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Dated: October 17, 2011.

Eileen Sobeck,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2011–28755 Filed 11–7–11; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 110831547–1639–01]

RIN 0648–BB26

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Comprehensive Ecosystem-Based Amendment 2 for the South Atlantic Region

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement the Comprehensive Ecosystem-Based Amendment 2 (CE–BA 2) to implement the following South Atlantic fishery management plan (FMP) amendments: Amendment 1 to the FMP for Pelagic *Sargassum* Habitat of the South Atlantic Region (*Sargassum* FMP); Amendment 7 to the FMP for Coral, Coral reefs, and Live/Hard Bottom Habitats of the South Atlantic Region (Coral FMP); and Amendment 25 to the FMP for the Snapper-Grouper Fishery of the South Atlantic Region (Snapper-Grouper FMP), as prepared and submitted by the South Atlantic Fishery Management Council (Council); as well as Amendment 21 to the FMP for Coastal Migratory Pelagic (CMP) Resources (CMP FMP) as prepared and submitted by the South Atlantic and Gulf of Mexico Fishery Management Councils. If implemented, this rule would modify the fishery management unit for octocorals in the South Atlantic exclusive economic zone (EEZ), establish an annual catch limit (ACL) for octocorals, modify management in special management zones (SMZs) off South Carolina, and modify sea turtle and small tooth sawfish release gear specifications in the South Atlantic region. Through CE–BA 2, NMFS also proposes to designate new Essential Fish Habitat (EFH) and EFH–Habitat Areas of Particular Concern (EFH–HAPCs) for the Snapper-Grouper, Coral and *Sargassum* FMPs. The intended effects of this rule are to specify an ACL for octocorals, implement management measures to ensure overfishing does not occur for these species but that optimum yield may be achieved, and to conserve and protect habitat in the South Atlantic region.

DATES: Written comments on this proposed rule must be received no later than 5 p.m., Eastern time, on November 25, 2011.

ADDRESSES: You may submit comments, identified by NOAA–NMFS–2011–0219, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Karla Gore, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, *etc.*) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

To submit comments through the Federal e-Rulemaking Portal: *http://www.regulations.gov,* click on ''submit a comment,'' then enter ''NOAA–NMFS–2011–0219'' in the keyword search and click on ''search.'' To view posted comments during the comment period, enter ''NOAA–NMFS–2011–0219'' in the keyword search and click on ''search.'' NMFS will accept anonymous comments (enter N/A in the required field if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Comments received through means not specified in this rule will not be accepted.

Electronic copies of CE–BA 2, which includes an environmental assessment, Regulatory Impact Review, Initial Regulatory Flexibility Act Analysis (IRFA), and a Fishery Impact Statement may be obtained from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov/sf/CE-BAAmendment2.htm.*

FOR FURTHER INFORMATION CONTACT: Karla Gore, Southeast Regional Office, NMFS, telephone: (727) 824–5305, email: *Karla.Gore@noaa.gov.*

SUPPLEMENTARY INFORMATION: The fisheries for CMP species; coral, coral reefs, and live/hard bottom habitats; pelagic *Sargassum;* and snapper-grouper off the southern Atlantic states are managed under their respective FMPs. The FMPs were prepared by the Council(s) and are implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management

Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Background

The 2006 revisions to the Magnuson-Stevens Act require that in 2011, FMPs for the fisheries determined by the Secretary of Commerce to not be subject to overfishing must establish ACLs for these species at a level that prevents overfishing from occurring, and does not exceed the fishing level recommendation of the respective Council's Scientific and Statistical Committee or other established peer review processes.

An ACL is the level of annual catch of a stock or stock complex that is set to prevent overfishing from occurring. Accountability measures (AMs) are used to ensure an ACL is not exceeded, and are used when the ACL is met or exceeded. ACLs may incorporate management and scientific uncertainty, and take into account the amount of data available and level of vulnerability to overfishing for each species.

Management Measures Contained in This Proposed Rule

If implemented, this rule would modify the fishery management unit for octocorals in the South Atlantic EEZ, establish an ACL of zero for the remaining octocorals, limit harvest of snapper-grouper species and CMP resources in the SMZs off South Carolina to the bag limit, and modify sea turtle and small tooth sawfish release gear specifications based on freeboard height of commercial South Atlantic snapper-grouper vessels. CE–BA 2 also proposes to designate new EFH and EFH–HAPCs to include the deepwater Marine Protected Areas (MPAs) for snapper-grouper species, designate Deepwater Coral HAPCs as EFH–HAPCs, and designate the top 33 ft (10 m) of the water column in the South Atlantic EEZ bounded by the Gulfstream as EFH for pelagic *Sargassum.*

Octocoral Fishery Management Unit

This rule would modify the fishery management unit (FMU) for octocorals under the Coral FMP to include octocorals in the EEZ off North Carolina, South Carolina, and Georgia only. Federal management of octocorals in the EEZ off Florida would no longer be included under the Coral FMP. No entities have a valid Federal permit which is required to harvest octocorals in Federal waters, and the Council determined that Federal conservation and management of octocorals in the EEZ off Florida is no longer necessary. Florida's Fish and Wildlife Conservation Commission (FWC) is currently responsible for the majority of the management, implementation, and enforcement of the octocorals fishery, because the majority of octocoral harvest occurs in Florida state waters by Florida registered vessels. If this rule is implemented, Florida and the FWC would have the authority to extend management of octocorals into Federal waters. The Gulf Council has developed the Generic Annual Catch Limits/Accountability Measures Amendment (Generic ACL Amendment) which includes an action to remove octocorals from the FMP for Coral and Coral Reefs of the Gulf of Mexico. The availability of the Generic ACL Amendment was announced in the **Federal Register** on September 26, 2011 (76 FR 59373). Florida and the FWC have indicated their intent to extend their management over harvest of octocorals by Florida registered vessels throughout the entire EEZ off Florida if both the CE–BA2 and Gulf Generic ACL Amendment actions are approved.

Octocoral ACL and Prohibited Corals

This rule would specify an ACL of zero for the octocorals remaining in the FMU off Georgia, South Carolina, and North Carolina. Current regulations include a 50,000 colony quota for octocorals in the Gulf of Mexico (Gulf) and South Atlantic region and a prohibition to harvest octocorals in the EEZ north of Florida. Additionally, the Coral FMP prohibits harvest of coral reefs, and, specifically, stony corals, black corals, fire coral, hydrocorals and two species of seafans in the South Atlantic EEZ, and therefore these species have a functional ACL of zero. Additionally, the harvest prohibition serves as a functional AM to manage the ACL.

SMZ Management off South Carolina

This rule would limit the harvest and possession of South Atlantic snapper-grouper species and CMP species in the SMZs off South Carolina to the recreational bag limit. Current regulations prohibit taking snapper-grouper in the SMZs off South Carolina with a powerhead, and this rule would also prohibit fishermen from harvesting commercial quantities of snapper-grouper and CMP species in these SMZs. This action responds to concerns from the recreational sector about the potential for commercial exploitation of these species in the SMZs off of South Carolina. Modifying management of the SMZs to restrict commercial fishing effort to the bag limit for snapper-grouper and CMP species would eliminate harvest of commercial quantities of snapper-grouper and CMP species and would ensure the original intent of the SMZs is realized.

Sea Turtle and Smalltooth Sawfish Release Gear Requirements

This rule would modify the sea turtle and smalltooth sawfish release gear requirements. Fishermen have expressed concern that the current sea turtle handling and release gear requirements are intended for larger longline vessels using heavy tackle and are ineffective and unwieldy for smaller snapper-grouper hook-and-vessels. This action would modify the requirements based on freeboard height of the vessels. Fishermen would still be required to post and comply with the release guidelines outlined in the NMFS document entitled, ''Careful Release Protocols for Sea Turtle Release with Minimal Injury,'' however, the specifications of the release gear would be modified as follows: Vessels with a freeboard height of 4 ft (1.2 m) or less would be required to carry and use a short-handled dehooker for ingested and external hooks; long-nose or needle-nose pliers; bolt-cutters; monofilament line cutters; cushion/support device; a dipnet; and at least two types of mouth openers/mouth gags. Vessels with a freeboard height of greater than 4 ft (1.2 m), or any vessel using longline gear, would be required to carry and use a long-handled line cutter; a long-handled dehooker for ingested and external hooks; a short-handled dehooker for ingested and external hooks; a long-handled device to pull an ''inverted V''; long-nose or needle-nose pliers; bolt-cutters; monofilament line cutters; cushion/support device; a dipnet; and at least two types of mouth openers/mouth gags. This equipment would need to meet the specifications described in proposed Appendix E to 50 CFR part 622 (which can be found at the end of this rule).

EFH and EFH–HAPCs

CE–BA 2 also proposes amending South Atlantic FMPs as needed to designate new or modify existing EFH and EFH–HAPCs. CE–BA 2 would amend the Snapper-Grouper FMP to designate the deepwater MPAs as EFH–HAPCs. These deepwater MPAs were previously established under Amendment 14 to the South Atlantic Snapper-Grouper FMP and include the Snowy Grouper Wreck MPA, Northern South Carolina MPA, Edisto MPA, Charleston Deep Artificial Reef MPA, Georgia MPA, North Florida MPA, St. Lucie Hump MPA, and East Hump MPA. The Coral FMP would be amended to designate deep-water coral HAPCs (CHAPCs) as EFH–HAPCs.

These CHAPCs were established under the Comprehensive Ecosystem-Based Amendment 1 and include Cape Lookout Coral HAPC, Cape Fear Coral HAPC, Blake Ridge Diapir Coral HAPC, Stetson-Miami Terrace Coral HAPC, and Pourtalés Terrace Coral HAPC. CE–BA2 would also designate EFH–HAPCs for blueline and golden tilefish. To meet the Magnuson-Stevens Act requirement that all managed species have EFH designated, CE–BA 2 would amend the *Sargassum* FMP to designate the top 33 ft (10m) of the water column in the South Atlantic EEZ bounded by the Gulfstream, as EFH for pelagic *Sargassum.* Identifying EFH for pelagic *Sargassum* would enable the Council to protect EFH more effectively and take timely action when necessary. Describing EFH for pelagic *Sargassum* is a step towards preventing decreases in biological productivity of pelagic *Sargassum* and other managed or prey species dependent on pelagic *Sargassum.* The addition of this information does not require any changes in regulatory language.

Availability of CE–BA 2

Additional background and rationale for the measures discussed above are contained in CE–BA 2. The availability of CE–BA 2 was announced in the **Federal Register** on September 26, 2011 (76 FR 59371). Written comments on CE–BA 2 must be received by 5 p.m., eastern time, on November 25, 2011. All comments received during their respective comment periods will be addressed in the preamble to the final rule.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this rule is consistent with CE–BA 2, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

NMFS prepared an IRFA, as required by section 603 of the Regulatory Flexibility Act, for this rule. The IRFA describes the economic impact that this rule, if adopted, would have on small entities. A copy of the full analysis is available from NMFS (see **ADDRESSES**). A summary of the IRFA follows.

The Magnuson-Stevens Act provides the statutory basis for this rule. No duplicative, overlapping, or conflicting Federal rules have been identified. The preamble of this rule provides a statement of the need for and objectives of this rule, and it is not repeated here.

This proposed action would apply to commercial vessels that harvest octocorals in Federal waters, harvest snapper-grouper in Federal waters throughout the South Atlantic, or harvest snapper-grouper or CMP species in the SMZs off South Carolina. A Federal permit is required to harvest octocorals and snapper-grouper in Federal waters. There are two types of Federal commercial snapper-grouper permits, an unlimited permit, which is transferable and allows the harvest of unlimited quantities of snapper-grouper species, unless constrained by single species trip limits, and a limited permit, which is not transferable and limits vessels to 225 lb (102 kg) of snapper-grouper per trip. For the species included in the CMP fishery, a Federal permit is required to harvest commercial quantities of king mackerel and Spanish mackerel (separate permits for each species).

No entities have a valid Federal permit required to harvest octocorals in Federal waters. On March 29, 2011, there were 598 non-expired or renewable unlimited snapper-grouper commercial permits and 138 limited snapper-grouper permits, or a total of 736 snapper-grouper commercial permits. Although unlimited permits are transferable, potentially resulting in more vessels operating in the fishery than the number of permits, the number of permits is assumed to represent the number of full-time equivalent vessels operating in the fishery. As a result, the number of permits is assumed equal to the number of vessels and the vessel is assumed to be the representative unit for an entity.

Similar information is not available for permits associated with vessels with home ports in South Carolina. However, over the period 2005–2009, the average annual number of vessels with home ports in South Carolina that possessed the appropriate Federal commercial permit was 38 vessels for king mackerel, 15 vessels for Spanish mackerel, and 72 vessels for snapper-grouper (unlimited and limited permits combined). Additional vessels from other states may also harvest finfish in the SMZs off South Carolina and may be affected by the proposed action but, for the purpose of this analysis, the majority of vessels that fish in the SMZs off South Carolina are assumed to come from South Carolina ports.

For the period 2005–2009, the total average annual ex-vessel revenues from all snapper-grouper harvests was approximately $13.8 million (2009 dollars), or approximately $16,000 per vessel (averaged over 847 vessels, which was the average annual number of vessels with snapper-grouper permits over this period; if averaged over the current number of permits, 736, based on the assumption that average annual revenues have been maintained despite declining participation in the fishery, the average per vessel increases to approximately $19,000). These totals do not include revenues from other species harvested by these vessels, but snapper-grouper are assumed to be the primary species harvested by these vessels. Although more recent data are not available, over the period 2003–2007, snapper-grouper accounted for approximately 61 percent of total revenues by vessels with snapper-grouper harvests. If this percentage is used to adjust the per-vessel averages of snapper-grouper revenues provided above to account for revenues from other species, the resultant averages increase to approximately $26,000 (847 vessels) and $31,000 (736 vessels).

The average annual revenue for vessels that fish in the SMZs off South Carolina is unknown. However, for the period 2005–2009, the total average annual ex-vessel revenues from all snapper-grouper harvests landed in South Carolina was approximately $3.6 million (2009 dollars), or approximately $50,000 per vessel (averaged over 72 vessels). As with the information on snapper-grouper harvests for the entire South Atlantic, these totals do not include revenues from other species harvested by these vessels, but snapper-grouper are assumed to be the primary species harvested by these vessels. If the average revenue per vessel is adjusted to account for revenues from other species using the percentage used in the previous paragraph (61 percent), then the average ex-vessel revenue per vessel would increase to approximately $82,000.

Similar information for South Carolina vessels harvesting CMP species is not available. However, for the entire South Atlantic, over approximately the same period (2004–2009; the king mackerel and Spanish mackerel fishing years do not follow the calendar year, so the data covered the fishing years 2004–2005 through 2008–2009, thereby encompassing part of 2004 and part of 2009), the total average annual ex-vessel revenues from all species for vessels harvesting king mackerel was approximately $23.3 million (2009 dollars), or approximately $32,000 per vessel. For vessels harvesting Spanish mackerel, the total average annual ex-vessel value was approximately $9.7 million (2009 dollars), or approximately $28,000 per vessel. Unlike in the

snapper-grouper fishery, in which snapper-grouper are the primary species harvested by fishermen who harvest snapper-grouper, fishermen who harvest king mackerel or Spanish mackerel derived, on average during the years examined, less than 20 percent of their total fishing revenues from king mackerel or Spanish mackerel.

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 its affiliated operations worldwide. Based on the average revenue estimates provided above, all commercial vessels expected to be directly affected by this rule are determined for the purpose of this analysis to be small business entities.

This rule would not establish any new reporting, record-keeping, or other compliance requirements.

As previously discussed, this rule, if implemented, would apply to all vessels with Federal commercial snapper-grouper permits that fish anywhere in the South Atlantic, and all vessels with Federal snapper-grouper, king mackerel, or Spanish mackerel permits that fish in the SMZs off South Carolina. Any expected direct effects of this rule on vessels with snapper-grouper permits that do not fish in the SMZs off South Carolina would be limited to the effects of the proposed regulation that would modify the protected species release gear requirements, which would maintain current requirements for vessels with more than 4 ft (1.2 m) freeboard height and lessen the requirements for vessels with freeboard height of 4 ft (1.2 m) or less, thereby effectively only changing the requirements for vessels with lower freeboard height. The number of vessels with Federal snapper-grouper permits with freeboard height of 4 ft (1.2 m) or less is unknown. Nevertheless, this component of the rule would allow voluntary change, rather than mandate specific change, and no explicit burden would be imposed on any entity. As a result, because of the voluntary nature of the regulation, a substantial number of entities would not be expected to be affected by this component of the rule.

This rule, if implemented, would be expected to primarily affect entities with the required Federal permit for snapper-grouper or CMP species that commercially fish in the SMZs off South Carolina. NMFS assumes the majority of such entities own vessels with home ports in South Carolina, though vessels with home ports in other states may also be affected if they fish in the SMZs off South Carolina. The number of potentially affected South Carolina vessels is estimated to be 38 vessels with a king mackerel permit, 15 vessels with a Spanish mackerel permit, and 72 vessels with a snapper-grouper permit. Although these totals encompass all appropriately permitted vessels with home ports in South Carolina, these totals represent less than 3 percent of the vessels with home ports in the South Atlantic states (all of Florida, Georgia, South Carolina, and North Carolina) with king mackerel commercial permits, less than 1 percent of the vessels with Spanish mackerel commercial permits, and less than 9 percent of the vessels with snapper-grouper permits. The total number of king mackerel and Spanish mackerel vessels with home ports in Florida included vessels in both the Gulf and South Atlantic regions. Assuming half of the Florida king mackerel and Spanish mackerel vessels are from home ports in the Gulf region and are excluded from the total to produce a more representative South Atlantic total, the number of affected vessels still encompasses only approximately 4 percent of South Atlantic vessels with king mackerel permits and less than 2 percent of South Atlantic vessels with Spanish mackerel permits. The number of affected vessels would also decline if not all South Carolina snapper-grouper or CMP vessels fish in the SMZs, which NMFS expects to be the case because of congestion and the belief that the problem of the harvest of commercial quantities of fish in the SMZs is largely limited to vessels using spear gear (hand spear or spear guns), which is not the dominant gear used by vessels in the snapper-grouper fishery. As a result, only a small number of vessels in the appropriate fleets would be expected to be directly affected by this rule.

Because no fishermen possess the required valid Federal permit needed to harvest octocorals in the EEZ and there are very few recorded octocoral harvests from the EEZ off Georgia, South Carolina, or North Carolina, the proposed regulations pertaining to octocoral would not be expected to have any economic affect on any small entities.

It is not possible with available data to determine the amount or value of commercial harvests in excess of the recreational bag limits that would be affected by the rule. Neither the vessels that fish in the SMZs nor the amount or value of harvest taken from the SMZs can be identified. Further, affected vessels may be able to compensate for reduced harvest from the SMZs with harvest from other areas, though the harvest cost would be expected to increase. Because it is not possible to address these issues with available data, it is not possible to determine if the proposed regulation would be expected to significantly reduce profits for any small entities. Due to the inability to determine either the number of vessels that would be affected by this component of the rule, though the discussion above suggests the number of affected vessels may not be substantial, or the magnitude of expected effects, public comment is solicited on the potential number of affected entities and magnitude of economic effects.

The proposed release gear requirements equate to status quo conditions for vessels in the snapper-grouper fishery with more than 4 ft (1.2 m) of freeboard height and a lessening of the requirements for vessels with 4 ft (1.2 m) or less freeboard height. Because all vessels in the snapper-grouper fishery are assumed to meet current requirements, no vessel would be compelled to make any new gear purchases. Any change in gear costs would be voluntary, *e.g.,* the replacement of current usable gear, or represent a cost reduction in the case of replacement of broken, worn out, or lost gear with cheaper gear meeting the specifications of the reduced requirements. As a result, the proposed release gear requirements would not be expected to significantly reduce profits for any small entities.

As previously discussed, the only action in this rule that may be expected to have a significant direct adverse economic effect on the profits of any small entities is the proposed limitation on harvest of snapper-grouper and CMP species in the SMZs off South Carolina to the recreational bag limit. Two alternatives to the proposed limitation were considered. The first alternative, the no action alternative, would not have placed any new restrictions on commercial harvests in the SMZs and, as a result, would be expected to reduce the economic impacts on small business entities. This alternative would not, however, achieve the Council's objectives of reducing user conflict, improving recreational fishing opportunities, allowing for equitable utilization by a larger number of fishermen, and protecting the reef communities from overly-efficient fishing practices.

The second alternative to the proposed action would have simply

prohibited the use of spearfishing gear (hand spears and spear guns) in the SMZs off South Carolina. While this alternative, if implemented, would reduce the expected economic effects on commercial vessels that use hand line or rod and reel to harvest snapper-grouper, king mackerel, or Spanish mackerel in the SMZs, the economic effects on vessels that use spearfishing gear would be expected to increase. This alternative would exclude an entire gear sector, affecting both commercial and recreational anglers who use this gear. As a result, while this alternative would be expected to reduce user conflict, might improve recreational fishing opportunities for hook-and-line anglers, and would be expected to protect the reef communities from efficient gear, this alternative would not achieve the Council's objectives of equitable utilization of the resources by a larger number of fishermen.

List of Subjects in 50 CFR Part 622

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

Dated: November 2, 2011.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

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

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

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

2. In § 622.1, paragraph (b), Table 1, the entry for ''FMP for Coral, Coral Reefs, and Live/Hard Bottom Habitats of the South Atlantic Region'' is revised and footnote 7 is added to read as follows:

§ 622.1 Purpose and scope.

* * * * *

(b) * * *

TABLE 1—FMPS IMPLEMENTED UNDER PART 622

FMP title	Responsible fishery management council(s)	Geographical area
*	*	*
FMP for Coral, Coral Reefs, and Live/Hard Bottom Habitats of the South Atlantic Region.	SAFMC	South Atlantic.[7]
*	*	*

[7] Octocorals are managed by the FMP or regulated by this part only in the EEZ off North Carolina, South Carolina, and Georgia.

2. In § 622.10, paragraphs (c)(1)(ii) and (iii), are revised to read as follows:

§ 622.10 Conservation measures for protected resources.

* * * * *

(c) * * *

(1) * * *

(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 E 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 E 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 E to this part.

* * * * *

3. In § 622.32, paragraph (b)(3)(viii) is added to read as follows:

§ 622.32 Prohibited and limited harvest species.

* * * * *

(b) * * *

(3) * * *

(viii) Octocoral may not be harvested or possessed in or from the portion of the South Atlantic EEZ off North Carolina, South Carolina, and Georgia, and any octocoral collected must be released immediately with a minimum of harm.

* * * * *

4. In § 622.35, in paragraph (e)(2), the first entry in the table is revised to read as follows:

§ 622.35 Atlantic EEZ seasonal and/or area closures.

* * * * *

(e) * * *

(2) * * *

In SMZs specified in the following paragraphs of § 622.35	These restrictions apply
(e)(1)(i) through (x), (e)(1)(xx), and (e)(1)(xxii) through (xxxix).	Use of a powerhead to take South Atlantic snapper-grouper is prohibited. Possession of a powerhead and a mutilated South Atlantic snapper-grouper in, or after having fished in, one of these SMZs constitutes *prima facie* evidence that such fish was taken with a powerhead in the SMZ. Harvest or possession of a coastal migratory pelagic fish or a South Atlantic snapper-grouper is limited to the bag-limits specified in § 622.39(c)(1) and (d)(1), respectively.
*	*

5. In § 622.42, paragraph (b) is revised to read as follows:

§ 622.42 Quotas.

* * * * *

(b) *Gulf allowable octocoral.* The quota for all persons who harvest

allowable octocoral in the Gulf EEZ is 50,000 colonies. A colony is a continuous group of coral polyps forming a single unit.

* * * * *

6. Appendix E is added to part 622 to read as follows:

Appendix E to Part 622—Specifications for Sea Turtle Mitigation Gear and Sea Turtle Handling and Release Requirements

A. *Sea turtle mitigation gear.*

1. *Long-handled line clipper or cutter.* Line cutters are intended to cut high test monofilament line as close as possible to the hook, and assist in removing line from entangled sea turtles to minimize any remaining gear upon release. NMFS has established minimum design standards for the line cutters. The LaForce line cutter and the Arceneaux line clipper are models that meet these minimum design standards, and may be purchased or fabricated from readily available and low-cost materials. One long-handled line clipper or cutter and a set of replacement blades are required to be onboard. The minimum design standards for line cutters are as follows:

(a) *A protected and secured cutting blade.* The cutting blade(s) must be capable of cutting 2.0–2.1 mm (0.078 in.–0.083 in.) monofilament line (400-lb test) or polypropylene multistrand material, known as braided or tarred mainline, and must be maintained in working order. The cutting blade must be curved, recessed, contained in a holder, or otherwise designed to facilitate its safe use so that direct contact between the cutting surface and the sea turtle or the user is prevented. The cutting instrument must be securely attached to an extended reach handle and be easily replaceable. One extra set of replacement blades meeting these standards must also be carried on board to replace all cutting surfaces on the line cutter or clipper.

(b) *An extended reach handle.* The line cutter blade must be securely fastened to an extended reach handle or pole with a minimum length equal to, or greater than, 150 percent of the freeboard, or a minimum of 6 ft (1.83 m), whichever is greater. It is recommended, but not required, that the handle break down into sections. There is no restriction on the type of material used to construct this handle as long as it is sturdy and facilitates the secure attachment of the cutting blade.

2. *Long-handled dehooker for internal hooks.* A long-handled dehooking device is intended to remove internal hooks from sea turtles that cannot be boated. It should also be used to engage a loose hook when a turtle is entangled but not hooked, and line is being removed. The design must shield the barb of the hook and prevent it from re-engaging during the removal process. One long-handled device to remove internal hooks is required onboard. The minimum design standards are as follows:

(a) *Hook removal device.* The hook removal device must be constructed of approximately 3/16-inch (4.76 mm) to 5/16-inch (7.94 mm) 316 L stainless steel or similar material and have a dehooking end no larger than 1 7/8-inches (4.76 cm) outside diameter. The device must securely engage and control the leader while shielding the barb to prevent the hook from re-engaging during removal. It may not have any unprotected terminal points (including blunt ones), as these could cause injury to the esophagus during hook removal. The device must be of a size appropriate to secure the range of hook sizes and styles used in the South Atlantic snapper-grouper fishery.

(b) *Extended reach handle.* The dehooking end must be securely fastened to an extended reach handle or pole with a minimum length equal to or greater than 150 percent of the freeboard, or a minimum of 6 ft (1.83 m), whichever is greater. It is recommended, but not required, that the handle break down into sections. The handle must be sturdy and strong enough to facilitate the secure attachment of the hook removal device.

3. *Long-handled dehooker for external hooks.* A long-handled dehooker is required for use on externally-hooked sea turtles that cannot be boated. The long-handled dehooker for internal hooks described in paragraph 2. of this Appendix E would meet this requirement. The minimum design standards are as follows:

(a) *Construction.* A long-handled dehooker must be constructed of approximately 3/16-inch (4.76 mm) to 5/16-inch (7.94 mm) 316 L stainless steel rod and have a dehooking end no larger than 1 7/8-inches (4.76 cm) outside diameter. The design should be such that a fish hook can be rotated out, without pulling it out at an angle. The dehooking end must be blunt with all edges rounded. The device must be of a size appropriate to secure the range of hook sizes and styles used in the South Atlantic snapper-grouper fishery.

(b) *Extended reach handle.* The handle must be a minimum length equal to the freeboard of the vessel or 6 ft (1.83 m), whichever is greater.

4. *Long-handled device to pull an ''inverted V''.* This tool is used to pull a ''V'' in the fishing line when implementing the ''inverted V'' dehooking technique, as described in the document entitled ''Careful Release Protocols for Sea Turtle Release With Minimal Injury,'' for disentangling and dehooking entangled sea turtles. One long-handled device to pull an ''inverted V'' is required onboard. If a 6-ft (1.83 m) J-style dehooker is used to comply with paragraph 4. of this Appendix E, it will also satisfy this requirement. Minimum design standards are as follows:

(a) *Hook end.* This device, such as a standard boat hook, gaff, or long-handled J-style dehooker, must be constructed of stainless steel or aluminum. The semicircular or ''J'' shaped end must be securely attached to a handle. A sharp point, such as on a gaff hook, is to be used only for holding the monofilament fishing line and should never contact the sea turtle.

(b) *Extended reach handle.* The handle must have a minimum length equal to the freeboard of the vessel, or 6 ft (1.83 m), whichever is greater. The handle must be sturdy and strong enough to facilitate the secure attachment of the gaff hook.

5. *Dipnet.* One dipnet is required onboard. Dipnets are to be used to facilitate safe handling of sea turtles by allowing them to be brought onboard for fishing gear removal, without causing further injury to the animal. Turtles must not be brought onboard without the use of a dipnet or hoist. The minimum design standards for dipnets are as follows:

(a) *Size of dipnet.* The dipnet must have a sturdy net hoop of at least 31 inches (78.74 cm) inside diameter and a bag depth of at least 38 inches (96.52 cm) to accommodate turtles below 3 ft (0.914 m) carapace length. The bag mesh openings may not exceed 3 inches (7.62 cm) by 3 inches (7.62 cm). There must be no sharp edges or burrs on the hoop, or where it is attached to the handle. There is no requirement for the hoop to be circular as long as it meets the minimum specifications.

(b) *Extended reach handle.* The dipnet hoop must be securely fastened to an extended reach handle or pole with a minimum length equal to, or greater than, 150 percent of the freeboard, or at least 6 ft (1.83 m), whichever is greater. The handle must be made of a rigid material strong enough to facilitate the sturdy attachment of the net hoop and be able to support a minimum of 100 lb (34.1 kg) without breaking or significant bending or distortion. It is recommended, but not required, that the extended reach handle break down into sections.

6. *Cushion/support device.* A standard automobile tire (free of exposed steel belts), a boat cushion, a large turtle hoist, or any other comparable cushioned elevated surface, is required for supporting a turtle in an upright orientation while the turtle is onboard. The cushion/support device must be appropriately sized to fully support a range of turtle sizes.

7. *Short-handled dehooker for internal hooks.* One short-handled device for removing internal hooks is required onboard. This dehooker is designed to remove ingested hooks from boated sea turtles. It can also be used on external hooks or hooks in the front of the mouth. Minimum design standards are as follows:

(a) *Hook removal device.* The hook removal device must be constructed of approximately 3/16-inch (4.76 mm) to 5/16-inch (7.94 mm) 316 L stainless steel, and must allow the hook to be secured and the barb shielded without re-engaging during the removal process. It must be no larger than 1 7/8-inches (4.76 cm) outside diameter. It may not have any unprotected terminal points (including blunt ones), as this could cause injury to the esophagus during hook removal. A sliding PVC bite block must be used to protect the beak and facilitate hook removal if the turtle bites down on the dehooking device. The bite block should be constructed of a 3/4-inch (1.91 cm) inside diameter high impact plastic cylinder (*e.g.,* Schedule 80 PVC) that is 4 to 6 inches (10.2 to 15.2 cm) long to allow for 5 inches (12.7 cm) of slide along the shaft. The device must be of a size appropriate to secure the range of hook sizes and styles used in the South Atlantic snapper-grouper fishery.

(b) *Handle length.* The handle should be approximately 16 to 24 inches (40.64 cm to 60.69 cm) in length, with approximately a 4 to 6-inch (10.2 to 15.2-cm) long tube T-

handle of approximately 1 inch (2.54 cm) in diameter.

8. *Short-handled dehooker for external hooks.* One short-handled dehooker for external hooks is required onboard. The short-handled dehooker for internal hooks required to comply with paragraph 7. of this Appendix E will also satisfy this requirement. Minimum design standards are as follows:

(a) *Hook removal device.* The dehooker must be constructed of approximately 3/16-inch (4.76 cm) to 5/16-inch (7.94 cm) 316 L stainless steel, and the design must be such that a hook can be rotated out without pulling it out at an angle. The dehooking end must be blunt, and all edges rounded. The device must be of a size appropriate to secure the range of hook sizes and styles used in the South Atlantic snapper-grouper fishery.

(b) *Handle length.* The handle should be approximately 16 to 24 inches (40.64 to 60.69 cm) long with approximately a 5-inch (12.7 cm) long tube T-handle, wire loop handle or similar, of approximately 1 inch (2.54 cm) in diameter.

9. *Long-nose or needle-nose pliers.* One pair of long-nose or needle-nose pliers is required on board. Required long-nose or needle-nose pliers can be used to remove deeply embedded hooks from the turtle's flesh that must be twisted during removal or for removing hooks from the front of the mouth. They can also hold PVC splice couplings, when used as mouth openers, in place. Minimum design standards are as follows:

(a) *General.* They must be approximately 12 inches (30.48 cm) in length, and should be constructed of stainless steel material.

(b) [Reserved]

10. *Bolt cutters.* One pair of bolt cutters is required on board. Required bolt cutters may be used to cut hooks to facilitate their removal. They should be used to cut off the eye or barb of a hook, so that it can safely be pushed through a sea turtle without causing further injury. They should also be used to cut off as much of the hook as possible, when the remainder of the hook cannot be removed. Minimum design standards are as follows:

(a) *General.* They must be approximately 14 to 17 inches (35.56 to 43.18 cm) in total length, with approximately 4-inch (10.16 cm) long blades that are 2¼ inches (5.72 cm) wide, when closed, and with approximately 10 to 13-inch (25.4 to 33.02-cm) long handles. Required bolt cutters must be able to cut hard metals, such as stainless or carbon steel hooks, up to ¼-inch (6.35 mm) diameter.

(b) [Reserved]

11. *Monofilament line cutters.* One pair of monofilament line cutters is required on board. Required monofilament line cutters must be used to remove fishing line as close to the eye of the hook as possible, if the hook is swallowed or cannot be removed. Minimum design standards are as follows:

(a) *General.* Monofilament line cutters must be approximately 7½ inches (19.05 cm) in length. The blades must be 1 inch (4.45 cm) in length and ⅝ inches (1.59 cm) wide, when closed.

(b) [Reserved]

12. *Mouth openers/mouth gags.* Required mouth openers and mouth gags are used to open sea turtle mouths, and to keep them open when removing internal hooks from boated turtles. They must allow access to the hook or line without causing further injury to the turtle. Design standards are included in the item descriptions. At least two of the seven different types of mouth openers/gags described below are required:

(a) *A block of hard wood.* Placed in the corner of the jaw, a block of hard wood may be used to gag open a turtle's mouth. A smooth block of hard wood of a type that does not splinter (*e.g.,* maple) with rounded edges should be sanded smooth, if necessary, and soaked in water to soften the wood. The dimensions should be approximately 11 inches (27.94 cm) by 1 inch (2.54 cm) by 1 inch (2.54 cm). A long-handled, wire shoe brush with a wooden handle, and with the wires removed, is an inexpensive, effective and practical mouth-opening device that meets these requirements.

(b) *A set of three canine mouth gags.* Canine mouth gags are highly recommended to hold a turtle's mouth open, because the gag locks into an open position to allow for hands-free operation after it is in place. These tools are only for use on small and medium sized turtles, as larger turtles may be able to crush the mouth gag. A set of canine mouth gags must include one of each of the following sizes: Small (5 inches) (12.7 cm), medium (6 inches) (15.24 cm), and large (7 inches) (17.78 cm). They must be constructed of stainless steel. The ends must be covered with clear vinyl tubing, friction tape, or similar, to pad the surface.

(c) *A set of two sturdy dog chew bones.* Placed in the corner of a turtle's jaw, canine chew bones are used to gag open a sea turtle's mouth. Required canine chews must be constructed of durable nylon, zylene resin, or thermoplastic polymer, and strong enough to withstand biting without splintering. To accommodate a variety of turtle beak sizes, a set must include one large (5½–8 inches (13.97 cm–20.32 cm) in length), and one small (3½–4½ inches (8.89 cm–11.43 cm) in length) canine chew bones.

(d) *A set of two rope loops covered with protective tubing.* A set of two pieces of poly braid rope covered with light duty garden hose or similar flexible tubing each tied or spliced into a loop to provide a one-handed method for keeping the turtle's mouth open during hook and/or line removal. A required set consists of two 3-ft (0.91 m) lengths of poly braid rope (⅜-inch (9.52 mm) diameter suggested), each covered with an 8-inch (20.32 cm) section of ½ inch (1.27 cm) or ¾ inch (1.91 cm) tubing, and each tied into a loop. The upper loop of rope covered with hose is secured on the upper beak to give control with one hand, and the second piece of rope covered with hose is secured on the lower beak to give control with the user's foot.

(e) *A hank of rope.* Placed in the corner of a turtle's jaw, a hank of rope can be used to gag open a sea turtle's mouth. A 6-ft (1.83 m) lanyard of approximately 3/16-inch (4.76 mm) braided nylon rope may be folded to create a hank, or looped bundle, of rope. Any size soft-braided nylon rope is allowed, however it must create a hank of approximately 2–4 inches (5.08 cm–10.16 cm) in thickness.

(f) *A set of four PVC splice couplings.* PVC splice couplings can be positioned inside a turtle's mouth to allow access to the back of the mouth for hook and line removal. They are to be held in place with the needle-nose pliers. To ensure proper fit and access, a required set must consist of the following Schedule 40 PVC splice coupling sizes: 1 inch (2.54 cm), 1¼ inch (3.18 cm), 1½ inch (3.81 cm), and 2 inches (5.08 cm).

(g) *A large avian oral speculum.* A large avian oral speculum provides the ability to hold a turtle's mouth open and to control the head with one hand, while removing a hook with the other hand. The avian oral speculum must be 9-inches (22.86 cm) long, and constructed of 3/16-inch (4.76 mm) wire diameter surgical stainless steel (Type 304). It must be covered with 8 inches (20.32 cm) of clear vinyl tubing (5/16-inch (7.9 mm) outside diameter, 3/16-inch (4.76 mm) inside diameter), friction tape, or similar to pad the surface.

B. *Sea turtle handling and release requirements.* Sea turtle bycatch mitigation gear, as specified in paragraphs A.1. through 4. of this Appendix E, must be used to disengage any hooked or entangled sea turtles that cannot be brought onboard. Sea turtle bycatch mitigation gear, as specified in paragraphs A.5. through 12. of this Appendix E, must be used to facilitate access, safe handling, disentanglement, and hook removal or hook cutting of sea turtles that can be brought onboard, where feasible. Sea turtles must be handled, and bycatch mitigation gear must be used, in accordance with the careful release protocols and handling/release guidelines specified in § 622.10(c)(1), and in accordance with the onboard handling and resuscitation requirements specified in § 223.206(d)(1) of this title.

1. *Boated turtles.* When practicable, active and comatose sea turtles must be brought on board, with a minimum of injury, using a dipnet as specified in paragraph A.5. of this Appendix E. All turtles less than 3 ft (.91 m) carapace length should be boated, if sea conditions permit.

(a) A boated turtle should be placed on a cushioned/support device, as specified in paragraph A.6. of this Appendix E, in an upright orientation to immobilize it and facilitate gear removal. Then, it should be determined if the hook can be removed without causing further injury. All externally embedded hooks should be removed, unless hook removal would result in further injury to the turtle. No attempt to remove a hook should be made if it has been swallowed and the insertion point is not visible, or if it is determined that removal would result in further injury. If a hook cannot be removed, as much line as possible should be removed from the turtle using monofilament cutters as specified in paragraph A.11. of this Appendix E, and the hook should be cut as close as possible to the insertion point before releasing the turtle, using bolt cutters as specified in paragraph A.10. of this Appendix E. If a hook can be removed, an effective technique may be to cut off either the barb, or the eye, of the hook using bolt

cutters, and then to slide the hook out. When the hook is visible in the front of the mouth, a mouth-opener, as specified in paragraph A.12. of this Appendix E, may facilitate opening the turtle's mouth and a gag may facilitate keeping the mouth open. Short-handled dehookers for internal hooks, or long-nose or needle-nose pliers, as specified in paragraphs A.7. and A.8. of this Appendix E, respectively, should be used to remove visible hooks from the mouth that have not been swallowed on boated turtles, as appropriate. As much gear as possible must be removed from the turtle without causing further injury prior to its release. Refer to the careful release protocols and handling/release guidelines required in § 622.10(c)(1), and the handling and resuscitation requirements specified in § 223.206(d)(1) of this title, for additional information.

(b) [Reserved]

2. *Non-boated turtles.* If a sea turtle is too large, or hooked in a manner that precludes safe boating without causing further damage or injury to the turtle, sea turtle bycatch mitigation gear specified in paragraphs A.1. through 4. of this Appendix E must be used to disentangle sea turtles from fishing gear and disengage any hooks, or to clip the line and remove as much line as possible from a hook that cannot be removed, prior to releasing the turtle, in accordance with the protocols specified in § 622.10(c)(1).

(a) Non-boated turtles should be brought close to the boat and provided with time to calm down. Then, it must be determined whether or not the hook can be removed without causing further injury. All externally embedded hooks must be removed, unless hook removal would result in further injury to the turtle. No attempt should be made to remove a hook if it has been swallowed, or if it is determined that removal would result in further injury. If the hook cannot be removed and/or if the animal is entangled, as much line as possible must be removed prior to release, using a line cutter as specified in paragraph A.1. of this Appendix E. If the hook can be removed, it must be removed using a long-handled dehooker as specified in paragraphs A.2. and A.3. of this Appendix E. Without causing further injury, as much gear as possible must be removed from the turtle prior to its release. Refer to the careful release protocols and handling/release guidelines required in § 622.10(c)(1), and the handling and resuscitation requirements specified in § 223.206(d)(1) for additional information.

(b) [Reserved]

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