

For the reasons set out in the preamble, 50 CFR part 622 is 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 § 622.400, revise paragraph (a) (1) (i) to read as follows:

§ 622.400 Permits and fees.

(a) * * *

(1) * * *

(i) *EEZ off Florida and spiny lobster landed in Florida.* For a person to sell, trade, or barter, or attempt to sell, trade, or barter, a spiny lobster harvested or possessed in the EEZ off Florida, or harvested in the EEZ other than off Florida and landed from a fishing vessel in Florida, or for a person to be exempt from the daily bag and possession limit specified in § 622.408(b) (1) for such spiny lobster, such person must have the licenses and certificates specified to be a "commercial harvester," as defined in Rule 68B-24.002(4), Florida Administrative Code, in effect as of May 1, 2017 (incorporated by reference, see § 622.413).

Commented [JDG1]: Action 1 of the amendment has the following objectives, which are throughout the codified herein except where noted: Florida state bully net permit, marking requirements, and gear prohibitions for bully net gear in the exclusive economic zone (EEZ) off Florida.

Commented [JDG2]: Updated FAC date.

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3. In § 622.402, revise paragraphs (a) (1), (a) (2), and (c) (1), and add paragraph (a) (3) to read as follows:

§ 622.402 Vessel and gear identification.

(a) *EEZ off Florida.* (1) An owner or operator of a vessel that is used to harvest spiny lobster by traps in the EEZ off Florida must comply with the vessel and gear identification requirements specified in sections 379.367(2) (a) (1) and 379.367(3), Florida Statutes, in effect as of July 1, 2008, and in Rule 68B-24.006(3), (4), and (5), Florida Administrative Code, in effect as of May 1, 2017 (incorporated by reference, see § 622.413).

(2) An owner or operator of a vessel that is used to harvest spiny lobsters by diving in the EEZ off Florida must comply with the vessel identification requirements applicable to the harvesting of spiny lobsters by diving in Florida's waters in Rule 68B-24.006(6), Florida Administrative Code, in effect as of May 1, 2017 (incorporated by reference, see § 622.413).

(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 identification requirements applicable to the harvesting of spiny lobsters by bully net in Florida's waters in Rule 68B-24.006(7), Florida

Commented [JDG3]: Action 1, pref. alternative 2, includes update of FAC dates

Administrative Code, in effect as of May 1, 2017

(incorporated by reference, see § 622.413).

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(c) * * *

(1) *EEZ off Florida*. Such trap or buoy, and any connecting lines 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.

Commented [JDG4]: This was an administrative change – to remove “during times other than the authorized fishing season” to address Florida’s concern re: removing unmarked, illegal traps.

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4. In § 622.404, add paragraphs (e) and (f) to read as follows:

§ 622.404 Prohibited gear and methods.

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(e) In the EEZ off Florida, 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 is prohibited in accordance with Rule 68B-24.007 (5), Florida Administrative Code, in effect as of May 1, 2017 (incorporated by reference, see § 622.413). For the purpose of this paragraph, an “underwater breathing apparatus” is

Commented [JDG5]: See IBR below

Commented [JDG6]: Definition of underwater breathing apparatus, per Florida

any apparatus, whether self-contained or connected to a distant source of air or other gas, whereby a person wholly or partially submerged in water is able to obtain or reuse air or any other gas or gasses for breathing without returning to the surface of the water.

(f) In the EEZ off Florida, vessels that are or are required to be marked with or have identification associated with a bully net permit for the harvest of spiny lobster are prohibited from having trap pullers aboard, in accordance with Rule 68B-24.006(8), the Florida Administrative Code, in effect as of May 1, 2017 (incorporated by reference, see § 622.413).

Commented [JDG7]: Re: EEZ off Florida with bully net. Updated the incorp.by ref. date to May, 1, 2017.

5. In § 622.405, revise paragraph (b) (2) (i) to read as follows:

§ 622.405 Trap construction specifications and tending restrictions.

* * * * *

(b) * * *

(2) * * *

(i) For traps in the EEZ off Florida, by the Division of Law Enforcement, Florida Fish and Wildlife Conservation Commission, in accordance with the procedures in Rule 68B-24.006(9), Florida Administrative Code, in

effect as of May 1, 2017 (incorporated by reference, see § 622.413).

Commented [JDG8]: Note updated FAC date of May 1, 2017

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6. Revise § 622.408(b) to read as follows:

§ 622.408 Bag/possession limits.

Commented [JDG9]: Action 2

(a) * * *

(b) *EEZ off Florida and off the Gulf states, other than Florida*—(1) *Commercial and recreational fishing season.* Except as specified in paragraphs (b) (3) and (b) (4) of this section, during the commercial and recreational fishing season specified in § 622.403(b) (1), the daily bag or possession limit of spiny lobster in or from the EEZ off Florida and off the Gulf states, other than Florida, is six per person.

(2) *Special recreational fishing seasons.* During the special recreational fishing seasons specified in § 622.403(b) (2), the daily bag or possession limit of spiny lobster—

(i) In or from the EEZ off the Gulf states, other than Florida, is six per person;

(ii) In or from the EEZ off Florida other than off Monroe County, Florida, is twelve per person; and

(iii) In or from the EEZ off Monroe County, Florida, is six per person.

(3) *Exemption from the bag/possession limit.*

During the commercial and recreational fishing season specified in § 622.403(b)(1), a person is exempt from the bag and possession limit specified in paragraph (b)(1) of this section, provided—

(i) The harvest of spiny lobsters is by diving, or by the use of a bully net, hoop net, or spiny lobster trap; and

(ii) The vessel from which the person is operating has on board the required licenses, certificates, or permits, as specified in § 622.400(a)(1).

(4) *Harvest by net or trawl.* During the commercial and recreational fishing season specified in § 622.403(b)(1), aboard a vessel with the required licenses, certificates, or permits specified in § 622.400(a)(1) that harvests spiny lobster by net or trawl or has on board a net or trawl, the possession of spiny lobster in or from the EEZ off Florida and off the Gulf states, other than Florida, may not exceed at any time 5 percent, whole weight, of the total whole weight of all fish lawfully in possession on board such vessel. If such vessel lawfully possesses a separated spiny lobster tail, the possession of spiny lobster in or from the EEZ may not exceed at any time 1.6 percent, by weight of the spiny lobster or parts thereof, of the total whole

weight of all fish lawfully in possession on board such vessel. For the purposes of this paragraph (b) (4), the term "net or trawl" does not include a hand-held net, a loading or dip net, a bully net, or a hoop net.

(5) *Harvest by diving.* (i) The commercial daily harvest and possession limit of spiny lobster harvested by diving in or from the EEZ off Broward, Dade, Monroe, Collier, and Lee Counties, Florida, is 250 spiny lobster per vessel.

Commented [JDG10]: Action 2, Preferred alt. 3

(ii) *Diving at night.* 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.

(6) *Harvest by bully nets in the EEZ off Florida.* The commercial daily harvest and possession limit of spiny lobster harvested by bully net in the EEZ off Florida is 250 spiny lobsters per vessel.

Commented [JDG11]: Action 2, Preferred alt. 2

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7. Revise § 622.412 introductory text to read as follows:

§ 622.412 Adjustment of management measures.

In accordance with the framework **procedures** of the Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic, the RA may establish or modify the following items:

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8. In § 622.413, revise paragraph (b) introductory text, paragraphs (b) (2) through (b) (4), and paragraph (c) introductory text, and add paragraph (b) (8) to read as follows:

§ 622.413 Incorporation by reference (IBR**).**

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(b) Florida Administrative Code (F.A.C.): Florida Division of Marine Fisheries Management, 620 South Meridian Street, Tallahassee, FL 32399; **telephone: 850-487-0554; <http://www.flrules.org>.**

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(2) F.A.C., Chapter 68B-24: Spiny lobster (crawfish) and slipper lobster, Rule 68B-24.002: Definitions, in effect as of May 1, 2017, IBR approved for § 622.400(a).

(3) F.A.C., Chapter 68B-24: Spiny lobster (crawfish)

Commented [JDG12]: Action 3, preferred alternative 2, including updated to plural "procedures"

Commented [JDG13]: Administrative changes to update FAC dates and adding incorporation by reference.

Commented [JDG14]: Updated contact information

and slipper lobster, Rule 68B-24.005: Seasons, in effect as of June 1, 1994, IBR approved for § 622.403(b).

(4) F.A.C., Chapter 68B-24: Spiny lobster (crawfish) and slipper lobster, Rule 68B-24.006: Gear: Traps, Buoys, Identification Requirements, Prohibited Devices, in effect as of May 1, 2017, IBR approved for § 622.402(a), § 622.404(f), and § 622.405(b).

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(8) F.A.C., Chapter 68B-24: Spiny lobster (crawfish) and slipper lobster, Rule 68B-24.007: Other Prohibitions, in effect as of May 1, 2017, IBR approved for § 622.404(e).

(c) Florida Statute: Florida Division of Marine Fisheries Management, 620 South Meridian Street, Tallahassee, FL 32399; telephone: 850-487-0554; <http://www.flrules.org>.

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9. Revise § 622.415(a) and reserve paragraph (b) to read as follows:

§ 622.415 Limited exemption regarding harvest in waters of a foreign nation.

(a) 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

Commented [JDG15]: Updated contact information

Commented [JDG16]: Corrected spelling. Administrative change.

requirements of this subpart, except for § 622.409 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.

(b) [Reserved]