

Background

The final rule implementing Amendment 2 to the Queen Conch FMP and Amendment 5 to the Reef Fish FMP (2010 Caribbean ACL Amendment) established annual catch limits (ACLs) and AMs for species and species groups that at the time were classified as undergoing overfishing (*i.e.*, parrotfish, snapper, grouper, and queen conch) (76 FR 82404, December 30, 2011). The final rule implementing Amendment 3 to the Queen Conch FMP, Amendment 6 to the Reef Fish FMP, Amendment 5 to the Spiny Lobster FMP, and Amendment 3 to the Coral FMP, established ACLs and AMs for the remaining Council-managed species and species groups which were not undergoing overfishing at the time or for which the overfishing status was unknown (*e.g.*, grunts, squirrelfish, jacks) (76 FR 82414, December 30, 2011). As described at § 622.12(a) for reef fish, spiny lobster, and corals and § 622.491(b) for queen conch, the current AMs in the Caribbean EEZ require NMFS to shorten the length of the fishing season for a species/species group in the year following a determination that the applicable 3-year landings average exceeded the respective ACL. The extent to which fishing seasons are shortened equates to the number of days necessary to remove the overage in pounds and to therefore constrain landings to the ACL. Pursuant to the regulations at §§ 622.12(a) and 622.491(b), any such AM-based closures remain in effect only during the particular fishing year in which they are implemented. However, the AM closure language in the four authorizing FMPs states that any AM-based closure will remain in effect until modified by the Council, thereby carrying these AM-based closures over from year to year unless or until the closures are revised by subsequent Council action.

This inconsistent language between the FMPs and the implementing regulations may create confusion to fishers and the public about whether an AM-based closure for a specific species/species group will continue in subsequent years if an AM is triggered. The AM Application Amendment would correct the inconsistency between the authorizing FMPs and the regulatory language at §§ 622.12(a) and 622.491(b) by revising the text within the four FMPs describing how AMs are applied to be consistent with the language in the regulations. Specifically, the phrase in the four authorizing FMPs that states “The needed changes will remain in effect until modified by the Council,” which describes the duration of AMs, would be removed from the

four FMPs. The result of this proposed change would be that under both the authorizing FMPs and AM-based closure regulatory language, an AM closure would only apply for the fishing year in which it was implemented. This approach is consistent with the intent of the Council and implementing regulations used by NMFS to apply AMs in the Caribbean EEZ. The current process used by NMFS and the Council to apply AMs in the Caribbean EEZ would not change as a result of this proposed amendment, thus this action would have no additional direct or indirect economic, social, or biological/ecological effects.

A proposed rule that would implement the measures outlined in the AM Application Amendment has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the AM Application Amendment and 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 Application Amendment for Secretarial review, approval, and implementation. Comments received by April 4, 2016, will be considered by NMFS in its decision to approve, disapprove, or partially approve the AM Application Amendment. Comments received after that date will not be considered by NMFS in this decision. All relevant 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: January 29, 2016.

Emily H. Menashes,

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 622

[Docket No. 151217999–6045–01]

RIN 0648–BF66

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Dolphin and Wahoo Resources of the Atlantic; Commercial Dolphin Fishery of the Atlantic; Control Date

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

ACTION: Advanced notice of proposed rulemaking; consideration of a control date.

SUMMARY: This notice announces the establishment of a control date of June 30, 2015, that the South Atlantic Fishery Management Council (Council) may use if it decides to create restrictions limiting participation in the dolphin commercial sector of the dolphin and wahoo fishery in the Atlantic exclusive economic zone. Anyone entering the sector after the control date will not be assured of future access should a management regime that limits participation in the sector be prepared and implemented. This announcement is intended, in part, to promote awareness of the potential eligibility criteria for future access so as to discourage speculative entry into the Atlantic dolphin commercial sector while the Council and NMFS consider whether and how access to the sector should be controlled. NMFS invites comments on the establishment of this control date.

DATES: Written comments must be received by March 7, 2016.

ADDRESSES: You may submit comments identified by “NOAA–NMFS–2016–0001” 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-2016-0001, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Mary Janine Vara, NMFS Southeast Regional Office, 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).

FOR FURTHER INFORMATION CONTACT:

Mary Janine Vara, NMFS Southeast Regional Office, telephone: 727-824-5305, or email: mary.vara@noaa.gov.

SUPPLEMENTARY INFORMATION: The dolphin and wahoo fishery in the Atlantic is managed under the fishery management plan (FMP) for the Dolphin and Wahoo Fishery off the Atlantic States. The FMP was prepared by the Council and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) through regulations at 50 CFR part 622.

The Council voted at the September 2015 meeting to establish a control date of June 30, 2015, for the Atlantic

dolphin commercial sector of the dolphin and wahoo fishery. The control date enables the Council to inform current and potential participants that it is considering creating restrictions limiting participation in the Atlantic dolphin commercial sector.

This notice informs current and potential participants in the Atlantic dolphin commercial sector within the dolphin and wahoo fishery that after June 30, 2015, they may not be ensured participation under future management of the fishery. If the Council decides to prepare an amendment to the FMP to restrict participation in the Atlantic dolphin commercial sector in relation to this control date, an analysis of specific biological, economic, and social effects will be prepared at that time.

Publication of the control date in the **Federal Register** informs participants of the Council's considerations, and gives notice to anyone entering the Atlantic dolphin commercial sector after the control date that they would not be assured of future access to the sector should management changes be implemented that would restrict participation. Implementation of any such changes would require preparation of an amendment to the FMP and publication of a notice of availability

and proposed rule in the **Federal Register** with public comment periods, and, if approved by the Secretary of Commerce, issuance of a final rule.

Fishermen are not guaranteed future participation in a fishery or sector regardless of their entry date or intensity of participation in the fishery or sector before or after the control date under consideration. The Council subsequently may choose a different control date or they may choose a management regime without using a control date. The Council also may choose to take no further action to control entry or access to the Atlantic dolphin commercial sector, in which case the control date may be rescinded.

This notification also gives the public notice that interested participants should locate and preserve records that substantiate and verify their participation in the Atlantic dolphin commercial sector of the dolphin and wahoo fishery.

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

Dated: January 29, 2016.

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

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