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50 CFR Part 622

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; Final Rule

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 622**

[Docket No. 101217620-1788-03]

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: Final rule.

SUMMARY: NMFS issues this final rule to implement Amendment 6 to the Fishery Management Plan (FMP) for the Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands (Reef Fish FMP), Amendment 5 to the FMP for the Spiny Lobster Fishery of Puerto Rico and the U.S. Virgin Islands (Spiny Lobster FMP), Amendment 3 to the FMP for the Queen Conch Resources of Puerto Rico and the U.S. Virgin Islands (Queen Conch FMP), and Amendment 3 to the FMP for Corals and Reef Associated Plants and Invertebrates of Puerto Rico and the U.S. Virgin Islands (Corals and Reef Associated Plants and Invertebrates FMP). In combination, the amendments represent the 2011 Caribbean ACL Amendment prepared by the Caribbean Fishery Management Council (Council). This final rule will: Establish annual catch limits (ACLs) and accountability measures (AMs) for reef fish, spiny lobster, and aquarium trade species which are not determined to be undergoing overfishing; allocate ACLs among island management areas; establish recreational bag limits for reef fish and spiny lobster; remove eight conch species from the Queen Conch FMP; and establish framework procedures for the Spiny Lobster and Corals and Reef Associated Plants and Invertebrates FMPs. The 2011 Caribbean ACL Amendment will also revise management reference points and status determination criteria for selected reef fish, spiny lobster, and aquarium trade species. The intended effect of the rule is to prevent overfishing of reef fish, spiny lobster, and aquarium trade species while maintaining catch levels consistent with achieving optimum yield (OY).

DATES: This final rule is effective January 30, 2012.

ADDRESSES: Electronic copies of the 2011 Caribbean ACL Amendment, which includes an environmental impact statement (EIS), an initial regulatory flexibility analysis (IRFA), a regulatory impact review, and a fishery impact statement may be obtained from the Southeast Regional Office Web site at http://sero.nmfs.noaa.gov/sf/pdfs/2011_ACL_Amendment_FEIS_102511.pdf.

FOR FURTHER INFORMATION CONTACT:

Britni Tokotch, Southeast Regional Office, NMFS, telephone: (727) 824-5305, or email: Britni.Tokotch@noaa.gov.

SUPPLEMENTARY INFORMATION: In the exclusive economic zone (EEZ) of the U.S. Caribbean, the reef fish fishery is managed under the Reef Fish FMP, spiny lobster is managed under the Spiny Lobster FMP, conch is managed under the Queen Conch FMP, and aquarium trade species fisheries are managed under the Reef Fish FMP and the Coral and Reef Associated Plants and Invertebrates FMP. These FMPs were prepared by the Council and are implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

NMFS' 2011 Report on the Status of U.S. Fisheries classifies Caribbean spiny lobster, angelfishes, boxfishes, goatfishes, grunts, wrasses, jacks, scups and porgies, squirrelfishes, surgeonfishes, triggerfishes and filefishes, tilefishes, and aquarium trade species as unknown with respect to their status regarding overfishing. The eight species of conch to be removed from the Queen Conch FMP are currently in the FMP as data collection only species and were not included in this report.

On September 26, 2011, NMFS published a notice of availability for the 2011 Caribbean ACL Amendment and requested public comment (76 FR 59377). On November 7, 2011, NMFS published a proposed rule for the 2011 Caribbean ACL Amendment and requested public comment (76 FR 68711). The proposed rule and the 2011 Caribbean ACL Amendment outline the rationale for the actions contained in this final rule. A summary of the actions implemented by this final rule are provided below.

This final rule revises three management reference points within the FMPs. The management reference points for maximum sustainable yield (MSY), overfishing threshold, and OY, are revised as methods to measure the status and performance of the fisheries

relative to established goals, and are also used to establish ACLs. Proxies have been established for these reference points because available data in the U.S. Caribbean are not sufficient to support direct estimation of these parameters.

This final rule removes eight conch species from within the Queen Conch FMP that were in the FMP as data collection only species and were not included in the NMFS 2011 Report on the Status of U.S. Fisheries. These eight species are not generally targeted for harvest and the Council determined that any landings are minimal. After implementation of this final rule, only the queen conch will be retained in the FMP.

This final rule also revises the utilization of island-specific management areas to enable application of AMs in response to harvesting activities on a single island (Puerto Rico, St. Croix) or island group (St. Thomas/St. John) without necessarily affecting fishing activities on the other islands or island groups. This final rule utilizes geographic boundaries among islands/island groups based upon an equidistant approach that uses a midpoint to divide the exclusive economic zone (EEZ) among islands. The three island management areas include: Puerto Rico, St. Croix, and St. Thomas/St. John.

This final rule establishes ACLs and AMs for angelfish, boxfish, goatfishes, grunts, wrasses, jacks, scups and porgies, squirrelfishes, surgeonfish, triggerfish and filefish, tilefish, spiny lobster, and aquarium trade species units or complexes in the Reef Fish, Spiny Lobster, and Coral and Reef Associated Plants and Invertebrates FMPs. The harvest of Caribbean prohibited corals that are contained within the FMP for Coral and Reef Associated Plant and Invertebrates, and that are not described as aquarium trade species, is prohibited by Federal regulations. Therefore, a functional ACL of zero is considered for these prohibited species. Additionally, the harvest prohibition serves as a functional AM to manage the ACL.

Except for tilefish and aquarium trade species, each ACL is sub-divided among the three islands/island groups. The ACL for tilefish and aquarium trade species is applicable for the entire Caribbean EEZ. Separate commercial and recreational sector ACLs are established for the Puerto Rico management area where landings data are available for both sectors. For the other island management areas (St. Croix and St. Thomas/St. John), only commercial data are available; therefore,

ACLs are established for the St. Croix and St. Thomas/St. John management areas based on commercial landings data only.

The AMs are designed to prevent fishermen from exceeding the ACLs. Under this final rule, AMs are triggered if an ACL has been exceeded, the AM reduces the length of the fishing season for the affected species the year following the year it is determined that the ACL was exceeded by the amount needed to prevent such an overage from occurring again. The AM is triggered unless NMFS' Southeast Fisheries Science Center (SEFSC), in consultation with the Council and its Scientific and Statistical Committee (SSC), determines the overage occurred because data collection and monitoring improved rather than because catches actually increased.

Additionally, this rule establishes an aggregate bag limit for the recreational harvest of angelfishes, boxfishes, goatfishes, grunts, wrasses, jacks, scups and porgies, squirrelfishes, surgeonfishes, triggerfishes and filefishes, and tilefishes. The daily recreational bag limit for the described reef fish species will be five fish per person per day, with no more than one surgeonfish per person per day allowed within the aggregate. This final rule also establishes a vessel limit of 15 fish per vessel per day, including no more than 4 surgeonfish per vessel per day. The final rule also sets a bag limit of 3 spiny lobster per person per day with a vessel limit of 10 spiny lobster per vessel per day.

To facilitate timely adjustments to harvest parameters and other management measures if needed, this final rule establishes framework procedures for the Spiny Lobster FMP and revises the framework procedures for the Coral and Reef Associated Plants and Invertebrates FMP. These measures give the Council and NMFS greater flexibility to more promptly alter harvest parameters and other management measures as new scientific information becomes available.

In 1994, the original Corals and Reef Associated Plants and Invertebrates FMP set the OY for sea grasses, stony coral, octocorals, and live-rock at zero. Corals that are contained within the Corals and Reef Associated Plants and Invertebrates FMP and that are not described as aquarium trade species (stony corals, octocorals and live rock), are Caribbean prohibited corals. Federal regulations state that Caribbean prohibited corals may not be fished for or possessed in or from the Caribbean EEZ. Therefore, a functional ACL of zero is considered for these prohibited

species. Additionally, the harvest prohibition serves as a functional AM to manage the ACL.

Comments and Responses

The following is a summary of the comments NMFS received on the 2011 Caribbean ACL Amendment and the proposed rule, and NMFS' respective responses. Five submissions were received on the amendment and the proposed rule, including comments from an individual, a Federal agency, an environmental organization, and a fishing association. Some comments were generally supportive of the actions included in the 2011 Caribbean ACL Amendment. A Federal agency had no specific comments and a non-governmental organization and an individual were supportive of the amendment and recommended approval. Two comments were not supportive of implementing ACLs in the U.S. Caribbean. Comments that pertain to specific actions addressed in the 2011 Caribbean ACL Amendment or the proposed rule are summarized and responded to below.

Comment 1: Since spiny lobster landings in St. Thomas/St. John have been increasing, the use of average landings to determine the overfishing limit (OFL) in this fishery results in a loss of 20,000 lb whole weight (9,072 kg) of potential harvest before any ACL reduction is considered. Additionally, imposing an average-based ACL on a fishery that has been undergoing four decades of consistent growth will create a situation of constant overfishing when none exists.

Response: Based on the comment, it is not clear what year sequence the indicated 20,000 lb (9,072 kg) reduction is based on. However, the average-based OFL selected by the Council was determined based on the selected year sequence (2000–2008) as discussed in the 2011 Caribbean ACL Amendment. The reference points determined by the selected year sequence (2000–2008) would not result in a reduction in landings from the average. The Council chose to establish an ACL for spiny lobster on St. Thomas/St. John using the same criteria that was used for the other species in the Reef Fish FMP that are not designated as undergoing overfishing, basing the spiny lobster ACL on average catch derived from landings data provided by fishers and reduced by the Council as necessary to account for risk as determined by the Council's SSC.

Data from St. Thomas/St. John indicate that spiny lobster landings increased from the year 2000 through 2003, varied only slightly during 2004

through 2006, then decreased in 2007 and 2008 relative to the preceding years. These data suggest that spiny lobster landings from St. Thomas/St. John varied, to include a recent downturn, rather than steadily increasing. Landings data from 2008, the year of most recent available data for St. Thomas/St. John, is actually less than the average catch during the years of 2000 through 2008, the year series selected by the Council's SSC. 2008 landings for spiny lobster for St. Thomas/St. John were in excess of the ACL implemented through this final rule by approximately 5,000 lb (2,268 kg).

Comment 2: The ACLs proposed are inconsistent with National Standard 1 (NS 1), which requires that conservation and management measures shall prevent overfishing while achieving the OY from each fishery. Setting ACLs creates artificial limitations to the fishermen of St. Thomas and management to an artificial buffer is not necessary because their fishery has been stable throughout the past four decades.

Response: The Magnuson-Stevens Act requires that for fisheries 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. Available data in the U.S. Caribbean are not sufficient to support direct estimation of MSY and other key parameters. In such cases, the NS 1 guidelines (50 CFR 600.310) direct regional fishery management councils to estimate them using reasonable proxies, such as long-term average catch, and to consider scientific and management uncertainty in determining the appropriateness of alternative proxies. Reductions to the average catches used to determine the ACL are necessary, especially with data-poor stocks. The NS 1 guidelines suggest that ACLs and OY should generally be reduced from the overfishing threshold and MSY, respectively, to effectively prevent overfishing. This reduction (buffer) minimizes the likelihood that expected annual variations in landings around the ACL (which is based upon average annual catch and therefore by definition is expected to be exceeded roughly half the time) will not exceed the OFL. The ACLs and OY determined in the 2011 Caribbean ACL Amendment have been reduced from the overfishing threshold and MSY, respectively, and thus are consistent with the NS 1 guidelines.

Comment 3: The establishment of ACLs is not consistent with National Standard 2 (NS 2), which requires that conservation and management measures be based on the best scientific information available. ACLs were not

based on the best scientific information because they were based on unreliable reported landings data (e.g. not species-specific), and that data should be obtained from port sampling and this method was not used to formulate the ACLs.

Response: NMFS and the Council have considered NS 2 in the development of ACLs. Although the reported landings data has areas in need of improvement, this is the best scientific information available. Those landings data are provided by the fishers on an island-specific basis. The SEFSC, along with participating state, Federal, private, and fishing interests conducted analyses of port sampling data and determined they were inadequate with respect to the requirements for randomness and temporal consistency. Therefore, reported landings data is the best scientific information available, as required by NS 2.

Comment 4: The establishment of management measures in the 2011 Caribbean ACL Amendment is not consistent with National Standard 6, which requires that conservation and management measures take into account, and allow for, variations among fisheries, fishery resources, and catches. The variability in the fishery of St. Thomas/St. John is low and almost entirely because of normal year-to-year fluctuations in environmental variables, and that variability should be considered in the establishment of management measures for that island group.

Response: The landings variability for all island groups was analyzed with respect to NS 6. The data used for all islands for establishing management measures has the same limitations and were therefore treated in the same manner to account for both expected and unpredictable variations. This is done by applying a buffer to reduce OY and ACL from the OFL. Management reference points were set for the U.S. Caribbean, then allocated among the three island groups (St. Thomas/St. John, St. Croix, Puerto Rico) according to the proportional contribution by each island group to the total average landings used to set the MSY proxy and OFL.

Comment 5: The designation of Puerto Rico and the U.S. Virgin Islands (USVI) as fishing communities under the terms of National Standard 8 (NS 8) is questionable. NS 8 requires that conservation and management measures take into account the importance of fishery resources to fishing communities by using economic and social data to provide for the sustained participation

of the communities and minimize adverse economic impacts to the community to the extent practicable. The passage of recent ACLs in 2010 and 2011 should have been accompanied by in-depth analysis of the impacts of those actions upon the USVI fishing communities, and no ACLs should be approved until the analyses are completed and implications are considered.

Response: NMFS and the Council recognize the designation of St. Thomas/St. John, St. Croix, and coastal areas of Puerto Rico as fishing communities. However, for Puerto Rico, the fishing community designation does not apply to the entire island, but instead to the northern coastal, southern coastal, eastern coastal, and western coastal municipalities combined. The impacts of the provisions of 2011 Caribbean ACL Amendment are included within the Environmental Consequences—Direct and Indirect Effects on the Economic and Social Environments analysis (section 6) and in the Regulatory Impact Review (section 7) of the Final Environmental Impact Statement. Additionally, guidance on NS 8 requires that consideration of impacts to designated fishing communities be within the context of the conservation requirements of the Magnuson-Stevens Act. Those conservation requirements must be maintained during any considerations regarding the importance of fishery resources to the affected fishing communities. Discussion of all of the alternatives to the actions implemented by this final rule that were considered by the Council and which may have resulted in reduced social and economic benefits to fishing communities was provided in the proposed rule and is not repeated here.

Classification

The Regional Administrator, Southeast Region, NMFS has determined that this final rule is necessary for the conservation and management of the species within the amendment and is consistent with the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866. However, ACLs are a controversial issue in the U.S. Caribbean, which is a region with populations characterized by large percents of racial/ethnic minorities, high poverty rates, and low median household incomes. Moreover, commercial fishermen of St. Croix and St. Thomas/St. John will experience a substantially disproportionate adverse

economic impact relative to their counterparts in Puerto Rico.

NMFS prepared a final regulatory flexibility analysis (FRFA) that includes a statement of need for, and objectives of, the final rule; a summary and assessment of significant issues raised by public comments; a description and estimate of the number of small entities; a description of the compliance requirements, including estimates of the adverse economic impacts; and a description of steps taken to minimize significant adverse economic impact on small entities. The description of the action, why it is being considered, and the objectives of this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A copy of the full analysis is available from the Council (see **ADDRESSES**). A summary of the FRFA follows.

This final rule, which consists of several actions, will establish recreational bag limits for spiny lobster and specified reef fish species; specify ACLs and AMs for Caribbean spiny lobster, reef fish, and aquarium trade species not determined to be undergoing overfishing; and establish framework measures to facilitate regulatory modifications. This final rule will not alter existing reporting or record-keeping requirements.

The Magnuson-Stevens Act provides the statutory basis for the rule.

This final rule is expected to directly affect businesses that harvest spiny lobster, reef fish, and aquarium trade species from Federal waters off Puerto Rico and the USVI. These businesses are in the finfish fishing (NAICS 114111), shellfish fishing (NAICS 114112) and charter fishing (NAICS 487210) industries. A business is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts or number of employees not in excess of the Small Business Administration's (SBA) size standards. The finfish and shellfish fishing industries have an SBA size standard of \$4.0 million in annual receipts, and the charter fishing industry's size standard is \$7.0 million in annual receipts. In its FRFA, based on available revenue information, NMFS has determined that all commercial (finfish and shellfish) and charter fishing businesses that operate in the U.S. Caribbean have annual receipts less than these size standards and are small businesses.

In 2008, there were from 868 to 874 active commercial fishermen in Puerto Rico; 74 percent of these fishermen were captains and the remaining 26 percent

were crew members. NMFS assumes each captain represents a small business in the finfish fishing and shellfish fishing industries and each member of the crew is an employee of one of those businesses. Therefore, NMFS concludes that there are 642 to 644 small businesses in the finfish fishing and shellfish fishing industries in Puerto Rico and potentially all of these businesses will be directly affected by the rule. In 2008, there were 223 licensed commercial fishermen in St. Croix and 160 in St. Thomas/St. John. There is a moratorium on the number of USVI commercial fishing licenses, so NMFS assumes the 223 commercial fishermen in St. Croix and 160 commercial fishermen in St. Thomas/St. John represent 383 small businesses in the finfish fishing and shellfish fishing industries in the USVI that will be directly affected by the final rule.

There are an estimated 9 small businesses in the charter fishing industry in Puerto Rico, 12 such businesses in St. Thomas/St. John and 1 in St. Croix. This final rule will apply to all of these small businesses.

The final rule will apply to all small businesses in Puerto Rico, St. Croix and St. Thomas/St. John within the finfish fishing, shellfish fishing, and charter fishing industries. Therefore, the final rule applies to a substantial number of small entities in the U.S. Caribbean in these industries.

Charter fishing operations in Puerto Rico and the USVI target pelagic species and tend not to target spiny lobster or reef fish species in Federal waters. Consequently, it is expected that small businesses in the charter fishing industry in Puerto Rico, St. Croix or St. Thomas/St. John will experience little to no adverse economic impact because of the final rule.

This final rule is expected to result in one shortened Federal fishing season in the Puerto Rico EEZ, eight shortened fishing seasons in the St. Croix EEZ, and nine shortened fishing seasons in the St. Thomas/St. John EEZ. This final rule is expected to have a substantially greater adverse economic impact on small businesses in the finfish fishing and shellfish fishing industries in St. Croix and St. Thomas/St. John than in Puerto Rico.

A comparison of the Puerto Rico commercial ACLs for aquarium trade species, angelfish, boxfish, goatfish, grunts, jacks, scups and porgies, spiny lobster, surgeonfish, tilefish, squirrelfish and triggerfish/filefish to average annual commercial landings from 2006 to 2007 suggests the commercial ACLs for these complexes will not require reductions in the lengths of the Federal commercial

fishing seasons for these complexes in the Puerto Rico EEZ. Therefore, there is expected to be no adverse economic impact on small businesses in Puerto Rico that harvest these species.

The Puerto Rico commercial hogfish/wrasses ACL is less than the average of annual landings of hogfish/wrasses from 2006 to 2009, which suggests there will be an overage of hogfish/wrasses landings in 2011 of 1,076 lb (488 kg), assuming the ACL is implemented by early 2012, that would require a shortened Federal fishing season in the Puerto Rico EEZ in 2012 by approximately 7 days and similarly thereafter. Puerto Rico's commercial fishermen could mitigate for the potentially shortened hogfish/wrasses fishing season in the Puerto Rico EEZ by targeting other species during the time that the Federal hogfish/wrasses fishing season is closed or they could move into territorial waters to harvest hogfish/wrasses species during the time the Federal season is closed. Approximately 95 percent of fishable area off Puerto Rico is in territorial waters. It is expected that small businesses would mitigate for the potential loss of 1,076 lb (488 kg) of hogfish/wrasses by relocating into territorial waters during the approximately 7 days the hogfish/wrasses fishing season is closed in the Puerto Rico EEZ with little to no displacement costs. However, if small businesses are unable to mitigate, although unlikely, they would incur an annual loss of hogfish/wrasses landings of 1,076 lb (488 kg) with a value of \$3,228. The average loss per small business would be less than \$6 per year, assuming all land these species.

The St. Croix ACLs for boxfish, grunts, hogfish/wrasses, scups and porgies, spiny lobster, squirrelfish, surgeonfish and triggerfish are less than baseline average annual landings, which indicates fishing seasons for these units will be reduced. Assuming ACLs are implemented early in 2012, St. Croix commercial fisherman are expected to lose 21 days of boxfish, 68 days of grunts, 253 days of hogfish/wrasses, 54 days of scups and porgies, 112 days of spiny lobster, 242 days of squirrelfish, 101 days of surgeonfish, and 50 days of triggerfish fishing in the EEZ in 2012, and thereafter. St. Croix small businesses will incur annual losses of landings of as much as 24.3 percent of their average annual landings of all species that are the subject of this action, which represent losses of ex-vessel revenues up to \$0.46 million annually. When estimated losses of revenues from Amendment 2 to the Queen Conch FMP and Amendment 5 to the Reef Fish FMP (Amendments 2 and

5, proposed rule published October 27, 2011, 76 FR 66675), St. Croix small businesses lose collectively up to \$1.19 million annually.

The St. Thomas/St. John ACLs for boxfish, grunts, hogfish/wrasses, scups and porgies, spiny lobster, surgeonfish triggerfish, angelfish and jacks are less than baseline average annual landings, which indicates fishing seasons for these units will be reduced. Assuming the ACLs are implemented in 2012 and there will be shortened commercial seasons beginning in 2012, St. Thomas/St. John commercial fisherman will lose 90.8 days of boxfish, 20 days of grunts, 193 days of hogfish/wrasses, 25 days of scups and porgies, 52 days of spiny lobster, 84 days of surgeonfish, and 5.5 days of triggerfish, 93.5 days of angelfish, and 56 days of jacks fishing in the EEZ in 2012, and thereafter.

St. Thomas/St. John small businesses will incur annual losses of landings of up to 12.6 percent of their average annual landings of all species that are the subject of this action, which represent losses of ex-vessel revenues up to \$0.24 million annually. When estimated losses of revenues from Amendments 2 and 5 are added, St. Thomas/St. John small businesses lose collectively up to \$0.51 million annually.

The percent of fishable area in the USVI's territorial waters is significantly less than the percent of fishable area in Puerto Rico's territorial waters. Thirty-eight percent of fishable area off the USVI lies within the U.S. Caribbean EEZ, and a larger share of landings in St. Croix and St. Thomas/St. John derive from fishing in the EEZ than in Puerto Rico. Therefore, it is more difficult for USVI fishermen to substitute fishing in territorial waters for fishing in Federal waters.

Discussion of all of the alternatives considered for this rule is provided in the IRFA and is not repeated here. Although this rule establishes ACLs for the respective species, adverse economic impacts to small entities are expected to only occur as the AMs are applied, *i.e.*, as corrective action is taken in the event of a harvest overage. Based on the ACLs and the likelihood that an AM will be triggered, only the implementation of AMs for some species in the USVI, as described above are expected to result in potentially significant reduction in revenues to small entities. To minimize any adverse economic impacts, NMFS evaluated three harvest evaluation-period scenarios (evaluation based on a single year, a moving 2-year average, and a moving 3-year average) and determined that the economic impact would be

expected to increase as the period of evaluation decreases. This rule establishes a moving 3-year average. As a result, among the alternatives considered, this rule will establish AMs which are expected to achieve the necessary biological objectives at the smallest economic cost to small entities.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: December 23, 2011.

Eric C. Schwaab,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622, is amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.39, paragraph (g)(2) is revised and paragraph (h) is added to read as follows:

§ 622.39 Bag and possession limits.

* * * * *

(g) * * *

(2) *Bag limits.* (i) Groupers, snappers, and parrotfishes combined—5 per person per day or, if 3 or more persons are aboard, 15 per vessel per day; but not to exceed 2 parrotfish per person per day or 6 parrotfish per vessel per day.

(ii) Other reef fish species combined—5 per person per day or, if 3 or more persons are aboard, 15 per vessel per day, but not to exceed 1 surgeonfish per person per day or 4 surgeonfish per vessel per day.

(h) *Caribbean spiny lobster*—(1) *Applicability.* Paragraph (a)(1) of this section notwithstanding, the bag limit of paragraph (h)(2) of this section does not apply to a fisherman who has a valid commercial fishing license issued by Puerto Rico or the U.S. Virgin Islands.

(2) *Bag limit.* The bag limit for spiny lobster in or from the Caribbean EEZ is 3 per person per day, not to exceed 10 per vessel per day, whichever is less.

■ 3. In § 622.48, paragraphs (n) and (o) are added to read as follows:

§ 622.48 Adjustment of management measures.

* * * * *

(n) *Caribbean spiny lobster.* Fishery management unit (FMU), quotas, trip limits, bag limits, size limits, closed

seasons or areas, gear restrictions, fishing years, MSY, OY, TAC, maximum fishing mortality threshold (MFMT), minimum stock size threshold (MSST), overfishing limit (OFL), acceptable biological catch (ABC) control rules, ACLs, AMs, ACTs, and actions to minimize the interaction of fishing gear with endangered species or marine mammals.

(o) *Caribbean corals and reef associated plants and invertebrates.* Fishery management units (FMUs), quotas, trip limits, bag limits, size limits, closed seasons or areas, gear restrictions, fishing years, MSY, OY, TAC, MFMT, MSST, OFL, ABC control rules, ACLs, AMs, ACTs, and actions to minimize the interaction of fishing gear with endangered species or marine mammals.

■ 4. In § 622.49, the introductory text of paragraph (c) is revised and paragraphs (c)(1)(i)(H) through (R), (c)(1)(ii)(H) through (Q), (c)(2)(i)(E) through (O), (c)(3)(i)(E) through (O), and (c)(4) are added to read as follows:

§ 622.49 Annual catch limits (ACLs) and accountability measures (AMs).

* * * * *

(c) *Caribbean island management areas/Caribbean EEZ.* If landings from a Caribbean island management area, as specified in Appendix E to part 622, except for landings of queen conch (see § 622.33(d)), or landings from the Caribbean EEZ for tilefish and aquarium trade species, are estimated by the SRD to have exceeded the applicable ACL, as specified in paragraph (c)(1) for Puerto Rico management area species or species groups, paragraph (c)(2) for St. Croix management area species or species groups, paragraph (c)(3) for St. Thomas/St. John management area species or species groups, or paragraph (c)(4) for the Caribbean EEZ, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year, to reduce the length of the fishing season for the applicable species or species groups that year by the amount necessary to ensure landings do not exceed the applicable ACL. If NMFS determines the ACL for a particular species or species group was exceeded because of enhanced data collection and monitoring efforts instead of an increase in total catch of the species or species group, NMFS will not reduce the length of the fishing season for the applicable species or species group the following fishing year. Landings will be evaluated relative to the applicable ACL based on a moving multi-year average of landings, as described in the FMP. With the

exceptions of Caribbean queen conch in Puerto Rico and St. Thomas/St. John management areas, goliath grouper, Nassau grouper, midnight parrotfish, blue parrotfish, and rainbow parrotfish, ACLs are based on the combined Caribbean EEZ and territorial landings for each management area. The ACLs specified in paragraphs (c)(1), (c)(2), (c)(3), and (c)(4) of this section are given in round weight. (See § 622.32 for limitations on taking prohibited and limited harvest species. The limitations in § 622.32 apply without regard to whether the species is harvested by a vessel operating under a valid commercial fishing license issued by Puerto Rico or the U.S. Virgin Islands or by a person subject to the bag limits.)

- (1) * * *
- (i) * * *
- (H) *Angelfish*—8,984 lb (4,075 kg).
- (I) *Boxfish*—86,115 lb (39,061 kg).
- (J) *Goatfishes*—17,565 lb (7,967 kg).
- (K) *Grunts*—182,396 lb (82,733 kg).
- (L) *Wrasses*—54,147 lb (24,561 kg).
- (M) *Jacks*—86,059 lb (39,036 kg).
- (N) *Scups and porgies, combined*—24,739 lb (11,221 kg).
- (O) *Squirrelfish*—16,663 lb (7,558 kg).
- (P) *Surgeonfish*—7,179 lb (3,256 kg).
- (Q) *Triggerfish and filefish, combined*—58,475 lb (26,524 kg).
- (R) *Spiny lobster*—327,920 lb (148,742 kg).
- (ii) * * *
- (H) *Angelfish*—4,492 lb (2,038 kg).
- (I) *Boxfish*—4,616 lb (2,094 kg).
- (J) *Goatfishes*—362 lb (164 kg).
- (K) *Grunts*—5,028 lb (2,281 kg).
- (L) *Wrasses*—5,050 lb (2,291 kg).
- (M) *Jacks*—51,001 lb (23,134 kg).
- (N) *Scups and porgies, combined*—2,577 lb (1,169 kg).
- (O) *Squirrelfish*—3,891 lb (1,765 kg).
- (P) *Surgeonfish*—3,590 lb (1,628 kg).
- (Q) *Triggerfish and filefish, combined*—21,929 lb (9,947 kg).
- (2) * * *
- (i) * * *
- (E) *Angelfish*—305 lb (138 kg).
- (F) *Boxfish*—8,433 lb (3,825 kg).
- (G) *Goatfishes*—3,766 lb (1,708 kg).
- (H) *Grunts*—36,881 lb (16,729 kg).
- (I) *Wrasses*—7 lb (3 kg).
- (J) *Jacks*—15,489 lb (7,076 kg).
- (K) *Scups and porgies, combined*—4,638 lb (2,104 kg).
- (L) *Squirrelfish*—121 lb (55 kg).
- (M) *Surgeonfish*—33,603 lb (15,242 kg).
- (N) *Triggerfish and filefish, combined*—24,980 lb (11,331 kg).
- (O) *Spiny lobster*—107,307 lb (48,674 kg).
- (3) * * *
- (i) * * *
- (E) *Angelfish*—7,897 lb (3,582 kg).
- (F) *Boxfish*—27,880 lb (12,646 kg).

- (G) *Goatfishes*—320 lb (145 kg).
(H) *Grunts*—37,617 lb (17,063 kg).
(I) *Wrasses*—585 lb (265 kg).
(J) *Jacks*—52,907 lb (23,998 kg).
(K) *Scups and porgies, combined*—21,819 lb (9,897 kg).
(L) *Squirrelfish*—4,241 lb (1,924 kg).
(M) *Surgeonfish*—29,249 lb (13,267 kg).
(N) *Triggerfish and filefish, combined*—74,447 lb (33,769 kg).

- (O) *Spiny lobster*—104,199 lb (47,264 kg).
(4) *Caribbean EEZ*. (i) *ACLs*. The following ACLs apply to landings of species or species groups throughout the Caribbean EEZ.
(A) *Tilefish*—14,642 lb (6,641 kg).
(B) *Aquarium trade species*—8,155 lb (3,699 kg).
(ii) [Reserved]

■ 5. Table 5 of Appendix A to part 622 is revised to read as follows:

Appendix A to Part 622—Species Tables

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Table 5 of Appendix A to Part 622—Caribbean Conch Resources

Queen conch, *Strombus gigas*.

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