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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 180427420-8420-01]

RIN 0648-BH92

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Revisions to Sea Turtle Release Gear; Amendment 49

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement management measures described in Amendment 49 to the Fishery Management Plan (FMP) for the Reef Fish Resources of the Gulf of Mexico (Gulf) (Amendment 49), as prepared by the Gulf of Mexico Fishery Management Council (Council). This proposed rule would add three new devices to the Federal regulations as options for fishermen to meet requirements for sea turtle release gear and would update the regulations to simplify and clarify the requirements for other sea turtle release gear. The new devices would provide additional options to

fulfill existing requirements for carrying sea turtle release gear on board vessels with Federal Gulf commercial or charter vessel/headboat reef fish permits. This proposed rule would also modify the FMP framework procedure to allow for future changes to release gear and handling requirements for sea turtles and other protected resources. The purpose of Amendment 49 is to allow the use of new devices to safely handle and release incidentally captured sea turtles, clarify existing requirements, and streamline the process for making changes to the release devices and handling procedures for sea turtles and other protected species.

DATES: Written comments must be received by [*insert date 30 days after date of publication in the FEDERAL REGISTER*].

ADDRESSES: You may submit comments on the proposed rule identified by "NOAA-NMFS-2018-0087" by either of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0087*, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- Mail: Submit all written comments to Susan Gerhart, NMFS Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: 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 by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Electronic copies of Amendment 49 may be obtained *www.regulations.gov* or from the Southeast Regional Office website at *https://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/reef_fish/index.html.* Amendment 49 includes an environmental assessment, a fishery impact statement, a regulatory impact review, and a Regulatory Flexibility Act

(RFA) analysis.

FOR FURTHER INFORMATION CONTACT: Susan Gerhart, NMFS Southeast Regional Office, telephone: 727-824-5305; email: *susan.gerhart@noaa.gov*.

SUPPLEMENTARY INFORMATION: NMFS and the Council manage the Gulf reef fish fishery under the FMP. The FMP was prepared by the Council and is implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 *et seq.*).

Background

The Endangered Species Act (ESA) directs all Federal agencies to insure that any action they authorize, fund, or carry-out is not likely to jeopardize the continued existence of endangered or threatened species, or destroy or adversely modify designated critical habitat. The ESA requires that any Federal agency proposing an action that may adversely affect ESA-listed species or critical habitat formally consult with the U.S. Fish and Wildlife Service or NMFS (*i.e.*, consulting agencies).

In February 2005, NMFS issued a biological opinion (2005 BiOp), in accordance with section 7 of the ESA, that

evaluated the impact of the Gulf reef fish fishery on ESA-listed sea turtles and smalltooth sawfish. The 2005 BiOp concluded that the anticipated incidental take of sea turtles and smalltooth sawfish by the Gulf reef fish fishery is not likely to jeopardize their continued existence, or destroy or adversely modify designated critical habitat; however, the 2005 BiOp required that reasonable and prudent measures be taken to minimize stress and increase the survival rates of any sea turtles and smalltooth sawfish taken in the fishery.

In response to the 2005 BiOp, the Council developed measures in Amendment 18A to the FMP to increase the likelihood of survival of released sea turtles and smalltooth sawfish caught incidentally in the Gulf reef fish fishery. The final rule implementing Amendment 18A required fishermen on vessels with Federal commercial or charter vessel/headboat permits for Gulf reef fish to possess a specific set of release gear, and comply with sea turtle and smalltooth sawfish handling and release protocols and guidelines (71 FR 45428, August 9, 2006). The final rule also required fishermen on these same federally permitted vessels to maintain a reference copy of the NMFS

sea turtle handling and release protocols document titled, "Careful Release Protocols for Sea Turtle Release with Minimal Injury" (Release Protocols), in the event a sea turtle is incidentally captured. These Gulf reef fish permit holders are also required to post a NMFS placard of sea turtle handling and release guidelines inside the wheelhouse, or in an easily viewable area on the vessel if there is no wheelhouse.

Since implementation of Amendment 18A in 2006, the Release Protocols have been revised twice, once in 2008, and again in 2010. Currently, NMFS is drafting a revision to the Release Protocols and would include the recently approved sea turtle release devices if NMFS implements this proposed rule. However, fishermen participating in the reef fish fishery cannot use these devices to meet sea turtle release gear requirements until they are implemented via regulations.

Management Measures Contained in this Proposed Rule

This proposed rule would add three new sea turtle handling and release devices to the Federal regulations, clarify the requirements for other currently required gear, and modify the FMP framework procedure to include future

changes to release gear and handling requirements for sea turtles and other protected resources. NMFS and the Council are proposing these changes to provide additional flexibility to fishermen in complying with sea turtle release gear requirements, to aid fishermen and law enforcement with compliance and enforcement efforts by clarifying existing requirements, and to allow for more rapid implementation of regulatory changes to release gear and handling requirements.

New Sea Turtle Release Gear

The final rule for Amendment 18A established the requirement for sea turtle release gear to be carried aboard vessels with Federal commercial and charter vessel/headboat reef fish permits, and specified the devices allowed to meet this requirement. This proposed rule would add three new sea turtle release and handling devices to the Federal regulations that have been approved for use by the NMFS Southeast Fisheries Science Center (SEFSC), providing more options for fishermen to fulfill the sea turtle gear requirements. Details of the construction requirements for these new devices can be found in Amendment 49 and in this proposed rule, and would

be included in the new Release Protocols, if subsequently approved by NMFS. NMFS expects the proposed new release devices would increase flexibility for fishermen and regulatory compliance within the fishery, which may result in positive benefits to sea turtles.

Two of the new sea turtle handling devices are a collapsible hoop net and a sea turtle hoist (net). Both of these devices are more compact versions of the currently required long-handled dip net, and would be used for bringing an incidentally captured sea turtle on board the fishing vessel to remove fishing gear from the sea turtle. For the collapsible hoop net, the net portion is attached to hoops made of flexible stainless steel cable; when the collapsible hoop net is folded over on itself for storage, its size reduces to about half of its original diameter. Additionally, there are two versions of the sea turtle hoist. One version consists of the net portion securely fastened to a frame, providing a relatively taut platform for the sea turtle to be brought on board. Another version creates a basket with the frame and net that holds the sea turtle as it is brought on board. Both the collapsible hoop net and the sea turtle hoist use rope handles attached to

either side of the frame, in place of the rigid handle on the dip net. Generally, the collapsible hoop net or hoist would be used to bring sea turtles on board vessels with a high freeboard when it is not feasible to use a dip net.

The third new device is a dehooker that can be used to remove an externally embedded hook from a sea turtle. This device has a squeeze handle that secures the hook into notches at the end of the shaft of the dehooker, so the hook can be twisted out. This new device would provide another option for fishermen to comply with the regulations for a short-handled dehooker for external hooks.

Requirements for Existing Sea Turtle Release Gear

This proposed rule also would update the requirements of some currently approved devices for clarity and simplicity, and to aid fishermen and law enforcement with compliance and enforcement efforts. Existing regulations use the word "approximately" to define some gear specifications, and this proposed rule would replace "approximately" in the applicable regulations where precise specifications would clarify requirements for the dimensions or lengths of several devices. The revisions would provide for either a minimum size dimension or a size

range for the short-handled dehookers for external and internal hooks, bite block on the short-handled internal use dehooker, long-nose or needle-nose pliers, bolt cutters, and the block of hard wood and hank of rope when used as mouth openers and gags. In general, these clarifications would either establish the currently approximate dimensions as a minimum, or establish the smaller end of the current size range for the required dimensions as a minimum. Other proposed changes are listed below.

Current regulations specify that short and long-handled dehookers must be constructed of 316L stainless steel, which is resistant to corrosion from salt water. The SEFSC has also approved 304L stainless steel for the construction of all short-handled and long-handled dehookers. This proposed additional grade of stainless steel is commonly available and is also corrosion resistant.

Another required device to assist with removing fishing gear from a sea turtle is a pair of monofilament line cutters. Current regulations state that the monofilament line cutters must have cutting blades of 1-

inch (2.54 cm) in length (Appendix F to 50 CFR part 622). However, SEFSC has clarified that the blade length must be a minimum of 1 inch (2.54 cm) but could be longer.

Another required gear type is mouth openers and gags, used to hold a sea turtle's mouth open to remove fishing gear. At least two of the seven types of mouth openers and gags are required on board. Current regulations state the canine mouth gags, an option for this gear requirement, must have the ends covered with clear vinyl tubing, friction tape, or similar, to pad the surface. However, SEFSC determined that this was not necessary and could result in the canine mouth gags not functioning properly. This proposed rule would remove the requirement to cover the ends of the canine mouth gags with these materials from the regulations.

A life-saving device on a vessel, such as a personal flotation device or life ring buoy, may currently be used as the required cushion or support device for sea turtles brought aboard a vessel to remove fishing gear. However, this proposed rule would add language to clarify that any life-saving device used to fulfill the sea turtle safe handling requirements cannot also be used to meet U.S.

Coast Guard safety requirements of one flotation device per person on board the vessel.

Lastly, fishermen are currently required to maintain a paper copy of the NMFS document titled, "Careful Release Protocols for Sea Turtle Release With Minimal Injury" on each vessel for reference in the event a sea turtle is incidentally captured. This proposed rule would allow fishermen to use an electronic copy of the document to fulfill the requirement, as long as the electronic document is readily available for viewing and reference during a trip.

FMP Framework Procedure

Currently, adding or changing careful release devices and protocols for incidentally caught sea turtles and other protected species requires an amendment to the FMP. This limits the Council and NMFS' ability to implement new release devices and handling requirements in a timely manner. The FMP amendment and rulemaking process generally involves more detailed analyses and a lengthier timeline prior to implementation than rulemaking done through a framework procedure. Thus, the FMP contains a framework procedure to allow the Council to modify certain management

measures via an expedited process (see 50 CFR 622.42). The FMP framework procedure was last modified by the final rule implementing Amendment 38 to the FMP (78 FR 6218, January 30, 2013).

Amendment 49 and this proposed rule would allow changes to the sea turtle release gear and handling techniques under the framework procedure. For example, the Council could more quickly add a new release device for sea turtles if approved by the SEFSC. The Council decided that making these changes through an expedited process may have beneficial biological and socio-economic impacts, especially if the changes respond to newer information. The Council concluded that the framework procedure would still allow adequate time for the public to comment on any future proposed regulatory changes.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendment 49, the FMP, other provisions of the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

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

The Magnuson-Stevens Act provides the statutory basis for this proposed rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting and record-keeping requirements are introduced by this proposed rule. Accordingly, the Paperwork Reduction Act does not apply to this proposed rule. A description of this proposed rule, why it is being considered, and the purposes of this proposed rule are contained in the preamble and in the **SUMMARY** section of the preamble.

The objectives of this proposed rule are to provide greater flexibility to vessels in the commercial reef fish fishing industry (*i.e.*, with Federal commercial Gulf reef fish permits) and for-hire reef fish fishing industry (*i.e.*, with Federal charter vessel/headboat Gulf reef fish permits) in complying with release gear regulations, clarify existing requirements of currently required release gear for fishery participants and law enforcement officers, and streamline the process for future revisions to release gear and handling procedures for incidentally captured sea

turtles and other protected species after approval by the SEFSC.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. A description of the factual basis for this determination follows. All monetary estimates are in 2016 dollars, consistent with the data and estimates in Amendment 49.

This proposed rule, if implemented, would allow vessels in the commercial and for-hire Gulf reef fish fishing industries to use: a collapsible hoop net or sea turtle hoist rather than a dip net to bring an incidentally captured sea turtle on board, and a new dehooking device to remove an externally embedded hook from a sea turtle.

This proposed rule would also clarify requirements for currently required gear used to remove fishing gear from sea turtles to aid fishermen and law enforcement personnel with compliance and enforcement efforts. Existing regulations use the word “approximately” to define some gear specifications, and this proposed rule would replace

"approximately" in the applicable regulations where precise specifications would clarify requirements for the dimensions or lengths of several devices, including the short-handled dehookers for internal and external hooks, bite block on the short-handled internal use dehooker, long-nose or needle-nose pliers, bolt cutters, and the block of hard wood and hank of rope when used as mouth openers and gags. In general, these clarifications would either establish the currently approximate dimensions as a minimum, or establish the smaller end of the current size range for the required dimensions as a minimum. Specific proposed changes of importance from a cost perspective are: requiring long-nose or needle-nose pliers with a minimum length of 11 inches (28 cm), rather than "approximately" 12 inches (30 cm) in overall length; and changing the required length of monofilament line cutters from "approximately" 7.5 inches (19 cm) to a minimum of 6 inches (15 cm).

This proposed rule is expected to directly regulate vessels (businesses) in the commercial and for-hire Gulf reef fish fishing industries. As of November 14, 2017, there were 844 vessels with valid or renewable Federal commercial Gulf reef fish permits. In addition, the number

of vessels with a valid or renewable Federal charter vessel/headboat Gulf reef fish permit was 1,278. The number of vessels with both commercial and charter vessel/headboat Gulf reef fish permits was 142, so the total number of vessels with a commercial or charter vessel/headboat Gulf reef fish permit was 1,980. Thus, 1,980 vessels are expected to be directly regulated by this proposed rule.

Although NMFS possesses complete ownership data regarding businesses and vessels that participate in the Gulf red snapper and grouper-tilefish individual fishing quota (IFQ) programs, ownership data regarding businesses that possess commercial or charter vessel/headboat Gulf reef fish permits but do not commercially harvest IFQ species are incomplete. Therefore, it is not currently feasible to accurately determine affiliations between these particular businesses. As a result of the incomplete ownership data, for purposes of this analysis, it is assumed each of these vessels is independently owned by a single business, which is expected to result in an overestimate of the actual number of businesses directly regulated by this proposed rule. Thus, this proposed rule is estimated to directly regulate 1,980 businesses in the

commercial and for-hire Gulf reef fish fishing industries.

For vessels with Federal commercial Gulf reef fish permits that were active in the reef fish fishery in 2014, which is the only year economic profit estimates are available for the commercial reef fish fishing industry, average annual gross revenue was approximately $162,000 per vessel and net revenue from operations (economic profit) was approximately $51,000 per vessel. For federally permitted charter vessels that were active in the for-hire reef fish fishing industry in 2009, which is the most recent year economic profit estimates are available for the for-hire reef fish fishing industry, the average annual gross revenue was $84,500 per vessel and economic profit was $24,985 per vessel. For federally permitted headboats that were active in the for-hire reef fish fishing industry in 2009, the average annual gross revenue was $256,122 per vessel and economic profit was $74,765 per vessel.

The SBA has established size standards for all major industry sectors in the U.S. including for-hire fishing businesses (NAICS code 487210). A business primarily involved in the for-hire fishing industry is classified as a small business if it is independently owned and operated,

is not dominant in its field of operation (including its affiliates), and has annual receipts (revenue) not in excess of $7.5 million for all its affiliated operations worldwide. In 2017, the maximum annual gross revenue for a single headboat in the Gulf was about $1.3 million. On average, annual gross revenue for headboats in the Gulf is about three times greater than annual gross revenue for charter vessels. Thus, it is assumed the maximum annual gross revenue for charter vessels is less than $1.3 million.

On December 29, 2015, NMFS issued a final rule establishing a small business size standard of $11 million in annual gross receipts (revenue) for all businesses primarily engaged in the commercial fishing industry (NAICS code 11411) for RFA compliance purposes only (80 FR 81194, December 29, 2015). In addition to this gross revenue standard, a business primarily involved in commercial fishing is classified as a small business if it is independently owned and operated, and is not dominant in its field of operations (including its affiliates). For the vessels with commercial Gulf reef fish permits, the maximum annual gross revenue earned by a single vessel in any year

from 2012 through 2016 was approximately $4.65 million, while the maximum average annual gross revenue per vessel was approximately $3.1 million during this time.

This proposed rule, if implemented, would be expected to directly regulate all 1,980 vessels with commercial or charter vessel/headboat permits in the Gulf reef fish fishery. All directly regulated businesses have been determined, for the purpose of this analysis, to be small entities. Based on this information, the proposed rule is expected to affect a substantial number of small entities.

Allowing federally permitted vessels in the commercial and for-hire Gulf reef fish fishing industries to use a collapsible hoop net or sea turtle hoist rather than a dip net to handle incidentally captured sea turtles is expected to reduce the cost of complying with the associated regulatory requirement by about $40 per vessel on average. However, when this gear is replaced, typically about once every 7 years, the average cost savings to each vessel is about $6 per year and thus is expected to only minimally increase these vessels' profitability.

Allowing federally permitted vessels in the commercial and for-hire Gulf reef fish fishing industries to use a new

dehooking device to remove an externally embedded hook from a sea turtle is not expected to change the cost of complying with the associated regulatory requirement as its cost is within the range of the currently allowed dehooking devices. Thus, NMFS does not expect the profitability of commercial and for-hire vessels to change as a result of allowing this new dehooking device.

Clarifying the dimensions or length requirements for several other sea turtle release devices in cases where the regulations currently use the word "approximately" to describe those requirements or are otherwise ambiguous is expected to aid fishermen in the commercial and for-hire Gulf reef fish fishing industries with compliance, as well as aid law enforcement efforts, though some clarifications would slightly reduce flexibility. As such, these clarifications are expected to reduce the risk of these businesses incurring a fine or other penalty for unintentional non-compliance with the requirements, and thus would generally be expected to reduce the costs of complying with those requirements.

For example, allowing federally permitted vessels in the commercial and for-hire Gulf reef fish fishing

industries to use long-nose or needle-nose pliers with an overall length of 11 inches (28 cm) or greater, rather than "approximately" 12 inches (30 cm), is expected to reduce the cost of complying with the associated regulatory requirement for at least some of these businesses. As a result of the ambiguity of the current length requirement, as well as the limited market availability of pliers with an approximate length of 12 inches (30 cm), it has been difficult for some vessel owners to find pliers that clearly comply with the current regulation. As a result, some of these owners currently use pliers that have an overall length of 11 inches (28 cm). Thus, the proposed regulatory change would eliminate the risk of vessel owners that currently use pliers with an overall length of 11 inches (28 cm) from potentially being found non-compliant with the current regulation and having to purchase new pliers, which cost around $10, that comply with the current regulation.

In addition, modifying the required length for approved monofilament line cutters from "approximately" 7.5 inches (19 cm) in length to a minimum of 6 inches (15 cm) in length would allow federally permitted vessels in the

commercial and for-hire Gulf reef fish fishing industries to use monofilament line cutters as small as 6 inches (15 cm) in length. Monofilament line cutters 6 inches (15 cm) in length and longer are commonly available in the market. The cost of monofilament line cutters ranges from $15 to $66, depending on the material and features. Thus, the proposed regulatory change would eliminate the risk of vessel owners currently using monofilament line cutters 6 inches (15 cm) in length from potentially being found non-compliant with the current regulation and having to purchase new monofilament line cutters that comply with the current regulations.

Although federally permitted vessel owners are expected to be able to meet the clarified dimension and length requirements in this proposed rule without purchasing new gear, it is possible that a few may incur costs to replace gear that would be non-compliant. For example, though unlikely, it is possible that some commercial and for-hire fishing vessel owners could be using monofilament line cutters less than 6 inches (15 cm) in length (*e.g.*, 5.5 inches (14 cm) in length) and consider this to be compliant with the current "approximately" 7.5-

inch (19-cm) requirement. These vessel owners would have to purchase new monofilament line cutters and incur the associated cost. However, NMFS expects few if any commercial or for-hire fishing vessel owners to consider a length more than 25 percent less than "approximately" 7.5 inches (19 cm) in length as compliant with the current requirement. Thus, the potential costs resulting from this remote possibility are expected to be minimal if not zero.

Modifying the FMP framework procedure to include changes to release gear requirements through the abbreviated framework process is an administrative action that does not alter any requirements that directly regulate federally permitted vessels in the commercial and for-hire Gulf reef fish fishing industries. Therefore, this modification is not expected to affect the profitability of any vessels that possess these permits.

Based on the information above, a reduction in profits for a substantial number of small entities is not expected as a result of this proposed rule. Thus, this proposed rule would not have a significant economic impact on a substantial number of small entities and an initial regulatory flexibility analysis is not required and none

has been prepared.

List of Subjects in 50 CFR Part 622

Charter vessel, Commercial, Fisheries, Fishing, Gulf of Mexico, Headboat, Sea turtle.

Dated: October 19, 2018.

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Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

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

PART 622--FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, 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 § 622.29, revise paragraph (a)(1) to read as follows:

§ 622.29 Conservation measures for protected resources.

(a) * * *

(1) *Sea turtle conservation measures.* (i) The owner or operator of a vessel for which a commercial vessel permit for Gulf reef fish or a charter vessel/headboat permit for Gulf reef fish has been issued, as required under §§ 622.20(a)(1) and 622.20(b), respectively, must have the most recent version of the NMFS document titled, "Careful Release Protocols for Sea Turtle Release With Minimal Injury" available for reference on board electronically or have a paper copy on board inside the wheelhouse, or within a waterproof case if there is no wheelhouse. In addition, the most recent version of the NMFS sea turtle handling and release guidelines placard must be posted inside the wheelhouse or an easily viewable area on the vessel if there is no wheelhouse.

(ii) Such owner or operator must also comply with the sea turtle interaction mitigation measures, including the release gear and handling requirements specified in paragraphs C and D in Appendix F of this part.

(iii) Those permitted vessels with a freeboard height of 4 ft (1.2 m) or less must have on board a net or hoist,

tire or other support device, short-handled dehooker(s) for internal and external hooks, long-nose or needle-nose pliers, bolt cutters, monofilament line cutters, and at least two types of mouth openers or mouth gags. This equipment must meet the specifications described in Appendix F of this part.

(iv) Those permitted vessels with a freeboard height of greater than 4 ft (1.2 m) must have on board a net or hoist, tire or other support device, long-handled line clipper or cutter, short-handled dehooker(s) for internal and external hooks, long-handled dehooker(s) for internal and external hooks, a long-handled device to pull an inverted "V" in the fishing line, long-nose or needle-nose pliers, bolt cutters, monofilament line cutters, and at least two types of mouth openers or mouth gags. This equipment must meet the specifications described in Appendix F of this part.

* * * * *

3. In § 622.42, revise the introductory text to this section and add paragraph (b) to read as follows:

§ 622.42 Adjustment of management measures.

In accordance with the framework procedures of the FMP

for the Reef Fish Resources of the Gulf of Mexico, the RA may establish or modify the items specified in paragraph (a) of this section for Gulf reef fish, or paragraph (b) of this section for sea turtles and other protected species.

* * * * *

(b) Possession, specifications, and use of required release gear and handling requirements for sea turtles and other protected species.

4. Amend Appendix F to Part 622 by:

a. Revising the heading of Appendix F;

b. Adding introductory text to Appendix F;

c. Revising the headings of paragraphs A. and B.; and

d. Adding paragraphs C. and D.

The revisions and additions read as follows:

Appendix F to Part 622--Specifications for Sea Turtle Release Gear and Handling Requirements

Sea turtles must be handled, and release gear must be used, in accordance with the NMFS careful handling, resuscitation, and release protocols as specified in the most recent version of the NMFS document titled, "Careful Release Protocols for Sea Turtle Release With Minimal Injury" or on the NMFS sea turtle handling and release

guidelines placard.

A. *Sea turtle release gear for the snapper-grouper fishery of the South Atlantic.*

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B. *Sea turtle handling and release requirements for the snapper-grouper fishery of the South Atlantic.* * * *

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C. *Sea turtle release gear for the reef fish fishery of the Gulf of Mexico.*

1. *Long-handled line clipper or cutter.* Line cutters are intended to cut fishing line as close as possible to the hook, and assist in removing line from entangled sea turtles to minimize any remaining gear upon release. One long-handled line clipper or cutter and one set of replacement blades are required to be on board. The minimum design standards are as follows:

(a) *A protected and secured cutting blade.* The cutting blade(s) must be capable of cutting 2.0 to 2.1-mm (0.078 to 0.083-inch) diameter monofilament line (approximately 400 to 450-lb test strength) or polypropylene multistrand material, known as braided or tarred mainline, and the cutting blade 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 the blade(s) must be easily replaceable during a trip if necessary. The extra set of replacement blades must meet these standards and 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 length of 6 ft (1.8 m), whichever is greater. The extended reach handle may break down into sections for storage, but it is not required. 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.* One long-handled dehooker to remove internal hooks from sea turtles that cannot be brought on board is required on the vessel. It should also be used to engage an unattached hook when a

sea turtle is entangled but not hooked, and line is being removed. The design must shield the point of the hook and prevent the hook from re-engaging during the removal process. The minimum design standards are as follows:

(a) *Hook removal device.* The dehooker must be constructed of $^{3}/_{16}$-inch (4.8-mm) to $^{5}/_{16}$-inch (7.9-mm) diameter 316L or 304L stainless steel and have a dehooking end no larger than $1^{7}/_{8}$ inches (4.8 cm) outside diameter. The dehooker must securely engage and control the leader while shielding the point 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 dehooker must be of a size appropriate to secure the range of hook sizes and styles used on the vessel.

(b) *Extended reach handle.* The dehooking end that secures the fishhook 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 (1.8 m), whichever is greater. The extended reach handle may break down into sections for storage, but it is not required. The handle must be sturdy and strong

enough to facilitate the secure attachment of the dehooking end.

3. *Long-handled dehooker for external hooks.* One long-handled dehooker to remove external hooks from sea turtles that cannot be brought on board is required on the vessel. The long-handled dehooker for internal hooks described in paragraph C.2. of this appendix may be used to comply with this requirement. The minimum design standards are as follows:

(a) *Hook removal device.* A long-handled dehooker must be constructed of $^{3}/_{16}$-inch (4.8-mm) to $^{5}/_{16}$-inch (7.9-mm) diameter 316L or 304L stainless steel and have a dehooking end no larger than $1^{7}/_{8}$ inches (4.8 cm) outside diameter. The dehooking end that secures the fishhook must be blunt with all edges rounded. The dehooker must be of a size appropriate to secure the range of hook sizes and styles used on the vessel.

(b) *Extended reach handle.* The handle must be a minimum length equal to the freeboard of the vessel or 6 ft (1.8 m), whichever is greater. The extended reach handle may break down into sections for storage, but it is not required.

4. *Long-handled device to pull an "inverted V".* One long-handled device to pull an "inverted V" is required on board. This tool is used to pull an "inverted V" in the fishing line when implementing the "inverted V" dehooking technique, as described in the document titled "Careful Release Protocols for Sea Turtle Release With Minimal Injury," for dehooking and disentangling sea turtles. A long-handled J-style dehooker as described in paragraph A.3. of this appendix may be used to comply with this requirement. The minimum design standards are as follows:

(a) *Hook end.* This device, such as a standard boat hook or gaff must be constructed of stainless steel or aluminum; if a long-handled J-style dehooker is used to comply with this requirement, it must be constructed of 316L or 304L stainless steel. The semicircular or "J" shaped hook end must be securely attached to the handle to allow the hook end to engage and pull an "inverted V" in the fishing line. A gaff or any other hook with a sharp point is to be used only for holding the 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 must

be at least 6 ft (1.8 m) in length, whichever is greater. The extended reach handle may break down into sections for storage, but it is not required. The handle must be sturdy and strong enough to facilitate the secure attachment of the hook end.

5. *Net or hoist.* One approved net or hoist is required on board. These devices are to be used to facilitate safe handling of sea turtles by allowing them to be brought on board for fishing gear removal, without causing further injury to the animal. Sea turtles must not be brought on board without the use of a net or hoist. There must be no sharp edges or burrs on the hoop or frame, or where the hoop or frame attaches to the handle. There is no requirement for the hoop or frame to be circular as long as it meets the applicable minimum specifications. In this appendix, bar measure means the non-stretched distance between a side knot and a bottom knot of a net mesh; also known as the square mesh measurement. The types and minimum design standards for approved nets and hoists are as follows:

(a) *Dip net*--(i) *Size of the net.* The dip net must have a sturdy net hoop or frame of at least 31 inches (78.7

cm) inside diameter and a bag depth of at least 38 inches (96.5 cm) to accommodate sea turtles up to 3 ft (0.9 m) in carapace (shell) length. The bag mesh openings must not exceed 3 inches (7.6 cm), bar measure. The net hoop or frame must be made of a rigid material strong enough to facilitate the sturdy attachment of the net.

(ii) *Extended reach handle.* The dip net hoop or frame 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 (1.8 m) in length, whichever is greater. The handle and net must be able to support a minimum of 100 lb (45.4 kg) without breaking or significant bending or distortion. The extended reach handle may break down into sections for storage, but it is not required.

(b) *Collapsible hoop net*--(i) *Size of the net*. The collapsible hoop net must have a sturdy net hoop of at least 31 inches (78.7 cm) inside diameter and a bag depth of at least 38 inches (96.5 cm) to accommodate sea turtles up to 3 ft (0.9 m) in carapace (shell) length. The bag mesh openings must not exceed 3 inches (7.6 cm), bar measure. The net hoop must be strong enough to facilitate the sturdy

attachment of the net.

(ii) *Extended reach handle*. The collapsible hoop net must be securely fastened with rope(s) or other line(s) connected to the hoop with a minimum length equal to or greater than 150 percent of the freeboard, or at least 6 ft (1.8 m) in length, whichever is greater. The rope(s) and net must be able to support a minimum of 100 lb (45.4 kg) without breaking or significant distortion.

(c) *Small hoist*--(i) *Size of the hoist*. The sea turtle hoist must have a sturdy net hoop or frame of at least 31 inches (78.7 cm) inside diameter to accommodate sea turtles up to 3 ft (0.9 m) in carapace (shell) length. The mesh openings must not exceed 3 inches (7.6 cm), bar measure. If polyvinyl chloride, or PVC, pipe is used to construct the hoist, the pipe fittings must be glued together and a minimum strength of Schedule 40 pipe must be used. The hoist hoop or frame must be made of a rigid material strong enough to facilitate the sturdy attachment of the net.

(ii) *Extended reach handle*. The sea turtle hoist must be securely fastened with ropes or other lines connected to the hoop or frame with a minimum length equal to or greater than 150 percent of the freeboard, or at least 6 ft (1.8 m)

in length, whichever is greater. The ropes and hoist hoop or frame must be able to support a minimum of 100 lb (45.4 kg) without breaking or significant distortion.

6. *Cushion or support device.* A standard automobile tire free of exposed steel belts, a boat cushion, or any other comparable cushioned and elevated surface, is required for supporting a sea turtle in an upright orientation while the sea turtle is on board. The cushion or support device must be appropriately sized to fully support a range of sea turtle sizes. Any life-saving device that would be used to support a sea turtle on board must be dedicated for that purpose and in addition to all minimum human safety at sea requirements.

7. *Short-handled dehooker for internal hooks.* One short-handled dehooker for removing internal hooks is required on board. This dehooker is designed to remove internal hooks from sea turtles brought on board. This dehooker can also be used on external hooks. The minimum design standards are as follows:

(a) *General*. The dehooker must allow the hook to be secured and the hook point shielded without re-engaging during the removal process. It may not have any unprotected

terminal points, including blunt ones, as this could cause injury to the esophagus during hook removal. A sliding plastic bite block must be permanently installed around the shaft to protect the beak and facilitate hook removal in case a sea turtle bites down on the dehooker. The dehooker must be of a size appropriate to secure the range of hook sizes and styles used on the vessel.

(b) *Specifications*. The dehooker must be constructed of 316L or 304L stainless steel. The shaft must be $^{3}/_{16}$ inch (4.8-mm) to $^{5}/_{16}$ inch (7.9-mm) in diameter. The shaft must be 16 to 24 inches (40.6 cm to 60.7 cm) long, with approximately a 4 to 6-inch (10.2 to 15.2-cm) long tube T-handle, wire loop handle, or similar. The bite block must be constructed of a $^{3}/_{4}$ to 1-inch (1.9 to 2.5-cm) inside diameter high impact rated, rigid 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 dehooking end must be no larger than $1^{7}/_{8}$ inches (4.8 cm) outside diameter.

8. *Short-handled dehooker for external hooks.* One short-handled dehooker for external hooks is required on board. This dehooker is designed to remove external hooks

from sea turtles brought on board. The short-handled dehooker for internal hooks required to comply with paragraph C.7. of this appendix may be used to comply with this requirement. The minimum design standards are as follows:

(a) *Fixed handle dehooker*--(i) *General.* The dehooking end that secures the fishhook must be blunt and all edges rounded. The dehooker must be of a size appropriate to secure the range of hook sizes and styles used on the vessel.

(ii) *Specifications.* The dehooker must be constructed of 316L or 304L stainless steel. The shaft must be $^{3}/_{16}$ inch (4.8-mm) to $^{5}/_{16}$ inch (7.9-mm) in diameter. The shaft must be 16 to 24 inches (40.6 to 60.7 cm) long with approximately a 4 to 6-inch (10.2 to 15.2-cm) long tube T-handle, wire loop handle, or similar.

(b) *Squeeze handle dehooker*--(i) *General*. The dehooking end that secures the fishhook must be blunt and all edges rounded. The dehooker must be able to secure the range of hook sizes and styles used on the vessel. This dehooker secures a fishhook for removal by squeezing the handles together using one hand to grab and pull the hook

into notches at the top of the shaft of the dehooker.

(ii) *Specifications*. The dehooker must be constructed of 316L or 304L stainless steel. The overall length must be a minimum of 11 inches (27.9 cm) long.

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 hooks from the sea turtle's flesh or for removing hooks from the front of the mouth. They can also hold PVC splice couplings in place, when used as mouth gags. The minimum design standards are as follows: The long-nose or needle-nose pliers must be a minimum of 11 inches (27.9 cm) in length. It is recommended that the pliers be constructed of stainless steel or other corrosion resistant metal material.

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

cutters must be a minimum of 14 inches (35.6 cm) in total length, with blades that are a minimum of 4 inches (10.2-cm) long and $2^{1}/_{4}$ inches (5.7 cm) wide, when closed. Required bolt cutters must be able to cut hard metals, such as stainless or carbon steel hooks, up to $^{1}/_{4}$-inch (6.4-mm) wire diameter, and they must be capable of cutting through the hooks used on the vessel.

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 entangling a sea turtle, or to cut fishing line as close to the eye of the hook as possible if the hook is swallowed or if the hook cannot be removed. The minimum design standards are as follows: The monofilament line cutters must be a minimum of 6 inches (15.2 cm) in length. The blades must be a minimum of 1 inch (2.5 cm) in length and $^{5}/_{8}$ inches (1.6 cm) wide, when closed.

12. *Mouth openers or 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 sea turtles brought on board. They must allow access to the hook or line without causing further injury to the sea

turtle. Design standards are included in the item descriptions. At least two of the seven different types of mouth openers or mouth gags described in paragraphs C.12.(a) through (g) of this appendix are required.

(a) *A block of hard wood.* A block of hard wood of a type that does not splinter (*e.g.*, maple) with rounded and smoothed edges, or a wooden-handled brush with the bristles removed. The dimensions must be a minimum of 10 inches (25.4 cm) by $^{3}/_{4}$ inch (1.9 cm) by $^{3}/_{4}$ inch (1.9 cm).

(b) *A set of three canine mouth gags.* A set of canine mouth gags must include one of each of the following sizes: small (5 inches, 12.7 cm), medium (6 inches, 15.2 cm), and large (7 inches, 17.8 cm). They must be constructed of 316L or 304L stainless steel.

(c) *A set of two sturdy dog chew bones.* Required canine chews must be constructed of durable nylon or thermoplastic polymer, and strong enough to withstand biting without splintering. To accommodate a variety of sea turtle beak sizes, a set must include one large ($5^{1}/_{2}$ to 8 inches (14 cm to 20.3 cm) in length), and one small ($3^{1}/_{2}$ to $4^{1}/_{2}$ inches (8.9 cm to 11.4 cm) in length) canine chew bones.

(d) *A set of two rope loops covered with protective tubing.* A required set consists of two 3-ft (0.9-m) lengths of poly braid rope ($^{3}/_{8}$-inch (9.5-mm) diameter suggested), each covered with an 8-inch (20.3-cm) long section of $^{1}/_{2}$-inch (1.3-cm) to $^{3}/_{4}$-inch (1.9-cm) diameter light duty garden hose or similar flexible tubing, and each rope tied into a loop.

(e) *A hank of rope.* A length of soft braided or twisted nylon rope a minimum of $^{3}/_{16}$-inch (4.8-mm) diameter must be folded to create a hank, or looped bundle, of rope. The rope must create a hank of 2 to 4 inches (5.1 cm to 10.2 cm) in thickness.

(f) *A set of four PVC splice couplings.* A required set must consist of the following Schedule 40 PVC splice coupling sizes: 1 inch (2.5 cm), $1^{1}/_{4}$ inch (3.2 cm), $1^{1}/_{2}$ inch (3.8 cm), and 2 inches (5.1 cm). PVC splice couplings are held in a sea turtle’s mouth with the needle-nose pliers.

(g) *A large avian oral speculum.* The avian oral speculum must be 9 inches (22.9 cm) long, and constructed of $^{3}/_{16}$-inch (4.8-mm) wire diameter 304 stainless steel. The wire must be covered with 8 inches (20.3 cm) of clear vinyl

tubing ($^{5}/_{16}$-inch (7.9-mm) outside diameter, $^{3}/_{16}$-inch (4.8-mm) inside diameter), friction tape, or similar to pad the surface.

D. *Sea turtle handling requirements for the reef fish fishery of the Gulf of Mexico.* Sea turtle release gear, as specified in paragraphs C.1. through C.4. of this appendix, must be used to remove fishing gear from sea turtles that cannot be brought on board. For sea turtles that can be brought on board, release gear specified in paragraphs C.5. through C.12. of this appendix must be used to bring sea turtles on board and to remove fishing gear. Sea turtles must be handled, and release gear must be used, in accordance with the NMFS careful handling, resuscitation, and release protocols as specified in the most recent version of the NMFS document titled, "Careful Release Protocols for Sea Turtle Release With Minimal Injury" or on the NMFS sea turtle handling and release guidelines placard.

1. *Boated sea turtles.* When practicable, both active and comatose sea turtles must be brought on board the vessel without causing further injury to the animal, using a net or hoist as specified in paragraph C.5. of this

appendix. All sea turtles up to 3 ft (0.9 m) carapace (shell) length should be brought on board if sea conditions allow.

(a) A boated sea turtle should be placed on its belly or bottom shell on a cushion or support device, as specified in paragraph C.6. of this appendix, to immobilize it and facilitate gear removal. Then, determine if the fishing gear can be removed without causing further injury. All externally embedded hooks should be removed, unless hook removal would result in further injury to the sea turtle. No attempt to remove a hook should be made if it has been swallowed and the insertion point of the hook is not clearly visible, or if it is determined that removal would result in further injury to the sea turtle. If a hook cannot be removed, remove as much line as possible from the sea turtle and the hook using monofilament cutters as specified in paragraph C.11. of this appendix, and as much of the hook as possible should be removed before releasing the sea turtle, using bolt cutters as specified in paragraph C.10. of this appendix. If a hook can be removed, an effective technique may be to cut off 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 mouth, a mouth opener or mouth gag, as specified in paragraph C.12. of this appendix, may facilitate opening the sea turtle's mouth and keeping the mouth open. Short-handled dehookers for internal hooks, or long-nose or needle-nose pliers, as specified in paragraphs C.7. and C.8. of this appendix, respectively, should be used to remove visible hooks from the mouth that have not been swallowed on boated sea turtles, as appropriate. If a sea turtle appears dead or comatose, follow the NMFS resuscitation protocols to attempt revival before its release. As much gear as possible must be removed from the sea turtle without causing further injury prior to its release.

(b) [Reserved]

2. *Non-boated sea turtles.* If a sea turtle is too large, or is hooked or entangled in a manner that prevents bringing the sea turtle on board safely and without causing further injury, release gear specified in paragraphs C.1. through C.4. of this appendix must be used to remove the maximum amount of fishing gear from the sea turtle, or to remove as much line as possible from the sea turtle or from a hook that cannot be removed prior to releasing the sea

turtle.

(a) Non-boated sea turtles should be brought close to the boat. Then, determine whether 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 sea turtle. No attempt should be made to remove a hook if it has been swallowed and the insertion point is not clearly visible, or if it is determined that removal would result in further injury. If the hook cannot be removed or if the animal is only entangled, remove as much line as possible prior to release using a long-handled line cutter specified in paragraph C.1. of this appendix. If the hook can be removed, it must be removed using a long-handled dehooker specified in paragraphs C.2. and C.3. of this appendix. Without causing further injury, as much gear as possible must be removed from the sea turtle prior to its release.

(b) [Reserved]

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