

pots may not be attached one to another so that their overall dimensions exceed those allowed for an individual sea bass pot. This does not preclude connecting individual pots to a line, such as a “trawl” or trot line.

(ii) Rope is the only material allowed to be used for a mainline or buoy line attached to a golden crab trap, except that wire cable is allowed for these purposes through January 31, 1998.

[61 FR 34934, July 3, 1996, as amended at 61 FR 43959, Aug. 27, 1996; 62 FR 13988, Mar. 25, 1997; 63 FR 10568, Mar. 4, 1998; 63 FR 38303, July 16, 1998]

§ 622.41 Species specific limitations.

(a) *Aquacultured live rock*. In the Gulf or South Atlantic EEZ:

(1) Aquacultured live rock may be harvested only under a permit, as required under § 622.4(a)(3)(iii), and aquacultured live rock on a site may be harvested only by the person, or his or her employee, contractor, or agent, who has been issued the aquacultured live rock permit for the site. A person harvesting aquacultured live rock is exempt from the prohibition on taking prohibited coral for such prohibited coral as attaches to aquacultured live rock.

(2) The following restrictions apply to individual aquaculture activities:

(i) No aquaculture site may exceed 1 acre (0.4 ha) in size.

(ii) Material deposited on the aquaculture site—

(A) May not be placed over naturally occurring reef outcrops, limestone ledges, coral reefs, or vegetated areas.

(B) Must be free of contaminants.

(C) Must be nontoxic.

(D) Must be placed on the site by hand or lowered completely to the bottom under restraint, that is, not allowed to fall freely.

(E) Must be placed from a vessel that is anchored.

(F) In the Gulf EEZ, must be distinguishable, geologically or otherwise (for example, be indelibly marked or tagged), from the naturally occurring substrate.

(G) In the South Atlantic EEZ, must be geologically distinguishable from the naturally occurring substrate and, in addition, may be indelibly marked or tagged.

(iii) A minimum setback of at least 50 ft (15.2 m) must be maintained from natural vegetated or hard bottom habitats.

(3) Mechanically dredging or drilling, or otherwise disturbing, aquacultured live rock is prohibited, and aquacultured live rock may be harvested only by hand. In addition, the following activities are prohibited in the South Atlantic: Chipping of aquacultured live rock in the EEZ, possession of chipped aquacultured live rock in or from the EEZ, removal of allowable octocoral or prohibited coral from aquacultured live rock in or from the EEZ, and possession of prohibited coral not attached to aquacultured live rock or allowable octocoral, while aquacultured live rock is in possession. See the definition of “Allowable octocoral” for clarification of the distinction between allowable octocoral and live rock. For the purposes of this paragraph (a)(3), chipping means breaking up reefs, ledges, or rocks into fragments, usually by means of a chisel and hammer.

(4) Not less than 24 hours prior to harvest of aquacultured live rock, the owner or operator of the harvesting vessel must provide the following information to the NMFS Law Enforcement Office, Southeast Area, St. Petersburg, FL, telephone (813) 570-5344:

(i) Permit number of site to be harvested and date of harvest.

(ii) Name and official number of the vessel to be used in harvesting.

(iii) Date, port, and facility at which aquacultured live rock will be landed.

(b) *Caribbean reef fish*. A marine aquarium fish may be harvested in the Caribbean EEZ only by a hand-held dip net or by a hand-held slurp gun. For the purposes of this paragraph, a hand-held slurp gun is a device that rapidly draws seawater containing fish into a self-contained chamber, and a marine aquarium fish is a Caribbean reef fish that is smaller than 5.5 inches (14.0 cm), TL.

(c) *Coastal migratory pelagic fish*—(1) *Authorized gear*. Subject to the prohibitions on gear/methods specified in § 622.31, the following are the only fishing gears that may be used in the Gulf, Mid-Atlantic, and South Atlantic EEZ

in directed fisheries for coastal migratory pelagic fish:

(i) King mackerel, Atlantic migratory group—

(A) North of 34°37.3' N. lat., the latitude of Cape Lookout Light, NC—all gear except drift gillnet and long gillnet.

(B) South of 34°37.3' N. lat.—automatic reel, bandit gear, handline, and rod and reel.

(ii) King mackerel, Gulf migratory group—hook-and-line gear and run-around gillnet.

(iii) Spanish mackerel, Atlantic migratory group—automatic reel, bandit gear, handline, rod and reel, cast net, run-around gillnet, and stab net.

(iv) Spanish mackerel, Gulf migratory group—all gear except drift gillnet, long gillnet, and purse seine.

(v) Cobia in the Mid-Atlantic and South Atlantic EEZ, dolphin in the South Atlantic EEZ, and little tunny in the South Atlantic EEZ south of 34°37.3' N. lat.—automatic reel, bandit gear, handline, rod and reel, and pelagic longline.

(vi) Cero in the South Atlantic EEZ and little tunny in the South Atlantic EEZ north of 34°37.3' N. lat.—all gear except drift gillnet and long gillnet.

(vii) Bluefish, cero, cobia, dolphin, and little tunny in the Gulf EEZ—all gear except drift gillnet and long gillnet.

(2) *Unauthorized gear.* Gear types other than those specified in paragraph (c)(1) of this section are unauthorized gear and the following possession limitations apply:

(i) *Long gillnets.* A vessel with a long gillnet on board in, or that has fished on a trip in, the Gulf, Mid-Atlantic, or South Atlantic EEZ may not have on board on that trip a coastal migratory pelagic fish.

(ii) *Drift gillnets.* A vessel with a drift gillnet on board in, or that has fished on a trip in, the Gulf EEZ may not have on board on that trip a coastal migratory pelagic fish.

(iii) *Other unauthorized gear.* Except as specified in paragraph (c)(2)(iv) of this section, a person aboard a vessel with unauthorized gear other than a drift gillnet in the Gulf EEZ or a long gillnet on board in, or that has fished in, the EEZ where such gear is not au-

thorized in paragraph (c)(1) of this section, is subject to the bag limit for king and Spanish mackerel specified in §622.39(c)(1)(ii) and to the limit on cobia specified in §622.32(c)(1).

(iv) *Exception for king mackerel in the Gulf EEZ.* The provisions of this paragraph (c)(2)(iv) apply to king mackerel taken in the Gulf EEZ and to such king mackerel possessed in the Gulf. Paragraph (c)(2)(iii) of this section notwithstanding, a person aboard a vessel that has a valid commercial permit for king mackerel is not subject to the bag limit for king mackerel when the vessel has on board on a trip unauthorized gear other than a drift gillnet in the Gulf EEZ or a long gillnet. Thus, the following applies to a vessel that has a commercial permit for king mackerel:

(A) Such vessel may use in the Gulf EEZ no unauthorized gear in a directed fishery for king mackerel.

(B) If such a vessel has a drift gillnet or a long gillnet on board, no king mackerel may be possessed.

(C) If such a vessel has unauthorized gear on board other than a drift gillnet in the Gulf EEZ or a long gillnet, the possession of king mackerel taken incidentally is restricted only by the closure provisions of §622.43(a)(3) and the trip limits specified in §622.44(a). See also paragraph (c)(4) of this section regarding the purse seine incidental catch allowance of king mackerel.

(3) *Gillnets—(i) King mackerel.* The minimum allowable mesh size for a gillnet used to fish in the Gulf, Mid-Atlantic, or South Atlantic EEZ for king mackerel is 4.75 inches (12.1 cm), stretched mesh. A vessel in such EEZ, or having fished on a trip in such EEZ, with a gillnet on board that has a mesh size less than 4.75 (12.1 cm) inches, stretched mesh, may not possess on that trip an incidental catch of king mackerel that exceeds 10 percent, by number, of the total lawfully possessed Spanish mackerel on board.

(ii) *Spanish mackerel.* (A) The minimum allowable mesh size for a gillnet used to fish in the Gulf, Mid-Atlantic, or South Atlantic EEZ for Spanish mackerel is 3.5 inches (8.9 cm), stretched mesh. A vessel in such EEZ, or having fished on a trip in such EEZ, with a gillnet on board that has a mesh size less than 3.5 inches (8.9 cm),

stretched mesh, may not possess on that trip any Spanish mackerel.

(B) On board a vessel with a valid Spanish mackerel permit that is fishing for Spanish mackerel in, or that possesses Spanish mackerel in or from, the South Atlantic EEZ off Florida north of 25°20.4' N. lat., which is a line directly east from the Dade/Monroe County, FL, boundary—

(1) No person may fish with, set, place in the water, or have on board a gillnet with a float line longer than 800 yd (732 m).

(2) No person may fish with, set, or place in the water more than one gillnet at any one time.

(3) No more than two gillnets, including any net in use, may be possessed at any one time; provided, however, that if two gillnets, including any net in use, are possessed at any one time, they must have stretched mesh sizes (as allowed under the regulations) that differ by at least .25 inch (.64 cm).

(4) No person may soak a gillnet for more than 1 hour. The soak period begins when the first mesh is placed in the water and ends either when the first mesh is retrieved back on board the vessel or the gathering of the gillnet is begun to facilitate retrieval on board the vessel, whichever occurs first; providing that, once the first mesh is retrieved or the gathering is begun, the retrieval is continuous until the gillnet is completely removed from the water.

(5) The float line of each gillnet possessed, including any net in use, must have the distinctive floats specified in §622.6(b)(2).

(4) *Purse seine incidental catch allowance.* A vessel in the EEZ, or having fished in the EEZ, with a purse seine on board will not be considered as fishing, or having fished, for king or Spanish mackerel in violation of a prohibition of purse seines under paragraph (c)(2) of this section, in violation of the possession limits under paragraph (c)(2)(iii) of this section, or, in the case of king mackerel from the Atlantic migratory group, in violation of a closure effected in accordance with §622.43(a), provided the king mackerel on board does not exceed 1 percent, or the Spanish mackerel on board does not exceed 10 percent, of all fish on board the ves-

sel. Incidental catch will be calculated by number and/or weight of fish. Neither calculation may exceed the allowable percentage. Incidentally caught king or Spanish mackerel are counted toward the quotas provided for under §622.42(c) and are subject to the prohibition of sale under §622.43(a)(3)(iii).

(d) *South Atlantic snapper-grouper—(1) Authorized gear.* Subject to the gear restrictions specified in §622.31, the following are the only gear types authorized in a directed fishery for snapper-grouper in the South Atlantic EEZ: Bandit gear, bottom longline, buoy gear, handline, rod and reel, sea bass pot, and spearfishing gear.

(2) *Unauthorized gear.* All gear types other than those specified in paragraph (d)(1) of this section are unauthorized gear and the following possession and transfer limitations apply.

(i) A vessel with trawl gear on board that fishes in the EEZ on a trip may possess no more than 200 lb (90.7 kg) of South Atlantic snapper-grouper, excluding wreckfish, in or from the EEZ on that trip. It is a rebuttable presumption that a vessel with more than 200 lb (90.7 kg) of South Atlantic snapper-grouper, excluding wreckfish, on board harvested such fish in the EEZ.

(ii) Except as specified in paragraphs (d)(3) through (d)(5) of this section, a person aboard a vessel with unauthorized gear on board, other than trawl gear, that fishes in the EEZ on a trip is limited on that trip to:

(A) South Atlantic snapper-grouper species for which a bag limit is specified in §622.39(d)(1)—the bag limit.

(B) All other South Atlantic snapper-grouper—zero.

(iii) South Atlantic snapper-grouper on board a vessel with unauthorized gear on board may not be transferred at sea, regardless of where such transfer takes place, and such snapper-grouper may not be transferred in the EEZ.

(iv) No vessel may receive at sea any South Atlantic snapper-grouper from a vessel with unauthorized gear on board, as specified in paragraph (d)(2)(iii) of this section.

(3) *Possession allowance regarding sink nets off North Carolina.* A vessel that has on board a commercial permit for

South Atlantic snapper-grouper, excluding wreckfish, that fishes in the EEZ off North Carolina with a sink net on board, may retain, without regard to the limits specified in paragraph (d)(2)(ii) of this section, otherwise legal South Atlantic snapper-grouper taken with bandit gear, buoy gear, handline, rod and reel, or sea bass pot. For the purpose of this paragraph (d)(3), a sink net is a gillnet with stretched mesh measurements of 3 to 4.75 inches (7.6 to 12.1 cm) that is attached to the vessel when deployed.

(4) *Possession allowance regarding bait nets.* A vessel that has on board a commercial permit for South Atlantic snapper-grouper, excluding wreckfish, that fishes in the South Atlantic EEZ with no more than one bait net on board, may retain, without regard to the limits specified in paragraph (d)(2)(ii) of this section, otherwise legal South Atlantic snapper-grouper taken with bandit gear, buoy gear, handline, rod and reel, or sea bass pot. For the purpose of this paragraph (d)(4), a bait net is a gillnet not exceeding 50 ft (15.2 m) in length or 10 ft (3.1 m) in height with stretched mesh measurements of 1.5 inches (3.8 cm) or smaller that is attached to the vessel when deployed.

(5) *Possession allowance regarding cast nets.* A vessel that has on board a commercial permit for South Atlantic snapper-grouper, excluding wreckfish, that fishes in the South Atlantic EEZ with a cast net on board, may retain, without regard to the limits specified in paragraph (d)(2)(ii) of this section, otherwise legal South Atlantic snapper-grouper taken with bandit gear, buoy gear, handline, rod and reel, or sea bass pot. For the purpose of this paragraph (d)(5), a cast net is a cone-shaped net thrown by hand and designed to spread out and capture fish as the weighted circumference sinks to the bottom and comes together when pulled by a line.

(e) *South Atlantic golden crab.* Traps are the only fishing gear authorized in directed fishing for golden crab in the South Atlantic EEZ. Golden crab in or from the South Atlantic EEZ may not be retained on board a vessel possessing or using unauthorized gear.

(f) *Caribbean queen conch.* In the Caribbean EEZ, no person may harvest

queen conch by diving while using a device that provides a continuous air supply from the surface.

(g) *Shrimp in the South Atlantic—(1) BRD requirement.* On a penaeid shrimp trawler in the South Atlantic EEZ, each trawl net that is rigged for fishing and has a mesh size less than 2.50 inches (6.35 cm), as measured between the centers of opposite knots when pulled taut, and each try net that is rigged for fishing and has a headrope length longer than 16.0 ft (4.9 m), must have a certified BRD installed. A trawl net, or try net, is rigged for fishing if it is in the water, or if it is shackled, tied, or otherwise connected to a sled, door, or other device that spreads the net, or to a tow rope, cable, pole, or extension, either on board or attached to a shrimp trawler.

(2) *Certified BRDs.* The following BRDs are certified for use by penaeid shrimp trawlers in the South Atlantic EEZ. Specifications of these certified BRDs are contained in Appendix D of this part.

- (i) Extended funnel.
- (ii) Expanded mesh.
- (iii) Fisheye.

(h) *Shrimp in the Gulf—(1) BRD requirement.* (i) Except as exempted in paragraphs (h)(1)(ii) through (iv) of this section, on a shrimp trawler in the Gulf EEZ shoreward of the 100-fathom (183-m) depth contour west of 85°30' W. long., each net that is rigged for fishing must have a certified BRD installed. A trawl net is rigged for fishing if it is in the water, or if it is shackled, tied, or otherwise connected to a sled, door, or other device that spreads the net, or to a tow rope, cable, pole, or extension, either on board or attached to a shrimp trawler.

(ii) A shrimp trawler is exempt from the requirement to have a certified BRD installed in each net provided that at least 90 percent (by weight) of all shrimp on board or offloaded from such trawler are royal red shrimp.

(iii) A shrimp trawler is exempt from the requirement to have a BRD installed in a single try net with a headrope length of 16 ft (4.9 m) or less provided the single try net is either pulled immediately in front of another net or is not connected to another net.

(iv) A shrimp trawler is exempt from the requirement to have a certified BRD installed in up to two rigid-frame roller trawls that are 16 ft (4.9 m) or less in length used or possessed on board. A rigid-frame roller trawl is a trawl that has a mouth formed by a rigid frame and a grid of rigid vertical bars; has rollers on the lower horizontal part of the frame to allow the trawl to roll over the bottom and any obstruction while being towed; and has no doors, boards, or similar devices attached to keep the mouth of the trawl open.

(2) *Certified BRDs.* The fisheye BRD is certified for use by shrimp trawlers in the Gulf EEZ. Specifications of the fisheye BRD are contained in Appendix D of this part.

[61 FR 34934, July 3, 1996, as amended at 61 FR 43959, Aug. 27, 1996; 61 FR 65484, Dec. 13, 1996; 62 FR 18539, Apr. 16, 1997; 63 FR 10568, Mar. 4, 1998; 63 FR 18144, Apr. 14, 1998; 63 FR 38303, July 16, 1998]

EFFECTIVE DATE NOTE: At 63 FR 27500, May 19, 1998, in §622.41, paragraph (h)(2) was suspended and paragraph (h)(3) was added, effective May 14, 1998, through Nov. 16, 1998. For the convenience of the user, the revised text is set forth as follows:

§622.41 Species specific limitations.

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(h) * * *

(3) *Certified BRDs.* The following BRDs are certified for use by shrimp trawlers in the Gulf EEZ. Specifications of these certified BRDs are contained in Appendix D to this part.

- (i) Fisheye
- (ii) Gulf fisheye.
- (iii) Jones-Davis.

§622.42 Quotas.

Quotas apply for the fishing year for each species or species group. Except for the quotas for Gulf and South Atlantic coral, the quotas include species harvested from state waters adjoining the EEZ. Quotas for species managed under this part are as follows. (See §622.32 for limitations on taking prohibited and limited-harvest species. The limitations in §622.32 apply without regard to whether the species is harvested by a vessel operating under a

commercial vessel permit or by a person subject to the bag limits.)

(a) *Gulf reef fish*—(1) *Commercial quotas.* The following quotas apply to persons who fish under commercial vessel permits for Gulf reef fish, as required under §622.4(a)(2)(v).

(i) Red snapper—4.65 million lb (2.11 million kg), round weight, apportioned as follows:

(A) 3.06 million lb (1.39 million kg) available at noon on February 1 each year, subject to the closure provisions of §§622.34(l) and 622.43(a)(1)(i).

(B) The remainder available at noon on September 1 each year, subject to the closure provisions of §§622.34(l) and 622.43(a)(1)(i).

(ii) Deep-water groupers (i.e., yellowedge grouper, misty grouper, warsaw grouper, snowy grouper, and speckled hind), and, after the quota for shallow-water grouper is reached, scamp, combined—1.60 million lb (0.73 million kg), round weight.

(iii) Shallow-water groupers (i.e., all groupers other than deep-water groupers, jewfish, and Nassau grouper), including scamp before the quota for shallow-water groupers is reached, combined—9.80 million lb (4.45 million kg), round weight.

(2) *Recreational quota for red snapper.* The following quota applies to persons who harvest red snapper other than under commercial vessel permits for Gulf reef fish and the commercial quota specified in paragraph (a)(1)(i) of this section—4.47 million lb (2.03 million kg), round weight.

(3) Shallow-water groupers, that is, all groupers other than deep-water groupers, jewfish, and Nassau grouper, including scamp before the quota for shallow-water groupers is reached, combined—9.8 million lb (4.4 million kg), round weight.

(b) *Gulf and South Atlantic coral*—(1) *Allowable octocoral.* The quota for all persons who harvest allowable octocoral in the Gulf and South Atlantic EEZ is 50,000 colonies. A colony is a continuous group of coral polyps forming a single unit.

(2) *Wild live rock in the Gulf.* The quota for all persons who harvest wild live rock in the Gulf EEZ is 500,000 lb