limited notice of the need to implement the WCPFC decision to extend CMM 2008–01. In order to satisfy its international obligations under the Convention and ensure there is no gap, or as brief a gap as possible, in the application of important conservation measures for bigeye tuna and yellowfin tuna, NMFS must implement the provisions of the WCPFC's decision to extend the provisions of CMM 2008–01 applicable to purse seine fisheries by January 1, 2012, or as soon as possible thereafter. NMFS would not be able to do so if it provided opportunity for prior notice and prior public comment. Therefore, prior notice and prior opportunity for public comment on this action would be impracticable and contrary to the public interest.

There is also good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date. As described above, NMFS had limited notice of the need to implement the WCPFC intersessional decision to extend CMM 2008–01. These measures are intended to reduce fishing pressure on bigeye tuna and yellowfin tuna in the WCPO in order to maintain or restore stocks at levels capable of producing maximum sustainable yield on a continuing basis. The conditions prompting the existing regulations remain largely unchanged, and failure to immediately extend those regulations consistent with the WCPFC intersessional decision while the WCPFC develops more lasting international conservation measures could result in excessive fishing pressure on these stocks, in violation of international and domestic obligations. Therefore, NMFS must implement the provisions of the WCPFC's decision to extend the provisions of CMM 2008–01 applicable to purse seine fisheries by January 1, 2012, or as soon as possible thereafter. NMFS would not be able to do so if it provided a 30-day delay in effective date. Therefore, compliance with the 30-day delay requirement would be impracticable and contrary to the public interest.

Coastal Zone Management Act (CZMA)

NMFS has determined that this rule will be implemented in a manner consistent, to the maximum extent practicable, with the enforceable policies of the approved coastal zone management programs of American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and the State of Hawaii. This determination has been submitted for review by the responsible territorial and state agencies under section 307 of the CZMA.

Executive Order 12866

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

National Environmental Policy Act

This interim rule is an extension or a change in the period of effectiveness of a regulation that has been subject to prior analyses supporting a finding of no significant impact determination. As such, NMFS has determined that this action is categorically excluded from the need to prepare an Environmental Assessment or an Environmental Impact Statement, pursuant to NOAA Administrative Order 216–6, Section 6.03d.4(a).

Regulatory Flexibility Act

This interim rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior public comment.

List of Subjects in 50 CFR Part 300

Administrative practice and procedure, Fish, Fisheries, Fishing, Marine resources, Reporting and recordkeeping requirements, Treaties.

Dated: December 27, 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 300 is amended as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

Subpart O—Western and Central Pacific Fisheries for Highly Migratory Species

■ 1. The authority citation for 50 CFR part 300, subpart O, continues to read as follows:

Authority: 16 U.S.C. 6901 *et seq.*

■ 2. In § 300.223, paragraphs (a)(1)(i), (a)(1)(ii), (a)(1)(iii), and introductory text to paragraphs (b), (c)(1), (d)(3), and (e)(2) are revised to read as follows:

§ 300.223 Purse seine fishing restrictions.

* * * * *

(a) * * *

(1) * * *

(i) For each of the years 2009, 2010, 2011, and 2012 there is a limit of 3,882 fishing days.

(ii) For each of the two-year periods 2009–2010, 2010–2011, and 2011–2012, there is a limit of 6,470 fishing days.

(iii) For each of the three-year periods 2009–2011 and 2010–2012, there is a limit of 7,764 fishing days.

* * * * *

(b) *Use of fish aggregating devices.* From August 1 through September 30, 2009, and from July 1 through September 30 in each of 2010, 2011, and 2012, owners, operators, and crew of fishing vessels of the United States shall not do any of the following in the Convention Area:

* * * * *

(c) *Closed areas.* (1) Effective January 1, 2010, through December 31, 2012, a fishing vessel of the United States may not be used to fish with purse seine gear on the high seas within either Area A or Area B, the respective boundaries of which are the four lines connecting, in the most direct fashion, the coordinates specified as follows:

* * * * *

(d) * * *

(3) Effective from the date announced pursuant to paragraph (d)(1) of this section through December 31, 2012, a fishing vessel of the United States equipped with purse seine gear may not discard at sea within the Convention Area any bigeye tuna (*Thunnus obesus*), yellowfin tuna (*Thunnus albacares*), or skipjack tuna (*Katsuwonus pelamis*), except in the following circumstances and with the following conditions:

* * * * *

(e) * * *

(2) Effective January 1, 2010, through December 31, 2012, a fishing vessel of the United States may not be used to fish with purse seine gear in the Convention Area without a WCPFC observer on board. This requirement does not apply to fishing trips that meet any of the following conditions:

* * * * *

[FR Doc. 2011–33593 Filed 12–29–11; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 110831547–1736–02]

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: Final rule.

SUMMARY: NMFS issues this final rule 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. This rule modifies the fishery management unit (FMU) for octocorals in the South Atlantic exclusive economic zone (EEZ), establishes an annual catch limit (ACL) for octocorals, modifies management in special management zones (SMZs) off South Carolina, and modifies sea turtle and smalltooth sawfish release gear specifications in the South Atlantic region. CE–BA 2 also designates new Essential Fish Habitat (EFH) for *Sargassum,* and EFH-Habitat Areas of Particular Concern (EFH–HAPCs) for the Snapper-Grouper, Coral FMPs. This rule specifies ACLs for species not undergoing overfishing (octocorals), implements management measures to ensure overfishing does not occur for these species but optimum yield may be achieved, and conserves and protects habitat in the South Atlantic region.

DATES: This rule is effective January 30, 2012.

ADDRESSES: Electronic copies of the amendment, which includes an environmental impact statement, a regulatory impact review, and the initial regulatory flexibility analysis (IRFA), may be obtained from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov/sf/SACoralandCoralReefs.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.

On September 26, 2011, NMFS published a notice of availability for CE–BA 2 and requested public comment (76 FR 59371). On November 8, 2011, NMFS published a proposed rule for CE–BA 2 and requested public comment (76 FR 69230). The proposed rule and CE–BA 2 outline the rationale for the actions contained in this final rule. A summary of the actions implemented by this final rule are provided below.

This rule modifies the 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 is no longer included under the Coral FMP. Florida's Fish and Wildlife Conservation Commission (FWC) is currently responsible for the majority of the management, implementation, and enforcement of octocorals, because the majority of octocoral harvest occurs in Florida state waters. The FWC intends to extend management of octocorals into Federal waters off Florida.

This rule specifies an ACL of zero for octocorals in the South Atlantic EEZ. Prior to implementation of this final rule, a 50,000 colony quota for octocorals was in place in the Gulf of Mexico (Gulf) and South Atlantic regions and a prohibition was in effect to harvest octocorals north of Florida. Florida has implemented regulations compatible to the applicable Federal regulations, which allow the state octocoral fishery to close when the Federal quota is met. Because the majority of octocoral harvest occurs in state waters off Florida and the prohibition on the harvest of octocorals north of Florida would continue, the Council voted to remove octocorals off Florida from the FMU and establish an ACL of zero for octocorals off Georgia, South Carolina, and North Carolina.

This final rule limits the harvest and possession of South Atlantic snapper-grouper species and CMP species (with the use of all non-prohibited fishing gear) in the SMZs off South Carolina to the recreational bag limit. This rule prohibits fishermen from harvesting commercial quantities of snapper-grouper and CMP in these SMZs.

This final rule also modifies the sea turtle and smalltooth sawfish release gear requirements. The sea turtle and smalltooth sawfish release gear requirements are revised based on the freeboard height of the vessels to provide flexibility to fisherman based on their vessel characteristics.

CE–BA 2 also amends South Atlantic FMPs as needed to designate new EFH and EFH–HAPCs. CE–BA 2 amends the Snapper-Grouper FMP to designate deepwater marine protected areas (MPAs) as EFH–HAPCs. The Coral FMP is amended to designate deep-water coral HAPCs as EFH–HAPCs. To meet the Magnuson-Stevens Act requirement that all federally managed species have EFH designated, CE–BA 2 amends the *Sargassum* FMP to designate the top 33 ft (10 m) of the water column in the South Atlantic EEZ bounded by the Gulf Stream, as EFH for pelagic *Sargassum.* The addition of this information does not require any changes in regulatory language.

Comments and Responses

NMFS received two comment letters with a total of five separate comments, on CE–BA 2 and the proposed rule. One comment letter was in support of the actions in CE–BA 2. The other comment letter, from an industry group, restated their previous recommendations made to the Council regarding the actions in CE–BA 2. Comments related to the actions contained in the amendment or the proposed rule are summarized and responded to below.

Comment 1: One commenter supports the actions to modify management in the SMZs of South Carolina, establish EFH–HAPCs for the snapper-grouper fishery, and establish EFH for the *Sargassum* fishery.

Response: NMFS concurs and believes that these actions are consistent with the Magnuson-Stevens Act and CE–BA 2.

Comment 2: One commenter supports retaining Florida octocorals in the FMU, the 50,000 colony octocoral quota, and extending octocoral management into the Gulf.

Response: The commenter did not provide any rationale for the recommendations submitted, and the comments were previously submitted to the Council before the current preferred alternatives were selected. The Council recommended revising the FMU for the Coral FMP to include only octocorals off Georgia, North Carolina, and South Carolina because the need for Federal conservation and management off Florida no longer exists. The FWC is responsible for most of the management, implementation, and enforcement of octocorals because the majority of the harvest occurs in Florida state waters, and the Federal quota has never been reached. In a letter dated April 11, 2011, the FWC describes octocoral

management measures it would implement if the Federal FMU is modified to remove the octocorals off Florida. According to the FWC letter, the FWC intends to extend Florida octocoral regulations into the Federal waters off Florida (Gulf and South Atlantic), to establish an annual quota of 70,000 colonies for allowable octocoral harvest in state and Federal waters combined off Florida, and to prohibit the harvest of octocorals in Florida waters north of Cape Canaveral, Florida and in the Coral HAPCs off Florida. The Gulf Fishery Management Council has also recommended removing octocorals in the Gulf off Florida from their FMU within the FMP for Coral and Coral Reefs of the Gulf for consistency of management.

In addition, the Council recommended the establishment of an ACL equal to zero for octocorals off South Carolina, North Carolina, and Georgia in the revised FMU. Functionally, this would not have any impact on active octocoral harvesters as there has been a prohibition on octocoral harvest north of Cape Canaveral, Florida since 1995. Under this scenario, management of octocorals off Florida would continue to be managed by the FWC.

Comment 3: One commenter recommended that the Council select Alternative 5, which modifies the design specifications of the current sea turtle release gear requirements to allow for more appropriate gear with respect to the lighter tackle used by snapper-grouper fishermen.

Response: The Council selected Alternative 4, and associated sub-alternatives 4a and 4b as the Preferred Alternative for the action to have the sea turtle release gear requirements dependent on vessel freeboard height, to accommodate both smaller vessels using lighter tackle to harvest snapper-grouper species (vessels with a freeboard height of 4 ft (1.2 m) or less) and larger vessels using heavier gear (vessels with a freeboard height of 4 ft (1.2 m) or more). This Preferred Alternative is consistent with the requirements of the June 7, 2006, Biological Opinion on the Snapper-Grouper Fishery and responds to the concerns of fishermen that sea turtle handling gear are unwieldy and inappropriate for all vessel sizes. While Alternative 5, and associated sub-alternatives, may also be consistent with the biological opinion, the Council sought to maximize biological benefits by allowing sea turtle release gear that is more appropriate to a particular vessel. Alternative 4, and associated sub-alternatives, is also consistent with sea turtle release gear requirements in the Gulf, and simplifies requirements for fishermen participating in both fisheries.

Comment 4: One commenter supports the alternative that would not designate new EFH–HAPCs in the Coral FMP and would allow the existing designations to remain in effect.

Response: The commenter provided no rationale for its recommendation. The establishment of EFH and EFH–HAPCs requires that further consideration be given to fishing and non-fishing activities that occur in these areas. However, in itself, the establishment of EFH and EFH–HAPCs does not modify Federal fishery regulations in any way. The Council and NMFS also expect that the establishment of the EFH and EFH–HAPCs will benefit ocean and coastal habitats in the future through the EFH consultation process. Through that process, the Council will be in a better position to evaluate whether further protections are necessary.

Comment 5: One commenter does not support the establishment of EFH–HAPCs for *Sargassum.*

Response: In March 2011, the Council decided to remove this action from consideration within CE–BA 2 because the areas proposed for this designation (the Charleston Bump Complex, and The Point, NC) were already designated as EFH–HAPCs for snapper-grouper and dolphin and wahoo, and conservation of these specific EFH–HAPCs would be addressed through actions associated with EFH consultations pertaining to existing EFH–HAPC designations. Therefore, EFH for *Sargassum* is designated as the top 33 ft (10 m) of the water column in the South Atlantic EEZ bounded by the Gulfstream, but no EFH–HAPCs were designated for *Sargassum* in CE–BA 2.

Classification

The Regional Administrator, Southeast Region, NMFS has determined that this final rule is necessary for the conservation and management of the species within CE–BA 2 and is consistent with the Magnuson-Stevens Act, and other applicable law.

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

NMFS prepared an IRFA for the proposed rule that described the economic impact of the rule. As described in the IRFA, the only action in this rule that may have any direct adverse economic effect on the profits of any small entities is the limitation on harvest of snapper-grouper and CMP species in the SMZs off South Carolina to the recreational bag limit. Because data on the number of commercial vessels that fish in these SMZs, and the associated harvest, is not available at sufficient spatial resolution to quantitatively assess the impacts of the action, it is not possible to determine if the reduction in profits for any small entities would be significant. However, based on tabulation of the number of appropriate commercial permits in nearby coastal areas, the IRFA determined that the number of affected vessels would encompass at most approximately 4 percent of South Atlantic vessels with king mackerel permits, 2 percent of South Atlantic vessels with Spanish mackerel permits (king mackerel and Spanish mackerel permits allow fishing in both the Gulf and South Atlantic and, because of the narrow geographic applicability this action, only counts for permits with homeport addresses in the South Atlantic were included in the assessment), and 9 percent of vessels with snapper-grouper permits. Additionally, because the problem of commercial harvest in the SMZs is believed to be mostly limited to vessels using spear gear (hand spear or spear guns), which is not the dominant gear type used to harvest these species, substantially fewer vessels than these maximum amounts would be expected to be affected. As a result, only a small number of vessels in the CMP and snapper-grouper fleets would be expected to be directly affected by this rule. Because of this finding, the IRFA concluded that the actions in this rule would not be expected to significantly reduce profits for a substantial number of small entities. Nevertheless, because of the lack of data on vessels that historically harvest commercial quantities of these species from these areas, public comment was requested on this determination and a certification was not prepared. No comments were received regarding the determination. Therefore, NMFS concluded that the determination was correct and the Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration at this stage in the rulemaking that this action will not have a significant economic impact on a substantial number of small entities. As a result, a final regulatory flexibility analysis was not required and none was prepared.

List of Subjects in 50 CFR Part 622

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

Dated: December 22, 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 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 managed under the FMP. Octocoral collected in the portion of the South Atlantic EEZ managed under the FMP 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 and 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 1/4-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 5/8 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 (3/8-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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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 111220786–1781–01]

RIN 0648–XA795

Fisheries of the Northeastern United States; Summer Flounder, Scup, and Black Sea Bass Fisheries; Interim 2012 Summer Flounder, Scup, and Black Sea Bass Specifications; 2012 Research Set-Aside Projects

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

ACTION: Interim specifications; request for comments.

SUMMARY: NMFS is implementing interim catch levels and management measures, called specifications, for the 2012 summer flounder, scup, and black sea bass fisheries, and is also providing notice of projects likely to request research set-aside related to exempted fishing permits. Interim specifications are necessary to ensure that fishing quotas for the summer flounder, scup, and black sea bass fisheries are in place at the start of the fishing year on January 1, 2012, to ensure the three species are not overfished or subject to overfishing in 2012. Notice of exempted fishing permit requests is necessary to allow public comment on the fishing regulation exemptions requested by research set-aside participants.

DATES: Effective January 1, 2012, through December 31, 2012; comments must be received on or before January 30, 2012.

ADDRESSES: You may submit comments, identified by NMFS–NOAA–2011–0280, by any one of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal *http://www.regulations.gov.* To submit comments via the e-Rulemaking Portal, first click the ''submit a comment'' icon, then enter NMFS–NOAA–2011–0280 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the ''Submit a Comment'' icon on the right of that line.
- *Fax:* (978) 281–9135, Attn: Comments on 2012 Interim Summer Flounder, Scup, and Black Sea Bass Specifications, NMFS–NOAA–2011–0280.
- *Mail and hand delivery:* Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope: ''Comments on 2012 Interim Summer Flounder, Scup, and Black Sea Bass Specifications, NMFS–NOAA–2011–0280.''

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. 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.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Copies of the 2012 specifications document, including the Environmental Assessment Analysis (EA), is available from Patricia Kurkul, Northeast Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. This document is also accessible via the Internet at *http://www.nero.noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Michael Ruccio, Fishery Policy Analyst, (978) 281–9104.

SUPPLEMENTARY INFORMATION:

Specifications

General Specification Background

Fishery specifications include various catch and landing subdivisions, including the commercial and recreational sector annual catch limits (ACLs), annual catch targets (ACTs), sector-specific landing limits, (*i.e.,* the commercial fishery quota and recreational harvest limit) and research set-aside (RSA) established for the upcoming fishing year. An explanation of each subdivision appears later in this rule.

Rulemaking for measures used to manage the recreational fisheries for these three species occurs separately and typically takes place in the first quarter of the fishing year. The Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) and its implementing regulations outline the Council's process for establishing specifications. Implementing regulations for these fisheries are found at 50 CFR part 648, subpart A (General Provisions), subpart G (summer flounder), subpart H (scup), and subpart I (black sea bass).

The Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (Commission) cooperatively manage the summer flounder, scup, and black sea bass fisheries. The management units specified in the FMP include summer flounder (*Paralichthys dentatus*) in U.S. waters of the Atlantic Ocean from the southern border of North Carolina northward to the U.S./Canada border, and scup (*Stenotomus chrysops*) and black sea bass (*Centropristis striata*) in U.S. waters of the Atlantic Ocean from 35°13.3′ N. lat. (the latitude of Cape Hatteras Lighthouse, Buxton, NC) northward to the U.S./Canada border.

All requirements of the Magnuson-Stevens Fishery Conservation and