

§ 635.40 Restrictions to enhance conservation.

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(b) *Proof of admissibility.* For the purposes of paragraph (a) of this section and section 971d(6)(a) of ATCA, a shipment of fish in any form of the species under regulation or under investigation by ICCAT offered for entry, directly or indirectly, from a country named in a finding filed with the Office of the Federal Register for publication under paragraph (a) of this section is eligible for entry if the shipment is accompanied by Certification of Admissibility (COA) fish harvest record form pursuant to the procedures and requirements specified in 50 CFR part 300, subpart S, certifying that the fish in the shipment:

(1) Are not of the species specified in the finding;

(2) Are of the species named in the finding, but were not taken in the regulatory area; or

(3) Are of the species named in the finding but are products of an American fishery and were lawfully taken in conformity with applicable conservation laws and regulations and landed in the country named in the finding solely for transshipment.

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 622**

[Docket No. 241210-0322]

RIN 0648-BN22

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Fishery Management Plan of Puerto Rico; Triggerfish Management Measures

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement management measures described in Framework Action 3 under the Fishery Management Plan (FMP) for Puerto Rico (Framework Action 3). If implemented, this proposed rule would modify the annual catch limits (ACLs) for the triggerfish stock complex in Federal waters off Puerto Rico. The purpose of this proposed rule and Framework

Action 3 is to update management reference points for the triggerfish stock complex under the Puerto Rico FMP consistent with the most recent stock assessment to prevent overfishing and achieve optimum yield (OY).

DATES: Written comments must be received by January 16, 2025.

ADDRESSES: A plain language summary of this proposed rule is available at <https://www.regulations.gov/docket/NOAA-NMFS-2024-0105>. You may submit comments on this document, identified by “NOAA–NMFS–2024–0105” by either of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Visit <https://www.regulations.gov> and enter “NOAA–NMFS–2024–0105” in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit all written comments to Maria Lopez-Mercer, 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 <https://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 Framework Action 3, which includes an environmental assessment, a regulatory impact review, and a Regulatory Flexibility Act (RFA) analysis, may be obtained from the Southeast Regional Office website at <https://www.fisheries.noaa.gov/action/framework-action-3-puerto-rico-fishery-management-plan-modification-status-determination>.

FOR FURTHER INFORMATION CONTACT:

Maria Lopez-Mercer, NMFS Southeast Regional Office, 727-824-5305, maria.lopez@noaa.gov.

SUPPLEMENTARY INFORMATION: The triggerfish stock complex in the Federal waters off Puerto Rico consists of ocean triggerfish, gray triggerfish and queen triggerfish, and is managed under the Puerto Rico FMP. The Puerto Rico FMP was prepared by the Caribbean Fishery Management Council (Council),

approved by the Secretary of Commerce, and is implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

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.

The Council and NMFS manage fisheries in Federal waters around Puerto Rico under the Puerto Rico FMP. The Puerto Rico FMP was approved by the Secretary of Commerce on September 22, 2020, along with the St. Croix and St. Thomas and St. John FMPs, under section 304(a)(3) of the Magnuson-Stevens Act. NMFS published the final rule in the **Federal Register** to implement the Puerto Rico FMP on September 13, 2022 (87 FR 56204), which, among other measures, included the current ACL values for the triggerfish stock complex in Puerto Rico. The Puerto Rico FMP contains management measures applicable for Federal waters off Puerto Rico, which extend seaward from 9 nautical miles (nmi; 16.7 kilometers) from shore to the offshore boundary of the U.S. Caribbean exclusive economic zone.

The Puerto Rico FMP established status determination criteria (SDC) and other management reference points for triggerfish species under Federal management in Federal waters off Puerto Rico. In the Puerto Rico FMP, the triggerfish stock complex contains queen triggerfish, ocean triggerfish, and gray triggerfish. Queen triggerfish is the indicator stock for the complex because of the limited information (*e.g.*, landings) available for ocean and gray triggerfish. Thus, management measures, SDC, and other reference points are based on landings of queen triggerfish only, but apply to the entire complex.

The Puerto Rico FMP applies a four-tiered acceptable biological catch (ABC) control rule depending on differing levels of data availability. Each tier specifies SDC, such as the maximum fishing mortality threshold (MFMT), minimum stock size threshold (MSST), and overfishing limit (OFL), or OFL proxy, and other reference points such as the maximum sustainable yield (MSY), or MSY proxy, and ABC. Under

the ABC control rule, tier 1 applies to stocks with the most data available, and each subsequent tier operates with less available data than the preceding tier. Tier 4, the final tier, is the most data limited and applies when no accepted quantitative assessment is available. Tier 4 contains two sub-tiers, tier 4a and tier 4b, which are based on an understanding of the stock's vulnerability to fishing pressure. Tier 4a applies when the stock's vulnerability to fishing pressure is relatively low or moderate, while tier 4b applies to stocks with a high vulnerability to fishing pressure.

In the Puerto Rico FMP, the triggerfish stock complex is considered a tier 4a stock and the MSY proxy, MFMT, and MSST were defined, but as a result of data limitations, were not quantified. Similarly, the OFL for the triggerfish stock complex could not be quantified in the Puerto Rico FMP and a new reference point, the sustainable yield level (SYL), was quantified and used as the OFL proxy. The SYL is a level of landings that can be sustained by a stock over the long-term. For the triggerfish stock complex, the Council's Scientific and Statistical Committee (SSC) derived the ABC from the SYL, and the Council set the ACL for the triggerfish stock complex equal to 95 percent of the recommended ABC. The total ACL was set equal to OY. Under the Puerto Rico FMP, commercial and recreational data were available to establish sector-specific ACLs for the triggerfish stock complex, which were equal to 91.77 percent and 8.23 percent of the total ACL, respectively.

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

For the triggerfish stock complex, the total ACL is 90,552 pounds (lb; 41,073.6 kilograms [kg]), the commercial ACL is 83,099 lb (37,693 kg), and the recreational ACL is 7,453 lb (3,380.6 kg).

In 2022, the Southeast Data, Assessment, and Review (SEDAR) stock assessment was completed for queen triggerfish in Puerto Rico (SEDAR 80). SEDAR 80 was reviewed by the Council's SSC and determined to be suitable for short-term (*i.e.*, <5 years) management advice. The SSC in consultation with NMFS' Southeast Fisheries Science Center (SEFSC) determined that SEDAR 80 represented the best scientific information available and recommended queen triggerfish (*i.e.*, the triggerfish stock complex) be reclassified from a tier 4a stock to a tier 3 stock (data limited, accepted assessment available) under the Puerto Rico FMP ABC control rule. Under tier 3, if the biomass of the stock goes below MSST, the stock would be determined

to be overfished and the Council would then need to develop a rebuilding plan capable of returning the stock to a level that allows the stock to achieve MSY on a continuing basis. Additionally, under tier 3, in years when there is a stock assessment, the stock would be considered to be undergoing overfishing if fishing mortality exceeds the MFMT. This level of fishing mortality, if continued, would reduce the stock biomass to an overfished condition. In years in which there is no assessment, the stock complex would be considered to be undergoing overfishing if landings exceed the OFL.

Under tier 3, the ABC is derived by reducing the OFL by the SSC's scientific uncertainty buffer and reflecting the acceptable probability of overfishing determined by the Council (defined as P*). The SSC coordinated with the SEFSC to provide OFLs and ABCs for the triggerfish stock complex. At the December 2022 Council meeting, the SSC recommended both variable and constant OFLs and ABCs for years 2024 to 2026 for the triggerfish stock complex, with the ABCs across a range of P* values. The Council recommended a P* value of 0.4 and the constant value OFL and ABC, which are equal to the 3-year average OFLs and ABCs from years 2024 to 2026. The total ACL for the triggerfish stock complex is then derived by reducing the ABC by the Council's management uncertainty buffer.

Following the SEDAR 80 stock assessment and recommendations from the Council's SSC, the Council developed Framework Action 3 to update management reference points to prevent overfishing of the triggerfish stock complex and achieve OY, consistent with the requirements of the Magnuson-Stevens Act. In Framework Action 3, the Council decided to recommend a 5 percent management uncertainty buffer and set the total ACL for the stock complex equal to 95 percent of the ABC. The Council specified commercial and recreational ACLs for the triggerfish stock complex using the same sector allocation percentages used under the Puerto Rico FMP (91.77 percent of the total ACL for the commercial sector and 8.23 percent of the total ACL for the recreational sector). Currently, recreational landings in Puerto Rico are not being collected by the NMFS' Marine Recreational Information Program, which was disrupted by Hurricane Maria in 2017, and has not yet resumed operations in Puerto Rico. Therefore, at this time it is not possible to revise the sector allocations for the triggerfish complex.

Management Measures Contained in This Proposed Rule

If implemented, this proposed rule would revise the total, commercial, and recreational ACLs for the triggerfish stock complex in Federal waters around Puerto Rico. The total ACL for the triggerfish stock complex would decrease from 90,552 lb (41,073.6 kg) to 87,220 lb (39,562 kg). The commercial ACL for the complex would decrease from 83,099 lb (37,693 kg) to 80,041 lb (36,306 kg). The recreational ACL for the complex would decrease from 7,453 lb (3,380.6 kg) to 7,178 lb (3,256 kg).

The updated ACLs are expected to better protect against the risk of overfishing of the stock complex in relation to the current ACLs, thus ensuring, to the greatest extent practicable, continued access to the resource in future years.

Measures in Framework Action 3 Not Codified in This Proposed Rule

In addition to the ACL revisions described in this proposed rule and consistent with SEDAR 80, Framework Action 3 revises the MFMT, OFL, and ABC for the triggerfish stock complex under the Puerto Rico FMP. The MFMT, previously not quantified, would be 0.215. The OFL would decrease from the SYL (OFL proxy) of 190,636 lb (86,471 kg) to 118,283 lb (53,652 kg), and the ABC would decrease from 95,318 lb (45,236 kg) to 91,810 lb (41,644 kg). Because estimates of the long-term recruitment for queen triggerfish assessed in SEDAR 80 are unknown, values for the MSY and MSST were not quantified and remain as defined under tier 3 of the ABC control rule. The MSY proxy is equal to 30 percent of the spawning potential ratio, and MSST is equal to 75 percent of the spawning stock biomass produced when fishing at MSY or MSY proxy. The updated management reference points are expected to better protect against the risk of overfishing of the stock complex in relation to the current reference points, thus ensuring, to the greatest extent practicable, continued access to the resource in future years.

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 Framework Action 3, the Puerto Rico 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. The Magnuson-Stevens Act provides the statutory basis for this proposed rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting and record-keeping requirements are introduced by this proposed rule. This proposed 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 that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification is as follows. A copy of the full analysis is available from NMFS (see **ADDRESSES**).

A description of the action, why it is being considered, and the objectives of this proposed rule are contained in the **SUMMARY** section of this proposed rule.

This proposed action directly impacts commercial and recreational fishing for queen triggerfish in Federal waters off Puerto Rico. Recreational fishers (anglers) are not considered small entities as that term is defined in 5 U.S.C. 601(6), whether fishing from charter vessels (for-hire), private or leased vessels. Therefore, estimates of the number of anglers directly affected by the proposed action and any impacts on them are neither required nor assessed here.

For-hire fishing businesses sell services to recreational fishers (anglers). The proposed changes to the total ACL and corresponding recreational ACL for queen triggerfish in Puerto Rico would not directly alter the services sold by for-hire fishing businesses. Any change in demand for these fishing services, and associated economic effects, as a result of this action would be a consequence of a change in anglers' behavior, secondary to any direct effect on anglers. Therefore, the impact on for-hire fishing businesses would be an indirect effect of the proposed action.

The proposed action would directly apply to commercial fishing businesses

that operate in Federal waters off Puerto Rico. For RFA purposes, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing. A business primarily involved in the commercial fishing industry (North American Industrial Classification Code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates) and its combined annual receipts are no more than \$11 million for all of its affiliated operations worldwide. None of Puerto Rico's commercial fishermen had or have annual revenues that reach that figure. As each fisherman is assumed to represent a unique business, NMFS concludes that all commercial fishing businesses in Puerto Rico are small.

At the time Framework Action 3 was prepared, the most recent 5-year commercial landings data considered to be the best available science are from 2015 through 2019. Consequently, estimates of the number of small commercial fishing businesses directly affected by the action and any impacts on them are based on landings from 2015 through 2019. From 2015 through 2019, an annual average of 80 (10.2 percent) of Puerto Rico's 785 small commercial fishing businesses harvested queen triggerfish from Federal and unknown waters. For this proposed rule, "unknown waters" represent an area around Puerto Rico for which the jurisdiction, Federal or territorial, was not reported on the commercial catch report form.

Queen triggerfish is part of the triggerfish stock complex, and the proposed action would reduce the total ACL for the triggerfish stock complex in Puerto Rico from 90,552 lb (41,073.6 kg), to 87,220 lb (39,562 kg). This rule would correspondingly reduce the commercial ACL for the triggerfish stock complex from 83,099 lb (37,693 kg), to 80,041 lb (36,306 kg). From 2015 through 2019, annual commercial landings of queen triggerfish ranged from 40,437 lb (18,342 kg) to 71,407 lb

(32,390 kg). From those landings, there is no future expectation that any single year or average of multiple years of commercial landings of queen triggerfish would reach or exceed the current commercial ACL (83,009 lb, (37,693 kg)) or proposed commercial ACL (80,041 lb, (36,306 kg)). Moreover, although preliminary, the most recent monitoring of total triggerfish landings indicates those landings are substantially below the current and proposed total ACL. As such, the proposed action would not affect small businesses' commercial landings of triggerfish in Puerto Rico. Therefore, the proposed rule would have no significant impact on a substantial number of small entities.

List of Subjects in 50 CFR Part 622

Caribbean, Fisheries, Fishing, Reef fish, Triggerfish.

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

Dated: December 11, 2024.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 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, amend paragraphs (a)(1) through (3) by revising the table headings and the entries for Triggerfishes for Table 1 to § 622.440(a)(1), Table 2 to § 622.440(a)(2), and Table 3 to § 622.440(a)(3). The revisions read as follows:

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

(a) * * *

(1) * * *

TABLE 1 TO PARAGRAPH (a)(1)

Family	Stock or stock complex and species composition	Commercial ACL
* * * * *	* * * * *	* * * * *
Triggerfishes	Triggerfish—gray triggerfish, ocean triggerfish, queen triggerfish ¹	80,041 lb (36,306 kg).
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(2) * * *

TABLE 2 TO PARAGRAPH (a)(2)

Family	Stock or stock complex and species composition	Recreational ACL
* * * * *	* * * * *	* * * * *
Triggerfishes	Triggerfish—gray triggerfish, ocean triggerfish, queen triggerfish ¹	7,178 lb (3,256 kg).
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(3) * * *

TABLE 3 TO PARAGRAPH (a)(3)

Family	Stock or stock complex and species composition	Total ACL
* * * * *	* * * * *	* * * * *
Triggerfishes	Triggerfish—gray triggerfish, ocean triggerfish, queen triggerfish ¹	87,220 lb (39,562 kg).
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