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DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration (NOAA)
National Marine Fisheries Service (NMFS)
50 CFR Part 640

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

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

Subpart A--General Provisions

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

Subpart A--General Provisions

§ 640.1 Purpose and scope.

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

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

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

provided proof of lawful harvest in the waters of a foreign nation accompanies such lobsters or tails.

§ 640.2 Definitions.

In addition to the definitions in the Magnuson-Stevens Act and in § 620.2 of this chapter, the terms used in this part have the following meanings:

Bully net means a circular frame attached at right angles to the end of a pole and supporting a conical bag of webbing. The webbing is usually held up by means of a cord which is released when the net is dropped over a lobster.

Carapace length means the measurement of the carapace (head, body, or front section) of a spiny lobster from the anteriormost edge (front) of the groove between the horns directly above the eyes, along the middorsal line (middle of the back), to the rear edge of the top part of the carapace, excluding any translucent membrane.

Caribbean spiny lobster or spiny lobster means the species *Panulirus argus*, or a part thereof.

Commercial fishing means any fishing or fishing activities which result in the harvest of any marine or freshwater organisms, one or more of which (or parts thereof) is sold, traded, or bartered.

Hoop net means a frame, circular or otherwise, supporting a shallow bag of webbing and suspended by a line and bridles. The net is baited and lowered to the ocean bottom, to be raised rapidly at a later time to prevent the escape of lobster.

Import means--

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

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

Live well means a shaded container used for holding live lobsters aboard a vessel in which aerated seawater is continuously circulated from the sea. Circulation of seawater at a rate that replaces the water at least every 8 minutes meets the requirement for aeration.

Off Florida means the area from the Florida coast to the outer limit of the EEZ between the Georgia/Florida boundary (30°42'45.6"N. latitude) and the Alabama/Florida boundary (87°31'06"W. longitude).

Off Monroe County, Florida means the area from the Florida coast to the outer limit of the EEZ between a line extending directly east from the Dade/Monroe County, Florida boundary (25°20.4'N. latitude) and a line extending directly west from the Monroe/Collier County, Florida boundary (25°48.0'N. latitude).

Off the Gulf states, other than Florida means the area from the coast to the outer limit of the EEZ between the Texas/Mexico border to the Alabama/Florida boundary (87°31'06" W. long.).

Off the southern Atlantic states, other than Florida means the area from the coast to the outer limit of the EEZ between the Virginia/North Carolina boundary (36°34'55" N. lat.) to the Georgia/Florida boundary (30°42'45.6" N. lat.).

Recreational fishing means fishing or fishing activities which result in the harvest of fish, none of which (or parts thereof) is sold, traded, or bartered.

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

Tail length means the lengthwise measurement of the entire tail (segmented portion), not including any protruding muscle tissue, of a spiny lobster along the top middorsal line (middle of the back) to the rearmost extremity. The measurement is made with the tail in a flat, straight position with the tip of the tail closed.

Trip means a fishing trip, regardless of number of days duration, that begins with departure from a dock, berth, beach, seawall, or ramp and that terminates with return to a dock, berth, beach, seawall, or ramp.

§ 640.3 Relation to other laws.

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

(b) The regulations in this part apply within the boundaries of any national park, monument, or marine sanctuary in the Gulf of Mexico and South Atlantic EEZ.

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

§ 640.4 Permits and fees.

(a) Applicability.

(1) Licenses, certificates, and permits--

(i) EEZ off Florida and spiny lobster landed in Florida. For a person to sell, trade, or barter, or attempt to sell, trade, or barter, a spiny lobster harvested or possessed in the EEZ off Florida, or harvested in the EEZ other than off Florida and landed from a fishing vessel in Florida, or for a person to be exempt from the daily bag and possession limit specified in § 640.23(b)(1) for such spiny lobster, such person must have the licenses and certificates specified to be a "commercial harvester," as defined in Rule 68B-24.002, Florida Administrative Code, in effect as of July 1, 2008 (incorporated by reference, see § 640.29).

(ii) EEZ other than off Florida. For a person to sell, trade, or barter, or attempt to sell, trade, or barter, a spiny lobster harvested in the EEZ other than off Florida or for a person to be exempt from the daily bag and possession limit specified in § 640.23(b)(1) for such spiny lobster, a Federal vessel permit must be issued to the harvesting vessel and must be on board. However, see paragraph (a)(1)(i) of this section for the licenses and certificates required for a person to possess or land spiny lobster harvested in the EEZ other than off Florida and subsequently possessed in the EEZ off Florida or landed from a fishing vessel in Florida.

(2) Tail-separation permits. For a person to possess aboard a fishing vessel a separated spiny lobster tail in or from the EEZ as defined in § 640.1 (b), a valid Federal tail-separation permit must be issued to the vessel and must be on board. Permitting prerequisites for the tail-separation permit are either a valid Federal vessel permit for spiny lobster or a valid Florida Saltwater Products License with a valid Florida Restricted Species Endorsement and a valid Crawfish Endorsement.

(3) Corporation/partnership-owned vessels. For a vessel owned by a corporation or partnership to be eligible for a Federal vessel permit specified in paragraph (a)(1)(ii) of this section, the earned income qualification specified in paragraph (b)(2)(vi) of this section must be met by, and the statement required by that paragraph must be submitted by, an officer or shareholder of the corporation, a general partner of the partnership, or the vessel operator.

(4) Operator-qualified permits. A vessel permit issued upon the qualification of an operator is valid only when that person is the operator of the vessel.

(b) Applications for permits.

(1) An application for a Federal vessel and/or tail-separation permit must be submitted and signed by the owner (in the case of a corporation, a qualifying officer or shareholder; in the case of a partnership, a qualifying general partner) or operator of the vessel.

The application must be submitted to the Regional Administrator at least 30 days prior to the date on which the applicant desires to have the permit made effective.

(2) An applicant must provide the following information:

(i) A copy of the vessel's U.S. Coast Guard certificate of documentation or, if not documented, a copy of its state registration certificate.

(ii) The vessel's name and official number.

(iii) Name, mailing address including zip code, telephone number, social security number, and date of birth of the owner (if the owner is a corporation/partnership, in lieu of the social security number, provide the employer identification number, if one has been assigned by the Internal Revenue Service, and, in lieu of the date of birth, provide the date the corporation/ partnership was formed).

(iv) If the owner does not meet the earned income qualification specified in paragraph (b)(2)(vi) of this section and the operator does meet that qualification, the name, mailing address including zip code, telephone number, social security number, and date of birth of the operator.

(v) Information concerning vessel, gear used, fishing areas, and fisheries vessel is used in, as requested by the Regional Administrator and included on the application form.

(vi) A sworn statement by the applicant for a vessel permit certifying that at least 10 percent of his or her earned income was derived from commercial fishing, that is, sale of the catch, during the calendar year preceding the application.

(vii) Documentation supporting the statement of income, if required under paragraph (b)(3) of this section.

(viii) If a tail-separation permit is desired, a sworn statement by the applicant certifying that his or her fishing activity--

(A) Is routinely conducted in the EEZ on trips of 48 hours or more; and

(B) Necessitates the separation of carapace and tail to maintain a quality product.

(ix) Any other information that may be necessary for the issuance or administration of the permit.

(3) The Regional Administrator may require the applicant to provide documentation supporting the sworn statement under paragraph (b)(2)(vi) of this section before a permit is issued or to substantiate why such permit should not be revoked or otherwise sanctioned under paragraph (h) of this section. Such required documentation may include copies of appropriate forms and schedules from the applicant's income tax return. Copies of income tax forms and schedules are treated as confidential.

(c) Change in application information. The owner or operator of a vessel with a permit must notify the Regional Administrator within 30 days after any change in the application information specified in paragraph (b) of this section. The permit is void if any change in the information is not reported within 30 days.

(d) Fees. A fee is charged for each permit application submitted under paragraph (b) of this section. The amount of the fee is calculated in accordance with the procedures of the NOAA Finance Handbook 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.

(e) Issuance.

(1) The Regional Administrator will issue a permit at any time to an applicant if the application is complete and the applicant meets the earned income requirement specified in paragraph (b)(2)(vi) of this section. An application is complete when all requested forms, information, and documentation have been received.

(2) Upon receipt of an incomplete application, the Regional Administrator will notify the applicant of the deficiency. If the applicant fails to correct the deficiency within 30 days of the date of the Regional Administrator's letter of notification, the application will be considered abandoned.

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

(g) Transfer. A permit issued pursuant to this section is not transferable or assignable. A person purchasing a permitted vessel who desires to conduct activities for which a permit is required must apply for a permit in accordance with the provisions of paragraph (b) of this section. The application must be accompanied by a copy of a signed bill of sale.

(h) Display. A permit issued pursuant to this section must be carried on board the vessel, and such vessel must be identified as required by § 640.6. The operator of a vessel must present the permit for inspection upon the request of an authorized officer.

(i) Sanctions and denials. A permit issued pursuant to this section may be revoked, suspended, or modified, and a permit application may be denied, in accordance with the procedures governing enforcement-related permit sanctions and denials found at subpart D of 15 CFR part 904.

(j) Alteration. A permit that is altered, erased, or mutilated is invalid.

(k) Replacement. A replacement permit may be issued. An application for a replacement permit will not be considered a new

application. A fee, the amount of which is stated with the application form, must accompany each request for a replacement permit.

§ 640.5 Recordkeeping and reporting.
[Reserved]

§ 640.6 Vessel and gear identification.

(a) EEZ off Florida. (1) An owner or operator of a vessel that is used to harvest spiny lobster by traps in the EEZ off Florida must comply with the vessel and gear identification requirements specified in sections 379.367(2)(a)1 and 379.367(3), Florida Statutes, in effect as of July 1, 2009 and in Rule 68B-24.006(3), (4), and (5), Florida Administrative Code, in effect as of July 1, 2008 (incorporated by reference, see § 640.29).

(2) An owner or operator of a vessel that is used to harvest spiny lobsters by diving in the EEZ off Florida must comply with the vessel identification requirements applicable to the harvesting of spiny lobsters by diving in Florida's waters in Rule 68B-24.006(6), Florida Administrative Code, in effect as of July 1, 2008 (incorporated by reference, see § 640.29).

(b) EEZ other than off Florida.

(1) The owner or operator of a vessel that is used to harvest spiny lobsters in the EEZ other than off Florida, must meet the following vessel and gear identification requirements:

(i) The vessel's Florida crawfish license or trap number or, if not licensed by Florida, the vessel's Federal vessel permit number must be permanently and conspicuously displayed horizontally on the uppermost structural portion of the vessel in numbers at least 10 inches (25.4 cm) high so as to be readily identifiable from the air and water;

(ii) If the vessel uses spiny lobster traps in the EEZ, other than off Florida--

(A) The vessel's color code, as assigned by Florida or, if a color code has not been assigned by Florida, as assigned by the Regional Administrator, must be permanently and conspicuously displayed above the number specified in paragraph (b)(1)(i) of this section so as to be readily identifiable from the air and water, such color code being in the form of a circle at least 20 inches (50.8 cm) in diameter on a background of colors contrasting to those contained in the assigned color code;

(B) A buoy or timed-release buoy of such strength and buoyancy to float must be attached to each spiny lobster trap or at each end of a string of traps;

(C) A buoy used to mark spiny lobster traps must bear the vessel's assigned color code and be of such color, hue, and brilliancy as to be easily distinguished, seen, and located;

(D) A buoy used to mark spiny lobster traps must bear the vessel's Florida crawfish license or trap number or, if not licensed by Florida, the vessel's Federal vessel permit number in numbers at least 2 inches (5.08 cm) high; and

(E) A spiny lobster trap must bear the vessel's Florida crawfish license or trap number or, if not licensed by Florida, the vessel's Federal vessel permit number permanently and legibly affixed.

(2) A spiny lobster trap in the EEZ, other than off Florida, will be presumed to be the property of the most recently documented owner. Upon the sale or transfer of a spiny lobster trap used in the EEZ, other than off Florida, within 5 days of acquiring ownership, the person acquiring ownership must notify the Florida Division of Law Enforcement of the Department of Environmental Protection for a trap that bears a Florida crawfish license or trap number, or the Regional Administrator, for a trap that bears a Federal vessel permit number, as to the number of traps purchased, the vendor, and the crawfish license or trap number, or Federal vessel permit number, currently displayed on the traps, and must request issuance of a crawfish license or trap number, or Federal vessel permit, if the acquiring owner does not possess such license or trap number or permit.

(c) Unmarked traps and buoys. An unmarked spiny lobster trap or buoy in the EEZ is illegal gear.

(1) EEZ off Florida. Such trap or buoy, and any connecting lines, during times other than the authorized fishing season, will be considered derelict and may be disposed of in accordance with Rules 68B-55.002 and 68B-55.004 of the Florida Administrative Code, in effect as of October 15, 2007 (incorporated by reference, see § 640.29). An owner of such trap or buoy remains subject to appropriate civil penalties.

(2) EEZ other than off Florida. Such trap or buoy, and any connecting lines, will be considered unclaimed or abandoned property and may be disposed of in any manner considered appropriate by the Assistant Administrator or an authorized officer. An owner of such trap or buoy remains subject to appropriate civil penalties.

§ 640.7 Prohibitions.

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

(a) Sell, trade, or barter, or attempt to sell, trade, or barter, a spiny lobster in or from the EEZ without a required license, certificate, or permit, as specified in § 640.4(a)(1).

(b) Falsify information specified in § 640.4(b)(2) on an application for a permit.

(c) Fail to display a permit, as specified in § 640.4(h).

(d) Falsify or fail to display and maintain vessel and gear identification, as required by § 640.6(a) and (b).

(e) Possess a spiny lobster trap in the EEZ at a time not authorized, as specified in § 640.20(b)(3)(i) and (b)(3)(ii).

(f) Possess a spiny lobster in or from the EEZ at a time not authorized, as specified in § 640.20(b)(4).

(g) Fail to return immediately to the water a berried spiny lobster; strip eggs from or otherwise molest a berried spiny lobster; or possess a spiny lobster, or part thereof, from which eggs, swimmerettes, or pleopods have been removed or stripped; as specified in § 640.21(a).

(h) Possess or fail to return immediately to the water unharmed a spiny lobster smaller than the minimum size limits specified in § 640.21(b)(1) and (b)(3), except as provided in § 640.21(c).

(i) Harvest or attempt to harvest a spiny lobster by diving without having and using in the water a measuring device, or fail to release an undersized spiny lobster in the water, as specified in § 640.21(b)(2).

(j) Possess an undersized spiny lobster for use as an attractant in a trap in quantities or under conditions not authorized in § 640.21(c).

(k) Possess a separated spiny lobster tail, except as specified in § 640.21(d).

(l) Possess a spiny lobster harvested by prohibited gear or methods; or possess on board a fishing vessel any dynamite or similar explosive substance; as specified in § 640.20(b) and § 640.22(a)(1) and (a)(3).

(m) Use or possess in the EEZ a spiny lobster trap that does not meet the requirements specified in § 640.22(b)(1).

(n) Pull or tend a spiny lobster trap other than during daylight hours, as specified in § 640.22(b)(2).

(o) Pull or tend another person's spiny lobster trap, except as authorized in § 640.22(b)(3).

(p) Possess spiny lobsters in or from the EEZ in an amount exceeding the daily bag and possession limit specified in §

640.23(a),(b)(1), or (b)(2), except as authorized in § 640.23(b)(3) and (b)(4).

(q) Possess spiny lobsters aboard a vessel that uses or has on board a net or trawl in an amount exceeding the limits, as specified in § 640.23(b)(4).

(r) Operate a vessel that fishes for or possesses spiny lobster in or from the EEZ with spiny lobster aboard in an amount exceeding the cumulative bag and possession limit, as specified in § 640.23(d).

(s) Transfer or receive at sea spiny lobster in or from the EEZ caught under the bag and possession limits, as specified in § 640.23(e).

(t) Interfere with, obstruct, delay, or prevent by any means an investigation, search, seizure, or disposition of seized property in connection with enforcement of the Magnuson-Stevens Act.

(u) Make any false statement, oral or written, to an authorized officer concerning the taking, catching, harvesting, landing, purchase, sale, possession, or transfer of a spiny lobster.

(v) Fish for any species or anchor a fishing vessel in a marine reserve as specified in § 640.26.

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

[The following paragraph (x) is effective May 11, 2010, and remains in effect until revised by subsequent rulemaking.]

(x) Harvest a spiny lobster, effective May 11, 2010, in the portion of the Gulf or South Atlantic EEZ designated in § 622.34(n) or § 622.35(m) of this chapter, respectively, due to the Deepwater Horizon oil spill.

(y) Fish for a spiny lobster using trap gear in the areas specified in § 640.22(b)(4).

§ 640.8 Facilitation of enforcement.

See § 600.730 of this chapter.

§ 640.9 Penalties.

See § 600.735 of this chapter.

Subpart B--Management Measures

§ 640.20 Seasons.

(a) EEZ off the southern Atlantic states, other than Florida. In the EEZ off the southern Atlantic states, other than Florida, there are no seasonal restrictions on the harvest of spiny lobster or on the possession of traps.

(b) EEZ off Florida and off the Gulf states, other than Florida--

(1) Commercial and recreational fishing season. The commercial and recreational fishing season for spiny lobster in the EEZ off Florida and the EEZ off the Gulf states, other than Florida, begins on August 6 and ends on March 31.

(2) Special recreational fishing seasons--

(i) EEZ off Florida. There is a 2-day special recreational fishing season in the EEZ off Florida on the last Wednesday and successive Thursday of July each year during which fishing for spiny lobster is limited to diving or use of a bully net or hoop net. (See § 640.22(a) for general prohibitions on gear and methods.) In the EEZ off Monroe County, Florida, no person may harvest spiny lobster by diving at night, that is, from 1 hour after official sunset to 1 hour before official sunrise, during this 2-day special recreational fishing season.

(ii) EEZ off the Gulf states, other than Florida. There is a 2-day special recreational fishing season in the EEZ off the Gulf states, other than Florida, during the last Saturday and successive Sunday of July each year during which fishing for spiny lobster may be conducted by authorized gear and methods other than traps. (See § 640.22(a) for general prohibitions on gear and methods.)

(3) Possession of traps.

(i) In the EEZ off Florida, the rules and regulations applicable to the possession of spiny lobster traps in Florida's waters in Rule 68B-24.005(3), (4), and (5), Florida Administrative Code, in effect as of June 1, 1994 (incorporated by reference, see § 640.29), apply in their entirety to the possession of spiny lobster traps in the EEZ off Florida. A spiny lobster trap, buoy, or rope in the EEZ off Florida, during periods not authorized in this paragraph will be considered derelict and may be disposed of in accordance with Rules 68B-55.002 and 68B-55.004 of the Florida Administrative Code, in effect as of October 15, 2007 (incorporated by reference, see § 640.29). An owner of such trap, buoy, or rope remains subject to appropriate civil penalties.

(ii) In the EEZ off the Gulf states, other than Florida, a spiny lobster trap may be placed in the water prior to the commercial and recreational fishing season, which is specified in paragraph (b)(1) of this section, beginning on August 1 and must be removed from the water after such season not later than April 5. A spiny lobster trap, buoy, or rope in the EEZ off the Gulf states, other than Florida, during periods not authorized in this paragraph will be considered

unclaimed or abandoned property and may be disposed of in any manner considered appropriate by the Assistant Administrator or an authorized officer. An owner of such trap, buoy, or rope remains subject to appropriate civil penalties.

(4) Possession of spiny lobsters. In the EEZ off Florida and the Gulf states, a whole or a part of a spiny lobster subject to these regulations may only be possessed during the commercial and recreational fishing season and the special recreational fishing season specified in § 640.20, unless accompanied by proof of lawful harvest in the waters of a foreign nation. Consistent with the provisions of paragraphs (b)(3)(i) and (ii) of this section, a spiny lobster in a trap in this area will not be deemed to be possessed provided such spiny lobster is returned immediately to the water unharmed when a trap is removed from the water between March 31 and April 15.

(c) Primacy of seasonal restrictions in the EEZ off Florida. The seasonal restrictions applicable in the EEZ off Florida apply to all spiny lobsters and traps in the EEZ off Florida, without regard to harvest or use elsewhere, unless accompanied by proof of lawful harvest elsewhere.

§ 640.21 Harvest limitations.

(a) Berried lobsters. A berried (egg-bearing) spiny lobster in or from the EEZ must be returned immediately to the water unharmed. If found in a trap in the EEZ, a berried spiny lobster may not be retained in the trap. A berried spiny lobster in or from the EEZ may not be stripped of its eggs or otherwise molested. The possession of a spiny lobster, or part thereof, in or from the EEZ from which eggs, swimmerettes, or pleopods have been removed or stripped is prohibited.

(b) Minimum size limits.

(1) Except as provided in paragraph (c) of this section--

(i) No person may possess a spiny lobster in or from the EEZ with a carapace length of 3.0 inches (7.62 cm) or less; and

(ii) A spiny lobster, harvested in the EEZ by means other than diving, with a carapace length of 3.0 inches (7.62 cm) or less must be returned immediately to the water unharmed.

(2) No person may harvest or attempt to harvest a spiny lobster by diving in the EEZ unless he or she possesses, while in the water, a measuring device capable of measuring the carapace length. A spiny lobster captured by a diver must be measured in the water using such measuring device and, if the spiny lobster has a carapace length of

3.0 inches (7.62 cm) or less, it must be released unharmed immediately without removal from the water.

(3) Aboard a vessel authorized under paragraph (d) of this section to possess a separated spiny lobster tail, no person may possess in or from the EEZ a separated spiny lobster tail with a tail length less than 5.5 inches (13.97 cm).

(c) Undersized attractants. A live spiny lobster under the minimum size limit specified in paragraph (b)(1) of this section that is harvested in the EEZ by a trap may be retained aboard the harvesting vessel for future use as an attractant in a trap provided it is held in a live well aboard the vessel. No more than fifty undersized spiny lobsters, and one per trap aboard the vessel, whichever is greater, may be retained aboard for use as attractants. The live well must provide a minimum of 3/4 gallons (1.7 liters) of seawater per spiny lobster. An undersized spiny lobster so retained must be released to the water alive and unharmed immediately upon leaving the trap lines and prior to one hour after official sunset each day.
No more than fifty undersized spiny lobsters and one per trap aboard the vessel, may be retained aboard for use as attractants.

(d) Tail separation. (1) The possession aboard a fishing vessel of a separated spiny lobster tail in or from the EEZ as defined in § 640.1(b), is authorized only when the possession is incidental to fishing exclusively in the EEZ on a trip of 48 hours or more and a valid Federal tail-separation permit, and either a valid Federal vessel permit for spiny lobster or a valid Florida Saltwater Products License with a valid Florida Restricted Species Endorsement and a valid Crawfish Endorsement, as specified in § 640.4(a)(2), has been issued to and are on board the vessel.

(2) Spiny lobster must be landed either all whole or all tailed on a single fishing trip.

§ 640.22 Gear and diving restrictions.

(a) Prohibited gear and methods.

(1) A spiny lobster may not be taken in the EEZ with a spear, hook, or similar device, or gear containing such devices. In the EEZ, the possession of a speared, pierced, or punctured spiny lobster is *prima facie* evidence that prohibited gear was used to take such lobster. Hook, as used in this paragraph (a)(1), does not include a hook in a hook-and-line fishery for species other than spiny lobster; and possession of a spiny lobster that has been speared, pierced, or punctured by such hook is not considered evidence that prohibited gear was used to take the spiny lobster, provided no prohibited gear is on board the vessel.

(2) A spiny lobster may not be taken in a directed fishery by the use of a net or trawl. See § 640.23(b)(4) for the bycatch limits applicable to a vessel that uses or has on board a net or trawl.

(3) Poisons and explosives may not be used to take a spiny lobster in the EEZ as defined in § 640.1(b). For the purposes of this paragraph (a)(3), chlorine, bleach, and similar substances, which are used to flush a spiny lobster out of rocks or coral, are poisons. A vessel in the spiny lobster fishery may not possess on board in the EEZ any dynamite or similar explosive substance.

(b) Traps.

(1) In the EEZ, a spiny lobster trap may be no larger in dimension than 3 feet by 2 feet by 2 feet (91.4 cm by 61.0 cm by 61.0 cm), or the volume equivalent. A trap constructed of material other than wood must have a panel constructed of wood, cotton, or other material that will degrade at the same rate as a wooden trap. Such panel must be located in the upper half of the sides or on top of the trap, so that, when removed, there will be an opening in the trap no smaller than the diameter found at the throat or entrance of the trap.

(2) A spiny lobster trap in the EEZ may be pulled or tended during daylight hours only, that is, from 1 hour before official sunrise to 1 hour after official sunset.

(3) A spiny lobster trap in the EEZ may be pulled or tended only by the owner's vessel, except that permission to pull or work traps belonging to another person may be granted--

(i) For traps in the EEZ off Florida, by the Division of Law Enforcement, Florida Fish and Wildlife Conservation Commission, in accordance with the procedures in Rule 68B-24.006(7), Florida Administrative Code, in effect as of July 1, 2008 (incorporated by reference, see § 640.29).

(ii) For traps in the EEZ, other than off Florida, by the Regional Administrator, as may be arranged upon written request.

(4) Fishing with spiny lobster trap gear is prohibited year-round in the following areas bounded by rhumb lines connecting, in order, the points listed.

(i) Lobster Trap Gear Closed Area 1.

Point	North Lat.	West Long.
A	24°31'15.002"	81°31'00.000"
B	24°31'15.002"	81°31'19.994"
C	24°31'29.999"	81°31'19.994"
D	24°31'29.999"	81°31'00.000"
A	24°31'15.002"	81°31'00.000"

(ii) Lobster Trap Gear Closed Area 2.

Point	North Lat.	West Long.

A	24°31'20.205"	81°30'17.213"
B	24°31'17.858"	81°30'27.700"
C	24°31'27.483"	81°30'30.204"
D	24°31'29.831"	81°30'19.483"
A	24°31'20.205"	81°30'17.213"

(iii) Lobster Trap Gear Closed Area 3.

Point	North Lat.	West Long.
A	24°31'42.665"	81°30'02.892"
B	24°31'45.013"	81°29'52.093"
C	24°31'34.996"	81°29'49.745"
D	24°31'32.335"	81°30'00.466"
A	24°31'42.665"	81°30'02.892"

(iv) Lobster Trap Gear Closed Area 4.

Point	North Lat.	West Long.
A	24°31'50.996"	81°28'39.999"
B	24°31'50.996"	81°29'03.002"
C	24°31'56.998"	81°29'03.002"
D	24°31'56.998"	81°28'39.999"
A	24°31'50.996"	81°28'39.999"

(v) Lobster Trap Gear Closed Area 5.

Point	North Lat.	West Long.
A	24°32'20.014"	81°26'20.390"
B	24°32'13.999"	81°26'41.999"
C	24°32'27.004"	81°26'45.611"
D	24°32'33.005"	81°26'23.995"
A	24°32'20.014"	81°26'20.390"

(vi) Lobster Trap Gear Closed Area 6.

Point	North Lat.	West Long.
A	24°32'30.011"	81°24'47.000"
B	24°32'23.790"	81°24'56.558"
C	24°32'45.997"	81°25'10.998"
D	24°32'52.218"	81°25'01.433"
A	24°32'30.011"	81°24'47.000"

(vii) Lobster Trap Gear Closed Area 7.

Point	North Lat.	West Long.

A	24°32'46.834"	81°27'17.615"
B	24°32'41.835"	81°27'35.619"
C	24°32'54.003"	81°27'38.997"
D	24°32'59.002"	81°27'21.000"
A	24°32'46.834"	81°27'17.615"

(viii) Lobster Trap Gear Closed Area 8.

Point	North Lat.	West Long.
A	24°33'10.002"	81°25'50.995"
B	24°33'04.000"	81°26'18.996"
C	24°33'17.253"	81°26'21.839"
D	24°33'23.254"	81°25'53.838"
A	24°33'10.002"	81°25'50.995"

(ix) Lobster Trap Gear Closed Area 9.

Point	North Lat.	West Long.
A	24°33'22.004"	81°30'31.998"
B	24°33'22.004"	81°30'41.000"
C	24°33'29.008"	81°30'41.000"
D	24°33'29.008"	81°30'31.998"
A	24°33'22.004"	81°30'31.998"

(x) Lobster Trap Gear Closed Area 10.

Point	North Lat.	West Long.
A	24°33'33.004"	81°30'00.000"
B	24°33'33.004"	81°30'09.998"
C	24°33'41.999"	81°30'09.998"
D	24°33'41.999"	81°30'00.000"
A	24°33'33.004"	81°30'00.000"

(xi) Lobster Trap Gear Closed Area 11.

Point	North Lat.	West Long.
A	24°33'50.376"	81°23'35.039"
B	24°33'27.003"	81°24'51.003"
C	24°33'40.008"	81°24'54.999"
D	24°34'03.382"	81°23'39.035"
A	24°33'50.376"	81°23'35.039"

(xii) Lobster Trap Gear Closed Area 12.

Point	North Lat.	West Long.

A	24°34'00.003"	81°19'29.996"
B	24°34'00.003"	81°20'04.994"
C	24°34'24.997"	81°20'04.994"
D	24°34'24.997"	81°19'29.996"
A	24°34'00.003"	81°19'29.996"

(xiii) Lobster Trap Gear Closed Area 13.

Point	North Lat.	West Long.
A	24°35'19.997"	81°14'25.002"
B	24°35'19.997"	81°14'34.999"
C	24°35'29.006"	81°14'34.999"
D	24°35'29.006"	81°14'25.002"
A	24°35'19.997"	81°14'25.002"

(xiv) Lobster Trap Gear Closed Area 14.

Point	North Lat.	West Long.
A	24°44'37.004"	80°46'47.000"
B	24°44'37.004"	80°46'58.000"
C	24°44'47.002"	80°46'58.000"
D	24°44'47.002"	80°46'47.000"
A	24°44'37.004"	80°46'47.000"

(xv) Lobster Trap Gear Closed Area 15.

Point	North Lat.	West Long.
A	24°49'53.946"	80°38'17.646"
B	24°48'32.331"	80°40'15.530"
C	24°48'44.389"	80°40'23.879"
D	24°50'06.004"	80°38'26.003"
A	24°49'53.946"	80°38'17.646"

(xvi) Lobster Trap Gear Closed Area 16.

Point	North Lat.	West Long.
A	24°53'32.085"	80°33'22.065"
B	24°53'38.992"	80°33'14.670"
C	24°53'31.673"	80°33'07.155"
D	24°53'24.562"	80°33'14.886"
A	24°53'32.085"	80°33'22.065"

(xvii) Lobster Trap Gear Closed Area 17.

Point	North Lat.	West Long.

A	24°53'33.410"	80°32'50.247"
B	24°53'40.149"	80°32'42.309"
C	24°53'32.418"	80°32'35.653"
D	24°53'25.348"	80°32'43.302"
A	24°53'33.410"	80°32'50.247"

(xviii) Lobster Trap Gear Closed Area 18.

Point	North Lat.	West Long.
A	24°54'06.317"	80°32'34.115"
B	24°53'59.368"	80°32'41.542"
C	24°54'06.667"	80°32'48.994"
D	24°54'13.917"	80°32'41.238"
A	24°54'06.317"	80°32'34.115"

(xix) Lobster Trap Gear Closed Area 19.

Point	North Lat.	West Long.
A	24°54'06.000"	80°31'33.995"
B	24°54'06.000"	80°31'45.002"
C	24°54'36.006"	80°31'45.002"
D	24°54'36.006"	80°31'33.995"
A	24°54'06.000"	80°31'33.995"

(xx) Lobster Trap Gear Closed Area 20.

Point	North Lat.	West Long.
A	24°56'21.104"	80°28'52.331"
B	24°56'17.012"	80°29'05.995"
C	24°56'26.996"	80°29'08.996"
D	24°56'31.102"	80°28'55.325"
A	24°56'21.104"	80°28'52.331"

(xxi) Lobster Trap Gear Closed Area 21.

Point	North Lat.	West Long.
A	24°56'53.006"	80°27'46.997"
B	24°56'21.887"	80°28'25.367"
C	24°56'35.002"	80°28'36.003"
D	24°57'06.107"	80°27'57.626"
A	24°56'53.006"	80°27'46.997"

(xxii) Lobster Trap Gear Closed Area 22.

Point	North Lat.	West Long.

A	24°57'35.001"	80°27'14.999"
B	24°57'28.011"	80°27'21.000"
C	24°57'33.999"	80°27'27.997"
D	24°57'40.200"	80°27'21.106"
A	24°57'35.001"	80°27'14.999"

(xxiii) Lobster Trap Gear Closed Area 23.

Point	North Lat.	West Long.
A	24°58'58.154"	80°26'03.911"
B	24°58'48.005"	80°26'10.001"
C	24°58'52.853"	80°26'18.090"
D	24°59'03.002"	80°26'11.999"
A	24°58'58.154"	80°26'03.911"

(xxiv) Lobster Trap Gear Closed Area 24.

Point	North Lat.	West Long.
A	24°59'17.009"	80°24'32.999"
B	24°58'41.001"	80°25'21.998"
C	24°58'57.591"	80°25'34.186"
D	24°59'33.598"	80°24'45.187"
A	24°59'17.009"	80°24'32.999"

(xxv) Lobster Trap Gear Closed Area 25.

Point	North Lat.	West Long.
A	24°59'44.008"	80°25'38.999"
B	24°59'27.007"	80°25'48.997"
C	24°59'32.665"	80°25'58.610"
D	24°59'49.666"	80°25'48.612"
A	24°59'44.008"	80°25'38.999"

(xxvi) Lobster Trap Gear Closed Area 26.

Point	North Lat.	West Long.
A	25°01'00.006"	80°21'55.002"
B	25°01'00.006"	80°22'11.996"
C	25°01'18.010"	80°22'11.996"
D	25°01'18.010"	80°21'55.002"
A	25°01'00.006"	80°21'55.002"

(xxvii) Lobster Trap Gear Closed Area 27.

Point	North Lat.	West Long.

A	25°01'34.997"	80°23'12.998"
B	25°01'18.010"	80°23'44.000"
C	25°01'22.493"	80°23'46.473"
D	25°01'36.713"	80°23'37.665"
E	25°01'46.657"	80°23'19.390"
A	25°01'34.997"	80°23'12.998"

(xxviii) Lobster Trap Gear Closed Area 28.

Point	North Lat.	West Long.
A	25°01'38.005"	80°21'25.998"
B	25°01'28.461"	80°21'46.158"
C	25°01'45.009"	80°21'53.999"
D	25°01'54.553"	80°21'33.839"
A	25°01'38.005"	80°21'25.998"

(xxix) Lobster Trap Gear Closed Area 29.

Point	North Lat.	West Long.
A	25°01'53.001"	80°23'08.995"
B	25°01'53.001"	80°23'17.997"
C	25°02'01.008"	80°23'17.997"
D	25°02'01.008"	80°23'08.995"
A	25°01'53.001"	80°23'08.995"

(xxx) Lobster Trap Gear Closed Area 30.

Point	North Lat.	West Long.
A	25°02'20.000"	80°22'11.001"
B	25°02'10.003"	80°22'50.002"
C	25°02'22.252"	80°22'53.140"
D	25°02'32.250"	80°22'14.138"
A	25°02'20.000"	80°22'11.001"

(xxxi) Lobster Trap Gear Closed Area 31.

Point	North Lat.	West Long.
A	25°02'29.503"	80°20'30.503"
B	25°02'16.498"	80°20'43.501"
C	25°02'24.999"	80°20'52.002"
D	25°02'38.004"	80°20'38.997"
A	25°02'29.503"	80°20'30.503"

(xxxii) Lobster Trap Gear Closed Area 32.

Point	North Lat.	West Long.
A	25°02'34.008"	80°21'57.000"
B	25°02'34.008"	80°22'14.997"
C	25°02'50.007"	80°22'14.997"
D	25°02'50.007"	80°21'57.000"
A	25°02'34.008"	80°21'57.000"

(xxxiii) Lobster Trap Gear Closed Area 33.

Point	North Lat.	West Long.
A	25°03'11.294"	80°21'36.864"
B	25°03'02.540"	80°21'43.143"
C	25°03'08.999"	80°21'51.994"
D	25°03'17.446"	80°21'45.554"
A	25°03'11.294"	80°21'36.864"

(xxxiv) Lobster Trap Gear Closed Area 34.

Point	North Lat.	West Long.
A	25°03'30.196"	80°21'34.263"
B	25°03'39.267"	80°21'29.506"
C	25°03'35.334"	80°21'19.801"
D	25°03'26.200"	80°21'24.304"
A	25°03'30.196"	80°21'34.263"

(xxxv) Lobster Trap Gear Closed Area 35.

Point	North Lat.	West Long.
A	25°03'26.001"	80°19'43.001"
B	25°03'26.001"	80°19'54.997"
C	25°03'41.011"	80°19'54.997"
D	25°03'41.011"	80°19'43.001"
A	25°03'26.001"	80°19'43.001"

(xxxvi) Lobster Trap Gear Closed Area 36.

Point	North Lat.	West Long.
A	25°07'03.008"	80°17'57.999"
B	25°07'03.008"	80°18'10.002"
C	25°07'14.997"	80°18'10.002"
D	25°07'14.997"	80°17'57.999"
A	25°07'03.008"	80°17'57.999"

(xxxvii) Lobster Trap Gear Closed Area 37.

Point	North Lat.	West Long.
A	25°07'51.156"	80°17'27.910"
B	25°07'35.857"	80°17'37.091"
C	25°07'43.712"	80°17'50.171"
D	25°07'59.011"	80°17'40.998"
A	25°07'51.156"	80°17'27.910"

(xxxviii) Lobster Trap Gear Closed Area 38.

Point	North Lat.	West Long.
A	25°08'12.002"	80°17'09.996"
B	25°07'55.001"	80°17'26.997"
C	25°08'04.998"	80°17'36.995"
D	25°08'22.000"	80°17'20.000"
A	25°08'12.002"	80°17'09.996"

(xxxix) Lobster Trap Gear Closed Area 39.

Point	North Lat.	West Long.
A	25°08'18.003"	80°17'34.001"
B	25°08'18.003"	80°17'45.997"
C	25°08'29.003"	80°17'45.997"
D	25°08'29.003"	80°17'34.001"
A	25°08'18.003"	80°17'34.001"

(xl) Lobster Trap Gear Closed Area 40.

Point	North Lat.	West Long.
A	25°08'45.002"	80°15'50.002"
B	25°08'37.999"	80°15'56.998"
C	25°08'42.009"	80°16'00.995"
D	25°08'48.999"	80°15'53.998"
A	25°08'45.002"	80°15'50.002"

(xli) Lobster Trap Gear Closed Area 41.

Point	North Lat.	West Long.
A	25°08'58.007"	80°17'24.999"
B	25°08'58.007"	80°17'35.999"
C	25°09'09.007"	80°17'35.999"
D	25°09'09.007"	80°17'24.999"
A	25°08'58.007"	80°17'24.999"

(xlii) Lobster Trap Gear Closed Area 42.

Point	North Lat.	West Long.
A	25°09'10.999"	80°16'00.000"
B	25°09'10.999"	80°16'09.997"
C	25°09'20.996"	80°16'09.997"
D	25°09'20.996"	80°16'00.000"
A	25°09'10.999"	80°16'00.000"

(xliii) Lobster Trap Gear Closed Area 43.

Point	North Lat.	West Long.
A	25°09'28.316"	80°17'03.713"
B	25°09'14.006"	80°17'17.000"
C	25°09'21.697"	80°17'25.280"
D	25°09'36.006"	80°17'12.001"
A	25°09'28.316"	80°17'03.713"

(xliv) Lobster Trap Gear Closed Area 44.

Point	North Lat.	West Long.
A	25°10'00.011"	80°16'06.000"
B	25°10'00.011"	80°16'17.000"
C	25°10'09.995"	80°16'17.000"
D	25°10'09.995"	80°16'06.000"
A	25°10'00.011"	80°16'06.000"

(xlv) Lobster Trap Gear Closed Area 45.

Point	North Lat.	West Long.
A	25°10'29.002"	80°15'52.995"
B	25°10'29.002"	80°16'04.002"
C	25°10'37.997"	80°16'04.002"
D	25°10'37.997"	80°15'52.995"
A	25°10'29.002"	80°15'52.995"

(xlvi) Lobster Trap Gear Closed Area 46.

Point	North Lat.	West Long.
A	25°11'05.998"	80°14'25.997"
B	25°11'05.998"	80°14'38.000"
C	25°11'20.006"	80°14'38.000"
D	25°11'20.006"	80°14'25.997"
A	25°11'05.998"	80°14'25.997"

(xlvii) Lobster Trap Gear Closed Area 47.

Point	North Lat.	West Long.
A	25°12'00.998"	80°13'24.996"
B	25°11'43.008"	80°13'35.000"
C	25°11'48.007"	80°13'44.002"
D	25°12'06.011"	80°13'33.998"
A	25°12'00.998"	80°13'24.996"

(xlviii) Lobster Trap Gear Closed Area 48.

Point	North Lat.	West Long.
A	25°12'18.343"	80°14'32.768"
B	25°12'02.001"	80°14'44.001"
C	25°12'07.659"	80°14'52.234"
D	25°12'24.001"	80°14'41.001"
A	25°12'18.343"	80°14'32.768"

(xlix) Lobster Trap Gear Closed Area 49.

Point	North Lat.	West Long.
A	25°15'23.998"	80°12'29.000"
B	25°15'04.676"	80°12'36.120"
C	25°15'09.812"	80°12'50.066"
D	25°15'29.148"	80°12'42.946"
A	25°15'23.998"	80°12'29.000"

(l) Lobster Trap Gear Closed Area 50.

Point	North Lat.	West Long.
A	25°16'01.997"	80°12'32.996"
B	25°15'33.419"	80°12'52.394"
C	25°15'44.007"	80°13'08.001"
D	25°16'12.585"	80°12'48.597"
A	25°16'01.997"	80°12'32.996"

(li) Lobster Trap Gear Closed Area 51.

Point	North Lat.	West Long.
A	25°16'33.006"	80°13'30.001"
B	25°16'33.006"	80°13'41.001"
C	25°16'34.425"	80°13'41.026"
D	25°16'41.850"	80°13'37.475"
E	25°16'42.001"	80°13'30.001"
A	25°16'33.006"	80°13'30.001"

(lii) Lobster Trap Gear Closed Area 52.

Point	North Lat.	West Long.
A	25°17'04.715"	80°12'11.305"
B	25°16'17.007"	80°12'27.997"
C	25°16'23.997"	80°12'47.999"
D	25°17'11.705"	80°12'31.300"
A	25°17'04.715"	80°12'11.305"

(liii) Lobster Trap Gear Closed Area 53.

Point	North Lat.	West Long.
A	25°17'23.008"	80°12'40.000"
B	25°17'23.008"	80°12'49.997"
C	25°17'33.005"	80°12'49.997"
D	25°17'33.005"	80°12'40.000"
A	25°17'23.008"	80°12'40.000"

(liv) Lobster Trap Gear Closed Area 54.

Point	North Lat.	West Long.
A	25°20'57.996"	80°09'50.000"
B	25°20'57.996"	80°10'00.000"
C	25°21'07.005"	80°10'00.000"
D	25°21'07.005"	80°09'50.000"
A	25°20'57.996"	80°09'50.000"

(lv) Lobster Trap Gear Closed Area 55.

Point	North Lat.	West Long.
A	25°21'45.004"	80°09'51.998"
B	25°21'38.124"	80°09'56.722"
C	25°21'49.124"	80°10'12.728"
D	25°21'56.004"	80°10'07.997"
A	25°21'45.004"	80°09'51.998"

(lvi) Lobster Trap Gear Closed Area 56.

Point	North Lat.	West Long.
A	25°21'49.000"	80°09'21.999"
B	25°21'49.000"	80°09'31.996"
C	25°21'58.998"	80°09'31.996"
D	25°21'58.998"	80°09'21.999"
A	25°21'49.000"	80°09'21.999"

(lvii) Lobster Trap Gear Closed Area 57.

Point	North Lat.	West Long.
A	25°24'31.008"	80°07'36.997"
B	25°24'31.008"	80°07'48.999"
C	25°24'41.005"	80°07'48.999"
D	25°24'41.005"	80°07'36.997"
A	25°24'31.008"	80°07'36.997"

(lviii) Lobster Trap Gear Closed Area 58.

Point	North Lat.	West Long.
A	25°25'14.005"	80°07'27.995"
B	25°25'14.005"	80°07'44.001"
C	25°25'26.008"	80°07'44.001"
D	25°25'26.008"	80°07'27.995"
A	25°25'14.005"	80°07'27.995"

(lix) Lobster Trap Gear Closed Area 59.

Point	North Lat.	West Long.
A	25°35'13.996"	80°05'39.999"
B	25°35'13.996"	80°05'50.999"
C	25°35'24.007"	80°05'50.999"
D	25°35'24.007"	80°05'39.999"
A	25°35'13.996"	80°05'39.999"

(lx) Lobster Trap Gear Closed Area 60.

Point	North Lat.	West Long.
A	25°40'57.003"	80°05'43.000"
B	25°40'57.003"	80°05'54.000"
C	25°41'06.550"	80°05'53.980"
D	25°41'18.136"	80°05'49.158"
E	25°41'18.001"	80°05'43.000"
A	25°40'57.003"	80°05'43.000"

§ 640.23 Bag/possession limits.

(a) EEZ off the southern Atlantic states, other than Florida. The daily bag or possession limit for spiny lobster in or from the EEZ off the southern Atlantic states, other than Florida, is two per person for commercial and recreational fishing, year-round.

(b) EEZ off Florida and off the Gulf states, other than Florida--

(1) Commercial and recreational fishing season. Except as specified in paragraphs (b)(3) and (b)(4) of this section, during

the commercial and recreational fishing season specified in § 640.20(b)(1), the daily bag or possession limit of spiny lobster in or from the EEZ off Florida and off the Gulf states, other than Florida, is six per person.

(2) Special recreational fishing seasons. During the special recreational fishing seasons specified in § 640.20(b)(2), the daily bag or possession limit of spiny lobster--

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

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

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

(3) Exemption from the bag/possession limit. During the commercial and recreational fishing season specified in § 640.20(b)(1), a person is exempt from the bag and possession limit specified in paragraph (b)(1) of this section, provided--

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

(ii) The vessel from which the person is operating has on board the required licenses, certificates, or permits, as specified in § 640.4(a)(1).

(4) Harvest by net or trawl. During the commercial and recreational fishing season specified in § 640.20(b)(1), aboard a vessel with the required licenses, certificates, or permits specified in § 640.4(a)(1) that harvests spiny lobster by net or trawl or has on board a net or trawl, the possession of spiny lobster in or from the EEZ off Florida and off the Gulf states, other than Florida, may not exceed at any time 5 percent, whole weight, of the total whole weight of all fish lawfully in possession on board such vessel. If such vessel lawfully possesses a separated spiny lobster tail, the possession of spiny lobster in or from the EEZ may not exceed at any time 1.6 percent, by weight of the spiny lobster or parts thereof, of the total whole weight of all fish lawfully in possession on board such vessel. For the purposes of this paragraph (b)(4), the term "net or trawl" does not include a hand-held net, a loading or dip net, a bully net, or a hoop net.

(5) Diving at night. The provisions of paragraph (b)(3) of this section notwithstanding, a person who harvests spiny lobster in the EEZ by diving at night, that is, from 1 hour after official sunset to 1 hour before official sunrise, is limited to the bag limit specified in paragraph (b)(1) of this section, whether or not a Federal vessel permit specified in § 640.4(a)(1) has been issued to and is on board the vessel from which the diver is operating.

(c) Combination of bag/possession limits. A person who fishes for or possesses spiny lobster in or from the EEZ under a bag or possession limit specified in paragraph (a) or (b) of this section may not combine the bag or possession limits of those paragraphs or combine such bag or possession limit with a bag or possession limit applicable to state waters.

(d) Responsibility for bag/possession limits. The operator of a vessel that fishes for or possesses spiny lobster in or from the EEZ is responsible for the cumulative bag or possession limit specified in paragraphs (a) and (b) of this section applicable to that vessel, based on the number of persons aboard.

(e) Transfer at sea. A person who fishes for or possesses spiny lobster in or from the EEZ under a bag or possession limit specified in paragraph (a) or (b) of this section may not transfer a spiny lobster at sea from a fishing vessel to any other vessel, and no person may receive at sea such spiny lobster.

§ 640.24 Authorized activities.

The Assistant Administrator may authorize, for the acquisition of information and data, activities otherwise prohibited by the regulations in this part.

§ 640.25 Adjustment of management measures.

In accordance with the framework procedure of the Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic, the Regional Administrator may establish or modify the following items: Reporting and monitoring requirements, permitting requirements, bag and possession limits, size limits, vessel trip limits, closed seasons, closed areas, reopening of sectors that have been prematurely closed, annual catch limits (ACLs), annual catch targets (ACTs), quotas, accountability measures (AMs), maximum sustainable yield (or proxy), optimum yield, total allowable catch (TAC), management parameters such as overfished and overfishing definitions, gear restrictions, gear markings and identification, vessel identification requirements, allowable biological catch (ABC) and ABC control rule, rebuilding plans, and restrictions relative to conditions of harvested fish (such as tailing lobster, undersized attractants, and use as bait).

§ 640.26 Tortugas marine reserves.

The following activities are prohibited within the Tortugas marine reserves: Fishing for any species and anchoring by fishing vessels.

(a) EEZ portion of Tortugas North. The area is bounded by rhumb lines connecting the following points: From point A at 24°40'00" N. lat., 83°06'00" W. long. to point B at 24°46'00" N. lat., 83°06'00" W. long. to point C at 24°46'00" N. lat., 83°00'00" W. long.; thence along the line denoting the seaward limit of Florida's waters, as shown on the current edition of NOAA chart 11438, to point A at 24°40'00" N. lat., 83°06'00" W. long.

(b) Tortugas South. The area is bounded by rhumb lines connecting, in order, the following points:

Point	North lat.	West long.
A	24°33'00"	83°09'00"
B	24°33'00"	83°05'00"
C	24°18'00"	83°05'00"
D	24°18'00"	83°09'00"
A	24°33'00"	83°09'00"

§ 640.27 Spiny lobster import prohibitions.

(a) Minimum size limits for imported spiny lobster. There are two minimum size limits that apply to importation of spiny lobster into the United States--one that applies any place subject to the jurisdiction of the United States other than Puerto Rico or the U.S. Virgin Islands, and a more restrictive minimum size limit that applies to Puerto Rico and the U.S. Virgin Islands.

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

lobster has a tail length of 5.5 inches (13.97 cm) or greater or that such spiny lobster has or had a carapace length of greater than 3.0 inches (7.62 cm). If the imported product itself does not satisfy the minimum tail-weight requirement, the person importing such spiny lobster has the burden to prove that such spiny lobster has a tail length of 5.5 inches (13.97 cm) or greater or that such spiny lobster has or had a carapace length of greater than 3.0 inches (7.62 cm). If the burden is satisfied, such spiny lobster will be considered to be in compliance with the minimum 5-ounce (142-gram) tail-weight requirement.

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

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

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

§ 640.28 Annual catch limits (ACLs) and accountability measures (AMs).

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

§ 640.29 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of approval and a notice of any change in these materials will be published in the Federal Register. This incorporation by reference was approved by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of approval and a notice of any change in these materials will be published in the Federal Register. All material incorporated by

reference is available for inspection at the NMFS, Office of Sustainable Fisheries, Office of the Regional Administrator, 1315 East-West Highway, Silver Spring, MD; and the National Archives and Records Administration (NARA), Office of the Federal Register, 800 North Capitol Street NW, Suite 700, Washington, DC. For more information on the availability of this material at NARA, call 202-741-6030 or go to http://www.archives.gov/federal_resister/code_of_federal_regulations/ibr_locations.html.

(b) Florida Administrative Code (F.A.C.): Florida Division of Marine Fisheries Management, 620 South Meridian Street, Tallahassee, FL 32399; telephone: 850-488-4676; http://laws.flrules.org.

(1) F.A.C., Chapter 68B-24: Spiny lobster (crawfish) and slipper lobster, Rule 68B-24.002: Definitions, in effect as of July 1, 2008, IBR approved for § 640.4.

(2) F.A.C., Chapter 68B-24: Spiny lobster (crawfish) and slipper lobster, Rule 68B-24.005: Seasons, in effect as of June 1, 2004, IBR approved for § 640.20.

(3) F.A.C., Chapter 68B-24: Spiny lobster (crawfish) and slipper lobster, Rule 68B-24.006: Gear: Traps, Buoys, Identification Requirements, Prohibited Devices, in effect as of July 1, 2008, IBR approved for § 640.6 and § 640.22.

(4) F.A.C., Chapter 68B-55: Trap retrieval and trap debris removal, Rule 68B-55.002: Retrieval of Trap Debris, in effect as of October 15, 2007, IBR approved for § 640.6 and § 640.20.

(5) F.A.C., Chapter 68B-55: Trap retrieval and trap debris removal, Rule 68B-55.004: Retrieval of Derelict and Traps Located in Areas Permanently Closed to Trapping, in effect as of October 15, 2007, IBR approved for § 640.6 and § 640.20.

(c) Florida Statute: Florida Division of Marine Fisheries Management, 620 South Meridian Street, Tallahassee, FL 32399; telephone: 850-488-4676; http://www.leg.state.fl.us/Statutes/index.cfm.

(1) Florida Statutes, Chapter 379: Fish and Wildlife Conservation, Part VII: Nonrecreational Licenses, Section 379.367: Spiny lobster; regulation, 379.367, in effect as of June 1, 1994, IBR approved for § 640.6.

(2) [Reserved]