

Spiny Lobster Amendment 13

(Modifications to Gear Requirements and
Cooperative Management Procedure)



Options Paper

Background

Bully netting in Federal Waters

A bully net is a type of gear for harvesting spiny lobsters that generally consists of a mesh net with a long handle (**Figure 1.1.1**). This type of gear is typically used in shallow waters at night when spiny lobster move away from structure. The bully net gear type pre-dates the use of spiny lobster traps and currently comprises 3% of spiny lobster landings (**Figure 1.1.2**); participation has steadily increased in recent years (**Figure 1.1.2 and Figure 1.1.3**) with landings using this gear type increasing from 1% to 3% of total landings in just two years. Additionally, bully net harvest of spiny lobster peaks early in the season and accounts for a larger portion of the catch during this time. Constituents expressed concerns to Florida Fish and Wildlife Conservation Commission (FWC) about increased participation in the open-access spiny lobster bully net component of the spiny lobster fishery along with growing conflicts between recreational bully netters, commercial bully netters, and other members of the public such as homeowners. Participants in the commercial bully net fishery requested FWC to develop and implement an endorsement program and all stakeholders requested other regulatory measures to address the additional concerns. Options discussed by FWC included: 1) Commercial license requirements, 2) Commercial harvest limits, and 3) Other potential management measures such as limiting multiple gear types to be on board when bully netting.



Figure 1.1.1. Bully netting vessel and bully net gear.
Photo courtesy of Ben Gutzler.

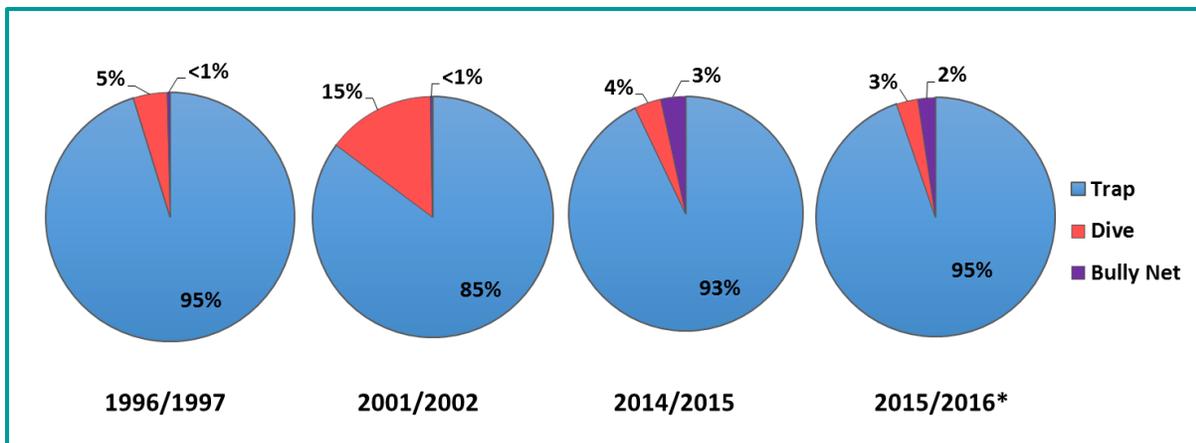


Figure 1.1.2. Proportion of commercial lobster landings by gear type.

Data compiled from Florida Trip Ticket records; data updated June 23, 2016.

*2015/2016 data are preliminary

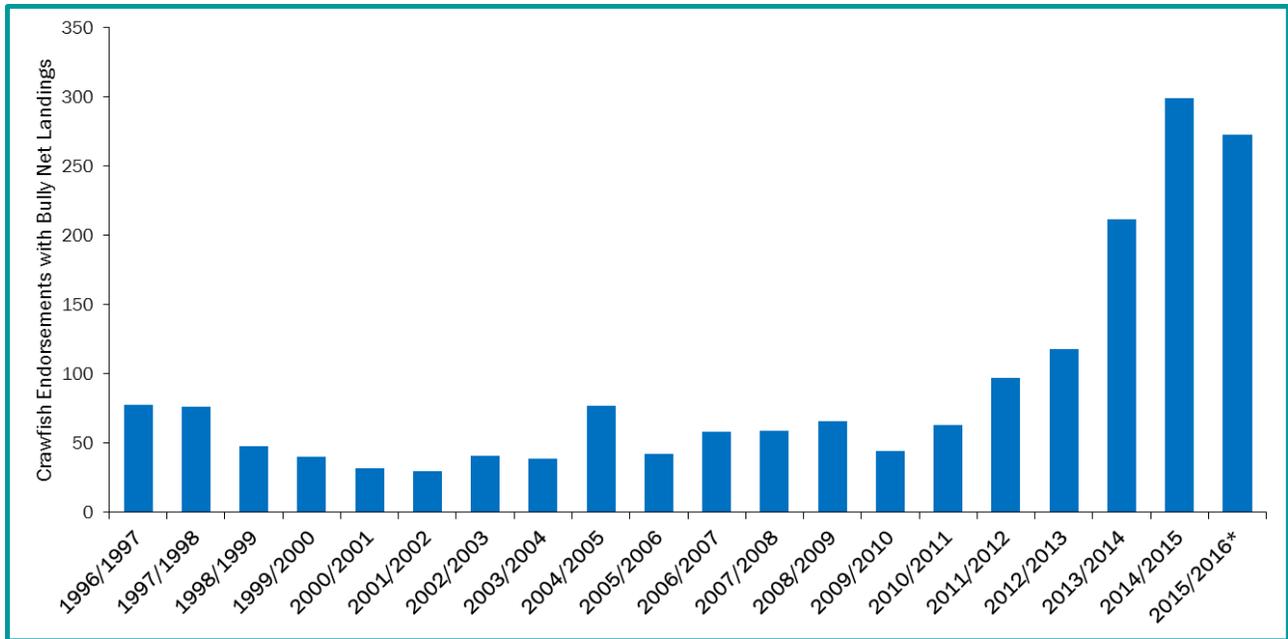


Figure 1.1.3. Number of commercial bully net participants by fishing season.

Data compiled from Florida Trip Ticket records; data updated June 23, 2016.

*2015/2016 data are preliminary

FWC held three public workshops, public commission meetings, and statewide marine fisheries workshops beginning in 2014 to work with stakeholders on changes to regulations concerning bully netting of spiny lobster. FWC, based on input from these workshops and from its staff, proposed options that would allow FWC to better quantify participation in the commercial bully net fishery, while continuing to allow entry into the fishery, and address other industry and stakeholder concerns. Public hearings were held and the following new regulations were approved by FWC:

1. Update the definition of “commercial harvester” as used in Chapter 68B-24, FAC, to include harvesters with a commercial bully net endorsement.
2. Create an open-access bully net endorsement that would be required in conjunction with the harvester’s saltwater products license and restricted species and crawfish endorsements for commercial harvest of spiny lobster with a bully net.
3. Require any vessel used for commercial harvest of spiny lobster with a commercial bully net to be marked with the harvester’s bully net endorsement number in reflective paint and prohibit trap pullers aboard commercial bully net vessels.
4. Prohibit the simultaneous possession of a bully net and any underwater breathing apparatus, as defined in 68B-4.002, FAC, aboard a vessel being used to harvest or transport spiny lobster for commercial purposes.

The rule implementing these regulations was approved by FWC in February 2017 and took effect May 1, 2017.

In the spring of 2017, FWC submitted these rules and associated administrative record to National Marine Fisheries Service (NMFS) and the Gulf of Mexico (Gulf) and South Atlantic

Fishery Management Councils (Councils) for implementation under the framework procedure put in place with Amendment 2 to the Fishery Management Plan (FMP) for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic (Spiny Lobster FMP) (GMFMC and SAFMC 1989). Under that procedure, NMFS had authority to implement the state proposed rules in the exclusive economic zone (EEZ) off Florida provided they were consistent with the protocol and procedure and the Councils did not object. However, in Spiny Lobster Amendment 10 (GMFMC and SAFMC 2011) the framework protocol was updated and the procedure which would allow FWC to directly submit regulations to NMFS was removed. This, in effect, does not allow FWC to propose rules directly to NMFS, but, instead, any changes proposed by FWC for federal regulations must go through the Council process of either a framework or full amendment (depending on the action needed).

Spiny Lobster Protocol and Procedure for an Enhanced Cooperative Management System

The original Spiny Lobster FMP, implemented in July, 1982 (GMFMC and SAFMC 1982), largely complemented Florida's management regime and provided protection for the fishery throughout its range. The Spiny Lobster FMP provided management authority only for that part of the fishery operating in the EEZ; the fishery within state waters remained under Florida's authority. To achieve its conservation and management objectives and to effectively coordinate management with Florida, the Spiny Lobster FMP adopted many of the management measures employed by Florida. However, certain Florida lobster regulations were not initially adopted by the Councils. These incompatibilities occurred primarily because Florida's system could adjust management measures more quickly than the federal system.

Concern over the difficulties experienced in implementing compatible regulations prompted the Councils to pursue an alternative state/federal management structure that would optimize the use of limited state and federal resources, prevent duplication of effort, and make maximum use of the existing Florida regulations. In 1992, Amendment 2 was implemented (GMFMC and SAFMC 1989) which allowed FWC to propose Florida regulations for implementation in the EEZ through NMFS by the procedure. This procedure was based on the premise that more timely regulatory mechanisms were needed at the federal level and that a more formal mechanism was needed for state and federal coordination. Any regulations proposed under the procedure were required to be consistent with the Magnuson-Stevens Act, objectives of the spiny lobster FMP, and other applicable federal law.

In 2017, FWC contacted the NMFS Southeast Regional Office (SERO) requesting that federal regulations be aligned with Florida regulations for commercial harvest of spiny lobster using bully nets. However, NMFS determined that the previous cooperative management procedure for the spiny lobster protocol established in Amendment 2 was removed in 2012 with Spiny Lobster Amendment 10 therefore FWC could not propose rules directly to NMFS for implementation. The protocol still exists but there currently is not a way to implement Florida proposed regulations without Council action.

This amendment addresses the bully netting regulations proposed by Florida, and addresses the procedure which would allow Florida to directly submit proposed regulations to NMFS.

Actions in this amendment

Action 1: Establish an endorsement, marking, and gear prohibitions for bully net gear in the exclusive economic zone (EEZ) off Florida.

Action 2: Establish a cooperative management procedure for the protocol for roles of federal and State of Florida agencies for the management of spiny lobster

Objectives for this meeting

- Review draft Purpose and Need; modify as necessary.
- Review draft Actions and Alternatives; modify as necessary.
- Review Gulf Council motions.

Expected amendment timing

- ✓ June 2017 South Atlantic and Gulf Councils direct staff to begin work on amendment to address bully-net issues and reestablish the protocol and procedure.
- ✓ October 2017 Gulf Council reviews draft options paper.
- December 2017 South Atlantic Council reviews draft options paper.
- January 2018 Gulf Council reviews new draft options paper and approves actions/alternatives to be analyzed.
- March 2018 South Atlantic Council reviews new draft options paper and approves actions/alternatives to be analyzed.
- April 2018 Gulf Council reviews public hearing draft of Spiny Lobster Amendment 13, selects preferred alternatives.
- June 2018 South Atlantic Council reviews public hearing draft Spiny Lobster Amendment 13, selects preferred alternatives.
- July 2018? Public hearings
- August 2018 Gulf Council reviews public input, makes changes if necessary and approves final document.
- September 2018 South Atlantic Council reviews public input, makes changes if necessary, and approves for final document.

Purpose and need statement

Purpose for Actions

The purpose of this action is to conform federal regulations for spiny lobster that apply to the exclusive economic zone off Florida with recently adopted Florida state regulations, and to re-establish the procedure for the protocol for an enhanced cooperative management system.

Need for Actions

The need for this action is to establish consistent state and federal regulations to effectively manage and enforce the harvest of spiny lobster off Florida to prevent overfishing while achieving optimum yield.

Committee Action:

REVIEW AND MODIFY THE SUGGESTED PURPOSE AND NEED STATEMENT
APPROVE THE PURPOSE AND NEED STATEMENT
OTHERS?

Draft Motions:

DRAFT MOTION: ACCEPT THE IPT's RECOMMENDED WORDING FOR PURPOSE AND NEED.

Proposed Actions and Alternatives

Action 1 – Establish an endorsement, marking, and gear prohibitions for bully net gear in the exclusive economic zone (EEZ) off Florida

Alternative 1: No Action. Do not establish an endorsement for bully net gear or regulations related to bully nets for spiny lobster commercial harvesters in the EEZ off Florida in the Gulf of Mexico (Gulf) and the South Atlantic.

Alternative 2: Establish an endorsement for bully nets and align federal regulations to be consistent with Florida regulations for spiny lobster commercial harvesters *using bully net gear* by implementing the following:

- Require commercial bully net vessels in the EEZ off Florida to have a bully net endorsement from Florida
- Require that the vessel be marked with the harvester’s bully net endorsement number using reflective paint or other reflective material
- Prohibit commercial bully net vessels from having trap pullers onboard
- Prohibit the simultaneous possession of a bully net and any underwater breathing apparatus (not including dive masks or snorkels) onboard a vessel used to harvest or transport spiny lobster for commercial purposes.

Discussion:

Two Alternatives Considered:

The National Marine Fisheries Service (NMFS) acknowledges there are two alternatives for this action. Section 1502.14(a) of the National Environmental Policy Act (NEPA) states that “agencies shall: rigorously explore and objectively evaluate all reasonable alternatives...” NMFS and the Gulf of Mexico Fishery Management Council and South Atlantic Fishery Management Council (Councils) have identified two reasonable alternatives for this action, including the no action alternative.

Current regulations under **Alternative 1** (No Action) for the harvest and management of spiny lobster in the state waters of Florida are at Chapter 68B-24 (<http://www.myfwc.com/fishing/saltwater/commercial/spiny-lobster/>; Appendix A). Effective May 1, 2017, Florida implemented the following changes based on the noted rationale):

- Created an open-access commercial bully net lobster endorsement available to commercial fishers who hold a crawfish endorsement. This will help provide better data on this sector.
- Required commercial bully net vessels be marked with the harvester’s bully net endorsement number using reflective paint or other reflective material. This will make the vessels readily identifiable as participants in the commercial bully net fishery.

- Prohibited trap pullers on commercial bully net vessels. This will prevent fishers from using the bully net fishery as a cover for illegal activity.
- Prohibited the simultaneous possession of a bully net and any underwater breathing apparatus (not including dive masks or snorkels) aboard a vessel used to harvest or transport lobster for commercial purposes. This will address user conflicts among the recreational and commercial sectors, and other members of the public.
- Updated the definition of “commercial harvester” to include the bully net endorsement. This will address user conflicts among the recreational and commercial sectors, and other members of the public.

Alternative 2 would make regulations in the EEZ off Florida in the Gulf of Mexico and South Atlantic consistent with the changes made by the State of Florida in its regulations.

Committee Action:

REVIEW AND MODIFY THE ACTION AND ALTERNATIVES
APPROVE THE ACTION AND ALTERNATIVES
OTHERS?

Draft Motions:

DRAFT MOTION: ACCEPT THE IPT’s RECOMMENDED WORDING FOR ACTION 1, ALTERNATIVES 1 THROUGH 2.

Action 2: Establish a cooperative management procedure for the protocol for roles of federal and State of Florida agencies for the management of spiny lobster

Alternative 1: No Action. Do not establish a procedure for the protocol for roles of Federal and State of Florida Agencies for the management of spiny lobster. The Councils must develop an amendment to the Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic (Spiny Lobster FMP) for any regulations from Florida that are inconsistent with the federal regulations.

Alternative 2. Establish a procedure for an enhanced cooperative management system that allows changes to the Spiny Lobster FMP through NMFS rulemaking. Following is the proposed language for the procedure to be added to the existing protocol:

Proposed Language for Enhanced Cooperative Management Procedure (From SL Amendment 2)

Joint Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico (Gulf and South Atlantic Procedure for Enhanced Cooperative Management:

1. This procedure will function under and be governed by the protocols for cooperative management agreed upon by the Florida Fish and Wildlife Conservation Commission (FWC), the Councils, and NMFS.
2. Based on the best available scientific information, FWC will develop alternative proposed rules and socioeconomic analyses on the effects of these alternatives, hold public hearings (as required by Florida's Administrative Procedure Act), and at a final hearing select each preferred alternative rule for recommendation to the Florida Governor and Cabinet for implementation. After approval of the rule or rules by the Governor and Cabinet, FWC will advise the Councils and Regional Administrator (RA) of NMFS of the recommended rule(s) and proposed implementation date and will provide to the RA and to the Councils the analyses of the effects and impacts of the recommended and alternative rules and summaries of public comment. For rules to be implemented by the start of the fishing season (currently August 6), FWC must complete these actions on or before February 1. The Councils will submit the rule and supporting analyses to the Scientific and Statistical Committees (SSCs) who will advise the RA, through the Councils, of the scientific validity of the analyses. The Councils will also submit the rule and supporting analyses to the advisory panels for comment.
3. The RA will review the recommended rule, analyses, and public record, and if the RA preliminarily determines that the rule is consistent with the objectives of the Spiny Lobster FMP, the National Standards, and other applicable law, the RA will notify the

Councils and FWC of his intent to implement the rule in the EEZ. If in the judgment of the RA, the rule or its supporting record are not consistent with these statutory criteria or the Spiny Lobster FMP objectives, the RA will immediately notify the Councils and FWC of the deficiencies in the rule or supporting record. FWC may submit additional information or analyses to correct the deficiencies in the record.

4. When in the judgment of either of the Councils the rule is not consistent with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) or the objectives of the FMP, they will inform the RA and FWC. In this case the RA will not proceed with implementation of the rule until this issue has been resolved.
5. When the RA has preliminarily concluded the rule is acceptable, the RA will draft and publish the proposed rule for implementation. Based on State analyses of impacts, the Councils' staffs with assistance from FWC will prepare the supporting documentation (environmental assessment, regulatory impact review, etc.) that accompany the proposed rule. A reasonable period for public comment on the proposed rule shall be provided.

After reviewing public comment if the RA has concluded the rule is not consistent with the Spiny Lobster FMP objectives, the national standards, other applicable law, or the provisions of this procedure, the RA will notify the Councils and FWC of that fact and/or the need for proceeding with implementation by Spiny Lobster FMP amendment. If the supporting record is still deficient, the RA will delay taking action until the record has been supplemented by FWC and/or Councils' staffs. If the RA has concluded the rule is consistent, the RA will publish the final rule. The effective date of rules promulgated under this procedure will be the starting date of the next fishing season following publication of the final rule, unless otherwise agreed upon by FWC, the Councils, and the RA.

6. PART A (GEAR RESTRICTIONS) Appropriate rules or regulatory changes that can be implemented under this part include:
 - a. Limiting the number of traps that may be fished by each vessel.
 - b. Describing the construction characteristics of traps, including requiring escape gaps.
 - c. Specification of gear and vessel identification requirements.
 - d. Specification of gear that may be utilized or prohibited in directed fishery and specification of bycatch levels that may be taken as incidental catch in non-directed fisheries.
 - e. Changes to soak or removal periods and requirements for traps.

PART B (HARVEST RESTRICTIONS) Appropriate rules or regulatory changes that can be implemented under this part include:

- a. Recreational bag and possession limits.
- b. Changes in fishing seasons.

- c. Limitations on use, possession, and handling of undersized lobsters.
- d. Changes in minimum legal size.
- e. Changes to permit requirements

***Note:** For reference, the existing protocol for federal and State of Florida roles is provided in Appendix C.

Discussion:

The State of Florida has been historically allowed to recommend regulations directly to NMFS; however, the procedure governing this process was removed from the Spiny Lobster FMP when the cooperative protocol was updated in Amendment 10.

Two Alternatives Considered:

NMFS acknowledges there are two alternatives for this action. Section 1502.14(a) of the NEPA states that “agencies shall: rigorously explore and objectively evaluate all reasonable alternatives...” NMFS and the Councils have identified two reasonable alternatives for this action, including the no action alternative.

Florida has recently developed new regulations that will affect commercial harvest of spiny lobster. However, these regulations cannot be implemented for the federal segment of the fishery without Council action. When Florida proposed a change in regulations to NMFS, it was brought to the Councils’ attention that there would need to be Council action through a framework or plan amendment because there was no procedure in place to allow Florida to recommend regulations directly to NMFS. **Alternative 1** would keep the current process, which requires that any changes for federal spiny lobster regulations be developed through Council action.

Alternative 2 would re-establish a procedure allowing the Florida to propose federal regulations directly to NMFS under the existing cooperative protocol. The recommended regulations must be based and corresponding analyses must be based on the best available science and be consistent with FMP objectives, the national standards, and any other applicable law.

Alternative 2 is expected to help expedite making federal regulations consistent with Florida regulations for the EEZ off Florida.

Gulf Motion:

The Committee recommends, and I so move: to modify Action 2 to combine both the protocol and the procedure.

Motion carried with no opposition.

Committee Action:

REVIEW AND MODIFY THE ACTION AND ALTERNATIVES
MODIFY ACTION 2 TO COMBINE BOTH THE PROTOCOL AND PROCEDURE
DO NOT MODIFY ACTION 2 TO COMBINE PROTOCOL AND PROCEDURE
APPROVE THE ACTIONS AND ALTERNATIVES
OTHERS?

Draft Motions:

DRAFT MOTION: ACCEPT THE IPT'S RECOMMENDED WORDING FOR ACTION 2, ALTERNATIVES 1 THROUGH 2.

DRAFT MOTION: MODIFY ACTION 2, ALTERNATIVE 2 TO COMBINE BOTH THE PROTOCOL AND THE PROCEDURE.

Other Gulf Motions:

At their October 2017 meeting, the Gulf Council reviewed a list of inconsistencies between State of Florida regulations and federal regulations for spiny lobsters and FWC suggested changes (Appendix B and Attachment 2b). After discussing which changes could be made to the codified text next time spiny lobster regulations were updated and which regulations would require formal Council action the Gulf Council approved the following motion:

The Committee recommends, and I so move: to incorporate the following into Spiny Lobster Amendment 13:

- bag limits
- degradable panels in traps
- definition of artificial habitats

Motion carried with no opposition

Committee Action:

RECOMMEND INCORPORATING BAG LIMITS, DEGRADABLE PANELS, AND ARTIFICAL HABITATS DEFINITION INTO SPINY LOBSTER AMENDMENT 13

DO NOT RECOMMEND INCORPORATING BAG LIMITS, DEGRADABLE PANELS, AND ARTIFICAL HABITATS DEFINITION INTO SPINY LOBSTER AMENDMENT 13

APPROVE FOR SCOPING

OTHERS?

Draft Motions:

DRAFT MOTION: INCORPORATE BAG LIMITS, DEGRADABLE PANELS IN TRAPS, AND DEFINITION OF ARTIFICAL HABITATS INTO SPINY LOBSTER AMENDMENT 13.

DRAFT MOTION: APPROVE SPINY LOBSTER AMENDMENT 13 FOR SCOPING.

Appendix A

CHAPTER 68B-24

SPINY LOBSTER (CRAWFISH) AND SLIPPER LOBSTER

- 68B-24.001 Purpose and Intent
- 68B-24.002 Definitions
- 68B-24.003 Minimum Size Limits
- 68B-24.0035 Special Recreational Crawfish License
- 68B-24.004 Bag Limit
- 68B-24.0045 Importation of Spiny Lobster; Documentation and Other Requirements
- 68B-24.005 Seasons
- 68B-24.0055 Commercial Requirements
- 68B-24.006 Gear: Traps, Buoys, Identification Requirements, Prohibited Devices
- 68B-24.0065 Special Provisions for John Pennekamp Coral Reef State Park in Monroe County:
Closure During Two-day Sport Season; Closure of Coral Formation Protection
Zones
- 68B-24.007 Other Prohibitions
- 68B-24.008 Slipper Lobster; Prohibitions Relating to Eggbearing Slipper Lobster (Repealed)
- 68B-24.009 Trap Reduction Schedule

68B-24.001 Purpose and Intent.

(1) The primary purpose and intent of this chapter are to protect and conserve Florida's spiny lobster resources, assure the continuing health and abundance of those resources, and to provide for optimum sustained benefits and use from the resources for all the people of the state.

(2) It is the intent of this chapter to repeal and replace Chapter 29299, Special Acts of Florida, 1953, a special act relating to gear authorized to be used in the waters of Monroe County.

(3) It is also the intent of this chapter to prohibit the molestation of any eggbearing lobster.

(4) Spiny lobster is designated as a restricted species pursuant to Section 379.101(32), F.S.

(5) It is the goal of the Commission to substantially reduce the mortality of undersize spiny lobster in the fishery, by reducing the number of traps used in the fishery to the lowest number which will maintain or increase overall catch levels, promote economic efficiency in the fishery, and conserve natural resources.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const., Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, and Chapter 85-163, Laws of Fla. Law Implemented Art. IV, Sec. 9, Fla. Const., Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, and Chapter 85-163, Laws of Fla. History—New 7-2-87, Amended 7-2-90, 3-1-92, 6-1-94, 10-4-95, Formerly 46-24.001, Amended 7-1-08.

68B-24.002 Definitions.

As used in this rule chapter:

(1) "Artificial habitat" means any material placed in the waters of the state that is reasonably suited to providing cover and habitat for spiny lobster. Such material may be constructed of, but is not limited to, wood, metal, fiberglass, concrete, or plastic, or any combination thereof, and may

be fabricated for this specific purpose or for some other purpose. The term does not include fishing gear allowed by rule of the Commission, legally permitted structures, or artificial reef sites constructed pursuant to permits issued by the United States Army Corps of Engineers or by the Florida Department of Environmental Protection.

(2) “Biscayne National Park” means all state waters lying within the boundaries of Biscayne National Park, a legal description of which can be found in Rule 68B-2.001, F.A.C.

(3) “Bully net” means a circular frame attached at right angles to the end of a pole and supporting a conical bag of webbing. The webbing is usually held up by means of a cord which is released when the net is dropped over a lobster.

(4) “Commercial harvester” means a person who holds a valid crawfish license or trap number, lobster trap certificates if traps are used to harvest spiny lobster, or a valid commercial dive permit if harvest is by diving, or a valid bully net permit if harvest is by bully net, and a valid saltwater products license with a restricted species endorsement issued by the Fish and Wildlife Conservation Commission.

(5) “Diving” means swimming at or below the surface of the water.

(6) “Harvest” means the catching or taking of spiny lobster by any means whatsoever, followed by a reduction of such spiny lobster to possession. Spiny lobster that are caught but immediately returned to the water free, alive and unharmed are not harvested. In addition, temporary possession of a spiny lobster for the purpose of measuring it to determine compliance with the minimum size requirements of this chapter shall not constitute harvesting such lobster, provided that it is measured immediately after taking, and immediately returned to the water free, alive and unharmed if undersized.

(7) “Hoop net” means a frame, circular or otherwise, supporting a shallow bag of webbing and suspended by a line and bridles. The net is baited and lowered to the ocean bottom, to be raised rapidly at a later time to prevent the escape of lobster.

(8) “Immediate family” refers to a commercial harvester’s mother, father, sister, brother, spouse, son, daughter, step-father, step-mother, step-son, step-daughter, half-sister, half-brother, son-in-law, or daughter-in-law.

(9) “Land,” when used in connection with the harvest of a spiny lobster, means the physical act of bringing the harvested lobster ashore.

(10) “Lobster trap certificates” means those certificates allotted by the Fish and Wildlife Conservation Commission pursuant to Section 379.3671(2), F.S.

(11) “Person” means any natural person, firm, entity, or corporation.

(12) “Recreational harvester” means any person other than a commercial harvester.

(13) “Spiny lobster” or “crawfish” means any crustacean of the species *Panulirus argus*, or any part thereof.

(14) “Untreated pine” means raw pine wood that has not been treated with any preservative or pine wood that has been pressure treated with no more than 0.40 pounds of chromated copper arsenate (CCA) compounds per cubic foot of wood.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const., 379.361 History—New 7-2-87, Amended 7-2-90, 3-1-92, 6-1-94, 10-4-95, Formerly 46-24.002, Amended 7-7-03, 4-1-04, 7-1-08, 7-1-15, 5-1-17.

68B-24.003 Minimum Size Limits.

(1) No person shall harvest or possess any spiny lobster with a carapace measurement of 3 inches or less or, if the tail is separated from the body, a tail measurement less than 5 1/2 inches not including any protruding muscle tissue, except as may be provided in subsection (3), of this rule.

(2) The carapace (head, body, or front section) measurement shall be determined by beginning at the anteriormost edge (front) of the groove between the horns directly above the eyes, then proceeding along the middorsal line (middle of the back) to the rear edge of the top part of the carapace, excluding any translucent membrane. The tail (segmented portion) shall be measured lengthwise along the top middorsal line (middle of the back) of the entire tail until the rearmost extremity is reached; provided, the tail measurement shall be conducted with the tail in a flat straight position with the tip of the tail closed.

(3) The holder of a valid crawfish license or trap number, lobster trap certificates, and a valid saltwater products license issued by the Fish and Wildlife Conservation Commission may harvest and possess, while on the water, undersized spiny lobster not exceeding 50 per boat and 1 per trap aboard each boat if used exclusively for luring, decoying, or otherwise attracting noncaptive spiny lobster into traps. Such undersized spiny lobster shall be kept alive, while in possession, in a shaded continuously circulating live well with pump capacity to totally replace the water at least every 8 minutes and large enough to provide at least 3/4 gallon of seawater per lobster. All undersized lobster so maintained shall be released to the water alive and unharmed immediately upon leaving the trap lines and prior to 1 hour after official sunset.

(4) Spiny lobster harvested in Florida waters shall remain in a whole condition at all times while on or below the waters of the state and the practice of wringing or separating the tail (segmented portion) from the body (carapace and head) section is prohibited on state waters. Possession of spiny lobster tails that have been wrung or separated, on or below the waters of the state, is prohibited, unless the spiny lobster are being imported pursuant to Rule 68B-24.0045, F.A.C., or were harvested outside the waters of the state and the wringing or separation was pursuant to a federal permit allowing such wringing or separation. In the latter case, the federal permit shall be present and accompany any wrung or separated spiny lobster tails while possessed on or below the waters of the state.

(5) No person shall harvest or attempt to harvest spiny lobster by diving unless he possesses, while in the water, a measuring device capable of being used to perform the carapace measurement described in subsection (2). Each measurement performed by such a person shall occur in the water.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-2-87, Amended 7-2-90, 3-1-92, 6-1-94, Formerly 46-24.003, Amended 7-9-02.

68B-24.0035 Special Recreational Crawfish License.

(1) A special recreational crawfish license is required to harvest spiny lobster from state waters in excess of the bag limit established for recreational harvesters in subsection (1), of Rule 68B-24.004, F.A.C., but not in excess of the special bag limit established in subsection (3), of that rule.

(2) A special recreational crawfish license will be issued and renewed pursuant to the following criteria:

(a) Each person applying for a license shall submit a completed form (Form DMF-SL2400 (3-05), incorporated herein by reference) provided by the Commission, together with the fee required

by Section 379.355, F.S.

(b) No license will be issued to a person who did not possess a crawfish trap number (crawfish endorsement) and a saltwater products license during the 1993-1994 license year.

(c) A license will not be issued to a person who has a crawfish endorsement at the time of application.

(d) A special recreational crawfish license is not valid unless the holder also possesses a valid recreational crawfish permit required by Section 379.354(8)(d), F.S.

(e) Each applicant must agree to file quarterly reports with the Commission detailing the amount of spiny lobster harvested by the licenseholder in the previous quarter together with the amount harvested by other recreational harvesters aboard the licenseholder's vessel. The Commission will not renew the special recreational crawfish license of any licenseholder who has not complied with this reporting requirement.

(f) Each license issued must be renewed by June 30 of that license year for the following license year. Licenses that are not so renewed shall expire, and may be reissued by the Commission to new applicants otherwise qualified under this rule. A special recreational crawfish license is not transferable.

(g) The number of licenses issued in any license year shall not exceed the number issued for the 1994-1995 license year (520 licenses). Beginning with the 2012-2013 license year and every year thereafter, no special recreational crawfish license will be issued or renewed by the Commission.

(3) No person issued a special recreational crawfish license may also possess a crawfish endorsement.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 3-1-05.

68B-24.004 Bag Limit.

(1) Except as provided in subsections (2), (3), and (4), the harvest from state waters, or possession while on or below such water, of more than 6 spiny lobster per recreational harvester per day, is prohibited.

(2)(a) Except in Monroe County and in Biscayne National Park, during the first day of the two-day sport season specified in Rule 68B-24.005, F.A.C., no recreational harvester shall harvest more than 12 spiny lobster, or possess more than 12 spiny lobster, whether on or off the waters of the state. During the second day of the two-day sport season, no recreational harvester shall harvest or possess while in or on state waters more than 12 spiny lobster, or possess more than 24 spiny lobster once such harvester has landed and departed the state waters.

(b) In Monroe County and in Biscayne National Park, during the first day of the two-day sport season specified in Rule 68B-24.005, F.A.C., no recreational harvester shall harvest more than 6 spiny lobster, or possess more than 6 spiny lobster, whether on or off the waters of the state. During the second day of the two-day sport season, no recreational harvester shall harvest or possess while in or on the waters of Monroe County or Biscayne National Park more than 6 spiny lobster, or possess more than 12 spiny lobster in said county or in said park once such harvester has landed and departed those waters. Pursuant to Rule 68B-24.0065, F.A.C., John Pennekamp Coral Reef State Park in Monroe County is closed to spiny lobster harvest during the two-day sport season.

(3) Special Recreational Crawfish (Spiny Lobster) Bag Limit – No person who possesses a

valid special recreational crawfish license issued by the Fish and Wildlife Conservation Commission pursuant to Rule 68B-24.0035, F.A.C., shall harvest in any one day during the regular season specified in subsection 68B-24.005(1), F.A.C., more spiny lobster than the amounts specified below for the respective fishing seasons; provided, however, when one or more persons possessing a valid special recreational crawfish license are aboard a single vessel in or on state waters, together with any number of regular recreational harvesters, no more than the specified amount of spiny lobster for the applicable fishing season shall be possessed aboard such vessel. The specified bag limit is not applicable during the 2-day sport season established in subsection (2).

- (a) 2003-2004 – 50.
- (b) 2004-2005 – 45.
- (c) 2005-2006 – 40.
- (d) 2006-2007 – 35.
- (e) 2007-2008 – 30.
- (f) 2008-2009 – 25.
- (g) 2009-2010 – 20.
- (h) 2010-2011 – 15.
- (i) 2011-2012 – 10.

(j) Beginning with the 2012-2013 season and for each season thereafter, all recreational harvesters shall be subject to the bag limit specified in subsection (1).

(4) No person shall harvest or possess, while on or below the water, more spiny lobster than the limit established in subsection (1), unless such person:

- (a) Is engaged in the lawful importation of spiny lobster pursuant to Rule 68B-24.0045, F.A.C.;
- (b) Is a commercial harvester as defined in subsection 68B-24.002(4), F.A.C.;

(c) Until March 31, 2012, possesses a current valid special recreational crawfish license issued by the Fish and Wildlife Conservation Commission pursuant to Section 379.355, F.S.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-2-87, Amended 7-2-90, 7-1-92, 6-1-94, 10-4-95, Formerly 46-24.004, Amended 7-9-02, 7-7-03, 3-1-05.

68B-24.0045 Importation of Spiny Lobster; Documentation and Other Requirements.

(1) Documentation Requirements During Open Season – During the open season specified in subsection 68B-24.005(1), F.A.C., a person may possess wrung spiny lobster tails or possess spiny lobster in excess of the bag limit specified in subsection 68B-24.004(1), F.A.C., while on state waters, if such person is also in possession of appropriate receipt(s), bill(s) of sale, or bill(s) of lading to show that the spiny lobster were purchased in a foreign country and are entering the state in international commerce. Failure to maintain such documentation or to promptly produce same at the request of any duly authorized law enforcement officer shall constitute violation of this rule.

(2) Sale of Imported Spiny Lobster During the Closed Season, Documentation – Notwithstanding the provisions of Sections 379.367, F.S., spiny lobster tails that have been imported into Florida from a foreign country may be sold during the closed harvesting season of April 1 through August 5 of each year, if such spiny lobster tails are accompanied with the appropriate receipts(s), bill(s) of sale, or bill(s) of lading to show that the spiny lobster were harvested and purchased in a foreign country and are entering the state in international commerce.

Such documentation shall accompany the lobster through retail or restaurant sale. Failure to maintain such documentation or to promptly produce same at the request of any duly authorized law enforcement officer shall constitute violation of this rule.

(3) Each spiny lobster imported pursuant to this rule shall comply with the minimum size requirements specified in subsection 68B-24.003(1), F.A.C., and the prohibitions relating to eggbearing spiny lobster specified in subsection 68B-24.007(1), F.A.C.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-2-90, Amended 10-4-95, Formerly 46-24.0045, Amended 6-2-02.

68B-24.005 Seasons.

(1) Except as provided in subsection (2), of this rule, the season for harvest of spiny lobster in state waters shall be August 6 of each year through March 31 of the following year. No person shall harvest, attempt to harvest, or have in his possession, regardless of where taken, any spiny lobster during the closed season of April 1 through August 5 of each year, except pursuant to subsection (2), for storage and distribution of lawfully possessed inventory stocks as provided by special permit issued by the Commission pursuant to Section 379.367, F.S.

(2) There shall be a sport season for recreational harvesters of spiny lobster, which season shall occur during the last Wednesday and successive Thursday of July each year. During this sport season, the following special restrictions shall apply:

(a) No person shall harvest spiny lobster by any means other than by diving or with the use of a bully net or hoop net.

(b) In Monroe County only, no person shall harvest spiny lobster:

1. By diving at night (from 1 hour after official sunset until 1 hour before official sunrise).

2. In or from the waters of John Pennekamp Coral Reef State Park, pursuant to Rule 68B-24.0065, F.A.C.

(3) Harvesters of spiny lobster using traps may bait and place their traps in the water beginning on August 1 of each year. Harvest or sale of spiny lobster from such traps during the “soak” period prior to the beginning of the season is prohibited.

(4) All traps used for harvest of spiny lobster shall be removed from state waters by April 5 of each year. All spiny lobster taken from traps after the close of a season on March 31 shall be returned to the water free, alive, and unharmed. The Division of Law Enforcement of the Fish and Wildlife Conservation Commission shall grant an extension for the retrieval of traps up to a maximum of 10 days after the expiration of the 5-day retrieval period, or a total of up to 15 days after the close of the spiny lobster season, upon the following conditions:

(a) A harvester or his lawfully designated agent shall request, in writing, permission for an extension of the period for retrieval of traps. The request shall specify the harvester’s name and the appropriate license or trap number, the approximate number of traps and their location, the identity of the boat to be used for trap retrieval, the boat owner’s name, the period of additional time needed for trap retrieval, and the reasons for the request.

(b) On the day that trap removal begins, and on each subsequent day that it continues, the Commission’s Division of Law Enforcement shall be advised in person or by telephone of the remaining trap locations and landing site.

(c) Reasons for granting an extension shall be limited to hazardous weather (small craft warnings, at a minimum), medical emergencies that make it impossible for the harvester to operate

a boat, or equipment breakdown.

(d) Nothing in this subsection shall authorize the harvest, landing, or sale of any spiny lobster during the closed season.

(5) Except as provided in subsections (3) and (4), of this rule, for trap soaking and retrieval periods, no person shall transport on the water, fish with, set, or place any spiny lobster trap or part thereof during the closed season. Any such trap remaining in the water or abandoned during the closed season (following any extension for retrieval as provided in subsection (4), and prior to the soak period authorized in subsection (3), is declared to be a public nuisance and shall be disposed of in the manner approved by the Commission's Division of Law Enforcement. This provision shall be in addition to any penalty imposed by law.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-2-87, Amended 7-2-90, 3-1-92, 7-1-92, 6-1-94, Formerly 46-24.005.

68B-24.0055 Commercial Requirements.

(1) Section 379.367, F.S., requires each person using traps to harvest spiny lobster or taking spiny lobster in commercial quantities to purchase and possess a trap number, also known as a crawfish endorsement or crawfish license. A crawfish endorsement is hereby required to harvest spiny lobster for commercial purposes, and shall only be issued to a person, firm, or corporation that possesses a valid saltwater products license with a restricted species endorsement. "Harvest for commercial purposes" means the taking or harvesting of spiny lobster for purposes of sale or with intent to sell or in excess of established bag limits.

(2) A commercial dive permit is required to harvest spiny lobster in commercial quantities by diving. This permit will be in the form of the letter D added to the crawfish number.

(a) Effective January 1, 2005, no new commercial dive permits will be issued and no commercial dive permit will be renewed except those that have remained active since the 2004-2005 fishing season.

(b) A commercial dive permit may be issued only on a vessel saltwater products license.

(c) Each unique commercial dive permit number may only be issued on one of the holder's vessel saltwater products licenses at any time.

(d) Failure to renew the commercial dive permit by September 30 of each year will result in forfeiture of the endorsement.

(3) Transferability. A commercial dive permit is transferable upon approval of the Commission under the following conditions:

(a) The buyer must hold a saltwater products license with a valid restricted species endorsement.

(b) A person who wishes to transfer a permit number shall submit a notarized Spiny Lobster Commercial Dive Permit Transfer Form within 72 hours of the final notarized signature, that has been signed by both parties to the transaction, hand delivered, or sent by United States Postal Service certified mail, return receipt requested, to the Commission between May 1 and the end of February. Requests received by the Commission before May 1 or postmarked after the end of February of the current license year will not be processed. The Spiny Lobster Commercial Dive Permit Transfer Form (Form DMF-SL2410 (02-15), found online at <http://www.flrules.org/Gateway/reference.asp?No=Ref-05474>, incorporated herein by reference), shall include the following information:

1. The name, address, and SPL number of seller,
2. The name, address, and SPL number of buyer; and,
3. The selling price.

(c) A commercial dive permit shall not be transferred or renewed until all license fees, surcharges, and any other outstanding fees, fines, or penalties owed to the Commission by either party to the transaction have been paid in full.

(d) Commercial dive permits will not be transferred to or renewed for applicants who own one or more lobster trap certificates. An applicant who is otherwise eligible to receive a commercial dive permit but holds lobster trap certificates may receive a commercial dive permit if the applicant notifies the commission in writing that that he/she is surrendering his/her trap certificates to the Commission. During any period of trap reduction, any certificates surrendered to the Commission shall become permanently unavailable and be considered in that amount to be reduced during the next license-year period.

(e) In the event of the death or permanent disability of a person holding a commercial dive permit, the permit may be transferred by the license holder or the executor of the estate to a member of his or her immediate family within 12 months of the date of death or disability and upon payment of all outstanding fees, fines, or penalties to the Commission in full.

(4) A commercial bully net permit is required to harvest spiny lobster for commercial purposes with a bully net. This permit will be in the form of the letter N added to the harvester's crawfish endorsement number. Application for a commercial bully net permit may be made using either Commission Form DMF-SL2420a (02-17) (Saltwater Products License (SPL) Application with CN for Individuals, found online at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-08028>, and incorporated herein by reference), or Commission Form DMF-SL2420b (02-17) (Saltwater Products License (SPL) Application with CN for Businesses, found online at: <http://www.flrules.org/Gateway/reference.asp?No=Ref-08027>, and incorporated herein by reference).

(5) Commercial harvest limits:

(a) Persons harvesting lobster commercially by diving in Broward, Dade, Monroe, Collier, and Lee Counties or adjacent federal EEZ waters shall be subject to a daily vessel harvest and possession limit of 250 spiny lobsters per day. For purposes of this paragraph, persons shall be considered to be harvesting lobster by diving if they are harvesting pursuant to a saltwater products license with a restricted species endorsement and crawfish license with a commercial dive permit and are simultaneously in possession of any artificial underwater breathing apparatus or gear.

(b) No more than 250 spiny lobsters shall be possessed aboard or landed from any vessel within these counties regardless of the number of commercial harvesters on board harvesting pursuant to paragraph (a).

(c) Persons harvesting lobster commercially by use of a bully net shall be subject to a daily harvest and possession limit of 250 spiny lobsters per day. No more than 250 spiny lobsters shall be possessed aboard or landed from any vessel which has been used for such commercial harvest, regardless of the number of such commercial harvesters on board the vessel.

Rulemaking Authority Art IV, Sec. 9, Fla. Const. Law Implemented Art IV, Sec. 9, Fla. Const., 379.361 FS. History—New 7-1-01, Amended 7-7-03, 4-1-04, 7-15-04, 3-21-10, 7-1-15, 5-1-17.

68B-24.006 Gear: Traps, Buoys, Identification Requirements, Prohibited Devices.

(1) No commercial harvester shall harvest lobster by any means other than by diving, by the use of a bully net or hoop net, or by the use of traps as specified in this subsection.

(2) No person shall, in state waters, fish with, set, place, or cause to be fished with, set, or placed, any trap except a wood trap or plastic trap meeting the following specifications:

(a) Wood slat traps shall be no larger in dimension than 3 feet, by 2 feet, by 2 feet, or the volume equivalent. Such traps may be reinforced with wire mesh no heavier than 9 gauge, which shall only be affixed to the wood slats constituting the vertical surfaces of such traps. Beginning August 1, 2003, wire-reinforced wooden slat traps shall be constructed with wood slats that are a minimum of 1 1/4 inches wide, with a maximum spacing between slats of 2 1/4 inches.

(b) Plastic traps shall be no larger in dimension than 3 feet, by 2 feet, by 2 feet, or the volume equivalent, and shall have a degradable panel no smaller than 6 inches in length and 4 inches in width located on the top horizontal section of the trap. The panel shall only be considered degradable if it is constructed of cypress or untreated pine slats no thicker than 3/4 inch.

(c) The throats or entrances to all traps used to harvest spiny lobster shall be located on the top horizontal section of the trap, and shall be measured using the inside dimensions of the throat. If the throat is longer in one dimension, the throat size in the longer dimension shall not be smaller than 6 inches and in the shorter dimension shall not be smaller than 3 1/2 inches. If the throat is round or square, the throat size shall not be smaller than 5 1/2 inches in diameter or per side, respectively.

(3) All traps shall have a buoy or a time release buoy attached to each spiny lobster trap or at each end of a weighted trap trotline which shall be a minimum of six inches in diameter and constructed of styrofoam, cork, molded polyvinyl chloride, or molded polystyrene, and shall be of sufficient strength and buoyancy to float and of such color, hue, and brilliancy as to be easily distinguished, seen, and located. Landward of the Territorial Sea Line, no more than 15 feet of any buoy line attached to a buoy used to mark spiny lobster trap or trotline shall float on the surface of the water.

(4) Each trap and buoy used to harvest spiny lobster shall have the commercial harvester's current crawfish license or trap number permanently affixed in legible figures. Each such trap shall also have firmly affixed thereto a current trap tag issued annually by the Commission. Traps with tags that are not firmly affixed by nails, staples, or otherwise securely fastened as may be provided by the Commission, shall be considered untagged for enforcement purposes. On each buoy, the affixed crawfish license or trap number shall be at least 2 inches high. The buoy color and license or trap number shall also be permanently and conspicuously displayed on any vessel used by a commercial harvester for setting traps and buoys, so as to be readily identifiable from the air and water, in the following manner:

(a) From the Air – The buoy design approved by the Commission shall be displayed and be permanently affixed to the uppermost structural portion of the vessel and displayed horizontally with the painted design up. The display shall exhibit the harvester's approved buoy design, unobstructed, on a circle 20 inches in diameter, outlined in a contrasting color, together with the permit numbers permanently affixed beneath the circle in numerals no smaller than 10 inches in height.

(b) From the Water – The buoy design approved by the Commission shall be displayed and be permanently affixed vertically to both the starboard and port sides of the vessel near amidship. The display shall exhibit the harvester's approved buoy design, unobstructed, on a circle 8 inches in

diameter, outlined in a contrasting color, together with the permit numbers permanently affixed beneath the circle in numerals no smaller than 4 inches in height.

(5) Except as provided herein, no numbers shall be used to identify traps or buoys other than the commercial harvester's current crawfish license or trap numbers or numbers designating federal permits. Ownership of spiny lobster traps used by any commercial harvester may be transferred to other persons, so long as the following conditions are met:

(a) The person acquiring ownership of such traps shall notify the Division of Law Enforcement within five days of acquiring ownership as to the number of traps purchased, the vendor, and the license or trap number currently displayed on the traps, and shall request issuance of a crawfish license or trap number if the person does not possess same.

(b) Buoys shall be renumbered and recolored at the first pulling of traps.

(c) The new license or trap number shall be permanently attached to the traps prior to their being set at the beginning of the next open season.

(d) The new owner shall retain a valid bill of sale.

(6) Each commercial harvester who harvests spiny lobster by diving shall permanently and conspicuously display on the boat used in such diving a "divers-down flag" symbol on an identification placard, which symbol shall have dimensions no less than 16 inches by 20 inches. The term "divers-down flag" shall have the meaning ascribed in Section 861.065(3), F.S. The commercial harvester's current crawfish license shall be permanently affixed to the diagonal stripe on the placard in legible figures to provide ready identification from the air and water. In addition to the "divers-down flag" symbol, the commercial diver permit number shall also be permanently and conspicuously displayed on any vessel used by a commercial diver to harvest spiny lobster, so as to be readily identifiable from the air and water, in the following manner:

(a) From the Air – The commercial dive permit number shall be displayed and be permanently affixed to the uppermost structural portion of the vessel in numerals no smaller than 10 inches in height. If the vessel is an open design, in lieu of a separate display, one seat shall be painted with the permit numbers unobstructed and no smaller than 10 inches in height.

(b) From the Water – The commercial dive permit number shall be displayed and be permanently affixed vertically to both the starboard and port sides of the vessel in numerals no smaller than 4 inches in height.

(7) Each person who harvests spiny lobster for commercial purposes with a bully net shall permanently and conspicuously display on the vessel used in such bully netting the harvester's commercial bully net permit number in legible figures to provide ready identification. The commercial bully net permit number shall be displayed and be permanently affixed vertically to both the starboard and port sides of the vessel using opaque retroreflective paint or other opaque retroreflective material in numerals no smaller than 4 inches in height.

(8) No person shall operate any vessel that is required to be marked with a bully net permit number pursuant to subsection (7), in Florida Waters with a trap puller aboard.

(9) During any time of the year when it is legal to transport spiny lobster traps, a harvester shall obtain permission from the Division of Law Enforcement to allow another person to transport, deploy, pull, or retrieve his or her traps.

(a) Permission shall be granted upon receipt of a written statement signed by both the commercial harvester seeking to have his or her traps pulled and the person designated to pull the traps.

1. Such written statement shall contain the following:

- a. The reason the harvester needs to have his or her traps pulled,
 - b. The numbers of the saltwater products license and crawfish endorsement of both, the harvester seeking to have the traps pulled and the person who will be pulling the traps,
 - c. The buoy colors of the harvester seeking such permission,
 - d. The name and number of the vessel to be used by the person who will be pulling the traps,
 - e. The general locations of the pulling activity of the vessel to be engaged in pulling the traps;
- and,

f. The dates the other person will be transporting, deploying, pulling or retrieving the traps.

2. Permission to pull traps in this manner shall be obtained daily by telephone from the Division of Law Enforcement for a maximum of 5 days without renewal or extension of the request.

(b) Permission to have traps pulled by another person for a longer period of time, must be based on extraordinary circumstances such as severe personal or family illness or accident or major equipment problem, and shall be obtained through petition to the Division of Law Enforcement on Commission Form DMF-SL5030 (02-13) (Spiny Lobster Trap Pulling Petition) found online at <http://www.flrules.org/Gateway/reference.asp?No=Ref-02668>, herein incorporated by reference, and shall be granted upon such conditions as the division deems appropriate for the protection of the resource.

1. It shall be the responsibility of the commercial harvester, or a member of the harvester's immediate family, to petition the division.

2. The petition shall include:

a. A complete description of the extraordinary circumstances with corroborating documentation,

b. The amount of additional time requested,

c. The number of traps to be pulled; and,

d. A notarized statement from the other person, attesting to his/her willingness and ability to pull these traps during this time period as well as an awareness of all rules governing the spiny lobster fishery.

(c) The person designated to pull the petitioner's traps is required to establish a float plan with Division of Law Enforcement Dispatch for each day traps will be pulled prior to pulling traps.

(d) If the person designated to pull the petitioner's traps does not possess a saltwater products license with restricted species and a crawfish endorsement, the petitioner, as the license holder of record must possess a vessel saltwater products license and shall be held accountable for the designee's compliance with all regulations governing the spiny lobster fishery.

(e) Permission to pull another's traps shall not be granted to a person holding a commercial dive permit.

(10) No person shall harvest or attempt to harvest spiny lobster using any device which will or could puncture, penetrate, or crush the exoskeleton (shell) or the flesh of the lobster, and the use of such devices as part of, or in conjunction with, any trap is also prohibited.

(11) No person shall harvest or attempt to harvest spiny lobster using or with the aid of bleach or any other chemical solution. The simultaneous possession of spiny lobster and any plastic or other container capable of ejecting liquid, by any person engaged in diving, is prohibited.

(12) No person shall harvest any spiny lobster from artificial habitat. The harvest and possession in the water of spiny lobster in excess of the recreational bag limit is hereby prohibited within 10 yards of artificial habitat.

(13) Except as provided in subsection (9), of this rule, no more than two spiny lobster (trap)

endorsement numbers (C-numbers) shall be used on a single vessel.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-2-87, Amended 7-2-90, 3-1-92, 7-1-92, 6-1-94, 10-4-95, 9-30-96, 6-1-99, Formerly 46-24.006, Amended 7-1-01, 7-9-02, 7-7-03, 4-1-04, 7-1-08, 6-19-13, 5-1-17.

68B-24.0065 Special Provisions for John Pennekamp Coral Reef State Park in Monroe County: Closure During Two-day Sport Season; Closure of Coral Formation Protection Zones.

(1) During the two-day sport season established in subsection 68B-24.005(2), F.A.C., there shall be no harvest of spiny lobster in John Pennekamp Coral Reef State Park. Except for persons transiting park waters in a vessel, no person shall possess any spiny lobster in or on the waters of the park during this period. Possession of spiny lobster during this period aboard any vessel from which a person is diving, within the boundaries of the park, is prohibited.

(2) The Fish and Wildlife Conservation Commission finds that lobster harvest in the coral formation areas of John Pennekamp Coral Reef State Park is inconsistent with maintenance of the valuable marine resources contained in and supported by such formations and with the purposes of the park.

(a) During the regular spiny lobster season established in subsection 68B-24.005(1), F.A.C., no person shall harvest or attempt to harvest any species of the Genera *Panulirus* or *Scyllarides*, or deploy any trap, in the following described areas of John Pennekamp Coral Reef State Park, each of which is a polygon bounded by the lines connecting the coordinates as expressed by latitude and longitude:

	Name of Area	Plot Corner	North Latitude	West Longitude
1	Turtle Rocks	North	25° 18.6'	80° 13.35'
		East	25° 18.05'	80° 12.8'
		South	25° 16.49'	80° 13.95'
		West	25° 16.95'	80° 14.55'
2	Basin Hill N.	North	25° 14.6'	80° 16.0'
		East	25° 14.42'	80° 15.72'
		South	25° 14.00'	80° 16.00'
		West	25° 14.25'	80° 16.3'
3	Basin Hill E.	North	25° 14.34'	80° 15.58'
		East	25° 14.1'	80° 15.35'
		South	25° 13.62'	80° 15.58'
		West	25° 13.82'	80° 16.08'
4	Basin Hill S.	North	25° 13.95'	80° 16.6'
		East	25° 13.42'	80° 16.1'
		South	25° 12.4'	80° 17.08'
		West	25° 12.75'	80° 17.65'
5	Higdon's Reef	North	25° 08.6'	80° 18.74'
		East	25° 08.4'	80° 18.55'
		South	25° 07.8'	80° 19.2'
		West	25° 08.0'	80° 19.36'
6	Cannon Patch	North	25° 06.95'	80° 20.5'
		East	25° 06.6'	80° 20.15'
		South	25° 05.95'	80° 20.7'
		West	25° 06.05'	80° 21.75'

7	Mosquito Bank N.	North	25° 04.85'	80° 23.00'
		East	25° 04.7'	80° 22.2'
		South	25° 03.6'	80° 23.05'
		West	25° 04.21'	80° 23.40'
8	Mosquito Bank S.E.	North	25° 04.15'	80° 22.3'
		East	25° 04.15'	80° 22.1'
		South	25° 03.3'	80° 22.9'
		West	25° 03.3'	80° 23.1'
9	Three Sisters N.	North	25° 02.75'	80° 23.75'
		East	25° 02.55'	80° 23.3'
		South	25° 01.09'	80° 24.05'
10	Three Sisters S.	North	25° 01.75'	80° 23.78'
		South	25° 01.42'	80° 24.1'
		West	25° 01.67'	80° 24.4'

(b) Within the areas described in paragraph (a), no person shall possess while in or on the water or aboard any vessel, any species of the Genera *Panulirus* or *Scyllarides*.

(c) Within John Pennekamp Coral Reef State Park, no person shall harvest any species of the Genera *Panulirus* or *Scyllarides*, or deploy any trap, from or within any patch reef. The term “patch reef” means any coral formation, consisting of a roughly circular area of hard corals, soft corals, and a mixture of other benthic invertebrates.

(d) The term “trap” for purposes of this subsection means any trap used to harvest or attempt to harvest spiny lobster as allowed by Rule 68B-24.006, F.A.C., stone crabs as allowed by subsection 68B-13.002(2), F.A.C., or blue crab trap as allowed by subsection 68B-45.004(1), F.A.C.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 6-1-94, Amended 10-4-95, Formerly 46-24.0065.

68B-24.007 Other Prohibitions.

(1) The harvest or possession of eggbearing spiny lobster, or any other species of lobster belonging to the families Palinuridae (spiny lobsters), Scyllaridae (slipper lobsters), or Synaxidae (furry lobsters) is prohibited. Eggbearing spiny lobster, or any other species of lobster in the families listed in this subsection, found in traps shall be immediately returned to the water free, alive, and unharmed. The practice of stripping or otherwise molesting eggbearing spiny lobster, or any other species of lobster in the families listed in this subsection, in order to remove the eggs is prohibited and the possession of spiny lobster or spiny lobster tails from which eggs, swimmerettes, or pleopods have been removed or stripped is prohibited.

(2) Spiny lobster traps may be worked during daylight hours only, and the pulling of traps from 1 hour after official sunset until 1 hour before official sunrise is prohibited.

(3) No spiny lobster traps shall be set, placed, or caused to be set or placed at, on, or below the waters of the state within 100 feet of the intracoastal waterway or within 100 feet of any bridge or sea wall.

(4) No person shall harvest spiny lobster by diving at night (from 1 hour after official sunset until 1 hour before official sunrise) in excess of the bag limit prescribed in Rule 68B-24.004, F.A.C.

(5) A bully net and any underwater breathing apparatus, as defined in Rule 68B-4.002, F.A.C.,

may not be simultaneously possessed on Florida Waters aboard a vessel used in the harvest of spiny lobster for commercial purposes or aboard a vessel transporting spiny lobster for commercial purposes while on Florida Waters. For the purposes of this subsection, a snorkel shall not be considered an underwater breathing apparatus.

(6) The directed harvest of spiny lobster by the use of any net or trawl, other than a landing or dip net, bully net with a diameter no larger than 3 feet, or hoop net with a diameter no larger than 10 feet, is prohibited. Spiny lobster harvested by the use of any net or trawl as an incidental bycatch of other target species lawfully harvested shall not be deemed to be unlawfully harvested in violation of this subsection if the combined whole weight of all spiny lobster so harvested does not exceed 5% of the total whole weight of all species lawfully in possession of the harvester at any time. For purposes of this subsection, the term “net or trawl” shall not include any hand-held net.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-2-87, Amended 7-2-90, 10-4-95, Formerly 46-24.007, Amended 7-1-08, 5-1-17.

68B-24.008 Slipper Lobster; Prohibitions Relating to Eggbearing Slipper Lobster.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 7-2-87, Amended 7-2-90, Formerly 46-24.008, Repealed 7-1-08.

68B-24.009 Trap Reduction Schedule.

Upon the sale or transfer of lobster trap certificates outside the immediate family of the certificate holder, the number of certificates received by the purchaser shall be reduced by 10 percent. Once the number of lobster trap certificates is reduced through this mechanism to 400,000, there shall be no further reduction in the number of lobster trap certificates issued each year except those forfeited pursuant to Section 379.3671(2)(c)3. or 379.3671(2)(c)7., F.S.

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 3-1-92, Amended 6-1-94, 6-3-96, 3-5-97, Formerly 46-24.009, Amended 6-29-00, 7-1-01, 4-1-04, 1-9-07, 7-1-08, 7-1-09.

Appendix B

*See **Attachment 2b** for up-to-date FWC Recommendations.

Issue identified	FWC recommendation	SF recommendation	Notes/tool to make change, if necessary
Require commercial bully net vessels be marked with the harvester's bully net endorsement number using reflective paint or other reflective material		<p>If this is added, we'd revise 622.402 to add paragraph (a)(3) to contain:</p> <p>622.402 - Vessel and gear identification. (a) EEZ off Florida. (3) An owner or operator of a vessel that is used to harvest spiny lobsters by bully net in the EEZ off Florida must comply with the vessel and gear identification requirements applicable to the harvesting of spiny lobsters by diving in Florida's waters in Rule xxxxxxxx, Florida Administrative Code, in effect as of May 1, 2017 (incorporated by reference, see § 622.413).</p> <p><i>I think including the reg text this way, through reference to FL code, provides a specific citation for enforcement while letting the FL regs define the requirement.</i></p>	<p><u>What is FL code for bully net gear marking requirement and specs?</u></p> <p>FAC 68B-24.006 (7) discusses "retroreflective paint or other retroreflective material..." Permit number is required to be displayed on starboard and port sides of vessel.</p>

Issue identified	FWC recommendation	SF recommendation	Notes/tool to make change, if necessary
Prohibiting trap pullers on commercial bully net vessels.		<p>If this is added, we could revise, 622.404 Prohibited gear and methods by adding paragraph (d) and could read something like:</p> <p>(d) Trap pullers are prohibited on vessels engaged in the commercial bully net fishery or with a bully net onboard.</p>	<p><i>Do we need to specify if this is all trap pullers, such as powered or by hand? Also, draft definition for (d) is starting point but we will need to review it more for consistency and enforceability. Also, as drafted, this applies for all EEZ, not just FL-- is that the intent?</i></p>
Prohibiting the simultaneous possession of a bully net and any underwater breathing apparatus (not including dive masks or snorkels) aboard a vessel used to harvest or transport lobster for commercial purposes.		<p>If we do this and we already did the trap puller prohibition in (d), then here we would add (e) to 622.404, Prohibited gear and methods.</p> <p>(e) A bully net and dive gear may not both be onboard a vessel while fishing or possessing a spiny lobster. For the purposes of this paragraph, dive gear is gear that provides an independent air supply either underwater or from the surface.</p>	<p><i>Can't find definition in either 600's or 622's for SCUBA or diving. I think draft text works, but we should check if FL has definition as well.</i></p> <p>Per FAC: 68B-24.002 Definitions. (5) "Diving" means swimming at or below the surface of the water.</p> <p>Couldn't find definition for SCUBA in FAC</p>
1. Update reference to incorporation of "commercial harvester" definition in rule	<p>a. Update the reference for incorporation of 68B-24.002 (effective 7/1/2008) to reference the version of this rule in effect as of 5/1/2017.</p> <p>b. Update incorporation references in 622.400(a)(1) and 622.413(b)(2)</p>	Change OK -will need updated IBR in coordination with the OFR, update to 2017 from current 2008 in both suggested locations.	

Issue identified	FWC recommendation	SF recommendation	Notes/tool to make change, if necessary
<p>2. Include state commercial bag and possession limits for dive and bully net harvest in 622.408(b)(1) and (b)(3) CFR so that they also apply in federal waters</p>	<p>a. Commercial harvest by diving in or from the EEZ off Broward, Dade, Monroe, Collier, and Lee counties, Florida: 250 lobsters per vessel</p> <p>b. Commercial harvest by bully net in or from the EEZ off Florida: 250 lobsters per vessel</p>	<p>622.408 contains bag and possession limits for both sectors. If we include comm limits for diving for 5 FL counties and a comm limit for bully net in FL EEZ, we could structure regs as:</p> <p>622.408 Revise (b)(5) to be:</p> <p>(5) Harvest by <i>diving</i>. (i) Commercial limit of 250 lobsters for diving in/from EEZ off Broward, Dade, Monroe, Collier, and Lee per vessel.</p> <p>(ii) <i>Diving at night</i>. The provisions of paragraph (b)(3) of this section notwithstanding, a person who harvests spiny lobster in the EEZ by diving at night, that is, from 1 hour after official sunset to 1 hour before official sunrise, is limited to the bag limit specified in paragraph (b)(1) of this section, whether or not a Federal vessel permit specified in § 622.400(a)(1) has been issued to and is on board the vessel from which the diver is operating.</p> <p>Add (b)(6) to contain:</p> <p>(6) Bully nets in EEZ off FL. The comm limit for harvest by bully net is 250 lobster per vessel.</p>	<p>a. <u>Question? what about commercial limits by diving for the other FL counties beyond the 5 we are defining?</u></p>

Issue identified	FWC recommendation	SF recommendation	Notes/tool to make change, if necessary
<p>3. Derelict traps. 622.402(c)(1) allows the removal of derelict lobster traps or buoys from the EEZ off Florida during the closed season in accordance with the trap retrieval rules in FAC. However, because this paragraph falls under subsection (c) – which specifically applies only to unmarked lobster traps or buoys – this technically only allows the removal derelict traps if they are unmarked.</p>	<p>a. Move paragraph 622.402(c)(1) out from under subsection (c), and renumber as subsection 622.402(d)</p> <p>b. Change “<i>Such trap or buoy...</i>” to “<i>Any spiny lobster trap or buoy...</i>”</p>	<p>No to actual reg text suggestion; we could instead rename (c) in 622.402 to <i>Derelict traps and buoys</i>. This would be more consistent with 622 regs.</p> <p>(c)(1), change to (c)(1) <i>Unmarked traps and buoys</i>. An unmarked spiny lobster trap or buoy in the EEZ is illegal gear.</p> <p>(c)(2) , have text from current (c)(1) and we could include the suggested text change to add in new wording to be:</p> <p>(c)(2) EEZ off Florida. Any spiny lobster trap or buoy, and any connecting lines, during times other than the authorized fishing season, will be considered derelict and may be disposed of in accordance with Rules 68B-55.002 and 68B-55.004 of the Florida Administrative Code, in effect as of October 15, 2007 (incorporated by reference, see § 622.413). An owner of such trap or buoy remains subject to appropriate civil penalties.</p>	

Issue identified	FWC recommendation	SF recommendation	Notes/tool to make change, if necessary
<p>4. Harvest from artificial habitat (casitas). 68B-24.006(10), FAC, prohibits harvest and in-water possession of lobster within 10 yards of artificial habitat. However, no similar prohibition exists in CFR.</p>	<p>a. Add a provision in 622.404 (prohibited gear and methods) similar to 68B-24.006(10), FAC, to prohibit the harvest of lobster from artificial habitat. This will also require defining the term “artificial habitat” in CFR.</p>	<p>Artificial habitat is not currently defined in either the 600's or in our part 622's</p>	<p><u><i>What is FL definition of artificial habitat (casitas)? Possibly, we could use that definition in the lobster subpart in 622 regs.</i></u></p> <p>No def. for “casita(s)” in FAC, but in 68B-24.002 Definitions. (1) “Artificial habitat” means any material placed in the waters of the state that is reasonably suited to providing cover and habitat for spiny lobster. Such material may be constructed of, but is not limited to, wood, metal, fiberglass, concrete, or plastic, or any combination thereof, and may be fabricated for this specific purpose or for some other purpose. The term does not include fishing gear allowed by rule of the Commission, legally permitted structures, or artificial reef sites constructed pursuant to permits issued by the United States Army Corps of Engineers or by the Florida Department of Environmental Protection.</p>

Issue identified	FWC recommendation	SF recommendation	Notes/tool to make change, if necessary
<p>5. 622.405(b)(2)(i) incorporates an outdated version of 68B-24.006 to reference procedures established in rule for obtaining permission to pull or work traps belonging to another person. These procedures have been updated with a new form and LE notification requirements that are not included with the reference to the 7/1/2008 rule.</p>	<p>a. Update reference for incorporation of 68B-24.006(7), FAC to reference the version of this rule in effect as of 5/1/2017. b. Update incorporation references in 622.405(b)(2)(i) and 622.413(b)(4).</p>	<p>Ok- change needed to update.</p>	
<p>6. Minimum size limits a. Paragraph 622.407(a) establishes a minimum size limit of 3.0 inches carapace length for whole spiny lobster harvested in all EEZ waters, but does not provide any specific direction as to how the carapace length is to be measured. Very specific direction on how the carapace length is determined is provided in 68B-24.003(2), FAC.</p>	<p>Include additional language within this section that describes the appropriate method for determining carapace length, similar to the direction in 68B-24.003(2), FAC. Or, modify 622.407(a) to create a subparagraph specific to EEZ waters off Florida and incorporate a reference to the method for determining carapace length in 68B-24.003(2), FAC (as effective 7/9/2002).</p>	<p>No change is needed. Carapace length measurement is already in the 622's in Appendix C to Part 622. No action needed.</p>	<p><u>Consistency with method with FL should be checked.</u> Methods are the same.</p>

Issue identified	FWC recommendation	SF recommendation	Notes/tool to make change, if necessary
<p>b. Paragraph 622.407(a)(3) establishes a minimum size limit of 5.5 inches tail length for spiny lobster harvested in all EEZ waters with a federal tail-separation permit, but does not provide any specific direction as to how tail length is to be measured. Specific direction on how the tail length is determined is provided in 68B-24.003(2), FAC. In addition, 68B-24.003(1) specifically excludes any protruding muscle tissue from the tail length measurement.</p>	<p>Include additional language within this section to describe the appropriate method for determining tail length and to exclude any protruding muscle tissue from tail measurement. Or, create a subparagraph specific to EEZ waters off Florida and incorporate a reference to the method for determining tail measurement in 68B-24.003(2), FAC (effective 7/9/2002).</p>	<p>Tail length for spiny lobster is already defined in 622.2, and no further action needed.</p>	<p><u>Consistency with method with FL should be checked.</u></p> <p>Methods are the same.</p>
<p>Additional CFR changes recommended:</p>			
<p>1. Degradable panels in non-wood spiny lobster traps. In CFR, there is no specific minimum size for the degradable panels that are required on non-wooden traps. CFR requires that these panels are to be no smaller than the diameter of found at the throat or entrance of the trap. 68B-24.006(2)(b), FAC, requires degradable panels to be no smaller than 6 inches by 4 inches.</p>	<p>Modify 622.405(a) CFR to specify that a spiny lobster trap constructed of material other than wood must have a degradable panel that is at least 6 inches in length by 4 inches in height, or no smaller than the dimensions of the throat or entrance of the trap, whichever is larger.</p>	<p>We disagree with suggested change; trap construction specs are for all EEZ, not just Florida. This suggested change could restrict the other states' options on trap construction.</p>	<p>New action if decision reached to change.</p>

Issue identified	FWC recommendation	SF recommendation	Notes/tool to make change, if necessary
<p>2. Trap theft. Section 622.405(b)(2) CFR states that a spiny lobster trap in the EEZ “may be pulled or tended only from the owner’s vessel.” This effectively only prohibits the act of “pulling” or “tending” someone else’s trap in the EEZ , and technically does not prohibit the removal of the contents of someone else’s trap or prohibit the possession of someone else’s trap (both actions are considered trap theft in FAC and FS).</p>	<p>Modify 622.405(b) CFR to prohibit a person from removing the contents of another harvester’s trap or from possessing another harvester’s trap without the express written consent of the trap owner available for immediate inspection. Unauthorized possession of another harvester’s trap gear or removal of another harvester’s trap contents constitutes trap theft. See language in s. 379.3671(2)(c)3., F.S.</p>	<p>Prohibitions, 622.13 (x), Interfere with fishing or obstruct or damage fishing gear or the fishing vessel of another, as specified in this part.</p> <p>This already applies overall. Also, the current text in 405(b)(2) should be sufficient.</p> <p>NMFS opinion is that in the 622 regs, the use of pulling and tending also apply to the removal of contents as "tending" is interpreted broadly.</p>	<p><i>GCSE to double-check with NMFS enforcement attorneys on our understanding.</i></p>
<p>3. Commercial harvest by bully nets</p>	<p>Ensure that the language 622.408(c) CFR prohibiting the combination of state and federal bag limits includes the bag and possession limits for commercial harvest by diving and commercial harvest by bully net applicable in Florida waters.</p>	<p>Yes, the language in 622.408(c) is not gear type specific and so is applicable to all fishing for lobster, including bully nets. No change needed for 622 regs.</p>	<p>N/A</p>

Issue identified	FWC recommendation	SF recommendation	Notes/tool to make change, if necessary
<p>4. Incidental bycatch limit. 622.408(b)(4) CFR establishes incidental bycatch limits for lobster harvested by net or trawl. For whole lobsters and legally possessed tails, the bycatch possession limits are in reference to a certain percentage of the total whole weight of all fish lawfully possessed on board the vessel. While the bycatch limits in CFR are very similar to the bycatch limits established in FAC, the limits in FAC are a percentage of the total weight of all species lawfully in possession. There is no definition in CFR for the term “fish.” The language in CFR could be interpreted in a way that would not apply to shrimp vessels.</p>	<p>Change the bycatch limits to reference a percentage of the total weight of all species lawfully possessed instead of all fish.</p>	<p>No change needed here. Fish is defined in the regs already. In 600.10, Fish means: (1) When used as a noun, means any finfish, mollusk, crustacean, or parts thereof, and all other forms of marine animal and plant life other than marine mammals and birds. (2) When used as a verb, means to engage in “fishing,” as defined below.</p>	<p>N/A</p>
<p>5. Typographical errors.</p>	<p>a. The last sentence in 622.408(b)(4) states that “the term net or trawl does not include a hand-held net, a loading or dip net...” The word “loading” should be corrected to “landing”.</p> <p>b. 622.415(a) states “...in the EEZ incidental to such foeign harvesting...” The word “foeign” should be corrected to “foreign.”</p>	<p>This is not necessarily a simple typo as suggested. We would need to go to implementing regs and amendment to verify the text used there for this text to ensure what is correct.</p> <p>Yes it’s a typo; it’s not a problem, but could be fixed in the course of other reg changes.</p>	

* FAC is the Florida Administrative Code – the official rules and regs of all FL reg agencies

Appendix C. Exiting Cooperative Management Protocol Between the Councils and Florida

Existing Protocol for Roles of Federal and State of Florida Agencies for the Management of Gulf and South Atlantic Spiny Lobster

1. The Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and NOAA Fisheries Service acknowledge that the fishery is largely a State of Florida (State) fishery, which extends into the exclusive economic zone (EEZ), in terms of current participants in the directed fishery, major nursery, fishing, landing areas, and historical regulation of the fishery. As such, this fishery requires cooperative state/federal efforts for effective management through the Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic (Spiny Lobster FMP).
2. The Councils and NOAA Fisheries Service acknowledge that the State is managing and will continue to manage the resource to protect and increase the long-term yields and prevent depletion of lobster stocks and that the State Administrative Procedure Act and rule implementation procedures, including final approval of the rules by Governor and Cabinet, provide ample and fair opportunity for all persons to participate in the rulemaking procedure.
3. The Florida Fish and Wildlife Conservation Commission (FWC) acknowledges that rules proposed for implementation under any fishery management plan amendment, regulatory or otherwise, must be consistent with the management objectives of the Spiny Lobster FMP, the National Standards, the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable law. Federal rules will be implemented in accordance with the Administrative Procedure Act.
4. The Councils and NOAA Fisheries Service agree that, for any rules defined within an amendment to the Spiny Lobster FMP, the State may propose the rule directly to NOAA Fisheries Service, concurrently informing the Councils of the nature of the rule, and that NOAA Fisheries Service will implement the rule within the EEZ provided it is consistent under paragraph three. If either of the Councils informs NOAA Fisheries Service of their concern over the rule's inconsistency with paragraph three, NOAA Fisheries Service will not implement the rule until the Councils, FWC, and NOAA Fisheries Service resolve the issue.
5. The State will have the responsibility for collecting and developing the information upon which to base the fishing rules, with assistance as needed by NOAA Fisheries Service, and cooperatively share the responsibility for enforcement with federal agencies.
6. Florida FWC will provide to NOAA Fisheries Service and the Councils written explanations of its decisions related to each of the rules; summaries of public comments; biological, economic and social analysis of the impacts of the proposed rule and alternatives; and such other relevant information.
7. The rules will apply to the EEZ for the management area of North Carolina through Texas, unless the Regional Administrator (RA) determines those rules may adversely impact other state

and federal fisheries. In that event, the RA may limit the application of the rule, as necessary, to address the problem.

8. NOAA Fisheries Service and the Councils agree that their staffs will prepare the proposed and final rules and the associated National Environmental Policy Act documentation and other documents required to support the rule.
