## §640.7 [Amended]

5. In §640.7, in paragraph (e), the reference to "§ 640.20 (c)(1) and (c)(2)" is revised to read "§ 640.20(b)(3)(i) and (b)(3)(ii)"; in paragraph (f), the reference to "§640.20(d)" is revised to read "§ 640.20(b)(4)"; in paragraph (p), the reference to "§640.23(a) or (b)" is revised to read "§ 640.23(a), (b)(1), or (b)(2)" and the reference to "§ 640.23(c) and (d)" is revised to read "§ 640.23(b)(3) and (b)(4)"; in paragraph (q), the reference to "§ 640.23(d)" is revised to read "§ 640.23(b)(4)"; in paragraph (r), the reference to "§ 640.23(g)" is revised to read '' $\hat{s}$  640.23(d)''; and in paragraph (s), the reference to "§ 640.23(h)" is revised to read ''§ 640.23(e)"

6. Section 640.20 is revised to read as follows:

## §640.20 Seasons.

(a) *EEZ off the southern Atlantic states, other than Florida*. In the EEZ off the southern Atlantic states, other than Florida, there are no seasonal restrictions on the harvest of spiny lobster or on the possession of traps.

(b) *EEZ* off Florida and off the Gulf states, other than Florida—(1) *Commercial and recreational fishing season.* The commercial and recreational fishing season for spiny lobster in the EEZ off Florida and the EEZ off the Gulf states, other than Florida, begins on August 6 and ends on March 31.

(2) Special recreational fishing seasons—(i) EEZ off Florida. There is a 2-day special recreational fishing season in the EEZ off Florida on the last Wednesday and successive Thursday of July each year during which fishing for spiny lobster is limited to diving or use of a bully net or hoop net. (See § 640.22(a) for general prohibitions on gear and methods.) In the EEZ off Monroe County, Florida, no person may harvest spiny lobster by diving at night, that is, from 1 hour after official sunset to 1 hour before official sunrise, during this 2-day special recreational fishing season.

(ii) *EEZ off the Gulf states, other than Florida*. There is a 2-day special recreational fishing season in the EEZ off the Gulf states, other than Florida, during the last Saturday and successive Sunday of July each year during which fishing for spiny lobster may be conducted by authorized gear and methods other than traps. (See § 640.22(a) for general prohibitions on gear and methods.)

(3) *Possession of traps*. (i) In the EEZ off Florida, the rules and regulations applicable to the possession of spiny lobster traps in Florida's waters in Rule

46-24.005(3), (4), and (5), Florida Administrative Code, in effect as of June 1, 1994, apply in their entirety to the possession of spiny lobster traps in the EEZ off Florida. This incorporation by reference was approved by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Florida Marine Fisheries Commission, 2540 Executive Center Circle West, Suite 106, Tallahassee, FL 32301; telephone: 904-487-0554. Copies may be inspected at the Office of the Regional Director; the Office of Fisheries Conservation and Management, NMFS, 1315 East-West Highway, Silver Spring, MD; or the Office of the Federal Register, 800 North Capitol Street NW, Suite 700, Washington, DC.

(ii) In the EEZ off the Gulf states, other than Florida, a spiny lobster trap may be placed in the water prior to the commercial and recreational fishing season, which is specified in paragraph (b)(1) of this section beginning on August 1 and must be removed from the water after such season not later than April 5.

(iii) A spiny lobster trap, buoy, or rope in the EEZ off Florida or in the EEZ off the Gulf states, other than Florida, during periods not authorized in paragraphs (b)(3)(i) and (b)(3)(ii) of this section will be considered unclaimed or abandoned property and may be disposed of in any manner considered appropriate by the Assistant Administrator or an authorized officer. An owner of such trap, buoy, or rope remains subject to appropriate civil penalties.

(4) Possession of spiny lobsters. In the EEZ off Florida and the Gulf states, a whole or a part of a spiny lobster subject to these regulations may only be possessed during the commercial and recreational fishing season and the special recreational fishing season specified in §640.20, unless accompanied by proof of lawful harvest in the waters of a foreign nation. Consistent with the provisions of paragraphs (b)(3)(i) and (ii) of this section, a spiny lobster in a trap in this area will not be deemed to be possessed provided such spiny lobster is returned immediately to the water unharmed when a trap is removed from the water between March 31 and April 15.

(c) Primacy of seasonal restrictions in the EEZ off Florida. The seasonal restrictions applicable in the EEZ off Florida apply to all spiny lobsters and traps in the EEZ off Florida, without regard to harvest or use elsewhere, unless accompanied by proof of lawful harvest elsewhere. 7. In § 640.22, a sentence is added to the end of paragraph (a)(1) and paragraph (b)(3)(i) is revised to read as follows:

## §640.22 Gear and diving restrictions.

(a) \* \* \*

(1) \* \* \* Hook, as used in this paragraph (a)(1), does not include a hook in a hook-and-line fishery for species other than spiny lobster; and possession of a spiny lobster that has been speared, pierced, or punctured by such hook is not considered evidence that prohibited gear was used to take the spiny lobster, provided no prohibited gear is on board the vessel.

- \* \* (b) \* \* \*
- (D) (3) \* \* \*

(i) For traps in the EEZ off Florida, by the Florida Division of Law Enforcement, Department of Environmental Protection, in accordance with the procedures in Rule 46-24.006(7), Florida Administrative Code, in effect as of June 1, 1994. This incorporation by reference was approved by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Florida Marine Fisheries Commission, 2540 Executive Center Circle West, Suite 106, Tallahassee, FL 32301; telephone: 904–487–0554. Copies may be inspected at the Office of the Regional Director; the Office of Fisheries Conservation and Management, NMFS, 1315 East-West Highway, Silver Spring, MD; or the Office of the Federal Register, 800 North Capitol Street NW, Suite 700, Washington, DC.

8. Section 640.23 is revised to read as follows:

## §640.23 Bag/possession limits.

\* \* \*

(a) *EEZ off the southern Atlantic states, other than Florida*. The daily bag or possession limit for spiny lobster in or from the EEZ off the southern Atlantic states, other than Florida, is two per person for commercial and recreational fishing, year-round.

(b) *EEZ* off Florida and off the Gulf states, other than Florida—(1) *Commercial and recreational fishing season.* Except as specified in paragraphs (b)(3) and (b)(4) of this section, during the commercial and recreational fishing season specified in § 640.20(b)(1), the daily bag or possession limit of spiny lobster in or from the EEZ off Florida and off the Gulf states, other than Florida, is six per person.

(2) *Special recreational fishing seasons*. During the special recreational