear regulations and restrictions, permit requirements, seasonal or area closures, time frame for recovery of golden crab if overfished, fishing year (adjustment not to exceed 2 months), observer requirements, and authority for the Regional Director to close the fishery when a quota is reached or is projected to be reached.

#### § 686.25 Specifically authorized activities.

The Assistant Administrator may authorize, for the acquisition of information and data, activities otherwise prohibited by this part. In addition, the Regional Director may issue a permit for experimental fishing, provided that, as a condition of such permit, data on the gear used and fish caught in such experimental fishing is maintained and provided to the Science and Research Director.

[FR Doc. 96-9059 Filed 4-10-96; 8:45 am]

BILLING CODE 3510-22-F

#### 50 CFR Part 675

[Docket No. 960129019-6091-01; I.D. 040496A]

#### Groundfish of the Bering Sea and Aleutian Islands Area; Reserve Apportionment

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

**ACTION:** Apportionment of reserve; request for comments.

**SUMMARY:** NMFS proposes to apportion reserve to certain target species in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to allow for ongoing harvest and account for previous harvest of the total allowable catch (TAC). It is intended to promote the goals and objectives of the North Pacific Fishery Management Council.

**DATES:** Comments must be received at the following address no later than 4:30 p.m., Alaska local time, April 25, 1996.

**ADDRESSES:** Comments may be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, 709 W. 9th, room 453, Juneau, AK 99801 or P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Gravel.

**FOR FURTHER INFORMATION CONTACT:** Andrew N. Smoker, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** The groundfish fishery in the U.S. BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

The Director, Alaska Region, NMFS, has determined that the initial TACs specified for the following species need to be supplemented from the non-specific reserve in order to continue operations and account for prior harvest, as follows: For pollock in the Bering Sea subarea; for pollock in the Aleutian Islands subarea; for Atka mackerel in the combined Eastern Aleutian District and Bering Sea subarea; for Pacific ocean perch in the Eastern Aleutian District; for Atka mackerel and Pacific ocean perch in the Central and Western Aleutian Districts; and for Pacific cod, arrowtooth flounder, and the "other species" category in the BSAI.