



**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 622**

**[Docket No. 240424-0118]**

**RIN 0648-BM63**

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Fishery Management Plans of Puerto Rico, St. Croix, and St. Thomas and St. John; Framework Amendment 2**

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues regulations to implement management measures described in Framework Amendment 2 to each of the Puerto Rico, St. Croix, and St. Thomas and St. John Fishery Management Plans (FMPs). This final rule modifies annual catch limits (ACLs) for spiny lobster in the U.S. Caribbean exclusive economic zone (EEZ) around Puerto Rico, St. Croix, and St. Thomas and St. John. The purpose of this final rule is to update management reference points for spiny lobster under the FMPs, consistent with the best scientific information available to prevent overfishing and achieve optimum yield (OY).

**DATES:** This final rule is effective on May 30, 2024.

**ADDRESSES:** An electronic copy of Framework Amendment 2, which includes an environmental assessment, a regulatory

impact review, and a Regulatory Flexibility Act analysis, may be obtained from the Southeast Regional Office website at <https://www.fisheries.noaa.gov/action/generic-framework-amendment-2-updates-spiny-lobster-overfishing-limit-acceptable-biological>.

**FOR FURTHER INFORMATION CONTACT:** Sarah Stephenson, NMFS Southeast Regional Office, telephone: 727-824-5305, [sarah.stephenson@noaa.gov](mailto:sarah.stephenson@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The Puerto Rico, St. Croix, and St. Thomas and St. John fisheries target spiny lobster, and are managed under their respective FMPs. The FMPs were prepared by the Caribbean Fishery Management Council (Council) and NMFS. 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 January 31, 2024, NMFS published a proposed rule to implement management measures described in Framework Amendment 2 and requested public comment (89 FR 6085). The proposed rule and Framework Amendment 2 describe the rationale for the actions contained in this final rule. A summary of the management measures described in Framework Amendment 2 and implemented by this final rule is provided below.

All weights described in this final rule are in round weight.

## **Background**

The Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and to achieve, on a continuing basis, the OY from federally managed fish stocks 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.

For Puerto Rico and the U.S. Virgin Islands, NMFS, with the advice of the Council, manages fisheries under the Puerto Rico, St. Croix, and St. Thomas and St. John FMPs. The FMPs contain management measures applicable for Federal waters off the respective island group. Federal waters around Puerto Rico extend seaward from 9 nautical miles [nmi; 16.7 kilometers (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.

For spiny lobster in the U.S. Caribbean EEZ, only commercial landings data are collected. Because recreational landings data are not available, the ACLs for spiny lobster are based on commercial landings and apply to all harvest for the stock, whether commercial or recreational.

In 2019, the Southeast Data, Assessment, and Review (SEDAR) completed three separate assessments for spiny lobster for the Puerto Rico, St. Croix, and St. Thomas and St. John management areas (SEDAR 57). In response to SEDAR 57 and recommendations from their Scientific and Statistical Committee (SSC), the Council prepared Framework Amendment 1 to the FMPs to update the overfishing limits (OFLs), acceptable biological catch (ABCs), ACLs, and accountability measures (AMs) for spiny lobster. NMFS published the final rule that implemented Framework Amendment 1 on March 16, 2023 (88 FR 16194).

After NMFS implemented the final rule for Framework Amendment 1, the Council requested that the NMFS Southeast Fisheries Science Center (SEFSC) conduct an update to SEDAR 57 to provide OFL and ABC estimates for spiny lobster for each island group for 2024 to 2026, which were not included in SEDAR 57. The SEFSC presented results of the 2022 Update Assessment to SEDAR 57 (SEDAR 57 Update) to the Council's SSC at its November-December 2022 meeting. The SSC accepted the SEDAR 57 Update and OFLs and ABCs for spiny lobster under each FMP.

Consistent with the SEDAR 57 Update, and recommendations from the SSC, the Council developed Framework Amendment 2 to prevent overfishing of spiny lobster and achieve OY for each stock, consistent with the requirements of the Magnuson-Stevens Act. For each FMP, the

Council recommended ACLs for spiny lobster equal to 95 percent of the ABCs recommended by the SSC, which reflects the Council's management uncertainty buffer.

**Management Measures Contained in this Final Rule**

For spiny lobster, this final rule revises the ACLs in the EEZ around Puerto Rico, St. Croix, and St. Thomas and St. John based on the SEDAR 57 Update.

For the EEZ around Puerto Rico, the ACL for spiny lobster will decrease from the current ACL of 366,965 pounds (lb) or 166,452 kilograms (kg) to 357,629 lb (162,218 kg).

For the EEZ around St. Croix, the ACL for spiny lobster will increase from the current ACL of 120,830 lb (54,807 kg) to 137,254 lb (62,257 kg).

For the EEZ around St. Thomas and St. John, the ACL for spiny lobster will increase from the current ACL of 126,089 lb (57,193 kg) to 133,207 lb (60,422 kg).

**Measures in Framework Amendment 2 not Codified in this Final Rule**

In addition to the ACLs described in this final rule, Framework Amendment 2 specifies the OFL and ABC for spiny lobster for Puerto Rico, St. Croix, and St. Thomas and St. John.

For the Puerto Rico FMP, the OFL for spiny lobster will decrease from 438,001 lb (198,673 kg) to 426,858 lb

(193,620 kg) and the ABC for spiny lobster would decrease from 386,279 lb (175,213 kg) to 376,452 lb (170,756 kg).

For the St. Croix FMP, the OFL for spiny lobster will increase from 144,219 lb (65,416 kg) to 163,823 lb (74,309 kg) and the ABC for spiny lobster would increase from 127,189 lb (57,691 kg) to 144,478 lb (65,534 kg).

For the St. Thomas and St. John FMP, the OFL for spiny lobster will increase from 150,497 lb (68,264 kg) to 158,993 lb (75,118 kg) and the ABC for spiny lobster would increase from 132,725 lb (60,203 kg) to 140,218 (63,602 kg).

### **Comments and Responses**

NMFS received two comment submissions on the proposed rule implementing Framework Amendment 2. One comment received was in support of the proposed rule and one was opposed. The comment in opposition included multiple points, which are stated below in three separate comments, along with NMFS' responses. The commenter also noted the need for more research on spiny lobster, which was outside the scope of the proposed rule. There have been no changes to the proposed rule as a result of public comment.

*Comment 1:* If the purpose of the proposed rule implementing Framework Amendment 2 is to achieve OY and address overfishing, it will not do this.

*Response 1:* NMFS disagrees that the regulations it has proposed would not achieve OY. These regulations implement

Framework Amendment 2, which the Council developed to update OFLs, ABCs, and ACLs for spiny lobster stocks based on the best scientific information available (the SEDAR 57 Update) to prevent overfishing and achieve OY. NMFS has determined that Framework Amendment 2 is based on the best scientific information available, consistent with the Magnuson-Stevens Act.

*Comment 2:* The action should expand beyond the Caribbean EEZ into other areas where spiny lobsters are fished like Florida.

*Response 2:* Under the Magnuson-Stevens Act, the Caribbean Council does not have the authority to decide on management measures for areas beyond the range of the Caribbean island management areas. 16 U.S.C. 1852(a)(1)(D). This comment is also beyond the scope of the proposed rule.

*Comment 3:* In the most recent seasons, Puerto Rico did not come remotely close to exceeding their ACL, so it does not make sense to decrease their ACL. It also does not make sense to increase St. Croix, St. Thomas and St. John's ACL considering they have been significantly under the ACL for years. Additionally, NMFS states that the stocks are not overfished. Therefore, localized management by the proposed action does not make sense, especially considering its skewed effect on fishing in Puerto Rican waters.

*Response 3:* As described in Framework Amendment 2 and the proposed rule, the SEDAR 57 Update included spiny

lobster stocks in Puerto Rico, St. Croix, and St. Thomas and St. John, and updated the OFLs and ABCs for spiny lobster for each island management area. The Council recommended ACLs for spiny lobster in each FMP based on the updated ABCs. Reference points derived from stock assessments help fishery managers determine the level of catch that can be removed from the population each year. If the catch levels used in the stock assessment model are well below the sustainable population level (*i.e.*, maximum sustainable yield) estimated for the species, then the resulting catch targets (OFL, ABC, and ACL) could increase and fishermen would be able to catch fish that were previously left in the water. This scenario explains the increase in spiny lobster ACLs for St. Croix and St. Thomas and St. John. Conversely, if catch levels used in the stock assessment model are above, or are projected to be above, the sustainable population level estimated for the species, then the resulting catch targets (OFL, ABC, and ACL) could decrease, as is the scenario for Puerto Rico spiny lobster.

SEDAR 57 included landings data through 2016, and the SEDAR 57 Update included landings data through 2021. Catch of spiny lobster in Puerto Rico from 2017 through 2019 increased substantially, requiring accountability-based seasonal closures in fishing years 2021 (86 FR 40787, July 29, 2021) and 2022 (87 FR 38008, June 27, 2022). The next stock assessments for spiny lobster, SEDAR 91, are

scheduled to begin in late-summer or early-fall of 2024, and would use updated information for the species.

### **Classification**

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with Framework Amendment 2, the FMPs, other provisions of 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 legal basis for this final rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting and record-keeping requirements are introduced by this final rule. A description of this final rule, why it is being considered, and the purposes of this final rule are contained in the **SUMMARY** and **SUPPLEMENTARY INFORMATION** sections of this final rule.

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 action 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 were received regarding this certification. As a result, a

regulatory flexibility analysis was not required and none was prepared.

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

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

Caribbean, Fisheries, Fishing, Spiny lobster.

Dated: April 24, 2024.

**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 part 622 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. In § 622.440, revise paragraph (c)(1) to read as follows:

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

\* \* \* \* \*

(c) \* \* \*

(1) The ACL is 357,629 lb (162,218 kg), round weight.

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3. In § 622.480, revise paragraph (c)(1) to read as follows:

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

\* \* \* \* \*

(c) \* \* \*

(1) The ACL is 137,254 lb (62,257 kg), round weight.

\* \* \* \* \*

4. In § 622.515, revise paragraph (c)(1) to read as follows:

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

\* \* \* \* \*

(c) \* \* \*

(1) The ACL is 133,207 lb (60,422 kg), round weight.

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