

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

[Docket No. 170510477-7477-01]

RIN 0648-BG88

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Regulatory Amendment 6 to the Reef Fish Fishery Management Plan of Puerto Rico and the U.S. Virgin Islands

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement the measures described in Regulatory Amendment 6 to the Fishery Management Plan for the Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands (USVI)(FMP), as prepared and submitted by the Caribbean Fishery Management Council (Council). This proposed rule would revise the method used to trigger the application of accountability measures (AM) for Council-managed reef fish species or species groups in the Puerto Rico exclusive economic zone (EEZ). The purpose of this proposed rule is to increase the likelihood that optimum yield (OY) is achieved on a continuing basis and to minimize, to the extent practicable, adverse socio-economic effects of AM-based closures.

DATES: Written comments must be received on or before October 19, 2017.

ADDRESSES: You may submit comments on the proposed rule identified by "NOAA-NMFS-2017-0074" by either of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal e-Rulemaking Portal: <http://www.regulations.gov>. Go to www.regulations.gov#!docketDetail;D=NOAA-NMFS-2017-0074, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Sarah Stephenson, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public

viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Electronic copies of Regulatory Amendment 6, which includes an environmental assessment, a Regulatory Flexibility Act (RFA) analysis, and a regulatory impact review, may be obtained from the Southeast Regional Office Web site at http://sero.nmfs.noaa.gov/sustainable_fisheries/caribbean/index.html.

FOR FURTHER INFORMATION CONTACT: Sarah Stephenson, telephone: 727-824-5305; email: sarah.stephenson@noaa.gov.

SUPPLEMENTARY INFORMATION: In the U.S. Caribbean EEZ, the reef fish fishery is managed under the FMP. The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 *et seq.*).

Background

The current AMs in the Puerto Rico EEZ, applicable to Council-managed reef fish species or species groups, require NMFS to reduce the length of the Federal fishing season in the fishing year following a determination that landings for a species or species group exceeded the applicable sector annual catch limit (ACL). As specified in the FMP, the landings determination is based on the applicable 3-year landings average. However, 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, NMFS will not reduce the length of the fishing season the following fishing year. The current AM-based closure is triggered and applied when the sector ACL is exceeded, even if the total ACL (*i.e.*, combined commercial and recreational ACLs) for a species or species group was not exceeded. For all Council-managed reef fish species or species groups, the total ACL equals the annual estimate of OY and is set at a level that is considered to be sustainable for the species or species group. Therefore, the application of the current AM for Puerto Rico reef fish could translate into lost yield from the affected species or

species group (if the sector ACL is exceeded, but the total ACL is not), potentially resulting in negative socio-economic impacts.

Sector-specific data are not available for other federally managed species in the Puerto Rico EEZ (*e.g.*, queen conch, spiny lobster) or for other federally managed species or species groups in the U.S. Caribbean EEZ, so those species and species groups are not included in Regulatory Amendment 6. Therefore, Regulatory Amendment 6 and this proposed rule apply only to federally-managed reef fish species and species groups in the Puerto Rico EEZ.

Management Measure Contained in This Proposed Rule

This proposed rule would revise the trigger for implementing AM-based fishing season reductions, for all reef fish species or species groups managed by the Council in the Puerto Rico EEZ. Specifically, an AM-based closure would be triggered only when both the applicable sector (recreational or commercial) ACL and the total ACL for a species or species group is exceeded. If both the sector ACL and the total ACL are exceeded, the AM would be applied to the sector or sectors that experienced the overage. The duration of any implemented AM-based closure would continue to be based on the extent to which the applicable sector ACL was exceeded and would be calculated and applied using the current practices and methods. However, consistent with the current regulations, if NMFS determines that either of the applicable ACLs was exceeded because of enhanced data collection and monitoring efforts, instead of an increase in catch, NMFS will not reduce the length of the fishing season. For example, if NMFS determines that the applicable sector ACL exceedance for a species or species group is not attributable to enhanced data collection and monitoring efforts, but that the total ACL exceedance is attributable to enhanced data collection and monitoring efforts, NMFS will not reduce the length of the sector's fishing season for the applicable species or species group the following fishing year.

This proposed rule to implement Regulatory Amendment 6 is expected to increase the likelihood that OY is achieved on a continuing basis and to minimize adverse socio-economic effects from the implementation of AMs, while still helping to ensure that AM-based closures constrain harvest to the total ACL and prevent overfishing. Under the current AM regulations, fishing season reductions have been applied in Puerto Rico when a specific fishing sector has exceeded its sector

ACL even when the total ACL (equivalent to an annual estimate of OY) for the species or species group was not reached. As described in Regulatory Amendment 6, assuming each sector harvests at a similar rate from year to year, the current AM-based fishing season reductions increase the likelihood that the total ACL for a species or species group will not be achieved in the year the closure is applied. Modifying the AM trigger for a fishing season reduction from an overage of the sector ACL to an overage of both the sector and the total ACL increases the likelihood that OY for a species or species group will be achieved on a continuing basis. Additionally, the proposed revision to the AM would result in the AM being triggered less frequently and thereby result in fewer fishing season reductions. A reduced number of fishing season reductions for a sector would be expected to result in increased socio-economic benefits to the applicable sector and the associated fishing communities. NMFS notes that the method for calculating the landings determination using the 3-year landings average for a species or species group will not change through this proposed rule.

NMFS notes that in the codified text for this proposed rule, amendatory instruction 2 would revise the entire § 622.12. While the proposed rule only affects management in Puerto Rico Federal waters, the section as a whole is revised as a result of the proposed action to more clearly and distinctly describe the AMs and ACLs throughout the U.S. Caribbean EEZ. The proposed rule would also revise some regulatory citations within § 622.12 and § 622.491 to reflect changes made to the regulatory text as a result of this proposed rule.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of 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 (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification is as follows.

A description of this proposed rule, why it is being considered, and the objectives of this proposed rule are contained in the preamble. In summary, this action revises how AMs are triggered for the reef fish fishery in the Puerto Rico EEZ, to increase the likelihood that OY is achieved on a continuing basis and to minimize, to the extent practicable, adverse socio-economic effects of AM-based closures in accordance with the National Standards set forth in the Magnuson-Stevens Act. The Magnuson-Stevens Act provides the statutory basis for this proposed rule.

This proposed rule would directly affect recreational and commercial fishing for reef fish managed by the Caribbean Fishery Management Council in Federal waters of the U.S. Caribbean off Puerto Rico. Anglers (recreational fishers), whether fishing from for-hire, private or leased vessels, are not considered small entities as that term is defined in 5 U.S.C. 601(6). Therefore, estimates of the number of anglers directly affected by the rule and the impacts on them are not provided here.

NMFS estimates there are 795 commercial fishing businesses in Puerto Rico and the average annual dockside revenue of these businesses is \$10,000 each. For RFA purposes, 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 involved in commercial fishing (NAICS 11411) 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 its combined annual receipts are not in excess of \$11 million for all of its affiliated operations worldwide. Based on the average annual revenue for the 795 commercial fishing businesses, it is concluded that all of Puerto Rico's commercial fishing businesses are small. It is unknown how many of these small businesses harvest reef fish in Federal waters; however, it is possible that all 795 of these businesses may be directly affected by the proposed rule.

This action would revise the trigger for implementing AMs for Council-managed reef fish species and species groups in the Puerto Rico EEZ. Currently, if commercial landings of a federally managed reef fish species or species group exceed the commercial ACL for that species or species group, the length of the following year's Federal fishing season for that species or species group is reduced by the amount necessary to ensure commercial landings do not again exceed the

commercial ACL, even if the total ACL (the combined commercial and recreational sector ACLs) is not exceeded by combined recreational and commercial landings. That occurred in 2016, for example, when the commercial season for Snapper Unit 2 in Puerto Rico was reduced by 36 days because commercial landings of Snapper Unit 2 had exceeded the pertinent commercial ACL, even though combined commercial and recreational landings of Snapper Unit 2 were less than the total ACL (81 FR 34283, May 31, 2016).

This action would benefit small commercial fishing businesses by reducing the potential adverse economic impact, if any, caused by a reduction in the length of the Federal commercial season required by the current AM. The action changes the trigger for the AMs, potentially reducing the number of AM-based reductions in length of the Federal commercial fishing season, and benefitting those who are negatively affected by such reductions. The actual adverse impact caused by a reduction in the length of a Federal commercial fishing season, is dependent on the extent to which commercial fishing for a species or species group occurs in Federal waters and on the ability of a commercial fishing business to change intensity of effort in anticipation of a possible reduced season in Federal waters; commercial businesses that fish for species in federal waters and are not able to change their behavior in anticipation of Federal commercial fishing season reductions are most impacted by the fishing season reductions and could see the most benefit from changing the AM trigger and reducing the potential for an AM-based fishing season reduction. However, NMFS is unable to provide estimates of the baseline adverse economic impact of shortened fishing seasons caused by the current AM without making assumptions as to the magnitudes of those factors.

However, NMFS estimates that if the 2016 commercial season for Snapper Unit 2 had not closed early and if all additional landings of Snapper Unit 2 were from the commercial sector and from Federal waters, each small business could have landed an additional 28 lb (12.7 kg) of Snapper Unit 2, which would equate to an additional dockside value of \$143 per business that year. For a small commercial fishing business that has average annual dockside revenue of \$10,000, that maximum benefit would represent a 1.43 percent increase in annual revenue. Therefore, it is concluded that the rule would not have

a significant economic impact on a substantial number of small entities under the RFA, 5 U.S.C. 601 *et seq*; however, small businesses are encouraged to comment on this conclusion.

List of Subjects in 50 CFR Part 622

Accountability measures, Annual catch limits, Caribbean, Fisheries, Fishing, Puerto Rico.

Dated: September 14, 2017.

Samuel D. Rauch, III,

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

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be 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. Revise § 622.12 to read as follows:

§ 622.12 Annual catch limits (ACLs) and accountability measures (AMs) for Caribbean island management areas/Caribbean EEZ.

(a) *Puerto Rico management area.* See Appendix E of this part for specification of the Puerto Rico management area.

(1) *Queen conch.* See § 622.491 regarding seasonal and area closure provisions and ACL closure provisions applicable to queen conch.

(i) *Commercial ACL.* For the EEZ only, 0 lb (0 kg), round weight.

(ii) *Recreational ACL.* For the EEZ only, 0 lb (0 kg), round weight.

(2) *Reef fish.* 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 goliath grouper, Nassau grouper, midnight parrotfish, blue parrotfish, and rainbow parrotfish, ACLs are based on the combined Caribbean EEZ and territorial landings for the Puerto Rico management area. As described in the FMP, for each species or species group in this paragraph, any fishing season reduction required under (a)(2)(i) or (ii) will be applied from September 30 backward, toward the beginning of the fishing year. If the length of the required fishing season reduction exceeds the time period of January 1 through September 30, any additional fishing season reduction will be applied from October 1 forward, toward the end of the fishing year.

(i) *Commercial sector.* If commercial landings, as estimated by the SRD, have

exceeded the applicable species or species group commercial ACL, as specified in paragraph (a)(2)(i) of this section, and the combined commercial and recreational landings have exceeded the applicable combined commercial and recreational sector ACL (total ACL), as specified in paragraph (a)(2)(iii) of this section, 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 for the commercial sector that year by the amount necessary to ensure that commercial landings do not exceed the applicable commercial ACL for the species or species group. If NMFS determines that either the applicable commercial ACL or total ACL for a particular species or species group was exceeded because of enhanced data collection and monitoring efforts instead of an increase in catch of the species or species group, NMFS will not reduce the length of the commercial fishing season for the applicable species or species group the following fishing year. The commercial ACLs, in round weight, are as follows:

(A) *Parrotfishes*—52,737 lb (23,915 kg).

(B) *Snapper Unit 1*—284,685 lb (129,131 kg).

(C) *Snapper Unit 2*—145,916 lb (66,186 kg).

(D) *Snapper Unit 3*—345,775 lb (156,841 kg).

(E) *Snapper Unit 4*—373,295 lb (169,324 kg).

(F) *Groupers*—177,513 lb (80,519 kg).

(G) *Angelfish*—8,984 lb (4,075 kg).

(H) *Boxfish*—86,115 lb (39,061 kg).

(I) *Goatfishes*—17,565 lb (7,967 kg).

(J) *Grunts*—182,396 lb (82,733 kg).

(K) *Wrasses*—54,147 lb (24,561 kg).

(L) *Jacks*—86,059 lb (39,036 kg).

(M) *Scups and porgies, combined*—24,739 lb (11,221 kg).

(N) *Squirrelfish*—16,663 lb (7,558 kg).

(O) *Surgeonfish*—7,179 lb (3,256 kg).

(P) *Triggerfish and filefish, combined*—58,475 lb (26,524 kg).

(ii) *Recreational sector.* If recreational landings, as estimated by the SRD, have exceeded the applicable species or species group recreational ACL, as specified in paragraph (a)(2)(ii) of this section, and the combined commercial and recreational landings have exceeded the applicable combined commercial and recreational sector ACL (total ACL), as specified in paragraph (a)(2)(iii) of this section, 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 for the recreational sector that year by the amount necessary to ensure that recreational landings do not exceed the applicable species or species group recreational ACL. If NMFS determines that either the applicable recreational ACL or total ACL for a particular species or species group was exceeded because of enhanced data collection and monitoring efforts instead of an increase in 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. The recreational ACLs, in round weight, are as follows:

(A) *Parrotfishes*—15,263 lb (6,921 kg).

(B) *Snapper Unit 1*—95,526 lb (43,330 kg).

(C) *Snapper Unit 2*—34,810 lb (15,790 kg).

(D) *Snapper Unit 3*—83,158 lb (37,720 kg).

(E) *Snapper Unit 4*—28,509 lb (12,931 kg).

(F) *Groupers*—77,213 lb (35,023 kg).

(G) *Angelfish*—4,492 lb (2,038 kg).

(H) *Boxfish*—4,616 lb (2,094 kg).

(I) *Goatfishes*—362 lb (164 kg).

(J) *Grunts*—5,028 lb (2,281 kg).

(K) *Wrasses*—5,050 lb (2,291 kg).

(L) *Jacks*—51,001 lb (23,134 kg).

(M) *Scups and porgies, combined*—2,577 lb (1,169 kg).

(N) *Squirrelfish*—3,891 lb (1,765 kg).

(O) *Surgeonfish*—3,590 lb (1,628 kg).

(P) *Triggerfish and filefish, combined*—21,929 lb (9,947 kg).

(iii) *Total ACLs.* The total ACLs (combined commercial and recreational ACL), in round weight, are as follows:

(A) *Parrotfishes*—68,000 lb (30,844 kg).

(B) *Snapper Unit 1*—380,211 lb (172,461 kg).

(C) *Snapper Unit 2*—180,726 lb (81,976 kg).

(D) *Snapper Unit 3*—428,933 lb (194,561 kg).

(E) *Snapper Unit 4*—401,804 lb (182,255 kg).

(F) *Groupers*—254,726 lb (115,542 kg).

(G) *Angelfish*—13,476 lb (6,113 kg).

(H) *Boxfish*—90,731 lb (41,155 kg).

(I) *Goatfishes*—17,927 lb (8,132 kg).

(J) *Grunts*—187,424 lb (85,014 kg).

(K) *Wrasses*—59,197 lb (26,851 kg).

(L) *Jacks*—137,060 lb (62,169 kg).

(M) *Scups and porgies, combined*—27,316 lb (kg).

(N) *Squirrelfish*—20,554 lb (9,323 kg).

(O) *Surgeonfish*—10,769 lb (4,885 kg).

(P) *Triggerfish and filefish, combined*—80,404 lb (36,471 kg).

(3) *Spiny lobster.* Landings will be evaluated relative to the ACL based on

a moving multi-year average of landings, as described in the FMP. The ACL is based on the combined Caribbean EEZ and territorial landings for the Puerto Rico management area. If landings, as estimated by the SRD, have exceeded the ACL, as specified in this paragraph, 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 spiny lobster that year by the amount necessary to ensure landings do not exceed the ACL. If NMFS determines the ACL was exceeded because of enhanced data collection and monitoring efforts instead of an increase in total catch, NMFS will not reduce the length of the fishing season the following fishing year. As described in the FMP, any fishing season reduction required as a result of this paragraph will be applied from September 30 backward, toward the beginning of the fishing year. If the length of the required fishing season reduction exceeds the time period of January 1 through September 30, any additional fishing season reduction will be applied from October 1 forward, toward the end of the fishing year. The ACL is 327,920 lb (148,742 kg), round weight.

(b) *St. Croix management area*. See Appendix E of this part for specification of the St. Croix management area.

(1) *Queen conch*. See § 622.491 regarding seasonal and area closure provisions and ACL closure provisions applicable to queen conch. The ACL is 50,000 lb (22,680 kg), round weight.

(2) *Reef fish*. 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 exception of goliath grouper, Nassau grouper, midnight parrotfish, blue parrotfish, and rainbow parrotfish, ACLs are based on the combined Caribbean EEZ and territorial landings for the St. Croix management area. If landings, as estimated by the SRD, have exceeded the applicable ACL for a species or species group, as specified in this paragraph, 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 group 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. As described in the FMP, for each species or species group in this paragraph, any fishing season reduction required as a result of this paragraph will be applied from September 30 backward, toward the beginning of the fishing year. If the length of the required fishing season reduction exceeds the time period of January 1 through September 30, any additional fishing season reduction will be applied from October 1 forward, toward the end of the fishing year. The ACLs, in round weight, are as follows:

- (i) *Parrotfishes*—240,000 lb (108,863 kg).
- (ii) *Snappers*—102,946 lb (46,696 kg).
- (iii) *Groupers*—30,435 lb (13,805 kg).
- (iv) *Angelfish*—305 lb (138 kg).
- (v) *Boxfish*—8,433 lb (3,825 kg).
- (vi) *Goatfishes*—3,766 lb (1,708 kg).
- (vii) *Grunts*—36,881 lb (16,729 kg).
- (viii) *Wrasses*—7 lb (3 kg).
- (ix) *Jacks*—15,489 lb (7,076 kg).
- (x) *Scups and porgies, combined*—4,638 lb (2,104 kg).
- (xi) *Squirrelfish*—121 lb (55 kg).
- (xii) *Surgeonfish*—33,603 lb (15,242 kg).
- (xiii) *Triggerfish and filefish, combined*—24,980 lb (11,331 kg).

(3) *Spiny lobster*. Landings will be evaluated relative to the ACL based on a moving multi-year average of landings, as described in the FMP. The ACL is based on the combined Caribbean EEZ and territorial landings for the St. Croix management area. If landings, as estimated by the SRD, have exceeded the ACL, as specified in this paragraph, 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 that year by the amount necessary to ensure landings do not exceed the ACL. If NMFS determines the ACL was exceeded because of enhanced data collection and monitoring efforts instead of an increase in total catch, NMFS will not reduce the length of the fishing season for the following fishing year. As described in the FMP, any fishing season reduction required as a result of this paragraph will be applied from September 30 backward, toward the beginning of the fishing year. If the length of the required fishing season reduction exceeds the time period of January 1 through September 30, any additional fishing season reduction will be applied from October 1 forward, toward the end of the fishing year. The ACL is 107,307 lb (48,674 kg), round weight.

(c) *St. Thomas/St. John management area*. See Appendix E of this part for

specification of the St. Thomas/St. John management area.

(1) *Queen conch*. See § 622.491 regarding seasonal and area closure provisions and ACL closure provisions applicable to queen conch. The ACL is 0 lb (0 kg), round weight, for the EEZ only.

(2) *Reef fish*. 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 exception of goliath grouper, Nassau grouper, midnight parrotfish, blue parrotfish, and rainbow parrotfish, ACLs are based on the combined Caribbean EEZ and territorial landings for St. Thomas/St. John management area. If landings, as estimated by the SRD, have exceeded the applicable ACL for a species or species group, as specified in this paragraph, 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 group 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. As described in the FMP, for each species or species group in this paragraph, any fishing season reduction required as a result of this paragraph will be applied from September 30 backward, toward the beginning of the fishing year. If the length of the required fishing season reduction exceeds the time period of January 1 through September 30, any additional fishing season reduction will be applied from October 1 forward, toward the end of the fishing year. The ACLs, in round weight, are as follows:

- (i) *Parrotfishes*—42,500 lb (19,278 kg).
- (ii) *Snappers*—133,775 lb (60,679 kg).
- (iii) *Groupers*—51,849 lb (23,518 kg).
- (iv) *Angelfish*—7,897 lb (3,582 kg).
- (v) *Boxfish*—27,880 lb (12,646 kg).
- (vi) *Goatfishes*—320 lb (145 kg).
- (vii) *Grunts*—37,617 lb (17,063 kg).
- (viii) *Wrasses*—585 lb (265 kg).
- (ix) *Jacks*—52,907 lb (23,998 kg).
- (x) *Scups and porgies, combined*—21,819 lb (9,897 kg).
- (xi) *Squirrelfish*—4,241 lb (1,924 kg).
- (xii) *Surgeonfish*—29,249 lb (13,267 kg).

(xiii) *Triggerfish and filefish, combined*—74,447 lb (33,769 kg).

(3) *Spiny lobster*. Landings will be evaluated relative to the ACL based on

a moving multi-year average of landings, as described in the FMP. The ACL is based on the combined Caribbean EEZ and territorial landings for the St. Thomas/St. John management area. If landings, as estimated by the SRD, have exceeded the ACL, as specified in this paragraph, 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 that year by the amount necessary to ensure landings do not exceed the ACL. If NMFS determines the ACL was exceeded because of enhanced data collection and monitoring efforts instead of an increase in total catch, NMFS will not reduce the length of the fishing season for the following fishing year. As described in the FMP, any fishing season reduction required as a result of this paragraph will be applied from September 30 backward, toward the beginning of the fishing year. If the length of the required fishing season reduction exceeds the time period of January 1 through September 30, any additional fishing season reduction will be applied from October 1 forward, toward the end of the fishing year. The ACL is 104,199 lb (47,264 kg), round weight.

(d) *Caribbean EEZ*. Landings will be evaluated relative to the applicable ACL based on a moving multi-year average of landings, as described in the FMPs. The ACLs are based on the combined Caribbean EEZ and territorial landings, throughout the Caribbean EEZ. If landings from the Caribbean EEZ for tilefish and aquarium trade species, as estimated by the SRD, have exceeded the applicable ACL, as specified in this paragraph, 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 applicable ACL was exceeded because of enhanced data collection and monitoring efforts instead of an increase in total catch, NMFS will not reduce the length of the fishing season for the following fishing

year. As described in the FMPs, for each species or species group in this paragraph, any fishing season reduction required as a result of this paragraph will be applied from September 30 backward, toward the beginning of the fishing year. If the length of the required fishing season reduction exceeds the time period of January 1 through September 30, any additional fishing season reduction will be applied from October 1 forward, toward the end of the fishing year. The ACLs, in round weight, are as follows:

(1) *Tilefish*—14,642 lb (6,641 kg).

(2) *Aquarium trade species*—8,155 lb (3,699 kg).

(e) *Closure provisions*. (1) *Restrictions applicable after a Puerto Rico closure*.

(i) Restrictions applicable after a Puerto Rico commercial closure for reef fish species or species groups. During the closure period announced in the notification filed pursuant to paragraph (a)(2)(i) of this section, the commercial sector for species or species groups included in the notification is closed and such species or species groups in or from the Puerto Rico management area may not be purchased or sold. Harvest or possession of such species or species groups in or from the Puerto Rico management area is limited to the recreational bag and possession limits unless the recreational sector for the species or species group is closed and the restrictions specified in paragraph (e)(1)(iii) of this section apply.

(ii) Restrictions applicable after a Puerto Rico recreational closure for reef fish species or species groups. During the closure period announced in the notification filed pursuant to paragraph (a)(2)(ii) of this section, the recreational sector for species or species groups included in the notification is closed and the recreational bag and possession limits for such species or species groups in or from the Puerto Rico management area are zero. If the seasons for both the commercial and recreational sectors for such species or species groups are closed, the restrictions specified in paragraph (e)(1)(iii) of this section apply.

(iii) Restrictions applicable when both Puerto Rico commercial and Puerto Rico recreational sectors for reef fish species or species groups are closed. If the

seasons for both the commercial and recreational sectors for a species or species group are closed, such species or species groups in or from the Puerto Rico management area may not be harvested, possessed, purchased, or sold, and the bag and possession limits for such species or species groups in or from the Puerto Rico management area are zero.

(iv) Restrictions applicable after a spiny lobster closure in Puerto Rico. During the closure period announced in the notification filed pursuant to paragraph (a)(3) of this section, both the commercial and recreational sectors are closed. Spiny lobster in or from the Puerto Rico management area may not be harvested, possessed, purchased, or sold, and the bag and possession limits for spiny lobster in or from the Puerto Rico management area are zero.

(2) Restrictions applicable after a St. Croix, St. Thomas/St. John, or Caribbean EEZ closure. During the closure period announced in the notification filed pursuant to paragraph (b), (c), or (d) of this section, such species or species groups in or from the applicable management area of the Caribbean EEZ may not be harvested, possessed, purchased, or sold, and the bag and possession limits for such species or species groups in or from the applicable management area of the Caribbean EEZ are zero.

■ 2. In § 622.491, revise the first sentence of paragraph (b) to read as follows:

§ 622.491 Seasonal and area closures.

* * * * *

(b) Pursuant to the procedures and criteria established in the FMP for Queen Conch Resources in Puerto Rico and the U.S. Virgin Islands, when the ACL, as specified in § 622.12(b)(1), is reached or projected to be reached, the Regional Administrator will close the Caribbean EEZ to the harvest and possession of queen conch, in the area east of 64°34' W. longitude which includes Lang Bank, east of St. Croix, U.S. Virgin Islands, by filing a notification of closure with the Office of the Federal Register. * * *

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