352.239–73 [Amended]

■ 38. In the provision heading in section 352.239–73(a) and the clause heading in 352.239–73(b), remove "(October 2009)" and add in its place "(January 2010)".

352.270–7 [Amended]

■ 39. In the clause heading in section 352.270–7, remove "(October 2009)" and add in its place "(January 2010)".

352.270–8 [Amended]

■ 40. In the clause heading in section 352.270–8, remove "(October 2009)" and add in its place "(January 2010)".

352.270–9 [Amended]

■ 41. In the provision heading in section 352.270–9, remove "(October 2009)" and add in its place "(January 2010)".

PART 370—SPECIAL PROGRAMS AFFECTING ACQUISITION

■ 42. Section 370.400 is revised to read as follows:

370.400 Scope of subpart.

This subpart applies to all R & D, research training, biological testing, housing and maintenance, and other activities involving live vertebrate animals conducted under contract (*see* Public Health Service Policy on Humane Care and Use of Laboratory Animals (PHS Policy), Rev. 1986, Repr. 1996).

■ 43. Paragraph 370.403(a) is revised to read as follows:

370.403 Notice to offerors.

(a) The Contracting Officer shall insert the provision in 352.270–5(a), Notice to Offerors of Requirement for Compliance with the Public Health Service Policy on Humane Care and Use of Laboratory Animals, in solicitations that involve live vertebrate animals.

* * * * *

■ 44. Section 370.404 is revised to read as follows:

370.404 Contract clause.

The Contracting Officer shall insert the clause in 352.270–5(b), Care of Live Vertebrate Animals, in solicitations, contracts, and orders that involve live vertebrate animals.

Dated: April 15, 2010.

Ellen G. Murray,

Assistant Secretary for Financial Resources.

[FR Doc. 2010–9382 Filed 4–23–10; 8:45 am]

BILLING CODE 4151–17–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 622

[Docket No. 090225243–0170–03]

RIN 0648–AX67

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 31

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement Amendment 31 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP) prepared by the Gulf of Mexico Fishery Management Council (Council). This final rule will implement restrictions applicable to the bottom longline component of the reef fish fishery in the exclusive economic zone (EEZ) of the eastern Gulf of Mexico (Gulf). The restrictions include a bottom longline endorsement requirement, a seasonal closed area, and a limitation on the number of hooks that can be possessed and fished. The intent of this rule is to balance the continued operation of the bottom longline component of the reef fish fishery in the eastern Gulf while maintaining adequate protective measures for sea turtles.

DATES: This rule is effective May 26, 2010.

ADDRESSES: Copies of the final regulatory flexibility analysis (FRFA) and record of decision may be obtained from Cynthia Meyer, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701–5505.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted by e-mail to *rich.malinowski@noaa.gov*, or *David_Rostker@omb.eop.gov*, or by fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Cynthia Meyer, telephone: 727–824–5305.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf is managed under the FMP. The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The taking of sea turtles is prohibited, with certain exceptions, identified at 50 CFR part 223 under the authority of the Endangered Species Act (ESA) and its implementing regulations.

On December 31, 2009, NMFS published a notice of availability of Amendment 31 and requested public comment (74 FR 69322). On January 15, 2010, NMFS published a proposed rule for Amendment 31 and requested public comment (75 FR 2469). NMFS approved Amendment 31 on March 29, 2010. This final rule establishes adequate protective measures for loggerhead sea turtles while maintaining a viable bottom longline fleet. These measure include a bottom longline endorsement, a seasonal closed area in the eastern Gulf, and a limitation on the number of hooks that can be possessed and fished. The rationale for the measures contained in Amendment 31 is provided in the amendment and in the preamble to the proposed rule and is not repeated here.

Comments and Responses

The following is a summary of the comments NMFS received on the proposed rule and Amendment 31, and NMFS' respective responses. During the respective comment periods for Amendment 31 and the proposed rule, NMFS received 976 submissions. The submissions included two scripted form letters with 457 and 393 copies. NMFS also received 126 unique mailed letters. In addition, a non-governmental organization submitted a petition with 2,297 signatures. Many of the faxes and electronic comments were duplicate submissions by the same person.

Comment 1: NMFS needs to take action to stop additional sea turtle mortality and reverse the decline in the sea turtle population.

Response: NMFS has concluded that the actions contained in this final rule are sufficient to address sea turtle interactions in the Gulf reef fish fishery. NMFS reinitiated a formal section 7 consultation investigating continued authorization of the reef fish fishery. An emergency rule, effective May 18, 2009, prohibited bottom longline gear for the reef fish fishery in waters less than 50 fathoms (91 m) to address the issue in the short-term and closed the portion of the Gulf EEZ east of 85° 30′ W. longitude to bottom longlining for reef fish after the deepwater grouper quota was met on June 27, 2009. According to the NMFS 2009 report on sea turtle take estimates for the commercial reef fish fishery of the eastern Gulf, all but one observed sea turtle take occurred in water depths less than 50 fathoms (91

m). In October 2009, NMFS implemented a rule under the authority of the ESA to replace the emergency rule, pending implementation of Amendment 31. This rule prohibited using bottom longline gear to fish for reef fish in water depths less than 35 fathoms (64 m) and restricted the number of hooks allowed on each vessel to 1000 hooks, of which no more than 750 hooks could be fished or rigged for fishing at any given time. NMFS and the Council have developed Amendment 31 as a long-term method to address the bycatch of sea turtles in the Gulf reef fish fishery.

Comment 2: The pending legislation and influence from special interest groups seem to continue to dictate short-sighted management plans.

Response: Amendment 31 establishes long-term management measures to address sea turtle bycatch in the Gulf reef fish fishery. The amendment was developed and approved based on input from diverse interest groups participating in the regulatory process. Increased observer coverage and monitoring in the reef fish fishery will continue to help evaluate the effectiveness of the regulations. If the actions described in Amendment 31 do not meet the necessary reductions for sea turtle takes, the Council may reconsider these management measures in the future.

Comment 3: Amendment 31 will actually increase, rather than decrease, the number of allowable incidental takes of loggerhead sea turtles over the next three years, despite the fact that these populations are in decline and protected under the ESA. The allowed 1,152 takes with 631 deaths should be reduced. Florida loggerhead sea turtle nesting populations have declined more than 40 percent over the past decade. The agency has now authorized a huge increase in the number of sea turtles killed by this fishery. This decision is unlawful and the underlying Biological Opinion is fundamentally flawed.

Response: The actions in Amendment 31 aim to reduce the bycatch of sea turtles in the bottom longline component of the Gulf reef fish fishery. The Biological Opinion evaluated the actions in Amendment 31 and developed an incidental take statement (ITS) for the Gulf reef fish fishery based on the best available scientific data. The ITS from the previous Biological Opinion is not directly comparable to the 2009 Biological Opinion due to the improvement of evaluation methods and updated scientific information. Based on the lack of significant changes in the fishery, prior to the recent actions, it is reasonable to conclude that the level of take observed in the fishery has been occurring for some time now. For the bottom longline component of the Gulf reef fish fishery, the measures are expected to obtain a 48- to 67–percent reduction in sea turtle takes resulting in the authorized take of 623 loggerhead sea turtles with 378 mortalities. In addition, the Biological Opinion has determined that, beginning in 2012, the authorized triennial take of 1,043 loggerhead sea turtles with 566 mortalities, will not jeopardize the continued existence this species.

Comment 4: Amendment 31 is inadequate to conserve threatened and endangered sea turtle species, particularly loggerhead sea turtles, and fails to meet applicable legal requirements necessary for its approval. Amendment 31 would authorize an expansion of the bottom longline component of the Gulf reef fish fishery. Amendment 31 should be rejected, and NMFS should re-analyze the impacts of the existing bottom longline component of the reef fish fishery under the Magnuson-Stevens Act, the ESA, and the National Environmental Policy Act (NEPA), using the best available science and proper legal standards.

Response: Amendment 31 contains actions to establish gear modifications, a June through August seasonal-area closure, and a restrictive endorsement program. The combined effects of these actions are anticipated to achieve a 48- to 67–percent reduction in bottom longline fishing effort and corresponding sea turtle takes. This level of reduction has been determined to be consistent with NMFS' obligations under the Magnuson-Stevens Act, ESA and other applicable laws. The restrictive endorsement under which vessels will be allowed to continue using bottom longline gear is expected to reduce the fleet from approximately 120 to approximately 60 vessels. This is expected to translate to an 18- to 37–percent reduction in fleet effort and corresponding sea turtle takes, depending on the number of vessels that exit the fishery or convert to vertical line gear. The action does not limit the ability of vessels remaining in the fishery to increase capacity through permit transfers. However, because qualification for an endorsement is based on landings, the qualifying vessels tend to be the most active participants in the fishery. These qualifying vessels are believed to already be operating near full capacity and have little or no ability to increase effort. Further, the grouper and tilefish individual fishing quota program is also expected to limit longline effort in the fishery because each fisherman is limited to their own annual allocation and must therefore stop fishing when their total allocation has been used for the year taking into account any allocation that has been bought or sold.

Comment 5: Amendment 31 does not use the best available science. The Council and NMFS did not adequately consider the information provided by the Florida Fish and Wildlife Conservation Commission or information provided by scientists at Mote Marine Laboratory. Satellite tracking data indicate loggerhead sea turtles use the entire shelf area throughout all months of the year. Establishing a gear restriction during only June through August does not adequately address sea turtle interactions during the remainder of the year. The best available science shows the ESA rule provides more protection for threatened and endangered sea turtles, as it is a year-round closure, rather than the seasonal closure contained in Amendment 31.

Response: NMFS is aware that sea turtles are documented throughout the continental shelf waters along Florida's west coast, as illustrated by recent research efforts to satellite-tag and track sea turtles in the area. These data were discussed extensively by the Council, by NMFS staff, and in Amendment 31. However, these data indicate only presence or absence of sea turtles. The best scientific information available to NMFS and the Council to quantitatively assess the seasonal distribution and density of loggerhead sea turtles over the west Florida continental shelf is derived from aerial surveys conducted by the NMFS Southeast Fishery Science Center. Those data reveal a significant decrease in density of loggerhead sea turtles with increasing depth during the summer months. The Council chose their preferred option for a seasonal-area closure, and NMFS is implementing this closure, after consideration of the satellite-tag, fishery observer, and aerial survey information on sea turtle distribution and density on the west Florida continental shelf.

It should also be noted that the ESA rule, implemented in October 2009, was enacted pending the implementation of Amendment 31. Further, based upon the best scientific information available for Amendment 31, NMFS analysis indicates that the effort reductions realized from the ESA-based restrictions currently in place will be less than the reductions associated with the measures in Amendment 31. Thus, the sea turtle takes under Amendment 31 are anticipated to be less than under the current ESA rule.

Comment 6: Amendment 31 does not comply with ESA, NEPA or the Magnuson-Stevens Act. The 2009 Biological Opinion is flawed and not based on the best available scientific information, therefore, actions in Amendment 31, which are based on the conclusions of the Biological Opinion, are similarly impacted. Similarly, the Final Environmental Impact Statement (FEIS) prepared in conjunction with Amendment 31 is flawed because it has not adequately analyzed a true "no action" alternative as a baseline to which Amendment 31 actions could be compared. Rather than analyzing as the "no action" alternative the ESA Rule that is currently in place and that has been in place since October 2009, Amendment 31's FEIS chooses a "no action" alternative involving the status quo of no restrictions at all.

Response: The Biological Opinion used the best scientific information available to quantitatively assess the effects of the alternatives. The "no action" alternative in the FEIS is the status quo that existed at the time the Council voted to submit Amendment 31 for Secretarial review, approval, and implementation. The status quo in the FEIS, therefore, equates to no permanent restrictions on the longline component of the fishery that are specifically intended to limit interactions with sea turtles. On October 16, 2009, subsequent to Council submission of Amendment 31, NMFS implemented a rule under the authority of the ESA that established some of the measures contained in Amendment 31, as well as modified measures from Amendment 31; i.e., an indefinite closure inside 35 fathoms (64 m) rather than a seasonal closure for the same area. Although the ESA rule contains no specific expiration date, the preamble to the rule clearly established that the rule was intended to be effective on an interim basis during the development and implementation of Amendment 31, or some other long-term measures. As NMFS has consistently and publicly announced, the management measures contained in the ESA rule were intended to be replaced by the management measures contained in this rulemaking upon approval and implementation of Amendment 31. Also, the ESA measures currently in place were addressed as a reasonably foreseeable future, but temporary, action in the FEIS. As the comments point out, this could be viewed as a changed baseline, which means the impacts of the alternatives described in Amendment 31 are actually less than when compared to the prior baseline represented by the no action alternative in the FEIS. However, NMFS has determined that the impacts analysis in the FEIS contains the requisite hard look at the impacts of the proposed action relative to both the status quo as defined in the FEIS and the existing ESA rule. Accordingly, NMFS has determined that the FEIS is in compliance with applicable law.

Comment 7: The proposed actions in Amendment 31 are projected to achieve sea turtle mortality reductions in the bottom longline component of the reef fish fishery of 48 to 67 percent, and 50 percent for the overall reef fish fishery. This reduction is not adequate to meet the 60–to 70–percent mortality reduction target identified by NMFS to recover loggerhead sea turtles. NMFS and the Council should consider additional actions to achieve bycatch mortality reduction goals, including longer seasonal closures, extending the seasonal bottom longline closure to at least 50 fathoms (91 m), or to 35 fathoms (64 m) year-round, or establish more restrictive endorsement levels for the bottom longline sector.

Response: There are multiple sources of mortality affecting loggerhead sea turtles, and anthropogenic mortality on the species occurs at every life stage, although the exact magnitude of the mortality is often unknown. The Biological Opinion indicates it is likely that several factors compound to create the loggerhead sea turtle decline. With multiple sources of mortality, there is need for broad-based reductions in mortality across these multiple sources. In a NMFS presentation to the Council, preliminary results of a novel loggerhead sea turtle life history model estimated the need for a potential 60- to 70–percent reduction in total anthropogenic mortality from all sources for benthic-state loggerhead sea turtles to have a likelihood of positive growth for the loggerhead sea turtle population. However, there were dramatic uncertainties associated with these preliminary analyses and results, and the range of examined parameters estimated that the anthropogenic mortality reductions should be from less than 0 percent to greater than 100 percent.

NMFS did not make a recommendation to the Council regarding a "target" reduction in sea turtle mortality for the bottom longline component of the reef fish fishery. Amendment 31 is clear regarding the Council's considerations and deliberations regarding the actions it chose to address sea turtle interactions with bottom longline gear. There is no definitive information available regarding possible gear, bait, or fishing practice modifications that would ensure reductions in sea turtle takes. Therefore, the Council decided to address sea turtle takes indirectly by reducing bottom longline effort in the reef fish fishery, which is expected, in turn, to reduce sea turtle takes. To that end, a reduction in sea turtle takes will result in a reduction of sea turtle mortalities. NMFS and the Council considered several alternatives for various depth closures, seasonal closures, and endorsement qualifications. The Council chose the preferred actions in Amendment 31 to balance the continued operation of the bottom longline component of the reef fish fishery in the eastern Gulf while implementing adequate protective measures for sea turtles. The Council's suite of actions, in combination, are expected to achieve a 47 percent to 68 percent reduction in fishing effort by the bottom longline component of the reef fish fishery.

After the Council completed development of Amendment 31 and submitted it for Secretarial review in September 2009, NMFS considered the impacts of the proposed actions in its Biological Opinion, completed in October 2009. The Biological Opinion stated that the proposed management regime would reduce lethal takes of loggerhead sea turtles in the bottom longline component of the Gulf reef fish fishery from 942 triennially to 378 triennially with full implementation of Amendment 31; this is a 60 percent reduction in mortality by the bottom longline component of the reef fish fishery. Total, triennial, loggerhead sea turtle mortality attributed to the proposed action is expected to be reduced from 1130 lethal takes, in the past, to 566 lethal takes, with full implementation of Amendment 31. Thus, this is a 50–percent reduction in the fishery's overall impact on loggerhead sea turtles. Based on these findings, the Biological Opinion concluded that the continued authorization of the Gulf reef fish fishery was likely to adversely affect sea turtles and sawfish, but was not likely to jeopardize the continued existence of any listed species.

Comment 8: Amendment 31 fails to provide adequate protection for sea turtles. Far more protective measures are available and feasible, such as prohibiting the use of squid for bait, limiting mainline lengths, and using circle hooks.

Response: NMFS does not agree that gear and bait changes are certain to reduce takes. NMFS agrees there is documentation that sea turtles may prefer squid for bait, based on

observations in other fisheries. Most data come from the pelagic longline fisheries, which use larger hooks baited with whole squid, and which catch smaller sea turtles. In contrast, reef fish bottom longlines use relatively small hooks baited with cut bait, which catch much larger (often adult) sea turtles. As noted in Amendment 31, approximately 38 percent of all takes occurred when squid was used as bait; however, the take rate of sea turtles on squid bait may be an artifact of squid being the predominant bait used in the fishery, and because it stays on the hook longer than some fish baits, thus there is simply a greater probability of a sea turtle encountering squid bait than other types of bait. In addition, as noted in the amendment, sea turtles were taken on both squid and fish bait, including skate and shark bait, which would be a non-natural food for sea turtles. Information specific to the quantitative reductions of sea turtle interactions from a change of bait type are not available. Similarly, having less gear in the water at any one time may not reduce overall sea turtle takes. By having shorter mainlines, gear retrieval would be shorter and more sets could be made per day. Circle hooks have been required, when using natural baits, in the reef fish fishery since 2008. The majority of sea turtles taken by bottom longlines are adult loggerhead sea turtles. Using circle hooks large enough to physically preclude large sea turtles from being taken would also preclude all but the largest grouper from being caught. Information is not available to determine if hook size or hook guards are practical alternatives that would reduce sea turtle takes. Additional future research might provide an indication of the value of these gear modifications, or there may be some sea turtle repellant or deterrent designed in the future, but without some quantitative documentation of the effectiveness of any gear, bait, or fishing technique changes, NMFS agrees with the Council's choice to not select these actions as preferred procedures.

Comment 9: Gangion length on longlines should be restricted to 2 - 5 ft (0.6 - 1.5 m) with no more than 150–lb (68–kg) test line. This will reduce damage to the bottom, catch of gag, and deaths of sea turtles.

Response: Amendment 31 contains information illustrating that shorter gangion length does not necessarily correlate to fewer sea turtle takes. Amendment 31 presents information that gangions 4 ft (1.2 m) in length are only used by 13 percent of the fleet, but their use is associated with 33 percent of all observed sea turtle takes, thus representing a larger proportion of the total takes by gangions of that length. The Council discussed placing restrictions on strength of line, however, they did not include such a restriction in this rulemaking because injury to a sea turtle may occur from entanglement in a broken line or the presence of the hook. Further, anecdotal information from the industry suggests that line weak enough to allow most sea turtles to break free would also be too week to hold fish of the size commonly harvested.

Comment 10: With the proposed longline restriction based on a line approximating the 35–fathom (64 m) depth contour, it appears that longlining will be allowed on the middle and the lower part of the area called the "Elbow". Depths in this area range from roughly 27 to 32 fathoms (49 to 59 m). This area needs protection from this destructive gear. Running a straight line between two points is what is causing this problem and it needs to be addressed.

Response: NMFS agrees that the line approximating the 35–fathom (64 m) bathymetry contour will not prohibit bottom longline fishing in the described area in which some of the depths are less than 35 fathoms. However, it would not be feasible to follow the exact curvature of the 35–fathom (64 m) bathymetry contour due to the fine scale variation of the contour. The 35–fathom line is a generalization of the contour with waypoints published in the regulations and used by law enforcement to monitor the fishery. Due to the scale and resolution of the bathymetry contour, it is prohibitive to use an increased number of waypoints to capture all the curves of the contour.

Comment 11: NMFS should consider the 40,000 lb (18,144 kg) endorsement by including landings from all gear types with the majority of landings from bottom longline gear.

Response: The Council considered several alternatives for the endorsement action. The Council used the longline landings as qualification criteria for the endorsement to maintain vessels in the fishery that rely mostly or exclusively on longline gear to harvest fish. In addition, the Council considered the application of fish trap landings towards the endorsement qualification due to the phase out of fish traps in 2007, and the resultant conversion to a longline gear type on those vessels.

Comment 12: The Council and NMFS failed to consider several viable alternative actions to address the issue of sea turtle interactions in the bottom longline component of the reef fish fishery, including increasing observer coverage to better document interactions and establishing sea turtle take triggers for the reinitiation of consultation under ESA. NMFS should consider placing an observer on every longline vessel to accurately document bycatch within this fishery. The cost of the observer should be paid for by the industry using some kind of bottom longline cost recovery fee.

Response: Increasing observer coverage would not help to reduce sea turtle takes, but it would increase the monitoring of the Gulf reef fish fishery. Pursuant to the terms and conditions of the 2009 Biological Opinion, NMFS has already increased observer coverage levels to reduce reporting error and increase the statistical reliability of bycatch estimates. At the present time, applicable law does not authorize NMFS to impose fees on longline vessels to fund observers in the fleet.

Comment 13: Bottom longline gear is more indiscriminate than netting and is the single most deadly threat to sea turtles. Bottom longline gear causes excessive bycatch and kills unintended species, including endangered and threatened marine species. NMFS should consider applying methods used for catching tuna and swordfish without longline fishing, and force the industry to adopt them, or eliminate longlining all together. This would reduce the issue of overfishing.

Response: Amendment 31 addresses the need to reduce sea turtle bycatch within the bottom longline component of the Gulf reef fish fishery. NMFS and the Council considered many alternatives to reduce the number of sea turtle takes in the fishery, with an objective of maintaining a more restricted but still viable bottom longline component of the reef fish fishery. The Council chose their preferred alternatives and NMFS is implementing them through this final rule. In accordance with the Magnuson-Stevens Act, NMFS cannot substitute measures for, or add measures to, the specific measures proposed by the Councils; NMFS may only approve, disapprove, or partially approve the proposed measures and implement the approved measures through rulemaking. It would not meet the Council's objective to phase out bottom longlining in the Gulf of Mexico.

Comment 14: Regulations proposed in Amendment 31 are typical management responses to an increase in sea turtle takes, but lead fishing vessels to race to catch fish before a bycatch limit is met. Bycatch regulations should give fisherman incentives to avoid sea turtles and sea turtle takes. Regulations should be designed to meet the conservation and economic goals of the ESA and

Magnuson-Stevens Act. Regulations could include bycatch caps, bycatch auctions, and bycatch conservation banks. The Council should form an Advisory Panel to examine ways to develop incentive-based tools.

Response: NMFS has concluded that the actions contained in Amendment 31 and this final rule are sufficient to address sea turtle interactions in the Gulf reef fish fishery, at the same time maintain a viable bottom longline fleet. NMFS agrees that there are numerous additional management options available to the Council to effectively manage the Gulf reef fish resources. If the actions described in Amendment 31 do not meet the necessary reductions for sea turtle takes, the Council will have to reconsider these management measures in the future. NMFS encourages the public to be actively involved in the Council process and provide suggestions to the Councils for their deliberations.

Comment 15: NMFS has failed to consider all sources of mortality in its Biological Opinion such as vessel strikes, takes by hook and line gear in both the recreational and commercial sector, and entanglement by marine debris. Sea turtles also face threats from egg poachers, fishing boats, plastic bags, cold weather conditions, and capture in shrimp nets without sea turtle excluder devices. Injuries from these hooks affect a sea turtle's ability to feed, swim, avoid predators, and reproduce. Many times the sea turtles drown, or are unable to recover from the extreme physiological stress of being caught and die soon after being released.

Response: NMFS' 2009 Biological Opinion includes information on vessel strikes, interactions with hooks, and other anthropogenic threats to sea turtles. In addition, the Biological Opinion considered the delayed effects of non-lethal interactions with fishing gear. Using the best scientific information available, the Council and NMFS, developed and are implementing through this final rule, management measures that will both help reduce sea turtle takes and maintain a viable bottom longline component of the Gulf reef fish fishery.

Removal of Bottom Longline Measures Under ESA Authority

On October 21, 2009, NMFS published a final rule under the ESA to reduce the incidental take and mortality of sea turtles in the bottom longline component of the Gulf reef fish fishery until Amendment 31 is implemented. The ESA rule included provisions to prohibit the use of bottom longline gear for the harvest of reef fish shoreward of a line approximating the 35–fathom depth contour in the eastern Gulf and limit bottom longline vessels operating in the reef fish fishery east of 85° 30′ W. longitude to 1,000 hooks onboard, of which only 750 may be fished or rigged for fishing. Although the preambles to both the ESA rule (74 FR 53889, October 21, 2009) and the proposed rule to implement Amendment 31 (75 FR 2469, January 15, 2010), as well as the notice of availability (74 FR 69322, December 31, 2009) all indicated the ESA rule would be replaced by this final rule, amendatory regulatory text was omitted from the proposed rule. Nonetheless, comments 5 and 6 demonstrate that commenters understood this final rule would supercede and replace the ESA rule. The appropriate amendatory regulatory text is included in this final rule, which removes from 50 CFR part 223 the measures implemented through the ESA rule published October 21, 2009 (74 FR 53889), and restores the provisions of 50 CFR part 223.206(d) to the form in which it existed prior to the publication of the ESA rule. This change is the logical outgrowth of the proposed rule.

Classification

The Administrator, Southeast Region, NMFS has determined that Amendment 31 is necessary for the conservation and management of Gulf reef fish and the protection of sea turtles and is consistent with the Magnuson-Stevens Act, and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared an FEIS for this amendment. A notice of availability for the FEIS was published on February 5, 2010 (75 FR 6026). A copy of the ROD is available from NMFS (*see* **ADDRESSES**).

NMFS prepared a FRFA, as required by section 603 of the Regulatory Flexibility Act. The FRFA describes the economic impact this final rule is expected to have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A copy of this analysis is available from NMFS (*see* **ADDRESSES**). A summary of the FRFA analysis follows.

The purpose of this final rule is to reduce interactions between sea turtles and bottom longline gear in the reef fish fishery in the eastern Gulf. The Magnuson-Stevens Act provides the statutory basis for this final rule.

No duplicative, overlapping, or conflicting Federal rules have been identified.

This final rule will prohibit the use of bottom longline gear to fish for reef fish in the eastern Gulf (east of 85° 30′ W. longitude) shoreward of a line approximating the 35–fathom (64–m) depth contour from June through August, require a permit endorsement to fish for reef fish using bottom longline gear in the eastern Gulf, and limit the number of hooks per vessel using bottom longline gear to fish for reef fish in the eastern Gulf to 1,000 hooks, of which no more than 750 hooks can be rigged for fishing or fished at any given time.

No significant issues were raised by public comments in response to the Initial Regulatory Flexibility Analysis (IRFA). Therefore, no changes were made in the final rule as a result of such comments.

This final rule is expected to directly affect commercial fishing vessels that use bottom longline gear to fish for reef fish in the eastern Gulf. Based on logbook records, for the period 2003–2007, an average of 149 vessels per year recorded reef fish landings using bottom longline gear. These vessels are estimated to average $108,635 per year in gross revenues and $72,649 per year in net operating revenues (NOR; revenues net of non-labor trip costs).

Some fleet activity is known to occur in the commercial sector of the Gulf reef fish fishery. Based on permit data, the maximum number of permits reported to be owned by the same entity is six, though additional permits may be linked through other affiliations which cannot be identified with current data. It is unknown whether all of these linked permits are for vessels that use longline gear, which generate higher average annual revenues than vessels that use other gear types to harvest reef fish. Nevertheless, assuming each of these six vessels use bottom longline gear, and, using the average revenue per vessel provided above, the average annual combined revenues for this entity would be approximately $652,000.

The Small Business Administration has established size criteria for all major industry sectors in the U.S. including fish harvesters. A business involved in fish harvesting is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $4.0 million (NAICS code 114111, finfish fishing) for all affiliated operations worldwide. Based on the gross revenue estimates

provided above, all commercial reef fish vessels expected to be directly affected by this final rule are determined for the purpose of this analysis to be small business entities.

As previously stated, this final rule will require a new compliance requirement of a permit endorsement to fish for reef fish using bottom longline gear in the eastern Gulf. Initial acquisition of the endorsement will not require an application or additional fees. Eligibility for the endorsement will be determined by NMFS, based on an evaluation of the landings history associated with each commercial reef fish permit. The permit endorsement will be provided to qualified vessels. As a result, no additional costs or administrative burdens will be imposed on qualifying entities. Renewal of the endorsement will require a $10 fee in addition to the $25 for their commercial reef fish permit. Applicants will also incur an additional time burden, estimated to average less than 1 minute per response, to review instructions and complete the endorsement portion of the permit application. Permit holders that do not qualify for the endorsement will be prohibited from using bottom longline gear to harvest reef fish in the prescribed area of the eastern Gulf. The expected economic effects of the endorsement requirement on entities that historically have harvested reef fish with bottom longline gear but will not qualify for the endorsement are discussed below. This final rule will not establish any new reporting or record-keeping requirements.

The expected effects of the seasonal bottom longline gear prohibition and endorsement requirement were evaluated in tandem. Vessels affected by the endorsement and gear restrictions will be expected to either shift fishing effort to areas that remain open and continue to fish with bottom longline gear, or convert to vertical line gear. However, because of the absence of adequate data, effort shift was not modeled in the analysis of the expected economic effects of this final rule. Instead, only gear conversion was modeled, with gear conversion rates ranging from 0 percent to 100 percent of affected vessels and trips. Under this modeling approach, any affected effort that did not convert bottom longline gear to vertical line gear was assumed not to occur, resulting in the loss of all normal harvests and revenues for that vessel and trip. As such, this may be considered an extreme assumption. In reality, rather than trip cancellation, effort shift is likely to occur, resulting in some amount of continued historic harvest. The absence of an effort shift analysis results in over-estimation of the expected economic effects of this final rule and, as a result, the following results should be viewed as the upper bounds of any anticipated economic impacts.

This final rule will be expected to reduce the net operating revenues (NOR; revenues minus non-labor variable operating costs) of commercial vessels that have historically harvested reef fish using bottom longline gear in the eastern Gulf by $1.28 million (100–percent conversion to vertical line gear) to $3.44 million (0–percent conversion to vertical line gear) per year. Averaged across the average number of vessels per year with recorded landings of reef fish using bottom longline gear from 2003–2007 (149 vessels), the estimated reduction in NOR per vessel ranges from approximately $8,600 to $23,100, or approximately 12 percent to 32 percent of the average annual NOR per vessel. Individual vessels may experience higher or lower losses than these averages. Gear conversion is estimated to cost approximately $13,750 per vessel, though partial financial assistance is available for up to 50 vessels in the fishery from an environmental advocacy group. Additional economic losses may accrue as a result of the hook restriction. Although these losses cannot currently be quantified with available data, the hook restriction may result in a reduced harvest efficiency for some vessels. This would be expected to result in either reduced harvests or increased costs to maintain normal harvests if fishermen have to fish longer or make more sets than under current conditions. The hook restrictions could also increase the possibility that a trip may have to be terminated early if a line is lost and insufficient replacement hooks are available onboard to allow continued fishing.

Four alternatives, including the no action alternative (status quo), with multiple sub-alternatives, were considered for the action to establish seasonal and area gear restrictions. One alternative and set of sub-options focused on the geographic scope of the gear restriction, one alternative and set of sub-options focused on the depth specification of the gear restriction, and one alternative and set of sub-options focused on the temporal application of the gear restriction. The no-action alternative would not establish any new gear restrictions, would not be expected to reduce interactions between sea turtles and bottom longline gear in the reef fish fishery, and would not be expected to achieve the Council's objectives.

The alternative specifications of the geographic scope of the gear restrictions would have imposed the restrictions on smaller areas than this final rule and, as a result, would be expected to result in lower estimates of adverse economic effects than those contained in this final rule. However, the reduced geographic scope of these alternative specifications would be expected to result in an insufficient reduction in interactions between sea turtles and bottom longline gear, and would not be expected to achieve the Council's objectives.

One alternative to the depth specification of this final rule would have prohibited the use of bottom longline gear to harvest reef fish in waters less than 30 fathoms (55 m), which would be less restrictive than this final rule, while two alternatives would have been more restrictive, prohibiting the use of the gear in waters less than 40 fathoms (73 m) and 50 fathoms (91 m), respectively. The less restrictive alternative would be expected to reduce the loss of NOR to commercial vessels relative to this final rule. However, the reduced scope of the restriction would be expected to result in an insufficient reduction in interactions between sea turtles and bottom longline gear, and would not be expected to achieve the Council's objectives. While the two more restrictive alternatives may be expected to result in a greater level of protection of sea turtles than this final rule, both deeper depth alternatives would be expected to result in greater adverse economic effects than the depth specification in this final rule. As a result, these alternative depth specifications would not be expected to achieve the Council's objectives of sufficiently reducing interactions between sea turtles and bottom longline gear while minimizing the adverse effects on the reef fish fishery.

Both alternatives to the seasonal specification of this final rule would have increased the duration of the gear prohibition and would be expected to result in greater adverse economic effects than the seasonal restriction of this final rule. Similar to the more restrictive depth alternatives, while increased seasonal application of the gear prohibition would be expected to result in greater protection of sea turtles, these alternatives would not be expected to achieve the Council's objectives of sufficiently reducing interactions between sea turtles and bottom longline gear while minimizing the adverse economic effects on the reef fish fishery.

Seven alternatives, including the no action alternative (status quo), were considered for the action to reduce the

total number of vessels allowed to use bottom longline gear to harvest reef fish in the eastern Gulf. Except for the no action alternative, the alternatives varied by the minimum average annual reef fish harvest threshold that would be required to qualify for a permit endorsement that allowed the use of bottom longline gear to harvest reef fish in the eastern Gulf. Each alternative included two sub-options for the qualifying time period from which average annual harvests would be evaluated (1999–2004 or 1999–2007) and three sub-options that addressed the transferability of the endorsement. The no action alternative would not establish a longline endorsement to the reef fish permit, would not be expected to reduce the number of vessels (permits) allowed to use bottom longline gear to harvest reef fish in the eastern Gulf, and would not be expected to achieve the Council's objectives.

Two alternatives would have established lower average annual harvest thresholds (20,000 lb (9,072 kg) and 30,000 lb (13,608 kg), gutted weight) for endorsement qualification than this final rule endorsement qualification (40,000 lb (18,144 kg), gutted weight), while two alternatives would establish higher thresholds (50,000 lb (22,680 kg) and 60,000 lb (27,216 kg), gutted weight). Because lower thresholds would allow more vessels to continue to participate in the reef fish fishery using bottom longline gear, these alternatives would be expected to result in lower adverse economic effects than the qualification threshold described in this final rule. However, neither of these two alternatives would be expected to result in sufficient reduction in the number of vessels allowed to use bottom longline gear to harvest reef fish in the eastern Gulf or, in turn, sufficient reduction in bottom longline effort necessary to achieve target reductions in interactions between sea turtles and bottom longline gear. As a result, these alternatives would not be expected to achieve the Council's objectives. The two alternatives that would have established higher qualification thresholds would be expected to result in fewer qualifying vessels, greater economic losses, and greater reduction in interactions between sea turtles and bottom longline gear than is necessary to achieve the Council's objectives.

Under the seventh alternative for the action to reduce the number of vessels allowed to use bottom longline gear to harvest reef fish in the eastern Gulf, bottom longline endorsement qualification would have been based on landings histories in communities where the ex-vessel value of red grouper landings accounted for at least 15 percent of the total ex-vessel value of all species landed in the community. Qualifying permits would have been required to have reported landings in these communities for at least 5 years during the period of 1999–2007, with minimum average annual reef fish harvests of 30,000 lb (13,608 kg) per permit. The net economic effects of this alternative are unknown. However, while over 80 vessels would be expected to qualify for an endorsement under a 30,000–lb (13,608–kg) threshold without a community-linkage requirement, fewer than 50 vessels would qualify with the imposition of the community requirement. The intent of this alternative was to reduce bottom longline effort to a level that would adequately reduce sea turtle interactions while protecting specific communities dependent on the longline gear-component of the commercial sector of the Gulf reef fish fishery. However, this alternative was not capable of achieving the Council's objectives because qualifying vessels could not be required to continue landing their harvests in the target communities. Additionally, the exclusion of vessels that met the landings threshold but lacked the required history with a specific dependent community was determined to be inequitable within the fishery.

This final rule will establish a bottom longline endorsement qualification based on harvest history from 1999–2007. The alternative period of evaluation, 1999–2004, would have, for all landings thresholds, resulted in fewer qualifying permits and greater adverse economic effects within the fishery than those economic impacts anticipated in this final rule.

This final rule will also allow unrestricted transfer of endorsements between commercial Gulf reef fish permit holders. The alternative sub-options would either have not allowed endorsement transfer or only allowed transfer to reef fish permit holders with a vessel of equal or lesser length. Each of these sub-options would have been more restrictive than the transfer allowance of this final rule and, as a result, would be expected to result in greater adverse economic effects than this final rule.

Four alternatives, including the no action alternative (status quo), were considered for the action to modify fishing gear or practices. The no action alternative would not establish further restrictions on fishing gear or practices and, as a result, would not be expected to achieve the Council's objectives.

One alternative, with multiple sub-options, to the final fishing gear restriction would limit the mainline length for bottom longlines, while another would limit the gangion length. The economic effects of these alternatives cannot be quantitatively evaluated with available data. In general, these actions would be expected to adversely affect the catch rates, operating efficiency, and NOR of affected vessels. Whether these alternatives would result in lower adverse economic effects than the final hook restriction is unknown. However, available data does not indicate that these measures would be more effective in reducing interactions between sea turtles and bottom longline gear than the hook restriction in this final rule.

Two alternative hook limits, 500 hooks and 1,500 hooks, were also considered relative to the limit of 750 hooks stated in this final rule. The lower hook limit of 500 would be expected to result in greater adverse economic effects than the final limit and is more restrictive than is believed necessary to achieve the targeted reduction in interactions between sea turtles and bottom longline gear. Conversely, while the higher hook limit of 1,500 would be expected to result in lower adverse economic effects to the fishery than the final limit, it is not believed to be a sufficiently restrictive measure to achieve the targeted reduction in sea turtle interactions.

The amendment on which this final rule is based also considered an action to establish restrictions on the bait used in the bottom longline reef fish fishery. Two alternatives, including the no action alternative (status quo), were considered. However, the no action alternative with respect to bait restrictions was selected by the Council as the preferred alternative. As a result, no regulatory action is required, no direct adverse economic effects are expected to accrue to entities involved in the bottom longline component of the reef fish fishery in the eastern Gulf, and the issue of significant alternatives is not relevant.

This final rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA) and which have been approved by OMB under control number 0648–0205. The public reporting burden contained in this final rule includes an estimated 1 minute per response for selecting a Gulf reef fish bottom longline endorsement on the Federal Permit Application Form and 2 hours per response for permit holders appealing their eligibility of a bottom longline endorsement, including the time for reviewing instructions,

searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of the collection-of-information requirement, including suggestions for reducing the burden, to NMFS and OMB (*see* **ADDRESSES**).

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

List of Subjects

50 CFR Part 223

Endangered and threatened species; Exports; Imports; Transportation.

50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: April 20, 2010.

Samuel D. Rauch III,

Deputy Assistant Administrator For Regulatory Programs, National Marine Fisheries Service.

■ For the reasons set out in the preamble, 50 CFR parts 223 and 622 are amended as follows:

PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

1. The authority citation for part 223 continues to read as follows:

Authority: 16 U.S.C. 1531 1543; subpart B, § 223.201–202 also issued under 16 U.S.C. 1361 *et seq.*; 16 U.S.C. 5503(d) for § 223.206(d)(9).

■ 2. In § 223.206, paragraph (d)(12) is removed and paragraph (d) introductory text is revised to read as follows:

§ 223.206 Exceptions to prohibitions relating to sea turtles.

* * * * *

(d) *Exception for incidental taking.* The prohibitions against taking in § 223.205(a) do not apply to the incidental take of any member of a threatened species of sea turtle (i.e., a take not directed towards such member) during fishing or scientific research activities, to the extent that those involved are in compliance with all applicable requirements of paragraphs (d)(1) through (d)(11) of this section, or in compliance with the terms and conditions of an incidental take permit issued pursuant to paragraph (a)(2) of this section.

* * * * *

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

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

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

■ 4. In § 622.2, the definition of "Annual catch target" and "Bottom longline" are added in alphabetical order to read as follows:

§ 622.2 Definitions and acronyms.

* * * * *

Annual catch target (ACT) means an amount of annual catch of a stock or stock complex that is the management target of the fishery, and accounts for management uncertainty in controlling the actual catch at or below the ACL.

* * * * *

Bottom longline means a longline that is deployed, or in combination with gear aboard the vessel, e.g., weights or anchors, is capable of being deployed to maintain contact with the ocean bottom.

* * * * *

■ 5. In § 622.4, the third sentence of paragraph (a)(2)(v) and the first sentence of paragraph (g)(1) are revised, and paragraph (a)(2)(xiv) is added to read as follows:

§ 622.4 Permits and fees.

* * * * *

(a) * * *

(2) * * *

(v) * * * See paragraph (a)(2)(ix) of this section regarding an IFQ vessel account required to fish for, possess, or land Gulf red snapper or Gulf groupers and tilefishes and paragraph (a)(2)(xiv) of this section regarding an additional bottom longline endorsement required to fish for Gulf reef fish with bottom longline gear in a portion of the eastern Gulf. * * *

* * * * *

(xiv) *Eastern Gulf reef fish bottom longline endorsement.* For a person aboard a vessel, for which a valid commercial vessel permit for Gulf reef fish has been issued, to use a bottom longline for Gulf reef fish in the Gulf EEZ east of 85°30′ W. long., a valid eastern Gulf reef fish bottom longline endorsement must have been issued to the vessel and must be on board. A permit or endorsement that has expired is not valid. This endorsement must be renewed annually and may only be renewed if the associated vessel has a valid commercial vessel permit for Gulf reef fish or if the endorsement and associated permit are being concurrently renewed. The RA will not reissue this endorsement if the endorsement is revoked or if the RA does not receive a complete application for renewal of the endorsement within 1 year after the endorsement's expiration date.

(A) *Initial eligibility.* To be eligible for an initial eastern Gulf reef fish bottom longline endorsement a person must have been issued and must possess a valid or renewable commercial vessel permit for Gulf reef fish that has bottom longline landings of Gulf reef fish averaging at least 40,000 lb (18,144 kg), gutted weight, annually during the period 1999 through 2007. In addition, for a commercial reef fish permit with reef fish longline landings after February 7, 2007, and with reef fish trap or longline landings during 1999 through February 7, 2007, such reef fish trap landings may be applied toward satisfaction of the eligibility requirement for an initial eastern Gulf reef fish bottom longline endorsement. All applicable reef fish landings associated with a current reef fish permit for the applicable landings history, including those reported by a person(s) who held the license prior to the current license owner, will be attributed to the current license owner. However, landings accumulated via permit stacking are not creditable for the purpose of determining eligibility for an initial eastern Gulf reef fish bottom longline endorsement. Only legal landings reported in compliance with applicable state and Federal regulations will be accepted.

(B) *Initial issuance.* On or about May 26, 2010 the RA will mail each eligible permittee an eastern Gulf reef fish bottom longline endorsement via certified mail, return receipt requested, to the permittee's address of record as listed in NMFS' permit files. An eligible permittee who does not receive an endorsement from the RA, must contact the RA no later than June 25, 2010 to clarify his/her endorsement status. A permittee who is denied an endorsement based on the RA's initial determination of eligibility and who disagrees with that determination may appeal to the RA.

(C) *Procedure for appealing longline endorsement eligibility and/or landings information.* The only items subject to appeal are initial eligibility for an eastern Gulf reef fish bottom longline endorsement based on ownership of a qualifying reef fish permit, the accuracy of the amount of landings, and correct assignment of landings to the permittee. Appeals based on hardship factors will not be considered. Appeals must be submitted to the RA postmarked no later than August 24, 2010, and must contain documentation supporting the basis for the appeal. The RA will review all appeals, render final decisions on the

appeals, and advise the appellant of the final decision.

(*1*) *Eligibility appeals*. NMFS' records of reef fish permits are the sole basis for determining ownership of such permits. A person who believes he/she meets the permit eligibility criteria based on ownership of a vessel under a different name, as may have occurred when ownership has changed from individual to corporate or vice versa, must document his/her continuity of ownership.

(*2*) *Landings appeals*. Appeals regarding landings data for 1999 through 2007 will be based on NMFS' logbook records. If NMFS' logbooks are not available, the RA may use state landings records or data for the period 1999 through 2007 that were submitted in compliance with applicable Federal and state regulations on or before December 31, 2008.

(D) *Transferability*. An owner of a vessel with a valid eastern Gulf reef fish bottom longline endorsement may transfer that endorsement to an owner of a vessel that has a valid commercial vessel permit for Gulf reef fish.

(E) *Fees*. There is no fee for initial issuance of an eastern Gulf reef fish bottom longline endorsement. A fee is charged for each renewal, transfer, or replacement of such endorsement. The amount of each fee is calculated in accordance with the procedures of the NOAA Finance Handbook, available from the RA, for determining the administrative costs of each special product or service. The fee may not exceed such costs and is specified with each application form. The appropriate fee must accompany each application for renewal, transfer, or replacement.

* * * * *

(g) * * *

(1) A vessel permit, license, or endorsement or a dealer permit or endorsement issued under this section is not transferable or assignable, except as provided in paragraph (m) of this section for a commercial vessel permit for Gulf reef fish, in paragraph (o) of this section for a king mackerel gillnet permit, in paragraph (q) of this section for a commercial vessel permit for king mackerel, in paragraph (r) of this section for a charter vessel/headboat permit for Gulf coastal migratory pelagic fish or Gulf reef fish, in paragraph (s) of this section for a commercial vessel moratorium permit for Gulf shrimp, in § 622.17(c) for a commercial vessel permit for golden crab, in § 622.18(b) for a commercial vessel permit for South Atlantic snapper-grouper, in § 622.19(b) for a commercial vessel permit for South Atlantic rock shrimp, or in § 622.4(a)(2)(xiv)(D) for an eastern Gulf reef fish bottom longline endorsement.

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■ 6. In § 622.34, paragraph (q) is added to read as follows:

§ 622.34 Gulf EEZ seasonal and/or area closures.

* * * * *

(q) *Prohibitions applicable to bottom longline fishing for Gulf reef fish*. (1) From June through August each year, bottom longlining for Gulf reef fish is prohibited in the portion of the Gulf EEZ east of 85°30′ W. long. that is shoreward of rhumb lines connecting, in order, the following points:

Point	North lat.	West long.
A	28°58.70′	85°30.00′
B	28°59.25′	85°26.70′
C	28°57.00′	85°13.80′
D	28°47.40′	85°3.90′
E	28°19.50′	84°43.00′
F	28°0.80′	84°20.00′
G	28°48.80′	83°40.00′
H	25°17.00′	83°19.00′
I	24°54.00′	83°21.00′
J	24°29.50′	83°12.30′
K	24°26.50′	83°00.00′

(2) Within the prohibited area and time period specified in paragraph (q)(1) of this section, a vessel with bottom longline gear on board may not possess Gulf reef fish unless the bottom longline gear is appropriately stowed, and a vessel that is using bottom longline gear to fish for species other than Gulf reef fish may not possess Gulf reef fish. For the purposes of paragraph (q) of this section, appropriately stowed means that a longline may be left on the drum if all gangions and hooks are disconnected and stowed below deck; hooks cannot be baited; and all buoys must be disconnected from the gear but may remain on deck.

(3) Within the Gulf EEZ east of 85°30′ W. long., a vessel for which a valid eastern Gulf reef fish bottom longline endorsement has been issued that is fishing bottom longline gear or has bottom longline gear on board cannot possess more than a total of 1000 hooks including hooks on board the vessel and hooks being fished and cannot possess more than 750 hooks rigged for fishing at any given time. For the purpose of this paragraph, "hooks rigged for fishing" means hooks attached to a line or other device capable of attaching to the mainline of the longline.

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