

## **SAFMC Regulations Recommended for Removal or Modification**

On February 24, 2017 President Trump issued Executive Order 13771 as part of efforts to lower regulatory burdens on the American people by implementing and enforcing regulatory reform. The NMFS requested that each of the fishery management councils identify a process to review/evaluate existing regulations by the end of December 2017. Then each Council is to conduct the review/evaluation and provide recommendations on rules to be removed by the end of June 2018.

In a letter dated December 20, 2017 and signed by Council chair, Capt. Charlie Phillips, the SAFMC provided the following plan for evaluating regulations for removal:

- Continue to request public comments at the March and June 2018 Council meetings
- Each technical staff review the regulations for their FMPs – January/February 2018
- Coordinate with the SERO on potential regulations to remove – February 2018
- Bring draft list to Executive Finance Committee in March 2018
- Public Input during public comment session at March 5-9, 2018 Council meeting
- Council reviews and provides input at March 2018 meeting
- Have Advisory Panels (Species and Law Enforcement APs) and SSC/SEP review between March and June 2018 Council meetings; mail to APs not meeting in person
- Coordinate with SERO and NOAA GC between March and June 2018 Council meetings
- Bring revised list to Executive Finance Committee in June 2018
- Council reviews and approves list of regulations to be removed at June 11-15, 2018 meeting
- Council sends list of regulations to be removed to NMFS by June 22, 2018

Council and SERO staff identified the Code of Federal Regulations (CFR) as likely candidates for regulations for regulatory reform because some of the regulations are viewed as being unneeded or outdated. Following direction from the Council at their March 2018 meeting, Council staff took the compiled list out for review by APs. Several APs suggested additional CFRs they would like the Council to review for removal or revision. All of the recommended South Atlantic fishery regulations are listed in CFR order. Two regulations, not a part of 50 CFR 622, were recommended and are listed following the 50 CFR 622 regulations. In each case, the recommended regulatory text to be removed is in strikethrough font. The reason given for the recommended removal or modification follows the CFR listing.

## **50 CFR 622**

### **Subpart A – General Provisions**

#### **§622.2 Definitions and acronyms.**

*Buoy gear means fishing gear that fishes vertically in the water column that consists of a single drop line suspended from a float, from which no more than 10 hooks can be connected between the buoy and the terminal end, and the terminal end contains a weight that is no more than 10*

*lb (4.5 kg). The drop line can be rope (hemp, manila, cotton or other natural fibers; nylon, polypropylene, spectra or other synthetic material) or monofilament, but must not be cable or wire. The gear is free-floating and not connected to other gear or the vessel. ~~The drop line must be no greater than 2 times the depth of the water being fished. All hooks must be attached to the drop line no more than 30 ft (9.1 m) from the weighted terminal end.~~ These hooks may be attached directly to the drop line; attached as snoods (defined as an offshoot line that is directly spliced, tied or otherwise connected to the drop line), where each snood has a single terminal hook; or as gangions (defined as an offshoot line connected to the drop line with some type of detachable clip), where each gangion has a single terminal hook.*

**Reason for consideration for modification:** Fisherman do not want to remove buoy gear as an authorized gear type. This gear type is constantly tended and fishermen report there is virtually no dead discards. Since buoy gear is free-floating, there can be a problem with using a drop line that is no greater than 2 times the depth of water being fished. For example, the gear would be in violation if 1000' of line is deployed in 500' of water and the current takes the gear closer to shore or to a shallower depth, say into 475' depth. Also, it is very hard if not impossible to count the exact number of feet with the new age braid or spectra lines that fishermen are using. Fishermen would like to see the drop line 2:1 ratio requirement modified/removed.

There is also concern with the 10 hooks within 30' of the weighted terminal end. The thought is that if only 10 hooks are allowed, why should they be limited to attaching the hooks only within 30' of the weighted terminal end. A hooked fish is able to move a clipped-on hook along the line, which also could put the gear within violation. In some cases, 1 hook only every 3' causes the gear to fish inefficiently. Fishermen want to know if it is possible to get rid of the 30' requirement while keeping the 10-single hook limit. In their opinion, 10 hooks is 10 hooks and there is no reason for a length requirement. Buoy gear are different from traditional longline gear due to the fact that is fished with one 10 lb. weight on the terminal end, 10 hooks, and a single vertical drop line attached to a free-floating buoy. Simplifying the buoy gear requirements could make it easier for the regulation to be enforcement.

*Charter vessel means a vessel less than 100 gross tons (90.8 mt) that is subject to the requirements of the USCG to carry six or fewer passengers for hire and that engages in charter fishing at any time during the calendar year. A charter vessel with a commercial permit, as required under this part, is considered to be operating as a charter vessel when it carries a passenger who pays a fee ~~or when there are more than three persons aboard, including operator and crew, except for a charter vessel with a commercial vessel permit for Gulf reef fish or South Atlantic snapper grouper. A charter vessel that has a charter vessel permit for Gulf reef fish and a commercial vessel permit for Gulf reef fish or a charter vessel permit for South Atlantic snapper grouper and a commercial permit for South Atlantic snapper grouper (either a South Atlantic snapper grouper unlimited permit or a 225-lb (102.1 kg) trip limited permit for South Atlantic snapper grouper) is considered to be operating as a charter vessel when it carries a passenger who pays a fee or when there are more than four persons aboard, including operator and crew.~~*

*Headboat means a vessel that holds a valid Certificate of Inspection (COI) issued by the USCG to carry more than six passengers for hire.*

*(1) A headboat with a commercial vessel permit, as required under this part, is considered to be operating as a headboat when it carries a passenger who pays a fee or—*

*(i) In the case of persons aboard fishing for or possessing South Atlantic snapper-grouper, when there are more persons aboard than the number of crew specified in the vessel's COI; or*

*(ii) In the case of persons aboard fishing for or possessing coastal migratory pelagic fish, when there are more than three persons aboard, including operator and crew.*

**Reason for consideration for modification:** Fishermen think this unnecessarily penalizes dually permitted vessels (having both commercial and for-hire permits). Vessels holding SA snapper grouper and CMP for-hire permits are held to the recreational bag limits when there are more than three or four persons aboard, depending on the permit, even if the trip is not recreational in nature.

#### **§622.4 Permits and fees—general.**

*(e) Duration. A permit remains valid for the period specified on it unless it is revoked, suspended, or modified pursuant to subpart D of 15 CFR part 904 or, in the case of a vessel or dealer permit, the vessel or dealership is sold.*

**Reason for consideration for modification:** While not currently required by 50 CFR 622, fishing permits are now issued for one year. Because of the burden to produce all of the same information every year, fishermen would like to see the length of the permits extended beyond 1 year, preferably for a minimum of 2 years.

*(g) Renewal—(1) Vessel permits, licenses, and endorsements and dealer permits. Unless specified otherwise, a vessel owner or dealer who has been issued a permit, license, or endorsement under this part must renew such permit, license, or endorsement on an annual basis. The RA will mail a vessel owner or dealer whose permit, license, or endorsement is expiring an application for renewal approximately 2 months prior to the expiration date. A vessel owner or dealer who does not receive a renewal application from the RA by 45 days prior to the expiration date of the permit, license, or endorsement must contact the RA and request a renewal application. The applicant must submit a completed renewal application form and all required supporting documents to the RA prior to the applicable deadline for renewal of the permit, license, or endorsement and at least 30 days prior to the date on which the applicant desires to have the permit made effective. If the RA receives an incomplete application, the RA will notify the applicant of the deficiency. If the applicant fails to correct the deficiency within 30 days of the date of the RA's letter of notification, the application will be considered abandoned. A permit, license, or endorsement that is not renewed within the applicable deadline will not be reissued.*

**Reason for consideration for modification:** NMFS SERO is considering changes whereby permit, license, endorsement holders can download the appropriate renewal application form. This will save time and expense for both the permit, license, endorsement holder and the government.

## **Subpart I – Snapper-Grouper Fishery of the South Atlantic Region**

### **§622.171 South Atlantic snapper grouper limited access.**

*(b) Transfers of permits. A snapper-grouper limited access permit is valid only for the vessel and owner named on the permit. To change either the vessel or the owner, an application for transfer must be submitted to the RA.*

*(1) Transferable permits. (i) An owner of a vessel with a transferable permit may request that the RA transfer the permit to another vessel owned by the same entity.*

*(ii) A transferable permit may be transferred upon a change of ownership of a permitted vessel with such permit—*

*(A) From one to another of the following: husband, wife, son, daughter, brother, sister, mother, or father; or*

*(B) From an individual to a corporation whose shares are all held by the individual or by the individual and one or more of the following: husband, wife, son, daughter, brother, sister, mother, or father. The application for transfer of a permit under this paragraph (b)(1)(ii)(B) and each application for renewal of such permit must be accompanied by a current annual report of the corporation that specifies all shareholders of the corporation. A permit will not be renewed if the annual report shows a new shareholder other than a husband, wife, son, daughter, brother, sister, mother, or father.*

*~~(iii) Except as provided in paragraphs (b)(1)(i) and (ii) of this section, a person desiring to acquire a limited access, transferable permit for South Atlantic snapper grouper must obtain and exchange two such permits for one new permit.~~*

**Reason for consideration for removal:** Some fishermen expressed an interest that the Council consider getting rid of the 2-for-1 requirement to enter the snapper grouper fishery. The cost of obtaining two permits is very high, especially as there are now fewer individual permits. The number of permits has been greatly reduced. If the Council doesn't want to get rid of this requirement, they should at least keep the requirement from being open ended. Fishermen would like to see what the end goal of the 2-for-1 permit requirement will be.

### **§622.179 Conservation measures for protected resources.**

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

*Minimal Injury,” and must post inside the wheelhouse, or in an easily viewable area if no wheelhouse, the sea turtle handling and release guidelines provided by NMFS.*

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

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

**Reason for consideration for modification:** Fishermen, especially those with smaller vessels, find that the requirements to be overly burdensome largely because of the amount of space they require onboard the vessel. While they are not against the idea of sea turtle conservation measures, they would like for the Council to relook at these measures to determine whether the equipment needed onboard could be more space saving, especially considering the relative infrequency of sea turtle interactions.

#### **§622.182 Gear-restricted areas**

*(c) Powerhead prohibited area. A powerhead may not be used in the EEZ off South Carolina to harvest South Atlantic snapper-grouper. The possession of a mutilated South Atlantic snapper-grouper in or from the EEZ off South Carolina, and a powerhead is prima facie evidence that such fish was harvested by a powerhead.*

**Reason for consideration for removal:** Powerheads are allowed in the EEZ off the other South Atlantic states. South Carolina has requested that the Council take action to remove prohibition off its coast to be consistent with regulations in the rest of South Atlantic federal waters.

#### **§622.185 Size limits.**

*All size limits in this section are minimum size limits unless specified otherwise. A fish not in compliance with its size limit, as specified in this section, in or from the South Atlantic EEZ, may not be possessed, sold, or purchased. A fish not in compliance with its size limit must be released immediately with a minimum of harm. The operator of a vessel that fishes in the EEZ is responsible for ensuring that fish on board are in compliance with the size limits specified in this section.*

*(a) Snapper—(1) [Reserved]*

*(2) Vermilion snapper—12 inches (30.5 cm), TL.*

*(3) Blackfin, cubera, gray, queen, silk, and yellowtail snappers—12 inches (30.5 cm), TL.*

**Reason for consideration for modification:** This is proposed for removal in the visioning amendments. Blackfin, queen, and silk snappers are caught in deep water. Due to barotrauma, released undersized fish are not likely to survive.

**§622.186 landing fish intact.**

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

**Reason for consideration for modification:** A fisherman wanted to see this provision revised so that fish which have fins damaged by other species such as shark would be allowed to be retained. The fish would otherwise comply with the requirements of §622.186. With the increase in the number of sharks present, more fish are being injured by them. Damage to fins could also make the fish undersized especially if total length is used as the size limit measurement. Measuring fish length should be standardized to fork length.

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

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

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

**Reason for consideration for removal:** Fishermen were not in complete agreement on the requirement for the use of circle hooks in the snapper grouper fishery. Some would like the requirement to be removed altogether because the requirement isn't being enforced and the belief that their use is unnecessary. They think that circle hooks do not reduce the incidence of gut hooking in smaller mouthed species. However, they have been shown to reduce discard mortality for red snapper and other large mouthed species.

**Subpart J—Shrimp Fishery of the South Atlantic Region**

**§622.200 Permits.**

*(b) Operator permits. (1) An operator of a vessel that has or is required to have a Commercial Vessel Permit for Rock Shrimp (Carolinas Zone) or a Commercial Vessel Permit for Rock Shrimp (South Atlantic EEZ) issued under this section is required to have an operator permit.*

*(2) A person required to have an operator permit under paragraph (b)(1) of this section must carry on board such permit and one other form of personal identification that includes a picture (driver's license, passport, etc.).*

(3) *An owner of a vessel that is required to have a permitted operator under paragraph (b)(1) of this section must ensure that at least one person with a valid operator permit is aboard while the vessel is at sea or offloading.*

(4) *An owner of a vessel that is required to have a permitted operator under paragraph (b)(1) of this section and the operator of such vessel are responsible for ensuring that a person whose operator permit is suspended, revoked, or modified pursuant to subpart D of 15 CFR part 904 is not aboard that vessel.*

**Reason for consideration for removal:** The Council is considering removing operator cards for dolphin wahoo for-hire vessels. They may also want to consider removing the requirement from the Rock Shrimp fishery, as well. However, vessel owners on the Deepwater Shrimp AP saw some value in keeping the operator card as it could reduce their liability should a captain be cited. And the operator permit gave them access to check past history of violations prior to hiring captains.

#### **§622.210 Adjustment of management measures.**

*In accordance with the framework procedures of the FMP for the Shrimp Fishery of the South Atlantic Region, the RA may establish or modify the items specified in paragraph (a) of this section for South Atlantic shrimp.*

*(a) Biomass levels, age-structured analyses, BRD certification criteria, BRD specifications, BRD testing protocol, certified BRDs, nets required to use BRDs, times and locations when the use of BRDs is required, definitions of essential fish habitat, and essential fish habitat HAPCs ~~or Coral HAPCs.~~*

**Reason for consideration for modification:** Given the need for significant public input and detailed analyses necessary to establish new Coral HAPCs, it is not likely they would be established by framework.

#### Need for consistency in shrimp transit provisions in the Northeast, South Atlantic, and Gulf of Mexico

##### Northeast

#### **§648.2 Definitions.**

*Not available for immediate use* means that the gear is not being used for fishing and is stowed in conformance with one of the following methods:

- (1) *Nets*—(i) *Below-deck stowage.* (A) The net is stored below the main working deck from which it is deployed and retrieved;  
(B) The net is fan-folded (flaked) and bound around its circumference.
- (ii) *On-deck stowage.* (A) The net is fan-folded (flaked) and bound around its circumference;  
(B) The net is securely fastened to the deck or rail of the vessel; and  
(C) The towing wires, including the leg wires, are detached from the net.
- (iii) *On-reel stowage.* (A) The net is on the net reel;  
(B) The cod end of the net is removed from the net and stored below deck; and

(C) The entire surface of the net is covered and securely bound by:

(1) Canvas of other similar opaque material; or

(2) A highly visible orange or yellow mesh material that is not capable of catching fish or being utilized as fishing gear. An example of highly visible orange or yellow mesh includes but is not limited to the orange fence material commonly used to enclose construction sites (5) *Other methods of stowage*. Any other method of stowage authorized in writing by the Regional Administrator and subsequently published in the FEDERAL REGISTER.

**§648.14 Prohibitions.**

(h)(2)(vi)(B) Transit the Closed Area II Scallop Rotational Area or the Closed Area II Extension Scallop Rotational Area, as defined §648.60(d) and (e), respectively, or the Elephant Trunk Flex Scallop Rotational Area, as defined in §648.60(b), unless there is a compelling safety reason for transiting the area and the vessel's fishing gear is stowed and not available for immediate use as defined in §648.2.

**§648.27 Frank R. Lautenberg Deep-Sea Coral Protection Area.**

(d) *Transiting*. Vessels may transit the Broad and Discrete Deep-Sea Coral Zones defined in paragraphs (b) and (c) of this section, provided bottom-tending trawl nets are out of the water and stowed on the reel and any other fishing gear that is prohibited in these areas is onboard, out of the water, and not deployed. Fishing gear is not required to meet the definition of “not available for immediate use” in §648.2, when a vessel transits the Broad and Discrete Deep-Sea Coral Zones.

**§648.61 EFH closed areas.**

(b) *Transiting*. A vessel may transit the EFH Closure Areas as defined in paragraphs (a)(1) through (6) of this section, unless otherwise restricted, provided that its gear is stowed and not available for immediate use as defined in §648.2. A vessel may transit the CAII EFH closed area, as defined in paragraph (a)(5) of this section, provided there is a compelling safety reason to enter the area and all gear is stowed and not available for immediate use as defined in §648.2.

**South Atlantic**

**§622.183 Area and seasonal closures.**

(a)(1)(ii) *For the purpose of paragraph (a)(1)(i) of this section, transit means direct, non-stop progression through the MPA. Fishing gear appropriately stowed means—*

(B) *A trawl or try net may remain on deck, but trawl doors must be disconnected from such net and must be secured.*

(vii) (B) *Trawl doors and nets must be out of the water, but the doors are not required to be on deck or secured on or below deck.*

**§622.206 Area and seasonal closures.**

(a)(2)(iii) *Brown shrimp, pink shrimp, or white shrimp may be possessed on board a fishing vessel in a closed area, provided the vessel is in transit and all trawl nets with a mesh size less*



*than 4 inches (10.2 cm), as measured between the centers of opposite knots when pulled taut, are stowed below deck while transiting the closed area. For the purpose of this paragraph, a vessel is in transit when it is on a direct and continuous course through a closed area.*

**§622.224 Area closures to protect South Atlantic corals.**

*(b)(1)(i)(C) Fish for or possess rock shrimp in or from the Oculina Bank HAPC, except a shrimp vessel with a valid commercial vessel permit for rock shrimp that possesses rock shrimp may transit through the Oculina Bank HAPC if fishing gear is appropriately stowed. For the purpose of this paragraph, transit means a direct and non-stop continuous course through the area, maintaining a minimum speed of five knots as determined by an operating VMS and a VMS minimum ping rate of 1 ping per 5 minutes; fishing gear appropriately stowed means that doors and nets are out of the water.*

**Gulf of Mexico**

**§622.34 Seasonal and area closures designed to protect Gulf reef fish.**

(4) (ii) A trawl net may remain on deck, but trawl doors must be disconnected from the trawl gear and must be secured.

**§622.50 Permits, permit moratorium, and endorsements.**

*(e) Gulf shrimp transit provision.* A vessel that does not have a valid Gulf shrimp moratorium permit, as described in paragraphs (a) and (b) of this section, may possess Gulf shrimp when in transit in the Gulf EEZ provided that the shrimp fishing gear is appropriately stowed. For the purposes of this paragraph, transit means non-stop progression through the Gulf EEZ. Fishing gear appropriately stowed means trawl doors and nets must be out of the water and the bag straps must be removed from the net.

**Reason for consideration for modification:** Shrimp fishermen frequently have permits in multiple jurisdictions. There is a lack of consistency between jurisdictions and within the regulations of each jurisdiction for transiting through no fishing areas with shrimp fishing gear on board. Parity among the jurisdictions would make regulations clearer and simpler to follow.

**Subpart L – Golden Crab Fishery of the South Atlantic**

**§622.241 South Atlantic golden crab controlled access.**

*(a) General. In accordance with the procedures specified in the Fishery Management Plan for the Golden Crab Fishery of the South Atlantic Region, initial commercial vessel permits have been issued for the fishery. All permits in the fishery are issued on a fishing-year (calendar-year) basis. No additional permits may be issued except for the northern zone as follows:*

*(1) The RA will issue up to two new vessel permits for the northern zone. Selection will be made from the list of historical participants in the South Atlantic golden crab fishery. Such list was used at the October 1995 meeting of the South Atlantic Fishery Management Council and*

~~was prioritized based on pounds of golden crab landed, without reference to a specific zone. Individuals on the list who originally received permits will be deleted from the list.~~

~~(2) The RA will offer in writing an opportunity to apply for a permit for the northern zone to the individuals highest on the list until two individuals accept and apply in a timely manner. An offer that is not accepted within 30 days after it is received will no longer be valid.~~

~~(3) An application for a permit from an individual who accepts the RA's offer must be received by the RA no later than 30 days after the date of the individual's acceptance. Application forms are available from the RA.~~

**Reason for consideration for removal:** These regulations can be removed because they are outdated. The actions described here took place when the zones were set up and are not recurring, therefore they are unneeded.

### **Subpart M—Dolphin and Wahoo Fishery Off the Atlantic States**

#### **§622.270 Permits.**

~~(a) Commercial vessel permits. (1) For a person aboard a vessel to be eligible for exemption from the bag and possession limits for dolphin or wahoo in or from the Atlantic EEZ or to sell such dolphin or wahoo, a commercial vessel permit for Atlantic dolphin and wahoo must be issued to the vessel and must be on board, except as provided in paragraph (a)(2) of this section. (See paragraph (c)(1) of this section for the requirements for operator permits in the Atlantic dolphin and wahoo fishery).~~

~~(2) The provisions of paragraph (a)(1) of this section notwithstanding, a fishing vessel, except a vessel operating as a charter vessel or headboat, that does not have a commercial vessel permit for Atlantic dolphin and wahoo but has a Federal commercial vessel permit in any other fishery, is exempt from the bag and possession limits for dolphin and wahoo and may sell dolphin and wahoo, subject to the trip and geographical limits specified in §622.278(a)(2). (A charter vessel/headboat permit is not a commercial vessel permit.)~~

~~(b) Charter vessel/headboat permits. (1) For a person aboard a vessel that is operating as a charter vessel or headboat to fish for or possess Atlantic dolphin or wahoo, in or from the Atlantic EEZ, a valid charter vessel/headboat permit for Atlantic dolphin and wahoo must have been issued to the vessel and must be on board. (See paragraph (c)(1) of this section for the requirements for operator permits in the dolphin and wahoo fishery.)~~

~~(2) A charter vessel or headboat may have both a charter vessel/headboat permit and a commercial vessel permit. However, when a vessel is operating as a charter vessel or headboat, a person aboard must adhere to the bag limits. See the definitions of "Charter vessel" and "Headboat" in §622.2 for an explanation of when vessels are considered to be operating as a charter vessel or headboat, respectively.~~

~~(c) Operator permits. (1) An operator of a vessel that has or is required to have a charter vessel/headboat or commercial permit for Atlantic dolphin and wahoo issued under this section is required to have an operator permit.~~

~~(2) A person required to have an operator permit under paragraph (c)(1) of this section must carry on board such permit and one other form of personal identification that includes a picture (driver's license, passport, etc.).~~

~~(3) An owner of a vessel that is required to have a permitted operator under paragraph (c)(1) of this section must ensure that at least one person with a valid operator permit is aboard while the vessel is at sea or offloading.~~

~~(4) An owner of a vessel that is required to have a permitted operator under paragraph (c)(1) of this section and the operator of such vessel are responsible for ensuring that a person whose operator permit is suspended, revoked, or modified pursuant to subpart D of 15 CFR part 904 is not aboard that vessel.~~

(d) Dealer permits and conditions—(1) Permits. For a dealer to first receive Atlantic dolphin or wahoo harvested in or from the EEZ, a Gulf and South Atlantic dealer permit must be issued to the dealer.

(2) State license and facility requirements. To obtain a dealer permit, the applicant must have a valid state wholesaler's license in the state(s) where the dealer operates, if required by such state(s), and must have a physical facility at a fixed location in such state(s).

(e) Permit procedures. See §622.4 for information regarding general permit procedures including, but not limited to application, fees, duration, transfer, renewal, display, sanctions and denials, and replacement.

[78 FR 22952, Apr. 17, 2013, as amended at 79 FR 19496, Apr. 9, 2014]

**Reason for consideration for removal:** Through the development of Dolphin Wahoo Amendment 10, the Council discussed removing the requirement for an operator permit in the Dolphin Wahoo fishery. The Council is considering removal of the operator permit because the permits are not currently being used for law enforcement and because of the burden associated with annual renewal requirements.

#### **§622.279 Restrictions on sale/purchase.**

(a) Dolphin or wahoo harvested in or from the Atlantic EEZ or adjoining state waters by a vessel that has a valid commercial vessel permit for Atlantic dolphin and wahoo, as required under §622.270(a)(1), or by a vessel authorized a 200-lb (91-kg) trip limit for dolphin or wahoo, as specified in §622.278(a)(2), may be sold or transferred only to a dealer who has a valid Gulf and South Atlantic dealer permit, as required under §622.270(d)(1).

~~(b) In addition to the provisions of paragraph (a)(1) of this section, a person may not sell dolphin or wahoo possessed under the recreational bag limit harvested in the Atlantic EEZ or adjoining state waters by a vessel while it is operating as a charter vessel or headboat. A dolphin or wahoo harvested or possessed by a vessel that is operating as a charter vessel or headboat with a Federal charter vessel/headboat permit for Atlantic dolphin and wahoo may not be purchased or sold if harvested in or from the Atlantic EEZ or adjoining state waters.~~

(c) Dolphin or wahoo harvested in or from the Atlantic EEZ may be first received only by a dealer who has a valid Gulf and South Atlantic dealer permit, as required under §622.270(d)(1), and only from a vessel authorized to sell dolphin and wahoo under paragraph (a)(1) of this section.

(d) Dolphin or wahoo possessed pursuant to the bag and possession limits specified in §622.277(a)(1)(ii) and (a)(2)(ii) may not be sold or purchased.

[79 FR 19496, Apr. 9, 2014, as amended at 80 FR 80689, Dec. 28, 2015]

**Reason for consideration for modification or removal:** When asked for regulations to consider for removal some Dolphin Wahoo AP members suggested removing the restriction of bag limit sales for charter vessels and headboats. The Dolphin Wahoo AP also made a motion to consider doing so at their last meeting in 2017.

### **Subpart Q—Coastal Migratory Pelagic Resources (Gulf of Mexico, South Atlantic, and Mid-Atlantic)**

#### **§622.369 Description of zones.**

~~(2) Atlantic migratory group. In the EEZ, the Atlantic migratory group is bounded by a line extending from the intersection point of New York, Connecticut, and Rhode Island (as described in §600.105(a) of this chapter) and a line extending due east of the Florida/Georgia border. See Table 3 of this section for the boundary coordinates. (See Figure 3 in Appendix G of this part for illustration.)~~

#### **§622.375 Authorized and unauthorized gear.**

~~(i) Cobia in the Mid-Atlantic and South Atlantic EEZ—automatic reel, bandit gear, handline, rod and reel, pelagic longline, and spear (including powerheads).~~

#### **§622.380 Size limits.**

~~(2) In the Mid-Atlantic or South Atlantic. (i) 33 inches (83.8), fork length, for cobia that are sold (commercial sector).~~

~~(ii) 36 inches (91.4 cm), fork length, for cobia that are not sold (recreational sector).~~

#### **§622.382 Bag and possession limits.**

~~(vi) Atlantic migratory group cobia that are not sold (recreational sector)—1, not to exceed 6 fish per vessel per day.~~

#### **§622.384 Quotas.**

~~(d) Cobia—~~

~~(2) Atlantic migratory group. The following quotas apply to persons who fish for cobia and sell their catch. For the 2014 and 2015 fishing years, the quota for the Atlantic migratory group of cobia is 60,000 lb (27,216 kg). The quota for the 2016 fishing year and subsequent fishing years is 50,000 lb (22,680 kg).~~

#### **§622.385 Commercial trip limits.**

~~(c) Cobia. (1) Atlantic migratory group. Until the commercial ACL specified in §622.384(d)(2) is reached, 2 fish per person, not to exceed 6 fish per vessel.~~

**§622.388 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).**

*(f) Atlantic migratory group cobia. (1) The following ACLs and AMs apply to cobia that are sold (commercial sector):*

*(i) If the sum of the cobia landings that are sold, as estimated by the SRD, reach or are projected to reach the quota specified in §622.384(d)(2) (ACL), the AA will file a notification with the Office of the Federal Register to prohibit the sale and purchase of cobia for the remainder of the fishing year.*

*(ii) In addition to the measures specified in paragraph (f)(1)(i) of this section, if the sum of the cobia landings that are sold and not sold in or from the Atlantic migratory group, as estimated by the SRD, exceeds the stock ACL, as specified in paragraph (f)(3) of this section, and Atlantic migratory group cobia are overfished, based on the most recent status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year to reduce the applicable quota (ACL), as specified in paragraph (f)(1)(i) of this section, for that following year by the amount of any applicable sector specific ACL overage in the prior fishing year.*

*(2) The following ACLs and AMs apply to cobia that are not sold (recreational sector). If recreational landings for cobia, as estimated by the SRD, exceed both the recreational ACL of 620,000 lb (281,227 kg), and the stock ACL, as specified paragraph (f)(3) of this section, then during the following fishing year, recreational landings will be monitored for a persistence in increased landings, and, if necessary, the AA will file a notification with the Office of the Federal Register to reduce the recreational vessel limit, specified in §622.382(a)(1)(vi), to no less than 2 fish per vessel to ensure recreational landings achieve the recreational ACT, but do not exceed the recreational ACL in that fishing year. Any recreational vessel limit reduction that is implemented as described in this paragraph is only applicable for the fishing year in which it is implemented. Additionally, if the reduction in the recreational vessel limit is determined by the AA to be insufficient to ensure that recreational landings will not exceed the recreational ACL, the AA will also reduce the length of the recreational fishing season by the amount necessary to ensure recreational landings do not exceed the recreational ACL in that fishing year. The recreational vessel limit and the length of the recreational fishing season will not be reduced if NMFS determines, based on the best scientific information available, that a recreational vessel limit and fishing season reduction are unnecessary. The recreational ACT is 500,000 lb (226,796 kg).*

*(3) The stock ACL for Atlantic migratory group cobia is 670,000 lb (303,907 kg)*

**Reason for consideration for removal:** These regulations would be removed from the CFR if Atlantic migratory group cobia is removed from the Coastal Migratory Pelagics Fishery Management Plan under Amendment 31 which is currently under consideration by the South Atlantic Council. Majority of Atlantic cobia harvest, particularly in recent years, as occurred in state waters and there has been little the Coastal Migratory Pelagics Fisheries Management Plan could do to constrain landings to the ACL. Additionally, the Atlantic States Marine Fisheries Commission has developed an Interstate FMP to more effectively constrain harvest and has

requested regulations for federal waters be implemented under the Atlantic Coastal Fisheries Cooperative Management Act.

**§622.381 Landing fish intact.**

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

(b) Cut-off (damaged) king or Spanish mackerel that comply with the minimum size limits in §622.380(b) and (c), respectively, and the trip limits in §622.385(a) and (b), respectively, may be possessed in the Gulf, Mid-Atlantic, or South Atlantic EEZ on, and offloaded ashore from, a vessel that is operating under the respective trip limits. Such cut-off fish also may be sold. A maximum of five additional cut-off (damaged) king mackerel, not subject to the size limits or trip limits, may be possessed or offloaded ashore but may not be sold or purchased and are not counted against the trip limit.

**Reason for consideration for modification:** A fisherman wanted to see this provision revised to allow fish caught under the recreational bag limit to be retained if they have fins damaged by other species such as shark and do not meet the minimum size limit. With the increase in the number of sharks present, more fish are being injured by them. These fish then have to be thrown back.

**§622.386 Restrictions on sale/purchase**

*e) State-permitted tournaments. King or Spanish mackerel harvested in a state-permitted tournament in the South Atlantic, Mid-Atlantic, or the Gulf may not be sold for profit but may be donated to a state dealer or Federal dealer. Dealers accepting these tournament-caught king or Spanish mackerel must be permitted and must comply with all transfer and reporting requirements. Federally permitted dealers who accept donated king or Spanish mackerel under this section are exempt from the restrictions in paragraph (c) of this section, and can first receive these fish from non-federally permitted vessels. Dealers must donate the monetary value (sale price or cash equivalent of value received for the landings) from the sale of tournament-caught fish to a charitable organization, as determined by the state. The monetary value received from the sale of tournament-caught fish may not be used to pay for tournament expenses. In addition, the fish must be handled and iced according to the Hazard Analysis Critical Control Point (HACCP) standards, and dealers must report tournament-caught king and Spanish mackerel as "tournament catch" and comply with all Federal and state reporting requirements.*

**Reason for consideration for modification:** Some fishermen from Florida would like to see tournament sales of king and Spanish mackerel ended. The thought is that this regulation is not being enforced and the sold fish are counted against the commercial ACL.

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

### ~~§622.411—Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).~~

~~For recreational and commercial spiny lobster landings combined, the ACL is 7.32 million lb (3.32 million kg), whole weight. The ACT is 6.59 million lb, (2.99 million kg) whole weight.~~

**Reason for consideration for removal:** Due to its unique life cycle (external recruitment, long larval life stage), spiny lobster should be considered for exemption from the ACL requirements under the Magnuson-Stevens Act. While the Spiny Lobster AP agreed with the logic, they did not think removing this CFR was important at this time because of the recent increase in ACL that they thought would decrease the likelihood of future overages. The Coral AP had concerns that if management measures for spiny lobster were removed, perhaps there would be more effort with traps and the recreational fishery for spiny lobster may expand, as well.

## 46 CFR

### § 28.70 Approved equipment and material.

*(a) Equipment and material that is required by this subchapter to be approved or of an approved type, must have been manufactured and approved in accordance with the design and testing requirements in subchapter Q of this chapter or as otherwise specified by the Commandant.*

*(b) A listing of current and formerly approved equipment and materials may be found on the internet at: <http://cgmix.uscg.mil/equipment>. Each OCMI may be contacted for information concerning approved equipment.*

**Reason for consideration for modification:** Fishermen stated that the safety equipment required for fishing vessels is overly burdensome and would like to see that looked at for possible revisions for other allowable gear. (Note: since this is not in 50 CFR 622, this is not part of the Council's purview. Also, it is not clear that the above referenced CFR is the correct CFR as the hyperlink listed in the CFR was a dead link when it was checked on 5/10/2018.)

## 46 USC 8103

*(b)*

*(1) Except as otherwise provided in this section, on a documented vessel—*

*(A) each unlicensed seaman must be—*

*(i) a citizen of the United States;*

*(ii) an alien lawfully admitted to the United States for permanent residence; or*

*(iii) a foreign national who is enrolled in the United States Merchant Marine Academy; and*

*(B) not more than 25 percent of the total number of unlicensed seamen on the vessel may be aliens lawfully admitted to the United States for permanent residence.*

**Reason for consideration for modification:** Unlicensed seamen may be legally allowed in the U.S. because they have proper work documentation, but not allowed to serve on a fishing vessel because they are not permanent residents. Some fishing vessel owners would like to see this percentage increased from 25%, or preferably allow anyone legally permitted to work in the U.S. to serve as an unlicensed seaman.