

Fishery Conservation and Management

§ 622.8

(n) Except as allowed under § 622.37(c)(2) and (3) for king and Spanish mackerel, possess undersized fish, fail to release undersized fish, or sell or purchase undersized fish, as specified in § 622.37.

(o) Fail to maintain a fish intact through offloading ashore, as specified in § 622.38.

(p) Exceed a bag or possession limit, as specified in § 622.39.

(q) Fail to comply with the limitations on traps and pots, including but not limited to: Tending requirements, constructions requirements, and area specific restrictions, as specified in § 622.40.

(r) Fail to comply with the species-specific limitations, as specified in § 622.41.

(s) Fail to comply with the restrictions that apply after closure of a fishery, as specified in § 622.43.

(t) Possess on board a vessel or land, purchase, or sell fish in excess of the commercial trip limits, as specified in § 622.44.

(u) Fail to comply with the restrictions on sale/purchase, as specified in § 622.45.

(v) Interfere with fishing or obstruct or damage fishing gear or the fishing vessel of another, as specified in § 622.46(a).

(w) Fail to comply with the requirements for observer coverage as specified in § 622.10.

(x) Assault, resist, oppose, impede, intimidate, or interfere with a NMFS-approved observer aboard a vessel.

(y) Prohibit or bar by command, impediment, threat, coercion, or refusal of reasonable assistance, an observer from conducting his or her duties aboard a vessel.

(z) Fish for or possess golden crab in or from a fishing zone or sub-zone of the South Atlantic EEZ other than the zone or sub-zone for which the vessel is permitted or authorized, as specified in § 622.17(b).

(aa) Falsify information submitted regarding an application for testing a BRD or regarding testing of a BRD, as specified in § 622.41(g)(3)(i) or (h)(3).

(bb) Make a false statement, oral or written, to an authorized officer regarding the installation, use, operation, or maintenance of a vessel moni-

toring system (VMS) unit or communication service provider.

(cc) Operate or own a vessel that is required to have a permitted operator aboard when the vessel is at sea or offloading without such operator aboard, as specified in § 622.4(a)(5)(i) through (iv).

(dd) When a vessel that is subject to Federal fishing regulations is at sea or offloading, own or operate such vessel with a person aboard whose operator permit is revoked, suspended, or modified.

(ee) Fail to comply with any provision related to a vessel monitoring system as specified in § 622.9, including but not limited to, requirements for use, installation, activation, access to data, procedures related to interruption of VMS operation, and prohibitions on interference with the VMS.

(ff) Fail to comply with the protected species conservation measures as specified in § 622.10.

[61 FR 34934, July 3, 1996, as amended at 61 FR 43957, Aug. 27, 1996; 61 FR 48415, Sept. 13, 1996; 62 FR 67722, Dec. 30, 1997; 63 FR 38301, July 16, 1998; 63 FR 57590, Oct. 28, 1998; 64 FR 37693, July 13, 1999; 64 FR 43941, Aug. 12, 1999; 64 FR 68935, Dec. 9, 1999; 67 FR 22361, May 3, 2002; 67 FR 43565, June 28, 2002; 68 FR 2194, Jan. 16, 2003; 70 FR 73387, Dec. 12, 2005; 71 FR 45434, Aug. 9, 2006]

§ 622.8 At-sea observer coverage.

(a) *Required coverage*—(1) *Pelagic sargassum*. A vessel that harvests or possesses pelagic sargassum on any trip in the South Atlantic EEZ must carry a NMFS-approved observer.

(2) *Golden crab*. A vessel for which a Federal commercial permit for golden crab has been issued must carry a NMFS-approved observer, if the vessel's trip is selected by the SRD for observer coverage.

(3) *Gulf reef fish*. A vessel for which a Federal commercial vessel permit for Gulf reef fish or a charter vessel/headboat permit for Gulf reef fish has been issued must carry a NMFS-approved observer, if the vessel's trip is selected by the SRD for observer coverage. Vessel permit renewal is contingent upon compliance with this paragraph (a)(3).

(4) *South Atlantic rock or penaeid shrimp*. A vessel for which a Federal commercial permit for South Atlantic

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rock shrimp or South Atlantic penaeid shrimp has been issued must carry a NMFS-approved observer, if the vessel's trip is selected by the SRD for observer coverage.

(b) *Notification to the SRD.* When observer coverage is required, an owner or operator must advise the SRD in writing not less than 5 days in advance of each trip of the following:

(1) Departure information (port, dock, date, and time).

(2) Expected landing information (port, dock, and date).

(c) *Observer accommodations and access.* An owner or operator of a vessel on which a NMFS-approved observer is embarked must:

(1) Provide accommodations and food that are equivalent to those provided to the crew.

(2) Allow the observer access to and use of the vessel's communications equipment and personnel upon request for the transmission and receipt of messages related to the observer's duties.

(3) Allow the observer access to and use of the vessel's navigation equipment and personnel upon request to determine the vessel's position.

(4) Allow the observer free and unobstructed access to the vessel's bridge, working decks, holding bins, weight scales, holds, and any other space used to hold, process, weigh, or store fish.

(5) Allow the observer to inspect and copy the vessel's log, communications logs, and any records associated with the catch and distribution of fish for that trip.

[61 FR 43957, Aug. 27, 1996, as amended at 63 FR 57590, Oct. 28, 1998; 68 FR 57378, Oct. 3, 2003; 70 FR 32272, June 2, 2005; 70 FR 73387, Dec. 12, 2005]

EFFECTIVE DATE NOTE: At 71 FR 56047, Sept. 26, 2006, §622.8 was amended by adding paragraph (a)(5), effective Oct. 26, 2006. For the convenience of the user, the added and revised text is set forth as follows:

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(a) * * *

(5) *Gulf shrimp.* A vessel for which a Federal commercial vessel permit for Gulf shrimp has been issued must carry a NMFS-approved observer, if the vessel's trip is selected by the SRD for observer coverage.

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Vessel permit renewal is contingent upon compliance with this paragraph (a)(5).

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§ 622.9 Vessel monitoring systems (VMSs).

(a) *Requirement for use.* An owner or operator of a vessel that has been issued a limited access endorsement for South Atlantic rock shrimp must ensure that such vessel has a NMFS-approved, operating VMS on board when on a trip in the South Atlantic. An operating VMS includes an operating mobile transmitting unit on the vessel and a functioning communication link between the unit and NMFS as provided by a NMFS-approved communication service provider.

(b) *Installing and activating the VMS.* Only a VMS that has been approved by NMFS for use in the South Atlantic rock shrimp fishery may be used. When installing and activating the NMFS-approved VMS, or when reinstalling and reactivating such VMS, the vessel owner or operator must—

(1) Follow procedures indicated on an installation and activation checklist, which is available from NMFS, Office of Enforcement, Southeast Region, St. Petersburg, FL; phone: 727-570-5344; and

(2) Submit to NMFS, Office of Enforcement, Southeast Region, St. Petersburg, FL, a statement certifying compliance with the checklist, as prescribed on the checklist.

(c) *Interference with the VMS.* No person may interfere with, tamper with, alter, damage, disable, or impede the operation of the VMS, or attempt any of the same.

(d) *Interruption of operation of the VMS.* When a vessel's VMS is not operating properly, the owner or operator must immediately contact NMFS, Office of Enforcement, Southeast Region, St. Petersburg, FL, and follow instructions from that office. If notified by NMFS that a vessel's VMS is not operating properly, the owner and operator must follow instructions from that office. In either event, such instructions may include, but are not limited to, manually communicating to a location