

will be considered by NMFS in the approval/disapproval decision regarding Amendment 32.

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

Dated: October 24, 2011.

**Steven Thur,**

*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

[Docket No. 100120037-1626-01]

**RIN 0648-AY55**

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Amendments to the Queen Conch and Reef Fish 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:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes to implement Amendment 2 to the Fishery Management Plan for Queen Conch Resources of Puerto Rico and the U.S. Virgin Islands and Amendment 5 to the Fishery Management Plan for the Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands (Amendments 2 and 5), prepared by the Caribbean Fishery Management Council (Council). This proposed rule would: establish annual catch limits (ACLs) and accountability measures (AMs) for queen conch and for all reef fish units or complexes that are classified as undergoing overfishing or that contain sub-units which are classified as undergoing overfishing (*i.e.*, snapper, grouper and parrotfish); allocate ACLs among island management areas and, in Puerto Rico only, among commercial and recreational sectors; revise the composition of the snapper and grouper complexes; prohibit fishing for and possession of three parrotfish species; establish recreational bag limits for snappers, groupers, and parrotfishes; and establish framework procedures for queen conch and reef fish species. Amendments 2 and 5 would also revise management reference points and status determination criteria for queen conch, snappers, groupers, and parrotfishes.

The intended effect of the rule is to prevent overfishing of queen conch and reef fish species while maintaining catch levels consistent with achieving optimum yield (OY).

**DATES:** Written comments must be received on or before November 18, 2011.

**ADDRESSES:** You may submit comments on the proposed rule identified by “NOAA-NMFS-2010-0028,” by any of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- **Mail:** Bill Arnold, 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-2010-0028” in the keyword search and click on “search.” To view posted comments during the comment period, enter “NOAA-NMFS-2010-0028” 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 rule will not be considered.

Electronic copies of Amendments 2 and 5, which include 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/sf.htm>.

**FOR FURTHER INFORMATION CONTACT:** Bill Arnold, Southeast Regional Office, NMFS, telephone: 727-824-5305, e-mail: [Bill.Arnold@noaa.gov](mailto:Bill.Arnold@noaa.gov).

**SUPPLEMENTARY INFORMATION:** In the exclusive economic zone (EEZ) of the U.S. Caribbean, the queen conch fishery is managed under the Fishery Management Plan (FMP) for Queen Conch Resources of Puerto Rico and the

U.S. Virgin Islands (USVI), and the reef fish fishery is managed under the Reef Fish Fishery Management Plan of Puerto Rico and the USVI. 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).

#### Background

The 2006 reauthorization of the Magnuson-Stevens Act requires that, in 2010, FMPs for the fisheries determined by the Secretary of Commerce to be subject to overfishing establish a mechanism of specifying ACLs at a level that prevents overfishing and helps achieve OY within a fishery. Additionally, FMPs must specify accountability measures to ensure ACLs are not exceeded or mitigate if they are exceeded.

NMFS’ 2011 Report on the Status of U.S. Fisheries classifies Caribbean queen conch, Grouper Units 1 and 4, Snapper Unit 1, and parrotfishes as undergoing overfishing.

#### Provisions Contained in This Proposed Rule

##### *Amend the Composition of Stock Complexes*

The snapper and grouper complexes included within the Reef Fish FMP for the U.S. Caribbean are currently composed of four grouper units and four snapper units. Unit composition presently excludes several species of commonly harvested fish and also fails to aggregate species in an ecologically consistent manner.

The black grouper (*Mycteroperca bonaci*) is not included in any of the units although this species is frequently caught by recreational anglers. This rule would add black grouper to Grouper Unit 4 along with other members of that unit with common habitat and depth preferences. Both misty (*Epinephelus mystacinus*) and yellowedge (*E. flavolimbatus*) grouper are presently included in Grouper Unit 4, but these two species are found at water depths much greater than are the other members of Grouper Unit 4. Therefore, the Council and NMFS propose to create a new Grouper Unit 5 that would contain both misty and yellowedge grouper. Finally, the creole-fish (*Paranthias furcifer*) is proposed to be removed from the FMP. An adjusted average of about 15 lb (6.8 kg) of creole-fish was reported to have been landed by the commercial sector between 1983 and 2007, and no recreational landings have been reported between 2000 and

2007. The Council determined that this species was not in need of Federal conservation and management.

The cardinal snapper (*Pristipomoides macrophthalmus*) is commonly caught by commercial fishers but is not currently included in any snapper unit. This rule would add cardinal snapper to Snapper Unit 2 because of similarities with the queen snapper (*Etelis oculatus*) in landings records and depth distribution. In contrast, the wenchman (*P. aquilonaris*) presently is included as a member of Snapper Unit 2 but clusters most closely with members of Snapper Unit 1 (silk (*Lutjanus vivanus*), black (*Apsilus dentatus*), blackfin (*L. buccanella*), and vermilion (*Rhomboplites aurorubens*)), based upon depth and habitat preferences, and is therefore proposed to be moved into that unit.

#### Revise Management Reference Points

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 that can be used to determine overfished and overfishing thresholds. These reference points are intended to provide the means to measure the status and performance of fisheries relative to established goals and are 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. The FMP Amendments would revise three of those proxies. First, it would use average catch as a proxy for MSY for all units or complexes except queen conch and parrotfish. The time period during which average catch is calculated for those species is 1999–2005 for the commercial sectors of Puerto Rico and St. Croix, 2000–2005 for the recreational sector of Puerto Rico, and 2000–2005 for the commercial sector of St. Thomas/St. John. These year sequences represent the longest time series of catch data prior to the Comprehensive Sustainable Fisheries Act Amendment (which included provisions that may have substantially altered catch patterns) that the Council considers to be consistently reliable across all U.S. Caribbean islands. The MSY proxy of queen conch and parrotfish would be set equal to the fishing level recommendation specified by the Council's SSC (*i.e.* the allowable biological catch (ABC)) for those species. Second, the Amendments would define the overfishing threshold of all species as the overfishing limit (OFL), which would equal the MSY

proxy. Third, for most units or complexes, OY is proposed to equal the MSY proxy multiplied by a proposed reduction factor of 0.85 to account for uncertainty in the scientific and management process. The OY of queen conch would not be reduced below the MSY proxy. For Nassau grouper, goliath grouper, rainbow parrotfish, blue parrotfish, and midnight parrotfish, the rule would set the OY equal to zero.

#### Island Specific Management

This rule also would establish island-specific management 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. For example, if the ACL for the grouper complex is divided among Puerto Rico, St. Croix and St. Thomas/St. John and the St. Croix fishery exceeds its grouper ACL, then an AM can be applied in the Federal waters surrounding St. Croix without necessarily affecting the harvest of groupers in Federal waters surrounding Puerto Rico or St. Thomas/St. John. This rule would establish geographic boundaries between islands/island groups based upon an equidistant approach that uses a mid-point to divide the exclusive economic zone (EEZ) among islands. The three island management areas include: Puerto Rico, St. Croix, and St. Thomas/St. John.

#### Establish Annual Catch Limits and Accountability Measures

This rule would establish ACLs and AMs for queen conch and for all snapper, grouper, and parrotfish units or complexes in the Caribbean Reef Fish FMP. Each ACL would be sub-divided among the three islands/island groups. Separate sector ACLs (commercial and recreational) would be established for the Puerto Rico management area where landings data are available for both the commercial and recreational sectors. For the other island management areas (St. Croix and St. Thomas/St. John), only commercial data are available; therefore, ACLs would be established for the St. Croix and St. Thomas/St. John management areas based on commercial landings data only. Commercial data used to monitor those ACLs would be derived from trip ticket reports collected from territorial governments and recreational data used to monitor the Puerto Rico recreational ACLs would be derived from the Marine Recreational Fisheries Statistics Survey or Marine Recreational Information Program (MRIP). U.S. Caribbean landings data generally do not provide useful

information at the species level. The only exception to this situation is snapper data in Puerto Rico, where approximately 95 percent of all fish are reported to the species level. In the USVI, all snapper, grouper, and parrotfish landings are reported only to the complex level. Even in Puerto Rico, approximately 99 percent of parrotfish are reported only to the complex level and roughly 65 percent of grouper are reported only to the complex level. Thus, this rule would set unit-specific ACLs only for snapper units in Puerto Rico. For all other species in each island management area, aggregate ACLs would be established at the complex level.

The ACLs proposed for these units or complexes are derived from the OFL (MSY proxy) (or SSC-recommended ABC) and most are reduced by 15 percent to buffer against scientific and management uncertainty, reducing the probability that overfishing will occur. The portion of the parrotfish ACL allocated to St. Croix is reduced by an additional 5.8822 percent to further reduce the impacts of parrotfish harvest on Acropora species in St. Croix waters, where parrotfish harvest is particularly intense. The rule would specify an ACL of zero for Nassau grouper, goliath grouper, rainbow parrotfish, blue parrotfish, and midnight parrotfish. The rule would establish an ACL equal to the ABC recommended by the SSC for queen conch, which is far below average landings.

The AMs for queen conch are described in the 2010 regulatory amendment (final rule published on May 26, 2011, 76 FR 30554) to the FMP for Queen Conch Resources of Puerto Rico and the USVI, and state that when the USVI closes its territorial waters off St. Croix to the harvest and possession of queen conch, NMFS will concurrently close the EEZ in the area of Lang Bank until the start of the next territorial fishing season. For Puerto Rico and St. Thomas/St. John, the applicable ACL would be set at zero and so harvest would be prohibited in the EEZ for those areas.

The AMs proposed in this rule are designed to prevent fishermen from exceeding the snapper, grouper, and parrotfish ACLs. For AMs, two components are considered, the first identifies the conditions under which AMs would be triggered and the second describes the action(s) that would occur if AMs are triggered. This rule triggers AMs if NMFS' SEFSC determines that an ACL has been exceeded based on a moving multi-year average of landings as described in the FMP. Both commercial and recreational landings of

a species, unit, or complex vary substantially from year to year; applying a multi-year average is intended to address that variability. The rule would reduce the length of the fishing season for the affected species, unit or complex the year following any 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' SEFSC, in consultation with the Council and its SSC, determines the overage occurred because data collection and monitoring improved, rather than because catches actually increased. In such circumstances NMFS and the Council would review the relevant information and take further action as appropriate.

#### *General Management Measures*

Parrotfish are considered to perform an important ecological function on U.S. Caribbean coral reefs, grazing algae, which competes for space with a variety of coral species. These species include *Acropora palmata* and *A. cervicornis*, both of which are listed as threatened under the Endangered Species Act. Critical habitat has been designated for these coral species, and the essential feature of the critical habitat is available substrate free of macroalgae at certain depths. Parrotfish are also considered a cultural component of the U.S. Caribbean diet in some areas, especially in St. Croix. This rule would prohibit the harvest of the three largest species of parrotfish that occur on Caribbean coral reefs blue (*Scarus coeruleus*), midnight (*S. coelestinus*), and rainbow (*S. guacamaia*) parrotfish. These species tend to grow slowly and have relatively long timeframes for population replenishment relative to other parrotfish species, making them particularly susceptible to overharvest.

Additionally, this rule would establish an aggregate bag limit for the recreational harvest of snapper, grouper and parrotfish. The daily recreational bag limit for snapper, grouper, and parrotfish combined is proposed to be five fish per person per day, with no more than two parrotfish per person within the aggregate. This rule also would establish a vessel limit on snapper, grouper, and parrotfish of 15 fish per day, including no more than 6 parrotfish per vessel per day.

#### *Framework Measures*

This rule would establish framework measures for both the reef fish and queen conch FMPs. Management measures proposed to be adjusted through framework amendments include but are not limited to quotas, closures, trip limits, bag limits, size

limits, gear restrictions, fishing years, and reference points. The purpose of these framework measures is to allow the Council to more expeditiously adjust management in response to changing fishery conditions.

#### **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 Amendment 2 to the Queen Conch FMP and Amendment 5 to the Reef Fish FMP, other provisions of 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. 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 would experience a substantially greater adverse economic impact relative to their counterparts in Puerto Rico.

NMFS prepared an IRFA, as required by section 603 of the Regulatory Flexibility Act (RFA), for this proposed rule. The IRFA describes the economic impact that this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, the objectives of, and legal basis for 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 IRFA follows.

The proposed rule, which consists of several actions, would: Prohibit fishing for and possession of three species of parrotfish; establish recreational bag limits for parrotfish, snapper and grouper; specify ACLs and AMs for Caribbean queen conch, parrotfish, snapper and grouper; and establish framework measures to facilitate regulatory modifications. The establishment of ACLs is based on the revised management reference points and status determination criteria for Caribbean queen conch, snapper, grouper, and parrotfish that are contained in the FMP Amendment.

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

While existing Federal regulations that NMFS enforces presently impose seasonal or year-round prohibitions on fishing for snapper, grouper, parrotfish

and queen conch in Federal waters of the U.S. Caribbean, no duplicative, overlapping, or conflicting Federal rules to these proposed rules have been identified. The proposed rule would not alter existing reporting or record-keeping requirements; however, it would prohibit fishing for and possession of blue, midnight and rainbow parrotfish in the EEZ; establish recreational bag limits for parrotfish, snapper and grouper; and provide NMFS the authority to restrict harvest in areas of the EEZ where annual or average annual landings of a stock, complex or unit exceed the ACL. The AMs may constitute a new compliance requirement and are analyzed later in the IRFA.

A business is classified as a small business for the purposes of the RFA 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's) size standards. This proposed rule is expected to directly affect businesses that harvest parrotfish, snapper, grouper and queen conch 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 Industries (NAICS 487210). 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. The IRFA assumes 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 therefore are small businesses.

In 2008, there were 868 active commercial fishermen in Puerto Rico; 74 percent of these fishermen were captains and the remaining 26 percent were crew members. The IRFA assumes each captain represents a small business in the Finfish Fishing Industry and each member of the crew an employee of one of those businesses. Therefore, it is concluded that there are 638 small businesses in the Finfish Fishing Industry in Puerto Rico, and potentially all of these businesses could be directly affected by the proposed 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 the IRFA 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 Industry in the USVI that could be directly affected by the proposed rule.

Current regulations prohibit fishing for or transportation of queen conch in the EEZ off Puerto Rico and St. Thomas/St. John, and the proposed rule would not end that prohibition. Hence, the proposed rule would not apply to small businesses in the Shellfish Fishing Industry in Puerto Rico and St. Thomas/St. John. Thirty-nine percent of St. Croix's licensed commercial fishermen in 2003 reported that they targeted conch. Thus, it is assumed that 39 percent of St. Croix's 223 commercial fishermen represent 87 small businesses in the Shellfish Fishing Industry that harvest queen conch and could be directly affected by the proposed 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. The proposed rule would apply to all of these small businesses.

The proposed rule would apply to all small businesses in Puerto Rico, St. Croix and St. Thomas/St. John within the Finfish Fishing and Charter Fishing Industries. Moreover, it would apply to all of the small businesses in St. Croix in the Shellfish Fishing Industry. Therefore, the proposed 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 snapper, grouper, parrotfish or queen conch in Federal waters. Consequently, NMFS expects that small businesses in the Charter Fishing Industry in Puerto Rico, St. Croix or St. Thomas/St. John would experience little to no adverse economic impact because of the proposed rule.

The proposed St. Croix Queen Conch ACL is consistent with the USVI Department of Planning and Natural Resources' (DPNR's) annual quota of 50,000 lb (22,680 kg) of queen conch in St. Croix. Once the DPNR has determined that the quota is met, the queen conch fishery in both territorial and Federal waters is closed and no landings of queen conch in St. Croix are permitted for the remainder of the fishing season. The matching of the proposed St. Croix Queen Conch ACL with the already established annual quota in St. Croix should result in no adverse economic impact on small businesses of St. Croix in the Shellfish Fishing Industry.

The proposed ban on fishing for and possession of blue, midnight and rainbow parrotfish in the EEZ is not expected to have an adverse economic impact on small businesses in the

Finfish Fishing Industry in Puerto Rico because these species are harvested in territorial, not Federal, waters. Commercial landings of these species in the USVI are unknown, and, consequently, any adverse economic impacts of the prohibition on commercial fishing operations are unknown. One way for these small businesses in St. Croix and St. Thomas/St. John to mitigate loss of landings and associated revenues of these species of parrotfish would be to increase landings of other parrotfish or non-parrotfish species taken in the EEZ; however, the ability to increase landings of other parrotfish or snapper and grouper would be limited or could be eliminated by the proposed ACLs and AMs. USVI small businesses could also mitigate adverse impacts by increasing harvest in territorial waters. However, the ability of small businesses in Puerto Rico and the USVI to mitigate losses by increasing effort in territorial waters would be eliminated if Puerto Rico and the USVI were to implement compatible regulations.

A comparison of the proposed Puerto Rico commercial ACLs for Snapper Units 1 through 4, Grouper, and Parrotfish to average annual commercial landings from 2006 to 2007 suggests the proposed commercial ACLs for Snapper Units 1, 3 and 4, Grouper, and Parrotfish would not require reductions in the lengths of the Federal commercial fishing seasons for these complexes and units in the Puerto Rico EEZ. Therefore, there would be no adverse economic impact on small businesses in Puerto Rico that harvest these species.

The proposed Puerto Rico commercial Snapper Unit 2 ACL is less than the expected average annual landings of Snapper Unit 2 from 2010 and thereafter, which suggests there would be an overage of Snapper Unit 2 landings beginning in 2010 that would require a shortened Federal fishing season in the Puerto Rico EEZ in a subsequent year by 1.2 days. Puerto Rico's commercial fishermen could mitigate the shortened Snapper Unit 2 fishing season in the Puerto Rico EEZ by targeting other snapper and non-snapper species during the time that the Federal Snapper Unit 2 fishing season is closed, or they could move into territorial waters to harvest Snapper Unit 2 species during the time the Federal season is closed. Approximately 95 percent of fishable area off Puerto Rico is in territorial waters. If a shortened Federal fishing season is no more than 10 percent effective in reducing the overage as a result of shifting effort into territorial waters, the total loss of ex-vessel revenue from Snapper Unit 2

landings would be no more than approximately \$104,812 over a 10-year period. The average 10-year loss per small business in the Finfish Fishing Industry in Puerto Rico would be approximately \$163.

This proposed rule is expected to have a greater adverse economic impact on small businesses in the Finfish Fishing Industry in St. Croix and St. Thomas/St. John. St. Croix small businesses would incur from 73 to 76 percent of the total cost, and St. Thomas/St. John small businesses would incur from 23 to 26 percent of the total cost, while Puerto Rico's small businesses would incur approximately 1 percent of the total cost.

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. Hence, it is more difficult for USVI fishermen to substitute fishing in territorial waters for fishing in Federal waters.

The estimates of the adverse economic impacts of the proposed rule on small businesses in the Finfish Industry in St. Croix and St. Thomas/St. John include uncertainty regarding the ability of the proposed AMs to reduce the overage of landings depending on whether, and to what extent, fishing effort shifts into territorial waters. Three scenarios are assumed to incorporate that uncertainty. The first assumes the proposed AMs reduce the overage of landings by 30 percent, the second, by 50 percent, and the third, by 80 percent. The total adverse economic impact on St. Croix's 223 small businesses would be losses of ex-vessel revenue ranging from approximately \$5.12 million to \$7.68 million over the 10-year period from 2011 to 2020, and the adverse economic impact on St. Thomas/St. John's 160 small businesses would be losses of ex-vessel revenue ranging from approximately \$1.81 million to \$2.30 million over the same period. The average total cost per small business in St. Croix would range from \$22,959 to \$34,437, and the average total cost per small business in St. Thomas/St. John would range from \$11,304 to \$14,359 over that period.

Among the considered but rejected significant alternatives for Action 5A, which addresses the triggering of AMs, were Alternatives 2A and 3A, which would use a single year's landings to trigger the AMs. Also considered but rejected were Alternatives 2B and 3B

that would use a single year's landings in 2010 and then use a 2-year annual average starting in 2011 and continue it thereafter to trigger the AMs. Preferred Alternative 3C and Alternative 2C would use a 3-year average starting in 2012 and continue it thereafter. The adverse economic impact of Preferred Alternative 3C is less than the adverse economic impacts of rejected Alternatives 2B, 3B, 2A and 3A because it would likely result in fewer shortened fishing seasons as a result of triggering AMs.

Alternative 3 of Action 5b, which addresses the application of AMs, was considered but rejected because it would require a larger reduction in the Federal fishing season than Preferred Alternative 2, which would increase the adverse economic impact.

Considered but rejected significant alternatives would have established reduced ACLs with respect to the selected ACL alternative. Preferred Alternative 2d would have a smaller adverse economic impact than considered but rejected Alternatives 2e and 2f because the latter would set smaller ACLs. Rejected Alternative 2c would have a smaller adverse economic impact than Preferred Alternative 2d; however, Alternative 2c does not allow for uncertainty and could yield lower long-run benefits to small businesses.

#### List of Subjects in 50 CFR Part 622

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

Dated: October 19, 2011.

**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, 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 § 622.32, paragraph (b)(1)(v) is added to read as follows:

#### § 622.32 Prohibited and limited-harvest species.

\* \* \* \* \*

- (b) \* \* \*  
(1) \* \* \*

(v) No person may fish for or possess midnight parrotfish, blue parrotfish, or rainbow parrotfish in or from the Caribbean EEZ. Such fish caught in the

Caribbean EEZ must be released with a minimum of harm.

\* \* \* \* \*

3. In § 622.33, paragraph (d)(1) is revised to read as follows:

#### § 622.33 Caribbean EEZ seasonal and/or area closures.

\* \* \* \* \*

- (d) \* \* \*

(1) 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 § 622.49(c)(2)(i)(A), 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.

\* \* \* \* \*

4. In § 622.39, paragraph (g) is added to read as follows:

#### § 622.39 Bag and possession limits.

\* \* \* \* \*

(g) *Caribbean reef fish*—(1) *Applicability.* Paragraph (a)(1) of this section notwithstanding, the bag limits of paragraph (g)(2) of this section do not apply to a person who has a valid commercial fishing license issued by Puerto Rico or the U.S. Virgin Islands.

(2) *Bag limits.* 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.

5. In § 622.48, paragraph (b) is revised and paragraph (m) is added to read as follows:

#### § 622.48 Adjustment of management measures.

\* \* \* \* \*

(b) *Caribbean reef fish.* Fishery management units (FMUs), 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.

\* \* \* \* \*

(m) *Caribbean queen conch.* Quotas, trip limits, bag limits, size limits, closed seasons or areas, gear restrictions, fishing year, 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.

6. In § 622.49, the section heading is revised and paragraph (c) is added to read as follows:

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

\* \* \* \* \*

(c) *Caribbean island management areas.* 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)), are estimated by the SRD to have exceeded the applicable ACL, as specified in paragraph (c)(1) of this section for Puerto Rico management area species or species groups, paragraph (c)(2) of this section for St. Croix management area species or species groups, or paragraph (c)(3) for St. Thomas/St. John management area species or species groups, 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), and (c)(3) 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) *Puerto Rico*—(i) *Commercial ACLs.* The following ACLs apply to commercial landings of Puerto Rico management area species or species groups.

(A) *Queen conch*—0 lb (0 kg), for the EEZ only.  
 (B) *Parrotfishes*—52,737 lb (23,915 kg).  
 (C) *Snapper Unit 1*—284,685 lb (129,131 kg).  
 (D) *Snapper Unit 2*—145,916 lb (66,186 kg).  
 (E) *Snapper Unit 3*—345,775 lb (156,841 kg).  
 (F) *Snapper Unit 4*—373,295 lb (169,324 kg).  
 (G) *Groupers*—177,513 lb (80,519 kg).  
 (ii) *Recreational ACLs*. The following ACLs apply to recreational landings of Puerto Rico management area species or species groups.  
 (A) *Queen conch*—0 lb (0 kg), for the EEZ only.  
 (B) *Parrotfishes*—15,263 lb (6,921 kg).  
 (C) *Snapper Unit 1*—95,526 lb (43,330 kg).  
 (D) *Snapper Unit 2*—34,810 lb (15,790 kg).  
 (E) *Snapper Unit 3*—83,158 lb (37,720 kg).  
 (F) *Snapper Unit 4*—28,509 lb (12,931 kg).  
 (G) *Groupers*—77,213 lb (35,023 kg).  
 (2) *St. Croix*—(i) *ACLs*. The following ACLs apply to landings of St. Croix management area species or species groups.  
 (A) *Queen conch*—50,000 lb (22,680 kg).  
 (B) *Parrotfishes*—240,000 lb (108,863 kg).

(C) *Snappers*—102,946 lb (46,696 kg).  
 (D) *Groupers*—30,435 lb (13,805 kg).  
 (ii) [Reserved]  
 (3) *St. Thomas/St. John*—(i) *ACLs*.  
 The following ACLs apply to landings of St. Thomas/St. John management area species or species groups.  
 (A) *Queen conch*—0 lb (0 kg), for the EEZ only.  
 (B) *Parrotfishes*—42,500 lb (19,278 kg).  
 (C) *Snappers*—133,775 lb (60,679 kg).  
 (D) *Groupers*—51,849 lb (23,518 kg).  
 (ii) [Reserved]  
 7. In table 2 of Appendix A,  
 a. Under *Lutjanidae—Snappers*, units 1 and 2 are revised;  
 b. Under *Serranidae—Sea basses and Groupers*, units 3 and 4 are revised; and  
 c. Under *Serranidae—Sea basses and Groupers*, unit 5 is added.  
 The revisions and additions read as follows:

#### Appendix A to Part 622—Species Tables

\* \* \* \* \*

#### Table 2 of Appendix A to Part 622—Caribbean Reef Fish

##### *Lutjanidae—Snappers*

##### Unit 1

Black snapper, *Apsilus dentatus*  
 Blackfin snapper, *Lutjanus buccanella*  
 Silk snapper, *Lutjanus vivanus*  
 Vermilion snapper, *Rhomboplites aurorubens*

Wenchman, *Pristipomoides aquilonaris*  
 Unit 2  
 Cardinal, *Pristipomoides macrophthalmus*  
 Queen snapper, *Etelis oculatus*  
 \* \* \* \* \*

##### *Serranidae—Sea basses and Groupers*

\* \* \* \* \*

##### Unit 3

Coney, *Epinephelus fulvus*  
 Graysby, *Epinephelus cruentatus*  
 Red hind, *Epinephelus guttatus*  
 Rock hind, *Epinephelus adscensionis*

##### Unit 4

Black grouper, *Mycteroperca bonaci*  
 Red grouper, *Epinephelus morio*  
 Tiger grouper, *Mycteroperca tigris*  
 Yellowfin grouper, *Mycteroperca venenosa*

##### Unit 5

Misty grouper, *Epinephelus mystacinus*  
 Yellowedge grouper, *Epinephelus flavolimbatus*  
 \* \* \* \* \*

8. Appendix E to part 622 is added to read as follows:

#### Appendix E to Part 622—Caribbean Island/Island Group Management Areas

##### Table 1 of Appendix E to Part 622—Coordinates of the Puerto Rico Management Area.

The Puerto Rico management area is bounded by rhumb lines connecting, in order, the following points.

Point	North lat.	West long.
A (intersects with the International/EEZ boundary) .....	19°37'29"	65°20'57"
B (intersects with the EEZ/Territorial boundary) .....	18°25'46.3015"	65°06'31.866"
From Point B, proceed southerly along the EEZ/Territorial boundary to Point C		
C (intersects with the EEZ/Territorial boundary) .....	18°13'59.0606"	65°05'33.058"
D .....	18°01'16.9636"	64°57'38.817"
E .....	17°30'00.000"	65°20'00.1716"
F .....	16°02'53.5812"	65°20'00.1716"
From Point F, proceed southwesterly, then northerly, then easterly, and finally southerly along the International/EEZ boundary to Point A		
A (intersects with the International/EEZ boundary) .....	19°37'29"	65°20'57"

##### Table 2 of Appendix E to Part 622—Coordinates of the St. Croix Management Area.

The St. Croix management area is bounded by rhumb lines connecting, in order, the following points.

Point	North lat.	West long.
G .....	18°03'03"	64°38'03"
From Point G, proceed easterly, then southerly, then southwesterly along the EEZ/Territorial boundary to Point F.		
F .....	16°02'53.5812"	65°20'00.1716"
E .....	17°30'00.000"	65°20'00.1716"
D .....	18°01'16.9636"	64°57'38.817"
G .....	18°03'03"	64°38'03"

**Table 3 of Appendix E to Part 622—**  
*Coordinates of the St. Thomas/St. John*  
*Management Area.*

The St. Thomas/St. John management area is bounded by rhumb lines connecting, in order, the following points.

Point	North lat.	West long.
A (intersects with the International/EEZ boundary) .....	19°37'29"	65°20'57"
From Point A, proceed southeasterly along the EEZ/Territorial boundary to Point G		
G .....	18°03'03"	64°38'03"
D .....	18°01'16.9636"	64°57'38.817"
C (intersects with the EEZ/Territorial boundary) .....	18°13'59.0606"	65°05'33.058"
From Point C, proceed northerly along the EEZ/Territorial boundary to Point B		
B (intersects with the EEZ/Territorial boundary) .....	18°25'46.3015"	65°06'31.866"
A (intersects with the International/EEZ boundary) .....	19°37'29"	65°20'57"

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