

## Fishery Conservation and Management

## § 640.26

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

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

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

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

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

(d) *Responsibility for bag/possession limits.* The operator of a vessel that fishes for or possesses spiny lobster in or from the EEZ is responsible for the cumulative bag or possession limit

specified in paragraphs (a) and (b) of this section applicable to that vessel, based on the number of persons aboard.

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

[60 FR 41831, Aug. 14, 1995]

### § 640.24 Authorized activities.

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

[57 FR 56520, Nov. 30, 1992, as amended at 60 FR 41832, Aug. 14, 1995]

### § 640.25 Adjustment of management measures.

In accordance with the framework procedure of the Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic, the RA may establish or modify the following items: definitions of essential fish habitat, Essential Fish Habitat-Habitat Areas of Particular Concern, Coral-Habitat Areas of Particular Concern, biomass levels, age-structured analyses, limits on the number of traps fished by each vessel, construction characteristics of traps, specification of gear and vessel identification requirements, specification of allowable or prohibited gear in a directed fishery, specification of bycatch levels in non-directed fisheries, changes to soak or removal periods and requirements for traps, recreational bag and possession limits, changes in fishing seasons, limitations on use, possession, and handling of undersized lobsters, and changes in minimum size.

[65 FR 37296, June 14, 2000]

### § 640.26 Tortugas marine reserves.

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

(a) *EEZ portion of Tortugas North.* The area is bounded by rhumb lines connecting the following points: From point A at 24°40'00" N. lat., 83°06'00" W.