



**Billing Code: 3510-22-P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

**RIN 0648-BG29**

**Amendments to the Reef Fish, Spiny Lobster, and Corals and Reef Associated Plants and Invertebrates Fishery Management Plans of Puerto Rico and the U.S. Virgin Islands**

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

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

**SUMMARY:** The Caribbean Fishery Management Council (Council) has submitted Amendment 8 to the Fishery Management Plan (FMP) for the Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands (USVI) (Reef Fish FMP), Amendment 7 to the FMP for the Spiny Lobster Fishery of Puerto Rico and the USVI (Spiny Lobster FMP), and Amendment 6 to the FMP for the Corals and Reef Associated Plants and Invertebrates of Puerto Rico and the USVI (Coral FMP) for review, approval, and implementation by NMFS. In combination, these amendments represent the Accountability Measure (AM) Timing Amendment. The AM Timing Amendment would change the date for the implementation of AM-based closures for

all species and species groups managed by the Council under the subject FMPs and specify that the Council must periodically revisit this implementation date. The purpose of the AM Timing Amendment is to minimize, to the extent practicable, the adverse socio-economic impacts of AM-based closures, while constraining catch levels to the applicable annual catch limit (ACL) and preventing overfishing.

**DATES:** Written comments must be received on or before [*insert date 60 days after date of publication in the FEDERAL REGISTER*].

**ADDRESSES:** You may submit comments on the AM Timing Amendment, identified by "NOAA-NMFS-2016-0013" by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0013](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0013), click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to María del Mar López, 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 the Timing of AM Timing Amendment, which includes an environmental assessment, a Regulatory Flexibility Act 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](http://sero.nmfs.noaa.gov/sustainable_fisheries/caribbean/index.html).

**FOR FURTHER INFORMATION CONTACT:** María del Mar López, telephone: 727-824-5305, or e-mail: [maria.lopez@noaa.gov](mailto:maria.lopez@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each regional fishery management council to submit any FMP or FMP amendment to NMFS for review and approval, partial approval, or disapproval. The Magnuson-Stevens Act also requires that NMFS, upon receiving a plan or amendment, publish an

announcement in the **Federal Register** notifying the public that the plan or amendment is available for review and comment.

The FMPs being revised by the AM Timing Amendment were prepared by the Council, and implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

### **Background**

The current AMs in the U.S. Caribbean exclusive economic zone (EEZ) for reef fish, spiny lobster, and corals require NMFS to reduce the length of the Federal fishing season for a species or species group in the year following a determination that the landings exceeded the applicable ACL. As specified in the FMPs, the landings determination is based on the applicable 3-year landings average exceeding the respective ACL. 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 fishing season is reduced in the year following an ACL overage determination, by the amount necessary to constrain landings to the ACL. These AM-based reductions in the length of the fishing season, for any species or species group for which

the ACL has been exceeded, currently end on December 31st of the closure year and extend backward into the fishing year for the number of days necessary to achieve the required reduction in landings. The fishing year for Council-managed species in Caribbean Federal waters is the calendar year of January 1 through December 31. Fishers in the USVI and Puerto Rico have stated to the Council that implementing AM-based closures at the end of the fishing year results in negative socio-economic impacts, for example, by resulting in multiple and potentially overlapping closures during the important December holiday season.

#### **Actions Contained in the AM Timing Amendment**

The AM Timing Amendment would modify the implementation date for AM-based closures for species managed under the Reef Fish, Coral, and Spiny Lobster FMPs, and specify that the Council must periodically revisit this implementation date. The Council's goal for the actions considered in this amendment is, to the extent practicable, to minimize the adverse socio-economic impacts of AM-based closures, while still constraining catch levels to the applicable ACLs and preventing overfishing, as required by the Magnuson-Stevens Act. The FMP for the Queen Conch Resources of Puerto Rico and the U.S. Virgin Islands is

not included in the AM Timing Amendment because queen conch are managed with an in-season closure when the ACL is reached or projected to be reached, rather than a post-season reduction in the fishing year.

*Modification of the Date for the Implementation of AM-Based Closures*

The AM Timing Amendment would modify the date for the implementation of an AM-based closure in the year following an ACL overage determination for a species or species group managed by the Council in Federal waters off Puerto Rico, St. Thomas/St. John, and St. Croix, under the Reef Fish, Coral, and Spiny Lobster FMPs. Specifically, instead of the current end date of December 31 for AM-based closures, AM-based closures would be implemented using an end date of September 30 of the closure year, and extend backward toward the beginning of the Federal fishing year (January 1), for the number of days necessary to achieve the required reduction in landings. If the length of the required fishing season reduction exceeds the period of January 1 through September 30, any additional fishing season reduction would be applied from October 1 forward, toward the end of the fishing year (December 31). The proposed AM-based closure end date of September 30 would increase the likelihood that any AM-

based closures would occur during a time of the year when the socio-economic impacts to fishers are expected to be less severe. Modifying the date for the implementation of AM-based closures would not change the level of harvest reduction in the event that an AM-based closure is required. The Council determined that an AM-based closure implementation date of September 30 going backward toward the beginning of the year, applicable to all species or species groups across all island management areas, except for queen conch, would minimize, to the extent practicable, negative socio-economic effects from the implementation of AMs while constraining harvest to the applicable ACL and preventing overfishing. This approach to the timing for AM-based closures has been identified by Caribbean fishers as desirable, because it avoids periods of high demand for fish so they do not risk losing markets, and thus is expected to minimize adverse socio-economic effects from the implementation of AMs.

*Specification of a Time Period for Revisiting the Approach Selected to Establish AM-based Closures*

The AM Timing Amendment would also ensure the Council revisit, and possibly revise, using September 30 as the end date for AM-based closures, no longer than 2 years from the

implementation of the AM Timing Amendment and every 2 years thereafter. This is expected to result in positive social and economic management effects from the ability to change the method of applying AM-based closures based on new information.

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

#### **Consideration of Public Comments**

The Council has submitted the AM Timing Amendment for Secretarial review, approval, and implementation. Comments on the AM Timing Amendment must be received by [*insert date 60 days after date of publication in the* **FEDERAL REGISTER**]. Comments received during the respective comment periods, whether specifically directed to the amendment or the proposed rule, will be considered by NMFS in its decision to approve, disapprove, or partially approve the AM Timing Amendment. All comments received by NMFS on the amendment or the proposed rule during their respective comment periods will be addressed in the

final rule.

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

Dated: December 29, 2016

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