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

Dated: September 21, 2011.

**Emily H. Menashes,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

RIN 0648-BA62

#### Amendments to the Reef Fish, Spiny Lobster, Queen Conch and Coral and Reef Associated Plants and Invertebrates Fishery Management Plans of Puerto Rico and the U.S. Virgin Islands

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

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** NMFS announces that the Caribbean Fishery Management Council (Council) has submitted a 2011 Annual Catch Limits/Accountability Measures Amendment (2011 Caribbean ACL Amendment) to the Fishery Management Plans (FMPs) for Reef Fish Resources, Spiny Lobster, Queen Conch, and Coral and Reef Associated Plants and Invertebrates for the U.S. Caribbean for review, approval, and implementation by NMFS. This amendment proposes actions to establish annual catch limits (ACLs) and accountability measures (AMs) if ACLs should be exceeded for selected reef fish, spiny lobster, and aquarium trade species identified by the Secretary as not undergoing overfishing; allocate ACLs for island management areas and for the commercial and recreational sectors; revise the species within the conch FMU; establish bag limits for selected reef fish species and spiny lobster; and establish framework procedures for spiny lobster and coral and reef associated plants and

invertebrates species. The 2011 Caribbean ACL Amendment would also revise management reference points and status determination criteria for angelfish, boxfish, goatfish, grunts, hogfish, jacks, scups and porgies, spiny lobster, squirrelfish, surgeonfish, triggerfish and tilefish, and aquarium trade species. The intended effect of the 2011 Caribbean ACL Amendment is prevent overfishing of reef fish, spiny lobster and aquarium trade species while maintaining catch levels consistent with achieving optimum yield (OY).

**DATES:** Written comments must be received on or before November 25, 2011.

**ADDRESSES:** You may submit comments on these Amendments, identified by NOAA-NMFS-2011-0017, by any of the following methods:

- **Electronic Submissions:** Submit electronic public comments via the Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- **Mail:** Miguel Lugo and Maria Lopez, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 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 e-Rulemaking Portal: <http://www.regulations.gov>, click on "submit a comment," then enter "NOAA-NMFS-2011-0017" in the keyword search and click on "search." To view posted comments during the comment period, enter "NOAA-NMFS-2011-0017" in the keyword search and click on "search". 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.

Comments received through means not specified in this notice will not be considered.

Electronic copies of the amendment may be obtained from the Southeast Regional Office Web site at <http://sero.nmfs.noaa.gov>.

**FOR FURTHER INFORMATION CONTACT:** Miguel Lugo or Maria Lopez, telephone: 727-824-5305, or e-mail:

[Miguel.Lugo@noaa.gov](mailto:Miguel.Lugo@noaa.gov) or [Maria.Lopez@noaa.gov](mailto:Maria.Lopez@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each regional fishery management council to submit any fishery management plan or amendment to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving a plan or amendment, publish an announcement in the **Federal Register** notifying the public that the plan or amendment is available for review and comment.

The four FMPs being revised by the 2011 Caribbean ACL Amendment were prepared by the Council and implemented through regulations at 50 CFR parts 622 under the authority of the Magnuson-Stevens Act.

#### Background

The 2006 revisions to the Magnuson-Stevens Act require that, in 2011, for fish stocks determined by the Secretary to not be subject to overfishing, ACLs must be established at a level that prevents overfishing and helps to achieve OY within a fishery. The Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and achieve, on a continuing basis, the OY from federally managed stocks. These mandates are intended to ensure fishery resources are managed for the greatest overall benefit to the nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems.

#### Actions Contained in the Amendment

The 2011 Caribbean ACL Amendment considers alternatives to revise management reference points, and implement ACLs for those species not subject to overfishing. In addition, the 2011 Caribbean ACL Amendment would redefine the aquarium trade species FMUs within the Reef Fish FMP and the Coral and Reef Associated Plants and Invertebrates FMP, revise the species composition of the FMU within the Queen Conch Resources FMP, manage selected Federal fisheries through defined island management areas in the exclusive economic zone (EEZ). Additionally, the 2011 Caribbean ACL Amendment would establish recreational bag limits for reef fish and spiny lobster species, establish AMs if ACLs are exceeded, and establish framework procedures for implementing management changes in a timelier

manner for both the spiny lobster and coral and reef associated plants and invertebrates FMPs.

*Management Reference Points for the Reef Fish and Spiny Lobster FMPs*

The Magnuson-Stevens Act requires that FMPs specify a number of reference points for managed fish stocks, including maximum sustainable yield (MSY), OY, and stock status determination criteria (including overfished and overfishing thresholds). These reference points are determined for the entire U.S. Caribbean and are intended to provide the basis to measure the status and performance of fisheries relative to established goals. Available data in the U.S. Caribbean are not currently sufficient to support the direct estimation of these parameters. Thus, the amendment proposes to use average catch as a proxy for MSY. The overfishing limit (OFL) and allowable biological catch (ABC) would be set equal to the MSY proxy. OY would be set as the MSY proxy multiplied by a reduction factor to account for uncertainty in the scientific process, the proposed uncertainty reduction factor being 10 percent. For surgeonfish, angelfish and aquarium trade species specifically, the amendment proposes an uncertainty reduction factor of 25 percent.

*Management Reference Points and Fisheries Management Unit for the Aquarium Trade Species*

This action presents alternatives to redefine the management of aquarium trade species within the Reef Fish FMP and within the Coral and Reef Associated Plants and Invertebrates FMP (Coral FMP). Alternatives under this action could maintain the present arrangement of aquarium trade species; consolidate all the federally managed aquarium trade species into a single FMP; remove all aquarium trade species from both the Coral and Reef Fish FMPs with the result that they will no longer be subject to Federal management; keep only those aquarium trade species for which landings data are available during the year sequences specified, and remove all remaining aquarium trade species from the FMPs; or delegate management authority of all aquarium trade species in the Reef Fish and the

Coral FMPs to the jurisdiction of the appropriate commonwealth or territory.

*Removal of Species From the Queen Conch Resources FMP*

The 2011 Caribbean ACL Amendment would remove all conch species, except for the queen conch (*Strombus gigas*), from the conch FMU.

*Geographic Allocation/Management*

Except for tilefishes and aquarium trade species, the 2011 Caribbean ACL Amendment would establish island-specific management areas to manage ACLs and the application of AMs in response to harvesting activities on a more island specific level. The island management areas would be Puerto Rico, St. Croix, and the combined area of St. Thomas and St. John. The geographic boundaries between islands and island groups would be based upon an equidistant approach that uses a mid-point to divide the EEZ among islands. Landings data from Puerto Rico will be used to establish the Caribbean-wide ACLs for tilefishes and aquarium trade species.

*Establish Annual Catch Limits and Accountability Measures*

The 2011 Caribbean ACL Amendment would establish ACLs and AMs for Caribbean reef fish, spiny lobster, and aquarium trade species that are not undergoing overfishing. Separate commercial and recreational ACLs would be established for the Puerto Rico island management area based on the availability of landings data for the commercial and recreational sectors. For the other island management areas, only commercial data are available, therefore, ACLs would be established for the St. Croix and St. Thomas/St. John island management areas based on commercial landings data only.

Post-season AMs are proposed that would ensure the ACL is not exceeded in the year following a reported ACL overage based on a moving-year evaluation of landings and a subsequent reduction in the length of the following fishing year to ensure the ACL is not exceeded in that following year.

*Establishment of Recreational Bag and Possession Limits*

The 2011 Caribbean ACL Amendment would establish recreational bag limits for selected reef fish species and spiny lobster. The amendment would also set an overall vessel possession limit for the recreational sector for selected reef fish species and spiny lobster.

*Framework Procedures*

To facilitate timely adjustments to harvest parameters and other management measures, the Council has proposed framework procedures for both the spiny lobster and coral and reef and associated plants and invertebrates FMPs. Framework procedures allow the Council and NMFS to have the flexibility to more promptly alter management options to respond to changing fishery conditions and new scientific information.

**Consideration of Public Comments**

A proposed rule that would implement measures outlined in the 2011 Caribbean ACL Amendment has been received from the Council. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the FMPs, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

Comments received by November 25, 2011, whether specifically directed to the amendment or the proposed rule, will be considered by NMFS in its decision to approve, disapprove, or partially approve the amendment. Comments received after that date will not be considered by NMFS in this decision. All comments received by NMFS on the amendment or the proposed rule during their respective comment periods will be addressed in the final rule.

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

Dated: September 21, 2011.

**Emily H. Menashes,**  
*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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