



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 622

[Docket No. 230713-0165]

RIN 0648-BL56

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Fishery Management Plans of Puerto Rico, St. Croix, and St. Thomas and St. John; Amendments 1

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

ACTION: Final rule.

SUMMARY: NMFS issues regulations to implement Amendment 1 to the Puerto Rico Fishery Management Plan (FMP), Amendment 1 to the St. Croix FMP, and Amendment 1 to the St. Thomas and St. John FMP (jointly Amendments 1), as submitted by the Caribbean Fishery Management Council (Council). This final rule and Amendments 1 prohibit the use of buoy gear by the recreational sector in U.S. Caribbean Federal waters and modify the regulatory definition of buoy gear to increase the maximum number of allowable hooks used by the commercial sector in U.S. Caribbean Federal waters from 10 to 25. The purpose of this final rule and Amendments 1 is to allow commercial fishermen

targeting deep-water fish, including snappers and groupers, in the U.S. Caribbean Federal waters to use buoy gear with up to 25 hooks, while protecting deep-water reef fish resources and habitats and minimizing user conflicts.

DATES: This final rule is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Electronic copies of Amendments 1, which includes a fishery impact statement and a regulatory impact review, may be obtained from the Southeast Regional Office website at <https://www.fisheries.noaa.gov/action/generic-amendment-1-island-based-fishery-management-plans-modification-buoy-gear-definition>.

FOR FURTHER INFORMATION CONTACT: Maria Lopez-Mercer, telephone: 727-824-5305, or email: maria.lopez@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS and the Council manage reef fish and pelagic stocks and stock complexes in the U.S. Caribbean Exclusive Economic Zone (EEZ) under the Puerto Rico FMP, St. Croix FMP, and St. Thomas and St. John FMP (collectively the island-based FMPs). The Council prepared the island-based FMPs and NMFS implements the FMPs through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens

Fishery Conservation and Management Act (Magnuson-Stevens Act).

On April 6, 2023, NMFS published a notice of availability for Amendments 1 and requested public comment (88 FR 20453). NMFS approved Amendments 1 on July 3, 2023. On April 24, 2023, NMFS published a proposed rule for Amendments 1 and requested public comment (88 FR 24746). The proposed rule and Amendments 1 outline the rationale for the actions contained in this final rule. A summary of the management measures described in Amendments 1 and implemented by this final rule is described below.

Background

The Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and to achieve, on a continuing basis, the optimum yield from federally managed fish stocks. These mandates are intended to ensure that fishery resources are managed for the greatest overall benefit to the nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems. To further this goal, the Magnuson-Stevens Act requires fishery managers to minimize bycatch and bycatch mortality to the extent practicable. The Magnuson-Stevens Act also authorizes the Council and NMFS to regulate fishing activity to

support the conservation and management of fisheries, which may include regulations that pertain to fishing for non-managed species.

On September 22, 2020, the Secretary of Commerce approved the island-based FMPs under section 304(a)(3) of the Magnuson-Stevens Act. For Puerto Rico and the U.S. Virgin Islands (USVI), the Council and NMFS manage fisheries under the island-based FMPs. NMFS published the final rule to implement the island-based FMPs on September 13, 2022 (87 FR 56204). The island-based FMPs contain management measures applicable for Federal waters off each respective island group. Among other measures, for reef fish and pelagic species managed in each island management area, these include allowable fishing gear and methods for harvest. Federal waters around Puerto Rico extend seaward from 9 nautical miles (nmi; 16.7 km) from shore to the offshore boundary of the EEZ. Federal waters around St. Croix, and St. Thomas and St. John extend seaward from 3 nmi (5.6 km) from shore to the offshore boundary of the EEZ. Federal regulations at 50 CFR 600.725(v), in section (V) of the table, describe the authorized fishing gear for each of the Council-managed fisheries and non-managed fisheries in each island management area.

In the U.S. Caribbean, small-scale commercial

fishermen harvesting deep-water reef fish, particularly snappers (e.g., queen and cardinal snappers) and groupers, typically use a specific type of hook-and-line gear. This hook-and-line gear is known locally as vertical bottom line or "cala" in Puerto Rico and as vertical setline or deep-drop gear in the USVI. Fishing gear configurations and methods used by commercial fisherman to harvest these deep-water snappers and groupers, which includes buoy gear, varies in terms of vessel fishing equipment and materials used, hook type, size and number, number of lines used, types of bait, soaking time, and fishing grounds. Vertical bottom line fishing gear and deep-drop fishing gear can be either attached to the vessel while deployed and retrieved with an electrical reel or unattached to the vessel when rigged and deployed as buoy gear and retrieved with an electrical reel. Buoy gear, known as or "cala con boya" in Puerto Rico and as deep-drop buoy gear in the USVI, is typically used to harvest deep-water snappers and groupers in waters up to 1,500 ft (457 m), by commercial fishermen in Puerto Rico and to a lesser extent in the USVI.

Buoy gear is defined in 50 CFR 622.2 as fishing gear that fishes vertically in the water column that consists of a single drop line suspended from a float, from which no more than 10 hooks can be connected

between the buoy and the terminal end, and the terminal end contains a weight that is no more than 10 lb (4.5 kg). This current definition of buoy gear applies in Federal waters of the Gulf of Mexico, South Atlantic, and U.S. Caribbean. In addition, buoy gear is listed as an authorized hook-and-line gear type in 50 CFR 600.725(v) (V) for those fishing commercially and recreationally for species that are not managed by the Council (*i.e.*, non-FMP species) in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John and for those fishing commercially for managed reef fish and managed pelagic species in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John. As described in Amendments 1, although buoy gear is currently listed as an authorized gear for recreational fishing of species that are not managed under the island-based FMPs, there is no evidence that the recreational sector operating in U.S. Caribbean Federal waters uses or has used buoy gear. Use of buoy gear by the recreational sector is unlikely because it is a very specialized commercial gear type that is expensive and difficult to use by anyone other than a professional commercial fisherman.

In December 2021, commercial fishermen who target deep-water snapper and grouper in Federal waters around Puerto Rico and the USVI commented to the

Council that they would like to increase the maximum number of hooks that are allowed while using buoy gear in Federal waters to reflect how the gear is currently used in state waters in both Puerto Rico and the USVI. Under the current definition of buoy gear that applies in Federal waters of the Gulf of Mexico, South Atlantic, and U.S. Caribbean, no more than 10 hooks may be connected between the buoy and the terminal end. Puerto Rico and USVI territorial regulations, on the other hand, do not limit the number of hooks allowed on deep-water reef fish buoy gear.

In this final rule and Amendments 1, the use of buoy gear in U.S. Caribbean Federal waters will be limited to those fishing commercially and will be prohibited by those fishing recreationally.

Prohibiting the use of buoy gear by the recreational sector in U.S. Caribbean Federal waters will eliminate (1) potential future conflicts between commercial and recreational user groups at the subject fishing grounds, (2) additional ecological, biological, and physical effects that might result from recreational fishing for deep-water snapper and grouper, including risks to managed species that may result from misuse of buoy gear and bycatch of managed species by the recreational sector, and (3) any safety concerns potentially associated with the recreational use of

buoy gear at the deep-water reef fish fishing grounds. This final rule and Amendments 1 also modify the definition of buoy gear to allow commercial fishermen in U.S. Caribbean Federal waters to use a maximum of 25 hooks with buoy gear to reflect how the gear is commonly used by commercial fishermen in state waters in Puerto Rico and the USVI.

Management Measures Contained in this Final Rule

This final rule prohibits the use of buoy gear by the recreational sector in the U.S Caribbean and modifies the buoy gear definition to increase the maximum number of allowable hooks used by the commercial sector in the U.S. Caribbean.

Recreational Buoy Gear Prohibition

Buoy gear is currently an authorized gear type for those fishing recreationally for species that are not managed by the Council (*i.e.*, non-FMP species) in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John. As described in Amendments 1, although the use of buoy gear by the recreational sector currently appears unlikely, this final rule takes a precautionary approach to prevent any future use of buoy gear by the recreational sector to fish for any species (*i.e.*, managed and non-managed species) in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John. With respect to

non-managed species, the Magnuson-Stevens Act gives the Council and NMFS the authority to regulate fishing activity to support the conservation and management of fisheries. This can include regulations that pertain to fishing for non-managed species.

This final rule limits the use of buoy gear to the commercial sector to prevent any potential future conflicts between commercial and recreational user groups resulting from the use of buoy gear. These potential conflicts could include competition for fishing grounds. This final rule also eliminates any additional ecological, biological and physical effects that might occur through additional recreational fishing-related pressure at those grounds and to those resources, including overfishing the deep-water snapper and grouper resources, risks to managed species from misuse of the buoy gear and increased bycatch of managed species that might result through the recreational use of buoy gear. Finally, the final rule eliminates safety concerns potentially associated with the presence of an emerging recreational fleet at the deep-water reef fish fishing grounds that could occur because of the specialized characteristics of the buoy gear operations.

Revision of Buoy Gear Definition

The current buoy gear definition, which applies in Federal waters of the Gulf of Mexico, South Atlantic, and U.S. Caribbean, specifies, among other measures, that this gear type may have no more than 10 hooks connected between the buoy and the terminal end.

This final rule changes the buoy gear definition to increase the maximum number of hooks allowed between the buoy and the terminal end from 10 to 25 hooks in the EEZ around Puerto Rico, St. Croix, and St. Thomas and St. John. This change in the buoy gear definition applies only where buoy gear is authorized in the U.S. Caribbean EEZ, and applies only to the commercial sector as a result of this final rule. NMFS notes that this change applies to the commercial harvest of both Council-managed fisheries and non-managed fisheries. The increased number of authorized buoy gear hooks will allow commercial fishermen fishing in Federal waters off Puerto Rico, St. Croix, and St. Thomas and St. John to legally use the same gear configuration that is commonly used by some commercial fisherman in state waters.

This revision to the buoy gear definition in the U.S. Caribbean will also avoid enforcement complications for commercial fishermen harvesting multiple species on a trip because it will allow the use of the buoy gear with up to 25 hooks to harvest

managed and non-managed deep-water fish. The change to the buoy gear definition will not change any other part of the buoy gear definition such as weight, construction materials for the drop line, and length of the drop line. Additionally, the current buoy gear definition, as it applies to the Gulf of Mexico and South Atlantic, will not change as a result of this final rule.

Measure Contained in this Final Rule not in Amendments

1

In addition to the buoy gear measures contained in Amendments 1, this final rule corrects an error from a previous rulemaking. On September 13, 2022, NMFS published in the **Federal Register** the final rule implementing the island-based FMPs for the U.S. Caribbean (87 FR 56204, September 13, 2022). That final rule contained a minor administrative error in 50 CFR 622.440(a)(2), "Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs)," related to a notation for the recreational ACL for mutton snapper in Table 2 to § 622.440(a)(2). Mutton snapper, which is an indicator stock for Snappers, Snapper 4, is notated in that final rule with an asterisk when it should have been annotated with a superscript "1." In Table 2 of 50 CFR 622.440(b)(2), all indicator stocks are to be notated

with the superscript "1." NMFS became aware of this inadvertent minor administrative error after the island-based FMPs final rule published. This final rule revises the notation for mutton snapper in Table 2 to 50 CFR 622.440(a)(2), Snappers, Snapper 4, to be a superscript "1." The recreational ACLs in the paragraph remain the same and do not change in this final rule.

Comments and Responses

NMFS received two comments on the notice of availability and one comment on the proposed rule for Amendments 1. Comment submissions were from members of the general public and a fishermen organization. One comment was in support of the actions in Amendments 1.

NMFS has not made any changes from the proposed rule to this final rule based on public comment.

Specific comments related to Amendments 1 and the proposed rule are grouped as appropriate and responded to below.

Comment 1: The Council wants to prohibit fishing with vertical bottom line fishing gear, (known locally as "cala" in Puerto Rico) as it is used in Puerto Rico.

Response: NMFS clarifies that neither Amendment 1 to the Puerto Rico FMP or this final rule prohibit the use of all vertical bottom line ("cala") for fishing

in the EEZ around Puerto Rico or the rest of the Caribbean EEZ. Amendments 1 and this final rule specifically prohibit the use of buoy gear, which is a configuration of the vertical bottom line, only for use by the recreational sector. The use of buoy gear by the commercial sector will continue to be authorized. The final rule limits the use of buoy gear to the commercial sector to prevent any potential future conflicts between commercial and recreational user groups resulting from the use of buoy gear. As described in Amendments 1, limiting the use of buoy gear to the commercial sector also avoids any additional ecological, biological, and physical effects that might occur through additional recreational fishing-related pressure where buoy gear is currently used. These effects include reducing the risk of overfishing of the deep-water snapper and grouper resources, risks to managed species from misuse of the buoy gear, and increased bycatch of managed species that might result through the recreational use of buoy gear.

Buoy gear, known as "cala con boya" in Puerto Rico and as deep-drop buoy gear in the USVI, is typically used by commercial fishermen in Puerto Rico, and to a lesser extent in the USVI, to harvest deep-water snappers and groupers in waters up to 1,500 ft

(457 m). As amended by this final rule, buoy gear is defined in 50 CFR 622.2 as fishing gear that fishes vertically in the water column that consists of a single drop line suspended from a float, from which no more than 10 hooks (except in the EEZ around Puerto Rico, St. Croix, and St. Thomas and St. John where the maximum is 25 hooks) can be connected between the buoy and the terminal end, and the terminal end contains a weight that is no more than 10 lb (4.5 kg).

Therefore, while this final rule prohibits the use of buoy gear for the recreational sector in the Caribbean EEZ, this final rule does not restrict the use of buoy gear and vertical bottom line for the commercial sector in the Caribbean EEZ.

Comment 2: The Council and NMFS want to eliminate the use of buoy gear by the recreational sector even though the sector does not use this type of fishing gear in Caribbean Federal waters. If the Council and NMFS are concerned about pressure on the deep-water reef fish fishery, they should reduce the number of commercial hooks allowed rather than increase them.

Response: As described in Amendments 1, there are no recreational fishing data showing that the recreational sector operating in U.S. Caribbean Federal waters uses or has used buoy gear. This is likely because buoy gear is a very specialized

commercial gear type that is expensive and generally difficult to use by anyone other than a professional commercial fisherman. NMFS agrees with the Council that it is appropriate to limit its use to those fishing commercially. As noted in the response to *Comment #1*, this precautionary approach eliminates potential future conflicts between commercial and recreational user groups at the deep-water fishing grounds, potential risks to managed species that may result from misuse of buoy gear by the recreational sector, including overfishing the deep-water snapper and grouper resources from additional fishing pressure, bycatch of managed species by the recreational sector, and any safety concerns potentially associated with the recreational use of buoy gear at the deep-water reef fish fishing grounds. NMFS notes that increasing the maximum number of hooks that are allowed while using buoy gear by the commercial sector in U.S. Caribbean Federal waters allows commercial fishermen to legally use the same gear configuration that is commonly used by some commercial fisherman who target deep-water snapper and grouper in Puerto Rico, St. Croix, and St. Thomas and St. John state waters. Puerto Rico and USVI territorial regulations, do not limit the number of hooks allowed on deep-water reef fish buoy gear.

Classification

Pursuant to section 304(b)(3) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with Amendments 1, the island-based FMPs, the Magnuson-Stevens Act, and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Magnuson-Stevens Act provides the statutory basis for this final rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting or recordkeeping compliance requirements are introduced in this final rule. This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this final rule would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments from the public were received regarding this certification. As a result, a final regulatory

flexibility analysis was not required and none was prepared.

List of Subjects

50 CFR Part 600

Caribbean, Fisheries, Fishing, Recreational.

50 CFR Part 622

Buoy gear, Caribbean, Commercial, Fisheries, Fishing, Recreational.

Dated: July 13, 2023.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR parts 600 and 622 as follows:

PART 600-MAGNUSON-STEVENS ACT PROVISIONS

1. The authority citation for part 600 continue to read as follows:

Authority: 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

2. In § 600.725, in paragraph (v), in the table under heading "V. Caribbean Fishery Management Council", revise

entries 1.H., 2.H, and 3.H. to read as follows:

§ 600.725 General prohibitions.

* * * * *

(v) * * *

Fishery	Authorized gear types
* * * * *	
V. Caribbean Fishery Management Council	
1. Exclusive Economic Zone around Puerto Rico	
* * * * *	
H. Puerto Rico Recreational Fishery (Non-FMP)	Automatic reel, bandit gear, handline, longline, rod and reel, spear, powerhead, hand harvest, cast net.
2. Exclusive Economic Zone around St. Croix	
* * * * *	
H. St. Croix Recreational Fishery (Non-FMP)	Automatic reel, bandit gear, handline, longline, rod and reel, spear, powerhead, hand harvest, cast net.
3. Exclusive Economic Zone around St. Thomas and St. John	

* * * * *

H. St. Thomas and St. John Recreational Fishery (Non-FMP)	Automatic reel, bandit gear, handline, longline, rod and reel, spear, powerhead, hand harvest, cast net.
---	--

* * * * *

* * * * *

PART 622--FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

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

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

4. In § 622.2, revise the definition of "Buoy gear" to read as follows:

§ 622.2 Definitions and acronyms.

* * * * *

Buoy gear means fishing gear that fishes vertically in the water column that consists of a single drop line suspended from a float, from which no more than 10 hooks (except in the EEZ around Puerto Rico, St. Croix, and St. Thomas and St. John where the maximum is 25 hooks) can be connected between the buoy and terminal end, and the terminal end contains a weight that is no more than 10 lb

(4.5 kg). The drop line can be rope (hemp, manila, cotton or other natural fibers; nylon, polypropylene, spectra or other synthetic material) or monofilament, but must not be cable or wire. The gear is free-floating and not connected to other gear or the vessel. The drop line must be no greater than 2 times the depth of the water being fished. All hooks must be attached to the drop line no more than 30 ft (9.1 m) from the weighted terminal end. These hooks may be attached directly to the drop line; attached as snoods (defined as an offshoot line that is directly spliced, tied or otherwise connected to the drop line), where each snood has a single terminal hook; or as gangions (defined as an offshoot line connected to the drop line with some type of detachable clip), where each gangion has a single terminal hook.

* * * * *

5. In § 622.440, revise table 2 to paragraph (a) (2) to read as follows:

§ 622.440 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

(a) * * *

(2) * * *

Table 2 to § 622.440 (a) (2)

Family	Stock or stock complex and species composition	Recreational ACL
---------------	---	-------------------------

Angelfishes	Angelfish -- French angelfish, gray angelfish, queen angelfish	2,985 lb (1,353.9 kg)
Groupers	Grouper 3 -- coney ¹ , graysby	19,634 lb (8,905.8 kg)
	Grouper 4 -- black grouper, red grouper, tiger grouper, yellowfin grouper, yellowmouth grouper	5,867 lb (2,661.2 kg)
	Grouper 5 -- misty grouper, yellowedge grouper	4,225 lb (1,916.4 kg)
	Grouper 6 -- red hind ¹ , rock hind	34,493 lb (15,645.7 kg)
Grunts	Grunts -- white grunt	2,461 lb (1,116.2 kg)
Jacks	Jacks 1 -- crevalle jack	41,894 lb (19,002.7 kg)
	Jacks 2 -- African pompano	5,719 lb (2,594 kg)
	Jacks 3 -- rainbow	8,091 lb

	runner	(3,670 kg)
Parrotfishes	Parrotfish 2 -- princess parrotfish, queen parrotfish, redband parrotfish, redtail parrotfish, stoplight parrotfish, striped parrotfish	17,052 lb (7,734.6 kg)
Snappers	Snapper 1 -- black snapper, blackfin snapper, silk snapper ¹ , vermilion snapper, wenchman	111,943 lb (50,776.4 kg)
	Snapper 2 -- cardinal snapper, queen snapper ¹	24,974 lb (11,328 kg)
	Snapper 3 -- lane snapper	21,603 lb (9,798.9 kg)
	Snapper 4 -- dog snapper, mutton snapper ¹ , schoolmaster	76,625 lb (34,756.5 kg)
	Snapper 5 -- yellowtail snapper	23,988 lb (10,880.7 kg)

	Snapper 6 -- cubera snapper	6,448 lb (2,924.7 kg)
Surgeonfishes	Surgeonfish -- blue tang, doctorfish, ocean surgeonfish	860 lb (390 kg)
Triggerfishes	Triggerfish -- gray triggerfish, ocean triggerfish, queen triggerfish ¹	7,453 lb (3,380.6 kg)
Wrasses	Wrasses 1 -- hogfish	8,263 lb (3,748 kg)
	Wrasses 2 -- puddingwife, Spanish hogfish	5,372 lb (2,436.6 kg)

¹ Indicator stock.

* * * * *