



Billing Code 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket Nos. 090206140-91081-03 and 120405260-4258-02]

RTID 0648-XA503

**Revised Reporting Requirements Due to Catastrophic
Conditions for Federal Seafood Dealers and Individual
Fishing Quota Dealers in Portions of Alabama and Florida**

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

ACTION: Temporary rule; determination of catastrophic conditions.

SUMMARY: In accordance with the regulations implementing the individual fishing quota (IFQ) and Federal dealer reporting programs specific to the commercial reef fish fishery in the Gulf of Mexico (Gulf) and the coastal migratory pelagic (CMP) fisheries in the Gulf, the Regional Administrator (RA), Southeast Region, NMFS has determined that Hurricane Sally has caused catastrophic conditions in the Gulf for certain Alabama and Florida counties. This temporary rule authorizes any dealer in the affected area described in this temporary rule who does not have access to electronic reporting to delay reporting of trip tickets

to NMFS and authorizes IFQ dealers within the affected area to use paper-based forms, if necessary, for basic required administrative functions, e.g., landing transactions. This temporary rule is intended to facilitate continuation of IFQ and dealer reporting operations during the period of catastrophic conditions.

DATES: The RA is authorizing Federal dealers and IFQ dealers in the affected area to use revised reporting methods from [*insert date of filing for public inspection with the Office of the FEDERAL REGISTER*], through October 31, 2020.

FOR FURTHER INFORMATION CONTACT: Britni LaVine (727) 551-5766.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf is managed under the Fishery Management Plan (FMP) for Reef Fish Resources of the Gulf of Mexico (Reef Fish FMP), prepared by the Gulf of Mexico Fishery Management Council (Gulf Council). The CMP fishery is managed under the FMP for CMP Resources in the Gulf of Mexico and Atlantic Region, prepared by the Gulf Council and South Atlantic Fishery Management Council. Both FMPs are implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

The Generic Dealer Amendment established Federal dealer reporting requirements for federally permitted dealers in the Gulf and South Atlantic (79 FR 19490; April 9, 2014). Amendment 26 to the Reef Fish FMP established an IFQ program for the commercial red snapper component of the Gulf reef fish fishery (71 FR 67447; November 22, 2006). Amendment 29 to the Reef Fish FMP established an IFQ program for the commercial grouper and tilefish components of the Gulf reef fish fishery (74 FR 44732; August 31, 2009). Regulations implementing these IFQ programs (50 CFR 622.21 and 622.22) and the dealer reporting requirements (50 CFR 622.5(c)) require that Federal dealers and IFQ participants have access to a computer and Internet and that they conduct administrative functions associated with dealer reporting and the IFQ program, *e.g.*, landing transactions, online. However, these regulations also specify that during catastrophic conditions, as determined by the RA, the RA may waive or modify the reporting time requirements for dealers and authorize IFQ participants to use paper-based forms to complete administrative functions for the duration of the catastrophic conditions. The RA must determine that catastrophic conditions exist, specify the duration of the catastrophic conditions, and specify which participants or geographic areas are deemed affected.

Hurricane Sally made landfall in the U.S. near Gulf Shores, Alabama, in the Gulf as a Category 2 hurricane on September 16, 2020. Strong winds and flooding from this hurricane impacted communities throughout coastal Alabama and parts of the Florida Panhandle, resulting in power outages and damage to homes, businesses, and infrastructure. As a result, the RA has determined that catastrophic conditions exist in the Gulf for the Alabama counties of Mobile and Baldwin; and the Florida counties of Escambia, Santa Rosa, Okaloosa, Walton, Bay, Gulf, Franklin, Wakulla, Leon, Jefferson, and Taylor.

Through this temporary rule, the RA is authorizing Federal dealers in these affected areas to delay reporting of trip tickets to NOAA Fisheries and IFQ dealers in this affected area to use paper-based forms, from [*insert date of filing for public inspection with the Office of the Federal Register*], through October 31, 2020. NMFS will provide additional notification to affected dealers via NOAA Weather Radio, Fishery Bulletins, and other appropriate means. NOAA Fisheries will continue to monitor and re-evaluate the areas and duration of the catastrophic conditions, as necessary.

Dealers may delay electronic reporting of trip tickets to NMFS during catastrophic conditions. Dealers are to

report all landings to NMFS as soon as possible. Assistance for Federal dealers in the affected area is available from the Fisheries Monitoring Branch at 1-305-361-4581. NMFS previously provided IFQ dealers with the necessary paper forms and instructions for submission in the event of catastrophic conditions. Paper forms are also available from the RA upon request. The electronic systems for submitting information to NMFS will continue to be available to all dealers, and dealers in the affected area are encouraged to continue using these systems, if accessible.

The administrative program functions available to IFQ dealers in the area affected by catastrophic conditions will be limited under the paper-based system. There will be no mechanism for transfers of IFQ shares or allocation under the paper-based system in effect during catastrophic conditions. Assistance in complying with the requirements of the paper-based system will be available via the Catch Share Support line, 1-866-425-7627 Monday through Friday, between 8 a.m. and 4:30 p.m., Eastern Time.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is consistent with the regulations in 50 CFR 622.5(c)(iii), 622.21(a)(3)(iii),

and 622.22(a)(3)(iii) which were issued pursuant to section 304(b) of the Magnuson-Stevens Act, and are exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because this temporary rule is issued without opportunity for prior notice and comment.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive the requirements to provide prior notice and opportunity for public comment on this temporary rule. Such procedures are unnecessary because the final rules implementing the Gulf IFQ programs and the Gulf and Atlantic Federal dealer reporting have already been subject to notice and public comment. These rules authorize the RA to determine when catastrophic conditions exist, and which participants or geographic areas are deemed affected by catastrophic conditions. The final rules also authorize the RA to provide timely notice to affected participants via publication of notification in the **Federal Register**, NOAA Weather Radio, Fishery Bulletins, and other appropriate means. All that remains is to notify the public that catastrophic conditions exist and that paper forms may be utilized by IFQ dealers in the affected area and that Federal dealers may submit delayed reports. Additionally, delaying this temporary rule to provide prior notice and

opportunity for public comment would be contrary to the public interest because affected dealers continue to receive these species in the affected area and need a means of completing their landing transactions. With the power outages and damage to infrastructure that have occurred in the affected area due to Hurricane Sally, numerous businesses are unable to complete landings transactions and dealer reports electronically. In order to continue with their businesses, IFQ dealers need to be aware they can still complete landing transactions and dealer reports using the paper forms.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d) (3).

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

Dated: September 22, 2020.

Jennifer M. Wallace,
Acting Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.