

(d) *Home Leave for Qualifying Posts.* (1) If the contractor ordinarily qualifies for home leave and has completed a 12-month period at one of the USAID qualifying Missions, as announced by the Department of State or USAID, the contractor is entitled to ten (10) workdays of home leave in addition to the home leave the contractor is normally entitled to in accordance with paragraph (c) of this "Leave and Holidays" clause.

(2) There is no requirement that an eligible contractor take this additional home leave for qualifying Missions; it is for use at the contractor's option. If the contractor is eligible and elects to take such home leave, the contractor must take all ten (10) workdays at one time in the U.S. under the conditions described in paragraphs (c)(3) and (c)(4) of this clause. If the contractor is returning to the U.S. and not returning abroad to the same or different USAID Mission, the contractor is not eligible for home leave for qualifying Missions, and this paragraph (d) will not apply.

(e) *Holidays and Administrative Leave.* The contractor is entitled to all holidays and administrative leave granted by USAID to U.S. direct-hire employees as announced by the Agency or Mission.

(f) *Military Leave.* Military leave of not more than fifteen (15) calendar days in any calendar year may be granted to the contractor who is a reservist of the U.S. Armed Forces, provided that the military leave has been approved, in advance, by the contracting officer or the Mission Director. A copy of the contractor's official orders and the contracting officer or Mission Director approval will be part of the contract file.

(g) *Leave Without Pay (LWOP).* The contractor may be granted LWOP only with the written approval of the contracting officer or Mission Director, unless a such leave is requested for family and medical leave purposes under paragraph (i) of this clause.

(h) *Compensatory Time.* USAID may grant compensatory time off only with the written approval of the contracting officer or Mission Director in rare instances when it has been determined absolutely essential and under the policies that apply to USAID U.S. direct-hire employees. The contractor may use earned compensatory time off in accordance with policies that apply to USAID direct-hire employees.

(i) *Family and Medical Leave.* (1) USAID provides family and medical leave for eligible USPSCs working within the U.S., or any territories or possession of the U.S., in accordance with Title I of the Family and Medical Leave Act of 1993, as amended (FMLA), and as administered by the Department of Labor under 29 CFR 825. USAID also provides family and medical leave to eligible USPSCs working outside the U.S., or any territories or possession of the U.S., in accordance with this paragraph (i) outside the provisions of Title I of the FMLA as a matter of policy discretion.

(2) Family and medical leave only applies to USPSCs, not any other type of PSC.

(3) In accordance with 29 CFR 825.110, to be eligible for family and medical leave, the contractor must have performed services for

(ii) At least 1,250 hours with USAID during the previous 12-month period.

(4) In accordance with 29 CFR 825.200(a), and USAID's internal policies available in Automated Directive System Chapter 309 (ADS 309), an eligible contractor may take up to twelve (12) workweeks of leave under FMLA, Title I, in any 12-month period for the reasons specified in 29 CFR 825.112.

(5) In accordance with 29 CFR part 825.207, the contractor may take LWOP for family and medical leave purposes. However, the contractor may choose to substitute LWOP with accrued annual or sick leave earned under the terms of this contract. If the contractor does not choose to substitute accrued paid leave, the contracting officer, in consultation with the contractor's supervisor, may require the contractor to substitute accrued paid leave for LWOP. The CO must obtain the required certifications for approval of family medical leave in accordance with USAID policy. The contractor must notify the contractor's Supervisor of the intent to substitute paid leave for LWOP prior to the date such paid leave commences. After having invoked the entitlement to family and medical leave and taking LWOP for that purpose, the contractor cannot retroactively substitute paid leave for the LWOP already taken under family and medical leave.

(6) Family medical leave is not authorized for any period beyond the completion date of this contract.

(7) When requesting family medical leave, the contractor must submit the relevant leave request in writing, including certifications and other supporting documents required by 29 CFR 825 and USAID policy in ADS 309.

(8) The U.S. Department of Labor's (DOL's) Wage and Hour Division (WHD) Publication 1420 explains the FMLA's provisions and provides information concerning procedures for filing complaints for violations of the Act.

(j) *Leave Records.* The contractor must maintain their current leave records and make them available as requested by the Mission Director or the contracting officer.

\* \* \* \* \*

(Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (Section 2381 of Title 22 of the U.S.C.), as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; and Title 3 of the CFR, 1979 Comp., p. 435.)

**Mark A. Walther,**

*Chief Acquisition Officer.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Parts 622 and 635

[Docket No. 200922-0254]

RIN 0648-BI61

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Atlantic Highly Migratory Species; Coral and Coral Reefs of the Gulf of Mexico; Amendment 9

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

**ACTION:** Final rule.

**SUMMARY:** NMFS implements management measures described in Amendment 9 to the Fishery Management Plan (FMP) for the Coral and Coral Reefs of the Gulf of Mexico (Amendment 9) and an associated framework action to the FMP, as prepared by the Gulf of Mexico Fishery Management Council (Council). This final rule establishes new habitat areas of particular concern (HAPCs), some of which include a prohibition of the deployment of bottom-tending gear, and modifies fishing regulations for the other existing HAPCs in the Gulf of Mexico (Gulf). Additionally, this final rule implements complementary management measures for Atlantic highly migratory species (HMS) in the Gulf. The purpose of this final rule is to protect coral essential fish habitat (EFH) in the Gulf.

**DATES:** This final rule is effective on November 16, 2020.

**ADDRESSES:** Electronic copies of Amendment 9 and the framework action may be obtained from

[www.regulations.gov](http://www.regulations.gov) or the Southeast Regional Office website at <https://www.fisheries.noaa.gov/action/amendment-9-coral-habitat-areas-considered-management-gulf-mexico>.

Amendment 9 includes a final environmental impact statement (EIS), fishery impact statement, regulatory impact review, and a Regulatory Flexibility Act (RFA) analysis.

#### FOR FURTHER INFORMATION CONTACT:

Kelli O'Donnell, NMFS Southeast Regional Office, telephone: 727-824-5305; email: [kelli.odonnell@noaa.gov](mailto:kelli.odonnell@noaa.gov). Karyl Brewster-Geisz, NMFS Highly Migratory Species Division, telephone: 301-427-8503; email: [karyl.brewster-geisz@noaa.gov](mailto:karyl.brewster-geisz@noaa.gov).

**SUPPLEMENTARY INFORMATION:** NMFS and the Council manage coral and coral reef

(i) At least twelve (12) months with USAID; and

resources in the Gulf 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). NMFS manages Atlantic HMS under the 2006 Consolidated Atlantic HMS FMP and its amendments, under the authority of the Magnuson-Stevens Act and the Atlantic Tunas Convention Act. The 2006 Consolidated Atlantic HMS FMP is implemented by regulations at 50 CFR part 635.

On December 18, 2017, NMFS published a notice of intent to prepare a draft EIS for Amendment 9 in the **Federal Register** and requested public comment (82 FR 60003, December 18, 2017). On September 26, 2019, NMFS published a notice of availability for Amendment 9 and an associated framework action to the FMP, and requested public comment (84 FR 50814, September 26, 2019). On December 20, 2019, the Secretary of Commerce approved Amendment 9 and the framework action under section 304(a)(3) of the Magnuson-Stevens Act. On November 15, 2019, NMFS published a proposed rule for Amendment 9 and the associated framework action, and requested public comment (84 FR 62491, November 15, 2019). The proposed rule and Amendment 9 outline the rationale for the actions contained in this final rule. A summary of the management measures described in Amendment 9 and the associated framework action, and implemented by this final rule is provided below.

#### **Management Measure Contained in This Final Rule**

This final rule establishes 13 new HAPCs in the Gulf in which the deployment of certain bottom-tending gear is prohibited. The rule also prohibits the deployment of dredge fishing gear in existing Gulf HAPCs that are managed with fishing regulations. Further, this rule modifies the restrictions in the existing HAPCs that prohibit fishing with specific gear types to prohibit the deployment of those gear. NMFS is establishing these areas and fishing regulations to further protect coral EFH in the Gulf.

#### **HAPCs With Fishing Regulations**

This final rule establishes 13 coral HAPCs in which the deployment of specified bottom-tending gear is prohibited. For purpose of the prohibition, fishing gear is “deployed” if any part of the gear is in contact with the water. The 13 HAPCs are called

West Florida Wall, Alabama Alps Reef, L & W Pinnacles and Scamp Reef (combined area), Mississippi Canyon 118, Roughtongue Reef, Viosca Knoll 826, Viosca Knoll 862/906, AT 047, AT 357, Green Canyon 852, Southern Bank, Harte Bank, and Pulley Ridge South Portion A. Pulley Ridge South Portion A is adjacent to the established Pulley Ridge South HAPC.

For these areas, excluding Pulley Ridge South Portion A, prohibitions on the following activities apply year-round: Deployment of bottom longline, bottom trawl, buoy gear as defined in 50 CFR 622.2, dredge, pot, or trap, and bottom anchoring by fishing vessels. The buoy gear defined in 50 CFR 622.2 is not the same as HMS buoy gear defined in 50 CFR 635.2. HMS buoy gear is not a bottom-tending gear.

Within the Viosca Knoll 862/906 area, the gear deployment prohibitions do not apply to a fishing vessel issued a Gulf royal red shrimp endorsement, as specified in 50 CFR 622.50(c), while fishing for royal red shrimp. The areas around this HAPC are used to fish for royal red shrimp. Fishing for royal red shrimp occurs in deep waters and requires several miles of continuous forward vessel movement to lift the nets up in the water column to the vessel. Therefore, requiring that these nets be out of the water would effectively prevent the use of an area much larger than the HAPC. The exemption allows royal red shrimp fishermen to continue the historic practice of lifting the nets off the bottom but keeping them in the water as they travel through this area while still protecting corals.

Within the Pulley Ridge South Portion A area, the following prohibitions apply year-round: Deployment of a bottom trawl, buoy gear as defined in 50 CFR 622.2, dredge, pot, or trap, and bottom anchoring by fishing vessels. Pulley Ridge South Portion A does not include a restriction on the deployment of bottom longline gear to allow fishing that has historically occurred in this area to continue. This final rule does not change any other boundaries or regulations within the existing Pulley Ridge HAPC.

The Council concluded that the exception for royal red shrimp fishing in the Viosca Knoll 862/906 area and for bottom longline fishing in the proposed Pulley Ridge South Portion A area is unlikely to adversely affect the habitat. Both types of fishing have occurred in the respective areas for over a decade without causing significant harm.

#### **Dredge Fishing Prohibition**

Previous to this final rule, only some HAPCs in the Gulf had fishing regulations that prohibited dredge fishing within the designated areas. This final rule prohibits the deployment of dredge fishing gear in all HAPCs in the Gulf with associated fishing regulations. Dredge fishing is most commonly used to harvest shellfish and is not known to occur in the Gulf. Therefore, this management measure will not restrict any known fishing activity in the Gulf, but increases the consistency of management measures across HAPCs with fishing regulations.

#### **Fishing Restrictions in Established HAPCs**

This rule modifies restrictions associated with bottom-tending fishing gear in the HAPCs established prior to this final rule. Previously, the regulations at 50 CFR 622.74 prohibited “fishing” in these HAPCs with bottom-tending gear with specific types of gear prohibitions varying by HAPC. As explained in the proposed rule, the Council determined that it was more appropriate to prohibit the “deployment” of bottom-tending gear. Therefore, this rule changes the prohibition for the HAPCs listed in 50 CFR 622.74, other than the Tortugas marine reserves HAPC, to prevent the deployment of the bottom-tending gear to be consistent with the prohibition in the HAPCs implemented by this final rule. The Tortugas marine reserves HAPC already has a broader prohibition on all fishing and anchoring by fishing vessels.

#### **HMS Fisheries in the Gulf**

This final rule modifies regulations at 50 CFR 635.21 for Atlantic HMS fisheries that operate in the Gulf to complement the fishing vessel anchoring and gear deployment prohibitions in 50 CFR 622.74.

#### **Management Measure Contained in Amendment 9 But Not Codified Through This Final Rule**

Amendment 9 also establishes eight HAPCs with no associated fishing regulations. The Council determined that specific fishing regulations in these eight HAPCs are unnecessary because there is no known fishing activity that occurs within them, partly because the areas are located in very deep water (greater than 984 ft or 300 m). The HAPCs without fishing regulations in Amendment 9 are South John Reed, Garden Banks 299, Garden Banks 535, Green Canyon 140 and 272 (combined), Green Canyon 234, Green Canyon 354, Mississippi Canyon 751, and

Mississippi Canyon 885. Although fishing impacts were not identified as a concern in these eight areas, establishing these HAPCs informs the public that the Council considers these areas to be of particular importance and could help guide NMFS' review of non-fishing impacts during EFH consultations.

### Comments and Responses

NMFS received 12,055 comments on the notice of availability for Amendment 9 and proposed rule. Of those, 12,035 were in support of Amendment 9 with no further recommendations. Eight comments were in support of Amendment 9 and establishing HAPCs, but stated that Amendment 9 did not do enough to protect deep-sea coral or EFH. Five comments were in opposition to establishing some or all of the proposed HAPCs. Two comments were not relevant to Amendment 9 or the proposed rule. Comments specific to Amendment 9 and the proposed rule are grouped as appropriate and summarized below, followed by NMFS' responses.

*Comment 1:* Amendment 9 does not fully implement the NOAA Strategic Plan for Deep-Sea Coral and Sponge Ecosystems to conserve deep-sea coral and sponge habitat. The Council and NMFS should create a precautionary management area in the Gulf similar to those established by the Mid-Atlantic and New England Fishery Management Councils by using the discretionary authority of the Magnuson-Stevens Act to limit expansion of bottom-tending fishing gear in the Gulf to existing areas fished by those gear to better protect coral EFH.

*Response:* The Council did not prepare Amendment 9 to implement the NOAA Strategic Plan for Deep-Sea Coral and Sponge Ecosystems. Nevertheless, the purpose of Amendment 9 is to protect coral species and habitat under Federal management in the Gulf, and does accomplish some of the goals and objectives of the plan. While the NOAA Strategic Plan outlines several authorities available to the Council, it is not prescriptive in how the Council should protect deep-sea coral resources. Unlike the New England and Mid-Atlantic Fishery Management Councils, the Gulf Council manages corals in Federal waters of the Gulf directly through the Coral FMP and the Council defined coral EFH as all areas where managed corals exist. Because corals are already managed under the Coral FMP and protected through the existing EFH designation, the Council did not consider designating deep-sea coral areas under section 303(b)(2)(B) of the

Magnuson-Stevens Act because this would be duplicative. However, the Council is currently considering beginning work on a new amendment to the Coral FMP that would review additional areas for designation as coral HAPCs.

*Comment 2:* The Council should use its statutory authority to engage in the oversight, permitting, and evaluation of non-fishing activities in the Gulf, such as, to restrict shipping traffic within HAPCs, and develop policies related to non-fishing activities to reduce negative impacts to coral habitats in the Gulf.

*Response:* NMFS disagrees. While the Magnuson-Stevens Act does allow for the Council to comment on any Federal or state activity authorized, funded, or undertaken that may affect the habitat under the Council's authority, the Magnuson-Stevens Act does not authorize the Council to regulate non-fishing activities or engage in the permitting of non-fishing activities. HAPCs are a subset of EFH, and while the designation does not confer any additional specific protections to designated areas, it can be used to focus attention when NMFS conducts required consultations on non-fishing activities that may adversely affect this habitat.

*Comment 3:* Fishing with bottom-tending gear should be further restricted or prohibited in all HAPCs established in Amendment 9.

*Response:* NMFS disagrees that it is necessary or appropriate to further restrict fishing in the HAPCs established in Amendment 9. As part of the development of Amendment 9, the Council received input and recommendations from several advisory panels, including the Council's Special Coral Scientific and Statistical Committee (SSC), Coral Advisory Panel (AP), the Shrimp AP, Reef Fish AP, Spiny Lobster AP, and Law Enforcement Technical Committee, as well as royal red shrimp fishermen and bottom longline fishermen. The Council reviewed habitat information, current fishing activity location information, and feedback from interested members of the fishing industry, the oil and gas industries, non-profit and academic organizations, and the general public during public Council meetings. Based on all of this information, the Council identified several areas in which the Council determined that it was appropriate to prohibit the use bottom-tending gear. These areas have a known abundance of coral, extensive coral fields, or species richness or diversity indices that differed from areas in a similar geographic location. However, the Council also determined that in two

of these areas, Pulley Ridge South Portion A and Viosca Knoll 862/906, historic fishing practices that have not caused substantial harm to coral habitat should be allowed to continue.

Therefore, there is no prohibition on the use of bottom longline gear in Pulley Ridge South Portion A and the prohibition in Viosca Knoll 862/906 does not apply to fishing vessels issued a Gulf royal red shrimp endorsement, as specified in § 622.50(c), while the vessel is fishing for royal red shrimp.

The Council also identified eight deep-water areas for designation as HAPCs without associated fishing regulations. These eight areas have substantial coral communities or contain corals that are rare, but are in depths that are unlikely to have fishing with bottom-tending gear.

Additionally, although Amendment 9 included restrictions on "fishing" with bottom-tending gear, the Council subsequently determined that the because of the broad definition of "fishing" in the Magnuson-Stevens Act the restriction could be interpreted to prohibit activities that did not involve having the gear in the water. Therefore, the Council developed a framework action to modify the prohibition on "fishing with bottom-tending gear" to a prohibition on the "deployment of bottom-tending gear." This applies to the previously established HAPCs in 50 CFR 622.74, except the Tortugas marine reserves HAPC, and to those established through Amendment 9. Fishing gear is deployed if the gear is in contact with the water.

*Comment 4:* No additional HAPCs should be established in the Gulf. Bottom-tending gear is not used over coral areas, therefore designating additional HAPCs with or without fishing regulations is unnecessary.

*Response:* The Council has a responsibility to minimize, to the extent practicable, impacts to EFH from fishing gear. The Council determined, and NMFS agrees, that the areas established through Amendment 9 have corals in sufficient number or diversity to warrant designation as HAPCs, which are a subset of EFH. While the available data indicates that there is likely little use of bottom-tending gear in most of these areas, the HAPC designation ensures fishing with bottom-tending gear in these areas will not occur in the future.

*Comment 5:* The HAPCs in Amendment 9 will negatively impact fishing for tilefish and deep-water grouper, which occurs over sand and mud bottoms.

*Response:* NMFS disagrees. The HAPCs implemented in this final rule

are areas with confirmed coral reef features and there will not be any impacts to fishing for Gulf reef fish species over sand and mud bottoms.

*Comment 6:* No new regulations should be implemented that restrict areas where bottom longline gear has traditionally been used in the Gulf, including the Pulley Ridge area. Specifically, in the Pulley Ridge area, bottom longlines have been shown not to damage the coral bottom.

*Response:* The Council determined, and NMFS agrees, that it is appropriate to restrict the use of bottom-tending gear, including bottom longline, in several of the new HAPCs because scientific studies have documented impacts to deep sea corals from fishing gear. These HAPCs and restrictions were selected after several workshops with scientists and fishermen. As part of this process, the Council recognized both the coral and habitat present in Pulley Ridge, and historic use of that area by bottom longline fishermen. Therefore, the new Pulley Ridge South Portion A HAPC does not include a prohibition on the use of bottom longlines. Allowing this historic fishing activity to continue in this area balances resource use and protection, and avoids potential displacement of fishing activity to other coral areas.

*Comment 7:* There is insufficient information provided in Amendment 9 to show that the Gulf royal red shrimp stock will not be significantly harmed. In addition, Amendment 9 does not provide enough information about the current number of royal red shrimp endorsements.

*Response:* Amendment 9 addresses the habitat of those corals included in the Coral FMP. Amendment 9 contains some information about other species, including royal red shrimp, because Amendment 9 includes restrictions on bottom-tending gear used to harvest those species. Amendment 9 also includes an exception to the gear restrictions in one area for those vessels with a royal red shrimp endorsement that are fishing for royal red shrimp. However, Amendment 9 does not include any other management measures related to the harvest of royal red shrimp. NMFS does not expect the establishment of the HAPCs to negatively impact the royal red shrimp stock, but it may provide benefits by protecting habitat adjacent to some areas in which this species is harvested.

With respect to the number of vessels with royal red shrimp endorsements, Amendment 9 explained that any vessel issued a Federal commercial Gulf shrimp moratorium permit (Gulf shrimp permit) is eligible for a royal red shrimp

endorsement. The number of vessels issued a royal red endorsement can change over time and where Amendment 9 provides information about the number of endorsement holders, it includes the date that information was obtained.

*Comment 8:* The HAPC areas are too small to prevent the fishing community from destroying corals and coral habitat in the Gulf.

*Response:* NMFS disagrees. Amendment 9 and this final rule establish 13 new HAPCs in which the deployment of certain bottom-tending gear is prohibited. The HAPC designation acknowledges that corals are present in sufficient number or diversity to provide important ecological functions, are sensitive to human-induced degradation, or are rare. As stated in the response to *Comment 3*, the Council selected these areas based on input and recommendations from the Council's Coral SSC, which included coral scientists, various Council advisory panels, as well as shrimp and bottom longline fishermen. The Council determined, and NMFS agrees, that the sizes of the HAPCs established in Amendment 9 will sufficiently protect the corals in those areas from interactions with fishing gear without unnecessarily restricting fishing activity that requires the use of bottom-tending gears. The Council may consider additional areas to designate as HAPCs in a future amendment to the FMP.

*Comment 9:* In Amendment 9, NMFS failed to consider that the designation of HAPCs has significant potential to impact non-fishing industries and activities within the Gulf. NMFS has not adequately addressed compliance with Executive Order (E.O.) 12866, and Amendment 9 should account for potential economic impacts beyond the restrictions proposed on the fishing industry.

*Response:* As stated in Amendment 9, an HAPC designation itself does not confer any additional specific protections to designated areas or impose any restrictions on industries because the areas considered for HAPC designation are already identified as EFH. Although designating HAPCs can be used to focus attention on those areas when NMFS consults with other Federal agencies on proposed actions that may adversely affect EFH, these consultations do not impose any restrictions on non-fishing activities. A consultation may result in recommendations that can be taken by the other Federal agency to conserve this habitat. However, any future recommendations would depend on the proposed Federal action. The other

Federal agency, not NMFS, would decide whether to implement those recommendations. Therefore, neither the EIS nor the Regulatory Impact Review, which serves as the basis for determining whether the regulations are a significant regulatory action under the E.O. 12866, discuss the economic impacts related to non-fishing activities or conduct a cost-benefit analysis related to these activities.

*Comment 10:* Creating new restrictions on the use of bottom longline gear will cause great economic harm to small family grouper fishing businesses, local fish house producers, and the local fishing communities. Restricting the bottom longline fishery in the Gulf that targets grouper will also reduce the species' availability to the American consumer.

*Response:* NMFS recognizes the final rule may cause negative economic effects to small entities. However, available data indicates that only a minority of the total longline vessels in the Gulf will likely be affected by the implementation of the fishing restrictions in this final rule. The use of bottom longlines are not prohibited in the Pulley Ridge South Portion A HAPC, which is the HAPC where the highest number of bottom longline vessels (11) have operated. Because the fishing regulations in this rule apply to bottom longline vessels, except in Pulley Ridge South Portion A, analysis in Amendment 9 states the number of these vessels expected to be affected throughout the Gulf, excluding Pulley Ridge South Portion A, is approximately 13. Further, it is possible that some of these vessels fished in the areas of multiple HAPCs. As analyzed in Amendment 9, these 13 bottom longline vessels represented approximately 2 percent of the average number of federally permitted vessels that caught reef fish in the Gulf from 2010–2016.

NMFS does not agree that establishing bottom longline regulations in the new HAPCs will reduce the availability of grouper to the American consumer. Those impacted vessels will continue to be able to fish with bottom longline gear in adjacent or nearby areas, thereby reducing the economic effects of this final rule on harvesters, shoreside support businesses, and fishing communities.

*Comment 11:* Table 4.3.2.1 in Amendment 9 indicates a range of 23 to 179 different vessels will be impacted by establishing the HAPCs in Amendment 9, but it is not clear what percentage of the fishery this range represents.

*Response:* The referenced table in Amendment 9 lists the number of

unique vessels with Federal permits for commercial Gulf reef fish, HMS commercial sharks, and Gulf shrimp vessels, identified by the onboard vessel monitoring system and electronic logbook (ELB) in the new northeastern Gulf HAPCs for each of those alternatives and options analyzed. The number of unique vessels varied by preferred option selected by the Council and by tracking system attached to the vessel. A vessel with a commercial permit for Gulf reef fish or HMS sharks must have an operational VMS on board, and approximately one-third of vessels with a commercial permit for Gulf shrimp have an ELB, which fishermen must use to report. In Table 4.3.2.1, VMS data and unique vessels are for the years 2007–2015, and ELB data and unique vessels are for the years 2004–2013. The range of vessels potentially affected by the Council's preferred options varied by location and permit type from 12 and 83. Additionally, because the number of unique vessels in the table did not apply across different options considered by the Council, the same vessel may have been counted under multiple options. Finally, the range of unique vessels listed in Table 4.3.2.1 represent small percentages of the federally permitted vessels in the respective Gulf commercial fisheries.

*Comment 12:* The Small Business Administration (SBA) should approve this final rule.

*Response:* As discussed in the Classification section of this final rule, the Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the SBA during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. A statement providing the factual basis for this certification was also provided to the SBA. No comments were received from the SBA in response.

NMFS revised the factual basis for the certification in this final rule to include data that was inadvertently omitted from the proposed rule. This data pertains to commercial fishing vessels that use bandit gear, which would be affected by the prohibition on bottom anchoring implemented by this final rule. This additional data does not affect NMFS' determination that this rule would not have a significant economic impact on a substantial number of small entities, and the revised factual basis will be provided to the SBA.

*Comment 13:* The notice of availability for Amendment 9 referenced a paragraph in the CFR that does not exist.

*Response:* NMFS acknowledges that the notice of availability published in the **Federal Register** on September 26, 2019, cited an incorrect CFR reference on page 50815 in the left column (84 FR 50814). The notice of availability stated that HAPCs are a subset of EFH that meet specified criteria identified at 50 CFR 600.818(a)(8). The correct citation is 50 CFR 600.815(a)(8) and was stated correctly in the proposed rule for Amendment 9 that published in the **Federal Register** on November 15, 2019 (84 FR 62492).

#### Classification

Pursuant to section 304(b)(3) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with Amendment 9, the FMP, the 2006 Consolidated FMP for Atlantic Highly Migratory Species, other provisions of the Magnuson-Stevens Act, and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866. This final rule is not an Executive Order 13771 regulatory action because this final rule is not significant under Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule. However, NMFS inadvertently omitted data pertaining to commercial fishing vessels that use bandit gear, which would be affected by the prohibition on bottom anchoring implemented by this final rule. A revised factual basis for the determination of no significant economic impact on a substantial number of small entities that includes the missing bandit rig data is included below. Three public comments related to socio-economic implications and potential impacts on small businesses were received and are addressed in the responses to *Comment 9* through *Comment 12* in the Comments and Responses section of this final rule.

None of the public comments that were received in response to the proposed rule specifically addressed the certification and NMFS has not received any new information that would affect its determination that this rule would 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.

A description of the final rule, why it is being implemented, and the objectives of, and legal basis for this final rule are contained in the preamble of this final rule at the beginning of the **SUPPLEMENTARY INFORMATION** section and in the **SUMMARY** section. The Magnuson-Stevens Act provides the statutory basis for this final rule. No duplicative, overlapping, or conflicting Federal rules have been identified.

This final rule designates several areas in the Gulf as HAPCs and establishes or modifies fishing regulations in the new and existing HAPCs. In some of the new HAPCs, the deployment of specific bottom-tending gear will be prohibited. This final rule will also change the prohibition in the existing HAPCs with fishing regulations to a prohibition on the deployment of the gear as opposed to fishing with the gear. As a result, this final rule will directly affect federally permitted commercial fishermen fishing for reef fish, shrimp, or sharks. Recreational anglers fishing in the designated HAPCs will also be directly affected by this final rule, but anglers are not considered business entities under the RFA. Recreational charter vessels and headboats will also be affected by this action but only in an indirect way. Thus, only the effects on federally permitted commercial fishing vessels harvesting reef fish, shrimp, and shark will be discussed. For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide.

To determine whether a substantial number of small entities will be affected by the final rule, NMFS first describes the characteristics of the Federal commercial reef fish, shrimp, and shark fisheries that operate in the Gulf. NMFS then describes the data available to determine the number of small entities that operate in the new HAPCs and applies these data to each new HAPC or groups of HAPCs.

With respect to the Gulf reef fish fishery, as of July 14, 2018, there were 841 vessels with valid or renewable Federal Gulf reef fish commercial vessel permits. From 2010 through 2016, an average of 554 federally permitted

commercial reef fish vessels per year landed any reef fish species in the Gulf. These vessels, combined, averaged 6,608 trips per year in the Gulf on which reef fish were landed and 810 other trips. The average annual total dockside revenue (2016 dollars) for these vessels combined was approximately \$52.13 million from reef fish, approximately \$1.32 million from other species co-harvested with reef fish (on the same trips), and approximately \$1.54 million from other trips by these vessels in the Gulf on which no reef fish were harvested or where fishing occurred in other areas. Total average annual revenue from all species harvested by these vessels in the Gulf or other areas was approximately \$54.95 million, or approximately \$99,000 per vessel. These vessels generated approximately 95 percent of their total revenues from reef fish. Commercial reef fish vessels used a variety of gears in harvesting reef fish. For the period 2010–2016, an average of 68 vessels used longlines and generated revenues of approximately \$250,000 per vessel; 267 vessels used bandit gear generating approximately \$109,000 in revenue per vessel; 273 vessels used hook-and-line gear, generating approximately \$27,000 in revenue per vessel; 47 vessels used diving gear, generating approximately \$13,000 in revenue per vessel; and, 6 vessels used other gears, generating approximately \$40,000 in revenue per vessel. Therefore, all federally permitted commercial vessels fishing for reef fish are assumed to be small entities.

In the Gulf shrimp fishery, brown and white shrimp are the dominant shrimp species in terms of landings, ex-vessel revenues, and number of participating vessels. For the period 2010–2016, an annual average of 3,552 vessels landed approximately 61 million lb (27,669,134 kg) of brown shrimp with an ex-vessel value of about \$206 million; an annual average of 3,914 vessels landed approximately 61 million lb (27,669,134 kg) of white shrimp valued at about \$210 million; an annual average of 175 vessels landed pink shrimp valued at about \$18 million; and, an annual average of 8 vessels landed approximately 154,000 lb (69,853 kg) of royal red shrimp valued at about \$964,000. Not all vessels that landed Gulf shrimp are federally permitted, and not all federally permitted vessels landed shrimp. In 2014, for example, only 74 percent of federally permitted vessels landed shrimp. As of July 14, 2018, there were 1,422 valid or renewable Gulf shrimp commercial permits and 305 valid Gulf royal red shrimp endorsements. The latest data on

the economics and financial conditions of the Gulf shrimp fishery are for 2014. Data for later years are still being processed and compiled by NMFS. Between 2011 and 2014, the average gross revenue from fishing operations of federally permitted shrimp vessels was approximately \$343,000, but net revenue from operations was only about \$8,300. These estimates best approximate expected financial and economic conditions for these vessels in the foreseeable future. Therefore, all federally permitted commercial vessels fishing for shrimp are assumed to be small entities.

The HMS shark fishery is the fishery that most likely will be affected by the final rule. To commercially fish for sharks, fishermen need to possess a Federal shark directed or incidental permit, or smoothhound shark permit. Shark directed and incidental permits are currently limited access permits, while the smoothhound shark permit is an open access permit. As of September 12, 2018, there were 220 and 267 valid or renewable shark directed and incidental permits, respectively, and 164 valid or renewable smoothhound shark permits. Vessels can possess shark permits in addition to commercial reef fish or shrimp permits. In 2017, there were 18 vessels with limited access permits that were actively fishing for sharks in the Gulf. Of the 18 vessels, 11 possessed both a shark limited access permit and a commercial reef or shrimp permit, while 7 possessed only a shark limited access permit. These vessels, combined, generated \$4.7 million of revenue from HMS. When tracked back to 2013, these vessels generated an average revenue of \$4.8 million per year, indicating a close match between their 2017 revenue and 2013–2017 average revenue. The 2013–2017 average revenue per vessel was approximately \$267,000. Therefore, all federally permitted commercial vessels fishing for sharks are assumed to be small entities.

As stated earlier in the preamble, this final rule will establish 13 HAPCs in which the deployment of specific bottom-tending gear will be prohibited. Unless otherwise noted, the following prohibitions will apply to each of the 13 HAPCs: Deployment of bottom longline, bottom trawl, buoy gear as defined in 50 CFR 622.2, dredge, pot, or trap, and bottom anchoring by fishing vessels.

The available data allows NMFS to estimate the number of federally permitted reef fish, shrimp, and shark vessels potentially affected by the final rule. Information on fishing activities in the proposed HAPCs is based on the electronic logbook (ELB) program for

commercial shrimp vessels, the vessel monitoring system (VMS) for commercial reef fish vessels, and shark bottom longline observer program (SBLOP) for shark vessels. Available ELB data are for the years 2004–2013, VMS data are for the years 2007–2015, and SBLOP data are for the years 2008–2016.

ELB data are collected from approximately one-third of the federally permitted shrimp vessels, while VMS data collection is required of all federally permitted reef fish vessels. Vessels that were included in the SBLOP are also in the VMS data set because these vessels have both shark and commercial reef fish permits. The VMS and ELB data sets provide data points and number of fishing vessels by area, while the SBLOP data provides some information on the number of fishing sets by shark vessels. Although VMS data are collected from all reef fish vessels, the points refer to the number of times the electronic system detects the vessel in a specific area, but it does not distinguish between fishing and non-fishing activity. In contrast, ELB data points are collected from approximately one-third of permitted shrimp vessels but this occurs every 10 minutes, which allows NMFS to determine likely fishing activity from non-fishing activity based on vessel speed. Therefore, the ELB data points in this analysis are those that NMFS has determined to represent active shrimp fishing.

Because the VMS, ELB, and SBLOP data sources do not provide information on the number of trips or fishing intensity per vessel, it is not possible to estimate the revenue and profit effects of the final rule. Therefore, the extent of economic impacts is based on the number of vessels potentially affected by the final rule. In the following discussion, data points and vessels are expressed as annual averages for each of the 13 new HAPCs. In addition, only VMS information from reef fish vessels that use bottom longline or bandit gear is reported as only these vessels would likely be affected by the final rule.

In the Pulley Ridge South Portion A HAPC, ELB data indicate one data point corresponding to one shrimp vessel. VMS data indicate 639 data points corresponding to 11 bottom longline vessels and 276 data points corresponding to 7 bandit rig vessels. However, to allow fishing that has historically occurred to continue, the regulations implemented by this final rule will not prohibit the deployment of bottom longlines. Therefore, longline vessels will not be affected by the gear prohibitions in this area. SBLOP

recorded only two fishing sets by shark longline vessels, which are included in the VMS data set. Based on the above information, the gear prohibitions in this area will not affect a substantial number of small entities.

For the West Florida Wall HAPC, which is located in the southeastern Gulf, ELB did not record any data point or shrimp vessel fishing in the area. VMS recorded one data point corresponding to one bottom longline vessel and one data point corresponding to one bandit rig vessel. SBLOP data indicate very low shark fishing effort in the area. Therefore, the gear prohibitions in this area will not affect a substantial number of small entities.

Six new HAPCs will be established in the northeastern Gulf: Alabama Alps Reef, L & W Pinnacles and Scamp Reef, Mississippi Canyon 118, Roughtongue Reef, Viosca Knoll 826, and Viosca Knoll 862/906. For Alabama Alps Reef, ELB recorded 1 data point corresponding to 1 vessel and VMS recorded 7 data points corresponding to 1 bottom longline vessel, and 221 data points corresponding to 11 bandit rig vessels. For L & W Pinnacles and Scamp Reef, ELB recorded 2 data points and 1 vessel while VMS recorded 42 data points corresponding to 3 bottom longline vessels, and 1,209 data points corresponding to 24 bandit rig vessels. For Mississippi Canyon 118, ELB recorded four data points and one vessel while VMS recorded four data points corresponding to one bottom longline vessel and one data point corresponding to one bandit rig vessel. For Roughtongue Reef, ELB recorded 1 data point and 1 vessel while VMS recorded 40 data points corresponding to 3 bottom longline vessels and 1,208 data points corresponding to 24 bandit rig vessels. For Viosca Knoll 826, ELB recorded one data point and one vessel while VMS recorded one data point corresponding to one bottom longline vessel and three data points corresponding to one bandit rig vessel. For Viosca Knoll 862/906, ELB recorded 168 data points and 2 vessels while VMS recorded 8 data points corresponding to 2 bottom longline vessels and 13 data points corresponding to 2 bandit rig vessels. NMFS notes that shrimp vessels fishing in Viosca Knoll 862/906 are mainly those fishing for royal red shrimp. Vessels with a royal red shrimp endorsement fishing for this species in this area are exempt from the prohibition on bottom-tending gear and will not be affected by this final rule. SBLOP reported only two sets by two shark fishing vessels for L & W Pinnacles and Scamp Reef, and none for

the other areas. Because of the general location of this group of HAPCs, it is likely that certain vessels could be fishing in multiple HAPCs within this group in any given year. It is also possible that a vessel would fish in different HAPCs from year to year. Thus, the total number of vessels affected by the prohibitions applicable in this group of HAPCs would be less than the sum of vessels fishing in each HAPC as noted above. Therefore, the gear prohibitions in these six areas will not affect a substantial number of small entities.

This final rule will establish three new HAPCs in the northwestern Gulf: AT 047, AT 357, and Green Canyon 852. Both ELB and VMS recorded very few data points and vessels fishing in each of these three areas. ELB recorded at most one data point and one vessel for each of these three areas while VMS recorded at most one data point and one bottom longline vessel in each of the AT 047 and AT 357 HAPCs and none for Green Canyon 852. There were no bandit rig vessels recorded in these areas. In addition, no shark fishing sets were observed in these areas. Therefore, the gear prohibitions in these three areas will not affect a substantial number of small entities.

This final rule will establish two new HAPCs in the southwestern Gulf: Harte Bank and Southern Bank. For Harte Bank, ELB recorded at most one data point and one vessel while VMS recorded two data points corresponding to one bottom longline vessel and four data points corresponding to one bandit rig vessel. For Southern Bank, ELB recorded one data point and one vessel while VMS recorded no data points for bottom longline vessels and one point for one bandit rig vessel. In addition, no bottom longlining for sharks was observed in these two areas. Therefore, the gear prohibitions in these two areas will not affect a substantial number of small entities.

The action to change the prohibition in the existing HAPCs with fishing regulations to a prohibition on the “deployment” of bottom-tending gear, as opposed to a prohibition on “fishing” with the bottom-tending gear, will have no effects on the revenues of fishing vessels. These vessels do not currently derive any revenues from fishing with bottom-tending gear in any existing HAPCs with fishing regulations. This final rule will make fishing regulations in existing HAPCs consistent with the regulations in the new HAPCs, and therefore will lessen confusion on the part of fishermen as well as simplify enforcement.

Amendment 9 will also establish eight new deep-water HAPCs without fishing regulations, which will have no accompanying economic effects on small entities. The effects of prohibiting the deployment of dredge fishing gear in all HAPCs that have fishing regulations are included in the discussion of effects for each HAPC. This prohibition will not impact any small entities as there is no known dredge fishing in any existing or proposed HAPCs.

In summary, there are three Federal fisheries that operate in the HAPCs implemented by this final rule, and although all of the commercially permitted reef fish, shrimp, and shark vessels are small entities, based on available data, only a small number of vessels are estimated to have fished with bottom-tending gear in each of the HAPCs, and all HAPCs combined. Therefore, this final rule will not affect a substantial number of small entities.

The information provided above supports a determination that this final rule will not have a significant economic impact on a substantial number of small entities.

This final rule contains no information collection requirements subject to the Paperwork Reduction Act of 1995.

## List of Subjects

### 50 CFR Part 622

Coral, Fisheries, Fishing, Gulf of Mexico.

### 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: September 22, 2020.

**Samuel D. Rauch, III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR parts 622 and 635 are 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. Section 622.74 is revised to read as follows:

### § 622.74 Area closures to protect Gulf corals.

For the purposes of this section, fishing gear is deployed if any part of the gear is in contact with the water.



(a) *Florida Middle Grounds HAPC*. Deployment of a bottom longline, bottom trawl, dredge, pot, or trap is prohibited year-round in the area bounded by rhumb lines connecting the following points in order:

TABLE 1 TO PARAGRAPH (a)

Point	North lat.	West long.
A .....	28°42.500'	84°24.800'
B .....	28°42.500'	84°16.300'
C .....	28°11.000'	84°00.000'
D .....	28°11.000'	84°07.000'
E .....	28°26.600'	84°24.800'
A .....	28°42.500'	84°24.800'

(b) *Tortugas marine reserves HAPC*. Fishing for any species and bottom anchoring by fishing vessels are prohibited year-round in the areas of the HAPC.

(1) *EEZ portion of Tortugas North HAPC*. The area is bounded by rhumb lines connecting the following points in order: From point A at 24°40.000' N lat., 83°06.000' W long. to point B at 24°46.000' N lat., 83°06.000' W long. to point C at 24°46.000' N lat., 83°00.000' W long.; then along the line denoting the seaward limit of Florida state waters, as shown on the current edition of NOAA chart 11434, to point A at 24°40.000' N lat., 83°06.000' W long.

(2) *Tortugas South HAPC*. The area is bounded by rhumb lines connecting the following points in order:

TABLE 2 TO PARAGRAPH (b)(2)

Point	North lat.	West long.
A .....	24°33.000'	83°09.000'
B .....	24°33.000'	83°05.000'
C .....	24°18.000'	83°05.000'
D .....	24°18.000'	83°09.000'
A .....	24°33.000'	83°09.000'

(c) *Pulley Ridge South HAPC*. Deployment of a bottom longline, bottom trawl, buoy gear, dredge, pot, or trap, and bottom anchoring by fishing vessels are prohibited year-round in the area of the HAPC bounded by rhumb lines connecting the following points in order:

TABLE 3 TO PARAGRAPH (c)

Point	North lat.	West long.
A .....	24°58.300'	83°38.550'
B .....	24°58.300'	83°37.000'
C .....	24°41.183'	83°37.000'
D .....	24°40.000'	83°41.367'
E .....	24°43.917'	83°47.250'
A .....	24°58.300'	83°38.550'

(d) *Pulley Ridge South Portion A HAPC*. Deployment of a bottom trawl,

buoy gear, dredge, pot, or trap, and bottom anchoring by fishing vessels are prohibited year-round in the area of the HAPC bounded by rhumb lines connecting the following points in order:

TABLE 4 TO PARAGRAPH (d)

Point	North lat.	West long.
A .....	24°40.000'	83°41.366'
B .....	24°39.666'	83°42.648'
C .....	24°47.555'	83°55.240'
D .....	24°57.065'	83°48.405'
E .....	24°52.859'	83°41.841'
F .....	24°43.917'	83°47.250'
A .....	24°40.000'	83°41.366'

(e) *West Florida Wall HAPC*. Deployment of a bottom longline, bottom trawl, buoy gear, dredge, pot, or trap, and bottom anchoring by fishing vessels are prohibited year-round in the area of the HAPC bounded by rhumb lines connecting the following points in order:

TABLE 5 TO PARAGRAPH (e)

Point	North lat.	West long.
A .....	26°28.835'	84°47.955'
B .....	26°28.816'	84°46.754'
C .....	26°10.471'	84°42.076'
D .....	26°10.528'	84°44.577'
E .....	26°25.028'	84°47.986'
F .....	26°25.100'	84°47.980'
A .....	26°28.835'	84°47.955'

(f) *Alabama Alps Reef HAPC*. Deployment of a bottom longline, bottom trawl, buoy gear, dredge, pot, or trap, and bottom anchoring by fishing vessels are prohibited year-round in the area of the HAPC bounded by rhumb lines connecting the following points in order:

TABLE 6 TO PARAGRAPH (f)

Point	North lat.	West long.
A .....	29°16.160'	88°20.525'
B .....	29°15.427'	88°18.990'
C .....	29°13.380'	88°19.051'
D .....	29°14.140'	88°20.533'
A .....	29°16.160'	88°20.525'

(g) *L & W Pinnacles and Scamp Reef HAPC*. Deployment of a bottom longline, bottom trawl, buoy gear, dredge, pot, or trap, and bottom anchoring by fishing vessels are prohibited year-round in the area of the HAPC bounded by rhumb lines connecting the following points in order:

TABLE 7 TO PARAGRAPH (g)

Point	North lat.	West long.
A .....	29°18.595'	87°48.757'
B .....	29°18.484'	87°50.688'
C .....	29°19.754'	87°52.484'
D .....	29°20.401'	87°51.449'
E .....	29°20.095'	87°50.933'
F .....	29°20.832'	87°46.631'
G .....	29°21.473'	87°46.326'
H .....	29°21.314'	87°45.535'
I .....	29°22.518'	87°43.465'
J .....	29°21.144'	87°42.632'
K .....	29°19.269'	87°45.525'
A .....	29°18.595'	87°48.757'

(h) *Mississippi Canyon 118 HAPC*. Deployment of a bottom longline, bottom trawl, buoy gear, dredge, pot, or trap, and bottom anchoring by fishing vessels are prohibited year-round in the area of the HAPC bounded by rhumb lines connecting the following points in order:

TABLE 8 TO PARAGRAPH (h)

Point	North lat.	West long.
A .....	28°53.183'	88°30.789'
B .....	28°53.216'	88°27.819'
C .....	28°50.602'	88°27.782'
D .....	28°48.944'	88°27.759'
E .....	28°48.962'	88°30.727'
A .....	28°53.183'	88°30.789'

(i) *Roughtongue Reef HAPC*. Deployment of a bottom longline, bottom trawl, buoy gear, dredge, pot, or trap, and bottom anchoring by fishing vessels are prohibited year-round in the area of the HAPC bounded by rhumb lines connecting the following points in order:

TABLE 9 TO PARAGRAPH (i)

Point	North lat.	West long.
A .....	29°27.596'	87°37.527'
B .....	29°27.621'	87°31.552'
C .....	29°25.007'	87°31.539'
D .....	29°24.981'	87°37.510'
A .....	29°27.596'	87°37.527'

(j) *Viosca Knoll 826 HAPC*. Deployment of a bottom longline, bottom trawl, buoy gear, dredge, pot, or trap, and bottom anchoring by fishing vessels are prohibited year-round in the area of the HAPC bounded by rhumb lines connecting the following points in order:

TABLE 10 TO PARAGRAPH (j)

Point	North lat.	West long.
A .....	29°10.920'	88°03.509'
B .....	29°10.877'	87°59.460'
C .....	29°07.974'	87°59.448'



TABLE 10 TO PARAGRAPH (j)—  
Continued

Point	North lat.	West long.
D .....	29°08.017'	88°03.532'
A .....	29°10.920'	88°03.509'

(k) *Viosca Knoll 862/906 HAPC*. Deployment of a bottom longline, bottom trawl, buoy gear, dredge, pot, or trap, and bottom anchoring by fishing vessels are prohibited year-round in the area of the HAPC. This prohibition does not apply to a fishing vessel issued a Gulf royal red shrimp endorsement, as specified in § 622.50(c), while the vessel is fishing for royal red shrimp. The HAPC is bounded by rhumb lines connecting the following points in order:

TABLE 11 TO PARAGRAPH (k)

Point	North lat.	West long.
A .....	29°07.640'	88°23.608'
B .....	29°07.603'	88°20.590'
C .....	29°03.749'	88°20.554'
D .....	29°03.734'	88°22.016'
E .....	29°02.367'	88°21.998'
F .....	29°02.281'	88°24.972'
G .....	29°07.568'	88°25.044'
H .....	29°07.592'	88°25.044'
I .....	29°07.676'	88°25.045'
A .....	29°07.640'	88°23.608'

(l) *McGrail Bank HAPC*. Deployment of a bottom longline, bottom trawl, buoy gear, dredge, pot, or trap, and bottom anchoring by fishing vessels are prohibited year-round in the HAPC, which is bounded by rhumb lines connecting the following points in order:

TABLE 12 TO PARAGRAPH (l)

Point	North lat.	West long.
A .....	27°59.100'	92°37.320'
B .....	27°59.100'	92°32.290'
C .....	27°55.925'	92°32.290'
D .....	27°55.925'	92°37.320'
A .....	27°59.100'	92°37.320'

(m) *AT 047 HAPC*. Deployment of a bottom longline, bottom trawl, buoy gear, dredge, pot, or trap and bottom anchoring by fishing vessels are prohibited year-round in the HAPC, which is bounded by rhumb lines connecting the following points in order:

TABLE 13 TO PARAGRAPH (m)

Point	North lat.	West long.
A .....	27°54.426'	89°49.404'
B .....	27°54.486'	89°46.464'

TABLE 13 TO PARAGRAPH (m)—  
Continued

Point	North lat.	West long.
C .....	27°51.874'	89°46.397'
D .....	27°51.814'	89°49.336'
A .....	27°54.426'	89°49.404'

(n) *AT 357 HAPC*. Deployment of a bottom longline, bottom trawl, buoy gear, dredge, pot, or trap, and bottom anchoring by fishing vessels are prohibited year-round in the HAPC, which is bounded by rhumb lines connecting the following points in order:

TABLE 14 TO PARAGRAPH (n)

Point	North lat.	West long.
A .....	27°36.259'	89°43.068'
B .....	27°36.315'	89°40.136'
C .....	27°33.703'	89°40.073'
D .....	27°33.646'	89°43.004'
A .....	27°36.259'	89°43.068'

(o) *Green Canyon 852 HAPC*. Deployment of a bottom longline, bottom trawl, buoy gear, dredge, pot, or trap, and bottom anchoring by fishing vessels are prohibited year-round in the HAPC, which is bounded by rhumb lines connecting the following points in order:

TABLE 15 TO PARAGRAPH (o)

Point	North lat.	West long.
A .....	27°08.354'	91°08.929'
B .....	27°05.740'	91°08.963'
C .....	27°05.762'	91°10.610'
D .....	27°08.376'	91°10.567'
A .....	27°08.354'	91°08.929'

(p) *West Flower Garden Bank HAPC*. Deployment of a bottom longline, bottom trawl, buoy gear, dredge, pot, or trap, and bottom anchoring by fishing vessels are prohibited year-round in the HAPC, which is bounded by rhumb lines connecting the following points in order:

TABLE 16 TO PARAGRAPH (p)

Point	North lat.	West long.
A .....	27°55.380'	93°53.160'
B .....	27°55.380'	93°46.767'
C .....	27°49.050'	93°46.767'
D .....	27°49.050'	93°53.160'
A .....	27°55.380'	93°53.160'

(q) *East Flower Garden Bank HAPC*. Deployment of a bottom longline, bottom trawl, buoy gear, dredge, pot, or trap, and bottom anchoring by fishing vessels are prohibited year-round in the

HAPC, which is bounded by rhumb lines connecting the following points in order:

TABLE 17 TO PARAGRAPH (q)

Point	North lat.	West long.
A .....	27°59.240'	93°38.970'
B .....	27°59.240'	93°34.058'
C .....	27°52.608'	93°34.058'
D .....	27°52.608'	93°38.970'
A .....	27°59.240'	93°38.970'

(r) *Stetson Bank HAPC*. Deployment of a bottom longline, bottom trawl, buoy gear, dredge, pot, or trap, and bottom anchoring by fishing vessels are prohibited year-round in the HAPC, which is bounded by rhumb lines connecting the following points in order:

TABLE 18 TO PARAGRAPH (r)

Point	North lat.	West long.
A .....	28°10.638'	94°18.608'
B .....	28°10.638'	94°17.105'
C .....	28°09.310'	94°17.105'
D .....	28°09.310'	94°18.608'
A .....	28°10.638'	94°18.608'

(s) *Harte Bank HAPC*. Deployment of a bottom longline, bottom trawl, buoy gear, dredge, pot, or trap, and bottom anchoring by fishing vessels are prohibited year-round in the HAPC, which is bounded by rhumb lines connecting the following points in order:

TABLE 19 TO PARAGRAPH (s)

Point	North lat.	West long.
A .....	26°40.826'	96°36.590'
B .....	26°40.789'	96°32.220'
C .....	26°37.992'	96°32.308'
D .....	26°38.043'	96°36.636'
A .....	26°40.826'	96°36.590'

(t) *Southern Bank HAPC*. Deployment of a bottom longline, bottom trawl, buoy gear, dredge, pot, or trap, and bottom anchoring by fishing vessels are prohibited year-round in the HAPC, which is bounded by rhumb lines connecting the following points in order:

TABLE 20 TO PARAGRAPH (t)

Point	North lat.	West long.
A .....	27°26.923'	96°31.902'
B .....	27°26.989'	96°30.881'
C .....	27°25.958'	96°31.134'
D .....	27°25.958'	96°31.892'
A .....	27°26.923'	96°31.902'

**PART 635—ATLANTIC HIGHLY  
MIGRATORY SPECIES**

■ 3. The authority citation for part 635 continues to read as follows:

**Authority:** 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

■ 4. In § 635.21, revise paragraph (a)(3)(i) and add paragraph (a)(3)(v) to read as follows:

**§ 635.21 Gear operation and deployment restrictions.**

(a) \* \* \*

(3) \* \* \*

(i) No person may fish for, catch, possess, or retain any Atlantic HMS or anchor a fishing vessel that has been issued a permit or is required to be permitted under this part, in the areas and seasons designated at § 622.34(a)(3) of this chapter.

\* \* \* \* \*

(v) Within the areas of the Gulf coral HAPCs designated at § 622.74 of this chapter, no person may bottom anchor a fishing vessel or deploy fishing gear that may not be deployed pursuant to § 622.74 of this chapter. For purposes of this provision, fishing gear is deployed if any part of the gear is in contact with the water.

\* \* \* \* \*

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