

Tab H Handout

For the reasons set out in the preamble, 50 CFR parts 622 and 640 are proposed to be amended as follows:

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

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

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

2. In § 622.1, a sentence is added to the end of paragraph (b) to read as follows:

§ 622.1 Purpose and scope.

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(b) * * * This part also governs importation of Caribbean spiny lobster into Puerto Rico or the U.S. Virgin Islands.

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3. In § 622.2, the definition of "Import" is added in alphabetical order to read as follows:

§ 622.2 Definitions and acronyms.

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Import means, for the purpose of §§ 622.1(b) and 622.50 only,--

(1) To land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, Puerto Rico or the U.S. Virgin Islands, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States; but

(2) Does not include any activity described in subparagraph (1) of this definition with respect to fish caught in the U.S. exclusive economic zone by a vessel of the United States.

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4. In § 622.3, paragraph (a) is revised and paragraph (f) is added to read as follows:

§ 622.3 Relation to other laws and regulations.

(a) The relation of this part to other laws is set forth in § 600.705 of this chapter and paragraphs (b) through (f) of this section.

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(f) Regulations pertaining to additional prohibitions on importation of spiny lobster into any place subject to the jurisdiction of the United States other than Puerto Rico or the U.S. Virgin Islands are set forth in part 640 of this chapter.

5. In § 622.7, paragraph (ii) is added to read as follows:

§ 622.7 Prohibitions.

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(ii) Fail to comply with the Caribbean spiny lobster import prohibitions, as specified in § 622.50.

6. Section 622.50 is added to subpart C to read as follows:

§ 622.50 Caribbean spiny lobster import prohibitions.

(a) Minimum size limits for imported spiny lobster. There are two minimum size limits that apply to importation of spiny

lobster into the United States--one that applies any place subject to the jurisdiction of the United States other than Puerto Rico or the U.S. Virgin Islands, and a more restrictive minimum size limit that applies to Puerto Rico and the U.S. Virgin Islands.

(1) No person may import a Caribbean spiny lobster with less than a 6-ounce (170-gram) tail weight into Puerto Rico or the U.S. Virgin Islands. For the purposes of paragraph (a) of this section, a 6-ounce (170-gram) tail weight is defined as a tail that weighs 5.9-6.4 ounces (167-181 grams). If the documentation accompanying an imported Caribbean spiny lobster (including but not limited to product packaging, customs entry forms, bills of lading, brokerage forms, or commercial invoices) indicates that the product does not satisfy the minimum tail-weight, the person importing such Caribbean spiny lobster has the burden to prove that such Caribbean spiny lobster actually does satisfy the minimum tail-weight requirement or that such Caribbean spiny lobster has a tail length of 6.2 inches (15.75 cm) or greater or that such Caribbean spiny lobster has or had a carapace length of 3.5 inches (8.89 cm) or greater. If the imported product itself does not satisfy the minimum tail-weight requirement, the person importing such Caribbean spiny lobster has the burden to prove that such Caribbean spiny lobster has a tail length of 6.2 inches (15.75 cm) or greater or that such Caribbean spiny lobster has or had a carapace length of 3.5

inches (8.89 cm) or greater. If the burden is satisfied such Caribbean spiny lobster will be considered to be in compliance with the minimum 6-ounce (170-gram) tail-weight requirement.

(2) See § 640.27 of this chapter regarding the minimum size limit that applies to spiny lobster imported into any place subject to the jurisdiction of the United States other than Puerto Rico or the U.S. Virgin Islands.

(b) Additional Caribbean spiny lobster import prohibitions-
-(1) Prohibition related to tail meat. No person may import into any place subject to the jurisdiction of the United States Caribbean spiny lobster tail meat that is not in whole tail form with the exoskeleton attached.

(2) Prohibitions related to egg-bearing spiny lobster. No person may import into any place subject to the jurisdiction of the United States Caribbean spiny lobster with eggs attached or Caribbean spiny lobster from which eggs or pleopods (swimmerets) have been removed or stripped. Pleopods (swimmerets) are the first five pairs of abdominal appendages.

PART 640--SPINY LOBSTER FISHERY OF THE GULF OF MEXICO AND SOUTH ATLANTIC

7. The authority citation for part 640 continues to read as follows:

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

8. Section 640.1 is revised to read as follows:

§ 640.1 Purpose and scope.

(a) The purpose of this part is to implement the Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic prepared by the South Atlantic and Gulf of Mexico Fishery Management Councils under the Magnuson-Stevens Act.

(b) This part governs conservation and management of spiny lobster and slipper (Spanish) lobster in the EEZ in the Atlantic Ocean and Gulf of Mexico off the Atlantic and Gulf of Mexico states from the Virginia/North Carolina border south and through the Gulf of Mexico. This part also governs importation of spiny lobster into any place subject to the jurisdiction of the United States.

(c) An owner or operator of a vessel that has legally harvested spiny lobsters in the waters of a foreign nation and possesses spiny lobster, or separated tails, in the EEZ incidental to such foreign harvesting is exempt from the requirements of this part 640, except for § 640.27 with which such an owner or operator must comply, provided proof of lawful harvest in the waters of a foreign nation accompanies such lobsters or tails.

9. In § 640.2, the definition for "Regional Director" is removed, the definition for "Spiny lobster" is revised, and

definitions for "Import" and "Regional Administrator" are added in alphabetical order to read as follows:

§ 640.2 Definitions.

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Import means--

(1) To land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States; but

(2) Does not include any activity described in subparagraph (1) of this definition with respect to fish caught in the U.S. exclusive economic zone by a vessel of the United States.

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Regional Administrator (RA) ,for the purposes of this part, means the Administrator, Southeast Region, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701, or a designee.

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Spiny lobster means the species Panulirus argus, or a part thereof.

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10. In § 640.3, paragraph (a) is revised, and paragraph (c) is added to read as follows:

§ 640.3 Relation to other laws.

(a) The relation of this part to other laws is set forth in § 600.705 of this chapter and paragraphs (b) and (c) of this section.

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(c) Regulations pertaining to additional prohibitions on importation of spiny lobster into Puerto Rico or the U.S. Virgin Islands are set forth in part 622 of this chapter.

11. In § 640.7, introductory text is revised, and paragraph (w) is added to read as follows:

§ 640.7 Prohibitions. In addition to the general prohibitions specified in § 600.725 of this chapter, it is unlawful for any person to do any of the following:

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(w) Fail to comply with the spiny lobster import prohibitions, as specified in § 640.27.

12. Section 640.8 is revised to read as follows:
§ 640.8 Facilitation of enforcement. See § 600.730 of this chapter.

13. Section 640.9 is revised to read as follows:
§ 640.9 Penalties. See § 600.735 of this chapter.

14. Section 640.27 is added to subpart B to read as follows:

§ 640.27 Spiny lobster import prohibitions.

(a) Minimum size limits for imported spiny lobster. There are two minimum size limits that apply to importation of spiny

lobster into the United States--one that applies any place subject to the jurisdiction of the United States other than Puerto Rico or the U.S. Virgin Islands, and a more restrictive minimum size limit that applies to Puerto Rico and the U.S. Virgin Islands.

(1) No person may import a spiny lobster with less than a 5-ounce (142-gram) tail weight into any place subject to the jurisdiction of the United States excluding Puerto Rico and the U.S. Virgin Islands. For the purposes of paragraph (a) of this section, a 5-ounce (142-gram) tail weight is defined as a tail that weighs 4.2-5.4 ounces (119-153 grams). If the documentation accompanying an imported spiny lobster (including but not limited to product packaging, customs entry forms, bills of lading, brokerage forms, or commercial invoices) indicates that the product does not satisfy the minimum tail-weight requirement, the person importing such spiny lobster has the burden to prove that such spiny lobster actually does satisfy the minimum tail-weight requirement or that such spiny lobster has a tail length of 5.5 inches (13.97 cm) or greater or that such spiny lobster has or had a carapace length of greater than 3.0 inches (7.62 cm). If the imported product itself does not satisfy the minimum tail-weight requirement, the person importing such spiny lobster has the burden to prove that such spiny lobster has a tail length of 5.5 inches (13.97 cm) or greater or that such spiny lobster has or had a carapace length

of greater than 3.0 inches (7.62 cm). If the burden is satisfied, such spiny lobster will be considered to be in compliance with the minimum 5-ounce (142-gram) tail-weight requirement.

(2) See § 622.50 of this chapter regarding a more restrictive minimum size limit that applies to spiny lobster imported into Puerto Rico or the U.S. Virgin Islands.

(b) Additional spiny lobster import prohibitions--(1) Prohibition related to tail meat. No person may import into any place subject to the jurisdiction of the United States spiny lobster tail meat that is not in whole tail form with the exoskeleton attached.

(2) Prohibitions related to egg-bearing spiny lobster. No person may import into any place subject to the jurisdiction of the United States spiny lobster with eggs attached or spiny lobster from which eggs or pleopods (swimmerets) have been removed or stripped. Pleopods (swimmerets) are the first five pairs of abdominal appendages.

15. In addition to the amendments set forth above, in 50 CFR part 640, remove the words "Magnuson Act" and "Regional Director" and add in their places the words "Magnuson-Stevens Act" and "Regional Administrator", respectively, wherever they occur.