

the Convention Area at any time during the same fishing trip, the longline gear on the fishing vessel must, while in the Convention Area, be stowed in a manner so as not to be readily available for fishing; specifically, the hooks, branch or dropper lines, and floats used to buoy the mainline must be stowed and not available for immediate use, and any power-operated mainline hauler on deck must be covered in such a manner that it is not readily available for use.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 0906241088-91089-01]

RIN 0648-AX92

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Commercial Sector of the Reef Fish, Queen Conch, and Spiny Lobster Fisheries of Puerto Rico and the U.S. Virgin Islands; Control Date

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

**ACTION:** Advance notice of proposed rulemaking; consideration of a control date.

**SUMMARY:** NMFS announces that it is establishing a control date that may be used to control future access to the commercial sector of the reef fish, queen conch, and spiny lobster fisheries operating in the exclusive economic zone (EEZ) of the U.S. Caribbean. If changes to the management regime are developed and implemented under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), a control date could be used to limit the number of participants in these fisheries. This announcement is intended, in part, to promote awareness of the potential eligibility criteria for future access so as to discourage speculative entry into the fisheries while the Caribbean Fishery Management Council (Council) and NMFS consider whether and how access to the commercial sector of the reef fish, queen conch, or spiny lobster fishery should be controlled.

**DATES:** Comments must be received by August 7, 2009.

**ADDRESSES:** Comments, identified by RIN 0648-AX92, may be submitted by any one of the following methods:

- Electronic submissions: Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>.
- Mail: Jason Rueter, NMFS Southeast Regional Office, Sustainable Fisheries Division, 263 13th Avenue South, Saint Petersburg, Florida 33701.

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

To submit comments through the Federal eRulemaking Portal: <http://www.regulations.gov> enter "NOAA-NMFS-2009-0137" in the keyword search, then select "Send a Comment or Submission." NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Jason Rueter; phone 727-824-5305; fax 727-824-5308; or Graciela Garcia-Moliner; phone 787-766-5927; fax 787-766-6239.

**SUPPLEMENTARY INFORMATION:** The commercial sector of the U.S. Caribbean reef fish fishery is managed under the Fishery Management (FMP) Plan for the Reef Fish Resources of Puerto Rico and the U.S. Virgin Islands, the commercial sector of the U.S. Caribbean queen conch fishery is managed under the FMP for the Queen Conch Resources of Puerto Rico and the U.S. Virgin Islands, and the commercial sector of the U.S. Caribbean spiny lobster fishery is managed under the FMP for the Spiny Lobster Resources of Puerto Rico and the U.S. Virgin Islands. The FMPs were prepared by the Council, and implemented under the authority of the Magnuson-Stevens Act.

This notice would inform participants in the U.S. Caribbean reef fish, queen conch, and spiny lobster fisheries of the Council's intentions to consider limiting access within the commercial sector of

the U.S. Caribbean reef fish, queen conch, or spiny lobster fisheries. Specifically, the Council may consider requiring a permit that would limit fishing in the EEZ to only those participants that have catch histories in excess of some minimum landings threshold or to those participants who possess a valid Territorial/Commonwealth Permit. Should the Council take such future action to further restrict participation in the commercial sector of the U.S. Caribbean reef fish, queen conch, or spiny lobster fishery, it intends to use March 24, 2009, as a possible control date regarding the eligibility of catch histories. This date was announced at the Council's March 2009 meeting. Publication of the control date in the **Federal Register** informs participants of the Council's considerations, and gives notice to anyone entering the fisheries after the control date they would not be assured of future access should a management regime be implemented using the control date as a means to restrict participation. Implementation of any such program would require preparation of an amendment to the FMPs and subsequent rulemaking with appropriate public comment periods.

Consideration of a control date does not commit the Council or NMFS to any particular management regime or criteria for eligibility in the commercial sector of the U.S. Caribbean reef fish, queen conch, or spiny lobster fishery. The Council may or may not make use of this control date as part of the qualifying criteria for participation in that sector of the fisheries. Fishermen are not guaranteed future participation in a fishery regardless of their entry date or intensity of participation in the fishery before or after the control date under consideration. The Council subsequently may choose a different control date or management regime that does not make use of a control date. The Council also may choose to take no further action to control entry or access to the fisheries, in which case the control date may be rescinded.

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

Dated: July 1, 2009.

**John Oliver,**

*Deputy Assistant Administrator For Operations, National Marine Fisheries Service.*

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