

and a winning bidder that is not or does not include Amtrak must:

(1) Award to the winning bidder the right and obligation to provide intercity passenger rail transportation over that route subject to such performance standards as FRA may require for a duration consistent with § 269.3(b);

(2) Award to the winning bidder an operating subsidy, as determined by FRA and based on Amtrak's final audited publically-reported fully-allocated operating costs of the route for the prior fiscal year, excluding costs related to Other Postretirement Employee Benefits, Amtrak Performance Tracking System Asset Allocations, Project Related Costs, and Amtrak Office of Inspector General activities, subject to the availability of funding, for the first year at a level that does not exceed 90 percent of the level in effect for that specific route during the fiscal year preceding the fiscal year in which the petition was received, adjusted for inflation;

(3) State that any award of an operating subsidy is made annually, is subject to the availability of funding, and is based on the amount calculated under paragraph (b)(2) of this section, adjusted for inflation;

(4) Condition the operating and subsidy rights upon the winning bidder providing intercity passenger rail transportation over the route that is no less frequent, nor over a shorter distance, than Amtrak provided on that route before the award;

(5) Condition the operating and subsidy rights upon the winning bidder's compliance with performance standards FRA may require, but which, at a minimum, must meet or exceed the performance required of or achieved by Amtrak on the applicable route during the fiscal year immediately preceding the year the bid is submitted;

(6) Subject the winning bidder to the grant conditions established by 49 U.S.C. 24405; and

(7) Subject the winning bidder to the requirements of the appropriations act(s) funding the contract.

(c) *Publication.* The winning bidder shall make their bid available to the public after the bid award with any appropriate redactions for confidential or proprietary information.

#### **§ 269.15 Access to facilities; employees.**

(a) *Access to facilities.* (1) If the award under § 269.13 is made to an eligible petitioner, Amtrak must provide that eligible petitioner access to the Amtrak-owned reservation system, stations, and facilities directly related to operations of the awarded route(s).

(2) If Amtrak and the eligible petitioner awarded a route cannot agree on the terms of access, either party may petition the Surface Transportation Board under 49 U.S.C. 24711(g).

(b) *Employees.* The employees of any person, except as provided in a collective bargaining agreement, an eligible petitioner uses in the operation of a route under this part shall be considered an employee of that eligible petitioner and subject to the applicable Federal laws and regulations governing similar crafts or classes of employees of Amtrak.

(c) *Hiring preference.* The winning bidder must provide hiring preference to qualified Amtrak employees displaced by the award of the bid, consistent with the staffing plan the winning bidder submits and the grant conditions established by 49 U.S.C. 24405.

#### **§ 269.17 Cessation of service.**

(a) If an eligible petitioner awarded a route under this part ceases to operate the service or fails to fulfill its obligations under the contract required under § 269.13, the Administrator, in collaboration with the Surface Transportation Board, shall take any necessary action consistent with title 49 of the United States Code to enforce the contract and ensure the continued provision of service, including the installment of an interim service and re-bidding the contract to operate the service.

(b) In re-bidding the contract, the entity providing service must either be Amtrak or an eligible petitioner.

Issued in Washington, DC, on July 3, 2017.

**Patrick Warren,**

*Executive Director.*

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## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 622**

[Docket No. 170126124-7124-01]

RIN 0648-XF488

#### **Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; 2017 Accountability Measure-Based Closures for Commercial and Recreational Species in the U.S. Caribbean off Puerto Rico**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; closures.

**SUMMARY:** Through this temporary rule, NMFS implements accountability measures (AMs) for species and species groups in the exclusive economic zone (EEZ) of the U.S. Caribbean off Puerto Rico (Puerto Rico management area) for the 2017 fishing year. NMFS has determined that annual catch limits (ACLs) in the Puerto Rico management area were exceeded for spiny lobster; the commercial sectors of triggerfish and filefish (combined), and Snapper Unit 2; and the recreational sectors of triggerfish and filefish (combined), and jacks, based on average landings during the 2013–2015 fishing years. This temporary rule reduces the lengths of the 2017 fishing seasons for these species and species groups by the amounts necessary to ensure, to the extent practicable, that landings do not exceed the applicable ACLs in 2017. NMFS closes the applicable sectors for these species and species groups beginning on the dates specified in the **DATES** section and continuing until October 1, 2017. These AMs are necessary to protect the Caribbean reef fish and spiny lobster resources in the Puerto Rico management area.

**DATES:** This rule is effective August 7, 2017, until 12:01 a.m., local time, on October 1, 2017. The AM-based closures apply in the Puerto Rico management area for the following species and species groups, and fishing sectors, at the times and dates specified below, until 12:01 a.m., local time, on October 1, 2017.

- Triggerfish and filefish, combined (commercial) effective at 12:01 a.m., local time, on August 13, 2017;
- Spiny lobster (commercial and recreational) effective at 12:01 a.m., local time, on September 7, 2017;
- Snapper Unit 2 (commercial) effective at 12:01 a.m., local time, on September 15, 2017;
- Triggerfish and filefish, combined (recreational) effective at 12:01 a.m., local time, on September 18, 2017;
- Jacks (recreational) effective at 12:01 a.m., local time, on September 28, 2017.

#### **FOR FURTHER INFORMATION CONTACT:**

María del Mar López, NMFS Southeast Regional Office, telephone: 727-824-5305, email: [maria.lopez@noaa.gov](mailto:maria.lopez@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The reef fish fishery of the Caribbean EEZ includes triggerfish and filefish, snappers in Snapper Unit 2, and jacks, and is managed under the Fishery Management Plan (FMP) for the Reef

Fish Fishery of Puerto Rico and the U.S. Virgin Islands (Reef Fish FMP). Caribbean spiny lobster is managed under the FMP for the Spiny Lobster Fishery of Puerto Rico and the U.S. Virgin Islands (Spiny Lobster FMP). The FMPs were prepared by the Caribbean Fishery Management Council (Council) and are implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The 2010 Caribbean ACL Amendment (which includes, along with another amendment, Amendment 5 to the Reef Fish FMP) and the 2011 Caribbean ACL Amendment (which includes, among other amendments, Amendment 6 to the Reef Fish FMP and Amendment 5 to the Spiny Lobster FMP) revised the Reef Fish and Spiny Lobster FMPs. Among other actions, the 2010 and 2011 Caribbean ACL Amendments and the associated final rules (76 FR 82404, December 30, 2011, and 76 FR 82414, December 30, 2011, respectively) established ACLs and AMs for Caribbean reef fish and spiny lobster, including the species and species groups identified in this temporary rule. The 2010 and 2011 Caribbean ACL Amendments and final rules also allocated ACLs among three Caribbean island management areas, *i.e.*, the Puerto Rico, St. Croix, and St. Thomas/St. John management areas of the Caribbean EEZ, as specified in Appendix E to part 622. The ACLs for species and species groups in the Puerto Rico management area, except for spiny lobster, were further allocated between the commercial and recreational sectors, and AMs apply to each of these sectors separately.

On May 11, 2016, NMFS published the final rule implementing the Comprehensive Amendment to the U.S. Caribbean FMPs: Application of AMs (81 FR 29166). Among other items, the final rule clarified that the spiny lobster ACL for the Puerto Rico management area is applied as a single ACL for both the commercial and recreational sectors, consistent with the Council's intent in the 2011 Caribbean ACL Amendment, and the AM applies to both sectors. Additionally, the final rule clarified the fishing restrictions that occur in the Caribbean EEZ when an ACL is exceeded, and an AM is triggered and implemented. The Puerto Rico management area encompasses the EEZ off Puerto Rico.

In addition, on June 8, 2017, NMFS implemented the final rule for Amendment 8 to the Reef Fish FMP, Amendment 7 to the Spiny Lobster FMP, and Amendment 6 to the FMP for

Corals and Reef Associated Plants and Invertebrates of Puerto Rico and the U.S. Virgin Islands (collectively referred to as the AM Timing Amendment) (82 FR 21475, May 9, 2017). The final rule implementing the AM Timing Amendment modified the date for initiating an AM-based closure in the event of an ACL overage for the species and species groups managed by the Council under the aforementioned FMPs. Instead of initiating an AM-based closure on December 31 and counting backward into the year for the number of days necessary to achieve the reduction in landings required so landings do not exceed the applicable ACL, the AM-based closure period will be applied on September 30 and count backward toward the beginning of the fishing year.

The ACLs for the applicable species and species groups, and fishing sectors in the Puerto Rico management area covered by this temporary rule are as follows and are given in round weight:

- The commercial ACL for triggerfish and filefish, combined, is 58,475 lb (26,524 kg), as specified in § 622.12(a)(1)(i)(Q).
- The ACL for spiny lobster (applicable to the commercial and recreational sectors) is 327,920 lb (148,742 kg), as specified in § 622.12(a)(1)(iii).
- The commercial ACL for Snapper Unit 2 is 145,916 lb (66,186 kg), as specified in § 622.12(a)(1)(i)(D).
- The recreational ACL for triggerfish and filefish, combined, is 21,929 lb (9,947 kg), as specified in § 622.12(a)(1)(ii)(Q).
- The recreational ACL for jacks is 51,001 lb (23,134 kg), as specified in § 622.12(a)(1)(ii)(M).

NMFS has determined that landings for the species and species groups in this temporary rule from the Puerto Rico management area exceeded the applicable ACLs. Therefore, in accordance with regulations at 50 CFR 622.12(a), the Assistant Administrator for NOAA Fisheries (AA) is filing a notification with the Office of the Federal Register to reduce the lengths of the fishing seasons for the applicable species or species groups in the 2017 fishing year by the amount necessary to ensure, to the extent practicable, that landings do not exceed the applicable ACLs. As described in the Reef Fish and Spiny Lobster FMPs, and in this temporary rule, any required fishing season reduction 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 on December 31. NMFS evaluates landings relative to the applicable ACL based on a moving 3-year average of landings, as described in the FMPs.

Based on the most recent available landings data, from the 2013–2015 fishing years, NMFS has determined that the ACLs for spiny lobster; the commercial sectors for triggerfish and filefish (combined), and Snapper Unit 2; and the recreational sectors of triggerfish and filefish (combined), and jacks in the Puerto Rico management area have been exceeded. In addition, NMFS has determined that the ACLs for these species and species groups were exceeded because of increased catches and not as a result of enhanced data collection and monitoring efforts.

This temporary rule implements AMs for the identified commercial and recreational sectors for the species and species groups listed in this temporary rule, to reduce the respective 2017 fishing season lengths to ensure that landings do not exceed the applicable ACLs in the 2017 fishing year. The 2017 fishing seasons for the applicable sectors for these species and species groups in the Puerto Rico management area of the Caribbean EEZ are closed at the times and dates listed below. These closures remain in effect until 12:01 a.m., local time, on October 1, 2017.

- The commercial sector for triggerfish and filefish, combined, is closed effective at 12:01 a.m., local time, on August 13, 2017. Triggerfish and filefish, combined, includes ocean, queen, and sargassum triggerfish; scrawled and whitespotted filefish; and black durgon;

- The commercial and recreational sectors for spiny lobster are closed effective at 12:01 a.m., local time, on September 7, 2017;

- The commercial sector for Snapper Unit 2 is closed effective at 12:01 a.m., local time, on September 15, 2017. Snapper Unit 2 includes queen and cardinal snapper;

- The recreational sector for triggerfish and filefish, combined, is closed effective at 12:01 a.m., local time, on September 18, 2017. Triggerfish and filefish, combined, includes ocean, queen, and sargassum triggerfish; scrawled and whitespotted filefish; and black durgon; and

- The recreational sector for jacks is closed effective at 12:01 a.m., local time, on September 28, 2017. Jacks includes horse-eye, black, almaco, bar, and yellow jack; greater amberjack; and blue runner.

After these specified closures, on October 1, 2017, these applicable species and species groups will reopen through December 31, 2017, the end of the current fishing year.

During the Puerto Rico commercial sector closures announced in this temporary rule for the species above, except for spiny lobster, which is described below, the commercial harvest of the indicated species or species groups is prohibited. All harvest or possession of the indicated species or species groups in or from the Puerto Rico management area is limited to the recreational bag and possession limits specified in § 622.437, unless the recreational sector for the species or species group is closed, and the sale or purchase of the indicated species or species group in or from the Puerto Rico management area is prohibited.

During the Puerto Rico recreational sector closures announced in this temporary rule for the species above, except for spiny lobster, which is described below, all recreational harvest of the indicated species groups is prohibited, and the recreational bag and possession limits for the indicated species groups in or from the Puerto Rico management area are zero.

During the Puerto Rico spiny lobster closure announced in this temporary rule, both the commercial and recreational sectors for spiny lobster are closed. The harvest, possession, purchase, or sale of spiny lobster in or from the Puerto Rico management area is prohibited. The bag and possession limits for spiny lobster in or from the Puerto Rico management area are zero.

#### Classification

The Regional Administrator for the NMFS Southeast Region has determined this temporary rule is necessary for the conservation and management of the species and species groups included in this temporary rule, in the Puerto Rico management area, and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.12(a) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The AA finds good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such prior notice and opportunity for public comment is

unnecessary and contrary to the public interest. Such procedures are unnecessary because the rules implementing the ACLs and AMs for these species and species groups have been subject to notice and comment, and all that remains is to notify the public that the ACLs were exceeded and that the AMs are being implemented for the 2017 fishing year. Prior notice and opportunity for public comment on this action would be contrary to the public interest because many of those affected by the length of the commercial and recreational fishing seasons, including commercial operations, and charter vessel and headboat operations that book trips for clients in advance, need advance notice to adjust their business plans to account for the reduced commercial and recreational fishing seasons.

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

Dated: July 3, 2017.

**Jennifer M. Wallace,**

*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 648

[Docket No. 170314268-7582-0]

RIN 0648-BG68

#### Fisheries of the Northeastern United States; Recreational Management Measures for the Summer Flounder and Scup Fisheries; Fishing Year 2017

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

**ACTION:** Final rule.

**SUMMARY:** In this rule, NMFS implements management measures for the 2017 summer flounder and scup recreational fisheries. The implementing regulations for these fisheries require NMFS to publish recreational measures for the fishing year. The intent of these measures is to constrain recreational catch to established limits and prevent overfishing of the summer flounder and scup resources.

**DATES:** This rule is effective July 7, 2017. The management measures for the 2017 summer flounder and scup recreational fisheries are effective July 7, 2017, through December 31, 2017.

**ADDRESSES:** Copies of the Supplemental Information Report (SIR) and other supporting documents for the recreational harvest measures are available from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 N. State Street, Dover, DE 19901. The recreational harvest measures document is also accessible via the Internet at: <http://www.greateratlantic.fisheries.noaa.gov>.

The Final Regulatory Flexibility Analysis (FRFA) consists of the IRFA, public comments and responses contained in this final rule, and the summary of impacts and alternatives contained in this final rule. Copies of the small entity compliance guide are available from John K. Bullard, Regional Administrator, Greater Atlantic Region, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930-2298.

**FOR FURTHER INFORMATION CONTACT:** Emily Gilbert, Fishery Policy Analyst, (978) 281-9244.

#### SUPPLEMENTARY INFORMATION:

#### Summary of Final Management Measures

In this rule, NMFS specifies management measures for the 2017 summer flounder and scup recreational fisheries consistent with the recommendations of the Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission.

NMFS is implementing measures that apply in the Federal waters of the exclusive economic zone. These measures apply to all federally-permitted party/charter vessels with applicable summer flounder and scup permits, regardless of where they fish, unless the state in which they land implements measures that are more restrictive. These measures are intended to achieve, but not exceed, the previously established 2017 recreational harvest limits for scup published on December 28, 2015 (80 FR 80689), and for summer flounder published on December 22, 2016 (81 FR 93842).

#### *Summer Flounder Recreational Management Measures*

NMFS is implementing conservation equivalency to manage the 2017 summer flounder recreational fishery, as proposed on April 19, 2017 (82 FR 18411). These measures are consistent with the recommendation of the Council and Commission. Additional information on the development of the 2017 measures is provided in the proposed rule and not repeated here.