

Subpart I—Snapper-Grouper Fishery of the South Atlantic Region

§622.179 Conservation measures for protected resources.

(a) *South Atlantic snapper-grouper commercial vessels and charter vessels/headboats—(1) Sea turtle conservation measures.* (i) The owner or operator of a vessel for which a commercial vessel permit for South Atlantic snapper-grouper or a charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, as required under §§622.170(a)(1) and 622.170(b)(1), respectively, and whose vessel has on board any hook-and-line gear, must post inside the wheelhouse, or within a waterproof case if no wheelhouse, a copy of the document provided by NMFS titled, “Careful Release Protocols for Sea Turtle Release With Minimal Injury,” and must post inside the wheelhouse, or in an easily viewable area if no wheelhouse, the sea turtle handling and release guidelines provided by NMFS.

(ii) Such owner or operator must also comply with the sea turtle bycatch mitigation measures, including gear requirements and sea turtle handling requirements, specified in Appendix F to this part.

(iii) Those permitted vessels with a freeboard height of 4 ft (1.2 m) or less must have on board and must use a dipnet, cushioned/support device, short-handled dehooker, long-nose or needle-nose pliers, bolt cutters, monofilament line cutters, and at least two types of mouth openers/mouth gags. This equipment must meet the specifications described in Appendix F to this part. Those permitted vessels with a freeboard height of greater than 4 ft (1.2 m) must have on board a dipnet, cushioned/support device, long-handled line clipper, a short-handled and a long-handled dehooker, a long-handled device to pull an inverted “V”, long-nose or needle-nose pliers, bolt cutters, monofilament line cutters, and at least two types of mouth openers/mouth gags. This equipment must meet the specifications described in Appendix F to this part.

(2) *Smalltooth sawfish conservation measures.* The owner or operator of a vessel for which a commercial vessel permit for South Atlantic snapper-grouper or a charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, as required under §§622.170(a)(1) and 622.170(b)(1), respectively, that incidentally catches a smalltooth sawfish must—

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

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

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

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

§622.180 Prohibited gear and methods.

Also see §622.9 for additional prohibited gear and methods that apply more broadly to multiple fisheries or in some cases all fisheries.

(a) *Poisons.* A poison may not be used to fish for South Atlantic snapper-grouper in the South Atlantic EEZ.

(b) *Rebreathers and spearfishing gear.* In the South Atlantic EEZ, a person using a rebreather may not harvest South Atlantic snapper-grouper with spearfishing gear. The possession of such snapper-grouper while in the water with a rebreather is *prima facie* evidence that such fish was harvested with spearfishing gear while using a rebreather.

(c) *Longlines for wreckfish*. A bottom longline may not be used to fish for wreckfish in the South Atlantic EEZ. A person aboard a vessel that has a longline on board may not retain a wreckfish in or from the South Atlantic EEZ. For the purposes of this paragraph, a vessel is considered to have a longline on board when a power-operated longline hauler, a cable of diameter suitable for use in the longline fishery longer than 1.5 mi (2.4 km) on any reel, and gangions are on board. Removal of any one of these three elements constitutes removal of a longline.

§622.181 Prohibited and limited-harvest species.

(a) *General*. The harvest and possession restrictions of this section apply without regard to whether the species is harvested by a vessel operating under a commercial vessel permit. The operator of a vessel that fishes in the EEZ is responsible for the limit applicable to that vessel.

(b) *Prohibited species*. (1) Goliath grouper may not be harvested or possessed in the South Atlantic EEZ. Goliath grouper taken in the South Atlantic EEZ incidentally by hook-and-line must be released immediately by cutting the line without removing the fish from the water.

(2) *Red snapper*. Red snapper may not be harvested or possessed in or from the South Atlantic EEZ, except if NMFS determines a limited amount of red snapper may be harvested or possessed in or from the South Atlantic EEZ, as specified in §622.193(y). Red snapper caught in the South Atlantic EEZ must be released immediately with a minimum of harm. In addition, for a person on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, the prohibition on the harvest or possession of red snapper applies in the South Atlantic, regardless of where such fish are harvested or possessed, *i.e.*, in state or Federal waters.

(3) *Speckled hind and warsaw grouper*. Speckled hind and warsaw grouper may not be harvested or possessed in or from the South Atlantic EEZ. Such fish caught in the South Atlantic EEZ must be released immediately with a minimum of harm. These restrictions also apply in the South Atlantic on board a vessel for which a valid Federal commercial or charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, *i.e.*, in state or Federal waters.

(4) Nassau grouper may not be harvested or possessed in the South Atlantic EEZ or the Gulf EEZ. Nassau grouper taken in the South Atlantic EEZ or the Gulf EEZ incidentally by hook-and-line must be released immediately by cutting the line without removing the fish from the water.

(c) *Limited-harvest species*. A person who fishes in the EEZ may not combine a harvest limitation specified in this paragraph (c) with a harvest limitation applicable to state waters. A species subject to a harvest limitation specified in this paragraph (c) taken in the EEZ may not be transferred at sea, regardless of where such transfer takes place, and such species may not be transferred in the EEZ.

(1) *Cubera snapper*. No person may harvest more than two cubera snapper measuring 30 inches (76.2 cm), TL, or larger, per day in the South Atlantic EEZ off Florida and no more than two such cubera snapper in or from the South Atlantic EEZ off Florida may be possessed on board a vessel at any time.

§622.183 Area and seasonal closures.

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(b) *Seasonal closures*—(1) *Seasonal closure of the commercial and recreational sectors for gag and associated grouper species*. During January through April each year, no person may fish for, harvest, or possess in or from the South Atlantic EEZ any South Atlantic shallow-water grouper (SASWG) (gag, black grouper, red grouper, scamp, red hind, rock hind, yellowmouth grouper, yellowfin grouper, graysby, and coney). In addition, for a person on board a vessel for which a valid Federal commercial or charter

vessel/headboat permit for South Atlantic snapper-grouper has been issued, the provisions of this closure apply in the South Atlantic, regardless of where such fish are harvested, *i.e.*, in state or Federal waters.

(2) *Wreckfish spawning-season closure.* From January 15 through April 15, each year, no person may harvest or possess on a fishing vessel wreckfish in or from the EEZ; offload wreckfish from the EEZ; or sell or purchase wreckfish in or from the EEZ. The prohibition on sale or purchase of wreckfish does not apply to trade in wreckfish that were harvested, offloaded, and sold or purchased prior to January 15 and were held in cold storage by a dealer or processor.

(3) *Wreckfish recreational sector closures.* The recreational sector for wreckfish in or from the South Atlantic EEZ is closed from January 1 through June 30, and September 1 through December 31, each year. During a closure, the bag and possession limit for wreckfish in or from the South Atlantic EEZ is zero.

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(5) *Closures of the commercial and recreational sectors for red snapper*—(i) The commercial and recreational sectors for red snapper are closed (*i.e.*, red snapper may not be harvested or possessed, or sold or purchased) in or from the South Atlantic EEZ, except if NMFS determines a limited amount of red snapper may be harvested or possessed in or from the South Atlantic EEZ, as specified in §622.193(y). If NMFS determines that commercial and recreational fishing seasons for red snapper may be established in a given fishing year, NMFS will announce the season opening dates in the FEDERAL REGISTER. The recreational fishing season would consist of consecutive Fridays, Saturdays, and Sundays, unless otherwise specified. NMFS will project the length of the recreational fishing season and announce the recreational fishing season end date in the FEDERAL REGISTER. See 622.193(y), for establishing the end date of the commercial fishing season.

(ii) If the RA determines tropical storm or hurricane conditions exist, or are projected to exist, in the South Atlantic, during a commercial or recreational fishing season, the RA may modify the opening and closing dates of the fishing season by filing a notification to that effect with the Office of the Federal Register, and announcing via NOAA Weather Radio and a Fishery Bulletin any change in the dates of the red snapper commercial or recreational fishing season.

(iii) If the projected commercial or recreational fishing season is determined by NMFS to be 3 days or less, then the commercial or recreational fishing season will not open for that fishing year.

(6) *Seasonal closure of the commercial black sea bass pot component of the snapper-grouper fishery.* From November 1 through April 30, each year, the commercial black sea bass pot component of the snapper-grouper fishery is closed. During this closure, no person may harvest or possess black sea bass in or from the South Atlantic EEZ either with sea bass pots or from a vessel with sea bass pots on board. In addition, sea bass pots must be removed from the water in the South Atlantic EEZ before November 1, and may not be on board a vessel in the South Atlantic EEZ during this closure.

(7) *Blueline tilefish recreational sector closure.* The recreational sector for blueline tilefish in or from the South Atlantic EEZ is closed from January 1 through April 30, and September 1 through December 31, each year. During a closure, the bag and possession limit for blueline tilefish in or from the South Atlantic EEZ is zero.

(8) *Snowy grouper recreational sector closure.* The recreational sector for snowy grouper in or from the South Atlantic EEZ is closed from January 1 through April 30, and September 1 through December 31, each year. During a closure, the bag and possession limit for snowy grouper in or from the South Atlantic EEZ is zero.

§622.186 Landing fish intact.

(a) South Atlantic snapper-grouper in or from the South Atlantic EEZ must be maintained with head and fins intact, except as specified in paragraph (b) of this section. Such fish may be eviscerated, gilled, and scaled, but must otherwise be maintained in a whole condition. The operator of a vessel that fishes in the EEZ is responsible for ensuring that fish on that vessel in the EEZ are maintained intact and, if taken from the EEZ, are maintained intact through offloading ashore, as specified in this section.

(b) In the South Atlantic EEZ, snapper-grouper lawfully harvested in Bahamian waters are exempt from the requirement that they be maintained with head and fins intact, provided that the skin remains intact on the entire fillet of any snapper-grouper carcasses, valid Bahamian fishing and cruising permits are on board the vessel, each person on the vessel has a valid government passport with current stamps and dates from The Bahamas, and the vessel is in transit through the South Atlantic EEZ with fishing gear appropriately stowed. For the purpose of this paragraph, a vessel is in transit through the South Atlantic EEZ when it is on a direct and continuous course through the South Atlantic EEZ and no one aboard the vessel fishes in the EEZ. For the purpose of this paragraph, fishing gear appropriately stowed means that terminal gear (*i.e.*, hook, leader, sinker, flasher, or bait) used with an automatic reel, bandit gear, buoy gear, handline, or rod and reel must be disconnected and stowed separately from such fishing gear. Sinkers must be disconnected from the down rigger and stowed separately. See §622.187(a)(3) for the limit of snapper-grouper fillets lawfully harvested from Bahamian waters that may transit through the South Atlantic EEZ.

§622.188 Required gear, authorized gear, and unauthorized gear.

(a) *Required gear.* For a person on board a vessel to harvest or possess South Atlantic snapper-grouper in or from the South Atlantic EEZ, the vessel must possess on board and such person must use the gear as specified in paragraphs (a)(1) and (a)(2) of this section.

(1) *Dehooking device.* At least one dehooking device is required and must be used as needed to remove hooks embedded in South Atlantic snapper-grouper with minimum damage. The hook removal device must be constructed to allow the hook to be secured and the barb shielded without re-engaging during the removal process. The dehooking end must be blunt, and all edges rounded. The device must be of a size appropriate to secure the range of hook sizes and styles used in the South Atlantic snapper-grouper fishery.

(2) *Non-stainless steel circle hooks.* Non-stainless steel circle hooks are required to be used when fishing with hook-and-line gear and natural baits north of 28° N. lat.

(b) *Authorized gear.* Subject to the gear restrictions specified in §622.180, the following are the only gear types authorized in a directed fishery for snapper-grouper in the South Atlantic EEZ: Bandit gear, bottom longline, buoy gear, handline, rod and reel, sea bass pot, and spearfishing gear.

(c) *Unauthorized gear.* All gear types other than those specified in paragraph (b) of this section are unauthorized gear and the following possession and transfer limitations apply.

(1) A vessel with trawl gear on board that fishes in the EEZ on a trip may possess no more than 200 lb (90.7 kg) of South Atlantic snapper-grouper, excluding wreckfish, in or from the EEZ on that trip. It is a rebuttable presumption that a vessel with more than 200 lb (90.7 kg) of South Atlantic snapper-grouper, excluding wreckfish, on board harvested such fish in the EEZ.

(2) Except as specified in paragraphs (d) through (f) of this section, a person aboard a vessel with unauthorized gear on board, other than trawl gear, that fishes in the EEZ on a trip is limited on that trip to:

(i) South Atlantic snapper-grouper species for which a bag limit is specified in §622.187—the bag limit.

(ii) All other South Atlantic snapper-grouper—zero.

(3) South Atlantic snapper-grouper on board a vessel with unauthorized gear on board may not be transferred at sea, regardless of where such transfer takes place, and such snapper-grouper may not be transferred in the EEZ.

(4) No vessel may receive at sea any South Atlantic snapper-grouper from a vessel with unauthorized gear on board, as specified in paragraph (c)(3) of this section.

(d) *Possession allowance regarding sink nets off North Carolina.* A vessel that has on board a commercial permit for South Atlantic snapper-grouper, excluding wreckfish, that fishes in the EEZ off North Carolina with a sink net on board, may retain, without regard to the limits specified in paragraph (c)(2) of this section, otherwise legal South Atlantic snapper-grouper taken with bandit gear, buoy gear, handline, rod and reel, or sea bass pot. For the purpose of this paragraph (d), a sink net is a gillnet with stretched mesh measurements of 3 to 4.75 inches (7.6 to 12.1 cm) that is attached to the vessel when deployed.

(e) *Possession allowance regarding bait nets.* A vessel that has on board a commercial permit for South Atlantic snapper-grouper, excluding wreckfish, that fishes in the South Atlantic EEZ with no more than one bait net on board, may retain, without regard to the limits specified in paragraph (c)(2) of this section, otherwise legal South Atlantic snapper-grouper taken with bandit gear, buoy gear, handline, rod and reel, or sea bass pot. For the purpose of this paragraph (e), a bait net is a gillnet not exceeding 50 ft (15.2 m) in length or 10 ft (3.1 m) in height with stretched mesh measurements of 1.5 inches (3.8 cm) or smaller that is attached to the vessel when deployed.

(f) *Possession allowance regarding cast nets.* A vessel that has on board a commercial permit for South Atlantic snapper-grouper, excluding wreckfish, that fishes in the South Atlantic EEZ with a cast net on board, may retain, without regard to the limits specified in paragraph (c)(2) of this section, otherwise legal South Atlantic snapper-grouper taken with bandit gear, buoy gear, handline, rod and reel, or sea bass pot. For the purpose of this paragraph (f), a cast net is a cone-shaped net thrown by hand and designed to spread out and capture fish as the weighted circumference sinks to the bottom and comes together when pulled by a line.

(g) *Longline species limitation.* A vessel that has on board a valid Federal commercial permit for South Atlantic snapper-grouper, excluding wreckfish, that fishes in the EEZ on a trip with a longline on board, may possess only the following South Atlantic snapper-grouper: snowy grouper, yellowedge grouper, misty grouper, golden tilefish, blueline tilefish, and sand tilefish. See §622.170(f) for the requirement to possess a valid South Atlantic golden tilefish longline endorsement to fish for golden tilefish in the South Atlantic EEZ using longline gear. For the purpose of this paragraph, a vessel is considered to have a longline on board when a power-operated longline hauler, a cable of diameter suitable for use in the longline fishery on any reel, and gangions are on board. Removal of any one of these three elements constitutes removal of a longline.

§622.189 Restrictions and requirements for sea bass pots.

(a) *Tending restriction.* A sea bass pot in the South Atlantic EEZ may be pulled or tended only by a person (other than an authorized officer) aboard the vessel permitted to fish such pot or aboard another vessel if such vessel has on board written consent of the owner or operator of the vessel so permitted.

(b) *Configuration restriction.* In the South Atlantic EEZ, sea bass pots may not be used or possessed in multiple configurations, that is, two or more pots may not be attached one to another so that their overall dimensions exceed those allowed for an individual sea bass pot. This does not preclude connecting individual pots to a line, such as a “trawl” or trot line.

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(d) *Construction requirements and mesh sizes.* (1) A sea bass pot used or possessed in the South Atlantic EEZ must have mesh sizes as follows (based on centerline measurements between opposite, parallel wires or netting strands):

(i) For sides of the pot other than the back panel:

(A) Hexagonal mesh (chicken wire)—at least 1.5 inches (3.8 cm) between the wrapped sides;

(B) Square mesh—at least 1.5 inches (3.8 cm) between sides; or

(C) Rectangular mesh—at least 1 inch (2.5 cm) between the longer sides and 2 inches (5.1 cm) between the shorter sides.

(ii) For the entire back panel, *i.e.*, the side of the pot opposite the side that contains the pot entrance, mesh that is at least 2 inches (5.1 cm) between sides.

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(e) *Requirements for pot removal.* (1) A sea bass pot must be removed from the water in the South Atlantic EEZ and the vessel must be returned to a dock, berth, beach, seawall, or ramp at the conclusion of each trip. Sea bass pots may remain on the vessel at the conclusion of each trip.

(2) A sea bass pot must be removed from the water in the South Atlantic EEZ when the applicable quota specified in §622.190(a)(5) is reached. After a closure is in effect, a black sea bass may not be retained by a vessel that has a sea bass pot on board.

(f) *Restriction on number of pots.* A vessel that has on board a valid Federal commercial permit for South Atlantic snapper-grouper and a South Atlantic black sea bass pot endorsement that fishes in the South Atlantic EEZ on a trip with black sea bass pots, may possess only 35 black sea bass pots per vessel per permit year. Each black sea bass pot in the water or onboard a vessel in the South Atlantic EEZ, must have a valid identification tag attached. Endorsement holders must apply for new tags each permit year through NMFS to replace tags from the previous year.

Subpart J—Shrimp Fishery of the South Atlantic Region

§622.206 Area and seasonal closures.

(a) *South Atlantic shrimp cold weather closure.* (1) Pursuant to the procedures and criteria established in the FMP for the Shrimp Fishery of the South Atlantic Region, when Florida, Georgia, North Carolina, or South Carolina closes all or a portion of its waters of the South Atlantic to the harvest of brown, pink, and white shrimp, the Assistant Administrator may concurrently close the South Atlantic EEZ adjacent to the closed state waters by filing a notification of closure with the Office of the Federal Register. Closure of the adjacent EEZ will be effective until the ending date of the closure in state waters, but may be ended earlier based on the state's request. In the latter case, the Assistant Administrator will terminate a closure of the EEZ by filing a notification to that effect with the Office of the Federal Register.

(2) During a closure, as specified in paragraph (a)(1) of this section—

(i) No person may trawl for brown shrimp, pink shrimp, or white shrimp in the closed portion of the EEZ (closed area); and no person may possess on board a fishing vessel brown shrimp, pink shrimp, or white shrimp in or from a closed area, except as authorized in paragraph (a)(2)(iii) of this section.

(ii) No person aboard a vessel trawling in that part of a closed area that is within 25 nm of the baseline from which the territorial sea is measured may use or have on board a trawl net with a mesh size less than 4 inches (10.2 cm), as measured between the centers of opposite knots when pulled taut.

(iii) Brown shrimp, pink shrimp, or white shrimp may be possessed on board a fishing vessel in a closed area, provided the vessel is in transit and all trawl nets with a mesh size less than 4 inches (10.2 cm), as measured between the centers of opposite knots when pulled taut, are stowed below deck while transiting the closed area. For the purpose of this paragraph, a vessel is in transit when it is on a direct and continuous course through a closed area.

§622.207 Bycatch Reduction Device (BRD) requirements.

(a) *BRD requirement for South Atlantic shrimp.* On a shrimp trawler in the South Atlantic EEZ, each net that is rigged for fishing must have a BRD installed that is listed in paragraph (a)(3) of this section and is certified or provisionally certified for the area in which the shrimp trawler is located, unless exempted as specified in paragraphs (a)(1)(i) through (iii) of this section. A trawl net is rigged for fishing if it is in the water, or if it is shackled, tied, or otherwise connected to a sled, door, or other device that spreads the net, or to a tow rope, cable, pole, or extension, either on board or attached to a shrimp trawler.

(1) *Exemptions from BRD requirement--(i) Try net exemption.* A shrimp trawler is exempt from the requirement to have a certified or provisionally certified BRD installed in a single try net with a headrope length of 16 ft (4.9 m) or less provided the single try net is either placed immediately in front of another net or is not connected to another net.

(ii) *Roller trawl exemption.* A shrimp trawler is exempt from the requirement to have a certified or provisionally certified BRD installed in up to two rigid-frame roller trawls that are 16 ft (4.9 m) or less in length used or possessed on board. A rigid-frame roller trawl is a trawl that has a mouth formed by a rigid frame and a grid of rigid vertical bars; has rollers on the lower horizontal part of the frame to allow the trawl to roll over the bottom and any obstruction while being towed; and has no doors, boards, or similar devices attached to keep the mouth of the trawl open.

(iii) *BRD certification testing exemption.* A shrimp trawler that is authorized by the RA to participate in the pre-certification testing phase or to test a BRD in the EEZ for possible certification, has such written authorization on board, and is conducting such test in accordance with the "Bycatch Reduction Device Testing Manual" is granted a limited exemption from the BRD requirement specified in this section. The exemption from the BRD requirement is limited to those trawls that are being used in the certification trials. All other trawls rigged for fishing must be equipped with certified or provisionally certified BRDs.

(2) *Procedures for certification and decertification of BRDs.* The process for the certification of BRDs consists of two phases—an optional pre-certification phase and a required certification phase. The RA may also provisionally certify a BRD.

(i) *Pre-certification.* The pre-certification phase allows a person to test and evaluate a new BRD design for up to 60 days without being subject to the observer requirements and rigorous testing requirements specified for certification testing in the "Bycatch Reduction Device Testing Manual."

(A) A person who wants to conduct pre-certification phase testing must submit an application to the RA, as specified in the "Bycatch Reduction Device Testing Manual." The "Bycatch Reduction Device Testing Manual", which is available from the RA, upon request, contains the application forms.

(B) After reviewing the application, the RA will determine whether to issue a letter of authorization (LOA) to conduct pre-certification trials upon the vessel specified in the application. If the RA authorizes pre-certification, the RA's LOA must be on board the vessel during any trip involving the BRD testing.

(ii) *Certification.* A person who proposes a BRD for certification for use in the South Atlantic EEZ must submit an application to test such BRD, conduct the testing, and submit the results of the test in accordance with the “Bycatch Reduction Device Testing Manual.” The RA will issue a LOA to conduct certification trials upon the vessel specified in the application if the RA finds that: The operation plan submitted with the application meets the requirements of the “Bycatch Reduction Device Testing Manual”; the observer identified in the application is qualified; and the results of any pre-certification trials conducted have been reviewed and deemed to indicate a reasonable scientific basis for conducting certification testing. If authorization to conduct certification trials is denied, the RA will provide a letter of explanation to the applicant, together with relevant recommendations to address the deficiencies resulting in the denial. To be certified for use in the fishery, the BRD candidate must successfully demonstrate a 30-percent reduction in total weight of finfish bycatch. In addition, the BRD candidate must satisfy the following conditions: There is at least a 50-percent probability the true reduction rate of the BRD candidate meets the bycatch reduction criterion and there is no more than a 10-percent probability the true reduction rate of the BRD candidate is more than 5 percentage points less than the bycatch reduction criterion. If a BRD meets both conditions, consistent with the “Bycatch Reduction Device Testing Manual”, NMFS, through appropriate rulemaking procedures, will add the BRD to the list of certified BRDs in paragraph (a)(3) of this section; and provide the specifications for the newly certified BRD, including any special conditions deemed appropriate based on the certification testing results.

(iii) *Provisional certification.* Based on data provided consistent with the “Bycatch Reduction Device Testing Manual”, the RA may provisionally certify a BRD if there is at least a 50-percent probability the true reduction rate of the BRD is no more than 5 percentage points less than the bycatch reduction criterion, *i.e.* 25 percent reduction in total weight of finfish bycatch. Through appropriate rulemaking procedures, NMFS will add the BRD to the list of provisionally certified BRDs in paragraph (a)(3) of this section; and provide the specifications for the BRD, including any special conditions deemed appropriate based on the certification testing results. A provisional certification is effective for 2 years from the date of publication of the notification in the FEDERAL REGISTER announcing the provisional certification.

(iv) *Decertification.* The RA will decertify a BRD if NMFS determines the BRD does not meet the requirements for certification or provisional certification. Before determining whether to decertify a BRD, the RA will notify the South Atlantic Fishery Management Council in writing, and the public will be provided an opportunity to comment on the advisability of any proposed decertification. The RA will consider any comments from the Council and public, and if the RA elects to decertify the BRD, the RA will proceed with decertification via appropriate rulemaking.

(3) *Certified and provisionally certified BRDs—(i) Certified BRDs.* The following BRDs are certified for use in the South Atlantic EEZ. Specifications of these certified BRDs are contained in Appendix D to this part.

(A) Fisheye--see Appendix D to part 622 for separate specifications in the Gulf and South Atlantic EEZ.

(B) Gulf fisheye.

(C) Jones-Davis.

(D) Modified Jones-Davis.

(E) Expanded mesh.

(F) Extended funnel.

(G) Cone Fish Deflector Composite Panel.

(H) Square Mesh Panel (SMP) Composite Panel.

Subpart L—Golden Crab Fishery of the South Atlantic Region

§622.248 Authorized gear.

(a) *Traps*. Traps are the only fishing gear authorized in directed fishing for golden crab in the South Atlantic EEZ. Golden crab in or from the South Atlantic EEZ may not be retained on board a vessel possessing or using unauthorized gear.

(b) *Buoy line or mainline*. Rope is the only material allowed to be used for a buoy line or mainline attached to a golden crab trap.

§622.249 Gear restrictions and requirements.

(a) *Maximum trap sizes*. A golden crab trap deployed or possessed in the South Atlantic EEZ may not exceed 64 ft³ (1.8 m³) in volume in the northern zone or 48 ft³ (1.4 m³) in volume in the middle and southern zones. See §622.241(b)(1) for specification of the golden crab zones.

(b) *Required escape mechanisms for traps*. (1) A golden crab trap that is used or possessed in the South Atlantic EEZ must have at least one escape gap or escape ring on each of two opposite vertical sides. The minimum allowable inside dimensions of an escape gap are 2.75 by 3.75 inches (7.0 by 9.5 cm); the minimum allowable inside diameter of an escape ring is 4.5 inches (11.4 cm). In addition to the escape gaps—

(i) A golden crab trap constructed of webbing must have an opening (slit) at least 1 ft (30.5 cm) long that may be closed (relaxed) only with untreated cotton string no larger than $\frac{3}{16}$ inch (0.48 cm) in diameter.

(ii) A golden crab trap constructed of material other than webbing must have an escape panel or door measuring at least $11\frac{7}{8}$ by $11\frac{7}{8}$ inches (30.2 by 30.2 cm), located on at least one side, excluding top and bottom. The hinges or fasteners of such door or panel must be made of either ungalvanized or uncoated iron wire no larger than 19 gauge (0.04 inch (1.0 mm) in diameter) or untreated cotton string no larger than $\frac{3}{16}$ inch (4.8 mm) in diameter.

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(c) *Restriction on tending traps*. A golden crab trap in the South Atlantic EEZ may be pulled or tended only by a person (other than an authorized officer) aboard the vessel permitted to fish such pot or trap or aboard another vessel if such vessel has on board written consent of the owner or operator of the vessel so permitted. A vessel with written consent on board must also possess a valid commercial vessel permit for golden crab.

Subpart M—Dolphin and Wahoo Fishery Off the Atlantic States

§622.272 Authorized gear.

(a) *Atlantic dolphin and wahoo*—(1) *Authorized gear*. The following are the only authorized gear types in the fisheries for dolphin and wahoo in the Atlantic EEZ: Automatic reel, bandit gear, handline, pelagic longline, rod and reel, and spearfishing gear (including powerheads). A person aboard a vessel in the Atlantic EEZ that has on board gear types other than authorized gear types may not possess a dolphin or wahoo.

§622.273 Conservation measures for protected species.

(a) *Atlantic dolphin and wahoo pelagic longliners.* The owner or operator of a vessel for which a commercial permit for Atlantic dolphin and wahoo has been issued, as required under §622.270(a)(1), and that has on board a pelagic longline must post inside the wheelhouse the sea turtle handling and release guidelines provided by NMFS. Such owner or operator must also comply with the sea turtle bycatch mitigation measures, including gear requirements and sea turtle handling requirements, as specified in §635.21(c)(5)(i) and (ii) of this chapter, respectively. For the purpose of this paragraph, a vessel is considered to have pelagic longline gear on board when a power-operated longline hauler, a mainline, floats capable of supporting the mainline, and leaders (gangions) with hooks are on board. Removal of any one of these elements constitutes removal of pelagic longline gear.

Subpart N—Pelagic Sargassum Habitat of the South Atlantic Region

§622.302 Minimum mesh size.

(a) The minimum allowable mesh size for a net used to fish for pelagic sargassum in the South Atlantic EEZ is 4.0 inches (10.2 cm), stretched mesh, and such net must be attached to a frame no larger than 4 ft by 6 ft (1.2 m by 1.8 m). A vessel in the South Atlantic EEZ with a net on board that does not meet these requirements may not possess any pelagic sargassum.

Subpart Q—Coastal Migratory Pelagic Resources (Gulf of Mexico and South Atlantic)

§622.375 Authorized and unauthorized gear.

...

(b) *Unauthorized gear.* Gear types other than those specified in paragraph (a) of this section are unauthorized gear and the following possession limitations apply:

(1) *Long gillnets.* A vessel with a long gillnet on board in, or that has fished on a trip in, the Gulf, Mid-Atlantic, or South Atlantic EEZ may not have on board on that trip a coastal migratory pelagic fish.

(2) *Drift gillnets.* A vessel with a drift gillnet on board in, or that has fished on a trip in, the Gulf EEZ may not have on board on that trip a coastal migratory pelagic fish.

(3) *Other unauthorized gear.* Except as specified in paragraph (b)(4) of this section, a person aboard a vessel with unauthorized gear other than a drift gillnet in the Gulf EEZ or a long gillnet on board in, or that has fished in, the EEZ where such gear is not authorized in paragraph (a) of this section, is subject to the bag limits for king and Spanish mackerel specified in §622.382(a)(1)(ii) and (iv), respectively, and to the limit on cobia specified in §622.383(b).

(4) *Exception for king mackerel in the Gulf EEZ.* The provisions of this paragraph (b)(4) apply to king mackerel taken in the Gulf EEZ and to such king mackerel possessed in the Gulf. Paragraph (b)(3) of this section notwithstanding, a person aboard a vessel that has a valid commercial permit for king mackerel is not subject to the bag limit for king mackerel when the vessel has on board on a trip unauthorized gear other than a drift gillnet in the Gulf EEZ, a long gillnet, or a run-around gillnet in an area other than the southern Florida west coast subzone. Thus, the following applies to a vessel that has a commercial permit for king mackerel:

(i) Such vessel may not use unauthorized gear in a directed fishery for king mackerel in the Gulf EEZ.

(ii) If such a vessel has a drift gillnet or a long gillnet on board or a run-around gillnet in an area other than the southern Florida west coast subzone, no king mackerel may be possessed.

(iii) If such a vessel has unauthorized gear on board other than a drift gillnet in the Gulf EEZ, a long gillnet, or a run-around gillnet in an area other than the southern Florida west coast subzone, the possession of king mackerel taken incidentally is restricted only by the closure provisions of §622.384(e) and the trip limits specified in §622.385(a). See also §622.379 regarding the purse seine incidental catch allowance of king mackerel.

§622.377 Gillnet restrictions.

(a) *Gillnets for king mackerel.* The minimum allowable mesh size for a gillnet used to fish in the Gulf, Mid-Atlantic, or South Atlantic EEZ for king mackerel is 4.75 inches (12.1 cm), stretched mesh. A vessel in such EEZ, or having fished on a trip in such EEZ, with a gillnet on board that has a mesh size less than 4.75 (12.1 cm) inches, stretched mesh, may not possess on that trip an incidental catch of king mackerel that exceeds 10 percent, by number, of the total lawfully possessed Spanish mackerel on board.

(b) *Gillnets for Spanish mackerel.* (1) The minimum allowable mesh size for a gillnet used to fish for Spanish mackerel in the Gulf, Mid-Atlantic, or South Atlantic EEZ is 3.5 inches (8.9 cm), stretched mesh.

(i) A vessel in the Gulf EEZ, or having fished on a trip in the Gulf EEZ, with a gillnet on board that has a mesh size less than 3.5 inches (8.9 cm), stretched mesh, may not possess on that trip any Spanish mackerel.

(ii) A vessel in the South Atlantic or Mid-Atlantic EEZ, or having fished on a trip in such EEZ, with a gillnet on board that has a mesh size less than 3.5 inches (8.9 cm), stretched mesh, may possess or land on the day of that trip no more than 500 lb (227 kg) of incidentally caught Spanish mackerel.

(2) On board a vessel with a valid Spanish mackerel permit that is fishing for Spanish mackerel in, or that possesses Spanish mackerel in or from, the South Atlantic EEZ off Florida north of 25°20.4' N. lat., which is a line directly east from the Miami-Dade/Monroe County, FL, boundary—

(i) No person may fish with, set, place in the water, or have on board a gillnet with a float line longer than 800 yd (732 m).

(ii) No person may fish with, set, or place in the water more than one gillnet at any one time.

(iii) No more than two gillnets, including any net in use, may be possessed at any one time, except for a vessel with a valid commercial vessel permit for Spanish mackerel engaged in a transfer as specified in paragraph (b)(2)(vi) of this section. If two gillnets, including any net in use, are possessed at any one time, they must have stretched mesh sizes (as allowed under the regulations) that differ by at least .25 inch (.64 cm), except for a vessel with a valid commercial vessel permit for Spanish mackerel engaged in a transfer as specified in paragraph (b)(2)(vi) of this section, in which case the vessel may possess two gillnets of the same mesh size provided that one of the nets is transferred to that vessel.

(iv) No person may soak a gillnet for more than 1 hour. The soak period begins when the first mesh is placed in the water and ends either when the first mesh is retrieved back on board the vessel or the gathering of the gillnet is begun to facilitate retrieval on board the vessel, whichever occurs first; providing that, once the first mesh is retrieved or the gathering is begun, the retrieval is continuous until the gillnet is completely removed from the water.

(v) The float line of each gillnet possessed, including any net in use, must have the distinctive floats specified in §622.376(a).

(vi) A portion of a gillnet may be transferred at sea only in the EEZ and only from a vessel with a valid commercial vessel permit for Spanish mackerel that has exceeded a trip limit specified in §622.385 (b) to another vessel with a valid commercial vessel permit for Spanish mackerel that has not yet reached the trip limit (the receiving vessel). Only one such transfer is allowed per vessel per day. In addition, to complete a legal transfer at sea, all of the following must apply:

(A) All fish exceeding the applicable commercial trip limit may not be removed from the gillnet until the transfer is complete (*i.e.*, the gillnet is onboard the receiving vessel). The fish transferred to the receiving vessel may not exceed the applicable commercial trip limit.

(B) The receiving vessel may possess no more than three gillnets on board after the transfer is complete.

(C) Prior to cutting the gillnet and prior to any transfer of Spanish mackerel from one vessel to another, the owner or operator of both vessels must contact NMFS Office for Law Enforcement, Port Orange, Florida, phone: 1-386-492-6686.

Subpart R—Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic

§622.404 Prohibited gear and methods.

Also see §622.9 for additional prohibited gear and methods that apply more broadly to multiple fisheries or in some cases all fisheries.

(a) A spiny lobster may not be taken in the EEZ with a spear, hook, or similar device, or gear containing such devices. In the EEZ, the possession of a speared, pierced, or punctured spiny lobster is *prima facie* evidence that prohibited gear was used to take such lobster. Hook, as used in this paragraph (a), does not include a hook in a hook-and-line fishery for species other than spiny lobster; and possession of a spiny lobster that has been speared, pierced, or punctured by such hook is not considered evidence that prohibited gear was used to take the spiny lobster, provided no prohibited gear is on board the vessel.

(b) A spiny lobster may not be taken in a directed fishery by the use of a net or trawl. See §622.408(b)(4) for the bycatch limits applicable to a vessel that uses or has on board a net or trawl.

(c) Poisons and explosives may not be used to take a spiny lobster in the EEZ. For the purposes of this paragraph (c), chlorine, bleach, and similar substances, which are used to flush a spiny lobster out of rocks or coral, are poisons. A vessel in the spiny lobster fishery may not possess on board in the EEZ any dynamite or similar explosive substance.

§622.405 Trap construction specifications and tending restrictions.

(a) *Construction specifications.* In the EEZ, a spiny lobster trap may be no larger in dimension than 3 feet by 2 feet by 2 feet (91.4 cm by 61.0 cm by 61.0 cm), or the volume equivalent. A trap constructed of material other than wood must have a panel constructed of wood, cotton, or other material that will degrade at the same rate as a wooden trap. Such panel must be located in the upper half of the sides or on top of the trap, so that, when removed, there will be an opening in the trap no smaller than the diameter found at the throat or entrance of the trap.

(b) *Tending restrictions.* (1) A spiny lobster trap in the EEZ may be pulled or tended during daylight hours only, that is, from 1 hour before official sunrise to 1 hour after official sunset.

(2) A spiny lobster trap in the EEZ may be pulled or tended only by the owner's vessel, except that permission to pull or work traps belonging to another person may be granted—

(i) For traps in the EEZ off Florida, by the Division of Law Enforcement, Florida Fish and Wildlife Conservation Commission, in accordance with the procedures in Rule 68B-24.006(7), Florida Administrative Code, in effect as of July 1, 2008 (incorporated by reference, see §622.413).

(ii) For traps in the EEZ, other than off Florida, by the RA, as may be arranged upon written request.