

**Generic Amendment 1 to the Fishery Management Plans for
Puerto Rico, St. Thomas and St. John, and St. Croix:
Modification to the Buoy Gear Definition and Use**

Including Environmental Assessment, Fishery Impact Statement,
Regulatory Impact Review, and Regulatory Flexibility Act Analysis

October 2022



Environmental Assessment Cover Sheet

Name of Action: Generic Amendment 1 to the Fishery Management Plans for Puerto Rico, St. Thomas and St. John, and St. Croix: Modification to the Buoy Gear Definition and Use.

Responsible Agencies and Contact Persons

Caribbean Fishery Management Council (Council)
270 Muñoz Rivera Ave., Suite 401
San Juan, Puerto Rico 00918-1903
(787) 766-5926
Graciela García-Moliner (graciela_cfmc@yahoo.com)
[Council website](#)

National Marine Fisheries Service (Lead Agency)
Southeast Regional Office
263 13th Avenue South
St. Petersburg, FL 33701
(727) 824-5305
Maria del Mar Lopez-Mercer (maria.lopez@noaa.gov)
[SERO Website](#)

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 Final

This Environmental Assessment is being prepared using the 2020 CEQ NEPA Regulations. The effective date of the 2020 CEQ NEPA Regulations was September 14, 2020, and reviews begun after this date are required to apply the 2020 regulations unless there is a clear and fundamental conflict with an applicable statute. 85 *Federal Register* at 43372-73 (§§ 1506.13, 1507.3(a)). This Environmental Assessment began on December 7, 2021, and accordingly proceeds under the 2020 regulations.

Abbreviations and Acronyms Used in this Document

ABC	acceptable biological catch
ACL	annual catch limit
AM	accountability measure
CFMC	(Council); Caribbean Fishery Management Council
DNER	Department of Natural and Environmental Resources
DPNR	Department of Planning and Natural Resources
EA	environmental assessment
EEZ	exclusive economic zone
EIS	environmental impact statement
FMP	fishery management plan
MSA	(Magnuson-Stevens Act); Magnuson-Stevens Fishery Conservation and Management Act
MSY	maximum sustainable yield
NMFS	National Marine Fisheries Service
OFL	overfishing limit
OY	optimum yield
SEFSC	Southeast Fisheries Science Center
SSC	Scientific and Statistical Committee
USVI	United States Virgin Islands

Table of Contents for the Environmental Assessment

[Table of Contents for the Amendment](#)

[Statement of Purpose and Need](#)

[Chapter 2. Proposed Actions and Alternatives](#)

[Chapter 3. Affected Environment](#)

[Chapter 4. Environmental Consequences](#)

[Chapter 7. List of Preparers](#)

[Chapter 8. List of Agencies, Organizations, and Persons Consulted](#)

Table of Contents

Environmental Assessment Cover Sheet	II
Abbreviations and Acronyms Used in this Document.....	III
Table of Contents for the Environmental Assessment.....	IV
Table of Contents.....	V
List of Tables	VIII
List of Figures.....	VIII
Fishery Impact Statement	X
Chapter 1. Introduction	1
1.1 What Action is Proposed?.....	1
1.2 Why is the Council Considering Action?.....	2
1.2.1 Statement of Purpose and Need	3
1.3 Where Would the Action Have an Effect?.....	4
1.4 History of Federal Fisheries Management	4
Chapter 2. Proposed Actions and Alternatives	8
2.1 Action 1: Buoy Gear Prohibition for Fishing Recreationally	8
2.1.1 Proposed Alternatives for Action 1.....	8
2.1.2 Discussion of Action 1 Alternatives	8
2.2 Action 2: Modification of the Buoy Gear Definition.....	10
2.2.1 Proposed Alternatives for Action 2.....	10
2.2.2 Discussion of Action 2 Alternatives	10
Chapter 3. Affected Environment.....	14
3.1 Description of the Physical Environment.....	14
3.1.1 Puerto Rico.....	14
3.1.2 St. Thomas and St. John.....	14
3.1.3 St. Croix	15
3.1.4 Habitat Environment and Essential Fish Habitat	15
3.2 Description of the Biological and Ecological Environments.....	18

3.2.1	Description of the Species Affected by this Amendment.....	18
3.2.2	Bycatch	20
3.2.3	Protected Species	21
3.3	Description of the Deep-water Reef Fish Component of the Puerto Rico, St. Thomas and St. John, and St. Croix Fisheries	22
3.3.1	Deep-water Reef Fish Management.....	22
3.3.2	Description of the Deep-water Reef Fish Component of the Puerto Rico, St. Thomas and St. John, and St. Croix Fisheries Harvested with Vertical Bottom line/Buoy Gear	25
3.4	Description of the Economic Environment.....	39
3.4.1	Introduction.....	39
3.4.2	Puerto Rico.....	40
3.4.3	St. Croix and St. Thomas and St. John	45
3.5	Description of the Social Environment	50
3.5.1	Puerto Rico.....	50
3.5.2	St. Croix, St. Thomas, and St. John	56
3.5.3	Environmental Justice Considerations.....	62
3.6	Description of the Administrative Environment	67
3.6.1	Federal Fishery Management.....	67
3.6.2	Puerto Rico and U.S. Virgin Islands Fisheries Management	68
Chapter 4.	Environmental Consequences	70
4.1	Action 1: Buoy Gear Prohibition	70
4.1.1	Effects on the Physical Environment.....	70
4.1.2	Effects on the Biological/Ecological Environment.....	70
4.1.3	Effects on the Economic Environment	71
4.1.4	Effects on the Social Environment	71
4.1.5	Effects on the Administrative Environment	72
4.2	Action 2: Modification to the Buoy Gear Definition	72
4.2.1	Effects on the Physical Environment.....	72
4.2.2	Effects on the Biological/Ecological Environment.....	73

4.2.3	Effects on the Economic Environment	75
4.2.4	Effects on the Social Environment	76
4.2.5	Effects on the Administrative Environment	77
4.3	Cumulative Effects Analysis	79
Chapter 5.	Regulatory Impact Review	84
5.1	Introduction	84
5.2	Problems and Objectives	84
5.3	Impact of Management Measures	86
5.4	Public Costs of Regulations	88
5.5	Determination of Significant Regulatory Action	88
Chapter 6.	Regulatory Flexibility Act Analysis	89
6.1	Introduction	89
6.2	Statement of the need for, objective of, and legal basis for the proposed rule	89
6.3	Identification of federal rules which may duplicate, overlap or conflict with the proposed rule	89
6.4	Description and estimate of the number of small entities to which the proposed action would apply	90
6.5	Description and economic impacts of the compliance requirements of the proposed rule	91
6.6	Significance of economic impacts on a substantial number of small entities	92
Chapter 7.	List of Preparers	93
Chapter 8.	List of Agencies, Organizations, and Persons Consulted	94
Chapter 9.	References	95
Appendix A.	List of Managed Reef Fish and Pelagic Stocks Included in the Island-based Fishery Management Plans	105
Appendix B.	Authorized Gear Types Under Each of the Island-based FMPs	107
Appendix C.	List of Species Identified in the Literature as Incidental Catch in the Deep-water Snapper/Grouper Fishery of Puerto Rico	111
Appendix D.	Other Applicable Law	113

List of Tables

Table 3.2.1. List of snapper and grouper species harvested in the commercial deep-water vertical bottom line component of the reef fish fishery in each of Puerto Rico, St. Thomas and St. John, and St. Croix.....	19
Table 3.3.1. Annual catch limits applicable to the deep-water reef fish component. Values are in pounds whole weight.	23
Table 3.3.2. Seasonal closures for snapper species in federal and state waters of Puerto Rico and the USVI.	24
Table 3.3.3. Seasonal closures for grouper species in federal and state waters of Puerto Rico and the USVI.	24
Table 3.3.4. Adjusted pounds (whole weight) of some deep-water snapper-grouper species landed in Puerto Rico each year (all gear types).....	28
Table 3.3.5. Number of commercial fishermen in Puerto Rico that landed deep-water species each year (all gear types) in all Puerto Rico waters.....	29
Table 3.3.6. Percent of deep-water species landings by weight in Puerto Rico for select gear types reported per distance from shore (i.e., state waters, federal waters, and unknown).....	33
Table 3.5.1. Contemporary socioeconomic, demographic, and operational aspects of fishing in the USVI*.	58
Table 3.5.2. Summary information on multi-hook vertical set lines used to capture deep-water snappers and groupers in the USVI*	59
Table 7.1. List of Interdisciplinary Plan Team Members who assisted in the preparation of the amendment.....	93

List of Figures

Figure 1.1. U.S. Caribbean region with boundaries between the Puerto Rico, St. Thomas and St. John, and St. Croix management areas.	4
Figure 3.3.1. Depiction of a vertical line (cala).	26
Figure 3.4.1. Labor force and unemployment rate in Puerto Rico, 2012 – 2020.....	41
Figure 3.4.2. Puerto Rico real GDP (constant 2020 U.S. dollars), 2016 – 2020.	42
Figure 3.4.3. Puerto Rico’s GNI per capita (constant 2020 U.S. dollars), 2016 – 2019.....	42

Figure 3.4.4. Arrival guests through August of each year, 2017 – 2020.	44
Figure 3.4.5. Monthly labor force, January 2019 – December 2020.	44
Figure 3.4.6. Construction jobs in USVI, January 2017 – September 2019.	45
Figure 3.4.7. Employees in construction, mining and logging sector in USVI, January 2016 to January 2021.	46
Figure 3.4.8. Employees in the leisure and hospitality, manufacturing, and trade, transportation and utilities sectors in USVI, January 2016 to January 2021.	47
Figure 3.4.9. Total USVI visitor arrivals, 2016 – 2020.	48
Figure 3.4.10. Annual change in real GDP, 2016 – 2020.	48
Figure 3.4.11. Annual change in rum exports to U.S.	49
Figure 3.5.1. Social vulnerability indices for St. Croix coastal sub-districts.	64
Figure 3.5.2. Social vulnerability indices for St. Thomas and St. John coastal sub-districts.	65
Figure 3.5.3. Social vulnerability indices for coastal municipalities in Puerto Rico.	66
Figure 5.2.1. Annual ex-vessel revenue (2020 dollars) from landings of species harvested with buoy gear in Puerto Rico and trend (2-year moving average) of that revenue, 2012-2019.	85
Figure 5.2.2. Annual commercial landings (lbs ww) and trend of those landings (2-year moving average) by all hook-and-line gear in St. Thomas/St. John, 2012 – 2019.	86
Figure 5.2.3. Annual commercial landings (lbs ww) in St. Croix by hook-and-line gear and trend (2-year moving average) of those landings, 2012 – 2019.	86

Fishery Impact Statement

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires a Fishery Impact Statement (FIS) be prepared for all Fishery Management Plans (FMPs) and amendments. The FIS contains an assessment of the likely biological, social, and economic effects of the conservation and management measures on: (1) fishery participants and their communities; (2) participants in the fisheries conducted in adjacent areas under the authority of another Council; and (3) the safety of human life at sea. Detailed discussion of the expected effects for all proposed alternatives is provided in Chapter 4. The FIS provides a summary of these effects.

The National Marine Fisheries Service (NMFS) and the Caribbean Fishery Management Council (Council), developed Generic Amendment 1 to the Comprehensive FMP for the Puerto Rico Exclusive Economic Zone (EEZ) (Puerto Rico FMP), the Comprehensive FMP for the St. Thomas and St. John EEZ (St. Thomas and St. John FMP), and the Comprehensive FMP for the St. Croix EEZ (St. Croix FMP) to modify the definition of buoy gear included in federal regulations at 50 CFR 622.2 to allow for the use of a greater number of hooks with this gear type when fishing commercially for deep-water snappers and groupers managed under the Puerto Rico FMP, the St. Thomas and St. John FMP, and the St. Croix FMP, and to limit the use of the buoy gear to those fishing commercially.

This amendment aims to ensure that commercial fishermen fishing for deep-water snappers and groupers in federal waters off Puerto Rico, St. Thomas and St. John, and St. Croix can use buoy gear with more than 10 hooks preferred by some fishermen, while protecting the deep-water reef fish resource and its habitat and minimizing user conflicts.

The affected area of this proposed action encompasses federal waters off Puerto Rico, St. Thomas and St. John, and St. Croix as well as their fishing communities dependent on fishing for the deep-water reef fish resources.

The amendment contains two actions. Action 1 would modify the authorized gear types for the recreational fishing sector in the U.S. Caribbean EEZ. Preferred Alternative 2 would prohibit the use of buoy gear by the recreational fishing sector in the U.S. Caribbean EEZ.

Action 2 would modify the regulatory definition of buoy gear for the U.S. Caribbean EEZ. Preferred Alternative 3 would increase the maximum number of hooks from 10 to 25 under the definition of buoy gear in the EEZ off Puerto Rico, St. Thomas and St. John, and St. Croix in all

fisheries where buoy gear is authorized (i.e., Council-managed reef fish-commercial, Council-managed pelagic species-commercial, non-FMP commercial species, non-FMP pelagic species).

Assessment of Biological Effects

Preferred Alternative 2 of Action 1 extends the prohibition on the use of buoy gear by the recreational sector applicable to all fisheries in all three management areas. Although, buoy gear is currently an authorized gear for recreational harvest of non-FMP species only, at present there is no evidence that the recreational sector uses or has used buoy gear. This amendment would prevent any future potential ecological/biological and physical effects from the use of this gear type by the recreational sector. Specifically, **Preferred Alternative 2** would eliminate future potential ecological/biological and physical effects that might result from recreational fishing-related pressure on the deep-water snapper/grouper fishery, including risks to managed species from misuse of the buoy gear and bycatch of managed species.

Preferred Alternative 3 of Action 2 increases the maximum number of hooks that the commercial sector could use with buoy gear to 25 hooks. An increase to the maximum number of hooks that may be used with buoy gear is not expected to affect the physical environment because of the types of habitat, and the depth where it is used, there is a low potential for entanglement with the bottom. Increasing the number of hooks used with buoy gear could result in higher landings of target fish species and bycatch of non-target species and the potential for overexploiting the resource. Overall, an increase in the number of hooks could have minor negative effects for species incidentally caught while pursuing the deep-water reef fish fishery. Overall, this amendment is expected to have minor biological effects on the deep-water reef fishery.

Assessment of Economic Effects

Preferred Alternative 2 of Action 1 prohibits the use of buoy gear for those fishing recreationally in federal waters off Puerto Rico, St. Thomas and St. John, and St. Croix. At present, there is no evidence that the recreational sector uses or has used buoy gear in the EEZ or that it would be used there in the future because buoy gear is a very specialized commercial gear. By taking this action, the Council seeks to prevent future potential resource use conflicts between commercial and recreational user groups at the subject fishing grounds that could result from deep-water fishing by the recreational sector.

Preferred Alternative 3 of Action 2 would modify the definition to allow up to 25 hooks per line regardless of target. Therefore, where buoy gear is an authorized gear—for example, for harvesting deep-water reef fish and non-reef fish species, such as coastal pelagics—commercial fishermen could use up to 25 hooks. Consequently, Preferred Alternative 3 could generate additional economic benefits. Increasing the maximum number of hooks that could be used with

buoy gear could result in commercial fishermen maximizing their landings of the deep-water reef fish fishery, which could result in maximizing benefits in yield and increasing fishing opportunities. If increasing the number of hooks does not cause a change in fishing effort and associated landings and revenues, no other impacts would be expected.

Assessment of Social Effects

Preferred Alternative 2 of Action 1 would prohibit the use of buoy gear for those fishing on a recreational basis in federal waters off Puerto Rico, St. Thomas and St. John, and St. Croix. Because buoy gear is not presently used by operators of individual recreational vessels, or by charter or guided fishing operations anywhere in the U.S. Caribbean, Action 1 would not have any social impacts in the island regions of interest.

Preferred Alternative 3 minimizes the potential for regulatory and enforcement problems and any fleet-specific social and economic impacts that could result. Buoy gear is authorized for the commercial harvest of reef fish and pelagic species, and for certain non-managed species and this alternative would allow a person targeting reef fish with buoy gear to retain more species incidentally harvested in the fishery. In this respect, Action 2 addresses multiple buoy-based commercial fisheries while also providing options for captains to determine and deploy an ideal number of hooks for any given set as needed to pursue the desired species given the environmental conditions at hand. Preferred Alternative 3 better reflects the use of traditional buoy gear and thereby improves the potential for trip-specific success, which includes: (a) the continuation of fishery-specific and seafood-related social and cultural practices in the islands, (b) the provision of food and earnings in family and community settings, and (c) minimized concerns regarding safety and social and ecological impacts at the fishing grounds.

Assessment of Effects on Participants in Fisheries Conducted in Adjacent Areas Under the Authority of Another Fishery Management Council

The actions in this amendment would apply only to fishing conducted in federal waters off Puerto Rico, St. Thomas and St. John, and St. Croix. Therefore, this amendment is not expected to impact fishery participants in adjacent areas under the authority of the Gulf of Mexico or South Atlantic Fishery Management Councils.

Assessment of Effects on Safety at Sea

None of the actions are expected to increase safety at sea concerns, as they do not significantly affect current fishing practices. Preferred Alternative 2 of Action 1 (prohibit buoy gear use by the recreational sector) would potentially promote safety at sea by eliminating the presence of a new (recreational) fleet at the deep-water reef fish fishing grounds which may otherwise occur, if recreational fishermen were permitted to use buoy gear.

In summary, no significant overall impacts to the biological/ecological environment, to protected species occurring within that environment, to the habitats constituting and supporting that environment, to the dependent socio-economic environment would be expected and would not present safety at sea issues as the action is not expected to significantly affect current fishing practices (i.e., buoy gear is not currently used by the recreational sector, and a prohibition on buoy gear use by the recreational sector would prevent safety at sea concerns from a new fleet at deep-water fishing grounds).

Chapter 1. Introduction

1.1 What Action is Proposed?

At the 170th Caribbean Fishery Management Council (Council) meeting in August 2020, the Council requested staff begin work on an amendment to the Comprehensive Fishery Management Plan (FMP) for the Puerto Rico Exclusive Economic Zone (EEZ) (Puerto Rico FMP), the Comprehensive FMP for the St. Thomas and St. John EEZ (St. Thomas and St. John FMP), and the Comprehensive FMP for the St. Croix EEZ (St. Croix FMP), collectively known as the island-based FMPs, that would allow for the use of a specific hook-and-line gear type (buoy gear) to fish commercially for deep-water reef fish in Puerto Rico and the U.S. Virgin Islands (USVI). Later, at the 175th meeting, the Council requested staff to address in this amendment, prohibiting the use of buoy gear for recreational harvest. Recreational use of this gear type appears to be non-existent or minimal, and the Council is interested in limiting the use of the buoy gear to those fishing commercially. This amendment to the island-based FMPs includes two actions that would modify the current definition of buoy gear for federal waters of the U.S. Caribbean and the fisheries in which the buoy gear could be used. The Secretary of Commerce approved the island-based FMPs on September 22, 2020, and the FMPs were effective on October 13, 2022 ([87 FR 56204](#); September 13, 2022).

Federal regulations at 50 CFR 622.2 define hook-and-line as automatic reel, bandit gear, buoy gear, handline, longline, and rod and reel. Under federal regulations, buoy gear is defined as follows:

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 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). 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.

Buoy gear is an authorized hook-and-line gear type for the commercial harvest of reef fish in each of the Puerto Rico, St. Thomas and St. John, and St. Croix FMPs. In addition to buoy gear, other gear types authorized to commercially harvest Council-managed reef fish include automatic reel, bandit reel, handline, longline, rod and reel, trap, pot, and spear. These gear types would be included in the regulations at 50 CFR 600.725(v). Appendix A of this document lists the species included under the Reef Fish category of each the island-based FMPs. Deep-water snappers (e.g., queen snapper, cardinal snapper), which are the primary species targeted with buoy gear, are included under this category. Buoy gear is also an authorized gear type for the commercial harvest of non-managed fish under each of the island's fisheries. Buoy gear is also an authorized gear type for the commercial harvest of managed and non-managed pelagic fish in each of the Puerto Rico, St. Thomas and St. John, and St. Croix fisheries (See Appendix A for the list of managed and non-managed pelagic fish). For the recreational sector, buoy gear is an authorized gear for the harvest of non-FMP species under each of the Puerto Rico, St. Thomas and St. John, and St. Croix FMPs. See Appendix B of this document for the List of Authorized Gears by FMP and fishery.

1.2 Why is the Council Considering Action?

In Puerto Rico and the USVI, small-scale commercial fishermen harvesting deep-water reef fish, particularly snappers (e.g., queen and cardinal snappers) and groupers, typically use a type of hook-and-line gear. The type of hook-and-line gear is known as vertical bottom line or “cala” in Puerto Rico and as deep-drop gear in the USVI. Vertical bottom line gear configuration and fishing methods used to harvest these deep-water snappers and groupers vary in terms of equipment and materials used, hook type, size and number, number of lines used, types of bait, soaking time, and fishing grounds. *Calas* or vertical bottom line gear can be either attached to the vessel while deployed in the water and retrieved with an electrical reel or unattached to the vessel while in the water in a **buoy gear** configuration until the lines are ready to be retrieved with an electrical reel. The buoy gear configuration is typically used by experienced fishermen targeting deep-water snappers and groupers in Puerto Rico and to a lesser extent in the USVI. This type of locally used buoy gear configuration is known as “cala con boya” in Puerto Rico and as “deep-drop buoy gear” in the USVI and is used to mainly fish for deep-water snappers and groupers: cardinal and queen snapper, misty grouper up to 1500 ft (457 m; 250 fathoms) and to a lesser degree for other species of snapper in the Puerto Rico, St. Thomas and St. John, and St. Croix Snapper 1 stock complex (i.e., Puerto Rico: silk, black, blackfin, vermilion, and wenchman; USVI: silk, black, blackfin and vermilion).

Buoy gear is defined in federal regulations applicable to Caribbean fisheries (see federal definition above), but deep-water snapper and grouper fishermen in Puerto Rico and the USVI have expressed to the Council during Council meetings that they would like to increase the

maximum number of hooks that are allowed under the legal definition of buoy gear to reflect how the gear has been used in state waters in both Puerto Rico and the USVI. The buoy gear type defined in 50 CFR 622.2 cannot contain more than 10 hooks connected between the buoy and the terminal end, while state law does not impose a limit on the number of hooks on the local deep-water reef fish buoy gear used in state waters. Therefore, in state waters, deep-water reef fish buoy gear can contain more than 10 hooks connected between the buoy and the terminal end depending on fishermen’s preference, species targeted, fishing conditions, among other reasons.

The use of any gear not listed as authorized for a fishery is prohibited, though persons can notify the Council of the intent to use the gear and proceed unless regulatory action is taken to prohibit the use of the gear (50 CFR 600.725(v)). The authorized gear types for those fishing commercially for reef fish and pelagic species managed under the Puerto Rico FMP, the St. Thomas and St. John FMP, and the St. Croix FMP are automatic reel, bandit gear, buoy gear, handline, longline, rod and reel, trap, pot, spear, and this would be included in updates to the table in the regulations at 50 CFR 600.725(v). A buoy gear configuration with more than 10 hooks between the buoy and the terminal end does not meet the legal definition of “buoy gear” in 50 CFR 622.2 and is not considered authorized “buoy gear.” Such gear does not meet the definition of any other hook-and-line gear authorized. Therefore, the local deep-water buoy gear used in state waters mentioned above cannot be used by those fishing commercially for reef fish or other species managed under the island-based FMPs, unless that gear type is added as an allowable gear type under the island-based FMPs for fishing for those species or the definition of buoy gear is amended to include more than 10 hooks. Alternatively, individuals may petition to use the gear.¹ In this amendment, the Council would modify the definition of “buoy gear” included in 50 CFR 622.2 to address the use of additional hooks preferred by some commercial fishermen of Puerto Rico, St. Croix, and St. Thomas and St. John harvesting deep-water snappers and groupers.

1.2.1 Statement of Purpose and Need

The purpose of this amendment is to modify the definition of buoy gear included in federal regulations at 50 CFR 622.2 to allow for the use of a greater number of hooks with this gear type when fishing commercially for deep-water snappers and groupers managed under the Puerto Rico FMP, the St. Thomas and St. John FMP, and the St. Croix FMP, and to limit the use of the buoy gear to those fishing commercially.

¹ The federal regulations set forth a process for a person seeking to use a gear not authorized for a particular fishery to notify the appropriate Council, here the Caribbean Fishery Management Council, of the intent to use a the gear and to obtain permission to do so. See 50 CFR 600.725(v); 50 CFR 600.747.

The need for this amendment is to ensure that commercial fishermen fishing for deep-water snappers and groupers in federal waters off Puerto Rico, St. Thomas and St. John, and St. Croix, can use buoy gear with more than 10 hooks preferred by some fishermen, while protecting the deep-water reef fish resource and its habitat and minimizing user conflicts.

1.3 Where Would the Action Have an Effect?

Under the Puerto Rico FMP (CFMC 2019a), the St. Thomas and St. John FMP (CFMC 2019b), and the St. Croix FMP (CFMC 2019c), the Council is responsible for managing fishery resources, including reef fish, in federal waters in the U.S. Caribbean region (Figure 1.1). The Puerto Rico EEZ, described in detail in the Puerto Rico FMP and incorporated herein by reference, ranges from 9-200 nautical miles (17-370 kilometers) from the shore of the Commonwealth of Puerto Rico. The St. Thomas and St. John EEZ, described in detail in the St. Thomas and St. John FMP and incorporated herein by reference, ranges 3-200 nautical miles (6-370 kilometers) from shore of St. Thomas and St. John, USVI. The St. Croix EEZ, described in detail in the St. Croix FMP and incorporated herein by reference, ranges 3-200 nautical miles (6-370 kilometers) from the shore of St. Thomas and St. John, USVI.

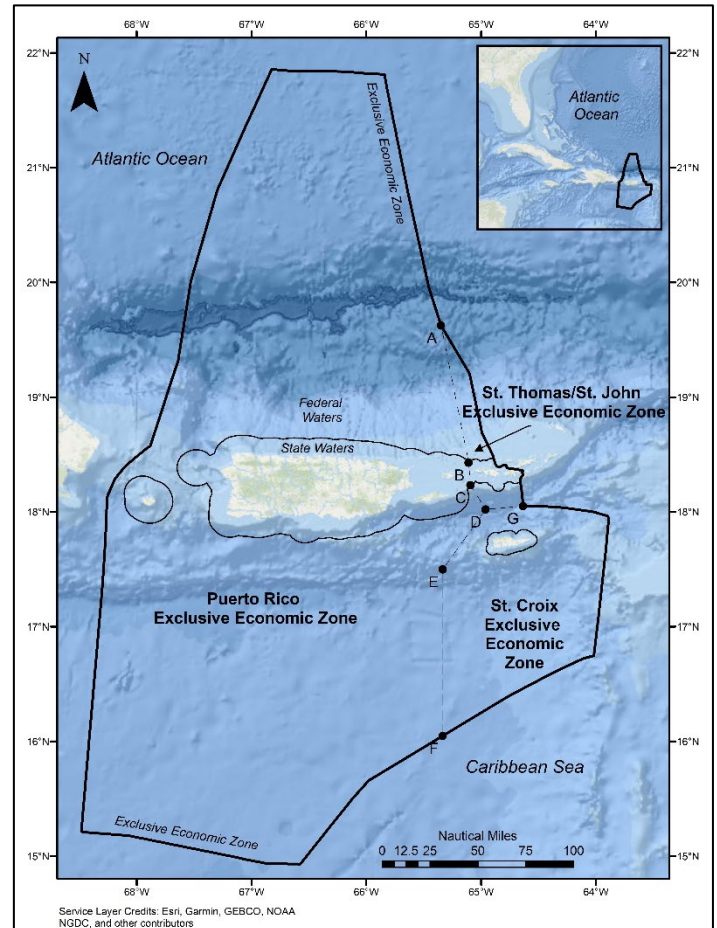


Figure 1.1. U.S. Caribbean region with boundaries between the Puerto Rico, St. Thomas and St. John, and St. Croix management areas.

1.4 History of Federal Fisheries Management

Prior to development of the Puerto Rico, St. Thomas and St. John, and St. Croix FMPs, reef fish stocks and stock complexes throughout the U.S. Caribbean (included in the Puerto Rico, St. Thomas and St. John, and St. Croix EEZs) were managed within the Reef Fish FMP of Puerto

Rico and the USVI (CFMC 1985), as amended. The original Reef Fish FMP included only shallow-water reef fish species (originally titled Shallow-water Reef Fish FMP). The deep-water reef fish (e.g., snappers, groupers), which are the main subject of this amendment, were added for management through Amendment 2 to the Reef Fish FMP in 1993. A detailed history of management for the reef fish component of the Puerto Rico fishery, the St. Thomas and St. John fishery, and the St. Croix fishery is included in Appendix C of each of Puerto Rico, St. Thomas and St. John, and St. Croix FMPs. Below is a summary of those amendments to the original Reef Fish FMP that contained actions specifically related to deep-water reef fish. These actions and regulatory measures are incorporated into the island-based FMPs, and are reflected in management of the reef fish component of the Puerto Rico fishery, the St. Thomas and St. John fishery, and the St. Croix fishery, under the respective island-based FMP. Pelagic species were included for management in the island-based FMPs. Management measures for pelagic species are included in each of the island-based FMPs.

Amendment 2 to the Reef Fish FMP (1993)

Amendment 2 expanded the existing fishery management unit in the Reef Fish FMP to include the following deep-water reef fish, to address their decline in landings: black snapper, queen snapper, blackfin snapper, silk snapper, wenchman, vermilion snapper, yellowedge grouper, red grouper, misty grouper, tiger grouper, greater amberjack, almaco jack, blackline tilefish, and sand tilefish. The amendment also retitled the FMP from the Shallow-water Reef Fish FMP to the FMP for the Reef Fish Fishery of Puerto Rico and the USVI. The amendment also applied existing definitions of maximum sustainable yield and optimum yield (OY) to all reef fish within the revised fishery management unit, with the exception of marine aquarium finfish, and established seasonal closures for red hind grouper in areas off Puerto Rico and St. Croix and for all Council-managed fish in the Mutton Snapper Spawning Aggregation Area off St. Croix.

Regulatory Amendment 2 to the Reef Fish FMP (1996)

The framework amendment established seasonal closures in two additional areas off the west coast of Puerto Rico (Abrir La Sierra Bank and Bajo de Sico). It also closed the EEZ portions in three areas to all fishing between December 1 and February 28, each year: 1.5-mile radius centered around a buoy to be deployed in the area known as Bajo de Sico; 1.5-mile radius around Buoy 8 at Tourmaline Bank; and 1.5-mile radius around Buoy 6 at Abrir La Sierra Bank.

Amendment 3 to the Reef Fish FMP (2005)

The Sustainable Fisheries Act Amendment prohibited the use of bottom tending gear (traps, pots, gillnets, trammel nets, bottom longlines) in the seasonally closed areas of Tourmaline, Bajo de Sico, Abrir la Sierra, Lang Bank, the Mutton Snapper Spawning Aggregation Area, and Grammanik Bank; prohibited the filleting of fish at sea; established a seasonal closure in the area known as Grammanik Bank south of St. Thomas prohibiting all fishing from February 1 – April

30 of each year; established seasonal closures (no fishing or possession), every year for silk, black, blackfin and vermilion snapper from October 1 through December 31 and for tiger, yellowfin, yellowedge, red and black grouper from February 1 through April 30.

Amendment 5 to the Reef Fish FMP (2011)

Among other measures, the amendment separated grouper unit (GU) 4 into two units, GU4 (yellowfin, red, tiger [black grouper was added to GU4]) and GU5 (yellowedge, misty), and modified the snapper unit (SU) by adding cardinal snapper to SU2 and moved wenchman to SU1. The amendment also specified annual catch limits (ACL) and accountability measures (AM) for species undergoing overfishing (snappers, groupers, parrotfish, and queen conch), established or redefined management reference points, including a proxy for maximum sustainable yield (MSY proxy) and an estimate of OY, and overfishing limits, for species undergoing overfishing (snappers, groupers, queen conch, parrotfish), specified separate commercial and recreational ACLs in Puerto Rico based on the preferred management reference point time series and allocated the ACLs in the U.S. Caribbean EEZ by island groups (i.e. Puerto Rico, St. Thomas and St. John, and St. Croix) according to the subzones established in the 2010 Caribbean ACL amendment.

Chapter 2. Proposed Actions and Alternatives

2.1 Action 1: Buoy Gear Prohibition for Fishing Recreationally

In this action, the Caribbean Fishery Management Council (Council) considers prohibiting the use of buoy gear for recreational fishing under the Puerto Rico Fishery Management Plan (FMP), the St. Thomas and St. John FMP, and the St. Croix FMP, collectively known as the island-based FMPs.

2.1.1 Proposed Alternatives for Action 1

Alternative 1. No Action. Buoy gear is currently an authorized gear type for recreational harvest in the U.S. Caribbean as found in 50 CFR 600.725.² Retain the authorized gear types for recreational harvest in federal waters off Puerto Rico, St. Thomas and St. John, and St. Croix.

Preferred Alternative 2. Prohibit the use of buoy gear for those fishing recreationally in federal waters off Puerto Rico, St. Thomas and St. John, and St. Croix.

2.1.2 Discussion of Action 1 Alternatives

Under **Alternative 1**, the gear types authorized for recreational fishing under each of the island-based FMPs would remain unchanged. The authorized gear types for fishing recreationally under each island-based FMP will be listed in 50 CFR part 600.725³ and are listed in Appendix B and summarized below.

The authorized gear types for fishing recreationally in federal waters off Puerto Rico, St. Thomas and St. John, and St. Croix include: (1) For Puerto Rico Reef Fish, St. Thomas and St. John Reef Fish, and St. Croix Reef Fish: dip net, handline, rod and reel, slurp gun, spear, trap, pot; (2) Puerto Rico Pelagics, St. Thomas and St. John Pelagics, and St. Croix Pelagics: spear, handline, longline, rod and reel; (3) Puerto Rico Spiny Lobster, St. Thomas and St. John Spiny Lobster, and St. Croix Spiny Lobster: trap, pot, dip net, hand harvest, snare; (4) Puerto Rico non-FMP pelagic species, St. Thomas and St. John non-FMP pelagic species, St. Croix non-FMP pelagic species: spear, handline, longline, rod and reel; (5) Puerto Rico non-FMP species, St. Thomas and St. John non-FMP species, St. Croix non-FMP species: automatic reel, bandit gear, buoy gear, handline, longline, rod and reel, spear, powerhead, hand harvest, cast net.

² The list of authorized gear types were updated when the rule implementing the island-based FMPs was finalized. The changes to be proposed are listed in Appendix B.

³ The list of authorized gear types were updated when the rule implementing the island-based FMPs was finalized. The changes to be proposed are listed in Appendix B.

In Action 1, the Council is considering whether to prohibit the use of buoy gear by the recreational sector. **Alternative 1** would retain all gear types authorized for use in the recreational sector under each of the island-based FMPs, including buoy gear.⁴ Although buoy gear (subject of this amendment) is an authorized gear for recreational harvest of non-FMP species only (i.e., species not managed by the Council), at present, there is no evidence that the recreational sector uses or has used buoy gear as defined in the regulations. Any use of the gear by the recreational sector is unlikely because buoy gear is a very specialized commercial gear that is expensive and difficult to use.

Although, the use of buoy gear by the recreational sector appears unlikely in the present, in **Preferred Alternative 2**, the Council proposes to prohibit the use of this gear by the recreational sector to prevent any potential use to fish for any species of the Puerto Rico Fishery, the St. Thomas and St. John Fishery, and the St. Croix Fishery. Currently, buoy gear is an authorized gear for the recreational harvest of non-FMP species but **Preferred Alternative 2** proposes a broad prohibition for all recreational fisheries (i.e., managed and non-managed species) that would be implemented through federal regulations. With respect to non-managed species, the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) gives the Councils and the National Marine Fisheries Service (NMFS) the authority to regulate fishing activity to support the conservation and management of fisheries. This could include regulations that pertain to fishing for non-managed species. Per the Magnuson-Stevens Act 303(b)(12) and (14), FMPs can "include management measures in the plan to conserve target and non-target species and habitats, considering the variety of ecological factors affecting fishery populations" and can "prescribe such other measures, requirements, or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery." These provisions, taken together, provide broad discretion to manage fishing for non-managed species for the benefit of managed species.

By taking this action, the Council would like to prevent potential new resource use conflicts and ecological/biological and physical effects from the use of this gear type by the recreational sector in the future, should recreational fishermen begin using the gear. For example, **Preferred Alternative 2** would eliminate: (a) any potential future conflicts between commercial and recreational user groups at the subject fishing grounds, (b) any additional ecological/biological and physical effects that might accrue though additional (recreational fishing-related) pressure at those grounds and to those resources (e.g., risk of overfishing the deep-water snapper/grouper resource; risks to managed species from misuse of the buoy gear; limit bycatch of managed species), and (c) any safety concerns potentially associated with the presence of a new

⁴ See definition of buoy gear in Section 1.1.

(recreational) fleet at the deep-water reef fish fishing grounds, which may arise due to the specialized characteristics of the buoy gear operations.

In summary, **Alternative 1** does not change any of the gear types authorized for use by the recreational sector of each of the island-based fisheries while **Preferred Alternative 2** only affects one gear type (buoy gear) and its use by the recreational sector fishing for all species (managed and unmanaged). However, neither **Alternative 1** nor **Preferred Alternative 2** are expected to alter recreational fishing behavior in the short term as there is no evidence that the recreational sector uses or has used buoy gear in the EEZ.

2.2 Action 2: Modification of the Buoy Gear Definition

In this action, the Council would modify the buoy gear definition for Puerto Rico, St. Thomas and St. John, and St. Croix fisheries.

2.2.1 Proposed Alternatives for Action 2

Alternative 1. No Action. The definition of buoy gear specified in 50 CFR 622.2 with respect to the number of hooks allowed would not be changed and the number of hooks would remain at 10.

Alternative 2. Modify the definition of buoy gear in 50 CFR 622.2 as it applies to the commercial sector fishing for managed reef fish in the EEZ off Puerto Rico, St. Thomas and St. John, and St. Croix to allow the use of up to 25 hooks connected between the buoy and the terminal end.

Preferred Alternative 3. Modify the definition of buoy gear in 50 CFR 622.2 as it applies to the EEZ in the U.S. Caribbean (i.e., the EEZ off Puerto Rico, St. Thomas and St. John, and St. Croix) to allow the use of up to 25 hooks connected between the buoy and the terminal end for all authorized fisheries.

2.2.2 Discussion of Action 2 Alternatives

Under **Alternative 1**, the definition of buoy gear in federal regulations at 50 CFR 622.2 would not be changed with respect to fisheries in the U.S. Caribbean EEZ. The buoy gear definition included in Section 622.2 is re-stated in Section 1.1 of this document. One of the specific requirements under this definition is that buoy gear cannot contain more than 10 hooks connected between the buoy and the terminal end. There is no alternative definition of buoy gear

applicable to fishing in federal waters off Puerto Rico, St. Thomas and St. John, and St. Croix. Thus, in components of the Puerto Rico Fishery, the St. Thomas and St. John Fishery, and the St. Croix Fishery where buoy gear is an authorized gear – namely, the commercial sector of those fishing for managed reef fish and the commercial sector of those fishing for managed pelagic species – and in the non-FMP fisheries included in the authorized gear table (see Appendix B) (i.e., the commercial and recreational non-FMP fisheries, and the commercial pelagic fishery) fishermen must limit the gear to 10 hooks.

According to reports from fishermen, in state and federal waters off Puerto Rico, St. Thomas and St. John, and St. Croix, some fishermen fishing commercially for deep-water reef fish managed under the island-based FMPs, currently use a buoy gear configuration that is consistent to that as defined in the current federal regulations except for the maximum number of hooks. To be consistent with the current definition of buoy gear in 50 CFR 622.2, there must be no more than 10 hooks connected between the buoy and the terminal end. Because of data limitations, it is not clear how much harvest occurs using gear containing more than 10 hooks between the buoy and the terminal end in federal waters. Under **Alternative 1**, gear containing more than 10 hooks between the buoy and the terminal end would not meet the legal definition of “buoy gear” in 50 CFR 622.2, or any other gear authorized for those fishing commercially for Council-managed reef fish or pelagic species, or in any other unmanaged (non-FMP) fisheries. Use of this gear with more than 10 hooks would continue to be prohibited in federal waters. Note that depending on the outcomes of Action 1 above, buoy gear might be removed from the list of authorized gear types in the non-FMP recreational fishery (See Appendix B for a list of authorized gear types by fishery under the island-based FMPs).

Alternative 2 proposes to modify the definition of buoy gear in federal regulations at 50 CFR 622.2 as it applies to the commercial sector of those fishing for reef fish managed under the Puerto Rico FMP, the St. Thomas and St. John FMP, and the St. Croix FMP. Under **Alternative 2**, the modified definition would increase the maximum number of hooks that can be used to harvest managed reef fish from 10 to 25. This new maximum number of hooks would allow those fishing commercially in federal waters off Puerto Rico and the U.S. Virgin Islands for federally managed reef fish to legally use the gear configuration employed by some in state waters. The modification would apply only to those using this gear type to fish commercially for federally managed reef fish species. It would not change the definition of buoy gear as it applies to the harvest of other species in the Puerto Rico, St. Thomas and St. John, and St. Croix fisheries (i.e., FMP and non-FMP fisheries). Moreover, the rest of the specifications included in the definition of “buoy gear” such as weight, construction materials for the drop line, and length of the drop line would remain unchanged.

Given that Puerto Rico, St. Thomas and St. John, and St. Croix fisheries are multi-species, fishermen may harvest other species while targeting deep-water reef fish with buoy gear. These species usually are encountered as incidental catch, and they could include Council-managed pelagic species as well as non-managed species (See Section 3.4). Buoy gear as currently defined in 50 CFR 622.2 (i.e., maximum of 10 hooks) is an authorized gear type for the commercial harvest of reef fish and pelagic species in the island-based FMPs. Buoy gear is also an authorized gear for the commercial and recreational harvest of non-managed species (non-FMP species) and for the commercial harvest of non-managed pelagic species in federal waters off Puerto Rico, St. Thomas and St. John, and St. Croix. Thus, under **Alternative 2**, the maximum number of hooks that could be used with buoy gear to commercially harvest Council-managed pelagic species as well as non-FMP managed species would continue to remain at 10. Commercial fishermen who on the same trip catch managed deep-water reef fish, Council-managed pelagics, and/or non-FMP managed species with buoy gear containing more than 10 hooks would not be able to retain lawfully any species other than Council-managed reef fish; the other species were caught with unlawful gear. Enforcement of gear restrictions could be difficult under **Alternative 2**, if during an intervention, buoy gear with more than 10 hooks is onboard with both managed reef fish and other species because it would be unknown if the gear with more than 10 hooks was used only where authorized (i.e., if it was limited to fishing commercially for the managed reef fish, or if it was used to fish for other species, where not authorized).

To avoid enforcement complications for fishermen harvesting multiple species on a trip, the definition of buoy gear under **Preferred Alternative 3** would allow up to 25 hooks under the definition of buoy gear in the EEZ in the U.S. Caribbean, regardless of target species. Thus, in all fisheries where buoy gear is authorized, this definition would apply. As mentioned above, buoy gear is an authorized gear type for those fishing commercially for reef fish and pelagic species managed under the island-based FMPs, for those fishing commercially for non-FMP species and non-FMP pelagic species in federal waters off Puerto Rico, St. Thomas and St. John, and St. Croix. Buoy gear is also an authorized gear for those fishing recreationally for non-FMP species; however, this authorization may change depending on the outcome of Action 1 described above (Buoy Gear Prohibition for the Recreational Sector). The definition of buoy gear under **Preferred Alternative 3** would apply to all harvest in the U.S. Caribbean EEZ similar to the application of the definition under **Alternative 1**. Under **Preferred Alternative 3**, the other specifications included in the definition of “buoy gear” such as weight, construction materials for the drop line, and length of the drop line would remain unchanged.

Under either **Alternative 2** or **Preferred Alternative 3**, the changes are limited to the definition of buoy gear, specifically the number of hooks, and do not alter any other gear types or specification of buoy gear.

In summary, **Alternatives 2 and 3 (Preferred)** would both increase the maximum number of hooks that can be used with buoy gear to 25 per line, depending on species targeted or location (i.e., island), contrasting with **Alternative 1**, which maintains the limit at 10 hooks. However, **Alternative 2** only applies to fishermen fishing commercially for managed reef fish with buoy gear, while both **Alternatives 1 and 3 (Preferred)** applies to all fishermen using authorized buoy gear in U.S. Caribbean waters.

Chapter 3. Affected Environment

This section describes the environment and resources included within federal waters off Puerto Rico, St. Thomas and St. John, and St. Croix that would be affected by the proposed action. Additional information on the physical, habitat, biological/ecological, economic, social, and administrative environments of Puerto Rico and the U.S. Virgin Islands (USVI) have been described in detail in the Puerto Rico Fishery Management Plan (FMP) (CFMC 2019a), the St. Thomas and St. John FMP (CFMC 2019b), and the St. Croix FMP (CFMC 2019c), and are incorporated by reference and summarized below.

3.1 Description of the Physical Environment

The U.S. Caribbean is located in the eastern portion of the Caribbean archipelago, about 1,100 miles (mi) (1,770 kilometers [km]) east-southeast of Miami, Florida (Olcott 1999). The region is composed of the Commonwealth of Puerto Rico in the Greater Antilles and the USVI in the Lesser Antilles island chains, both of which separate the Caribbean Sea from the western central Atlantic Ocean. The USVI are part of the Virgin Islands chain, which lies in the northeastern Caribbean about 50 mi (80 km) east of Puerto Rico's main island, and consists of four major islands: St. Thomas, St. John, St. Croix, and Water Island (DPNR 2005). The U.S. Caribbean exclusive economic zone (EEZ) covers an area of approximately 75,687 mi² (196,029 km²).

3.1.1 Puerto Rico

The Puerto Rico EEZ is located 9 - 200 nautical miles (17 - 370 km) from the shoreline and covers approximately 65,368 mi² (169,303 km²). Puerto Rico approximately 110 by 35 mi (177 by 56 km), and is the smallest and the most eastern island of the Greater Antilles (CFMC 1998). Puerto Rico includes the adjacent inhabited islands of Vieques and Culebra as well as various other isolated islands without permanent populations including Mona, Monito, and Desecheo. Puerto Rico is surrounded on three sides by deep ocean waters: the Mona Passage to the west (> 3,300 ft [1,000 m] deep); the Puerto Rico Trench to the north (~28,000 ft [8,500 m] deep); and the Venezuelan Basin of the Caribbean Sea to the south (~16,400 ft [5,000 m] deep). To the east, Puerto Rico shares the shallow-water shelf platform with St. Thomas and St. John, USVI.

3.1.2 St. Thomas and St. John

The St. Thomas and St. John EEZ is located 3 - 200 nautical miles (6 - 370 km) from the shoreline and covers approximately 1,103 mi² (2,856 km²). The islands of St. Thomas and St. John are bordered by the Atlantic Ocean to the north and the Caribbean Sea to the south. The island of St. Thomas is bordered to the west by the Puerto Rico islands of Vieques and Culebra,

and to the east by St. John, which is bordered on the east by the British Virgin Islands. The shelf shared by the islands of St. Thomas and St. John is about 8 mi (12.9 km) wide on the south and 20 mi (32.2 km) wide on the north (Goenaga and Boulon 1992) with an area of approximately 510 nm² (1751 km²). Most of the shelf area is greater than 80 ft (24.4 m) deep (Kojis and Quinn 2011).

3.1.3 St. Croix

The St. Croix EEZ is located 3 - 200 nautical miles (6 – 370 km) from the shoreline and covers approximately 9,216 mi² (23,870 km²). The island of St. Croix is surrounded by the Caribbean Sea. St. Croix is located about 46 mi (74 km) south of St. Thomas and St. John and lies on a different geological platform than Puerto Rico, St. Thomas, and St. John. St. Croix is separated from those islands by a 2.5 mi (4 km) deep trench (CFMC 2004). The St. Croix shelf is much narrower and shallower than that of the northern islands (Goenaga and Boulon 1992), and has a total area of approximately 99 nm² (343 km²) (Gordon 2010). Most of the shelf area is less than 80 ft (24.4 m) deep (Kojis and Quinn 2011).

3.1.4 Habitat Environment and Essential Fish Habitat

The coastal marine environments of Puerto Rico and the USVI are characterized by a wide variety of habitat types, with 21 distinct benthic habitats types delineated (Kendall et al. 2001). The Essential Fish Habitat Final Environmental Impact Statement (CFMC 2004) summarized the percent distribution for all habitats in the U.S. Caribbean from the 2,121 mi² (5,494 km²) of total bottom area mapped from aerial photographs. This total included both Puerto Rico (1,934 mi² [5,009 km²]) and the USVI (187 mi² [485 km²]), and covered from the shoreline to about 66 feet (ft) (20 meters [m]) depth. Appendix J in the island-based FMPs describes the preferred habitats for all reef fish species managed on each island/island group.

Essential Fish Habitat

Essential fish habitat (EFH) is defined in the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) as “those waters and substrates necessary to fish for spawning, breeding, feeding, or growth to maturity” (16 U.S. C. 1802(10)). EFH information for species affected by this amendment is described in the island-based FMPs and is summarized below.

Specific categories of EFH identified in the island-based FMPs, which are utilized by federally managed fish and invertebrate species, include both estuarine/inshore and marine/offshore areas. Specifically, estuarine/inshore EFH includes estuarine emergent and mangrove wetlands, submerged aquatic vegetation, intertidal flats, palustrine emergent and forested systems, and the

estuarine water column. Additionally, marine/offshore EFH includes live/hard bottom habitats, coral and coral reefs, seagrass and algal plains, sand and shell substrate, and the marine water column. Essential fish habitat includes the spawning area in the water column above the adult habitat. Due to the steep continental slopes that occur off Puerto Rico and the USVI, the majority of fish habitat occurs within the 100 fathoms (183 m) contour line, as does the majority of fishing activity for Caribbean Fishery Management Council (Council)-managed species. Beyond 100 fathoms, the sea bed drops off dramatically and is difficult to fish, as it requires larger vessels and more gear (e.g., more line for fish traps, handlines, etc.), both of which are not typical of U.S. Caribbean fisheries. As a result of the lack of discrete habitat mapping, as well as explicit spatial effort information, especially in the area between the 100-fathom contour and the outer boundary of the U.S. Caribbean EEZ, assumptions had to be made regarding the distribution of species with deep-water or pelagic life stages. Thus, for those deep-water species, in instances when the literature, data, or expert opinion reported the presence of one or more life stage occurring deeper than 100 fathoms (183 m), EFH was assumed to extend to the outer boundary of the U.S. Caribbean EEZ.

Reef Fish EFH in the Puerto Rico FMP: EFH for the Reef Fish consists of all waters from mean high water to the outer boundary of the U.S. Caribbean EEZ (habitats used by eggs and larvae) and all substrates from mean high water to 100 fathoms depth (habitats used by other life stages). In addition, for the juvenile and adult life stages of African pompano, rainbow runner, and crevalle jack, EFH includes all waters from mean high water to 100 fathoms. For gray triggerfish, the eggs are not associated with the water column, and this area is not EFH for the eggs. The Reef Fish EFH description includes the newly managed species: yellowmouth grouper, cubera snapper, gray triggerfish, crevalle jack, African pompano, and rainbow runner.

Pelagic Fish EFH in the Puerto Rico FMP: EFH for little tunny (*Euthynnus alleteratus*) and blackfin tuna (*Thunnus atlanticus*) (Tuna stock complex); king mackerel (*Scomberomus cavalla*) and cero mackerel (*Scomberomus regalis*) (Mackerel stock complex) consists of all waters from mean high water to the outer boundary of the U.S. Caribbean EEZ (habitats used by eggs, larvae, juveniles and adults) and sargassum substrate from mean high water to the outer boundary of the U.S. Caribbean EEZ (habitats used by eggs and larvae). All life stages of these species are pelagic.

EFH for wahoo (*Acanthocybium solandri*) (Wahoo stock) consists of all waters from mean high water to the outer boundary of the U.S. Caribbean EEZ (habitats used by eggs, larvae, juveniles, and adults) and sargassum, coral reef, and hard bottom substrates from mean high water to the outer boundary of the U.S. Caribbean EEZ (habitats used by juveniles, adults, and larvae [for larvae, sargassum substrates only]).

EFH for dolphin (*Coryphaena hippurus*) and pompano dolphin (*Coryphaena equiselis*) (Dolphinfish stock complex) consists of all waters from mean high water to the outer boundary of the U.S. Caribbean EEZ (habitats used by eggs, larvae, juveniles, and adults) and coral reefs, hard bottom, and sargassum substrates from mean high water to the outer boundary of the U.S. Caribbean EEZ (habitats used by juveniles, adults, and larvae [for larvae, sargassum substrates only]).

EFH for great barracuda (*Sphyraena barracuda*) (Barracuda stock) consists of all waters and sargassum substrates from mean high water to the outer boundary of the U.S. Caribbean EEZ (habitats used by eggs and larvae), and all waters and mangroves, seagrass, coral reefs, and hard bottom substrates from mean high water to 100 fathoms (habitats used by juveniles [water column, mangrove, seagrass], and adults [water column, coral, hard bottom]).

EFH for tripletail (*Lobotes surinamensis*) (Tripletail stock) consists of all waters from mean high water to the outer boundary of the U.S. Caribbean EEZ (habitats used by eggs, larvae, juveniles, and adults) and sargassum substrates from mean high water to the outer boundary of the U.S. Caribbean EEZ (habitats used by eggs and larvae).

Reef Fish EFH in the St. Croix FMP: EFH for the Reef Fish in the St. Croix FMP consists of all waters from mean high water to the outer boundary of the U.S. Caribbean EEZ (habitats used by eggs and larvae) and all substrates from mean high water to 100 fathoms depth (habitats used by other life stages).

Pelagic Fish EFH in the St. Croix FMP: EFH for dolphin (*Coryphaena hippurus*) consists of all waters from mean high water to the outer boundary of the U.S. Caribbean EEZ (habitats used by eggs, larvae, juveniles, and adults) and coral reef, hard bottom, and sargassum substrates from mean high water to the outer boundary of the U.S. Caribbean EEZ (habitats used by juveniles, adults, and larvae [for larvae, sargassum substrates only]).

EFH for wahoo (*Acanthocybium solandri*) consists of all waters from mean high water to the outer boundary of the U.S. Caribbean EEZ (habitats used by eggs, larvae, juveniles, and adults) and sargassum, coral reef, and hard bottom substrates from mean high water to the outer boundary of the U.S. Caribbean EEZ (habitats used by juveniles, adults, and larvae [for larvae, sargassum substrates only]).

Reef Fish EFH in the St. Thomas and St. John FMP: EFH for the Reef Fish consists of all waters from mean high water to the outer boundary of the EEZ (habitats used by eggs and larvae) and all substrates from mean high water to 100 fathoms depth (habitats used by other life stages).

Pelagic Fish EFH in the St. Thomas and St. John FMP: EFH for dolphin (*Coryphaena hippurus*) consists of all waters from mean high water to the outer boundary of the U.S. Caribbean EEZ (habitats used by eggs, larvae, juveniles, and adults) and coral reef, hard bottom, and sargassum substrates from mean high water to the outer boundary of the U.S. Caribbean EEZ (habitats used by juveniles, adults, and larvae [for larvae, sargassum substrates only]).

EFH for wahoo (*Acanthocybium solandri*) consists of all waters from mean high water to the outer boundary of the U.S. Caribbean EEZ (habitats used by eggs, larvae, juveniles, and adults) and sargassum, coral reef, and hard bottom substrates from mean high water to the outer boundary of the U.S. Caribbean EEZ (habitats used by juveniles, adults, and larvae [for larvae, sargassum substrates only]).

3.2 Description of the Biological and Ecological Environments

The Puerto Rico FMP (CFMC 2019a), St. Thomas and St. John FMP (CFMC 2019b), and St. Croix FMP (CFMC 2019c) include a description of the biological environment for the species managed in federal waters in the respective island/island group management area, including deep-water reef fish and pelagic species (mostly caught incidentally while pursuing deep-water reef fish), which are incorporated herein by reference and summarized below. Reef fish and pelagic species are managed as stocks or stock complexes. See Appendix A for a complete list of species managed under the Reef Fish and Pelagic groups on each of the island-based FMPs.

3.2.1 Description of the Species Affected by this Amendment

The waters off Puerto Rico, St. Thomas and St. John, and St. Croix support hundreds of marine fish species and invertebrates including corals and organisms associated to coral reefs. The reef fish component of the Puerto Rico fishery in the Puerto Rico FMP contains 51 species of fish. The reef fish component of the St. Croix fishery includes 41 species. The reef fish component of the St. Thomas and St. John fishery includes 45 species. Many of these stocks are taken primarily in commercial, subsistence, and/or recreational fisheries. Appendices I and J in the island-based FMPs contain specific information about the distribution and habitat, life history, diet, reproduction and spawning characteristics for all species managed under the FMPs.

Council-managed species fished with vertical bottom line gear (which includes buoy gear) include deep-water reef fish species such as snappers and groupers (Table 3.2.1). Species listed

in Table 3.2.1 are species within the Reef Fish component in each island-based FMP that occur in deeper-water habitats and are directly targeted by the commercial sector or indirectly harvested by commercial fishermen while pursuing target species. These species are expected to be affected by this amendment as they are fished commercially with vertical bottom line gear, although not exclusively with buoy gear. Although infrequent, some managed pelagic species are also caught incidentally with bottom line gear. Those pelagic species are not included in Table 3.2.1. At present, there is no evidence that the recreational sector uses or has used buoy gear in the EEZ off Puerto Rico, St. Croix, or St. Thomas and St. John and the availability of recreational data is limited, therefore, no species are described in this section that would be affected by Action 1.

Table 3.2.1. List of snapper and grouper species harvested in the commercial deep-water vertical bottom line component of the reef fish fishery in each of Puerto Rico, St. Thomas and St. John, and St. Croix.

Species	Puerto Rico FMP	St. Thomas/St. John FMP	St. Croix FMP
Snappers	black, blackfin, silk, vermilion, wenchman, cardinal, queen	black, blackfin, silk, vermilion, queen	black, blackfin, silk, vermilion, queen, cardinal, wenchman
Groupers ¹	yellowmouth, yellowedge, misty	yellowmouth, yellowedge, misty	misty

This list is not all inclusive, and only lists those species that have been identified by fishermen as being actively targeted commercially with vertical bottom line gear, including buoy gear, or that are occasionally caught with bottom line gear, and species reported in commercial catch report forms from 2012-2018, where available, or identified in the literature (i.e., Overly 2020; Scharer-Umpierre et al. 2019).

¹Snowy grouper (not managed under the island-based FMPs) may also be harvested in the commercial deep-water vertical line component of Puerto Rico (Scharer-Umpierre, pers. communication, December 2021).

Landings data from Puerto Rico commercial catch report forms from 2018 and 2019 list other species as reported on the same trip with deep-water snappers/groupers but with alternative gear types. These species are very infrequently reported and in small quantities. These include: queen triggerfish, lemon shark, Atlantic scombrops, bar jack, cubera snapper, lane snapper, mutton snapper, yellowtail snapper, king mackerel, unspecified boxfish, requiem shark unspecified, dolphinfish, tuna, red hind, unspecified grunt, yellowfin grouper, cero mackerel, almaco jack, tiger shark, sharpnose, shark unspecified, and reef shark. Appendix C lists some of the species incidentally caught in the Puerto Rico deep-water snapper/grouper fishery identified in the literature. Additional information about bycatch can be found in Section 3.2.2 below.

3.2.1.1 Life History and Biology

Appendix J in each of the island-based FMPs contains a comprehensive description of the life history and biology of each of the species that may be affected by this amendment (Table 3.3.1).

3.2.2 Bycatch

Each of the Puerto Rico, St. Thomas and St. John, and St. Croix FMPs include a bycatch practicability analysis for the species managed under each FMP, which is incorporated herein by reference, and summarized below.

Fisheries that are noted for producing large amounts of bycatch (e.g., trawling) are essentially absent from the U.S. Caribbean. Thus, bycatch is not as significant an issue in Puerto Rico, St. Thomas and St. John, and St. Croix, as compared to other regions. What little bycatch that does occur is generally confined to regulatory discards. Under the island-based management approach, regulatory discards of reef fish species include:

Year-round:

- Nassau grouper: No person may fish for or possess Nassau grouper in or from the EEZ around Puerto Rico, St. Thomas and St. John, and St. Croix. Such fish caught in the EEZ around Puerto Rico, St. Thomas and St. John, and St. Croix must be released immediately with a minimum of harm;
- Goliath grouper: No person may fish for or possess goliath grouper in or from the EEZ around Puerto Rico, St. Thomas and St. John, and St. Croix. Such fish caught in the EEZ around Puerto Rico, St. Thomas and St. John, and St. Croix must be released immediately with a minimum of harm;
- Juvenile yellowtail snapper: Federal law requires that catches of yellowtail snapper under 12 inches (30.5 cm) in total length be returned to the water immediately with a minimum of harm.

Seasonal:

- Red hind, yellowfin, yellowedge, red, tiger, and black groupers; silk, black, blackfin, and vermilion snappers; lane and mutton snappers: federal law prohibits fishing for and possession of these species during specified closed seasons and closed areas established by island area.

Section 3.2.1 above and Appendix C list species that have been identified in the literature as bycatch of the deep-water bottom line fishery or that are listed in the Puerto Rico or USVI commercial catch report forms as landed in the same trip as deep-water snappers and groupers harvested with vertical bottom line gear. Additionally, since fishermen in the U.S. Caribbean

region traditionally utilize most resources harvested, and the amount of bycatch from the deep-water vertical bottom line gear are minimal and are not expected to change under this amendment, little to no affect to mammals or birds would be expected.

3.2.3 Protected Species

Within the U.S. Caribbean, some species and their habitats are protected under the Marine Mammal Protection Act (MMPA), the Endangered Species Act (ESA), or both. At least 17 species of whales and dolphins have been reported in or near U.S. waters in the northeastern Caribbean (Mignucci-Giannoni 1998), including waters around Puerto Rico. All 17 species are protected under the MMPA. Three of these species (i.e., sperm, sei, and fin whales) are also listed as endangered under the ESA.⁵ In addition to these three marine mammals, five species or distinct population segments (DPS) of sea turtles (green - North Atlantic DPS and the South Atlantic DPS; hawksbill; leatherback; loggerhead - Northwest Atlantic DPS); four species or DPSs of fish (Nassau grouper; scalloped hammerhead shark - Central and Southwest Atlantic DPS; oceanic whitetip shark; giant manta ray); and seven species of coral (elkhorn coral, staghorn coral, rough cactus coral, pillar coral, lobed star coral, mountainous star coral, and boulder coral) occur in the U.S. Caribbean and are also protected under the ESA. ESA designated critical habitat for the green sea turtle, hawksbill sea turtle, leatherback sea turtle, and *Acropora* corals also occur within the Council's jurisdiction. Critical habitat for green and hawksbill sea turtles occurs entirely within Puerto Rico state waters, and over 99% of the critical habitat for leatherback sea turtles around St. Croix occurs within USVI state waters. Designated critical habitat of *Acropora* corals in Puerto Rico and the USVI extended from the mean low water line seaward to the 98 foot (30 meter) depth contour ([73 FR 72209](#)), the majority of which occur in state waters.

The National Marine Fisheries Service (NMFS) completed a biological opinion on September 21, 2020, evaluating the impacts of the Puerto Rico, St. Thomas and St. John, and St. Croix fisheries on Endangered Species Act (ESA)-listed species that occur in the U.S. Caribbean region (NMFS 2020b). In the biological opinion, NMFS determined that the authorization of the fisheries conducted under each of the island-based FMPs is not likely to adversely affect sperm, sei, and fin whales; the Northwest Atlantic DPS of loggerhead sea turtle; giant manta rays; or critical habitat of green, hawksbill, or leatherback sea turtles. The biological opinion also determined that the authorization of the island-based fisheries is not likely to jeopardize the continued existence of the North Atlantic DPS of green sea turtle, South Atlantic DPS of green sea turtle, hawksbill sea turtle, Nassau grouper, oceanic whitetip shark, Central and Southwest

⁵ Five DPSs of humpback whales are listed under the ESA; however, the West Indies DPS, which is the only DPS present in the U.S. Caribbean, is not listed as endangered or threatened ([81 FR 62259](#)).

Atlantic DPS of scalloped hammerhead shark, elkhorn coral, staghorn coral, rough cactus coral, pillar coral, lobed star coral, mountainous star coral, or boulder star coral, or result in the destruction or adverse modification of designated *Acropora* critical habitat.

An incidental take statement for select ESA species was included in the biological opinion, and reasonable and prudent measures to minimize the impact of the incidental takes were specified, along with terms and conditions to implement them.

The actions contained in this amendment are not anticipated to modify the operation of the Puerto Rico, St. Thomas and St. John, or St. Croix fisheries in a manner that would cause effects to ESA-listed species or critical habitat that were not considered in the 2020 biological opinion.

3.3 Description of the Deep-water Reef Fish Component of the Puerto Rico, St. Thomas and St. John, and St. Croix Fisheries

Each of the island-based FMPs contain a comprehensive description of the fisheries and sectors occurring within the respective EEZ and are incorporated in here by reference. Information from SEDAR 26, the original Reef Fish FMP and Amendment 2 was also used to draft this section. This section describes the deep-water reef fish component on each island, with a focus on commercial fishing for deep-water reef fish that are conducted with buoy gear.

3.3.1 Deep-water Reef Fish Management

Deep-water reef fish species were incorporated into the Reef Fish FMP in 1993 (formerly known as the FMP for the Shallow-water Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands (USVI); Federal Register, Vol. 50, No. 167: 34850-34855). The Lutjanidae species incorporated included: queen snapper (*Etelis oculatus*), silk snapper (*Lutjanus vivanus*), black snapper (*Apsilus dentatus*), blackfin snapper (*L. buccanella*), wenchman (*Pristipomoides aquilonaris*) and vermilion snapper (*Rhomboplites aurorubens*). Others species such as deep-water groupers, jack, and tilefish were incorporated into the plan as well.

These deep-water species were incorporated into the FMP because of the decline in landings in general, and in the deep-water snapper aggregate specifically, from 1979 to 1990 (from 340 to 80 metric tons) (CFMC 1993). The primary objective for their inclusion was for the Council to take regulatory action if needed since at the time of the amendment the deep-water snapper fishery was “of less importance than the shallow water fishery in terms of effort and landings.” The

species of concern at the time was the silk snapper, which was one of the most economically valuable species commercially landed (CFMC 1993).

Reef fish (including deep-water snappers and other deep-water reef fish) in federal waters are managed with annual catch limits (ACL) for Puerto Rico commercial and recreational sectors and for all harvest in St. Croix and in St. Thomas and St. John (Table 3.3.1), with an aggregate bag limit for recreational harvest, seasonal closure for certain species (Tables 3.3.2 and 3.3.3), and indirectly with area closures that protect spawning populations for some of the species and the habitat that supports those aggregations. Queen and cardinal snappers, two of the most important species in the deep-water reef fish component, have no additional harvest restrictions in federal waters, but are managed with a limited access entry permit that includes a quota and a limit on the number of trips per year in Puerto Rico state waters (see Section 3.3.2.1 below). The commercial ACL set under the Reef Fish FMP for queen and cardinal snapper in Puerto Rico (Snapper Unit 2) was exceeded in 2013 and in 2016. As a result, the commercial season for these species was closed from September 21, 2013 through December 31, 2013 and from November 26, 2016 through December 31, 2016 in federal waters off Puerto Rico.

Table 3.3.1. Annual catch limits applicable to the deep-water reef fish component. Values are in pounds whole weight.

Stock/Stock Complex	Puerto Rico FMP		St. Croix FMP	St. Thomas/ St. John FMP
	Commercial ACL	Recreational ACL	Total ACL	Total ACL
Snapper 1 (black, blackfin, silk, vermilion, wenchman*)	424,009	111,943	61,455	20,090
Snapper 2 (queen, cardinal**)	257,236	24,974	7,911	568
PR Grouper 4 (black, red, tiger, yellowfin, yellowmouth)	2,492	5,867	N/A	N/A
PR Grouper 5 (misty, yellowedge)	15,327	4,225	N/A	N/A
STX Grouper 5 (black, red, tiger, yellowfin)	N/A	N/A	701	N/A
STX Grouper 6 (misty)	N/A	N/A	77	N/A
STT/STJ Grouper 4 (black, red, tiger, yellowfin)	N/A	N/A	N/A	2,254
STT/STJ Grouper 5 (yellowmouth, yellowedge, misty)	N/A	N/A	N/A	390

* Wenchman is not managed in federal waters around St. Croix and St. Thomas/St. John.

** Cardinal snapper is not managed in federal waters around St. Croix or St. Thomas/St. John.

Table 3.3.2. Seasonal closures for snapper species in federal and state waters of Puerto Rico and the USVI.

Silk, Black, Blackfin, Vermilion, Wenchman* Snappers	Closed Season	Open Season
Puerto Rico, St. Croix, St. Thomas and St. John EEZ	Oct 1 – Dec 31	Jan 1 – Sep 30
Puerto Rico state waters (only applies to silk and blackfin)	Oct 1 – Dec 31	Jan 1 – Sep 30
USVI state waters (only applies to STT and STJ)	Oct 1 – Dec 31	Jan 1 – Sep 30

* Wenchman is not managed in federal waters around St. Croix and St. Thomas/St. John.

Table 3.3.3. Seasonal closures for grouper species in federal and state waters of Puerto Rico and the USVI.

Species and Description	Closed Season Dates	Open Season Dates
Red hind Grouper	Closed Season	Open Season
Puerto Rico EEZ (only applies to red hind fishing and possession west of 67°10' W. longitude)	Dec 1 – Last day Feb	Mar 1 – Nov 30
Puerto Rico state waters	Dec 1 –Feb 28	Mar 1 – Nov 30
USVI state waters	No closure	Open year-round
Yellowfin, Red, Tiger, Black, Yellowedge* Grouper	Closed Season	Open Season
Puerto Rico, St. Croix, St. Thomas/St. John EEZ	Feb 1 – Apr 30	May 1 – Jan 31
Puerto Rico state waters (only applies to yellowfin)	Feb 1 – Apr 30	May 1 – Jan 31
USVI state waters	Feb 1 – Apr 30	May 1 – Jan 31

*Yellowedge grouper is not managed in federal waters around St. Croix.

The commercial deep-water snapper and grouper reef fish component is artisanal and relatively small scale; however, it represents the largest finfish resource in terms of weight of landings and estimated dollar values in the U.S. Caribbean EEZ (Tonioli and Agar 2011; Schärer et al. 2019). The deep-water fishery component ranges from the outer reaches of the shallow-water component (e.g., 40 fathoms) seaward to depths up to about 300 fathoms. Targeted fishes inhabiting the deep-water reef areas and slopes characterized by rocks, ledges, and corals generally are prosecuted with heavy-duty traps and by electrically powered reels; bottom longlines are deployed to a limited extent (CFMC 1993). Non-targeted species are commonly caught incidentally while targeting deep-water snappers and groupers with those gear types. The

following sections characterize the vertical bottom line component of each of the Puerto Rico, St. Thomas and St. John, and St. Croix fisheries targeting deep-water snappers and groupers.

3.3.2 Description of the Deep-water Reef Fish Component of the Puerto Rico, St. Thomas and St. John, and St. Croix Fisheries Harvested with Vertical Bottom line/Buoy Gear

Deep-water reef fish, particularly deep-water snappers and groupers targeted by small-scale commercial fishermen, are typically harvested with hook-and-line gear. The type of hook-and-line gear used is known as vertical bottom line or “*cala*” in Puerto Rico and deep-drop gear in the USVI, and includes buoy gear. Hook-and-line configurations and fishing methods used to harvest deep-water snappers and groupers vary in terms of equipment and materials used, hook type, size, and number, number of lines used, types of bait, soaking time, and fishing grounds. *Calas* or vertical bottom line gear can be attached to the boat until retrieved with an electrical reel or used in a buoy gear configuration, which is typically used by more experienced fishermen targeting deep-water snappers and groupers in Puerto Rico and to a less extent in the USVI, and is not attached to the boat until the lines are ready to be retrieved with an electrical reel. The vertical bottom line buoy gear configuration is known as “*cala con boya*” in Puerto Rico and as “deep-drop buoy gear” in the USVI and is used to fish principally for cardinal and queen snapper (species in Snapper 2 stock complex in Puerto Rico and only queen snapper in St. Thomas and St. John and in St. Croix) up to 1500 ft (457 m; 250 fathoms) and to a lesser degree for species in the Snapper 1 stock complex in Puerto Rico (i.e., silk, black, blackfin, vermilion, and wenchman) and for species in the Snapper 1 stock complex in St. Thomas and St. John and in St. Croix (i.e., silk, black, blackfin, vermilion) starting from 400 ft (122 m; 67 fathoms). The following sub-sections describe the vertical bottom line/buoy gear component in each of the Puerto Rico, St. Thomas and St. John, and St. Croix fisheries.

3.3.2.1 Puerto Rico

A. Characteristics of the Deep-water Vertical Bottom line Gear used in Puerto Rico

Fishing with vertical bottom lines (locally known as “*calas*”) is one of the most popular methods of hook-and-line fishing used to fish in Puerto Rico (Agar and Shivilani 2016).

In 1989, Matos-Caraballo and Torres-Rosado (1989) define the “*cala*” as a bottom line with one or more hooks anchored with approximately 1 to 8 pounds of lead and fished at depths ranging from 50-150 fathoms (300-900 feet). The hooks may either be hung paired from one or more hard frames of galvanized wire (*ballestilla* is a horizontal bottom line: Christmas tree and *fuate* are different styles of vertical bottom lines).

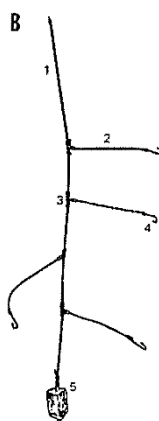


Figure 3.3.1. Depiction of a vertical line (cala).

(Source: Matos-Caraballo and Torres-Rosado 1989)

Cala (or fueite) is the common vertical bottom line configuration along the west coast (Figure 3.3.1). In a 2014 survey, Agar and Shivilani (2016) reported that on average surveyed fishermen fished two vertical bottom lines per trip (1-5 range, 2 median). They reported that the average vertical bottom line was 1,800 feet long (549 m; 300 fathom) (range reported was 200-9,000 ft; 1,800 ft median) and had 18 hooks (range of hooks reported was 5-80, 12 median, 30 mode). For example, the report mentions that west coast fishermen tend to use between one and three vertical bottom lines that are 1,800 feet long with a 200 pounds, 18 braided line, and that the line has on average 25 circle hooks with range in size from 9/0 to 12/0. Agar and Shivilani's (2016) survey showed that the average commercial fishing vessel with vertical bottom line gear made three trips per week. Surveyed fishermen reported that fishing trips averaged about 15 hours; although some said they fished up to 120 hours over a multi-day trip.⁶

More recently, public testimony at Council meetings and through personal communication between NMFS staff with Puerto Rico fishermen indicate that in Puerto Rico (federal and state waters), when using the buoy gear vertical bottom line configuration approximately 20-25 hooks are used per line because fishing is only conducted for a few hours and they have to fight with the currents and varying water conditions. Fishermen have indicated that it is not practical or cost effective to use more hooks with this gear type because of the risk of losing gear due to the depths fished and currents. Fishermen previously used more hooks but found that using an average of 25 hooks per line is ideal, especially to optimize battery life of the electric reels that would retrieve the gear and bait used. (N. Crespo, west coast deep-water fisherman, pers.

⁶ The median trip was 11 hours long.

communication, February 2021). The number of hooks preferred to be used by a fisherman, in addition of the depth fished (depth depends on the species targeted), also depends on the area fished, the strength of the currents, past experiences with the loss of lines/catch, fisherman's experience, among other factors. Because the use of buoy gear to harvest the deep-water reef fish component of the Puerto Rico fishery is guided by bottom currents, weather patterns, and moon phases, deep-water snappers and groupers are not caught year-round (strong currents and weather events immensely affect the pursue of this fishery). The Council has identified a need to conduct an inventory of gear types for Puerto Rico fisheries that provide more recent information of gear types and methods in general.

B. Species Targeted with Deep-water Vertical Bottom line Gear/Buoy Gear (Cala/Cala con boya) and Habitats and Depths Fished

Fishermen in Puerto Rico federal and state waters target multiple species of fish and shellfish, including reef fish (especially snappers and groupers), coastal pelagics, deep-water pelagics, lobster, and conch. Finfish, historically the preferred food of local residents, constitutes the majority of the catch and value. Shallow water reef fish are the most important category of targeted commercial fish, followed by deep-water snappers and spiny lobster, but target species vary by coastal region (Puerto Rico FMP 2019a).

Snappers and groupers are found in coastal and deep-water reefs and are among the most targeted fishes. In 2016, snappers comprised 49% of the total reported landings of finfish and 65% of the value of finfish. Silk snapper (*Lutjanus vivanus*) comprised 32% of the snapper landings and 39% of the value, followed by snappers in the other category (unclassified) with 28% of the snapper landings and 33% of the value, yellowtail snapper (*Ocyurus chrysurus*) with 22% of snapper landings and 16% of the value, lane snapper (*Lutjanus synagris*), with 14% of snapper landings and 9% of the value, and mutton snapper (*Lutjanus analis*), with 4% of snapper landings and 3% of the value (NMFS 2017). The same year, groupers represented only 4.7% of the total landings of finfish and 4% of the value of finfish (NMFS 2017). Queen and silk snapper alone accounted for 86% of the vertical bottom line revenues in 2014 (NMFS 2016 in Agar and Shivlani 2016).

Among all gear types, silk and queen snapper are two of the most landed deep-water species from 2012 to 2019, with a total of 1,588,074 and 1,041,323 adjusted pounds, whole weight, respectively (Table 3.3.4). Fishing occurs mainly over muddy bottoms and rocky benthic habitat (or hard) at water depths that range from 250 to 3,000 feet. Fishermen target deep-water snappers in shelf breaks and the edge of insular platforms, and along the seamount chains. Along the west coast of Puerto Rico, the majority of the vessels fishing with vertical bottom lines targeting queen and cardinal snapper (Snapper 2 stock complex) in deeper waters (800-1,400 ft)

tend to drift fish (*galoneando*) whereas those that target species such as silk, black, blackfin, vermilion, and wenchman (Puerto Rico Snapper 1 stock complex) tend to fish while anchored because these species are found in shallower waters (600 ft; 183 m; 100 fathoms) (E. Font, west coast deep-water snapper fisherman, testimony at Council meeting, August 2020; N. Crespo, west coast deep-water snapper fisherman, pers. com, February 2021). In addition to snappers, which are the principal target in this fishery, misty and snowy groupers, glass eye snappers, longfinned bullseye, and yellowmouth grouper are also incidentally captured with this gear, as well as some sharks. The most popular baits used by vertical bottom line fishermen are squid, sardines or herrings, ballyhoo, and miscellaneous tunas (blackfin, skipjack and little tunny) (Shivlani and Agar 2016), as well as ladyfish, Atlantic thread herring, and bonefish (M. Scharer-Umpierre, pers. communication, December 2021).

Table 3.3.4. Adjusted pounds (whole weight) of some deep-water snapper-grouper species landed in Puerto Rico each year (all gear types).

Year	Misty grouper	Yellowedge grouper	Black snapper	Blackfin snapper	Cardinal snapper	Queen snapper	Silk snapper	Vermilion snapper
2012	4,208	394	7,149	5,338	17,842	166,779	180,390	11,222
2013	3,829	303	6,691	6,270	11,502	97,030	118,084	7,266
2014	4,570	587	4,341	7,930	17,035	157,443	191,095	12,269
2015	5,505	547	2,893	6,302	16,701	164,037	180,525	14,104
2016	3,450	940	8,274	9,830	9,340	115,088	211,793	13,386
2017	4,176	1,206	4,601	8,201	8,926	86,195	200,848	11,561
2018	3,793	777	5,134	10,647	9,911	102,303	194,172	13,220
2019	7,122	1,031	4,454	10,264	12,703	152,448	311,167	14,403
Total	36,654	5,785	43,537	64,781	103,959	1,041,323	1,588,074	97,432

C. Commercial Fishermen Participating in the Deep-water Vertical Bottom line/Buoy Gear Component of the Reef Fish Fishery

Approximately 60 commercial fishermen currently possess the Deep-water Snapper Special Permit (See sub-section 3.3.2.3 below) from the Puerto Rico Department of Natural and Environmental Resources (DNER) to fish for queen and cardinal snappers in Puerto Rico state waters. This limited access permit was established in 2013. There is no similar permit in federal waters. Permit holders use vertical bottom line (*cala*) and/or the buoy gear configuration (*cala con boya*) to fish for cardinal and queen snappers in both state and federal waters. Fishing with these gear types also occurs in federal waters by non-permitted commercial fishermen. In 2019, 354 fishermen reported using bottom line gear. Of those, 137 (39%) were from the North coast,

46 (13%) were from the East coast, 55 (16%) were from the South coast, and 156 (44%) were from the West coast (8 fishermen (2%) were reported as Inland) (Source: SERO 2021).

The deep-water buoy gear configuration is a very specialized and highly species-specific gear type (E. Font, west coast deep-water snapper fisherman, testimony at Council meeting, August 2020; N. Crespo, west coast deep-water fisherman, pers. communication, February 2021) and it is mostly used by commercial fishermen usually in the deeper reefs. In addition to queen and cardinal snapper, the buoy gear configuration may also be used by commercial fishermen to harvest mid-depth reef species in the Snapper 1 stock complex (silk, black, blackfin, vermilion, wenchman) in both federal and state waters, although not exclusively, as they also use other types of hook-and-line (*cala*, handline) and to a lesser extent, traps (See Table 3.3.6 in Sub-section D below). Some furtive fishing may also occur of species in the Snapper 2 stock complex and Snapper 1 stock complex (e.g., harvest of queen and cardinal in state waters by non-permitted fishermen; harvest of any species by non-licensed fishermen). The number of commercial fishermen currently using deep-water vertical bottom line (*cala*) to fish for deep-water snappers and groupers is estimated to be around 200 (DNER staff, pers. communication, February 2021). Within this estimate, an unknown number of fishermen use the buoy gear configuration (*cala con boya*) of deep-water vertical bottom line, which is the subject of this amendment. Information on the actual number of fishermen using buoy gear is not collected.

The number of fishermen fishing in deep waters has also experienced fluctuations throughout the years. For example, a drop in number in 1996 and 2002 to 2008 could be attributed to higher fuel costs and tighter fishing regulations such as minimum size limits and closed seasons (Matos-Caraballo and Agar 2011). However, higher prices received for deep-water species has increased the number of fishermen participating in the deep-water snapper fishery (Matos-Caraballo and Agar 2011a). Table 3.3.5 shows the number of fishermen that reported landings of deep-water snapper and grouper species from 2012 through 2019. Fishermen consistently reported landing silk and queen snapper more than other species in the deep-water category.

Table 3.3.5. Number of commercial fishermen in Puerto Rico that landed deep-water species each year (all gear types) in all Puerto Rico waters.

Year	Misty grouper	Yellowedge grouper	Black snapper	Blackfin snapper	Cardinal snapper	Queen snapper	Silk snapper	Vermilion snapper
2012	36	6	59	51	75	146	259	74
2013	44	9	58	66	79	152	267	76
2014	47	13	65	77	75	134	300	103
2015	46	10	58	73	79	130	276	99
2016	34	14	61	83	44	82	269	88

Year	Misty grouper	Yellowedge grouper	Black snapper	Blackfin snapper	Cardinal snapper	Queen snapper	Silk snapper	Vermilion snapper
2017	40	19	60	74	62	103	264	84
2018	38	15	59	69	69	115	249	78
2019	42	13	61	71	89	145	333	95

D. Fishing Areas

The Puerto Rico FMP provides an in-depth description of the fishing areas fished in each of the Puerto Rico coasts. This information is incorporated by reference and summarized below. West coast commercial fishermen historically account for the largest number of annual fishing trips, from 45 percent in 2010 to 47 percent in 2011 of all trips off Puerto Rico. The west coast also accounts for the largest share of historical annual landings. From 1988 to 2016, the west coast represented approximately 39 percent of all landings by weight. The south coast ranked second with 28 percent of all landings, followed by the east coast with 20 percent and last the north coast with 14%.

West Coast - Puerto Rico’s west coast has an insular shelf area that is greater than the shelf areas of the north and south coasts (Collazo and Calderón 1987, 1988), and has the largest fishing zone in the territory with over 30 fishing areas (Griffith et al. 2002). The commercial fisheries along Puerto Rico’s west coast are the most productive and technologically advanced, and tend to generate from 30-50% of Puerto Rico’s annual landings by weight.

Most of the vertical bottom line (“*cala*”) fleet activity fishing for deep-water snapper-grouper takes place off the coast of Rincón (western Puerto Rico) (or is landed in Rincón) and Cabo Rojo (southwestern Puerto Rico) (Agar and Shivilani 2016; Keithly et al. 2013). Approximately 40-60 small-scale fishermen fish for these resources using hook-and-line gear, and traps, to a lesser extent. Species targeted are mostly silk snapper and queen snapper (Keithly et al. 2013). A small number of west coast fishermen target queen and cardinal snapper (Snapper 2 stock complex) in patchy, deep-water habitats influenced by dynamic oceanographic conditions. As a result, only a dedicated cohort of commercial fishermen maintains long-term participation and consistent success fishing for these deep-water stocks. Participant fishermen from Puerto Rico have been identified based on past licensing and landings data, and have been permitted by Puerto Rico’s DNER to exclusively harvest queen and cardinal snapper from Puerto Rico’s state waters (CFMC 2015). More information about this special permitting can be found in Section 3.4.2.3 below.

South Coast - The south coast, from Lajas to Guayama, is characterized by varied habitats from reefs to deep-water habitats that are fished for snappers, groupers, cero and king mackerels, tunas, barracuda, and billfishes (McClane 1974). Features that make the south coast more suitable for fishing operations include a larger insular shelf area, a somewhat less abrupt drop-off, the presence of a number of cays and sandy beaches that make the use of beach seines possible, and less exposure to storms, which is more conducive for the use of fish traps and pot. Most harvested reef fish species are yellowtail, mutton and lane snappers, porgy, parrotfish, hogfish and grunts. Deep-water species are also harvested (e.g., silk snapper) as well as pelagics such as dolphinfish and king mackerel, and baitfish such as ballyhoo and herring, with octopus also being very important. In La Parguera, historically a small fishing village in Lajas, Valdés-Pizzini and Schärer-Umpierre (2014) identified habitats and associated species recognized and fished by fishermen. Sea grasses and bedrock pavement with some hard and soft coral are fished for lobster, conch, yellowtail snappers, mutton snappers, grunts, and hogfish; coral reefs for snappers, lane snapper, red hind grouper, trunkfish, grunts, hogfish, parrotfish and octopus. The shelf drop-off is fished for dolphinfish, mackerels, groupers, deep-water snappers, yellowtail snapper, red hind grouper, blue runners, and jacks (Valdés-Pizzini and Schärer-Umpierre 2014).

North Coast - Matos-Caraballo and Agar (2008) discuss that because of the limited shelf, fishermen in the north coast fish in different locations, favoring the continental shelf (90%), the shelf break (84%), shore (67%), and, in deep waters (46%). In addition, because of the coastal topography offers little protection against heavy swells and rough seas, north coast fishermen favor the use of hook-and-lines, followed by net gear to a lesser extent, while SCUBA and traps are not that favored (Matos-Caraballo and Agar 2011a). In the north coast, reef fish are the most landed species, being yellowtail snapper, triggerfish, and parrotfish the most targeted, followed by deep-water snappers (silk and queen), pelagic species such as dolphinfish, king mackerel, and little tunny and target baitfish (herring, mullets, mojarras) (Matos-Caraballo and Agar 2011a).

East Coast - The east coast has the largest insular shelf size, and it represents 46% of Puerto Rico's insular shelf (Collazo and Calderón 1987, 1988). Depths of the waters along the east coast are less than 240 ft (73 m) throughout, which partially explains why the large majority of east coast commercial fishermen fish on the insular shelf: 94% in 2002 and 93% in 2008. The east coast features productive fishing grounds between Fajardo and Ceiba and the islands of Culebra and Vieques, where coral reef and deep-water habitats yield snappers, groupers, pelagic fish, lobster, and conch (Griffith et al. 2007), as well as wahoo and blue marlin (McClane 1974). This area also has a number of banks, islets, and cays (Jarvis 1932 in Matos-Caraballo and Agar 2011a). Because of the shallow shelf, fishermen can harvest multiple species with different gear types such as lines, traps, and SCUBA (Matos-Caraballo and Agar 2008). The most targeted species are the reef fish yellowtail, lane, and mutton snappers, hogfish, porgies, white grunt, and

parrotfish (Matos-Caraballo and Agar 2011a). Deepwater snappers are also among the most targeted species, followed by coastal pelagics, spiny lobster, queen conch, and baitfish (Matos-Caraballo and Agar 2008).

Table 3.3.6 lists the percentage of landings for the deep-water snapper species cardinal, queen, silk, and blackfin snappers in Puerto Rico for select gear types, distinguishing between landings from more than 9 nautical miles (nm) from shore (i.e., Puerto Rico EEZ), less than 9 nm from shore (i.e., state waters), or unknown, which means no information was provided for harvest location (from all coasts combined). Deep-water buoy gear landings are included under the bottom line category. It is important to note that in Table 3.3.6. and associated text, some of the landings from waters surrounding offshore Puerto Rico islands such as Desecheo, Mona, and Caja de Muertos, which belong to Puerto Rico's jurisdiction, may be included under the landings that take place more than 9 nm from shore (i.e., EEZ).

Table 3.3.6. Percent of deep-water species landings by weight in Puerto Rico for select gear types reported per distance from shore (i.e., state waters, federal waters, and unknown).

Year	Species	BOTTOM LINE			HAND LINE			LONG LINE			ROD AND REEL			FISH POT		
		State Waters	Federal Waters	Unk	State Waters	Federal Waters	Unk	State Waters	Federal Waters	Unk	State Waters	Federal Waters	Unk	State Waters	Federal Waters	Unk
2012	Snapper,cardinal	25%	27%	48%	34%	9%	57%	90%	0%	10%	n/a	n/a	n/a	54%	0%	46%
2012	Snapper,queen	10%	48%	42%	2%	4%	94%	33%	0%	67%	n/a	n/a	n/a	89%	0%	11%
2012	Snapper,blackfin	7%	28%	66%	12%	0%	88%	0%	100%	0%	n/a	n/a	n/a	24%	20%	56%
2012	Snapper,silk	14%	29%	57%	8%	10%	82%	11%	6%	83%	n/a	n/a	n/a	22%	11%	67%
2013	Snapper,cardinal	56%	17%	28%	53%	0%	47%	73%	27%	0%	100%	0%	0%	100%	0%	0%
2013	Snapper,queen	30%	33%	37%	57%	0%	43%	74%	24%	2%	65%	0%	35%	100%	0%	0%
2013	Snapper,blackfin	34%	38%	28%	72%	22%	7%	n/a	n/a	n/a	35%	0%	65%	77%	10%	13%
2013	Snapper,silk	40%	23%	37%	62%	3%	36%	78%	20%	2%	26%	8%	66%	83%	2%	14%
2014	Snapper,cardinal	53%	36%	11%	87%	0%	13%	100%	0%	0%	100%	0%	0%	0%	0%	100%
2014	Snapper,queen	19%	60%	21%	62%	31%	7%	79%	13%	8%	62%	0%	38%	64%	36%	0%
2014	Snapper,blackfin	44%	44%	12%	82%	0%	18%	100%	0%	0%	71%	0%	29%	21%	65%	14%
2014	Snapper,silk	47%	35%	19%	30%	8%	62%	78%	11%	11%	43%	9%	48%	81%	7%	12%
2015	Snapper,cardinal	38%	45%	17%	60%	39%	1%	100%	0%	0%	90%	10%	0%	67%	0%	33%
2015	Snapper,queen	23%	53%	24%	29%	64%	7%	98%	0%	2%	20%	80%	0%	100%	0%	0%
2015	Snapper,blackfin	39%	52%	10%	55%	33%	12%	100%	0%	0%	50%	50%	0%	65%	29%	5%
2015	Snapper,silk	39%	35%	26%	47%	25%	28%	91%	1%	7%	79%	18%	3%	86%	6%	8%
2016	Snapper,cardinal	55%	40%	5%	100%	0%	0%	83%	17%	0%	n/a	n/a	n/a	n/a	n/a	n/a
2016	Snapper,queen	40%	52%	8%	84%	6%	10%	84%	16%	0%	100%	0%	0%	56%	44%	0%
2016	Snapper,blackfin	49%	47%	4%	90%	7%	3%	n/a	n/a	n/a	48%	0%	52%	79%	18%	3%
2016	Snapper,silk	50%	44%	7%	62%	14%	24%	97%	3%	0%	71%	19%	9%	86%	9%	5%
2017	Snapper,cardinal	63%	36%	1%	73%	27%	0%	n/a	n/a	n/a	30%	43%	27%	41%	0%	59%
2017	Snapper,queen	51%	48%	2%	52%	37%	11%	57%	43%	0%	56%	31%	12%	100%	0%	0%
2017	Snapper,blackfin	50%	45%	5%	90%	10%	0%	n/a	n/a	n/a	100%	0%	0%	100%	0%	0%
2017	Snapper,silk	61%	37%	2%	80%	7%	13%	68%	21%	11%	80%	19%	1%	98%	0%	2%

Year	Species	BOTTOM LINE			HAND LINE			LONG LINE			ROD AND REEL			FISH POT		
		State Waters	Federal Waters	Unk	State Waters	Federal Waters	Unk	State Waters	Federal Waters	Unk	State Waters	Federal Waters	Unk	State Waters	Federal Waters	Unk
2018	Snapper,cardinal	56%	43%	1%	61%	36%	3%	100%	0%	0%	12%	73%	15%	100%	0%	0%
2018	Snapper,queen	39%	58%	3%	71%	28%	1%	100%	0%	0%	55%	9%	36%	100%	0%	0%
2018	Snapper,blackfin	62%	37%	1%	46%	51%	3%	100%	0%	0%	100%	0%	0%	100%	0%	0%
2018	Snapper,silk	57%	40%	3%	77%	22%	1%	94%	2%	4%	95%	3%	2%	95%	4%	1%
2019	Snapper,cardinal	40%	56%	4%	95%	5%	0%	100%	0%	0%	n/a	n/a	n/a	0%	0%	100%
2019	Snapper,queen	36%	61%	2%	78%	19%	3%	86%	0%	14%	66%	15%	18%	61%	0%	39%
2019	Snapper,blackfin	50%	49%	1%	49%	51%	0%	n/a	n/a	n/a	n/a	n/a	n/a	100%	0%	0%
2019	Snapper,silk	51%	46%	2%	79%	16%	5%	67%	8%	25%	77%	12%	11%	92%	3%	5%

3.3.2.2 U.S. Virgin Islands

A. Characteristics of the Multi-hook Vertical Setlines/Deep-water Buoy Gear used in the USVI

Multi-hook vertical setlines are used in the USVI, especially by St. Croix fishermen to catch deep-water snapper and grouper along the insular shelf (Kojis et al. 2004). The gear type consists of a line that varies between 600 to 1,500 feet in length depending on the species fished, where each line is weighted with lead and has 25-30 hooks usually baited with squid. Circle hooks are commonly used to minimize the hooks catching on the bottom (Kojis et al. 2004). The buoy gear component of the USVI vertical setline used to fish for deep-water reef fish is known as deep-drop buoy gear. Olsen et al. (1974) provides a description of the vertical setline/deep drop buoy gear fishery, where multiple lines are often set from a boat using downriggers or buoyed and released. The gear is usually used while drift fishing because of the depth of the water and lines are pulled and redeployed one after another on a cycle. USVI fishermen fish in short sets to minimize destruction of gear and loss of catch by sharks (Olsen et al. 1974), which is similar to the gear use by Puerto Rican fishermen. Several float lines may be set to fish a larger area until fish are located. Once fish are located, the fisherman can concentrate on fishing several lines from the vessel. Chemical light sticks or battery-operated lights may be attached above the hooks as an attractor. Another version of the vertical setline is the use of 1" PVC pipe as a "tree" rig. Holes are drilled in the PVC pipe to accommodate hook leaders branching off the PVC pipe. The pipe is weighted at the bottom and buoyed with a small pressure float to keep the gear vertical in the water on the bottom. Vertical setlines may be fished from a boat and hauled to the surface with mechanical, hand crank reels or electric reels, or with hydraulic reels. During retrieval, the buoys can be unsnapped from the mainline and the line attached to the reel and reeled in (Olsen et al. 1974). Section 3.5.2.1 discusses specific information about the vertical setlines in the USVI.

Public testimony by USVI fishermen at Council meetings provided information about buoy gear fishing in both St. Croix and St. Thomas and St. John (CFMC 174th Meeting, July 2021). In St. Croix, the buoy gear is not used year around, only when weather permits. Fishing activities also depend on lunar cycles. In St. Croix, the gear is used from 400 ft to 1,200 ft depth to fish principally for deep-water snappers and occasionally groupers. Gear configuration is similar to the buoy gear defined in federal regulations except for the number of hooks used. The number of hooks used vary between 18-25 hooks per line (E. Schuster, St. Croix District Advisory Panel [DAP] Chair, 174th CFMC Meeting, July 2021). Distance from terminal end to hook is approximately 2 ft to avoid getting the hook snagged on rock or rubble bottom (C. Farchette, pers. communication February 2021). The number of buoys used varies between 1-4 and the number used depends on fish activity and avoidance of predators such as sharks. Some

fishermen use light for fishing at deep-water areas. A typical fishing trip can be from 8 to 12 hours. Species used as bait include squid, small skipjack, and little tunny. Fish harvested are usually sold fresh and have high demand. The deep-drop buoy gear in St. Croix can be described as a “self-regulated fishery,” in that it is very expensive to pursue and requires experience (E. Schuster, St. Croix DAP Chair, 174th CFMC Meeting, 2021).

The deep-drop buoy gear fishery in St. Thomas and St. John is smaller than in St. Croix, likely due to the distance that fishermen need to travel to access deep-water snapper fishing grounds in the north and south of St. Thomas (i.e., 20 miles to the north drop, 10 miles to the south drop) (J. Magras, St. Thomas and St. John DAP Chair, CFMC 174th Meeting, July 2021). Fishing is conducted by a few fishermen when weather is calm to fish for deep-water snappers and groupers principally from 250 to 350 feet deep. The number of hooks used can be up to 20 per line, but 10 hooks is the most common number used. Four sets of buoys are usually deployed. The fish harvested with this gear type is sold fresh, as there is high demand for the small quantities sold (J. Magras, St. Thomas and St. John DAP Chair, 174th CFMC Meeting, July 2021).

B. Species Targeted with Deep-water Buoy Gear, and Habitats and Depths fished

Commercial fishermen in St. Croix target a wide variety of species, usually depending on which fish or shellfish are easier to sell or generate the greatest amount of revenue. Reef fish (all gear types) are targeted by more than 80% of the fishermen, which includes several species in the grouper, snapper, triggerfish, parrotfish, grunt, wrasse, surgeonfish, and squirrelfish families (Kojis et al. 2017). Close to half of the fishermen surveyed by Kojis et al. (2017) also reported that they target spiny lobster and coastal pelagic species such as jacks and mackerels (all gear types). Fishermen also reported targeting dolphinfish, wahoo, and deep-water snappers (all gear types) (CFMC 2019b, 2019c). Commercial fishermen in St. Croix target blackfin, silk, black, queen, and cardinal snappers, with some groupers and sharks as incidental catch (CFMC 174th Meeting, 2021).

Species harvested with buoy gear in St. Thomas and St. John federal or state waters include silk snapper, blackfin snapper, misty grouper, wenchman, queen snapper, and other non-specified species.

C. Commercial Fishermen Participating in the USVI Deep-water Buoy Gear Component of the Reef Fish Fishery

In a census of USVI commercial fishermen, Kojis et al. (2017) noted that more fishermen on St. Croix than on St. Thomas and St. John owned multi-hook gear. The species caught with this

gear, deep-water snappers and groupers, are much more commonly fished on St. Croix than on St. Thomas and St. John. In the 2004 commercial fishermen census, only one fisher from St. Thomas and St. John reported owning this gear while 45 St. Croix fishermen owned the gear (Kojis 2004). Kojis et al. (2017) further adds that in 2010, 2011, and 2016, three fishermen in St. Thomas and St. John, while in St. Croix 26 fishermen reported owning this gear in 2010-11 and 42 in 2016. Recent information provided at the 174th Council meeting discuss that in actuality the number of fishermen using buoy gear in St. Croix is approximately 12, while in St. Thomas, the deep-drop buoy gear fishery is very small, with 2-4 fishermen currently pursuing this fishery. This range of fishermen is also within the range of fishermen reporting deep-water snappers in commercial landings data for the USVI.

D. Fishing Areas

The St. Thomas and St. John FMP and the St. Croix FMP provide an in-depth description of the fishing areas pursued in the respective islands coasts. In addition, the USVI commercial fisher census from 2016 (Kojis et al. 2017) provides more details, which are summarized below in addition to more recent information.

The 2017 commercial fishermen survey (Kojis et al. 2017) discuss that most fishing in USVI occurred in territorial waters (<3 nm from shore) followed by fishing in both territorial and federal waters (>3 nm to 200 nm from shore), and that 10.2% of the fishermen surveyed fished exclusively in federal waters. The number and percentage of fishermen that fish primarily in territorial waters of St. Croix is more than in St. Thomas and St. John. The authors note that this may be attributed to the narrower St. Croix shelf, excluding part of Lang Bank to the west, which lies in territorial waters. Kojis et al. (2017) further discuss that the shelf edge drops off precipitously to depths of >1,000 ft. and that Lang Bank's more hazardous sea condition, often deter fishermen fishing in small boats from accessing the bank, particularly deeper areas that are in federal waters. In contrast, because the shelf on St. Thomas and St. John is wider, primary fishing grounds lie in federal waters (Kojis et al. 2017). Fishermen fishing with vertical setline in St. Croix tend to target areas to the south of and along Lang Bank. While those that fish with vertical setline in St. Thomas and St. John fish in the north and south drops.

3.3.2.3 Licenses, Permits and Fees for the Harvest of Reef Fish (including deep-water reef fish)

Fishing vessel permits are not required to commercially harvest any Council-managed species in federal waters of the U.S. Caribbean (CFMC 2013c). In addition, there are no federal licenses or permits required for the recreational harvest of reef fish, queen conch, spiny lobster, or aquarium trade species in the EEZ of the U.S. Caribbean. Efforts are underway to evaluate the

development of a federal permit system in federal waters. In addition, there are Highly Migratory Species (HMS) permit requirements that apply to the commercial and the recreational sectors fishing in the U.S. Caribbean EEZ. In Puerto Rico Commonwealth waters, a commercial fishing license is required for all commercial fishermen including for full-time resident and non-resident fishermen, part-time fishermen, beginners fishermen, ornamental fisheries, and owners of rental boats including party/headboat and charter boats. As an obligation of the harvest permit, commercial fishermen are required to submit monthly catch reports to the Puerto Rico DNER. Additional commercial permits are required for the harvest of spiny lobster, queen conch, common land crab, incidental catch, and sirajo goby (i.e., ceti) fisheries.

Limited Entry Program for the Harvest of Deep-Water Snappers in Puerto Rico Commonwealth Waters

Puerto Rico's DNER Administrative Order 2013-11 (DNER 2013) was implemented in August 14, 2013 to regulate the harvest of queen snapper (*Etelis oculatus*, in Spanish, "cartucho") and the cardinal snapper (*Pristipomoides macrophthalmus*, in Spanish, muniama de afuera) (Snapper 2 stock complex) and to grant special permission to those commercial fishermen dedicated to the capture of these species, while closing harvest to these resources to the rest of the commercial and recreational fishermen. This special permit was implemented to manage the number of fishermen accessing the Snapper 2 stock complex and to thereby reduce the likelihood of overfishing the resource. The special permits were awarded to commercial fishermen that had a full-time or part-time commercial fishing license and could show evidence, through historical landings (i.e., harvest of these two species during at least five years and reported annual captures of over 500 pounds), that they targeted these two species (CFMC 2015). The special permit limits fishing trips per fisher to a maximum of 120 trips per year for the harvest of these two species. Fishermen can only fish from vessels registered to fish commercially in Puerto Rico. As of December 2020, there were approximately 60 fishermen permitted. This has also been the approximate number of permitted fishermen in other years. Changes to the limited entry permit are being currently discussed by the DNER.

USVI Territorial Waters

The USVI requires commercial fishing licenses for (1) all commercial fishermen, (2) any person who uses a pot, trap, set-net, or haul seine, (3) any person who sells, trades, or barter any part of their catch (including charter boat operators who sell or trade their catch), and (4) commercial fishing helpers who must obtain a helper's permit to assist a licensed commercial fisher (the licensed commercial fisher must be onboard when the helper is fishing) (See DPNR 2019). USVI commercial fishermen are required to report their catch (all species) and effort for every trip (CFMC 2011a). Commercial Catch Report forms must be submitted to the Department of Planning and Natural Resources (DPNR) on a monthly basis, within two weeks after every

fishing trip or within two weeks after the close of the month if no fishing took place (DPNR 2019). Commercial fishing licenses are only issued to U.S. citizens who are permanent residents of the USVI for at least one year. On August 24, 2001, the DPNR implemented a moratorium on issuance of new commercial fishing licenses, which ended in 2021. License renewals are issued to fishermen who have held a commercial fishing license within three years of June 2001 and have complied with catch reporting requirements.

3.4 Description of the Economic Environment

3.4.1 Introduction

The 2017 hurricane season was disastrous for both the Puerto Rico and USVI economies. In a span of a few weeks in September, Hurricane Irma and Hurricane Maria devastated the island areas.

Irma was estimated to have caused \$1 billion in damages in Puerto Rico (Sullivan and Fieser 2017). Hsiang and Houser (2017) from the Climate Impact Lab estimated the impact of Hurricane Maria using an econometric model of the costs of cyclones over the past 60 years and applied it to the characteristics of Hurricane Maria and the economic conditions before the hurricane in Puerto Rico. They found that Maria could lower Puerto Rican incomes by 21% over a 15-year period - a cumulative \$180 billion in lost economic output. They concluded that it could take 26 years for Puerto Rico to return to its pre-Maria economic conditions.

The Puerto Rican consulting firm Estudios Técnicos (2017) estimated the capital loss from Hurricane Maria in the range of \$16 to \$20 billion. Damages to the island's electric and communication infrastructures were estimated to be as high as \$1.6 billion and \$567 million, respectively. Estudios Técnicos also estimated a loss of income by employees of at least \$1 billion. NOAA National Centers for Environmental Information estimated damages caused by Hurricane Maria of \$90.0 billion in Puerto Rico.⁷

The USVI economy is small and extremely vulnerable to natural disasters - windstorms, earthquakes, tsunamis - as well as external economic shocks due to the high degree of trade dependence and lack of economic diversification (USVI Bureau of Economic Research [BER] 2020). Hurricane Irma passed over St. Thomas as a Category 5 storm on September 6, 2017, with peak winds of 178 miles per hour. Two weeks later, on September 20, Hurricane Maria hit

⁷ <https://www.ncdc.noaa.gov/billions/events.pdf>

St. Croix, to the southeast, as a Category 5 storm. Damages from Irma exceeded \$2.4 billion in the USVI (USDA National Resources Conservation Service Caribbean Area).⁸

Maria damaged or destroyed 70% of the buildings on St. Croix, including schools and the island's only hospital. Public revenues, according to estimates based on USVI fiscal data, were halved after the two hurricanes (Congressional Research Service 2018/2020). The USVI government borrowed funds to cover some budget deficits, which raised concerns over levels of public debt and unfunded pension liabilities. Local policymakers proposed tax increases and austerity measures.

Descriptions of the economies of the island areas (Puerto Rico, St. Croix and St. Thomas and St. John) prior to the 2017 hurricanes are found in the Environmental Assessments for the Comprehensive Fishery Management Plans and are incorporated by reference. The remainder of this section focuses on the post-hurricane economies of the island areas.

3.4.2 Puerto Rico

The number of Puerto Ricans leaving for the mainland increased to 301,304 in 2017; however, many returned later. Net out migration in 2017 was 77,321 persons, meaning 223,983 persons migrated to the island that year (U.S. Census Bureau 2020).

Despite the adverse impacts of the 2017 hurricane season, the annual unemployment rate fell in 2018 and 2019, but it rose again in 2020. However, the labor force continued its general declining trend after 2017 despite the bump in 2019 as shown in Figure 3.4.1. Note that the unemployment rate in 2020 was substantially lower than it had been from 2012 through 2016, when it was never below 11.8% (U.S. Department of Labor [USDOL] Bureau of Labor Statistics [BLS]).

⁸ <https://www.nrcs.usda.gov/wps/portal/nrcs/detailfull/pr/newsroom/features/?cid=nrcseprd1420889>

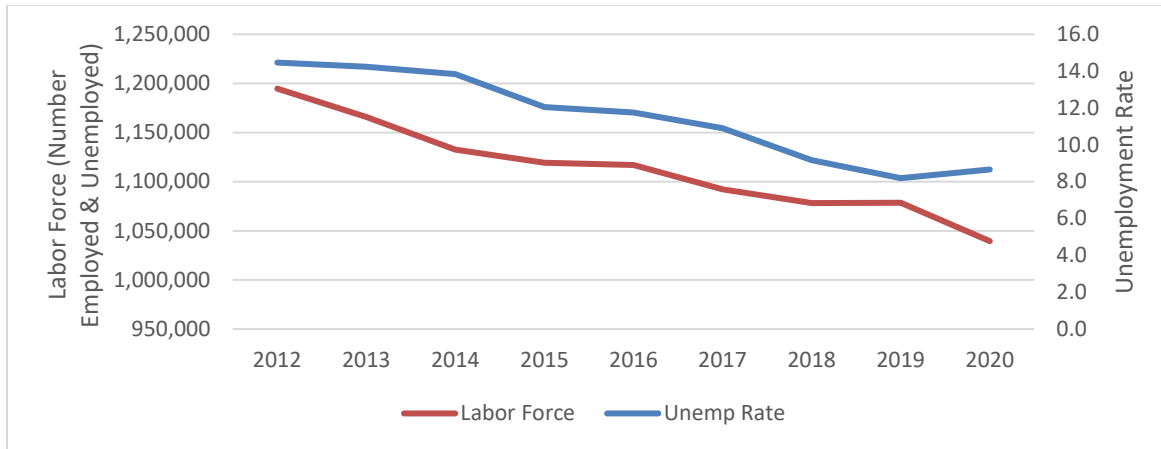


Figure 3.4.1. Labor force and unemployment rate in Puerto Rico, 2012 – 2020.

(Source: USDOL BLS)

Hurricane Maria caused incredible damage to the agricultural sector in Puerto Rico. Puerto Rico’s Secretary of Agriculture stated to the New York Times that 80% of the island’s crops with a preliminary estimated value of \$780 million were wiped out by the hurricane (Robles and Ferré-Sadurní 2017).

The Puerto Rico Planning Board estimated that Hurricane Maria had a \$43.1 billion impact on the island’s economy as of October 12, 2018 (Lloréns Vélez 2018). The Planning Board said losses for the private sector alone totaled \$30 billion, with manufacturing reporting the highest loss of income and agriculture among the highest damage to infrastructure and equipment. After taking Federal Emergency Management Administration (FEMA) and private insurer disbursements into account, the net adverse impact to the economy was \$30.3 billion.

Hurricane Maria did not cause damages to the territory’s pharmaceutical industry. In 2018, five of the world’s top ten selling drugs (Humira, Eliquis, Opdivo, Enbrel and Xarelto) were manufactured there, and internationally, eight of the 15 top-selling pharmaceutical products are made in Puerto Rico (Miller 2020). In 2019, nine out of Puerto Rico’s top 10 commodity exports to the rest of the world were pharmaceutical or medical device products (Census U.S. International Trade Data). In 2020, there were 50 pharmaceutical and 30 medical-device manufacturing sites dotted throughout the island. In 2019, pharmaceutical exports totaled more than \$44 billion, and, of that, \$30.89 billion of that total was exported to the U.S. market.

Puerto Rico’s real gross domestic product (GDP) declined in 2019 and 2020 (Figure 3.4.2), which is consistent with its declining trend since 2006. Real GDP in 2019 was 12% lower than it was in 2016, and in 2020, it was 7.5% less than it was in 2019 due in part to a series of

earthquakes and the COVID-19 pandemic. Public debt represented 59% of GDP in 2019 and 65% of GDP in 2020.

Gross national income (GNI) per capita declined by 8.35% from 2016 through 2019 (Figure 3.4.3). The World Bank has not yet reported a 2020 estimate of GNI per capita.

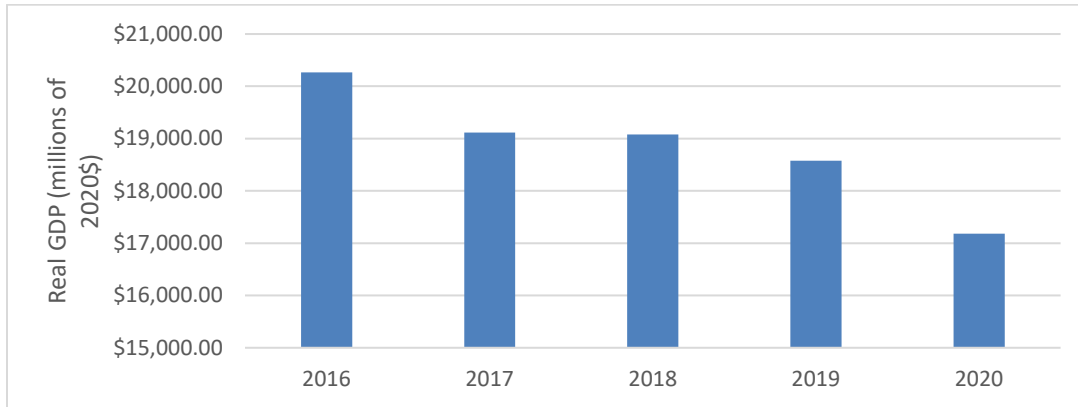


Figure 3.4.2. Puerto Rico real GDP (constant 2020 U.S. dollars), 2016 – 2020.

(Source: [World Bank](#) for GDP 2016 – 2019, Knoema for GDP for 2020, and BEA for implicit price deflator)

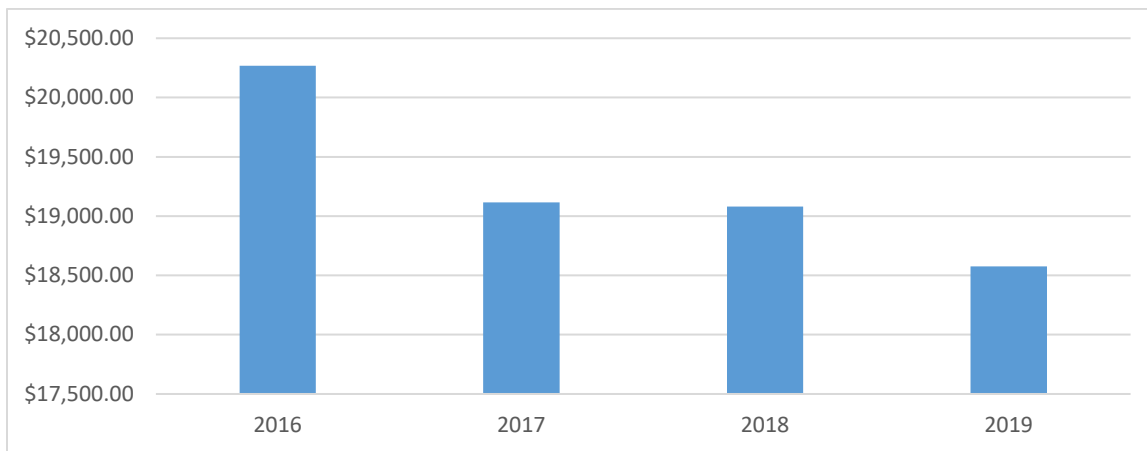


Figure 3.4.3. Puerto Rico's GNI per capita (constant 2020 U.S. dollars), 2016 – 2019.

(Source: [World Bank](#) for GNI per capita and BEA for implicit price deflator)

Because Puerto Rico lies on the boundary between the North American and Caribbean plates, the archipelago is prone to earthquakes and tsunamis. There were three significant earthquakes in January 2020 and each had many strong aftershocks. On January 6, 2020, there was a 5.8 magnitude earthquake, followed the next day by a 6.4 magnitude earthquake, which was centered

off the southern coast, 6 miles south of Indios. It knocked out all power and caused at least \$110 million in damages according to Reuters (Valentin Ortiz 2020). Another estimate put that figure at \$3.1 billion (Kaske and Levin 2020). More than 600 homes and other buildings were destroyed, one person died, and there were damages to bridges and roads. In addition, thousands of homes and other buildings were damaged. The iconic Punta Ventana, a natural formation that is a popular destination for tourists, collapsed.

Approximately 70% of Puerto Rico's power is generated along the south coast, while approximately 70% of its demand is along the north coast. The territory's largest power plant, the Costa Sur power plant with a capacity of 970 megawatts, was knocked out of service from cracked foundations, ruptured pipes, split water tanks, a damaged turbine and damages to the plant's control room. Puerto Rico Electric Power Authority (PREPA) shut down the power grid as a safety precaution, and two-thirds of the utility's 1.4 million customers were without power for days. The Costa Sur plant was not back online until August 2020. On January 11, there was an aftershock that registered at 5.9 magnitude.

Many of these aftershocks were of significant magnitude and made relief and recovery difficult. Over two dozen quakes had a magnitude of 4.5 or more. On January 15, there was a 5.2 earthquake and ten days later, a 5.0 magnitude earthquake hit near Guayanilla. On 14 January, PREPA said service had been restored for 99% of its customers. On May 2, 2020, the same area was rocked by a magnitude 5.4 earthquake that caused new damage in Ponce. The United States Geological Survey (USGS) stated that it was an aftershock of the January 7 magnitude 6.4 earthquake, and USGS included it in the earthquake swarm that they had been tracking since January. Another magnitude 4.8 aftershock struck the area at the beginning of August, causing further damage and slowing repairs. A USGS report predicts that the aftershocks could continue for a decade (van der Elst et al. 2020). The continuance of aftershocks and damages from the aftershocks complicates estimates of the economic impacts of the damages in 2020.

Tourism's contribution to GDP fell from 5.68% in 2016 to 5.50% in 2017 and 4.82% in 2018 (Puerto Rico Tourism Company). Both the earthquakes and COVID-19 pandemic of 2020 (that continues into 2021) has greatly affected island tourism. In 2019, there were approximately 1.11 million tourist arrivals; however, that fell to approximately 0.523 million in 2020. Figure 3.4.4 shows the number of arrival guests through August of each year since 2017 and note the sharp declines in 2018 and 2020.

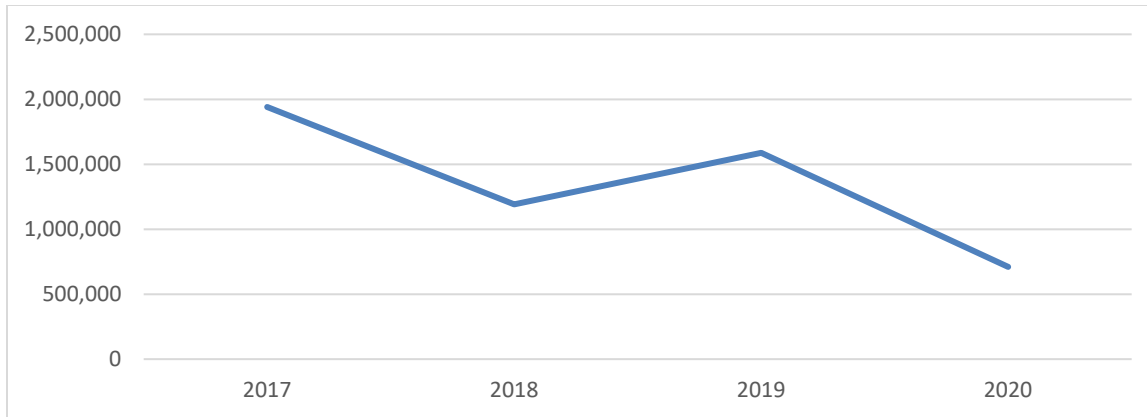


Figure 3.4.4. Arrival guests through August of each year, 2017 – 2020.

(Source: Puerto Rico Tourism Company, Registrations and Occupancy Report)

The labor force continues to shrink as shown in Figure 3.4.5. Note that there are no data for the size of the labor force in March or April 2020.

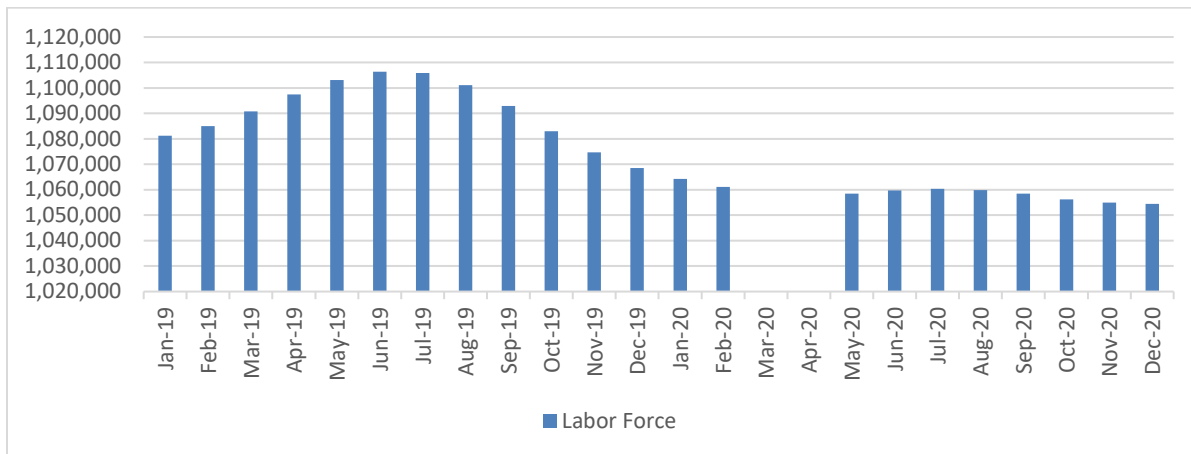


Figure 3.4.5. Monthly labor force, January 2019 – December 2020.

(Source: USDOL BLS)

After years of wrangling with its creditors, the territory disclosed a plan in September 2019 for resolving the biggest governmental bankruptcy in United States history, by cutting \$129 billion in debts to about \$86 billion - a reduction of 33 percent (New York Times September 27, 2019). In June 2020, the Supreme Court unanimously ruled that the financial oversight board, which was established by Congress to oversee Puerto Rico's finances after the 2014 bankruptcy, was constitutional (Coleman 2021).

In February 2021, the board announced that it has reached an agreement in principal with creditors to reduce a portion of the U.S. territory’s more than \$70 billion public debt load. However, Governor Pedro Pierluisi rejected the agreement for reasons that it overburdened pensioners. The board responded with a revised plan in March that includes a proposed cut of up to 8.5% to monthly pensions of at least \$1,500. That has long been a point of contention between the board and the governor, who has repeatedly said he would not approve such cuts. Ultimately, the plan also has to be approved by a judge overseeing Puerto Rico’s bankruptcy-like process. If that occurs, the plan would reduce Puerto Rico’s outstanding debt from \$35 billion to \$7.4 billion, an 80% cut. Among other things, it also would cut total debt service payments by more than 60%, which the board said would save the government nearly \$60 billion in debt service payments. Governor Pierluisi, who has previously said he would reject any plan with high pension cuts, said the government would declare in court that it does not fully support the plan, but still, he called the proposal a step in the right direction.

3.4.3 St. Croix and St. Thomas and St. John

Since after the devastating twin hurricanes of 2017, the most dynamic sector of the USVI economy has been construction. Federal disaster assistance is spurring reconstruction, infrastructure repair, and several hazard mitigation activities, resulting in high demand for construction workers. As shown in Figure 3.4.6, the number of jobs in construction more than doubled from 2017 to 2019: 1,618 in August 2017 and 4,076 in August 2019. However, the COVID-19 pandemic caused a decline in construction in 2020 and early 2021. Employees in the construction, mining and logging sector, which are essentially all in construction (96%) in the USVI, declined in 2020 and early 2021, but stayed above the numbers prior to the hurricanes as seen in Figure 3.4.7.

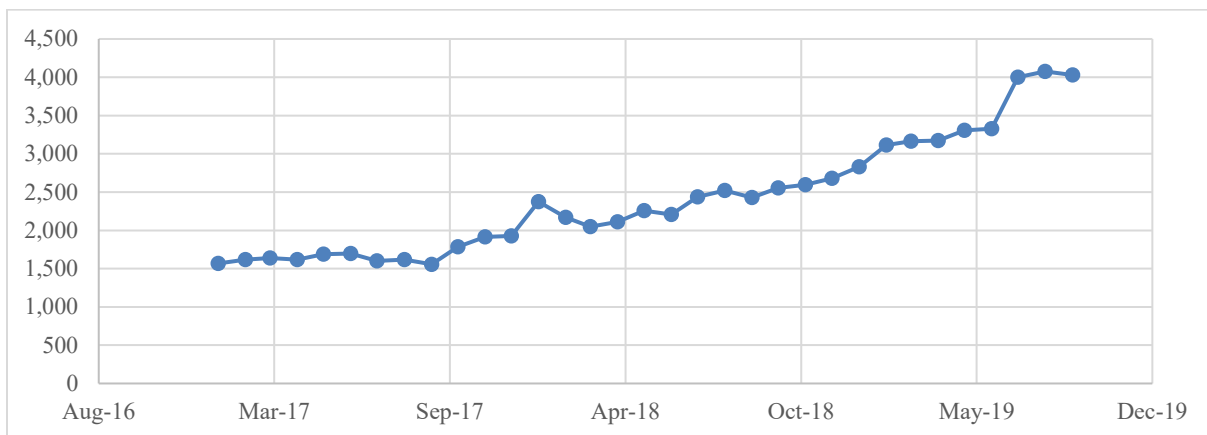


Figure 3.4.6. Construction jobs in USVI, January 2017 – September 2019.

(Source: USVI DOL, Labor Market Basket)

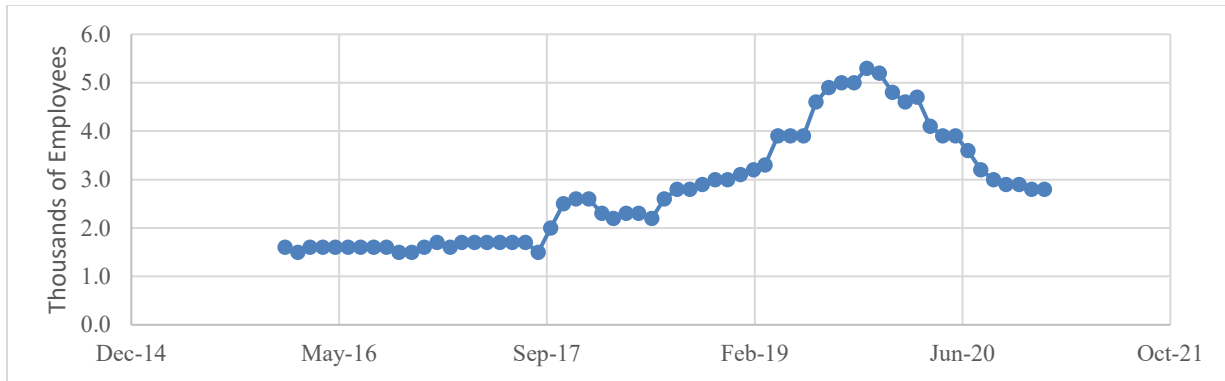


Figure 3.4.7. Employees in construction, mining and logging sector in USVI, January 2016 to January 2021.

(Source: U.S. BLS)

In March 13, 2020, Governor Bryan issued an Executive Order and Proclamation declaring a State of Emergency in response to the pandemic. Ten days later the Governor issued a “stay-at-home” order and ordered all non-essential businesses to remain closed, beginning March 25. The order also officially limited gatherings to 10 persons or fewer, closed all bars, prohibited restaurants from offering dining room service, and limited taxis and safaris to half-capacity passenger loads.⁹ On April 6, Governor Bryan ordered the closure of all beaches through April 20. On April 13, 2020, the Governor announced that the U.S. Department of the Interior’s Office of Insular Affairs has given the U.S. Virgin Islands \$7,863,776 in funding from the Coronavirus Aid, Relief, and Economic Security (CARES) Act Federal COVID-19 stimulus bill. Also on that day, the Federal Aviation Administration awarded the USVI \$41,145,247 to maintain the territory’s airports as part of the CARES Act Federal stimulus bill. On May 4, the USVI began to allow some non-essential businesses to reopen; however, the State of Emergency was extended on May 7 for another 60 days, which meant it would not expire until July 12. On May 21, 2020, Governor Bryan announced he was easing restrictions on bars and restaurants, allowing bars to reopen and restaurants to serve dine-in customers beginning the Tuesday after Memorial Day. Seven days later the Governor announced that the USVI would move to the “Open Doors” phase, which would allow all business to reopen. With that, hotels, villas and Airbnb vendors were able to begin taking reservations and hospitality-related businesses had restrictions lifted. Thermal scanners were installed at the airports and other measures were put into place to track visitors and their health. On July 9, 2020, Governor Bryan tightened restrictions on travelers and set a 10% positivity rate as the threshold, affecting visitors from any state at that rate or higher, which at that date were: Alabama; Arizona; Florida; Georgia; Idaho; Kansas; Mississippi; Nevada; South Carolina; and Texas.

⁹ On April 2, 2020, the U.S. President declared that a major disaster existed in the USVI based on COVID-19, which opened the door to getting Federal assistance to mitigate the virus.

Even before the pandemic affected travel and tourism, Hurricanes Irma and Maria were disastrous to USVI tourism. In the immediate aftermath of the hurricanes, the number of stay-over tourist arrivals declined, and employment in the leisure and hospitality sector plummeted, as several large hotel properties closed for renovations. The number of employees in the leisure and hospitality and trade, transportation and utilities sectors began to recover in 2019, but they declined again in 2020 (Figure 3.4.8). Employment in the manufacturing sector was not similarly affected, and it rose from 0.6 thousand (566) employees in August 2017 to 0.8 thousand (760) in August 2019 and has stayed relatively constant since then despite the pandemic.

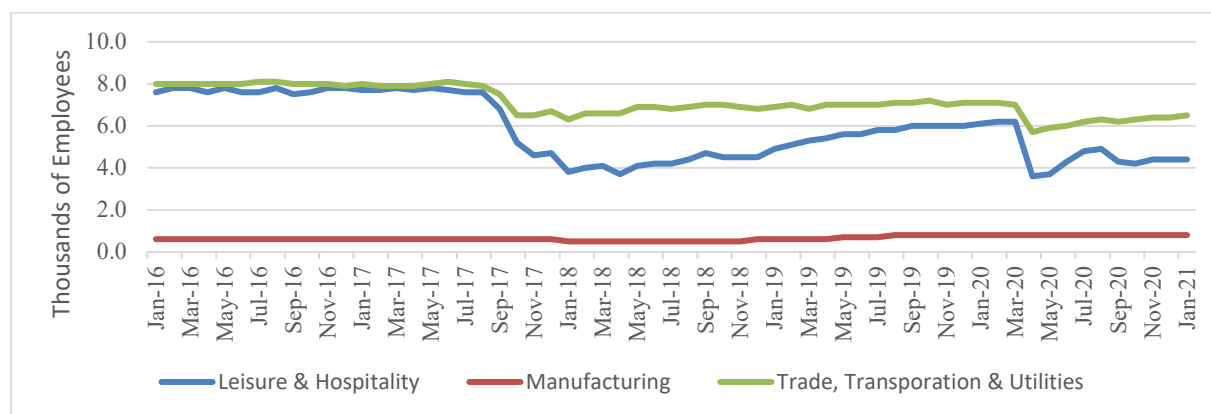


Figure 3.4.8. Employees in the leisure and hospitality, manufacturing, and trade, transportation and utilities sectors in USVI, January 2016 to January 2021.

(Source: U.S. BLS)

Charlotte Amalie in St. Thomas, which is one of the most popular cruise destinations in the Caribbean, suffered severe damage, and two cruise ports were closed for weeks. From 2014 through 2016, an average of 23 ships made call in September and another 29 in October. There were only two cruise ship calls to St. Thomas in September and none in October of 2017.

The peak cruise season runs from December through April. Although the numbers of monthly cruise passenger arrivals and ship calls rebounded in December 2017, the numbers of passengers and ship calls from January through April of 2018 were less than they had been the previous four years. Total annual visitor arrivals declined in 2018, but rebounded in 2019 and forecasts for 2020 were optimistic; however, that optimism was short-lived and visitor arrivals declined dramatically in 2020¹⁰ (Figure 3.4.9).

¹⁰ In 2016, there were approximately 2.57 million visitor arrivals, in 2020 there were approximately 0.86 million.

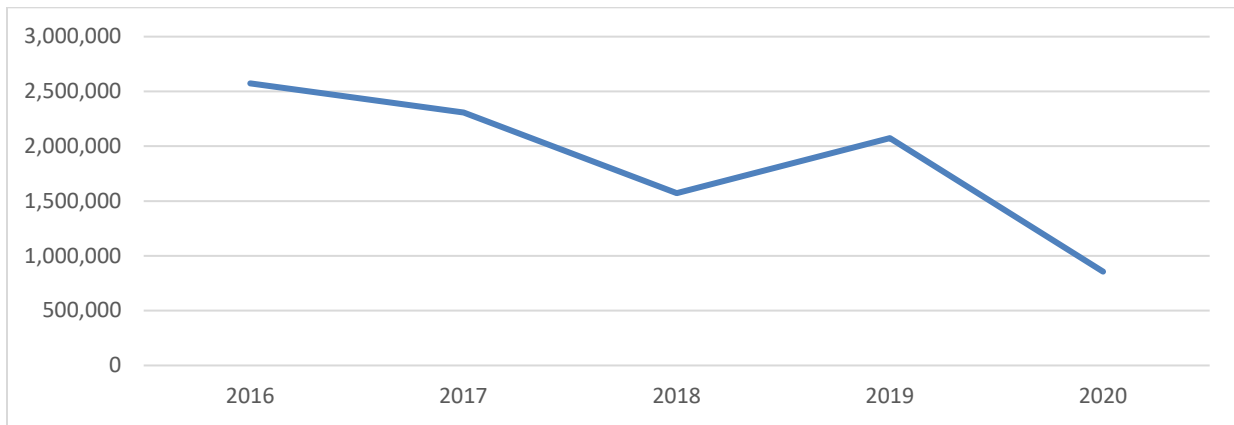


Figure 3.4.9. Total USVI visitor arrivals, 2016 – 2020.
(Source: USVI BER)

Real GDP grew by 1.5% in 2018 and then by 1.7% in 2019, which generated optimism for the USVI economy in 2020, but that was before the pandemic. Real GDP fell by 14.2% in 2020 (USVI BER) (Figure 3.4.10).

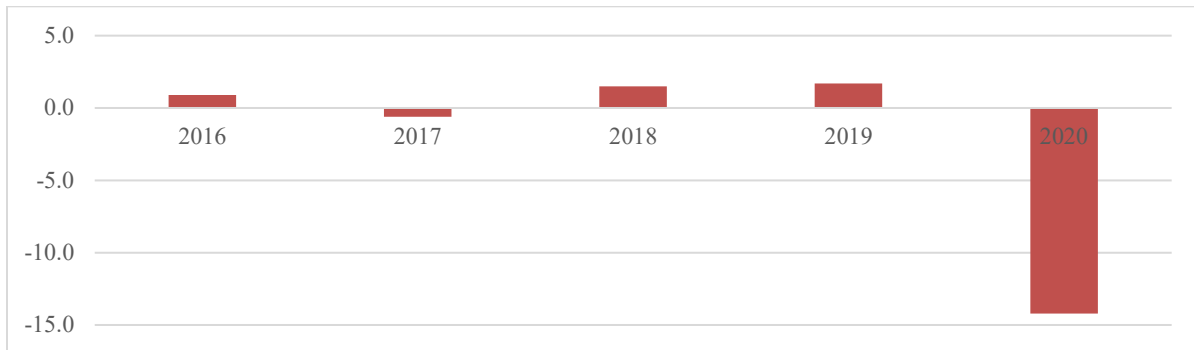


Figure 3.4.10. Annual change in real GDP, 2016 – 2020.
(Source: USVI BER, November 2020)

Petroleum products account for 42% of total exports in 2018. However, that was largely a re-export business, and little value was added in the territory. That is expected to change since St. Croix’s long-idled refinery, now the Limetree Refinery, restarted in February 2021. Although it has brought back jobs, it is also bringing back memories of the pollution produced by the former HOVENSA refinery. According to Reuters (March 8, 2021), the U.S. Environmental Protection Agency (EPA) wants the refinery’s owners, Limetree Bay Ventures, to increase its monitoring of air quality due to emissions affecting the nearby neighborhoods, but the owners have so far balked.

After tourism and petroleum, the next most important sector is the production and export of rum. Rum constituted 41% of total exports in 2018 by value. Rum exports to the mainland increased from 2017 to 2019 (Figure 3.4.11).

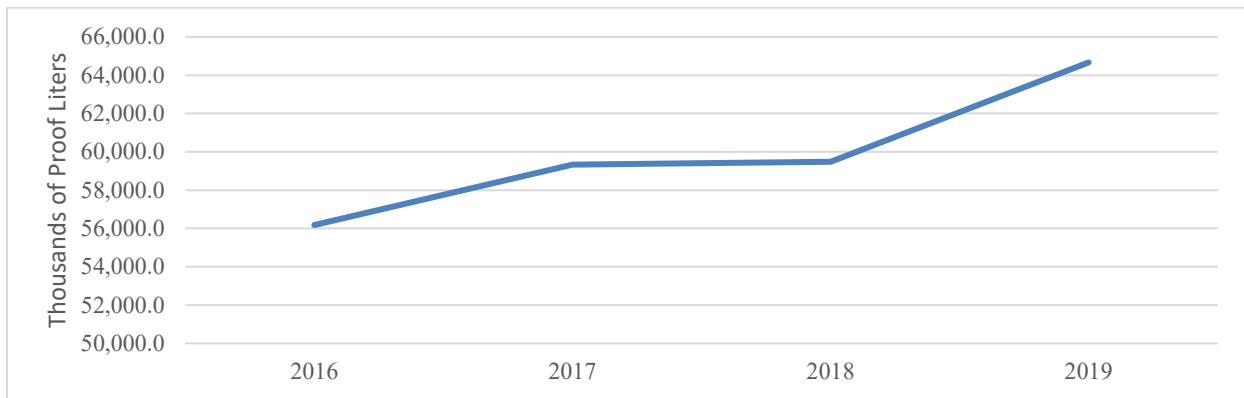


Figure 3.4.11. Annual change in rum exports to U.S.
(Source: USVI BER, Annual Economic Indicators, May 20, 2020)

The USVI economy performed better in 2018 and 2019, exhibiting positive real economic growth, higher revenues, decreasing unemployment, and improving fiscal balances and liquidity positions for the central government. However, the improvement in economic performance was primarily due to an infusion of Federal disaster relief assistance that is helping rebuild the economy.

Despite the positive achievements and progress on reconstruction, the economy still faces many weaknesses and vulnerabilities that could result in the return of significant deficits and financial distress, namely the pending insolvency of Government Employee Retirement System (GERS) and the mounting liquidity issues at Water and Power Authority (WAPA), a semi-autonomous government-owned electric, water, and sewer utility. To minimize these risks, the quality of financial management and governance has to improve across the public sector, new economic growth needs to be stimulated, tourism products need to be revitalized and differentiated, and credible plans shaped to stabilize GERS and improve the management and financial performance of WAPA.

The main internal threats to the USVI economy are the massive unfunded liabilities of the GERS and the illiquidity of WAPA. The likely consequences of the dire financial situations of these two entities would be a reduction in the benefits paid to retirees after 2023 in the case of GERS and demands for more transfers from the central government in the case of WAPA.

In 2019, the main driver in the economy was government spending. Government spending increased dramatically after 2017, with an influx of federal disaster assistance. In 2018, government spending was estimated to be 42% of GDP, when for the decade before the hurricanes (2007-2016), the average government share of GDP was 26.36%.¹¹ Although the official GDP for 2019 has not yet been calculated, the expected 2019 government spending as a share of GDP is likely to be in the 30% range (USVI BER March 25, 2020).

3.5 Description of the Social Environment

This section describes key dimensions of the social and cultural environments potentially affected by modification of the island-based FMPs to accommodate traditional use of buoy gear for capturing deep-water snappers and related species around Puerto Rico and the USVI. Links to original source materials are provided wherever possible in the cited references section, and interested readers are referred to the Caribbean FMPs for a wide variety of materials of relevance to the regulatory topic of interest.

3.5.1 Puerto Rico

The estimated 2017 total population of residents on the islands of Puerto Rico was 3,449,000 persons, 99% of whom identify as Hispanic (Kaiser Family Foundation 2017). Although fishing activities are undertaken by a small percentage of island residents, they are vital to local fishing families and communities, and provide an important source of food to residents and visitors alike.

3.5.1.1 Commercial/Artisanal Fishing and Social Aspects of Fishing in Puerto Rico

Puerto Rico is a 3,515 square-mile archipelago of mostly small cays, islets, and coral reef ecosystems. Fisheries are conducted especially around the main island and also Vieques, Culebra, and banks near Mona and Desecheo islands (Agar et al. 2020). The most productive fish habitats, and most fishing activities, occur within the 100-fathom contour since the seabed drops off quickly beyond this point. The west coast of Puerto Rico is said to be the most productive fishing zone since the shelf is shallow here and extends far out to sea.

Puerto Rico fisheries are primarily artisanal in nature, with harvesters using small vessels, few crewmembers, and multiple types of gear. As stated by Agar and Shivilani (2017), “a captain and

¹¹ In 2018, the USVI’s commercial fishing fleet landed 445,184 pounds of finfish and shellfish, generating approximately \$2.96 million in commercial value (NMFS 2020a), which in turn generated approximately \$15.2 million in total value added that accounted for approximately 0.38% of GDP, whereas it accounted for approximately 0.64% of GDP in 2014.

a deckhand (known as proel) run most fishing operations.” Ecosystem and fishing knowledge are essential to success. As might be expected of an artisanal-type fishery, revenue tends to be limited. But this is not the sole measure of success, since most participants combine sale of seafood with consumption and sharing in extended family and community settings (Valle-Esquivel et al. 2011). Opportunities for expansion of commercial operations are limited since there is little in terms of an export market. This does not indicate isolation; however, since off-island supply chains provide engines, fuel, oil, gear, and other materials to local fleets.

Many harvesters work on the ocean on an occasional or part-time basis, often earning additional income through construction or similar part-time or opportunity-based work (Griffith and Valdés-Pizzini 2002; Griffith et al. 2007). The benefits of this strategy are particularly important to the overall household economy and when fish are absent or vessels or engines are not functioning.

Commercial pursuit of deep-water snappers and related species is extensive on the west coast of Puerto Rico. Trap fishing is common throughout, and pelagic fishing is a mainstay for many operations. Capture, sale, and/or consumption of spiny lobster and queen conch are also important. Typical gear include trolled and static hook-and-line; lobster and fish traps; beach seines, gill, cast, and trammel nets; slings and spears; hand lines; and various longline and bottom gear (Valle-Esquivel et al. 2011). Pelagic species are important to many. Guided offshore fishing very typically involves trolling for pelagic species with hook-and-line gear, and some static hook-and-line fishing for deep-water snappers and similar species. Certain captains are involved in both the commercial and charter fishing sectors.

Gear traditionally used by commercial harvesters around Puerto Rico includes *cala con boya*. This vertical longline, multi-hook configuration is used to land various snapper species in deep water with strong currents and rough bottom conditions. Olsen et al. (1974) suggests the gear may have been relatively new in the Virgin Islands during the early 1970s, though its use in Puerto Rico may well be older.

With regard to the scope of relevant fishing activity around Puerto Rico, the most recent data regarding the number of resident commercial seafood harvesters indicate that 1,074 licensed harvesters were living in Puerto Rico in 2016, increasing to 1,275 in 2018. The latter number likely reflects purchase but not necessarily immediate use of fishing licenses when other forms of work diminished after Hurricane Maria in 2017. Some 714 harvesters are thought to have been actively fishing soon after the hurricane (pers. communication, Puerto Rico Department of Environment and Natural Resources 2019).

Matos-Caraballo and Agar (2011a; 2011b) report that commercial fishing is well distributed around Puerto Rico, with active harvesters residing in 39 coastal municipalities. While trailers and boat ramps are increasingly used as various moorings and harbors are lost to development (Griffith et al. 2013), Matos-Caraballo and Agar (2011b) determined that about 92% of fishermen land their catch in their home municipalities. This attachment to place indicates the importance of fisheries-related social life in communities, neighborhoods, and extended family settings around Puerto Rico. Approximately 34% of licensed harvesters were living on the west coast of the island during the late 2000s (mainly in Cabo Rojo, Rincón, Mayagüez, and Aguadilla), 27% on the south coast (primarily in Lajas, Salinas, Guánica, and Ponce), roughly 20% on the north coast (San Juan and Arecibo), and another 20% on the east coast (Vieques, Fajardo, and Naguabo). The typical commercial harvester was then 49 years old, had at least a high school diploma, and 29 years of fishing experience (Matos-Caraballo and Agar 2011b).

Commercial fishing in Puerto Rico typically involves multiple family members. Griffith et al. (2007) determined that over 40% of local fishing households earned all income through fishing, and Matos-Caraballo and Agar (2011c) found that 84% earned more than half of the annual household income through fishing. Women are known to fish commercially around Puerto Rico, but males are most typically involved, with many women supporting the overall household economy (Griffith and Valdés-Pizzini 2002).

Numerous factors influence the nature of artisanal fisheries in Puerto Rico. The north, west, and east sides are particularly vulnerable to major swell events occurring during winter, with all sides exposed to tropical storm swells, winds, and waves. Steep mountains affect local sea states, as do regional trade winds. These and other environmental factors have a bearing on when, for how long, how, and with what intensity fishing activities can occur. The presence, location, movement, and prey-related behavior of marketable fish naturally also affect fishing effort and investment of time and money in the operation. Decisions about where and when to fish are also influenced by the condition of vessel and gear, the availability and skill-level of crew members, the ability of harvesters to persist as they age, and many other social and economic factors.

For participants in commercial fisheries around Puerto Rico, the relationship between fishing effort, market demand, and pricing is profound. Many harvesters market their own catch in community settings. Some also sell to buyers from local retail establishments and/or restaurants, and other businesses located elsewhere on the island. In Puerto Rico, the relationship between seafood harvesters and those who buy their products is a social process with human relationships at the core. Community-level research conducted with fishermen during the mid- and late-2000s indicates places where fisheries are particularly important organizing features of local society, culture, and economy. Griffith et al. (2007) identified communities with extensive dependence

on fishing and related economic activities, including neighborhoods in Fajardo (Maternillo, Mansión del Sapo, and Puerto Real); La Estrella in Rincón; Pozuelo in Guayama; Punta Santiago in Humacao; La Playa in Ponce; Puerto Real in Cabo Rojo; and La Parguera in Lajas.

As noted by Griffith and Valdés-Pizzini (2002), and Griffith et al. (2007), villas pesqueras are an important social aspect of commercial/artisanal fishing in Puerto Rico, functioning much like fishing cooperatives and facilities for fishing- and seafood-related social interaction. Villas pesqueras were initiated as a fisheries development strategy in the 1960s and are now typical throughout the island's coastal towns and cities (Griffith et al. 2007). The Puerto Rico Department of Agriculture typically subsidizes infrastructure needed for mooring, launching, gear storage, sale of seafood, and other services, though some villas pesqueras are owned and maintained privately or by local fishing associations (Griffith et al. 2007).

Fishing and seafood are particularly important in certain family and community settings around Puerto Rico. Some islanders inherit the fishing way of life; others grow to base their lives around fishing, with all who persist eventually gaining knowledge of the ocean, atmosphere, and marine resources. Such knowledge can generate respect in certain communities, and the seafood itself is folded into old and evolving recipes for festivals and daily meals, and onto many plates, palates, hearts, and minds. Such cultural topics are addressed in Griffith and Pizzini (2002), who discuss the lives of fishermen and their families around Puerto Rico.

Large-Scale Change: The Hurricane Season of 2017

The hurricane season of 2017 was particularly active and damaging in the Atlantic Basin, where 17 named storms, 10 hurricanes, and six major hurricanes developed. Following initial damage from Hurricane Irma, Hurricane Maria devastated Puerto Rico as a high-end Category 4 storm with peak winds of 155 mph. Maria lingered over the island for 30 hours, generating storm surge, severe flooding, landslides, massive agriculture impacts, widespread infrastructure damage, and extensive loss of life (NOAA 2017; Milken Institute School of Public Health 2018; Coto 2020; Chan et al. 2018).

With regard to impacts on island fisheries, it should be kept in mind that economic conditions were challenging for participants even before the hurricanes of 2017. Rates of household poverty continue to be extraordinarily high in Puerto Rico, consistently exceeding 43% since 2005. In 2018, the household poverty rate was 43.1%—more than double the rate for Mississippi, which has the highest rate of poverty of all states in the nation. In comparison, the national rate of household poverty was 13.1% in 2018 (U.S. Census Bureau 2018). Estimated median household income in Puerto Rico was \$20,078 in 2015 and \$57,617 for households in the

50 states. At 10%, the seasonally adjusted unemployment rate in Puerto Rico was twice the average across all states and D.C. (Guzman 2017; Kaiser Family Foundation 2017a).

The pre-existing poverty problem was majorly compounded by the 2017 hurricane season. Poverty must be considered in social context, which in Puerto Rico often involves the pooling of resources in extended family and community settings. But the relative lack of money in the average Puerto Rico household, coupled with fiscal deficit problems on the part of government (U.S. Government Accountability Office 2018), leaves island residents highly vulnerable to tropical storms and other disasters that generate economic shock and long-term social impacts. After Maria, the situation led many families to meet basic needs in urbanized areas on the island (Acosta et al. 2020), and also to massive out-migration, with some 133,500 residents departing in 2018—a 36.9% increase above the rate for the prior year (Glassman 2019). The storm caused major life trauma for many, with problems that are likely to linger for many years. Pasch et al. (2019) estimate physical damages caused by Hurricane Maria at \$90.0 billion, indicating a long recovery period.

Fishery-Specific Socioeconomic Effects of Hurricane Maria in Puerto Rico

Given the strength of Hurricane Maria at landfall, many vessels were lost, harbors and moorings were damaged, essential supply chains were disrupted, and basic services were absent for many months. Lack of power and communications severely constrained fishing operations (Agar et al. 2020). In some cases, fishery participants and/or their family members were injured or lost their lives. Agar et al. (2020) conducted a socioeconomic assessment of Maria’s impacts during the first year of the event. The work involved 664 in-person interviews or 78.3% of commercial harvesters thought to be active following Maria. The resulting data are useful both for understanding contemporary fishing around Puerto Rico, and for gauging hurricane impacts.

Key characteristics of fishing operations maintained by harvesters involved in the study include: (a) a mean age of 52.7 years; (b) extensive reliance on fishing revenue, which accounts for 58.6% of household income on average (71.8% on the west coast); (c) an average of 3.6 fishing trips per week, with a range of 3.8 trips/week on the south coast to 4.1 trips/week on the west coast; (d) 33.1 fishing hours per week on average, with a range of 40.5 hours on the east coast to 26.3 hours on the west; (e) average vessel length of ~20 feet using ~100 hp engines on average; and (f) vessels and gear valued at \$18,123 on average, with a range of \$11,063 on the south coast to \$22,117 on the north (Agar et al. 2020).

Impacts from Maria were particularly difficult for harvesters who rely on certain types of gear, and for those based on the heavily impacted east and north coastlines. Agar et al. (2020) write that “Maria caused [overall] commercial landings to fall by 20%, owing to the loss of productive

assets, extended power outages, and the loss of customers. While most fishing resumed when electric service was restored, losses totaled \$17.8 million, with damages to vessel, engine, gear, and shore side infrastructure accounting for more than half of the losses and foregone revenue the remaining 49%. The east coast was hardest hit, as were fishermen who use traps, handlines, and commercial diving equipment (Agar et al. 2020). Citing landings information from the National Marine Fisheries Service (2019), Agar et al. (2020) state that 75% of revenue losses were concentrated on six species: queen conch (27%), yellowtail snapper (15%), spiny lobster (14%), lane snapper (7%), dolphinfish (6%) and queen snapper (6%). Around 6,700 traps were lost during the storm. Agar et al. (2020) also report that 165 or 16.3% of commercial fishermen active in 2016 departed the industry after the hurricane. The majority of participants did not significantly alter their operations, however, with the exception of those forced to use alternative launch sites or avoid places where habitat had been damaged by the storm. Recovery continues—now in the context of the first pandemic in over 100 years.

The COVID-19 Pandemic and Fishery Impacts in Puerto Rico

The ongoing pandemic continues to challenge the nation’s marine fisheries and seafood industries. NOAA Fisheries (2021) provides specific understanding of initial pandemic effects in each fishery management region around the country, including Puerto Rico, where NMFS social scientists conducted interviews with 318 commercial fishermen during late summer of 2020. Among key findings, 96% of respondents reported that the pandemic had indeed affected fishing operations during its first six months in the U.S. Roughly, 87% reported reduced revenue, with decline of 65% on average. When asked about pandemic-related factors that hurt their fishing operations most, 79% reported a lack of markets or buyers, 71% reported the effects of state and local government restrictions, and 48% reported health safety measures. About 94% stopped fishing for some time during the first half of 2020, with 33% stopping for more than 3 months. Pandemic impacts during this period typically included a reduced number of trips, a lack of available markets, and difficulty obtaining supplies (NOAA Fisheries 2021).

A modified version of NOAA Fisheries survey was implemented with 47 seafood dealers around Puerto Rico, 93% of whom reported reduced revenue, with an average decrease of 56%. About 43% of affected businesses reported a loss of employees, and 56% decrease in revenue on average. When asked to identify the top three COVID-19 related factors that had impacted their businesses during its initial months in the U.S., 87% chose state and local market restrictions, 77% chose loss of marketing potential, and 70% chose implementation of health safety measures. About 87% of affected businesses were closed for at least some period during the first half of 2020. Reduced sales to restaurants and stores affected 94% of respondents, and diminished availability of seafood products affected 81% of respondents (NOAA Fisheries 2021)

3.5.2 St. Croix, St. Thomas, and St. John

Of significance in relation to the impacts of the 2017 hurricane season, St. Croix has long been the principal point of manufacturing and agricultural production in the USVI. The vast majority (~95%) of farmed acres, and some 75% of farms in the USVI were located on St. Croix in recent years. The effects of Hurricane Maria on the St. Croix landscape and public and privately owned infrastructure were profound, and recovery continues as it does on St. Thomas and St. John.

The estimated combined population of the U.S. Virgin Islands was 107,268 in 2017 (U.S. Census Bureau 2016). Levels of poverty are significantly higher in the USVI than elsewhere in the U.S., reaching 22% in the island during 2017, as compared to 14% on the continent (U.S. Census Bureau 2016). The unemployment rate was 13% in the USVI and 5% on the mainland in 2017, with median household income estimated at \$37,254 in the islands and \$57,617 on the continent that year (Kaiser Family Foundation 2017b).

3.5.2.1 Social and Cultural Aspects of Fishing on St. Thomas, St. John, and St. Croix

Fishing in the USVI has long been artisanal in nature. This was the case in the 1930s, when, as noted by IAI (2006) “some 400 fishermen were active in the islands, most of whom rowed or sailed small vessels to the fishing grounds.” Fish traps and handlines were most commonly used at that time, and fishing was typically combined with small-scale farming. The growth of island populations, industries, and infrastructure was heavily influenced by increasing rates of leisure tourism during the 20th century (IAI 2006).

With specific regard to fishing activities on St. Thomas, St. John, and St. Croix, demand for seafood expanded late in the 20th century in conjunction with the increasing number of visitors, restaurants, and tourist destinations. At the same time, local fishing-oriented families were increasingly able to supplement ocean-derived income with that from part-time or periodic work arrangements that complemented the shifting nature of ocean conditions and the availability of marine resources. Individuals in some fishing-oriented families now hold high-paying positions in firms and institutions around the islands, and in some cases on the continent, benefiting the household, extended family, and those who continue to be engaged in local fisheries.

It is notable that large-scale economic change has in some ways enhanced the evolution of island culture, including cultural aspects of fishing. For instance, various technological advancements have, in the last 20 years, radically improved communication options and speed of contact between fishermen. Information of all kinds, such as the presence of bait or fish in a given location, pending weather conditions, and shifting market conditions are now immediately available to all with a cell phone. Local employment options and new technologies have helped

enable the continuation of a traditional lifestyle that emphasizes fishing, strong social relationships between local families, and various cultural traditions in the island's fishing-oriented communities.

The concept of community can be defined in terms of networks of people who regularly interact to undertake fishing-related activities at sea or on land. This holds true for St. Croix, where Valdez-Pizzini et al. (2010) identified groups of fishermen and families connected by commercial fishing and associated activities. Fishing communities can also be envisioned in terms of places where overall involvement in and dependence on marine fisheries is particularly extensive (Colburn et al. 2016; Jepson and Colburn 2013; Jepson 2008). Island districts, and even whole islands, have been examined and considered in this way. For example, Stoffle et al. (2009) envision the island of St. Croix as a fishing community in and of itself. Fishing activities in the USVI may also be seen as occurring extensively in specific parts of the islands. IAI (2006) identifies places where fishing-oriented families exhibit strong attachment to neighborhood and island districts, including the Northside, East End, and Southside districts of St. Thomas, and the East and West End districts of St. John.

Contemporary Commercial/Artisanal Fisheries on St. Thomas, St. John, and St. Croix

Many species of reef fish, the snapper/grouper complex of species, and various pelagic species, have long been of primary interest to commercial fishery participants in the USVI. Spiny lobster, whelks, conchs, and other shellfish are also important here. Fisheries as a whole continue to be essential sources of employment, food, and income in the islands, with commercial/artisanal participants landing an average of 1.4 million pounds of seafood worth \$7.4 million each year between 2005 and 2015 (NOAA Fisheries 2017).

The recent work of Kojis et al. (2017) describes the region's fisheries in detail, providing extensive information about the nature and extent of participation, use of various fishing gear, demographic aspects of participants, and other important information. Some 260 commercial fishery participants were identified in the USVI in 2016, with 119 residing on St. Thomas and St. John, and 141 on St. Croix. Fishing fleets and activities around the USVI are small-scale in nature, with the majority of harvesters regularly working less than three miles from shore. Labor is extensive, and many fishermen rely on their own knowledge and skills on the water and to fabricate and repair gear, maintain vessels and engines, and market their landings. Kojis et al. (2017) found that commercial fishery participants spend an average of 34.2 hours/week in the conduct of fishing-related activities, with little variation across the islands. As summarized in Table 3.5.1 below, Kojis et al. (2017) provide useful insight into the nature of contemporary commercial/artisanal fishing and fishery participants around the USVI.

Table 3.5.1. Contemporary socioeconomic, demographic, and operational aspects of fishing in the USVI*.

Fishing-Related Variable	St. Croix	St. Thomas/St. John
Mean Age of Participant in Years	56.9	55.0
Years of Fishing Experience	26.7	30.8
Average Size of Immediate Household	2.7	2.5
Most Commonly Reported Ethnic Ancestry	Hispanic	French
Overall Level of Education**	↑ from Kojis (2004)	↑ from Kojis (2004)
% Achieving High School Diploma	46%	63%
% Engaging in other Employment	39.3%	44.7%
% of Participants Dependent Solely on Fishing	38.9%	27.5%
Overall Dependence on Fishing Compared	Higher	Lower
Mean Length of Fishing Vessel	21.9 feet	24.6
Mean Size of Outboard Engines	90 hp	110 hp
% Using Twin-Engine Craft	~50%	Few
Present Value of Fishing Vessel and All Gear	\$39,000	\$102,000

*Based on Kojis et al. (2017).

**The authors correspondingly report that younger fishermen reported more years of formal education than older fishermen across the island groupings.

With regard to species deemed most important by local fishery participants participating in Kojis et al.’s study (2017), reef fish species remained the most important and commonly pursued across the islands. Coastal pelagic species were deemed secondarily important among participants on St. Thomas and St. John, followed by spiny lobster. St. Croix participants considered spiny lobster to be the second-most important fishery locally, with deep-water pelagic fishing the third most important. Hook-and-line gear is owned by 88% of participants in total, with relatively more fishermen from St. Thomas and St. John using rods and reels to capture large pelagics. Trap gear is said to be relatively less commonly used by fishermen on St. Croix than elsewhere (Kojis et al. 2017). Scuba gear is more commonly used to spear fish, snare spiny lobsters, and hand-gather queen conch on St. Croix and on the other islands, with such gear used by 54% of participants on St. Croix and only 14% on St. Thomas and St. John.

Of direct relevance to the underlying purpose of the present document, Kojis et al. (2017), assert that fishery participants, “particularly those on St. Croix, have diversified into other gear such as multi-hook vertical setlines, tuna reel buoy fishing, and vertical set lines [that employ a] single hook for [capture of] pelagic fish.” As can be noted in Table 3.5.2, ownership of vertical set lines for snappers is relatively more common around St. Croix than around St. Thomas or St.

John. Frequency of use over the course of the year, specific locations of use, or level productivity are not discussed in Kojis et al. (2017).

Table 3.5.2. Summary information on multi-hook vertical set lines used to capture deep-water snappers and groupers in the USVI*

Location	N**	Number/% Sampled Who Own the Gear	Number Using the Gear Within 3 Miles	Number Using the Gear Beyond 3 Miles	Number Using the Gear in Both Zones	Mean Number of Hooks per Line	Mean Number of Lines Fished per Trip	Mean Hours Fished per Trip
St. Thomas/ St. John	82	3/3.7%	1	1	1	10†	2.7	4.0
St. Croix	109	42/38.5%	6	0	33	12.2†	2.9	6.5

*From Kojis et al. (2017).

** N = total number of research participants responding to questions about any gear;

†Only one participant from St. Thomas discussed use of the gear in 2016 and so the range in number of hooks used is the same as the mean; whereas the reported range in number of hooks deployed per line among the 42 St. Croix residents who own the gear is between 3 and 40.

Stoffle (pers. communication 2021) recently interviewed fishery administrators and knowledgeable commercial fishery participants involved the USVI vertical setline fishery. The scientist notes that there may be some general confusion between buoyed vertical lines used for pelagic species and buoyed vertical set lines used in deep water conditions for snappers and groupers. Notably, the interviews indicate relatively less extensive participation in the USVI than indicated by Kojis et al. (2017), suggesting a recent shift away from use of the gear after the hurricane season of 2017. Stoffle’s recent interviews, summarized here, provide useful insight into the fishery as currently practiced in the USVI:

This is said to be a very fickle type of fishing, dependent as it is on good weather and sea states, certain moon phases, and specific movement or lack thereof of local currents. St. Croix fishermen state that if the fishing conditions are not all correct, there is no reason to fish. Fishermen report that under the best of circumstances, they are lucky to land 300 pounds in a day’s fishing, and that failure to locate the fish is likely and common. Fishing at depth anywhere from 300 and 1,200 feet, most participants target queen snapper, goldeye snapper, blackfin snapper, black snapper, vermilion, and misty grouper. Most use electric

reels and anywhere from 12 to 50 hooks, typically spaced about 6 inches apart. St. Croix fishermen tend to target areas to the south of, and along Lang Bank. Some may use up to six buoys/lines, setting each in sequence and returning to pull and rebait. The process continues if the fishing is good. Some fishermen are said to only use one line. Use of circle hooks is common. Squid, small skipjack, and little tunny are commonly used for bait. Some participants using a single line soak their gear only for a few minutes before retrieval, with the understanding that the bite typically occurs quickly if the fish are present. These deep-water species are sold in the local marketplace, typically on Saturdays. The fish are said to be much-loved by local residents and ciguatera is not a problem for this complex of species. Typical price is around eight dollars per pound though gas prices are thought to potentially necessitate an increase in price. Island fishermen tend to target the species as a part of their annual round, which includes numerous other target species and gear types. Fishermen report that only a small number of people pursue this fishery, with interviewees estimating only nine involved from St. Croix (Summary of discussions between Stoffle and local interviewees, February 2021).

Among the most important issues discussed by fishery participants in the islands during the 2017 study by Kojis et al., was the perceived status of island fisheries, with only some 14% of study participants stating that the region's fisheries had improved since the prior study in 2010-2011 (Kojis et al. 2017). The overwhelming explanation across the sample was that the availability of preferred species had diminished in formerly highly productive fishing grounds in recent years. Participants on St. Croix asserted that regulations and area closures also underlie recent trends of diminished productivity. With regard to socioeconomic concerns, perspectives between island districts varied considerably, with 45% of participants on St. Croix reporting that their household economy was worse or much worse than five years previously, while only 21% of St. Thomas and St. John fishermen reporting this condition. This may relate to the recent closure of the HOVENSA refinery on St. Croix, indicating formerly strong economic linkages between St. Croix fishing families and a globally significant petroleum refinery (Kojis et al. 2017).

Recent Macro-Social Change: Impacts of the 2017 Hurricane Season in the USVI

As discussed in relation to Puerto Rico and Puerto Rico fisheries, 2017 was a particularly damaging tropical storm season in the Caribbean. After causing major damage on Caribbean islands to the south, Category 5 Hurricane Irma passed directly over St. John and St. Thomas on September 6. Two weeks later, the dangerous right semi-circle of Hurricane Maria, also then a Cat-5 storm, passed over St. Croix before making landfall on Puerto Rico. Cangialosi et al.

(2018) assert that, in addition to three deaths, the effects of Irma itself were profound across the USVI, with particularly severe initial impacts on St. Thomas and St. John:

With respect to initial impacts of the 2017 hurricanes on fleets around St. Croix, St. Thomas, and St. John, the extent of lost fishing income and long-term damage to fisheries-related infrastructure were profound. Crosson (2018) estimates that fleets on St. Croix endured some \$2,148,665 in damages, stemming from: loss or damage to commercial fishing vessels and fishing gear; lost income; and loss or damage to fishing-related infrastructure. Estimated combined damages resulting from the same problems on St. Thomas and St. John totaled \$3,632,806 (Crosson 2018). Charter fishing fleets also endured significant damages across the USVI, as did various gear suppliers and seafood businesses (Stoffle et al. 2020). As discussed in Stoffle et al. (2020), “the [USVI] commercial and for-hire fisheries still had not yet fully recovered at the time of this study in 2019, almost twenty-two months after the impact of the two hurricanes, with some fishermen unable to either rebuild or recover at all.”

Indicating the extent of early impacts, Stoffle et al. (2020) report that total unemployment in the USVI rose by some 12% or 4,500 lost jobs soon after the two storms impacted the region, and that by May 2018, only 600 jobs had been recovered. Moreover, “it took months before power was fully restored and transportation [was available to provide] access to land and sea destinations” (Stoffle et al. 2020). According to Austin (2018), the USVI also suffered *long-term* socioeconomic impacts, with lingering implications for fishery participants and/or family members who work in non-fishery sectors on a periodic, part-time, or full-time basis. This is because the tourism industry and the cruise ship and airline industries that support tourism were heavily impacted by the storms. As such, connections between the fishing industry and larger economy were continuing to recover in 2019, just prior to the arrival of the COVID-19 pandemic and its effects on the region (described in the following section).

The COVID-19 Pandemic and Fishery Impacts on St. Croix, St. Thomas, and St. John

During mid-March 2020, USVI Governor Albert Bryan, Jr. announced that in response to a local outbreak of coronavirus in the islands, the entry of all tourists into the USVI would be prohibited. This initial closure remained in place until mid-July when the outbreak appeared to be under control. Following a brief reopening, the islands were once again shut down to limit a subsequent outbreak. Soon after closures were being implemented in the USVI, NOAA Fisheries social scientists conducted interviews with 87 commercial and charter fishermen on the islands of St. Croix, St. Thomas, and St. John. A second round of interviews was finalized in February 2021, with additional results from both rounds of survey work to be released in upcoming months.

Among the key findings from NOAA Fisheries (2021) initial survey of pandemic impacts among commercial harvesters in the USVI are the following: (a) 87% of USVI commercial fishermen reported revenue losses occurring between January 2020 and July 2020; (b) affected commercial fishermen reported an average decrease in revenue of 53%; (c) 31% reported a reduction in the number of crew members; and (d) commercial fishermen reported operating at 48% of normal fishing activity. Noting some cross-over participation between commercial and for-hire fleets and fisheries in the USVI, initial pandemic impacts were also determined to be significant among the charter sector, with key impacts including: (a) 100% of affected for-hire operators reported revenue losses; (b) affected for-hire businesses reported a 58% decrease in revenue on average; and (c) 31% reported a reduction in crew member and/ or employees (NOAA Fisheries 2021).

Finally, research participants in both the commercial and charter sectors were asked to identify the top three pandemic-related factors that had initially affected their operations. Some 63% of commercial fishermen stated that health safety measures had the greatest effects on their operations, followed by state and local government restrictions (61%), and finally by a relative lack of markets or buyers (56%). Meanwhile, a lack of clients was most commonly considered the biggest problems among charter operators (79%), followed by state and local government restrictions (74%), and implementation of health and safety measures onboard (42%) (NOAA Fisheries 2021).

Given the severity of the entire sequence of disaster events affecting fisheries in Puerto Rico and across the USVI beginning in 2017, and also the extent of pre-existing economic challenges across the overall region, the situation may well call for an examination of cumulative impacts among fisheries and larger societies across the region.

3.5.3 Environmental Justice Considerations

Established in 1994, Executive Order 12898 (Environmental Justice) requires that federal agency actions be undertaken in a manner that identifies and avoids any adverse human health and/or socioeconomic effects among low-income and minority groups and populations around the nation and its territories. As such, federal regulatory decisions must be undertaken in ways that ensure no individuals or populations are excluded, denied the benefits of, or are subjected to discrimination due to race, color, or nation of origin. Of relevance in the context of marine fisheries, federal agencies are further required to collect, maintain, and analyze data regarding patterns of consumption of fish and wildlife among persons who rely on such foods for purposes of subsistence. Established in 2021, Executive Order 13985 calls for human equity in the context of federal decision-making and policy actions. Titled “Advancing Racial Equity and Support for Underserved Communities through the Federal Government,” this Executive Order requires that federal policies and programs are designed and undertaken in a manner that delivers

resources and benefits equitably to all citizens, including those who are members of historically underserved communities. Here, the phrase “underserved communities” refers to populations and persons that, in historic terms, have been systematically denied full and equitable opportunity to participate in economic, social, and civic aspects of life in the nation.

Various forms of data are available to indicate the presence of environmental justice issues among minority and low-income populations and/or indigenous communities potentially affected by federal regulatory and other actions. With the intent of enhancing capacity to determine whether environmental justice issues may be affecting coastal communities around the U.S. where fishing-related industry and subsistence activities are important aspects of coastal community economies, NMFS social scientists undertook an extensive series of deliberations and review of pertinent data, literature, and methodological approaches to the issue. The scientists ultimately selected specific social, economic, and demographic variables that could function to identify social and economic vulnerabilities at the community level of analysis (see Jacob et al. 2013; Jepson and Colburn 2013). Census data, such as community-specific rates of poverty, number of households maintained by single females, number of households with children under the age of five, rates of crime, and rates of unemployment, exemplify the types of information chosen to aid in the identification and analysis of community-level vulnerabilities. Such variables were subsequently used to develop composite indices that could be applied to assess factors that are indicative of problematic local responses to environmental, regulatory, and other sources of social change among the nation’s fishing- and/or seafood-oriented communities.

As provided in the following figures, three composite indices—termed here as poverty, population composition, and personal disruption—are applied to indicate relative degrees of vulnerability among communities in the U.S. Caribbean region where residents are engaged in the territorial and federally managed fisheries discussed in the previous sections of this amendment. The resulting community social vulnerability index scores are provided for municipalities in Puerto Rico and for population sub-districts in the USVI. Mean standardized community vulnerability reference points for each place of interest are provided along the y-axis in the graphics, with means for the vulnerability measures and threshold standard deviations depicted along the x-axis. Scores exceeding the 0.5 standard deviation level indicate local social vulnerability to regulatory and other potential sources of social change. Of note, the various forms of information used to generate the indices depicted below are currently being updated by social scientists at NOAA’s Southeast Fisheries Science Center. These will incorporate the most pertinent and recent U.S. Census data, which is due for public release during October 2022.

As depicted in Figure 3.5.1 below, most population sub-districts on St. Croix exceed the 0.5 and 1.0 standard deviation thresholds for one or more of the vulnerability indices developed to

characterize sociodemographic and economic conditions around the island. The East End sub-district is the sole exception here, as might be expected given its resort-oriented economy. Meanwhile, the Southwest, South-central, and Sion Farm sub-districts each exceed the vulnerability indices for local poverty and population composition. It is emphasized here that socioeconomic conditions are very likely to have worsened in recent years throughout the U.S. Caribbean given challenges resulting from the 2017 hurricane season and from pandemic-induced business closures and related problems during 2020.

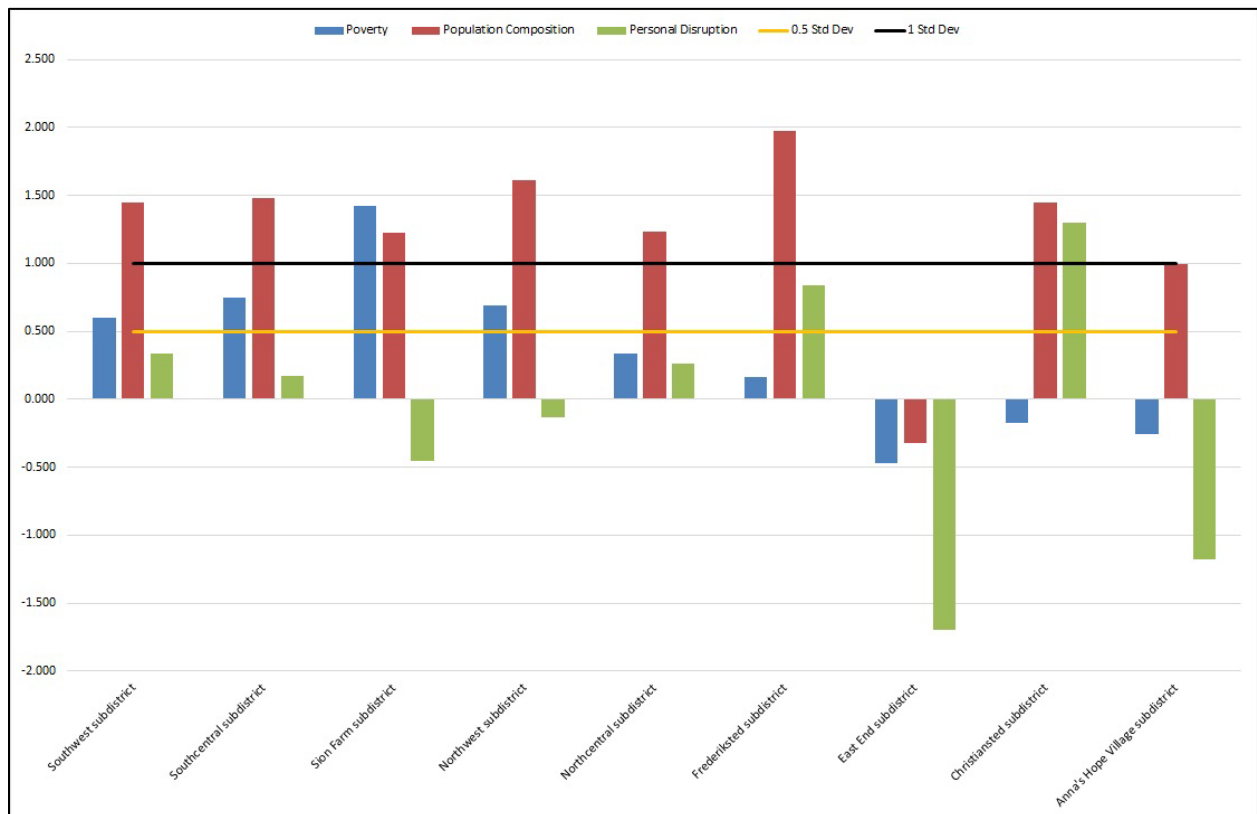


Figure 3.5.1. Social vulnerability indices for St. Croix coastal sub-districts. (Source: SERO County Social Vulnerability Indicators database [ACS 2014], CFMC 2019a)

As depicted in Figure 3.5.2 below, social indicators data reveal that most sub-districts on the islands of St. Thomas and St. John are relatively less vulnerable to sources of social change than are those on St. Croix. However, local socioeconomic and demographic vulnerabilities are indicated for the sub-district of Charlotte Amalie, where poverty and local population composition indices exceed the 1.0 standard deviation threshold for local vulnerability to social change.



Figure 3.5.2. Social vulnerability indices for St. Thomas and St. John coastal sub-districts. (Source: SERO County Social Vulnerability Indicators database [ACS 2014], CFMC 2019b)

Finally, as depicted in Figure 3.5.3 below, available social indicators data make clear that virtually all municipalities of Puerto Rico are, in socioeconomic and demographic terms, vulnerable to various sources of change. Given extensive social vulnerabilities noted of communities across the U.S. Caribbean in recent years, the communities depicted in this section do bear the potential for environmental justice concerns in the context of new fishing regulations and other distinct or cumulative sources of change in the region. However, the full range of pertinent up-to-date information is not yet available to assess this issue in full. As such, although no fisheries-specific environmental justice problems are identified here in relation to prospective changes in regulation of *cala con boya* (buoy gear), the absence of such issues cannot be assumed at this time.

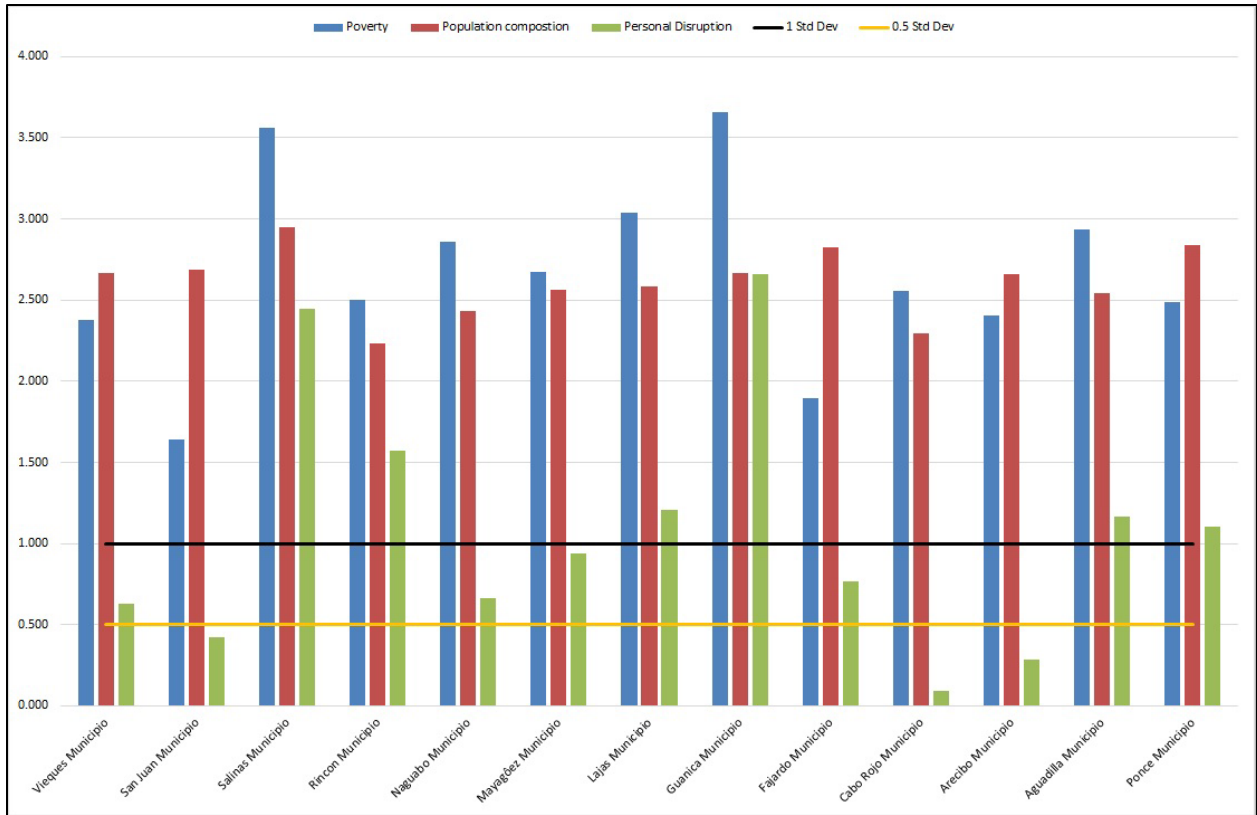


Figure 3.5.3. Social vulnerability indices for coastal municipalities in Puerto Rico. (Source: SERO County Social Vulnerability Indicators database [ACS 2014], CFMC 2019c)

3.6 Description of the Administrative Environment

The administrative environment was discussed in detail in the Puerto Rico, St. Thomas and St. John, and St. Croix FMPs, which is incorporated herein by reference and summarized below.

3.6.1 Federal Fishery Management

Federal fishery management is conducted under the authority of the Magnuson-Stevens Act (16 U.S.C. 1801 et seq.), originally enacted in 1976 as the Fishery Conservation and Management Act. The Magnuson-Stevens Act claims sovereign rights and exclusive fishery management authority over most fishery resources within the U.S. EEZ, an area extending from the seaward boundary of each coastal state to 200 nm from shore, as well as authority over U.S. anadromous species and continental shelf resources that occur beyond the EEZ.

Responsibility for federal fishery management decision-making is divided between the U.S. Secretary of Commerce (Secretary) and eight regional Fishery Management Councils that represent the expertise and interests of constituent states. Regional councils are responsible for preparing, monitoring, and revising management plans for fisheries needing management within their jurisdiction. The Secretary is responsible for promulgating regulations to implement proposed plans and amendments after ensuring that management measures are consistent with the Magnuson-Stevens Act, and with other applicable laws summarized in Appendix C. In most cases, the Secretary has delegated this authority to NMFS.

The Caribbean Fishery Management Council is responsible for the conservation and management of fishery stocks within federal waters surrounding Puerto Rico and the USVI. These waters extend to 200 nautical miles offshore from the seaward boundaries of Puerto Rico (9 nm from shore) and the USVI islands of St. Thomas, St. John, and St. Croix (3 nm from shore). The Council consists of seven voting members: four members appointed by the Secretary, at least one of whom is appointed from each of the Commonwealth of Puerto Rico and the Territory of the USVI; the principal officials with marine fishery management responsibility and expertise for the Commonwealth of Puerto Rico and the Territory of the USVI, who are designated as such by their Governors; and the Regional Administrator of NMFS for the Southeast Region.

The public is involved in the fishery management process through participation at public meetings, on advisory panels and through council meetings that, with few exceptions for discussing personnel matters, are open to the public. The regulatory process is in accordance with the Administrative Procedure Act, in the form of “notice and comment” rulemaking, which

provides extensive opportunity for public scrutiny and comment, and requires consideration of and response to those comments.

3.6.2 Puerto Rico and U.S. Virgin Islands Fisheries Management

The purpose of state representation at the Council level is to ensure state participation in federal fishery management decision-making and to promote the development of compatible regulations in state and federal waters. The state governments have the authority to manage their respective fisheries including enforcement of fishing regulations, and exercises legislative and regulatory authority over their states' natural resources through discrete administrative units. Although each agency listed below is the primary administrative body with respect to the state's natural resources, all states cooperate with numerous state and federal regulatory agencies when managing marine resources.

3.6.2.1 Puerto Rico

The Commonwealth of Puerto Rico has jurisdiction over commonwealth fisheries in waters extending up to 9 nm from shore. Those fisheries are managed by Puerto Rico's Department of Natural and Environmental Resources (DNER) per Puerto Rico Law 278 of November 29, 1998 as amended, known as Puerto Rico's Fisheries Law, which establishes public policy regarding fisheries. Section 19 of Article VI of the Constitution of the Commonwealth of Puerto Rico provides the foundation for the fishery rules and regulations. Puerto Rico Fishing Regulations 6902, implemented in 2004, included regulations for the management of marine managed areas for fisheries purposes and imposed regulations for the protection of several species such as the Nassau grouper and the red hind. Puerto Rico Regulations 7949, implemented in 2010, is the current regulatory mechanism for management of fishery resources in Puerto Rico territorial waters as well as for those resources and areas with shared jurisdiction with the U.S. government through the Council.

3.6.2.2 U.S. Virgin Islands

The USVI has jurisdiction over territorial fisheries in waters extending up to 3 nm from shore. The USVI's Department of Planning and Natural Resources (DPNR) is responsible for the conservation and management of USVI fisheries and enforcement of boating and fishing regulations. The DPNR's Division of Fish and Wildlife (DFW) is responsible for data collection pertaining to the fisheries of the USVI. The DFW monitors commercial and recreational fisheries and provides recommendations to the DPNR Commissioner on matters relating to fisheries management. Rules and regulations for the USVI fisheries are codified in the Virgin Islands Code, primarily within Title 48 Chapter 12.

More information about these agencies can be found from the following web pages:

Puerto Rico DNER: <http://www.drna.pr.gov/>

USVI DPNR: <https://dpr.vi.gov/>

Chapter 4. Environmental Consequences

4.1 Action 1: Buoy Gear Prohibition

Summary of Management Alternatives

Alternative 1. No Action. Retain the authorized gear types for recreational harvest in federal waters off Puerto Rico, St. Thomas and St. John, and St. Croix.

Preferred Alternative 2. Prohibit the use of buoy gear for those fishing recreationally in federal waters off Puerto Rico, St. Thomas and St. John, and St. Croix.

4.1.1 Effects on the Physical Environment

Alternative 1 would not change the allowable gear types authorized for harvest by the recreational fishing sector in the federal waters of Puerto Rico, St. Thomas, St. John, and St. Croix. **Preferred Alternative 2** would prohibit the use of buoy gear for those fishing on a recreational basis in federal waters off Puerto Rico, St. Thomas and St. John, and St. Croix. No additional physical effects from the alternatives are expected.

At present, there is no evidence that the recreational sector uses or has used buoy gear in the exclusive economic zone (EEZ) to fish for deep-water reef fish or any other non-managed species. Buoy gear in the U.S. Caribbean is a highly specialized gear type used to fish commercially for deep-water reef fish and has a low potential for affecting the physical environment (e.g., entanglement, interactions with the bottom) because of the types of habitat (e.g., rocky outcrops), and depths (i.e., 400-1,200 feet [ft]) where it is used. Therefore, physical negative effects are not expected from the prohibition on the use of buoy gear by the recreational sector under **Preferred Alternative 2**. This action would not be expected to affect essential fish habitat for any species in Puerto Rico, St. Croix, or St. Thomas and St. John.

When compared to **Alternative 1**, minor positive effects may be expected because **Preferred Alternative 2** would eliminate any possibility of future interactions between the bottom and buoy gear from use by the recreational sector, though interactions are unlikely.

4.1.2 Effects on the Biological/Ecological Environment

Alternative 1 would not have any additional biological/ecological effects, as it would not change the allowable gear types for recreational harvest. Because buoy gear is unlikely to be used by the recreational sector, no effects would be expected on the biological/ecological environment from

its prohibition for use by this sector under **Preferred Alternative 2**. Prohibiting the use of buoy gear would prevent any additional ecological/biological effects that might accrue though increased (recreational fishing-related) pressure at deep-water fishing grounds and to those resources (e.g., risk of overfishing the deep-water snapper/grouper resource; risks to managed species from misuse of the buoy gear; limit bycatch of managed species).

Neither of the alternatives are anticipated to modify the operation of the Puerto Rico, St. Thomas and St. John, or St. Croix fisheries in a manner that would cause effects to Endangered Species Act (ESA)-listed species or critical habitat that were not considered in the 2020 biological opinion. Action 1 is also not expected to significantly increase or decrease the magnitude of bycatch or bycatch mortality in the Puerto Rico, St. Thomas and St. John, and St. Croix fisheries, as the action would not change how the deep-water reef fish fisheries operate in the respective island management areas.

When compared to **Alternative 1**, **Preferred Alternative 2** is slightly more beneficial to the biological/ecological environment as it would prevent fishing activity by the recreational sector with buoy gear to support the conservation of target species and habitats.

4.1.3 Effects on the Economic Environment

Alternative 1 would not change the authorized gear types for recreational harvest in federal waters off Puerto Rico, St. Thomas and St. John, and St. Croix, and therefore would have no adverse or beneficial economic impact beyond the status quo (baseline). **Preferred Alternative 2** would prohibit the use of buoy gear for those fishing recreationally in federal waters off Puerto Rico, St. Thomas and St. John, and St. Croix. At present, there is no evidence that the recreational sector uses or has used buoy gear in the EEZ or that it would be used there in the future because buoy gear is a very specialized commercial gear. Therefore, **Alternative 1** and **Preferred Alternative 2** would have the same economic effects.

4.1.4 Effects on the Social Environment

Alternative 1 would not alter the allowable gear types authorized for harvest by recreational fishing vessels in the federal waters of Puerto Rico, St. Thomas, St. John, and St. Croix. **Preferred Alternative 2** would prohibit the use of buoy gear for those fishing on a recreational basis in federal waters off Puerto Rico, St. Thomas and St. John, and St. Croix. Because buoy gear is not presently used by operators of individual recreational vessels, or by charter or guided fishing operations anywhere in the U.S. Caribbean, neither of these alternatives would have significant social impacts in the island regions of interest. However, should an operational and/or cultural shift on the part of individual recreational vessel owners or offshore charter

fishing captains lead to widespread use of buoy gear at the subject snapper/grouper grounds, there is potential for **Alternative 1** to generate new resource use conflicts and ecological effects in the future. Although such outcomes appear unlikely in the present, **Preferred Alternative 2** would eliminate: (a) any potential future conflicts between commercial and recreation-oriented user groups at the subject fishing grounds, (b) any additional ecological effects that might accrue through additional (recreation-related) pressure at those grounds and to those resources, and (c) any safety concerns potentially associated with the presence of a new (recreational) fleet at the grounds in question.

4.1.5 Effects on the Administrative Environment

Alternative 1 is the status quo alternative and it is not expected to have any administrative effects. **Preferred Alternative 2** would be expected to have short-term administrative effects from the preparation of this amendment and implementing regulations. No additional administrative effects are expected from **Preferred Alternative 2**.

4.2 Action 2: Modification to the Buoy Gear Definition

Summary of Management Alternatives

Alternative 1. No Action. The definition of buoy gear specified in 50 CFR 622.2 would not be changed.

Alternative 2. Modify the definition of buoy gear in 50 CFR 622.2 as it applies to the commercial sector fishing for managed reef fish in the EEZ off Puerto Rico, St. Thomas and St. John, and St. Croix to allow the use of up to 25 hooks connected between the buoy and the terminal end.

Preferred Alternative 3. Modify the definition of buoy gear in 50 CFR 622.2 as it applies to the U.S. Caribbean EEZ (i.e., the EEZ off Puerto Rico, St. Thomas and St. John, and St. Croix) to allow the use of up to 25 hooks connected between the buoy and the terminal end.

4.2.1 Effects on the Physical Environment

Physical effects are not expected from any of the alternatives as the buoy gear used to fish for deep-water reef fish in the U.S. Caribbean has a low potential for affecting the physical environment (e.g., entanglement). The gear is used in depths of 400-1,200 ft over rocky habitat, hangs vertical in the water column, and does not drag on the bottom. The use of anchors while fishing with this gear is not common. For these reasons, no effects are expected from maintaining the definition of buoy gear in **Alternative 1**. Increasing the maximum number of hooks that can be used with the buoy gear in **Alternatives 2 and 3 (Preferred)** is not expected to

increase interactions with the bottom. This action is not expected to affect essential fish habitat for any species or critical habitat for ESA species in Puerto Rico, St. Croix, or St. Thomas and St. John.

4.2.2 Effects on the Biological/Ecological Environment

For Caribbean Fishery Management Council (Council)-managed fisheries, buoy gear as currently defined under federal regulations as well as the buoy gear configuration preferred by some commercial fishermen in Puerto Rico and the U.S. Virgin Islands (USVI), are mostly used to harvest deep-water snappers and groupers, with queen and cardinal snapper being the species most targeted with this gear type. There are other non-target species that appear in the landings that are harvested as bycatch while fishing for deep-water snappers such as certain species of jacks, and other non-managed species such as the Atlantic scombrops and the glasseye snapper, but these are infrequent. **Alternative 1** is the status quo and would not change the current definition of buoy gear in federal regulations. In general, biological and ecological effects are not expected under **Alternative 1**. Fishermen currently need to conform to the current definition (e.g. maximum of 10 hooks) to comply with federal regulations.

Alternative 2 would increase the number of hooks that could be used with buoy gear to fish commercially only for Council-managed reef fish from 10 hooks up to 25 hooks. The magnitude of any additional biological and ecological effects is dependent on the extent that commercial fishermen increase the number of hooks deployed and that the increased number of hooks used translates to increased landings of Council-managed reef fish species. Increasing the number of hooks or setlines does not necessarily translate into higher catch as fishing depends on many environmental factors and experience/skill of the fishermen. If fishermen who use 10 or fewer hooks increase the number of hooks per setline and that increase translates into higher catch or landings, then that could increase the potential for over exploitation of the deep-water reef fish resource, as well as increase the potential for more bycatch and impacts to non-target species. Deep-water reef fish species in both Puerto Rico and the USVI are not considered to be undergoing overfishing and harvest is constrained by annual catch limits (ACL) and accountability measures and recreational bag limits. However, if there are deep-water reef fish fishermen who are fishing illegally and using more than 25 hooks, and they reduce the number of hooks to 25 or less and do not increase the number of trips or increase the amount of gear used (deploy additional sets with max number of hooks) to compensate for any fishing opportunity lost from this change, then there could be some benefit to the biological/ecological environment of the reef fish target species by reducing fishing pressure.

Preferred Alternative 3 would change the definition of buoy gear in the U.S. Caribbean EEZ to allow up to 25 hooks for all fisheries where the gear is authorized. Buoy gear is an authorized

gear type for the commercial harvest of reef fish and pelagic species managed under the island-based fishery management plans (FMP), for the commercial and recreational harvest of non-FMP species, and commercial harvest of non-managed pelagic species in federal waters off Puerto Rico, St. Thomas and St. John, and St. Croix. The same effects discussed in **Alternative 2** for using the gear to target Council-managed reef fish species would be expected for **Preferred Alternative 3**. With respect to those using the buoy gear to commercially target Council-managed reef fish (particularly deep-water snappers and groupers) and pelagics, and non-managed species, the magnitude of any biological and ecological effects from an increase in the number of hooks would also be dependent on the extent that commercial fishermen can and do increase the number of hooks deployed and the extent that catch or landings of the target and non-target species increase as a result. Similar to **Alternative 2**, negative biological/ecological effects could be expected if an increase in the number of hooks translates into higher catch or landings for any of the target and the increase in catch or landings has the potential to overexploit the resource. However, this effect is not expected for coastal pelagics and other non-Council species (commercially and recreationally, as applicable) because few fishermen target these species with buoy gear.

No effects to ESA-listed species would be expected from any of the alternatives proposed in this action. Interactions with ESA-listed sea turtles and finfish from hook-and-line gear are not commonly reported for the deep-water reef fish fishery or from other fisheries where buoy gear is authorized. Listed corals are also not expected to be affected by hook-and-line gear fishing for deep-water reef fish or other species where buoy gear is authorized because corals are usually not present in the areas fished (i.e., fishing occurs mainly over muddy bottoms and rocky benthic habitat at depths that range from 250 to 3,000 ft).

In summary, **Alternatives 2 and 3 (Preferred)** would have their maximum biological/ecological effects if there is currently full compliance and commercial fishermen increase the number of hooks deployed to 25 hooks per line to maximize their landings and this increase translates into higher landings and the potential for overexploiting the resource. While the effects for Council-managed reef fish are expected to be similar for **Alternatives 2 and 3 (Preferred)** for Council-managed pelagic species and other non-managed species caught incidentally, potential negative biological/ecological effects from **Preferred Alternative 3** would be expected to be minimal but higher than those from **Alternative 2** because **Preferred Alternative 3** would increase the buoy gear hook limit that could be used to harvest these species. There is no information on the number of hooks fishermen are currently using.

If commercial fishermen presently use the maximum number of hooks they prefer to use (and there may be presently zero compliance with the 10-hook limit), then **Alternatives 1, 2, and 3**

(Preferred) would have the same biological/ecological effects because there would be no increase in fishing effort or associated landings or bycatch from any of the alternatives.

4.2.3 Effects on the Economic Environment

Alternative 1 (No Action) would continue to define buoy gear as having no more than 10 hooks connected between the buoy and the terminal end. As such, it would have no adverse or beneficial economic effects beyond the baseline. **Alternative 2** would modify the definition as it applies to the commercial sector harvesting managed reef fish in the EEZ off Puerto Rico, St. Croix, and St. Thomas and St. John. The modified definition would allow up to 25 hooks per line connected between the buoy and the terminal end. By allowing an increase in the maximum number of hooks per line, **Alternative 2** could generate additional landings of deep-water snappers and groupers and increased ex-vessel revenues from those landings, which in turn could generate additional jobs, income, sales, and value-added to seafood markets, restaurants, marine equipment suppliers, and other business sectors that are part of the broader seafood industry. However, **Alternative 2** could be problematic for commercial fishermen who presently harvest both deep-water reef fish and non-reef fish species with buoy gear, especially coastal pelagic species, on the same trip because the maximum number of hooks for harvesting coastal pelagic and other non-managed reef fish species would remain at 10 per line, and the modified gear could not be used to harvest these other species. **Preferred Alternative 3** would modify the definition to allow up to 25 hooks per line regardless of target. Therefore, where buoy gear is an authorized gear—for example, for harvesting deep-water reef fish and non-reef fish species, such as coastal pelagics—fishermen could use up to 25 hooks. Consequently, **Preferred Alternative 3** could generate the largest additional economic benefits of the three alternatives.

The magnitudes of the additional beneficial economic effects of **Alternatives 2 and 3 (Preferred)** are dependent on the extent that commercial fishermen can and do increase the number of hooks deployed, landings and associated ex-vessel revenue from those landings. There is currently insufficient information on the number of hooks fishermen are currently using. If commercial fishermen are fishing illegally and presently use as many hooks as they prefer, then **Alternatives 1, 2, and 3 (Preferred)** would have the same economic effects because there would be no change in fishing effort from any of the alternatives. **Alternatives 2 and 3 (Preferred)** would have their maximum additional economic benefits if there is currently full compliance and commercial fishermen increase the number of hooks deployed to no more than 25 hooks per line to maximize their net revenues per trip; however, **Alternative 2's** maximum economic benefit would be less than that of **Preferred Alternative 3** (because **Alternative 2** would not increase the hook limit for coastal pelagic and other non-reef fish species, whereas, **Preferred Alternative 3** would increase that limit).

4.2.4 Effects on the Social Environment

The level of success achieved by commercial fishing operations around Puerto Rico and the USVI is related in part to the capacity to flexibly adapt to the changing environmental, economic, and social factors and opportunities that characterize the industry. Success can be defined in dollar terms, in terms of social experience and the harvest of quality food for the family and community, and in terms of subjective experience, such as personal achievement. Significantly, such outcomes are not guaranteed, and in fact fishing-related challenges are often heightened by regional economic problems and disaster events, such as those recently generating major impacts among the societies and economies of Puerto Rico and the USVI.

The use of buoy gear to harvest deep-water snappers (and other species) continue to present social and economic opportunities for those regional fishery participants who possess the necessary gear and environmental knowledge to engage the fishery. As stated elsewhere, the no action alternative, **Alternative 1**, would not change the current definition of buoy gear. This definition includes the requirement that the gear cannot contain more than 10 hooks between the surface buoy and terminal end. For this reason, the no action alternative does not present the possibility of economic or social change or impact beyond the baseline, where such baseline assumes compliance with existing federal regulations.

The modified definition of buoy gear specified in **Alternative 2** would allow for the use of as many as 25 hooks per buoyed line for commercial operations focused on harvest of federally managed reef fish. As recently discussed by Puerto Rico- and the USVI-based commercial harvesters who possess direct understanding of the fishery in question, the flexibility to use a greater number of hooks than is specified in existing federal regulations would be in keeping with traditional patterns of gear use. Such patterns are said to have developed over multiple decades in conditions that call for differing gear-set and gear adjustment strategies, with the latter including adjustment to the number of hooks deployed in order to achieve maximum productivity in conditions that often include heavy currents, large swell, rough local sea states, rugged substrate, and varying behavior on the part of the desired fish species. Inasmuch as **Alternative 2** provides commercial fishermen fishing for reef fish with the option to use as many as 25 hooks per line, it improves the flexibility of strategic decision-making on-board, thereby increasing the potential for success and resulting social and economic benefits among participants in any given operation. However, this alternative also presents the potential for generating regulatory uncertainty and enforcement challenges since harvesters who deploy buoy gear sometimes incidentally harvest other managed or not presently managed species during the same trip, naturally retaining certain of those species on board, and the gear use would not extend to those species. Regulatory/enforcement issues could result due to the fact that the

maximum allowable number of hooks that can be deployed to harvest other species of commercial interest (such as certain pelagic species) would, by regulation, remain at 10 per line.

Importantly, **Preferred Alternative 3** minimizes the potential for regulatory and enforcement problems and any fleet-specific social and economic impacts that could result. This is the case since the alternative would modify the definition of buoy gear to include use of up to 25 hooks between the buoy and the terminal end wherever buoy gear is an authorized gear. Buoy gear is authorized for the commercial harvest of reef fish and pelagic species, and for certain non-managed species. This allows persons targeting reef fish with buoy gear to retain more species incidentally harvested in the fishery. In this respect, the alternative addresses multiple buoy-based commercial fisheries while also providing options for captains to determine and deploy an ideal number of hooks for any given set as needed to pursue the desired species given the environmental conditions at hand. Based on discussions with long-time island-based buoy gear specialists, such options better reflect the nature of the traditional buoy gear fishery and thereby improve the potential for trip-specific success. Coupled with Alternative 2 under Action 1, **Preferred Alternative 3** under **Action 2** heightens the potential for commercial captains and crew to experience success, where this is defined to include: (a) the continuation of fishery-specific and seafood-related social and cultural practices in the islands, (b) the provision of food and earnings in family and community settings, and (c) minimized concerns regarding safety and social and ecological impacts at the fishing grounds. Again, such potential outcomes may best be seen in socioeconomic context—which for commercial harvesters based in Puerto Rico and the USVI, includes the large-scale disruptions and recovery processes following from the pandemic, the hurricanes of 2017, and other sources of social and economic change.

4.2.5 Effects on the Administrative Environment

Alternative 1 is the status quo alternative and it is not expected to have any administrative effects. Both **Alternative 2** and **Preferred Alternative 3** would be expected to have short-term administrative effects from the preparation of this amendment and implementing regulations. Long-term administrative effects from **Alternative 2** would be expected if by increasing the number of hooks to maximize landings or profit, landings of deep-water reef fish (or other Council-managed reef fish) increase to the point where an ACL(s) is exceeded, prompting a potential application of accountability measures (AM) and a closure for the affected species. The same can be said about **Preferred Alternative 3** for Council-managed pelagic species, but this is not expected because harvest of pelagic species with this gear is minimal or incidental. However, given that landings of species harvested with this gear type are combined for state and federal waters and may already include harvest with more than 10 hooks (this is more for Council-managed deep-water reef fish), this scenario would be unlikely under harvest levels set under the island-based FMPs.

Alternative 2 presents the potential for some regulatory and enforcement issues because commercial fishermen who deploy buoy gear to harvest deep-water reef fish could also fish for other species during the same trip and retain those species. The issue could result because the maximum allowable number of hooks per line that can be deployed to harvest other non-reef fish species would remain at 10 per line. This would be difficult enforcement as it would be challenging to know what was harvested legally with this gear type. In contrast, **Preferred Alternative 3** would minimize this potential enforcement issue because the buoy definition would generally change and apply wherever buoy gear is an authorized gear. Buoy gear with up to 25 hooks could be used for, including the commercial harvest of multiple species and not just for the commercial reef fish fisheries under each island-based FMP.

4.3 Cumulative Effects Analysis

While this environmental assessment (EA) is being prepared using the 2020 Council on Environmental Quality (CEQ) National Environmental Policy Act (NEPA) Regulations, the cumulative effects discussed in this section meet the two-part standard for “reasonable foreseeability” and “reasonably close causal connection” required by the new definition of effects or impacts. Below is the five-step cumulative effects analysis that identifies criteria that must be considered in an EA.

1. *The area in which the effects of the proposed action will occur* – The affected area of this proposed action encompasses the federal waters of the U.S. Caribbean and includes the communities of Puerto Rico and the USVI of St. Thomas, St. John, and St. Croix that are dependent on fishing for deep-water reef fish. For more information about the area in which the effects of this proposed action will occur, please see Chapter 3, Affected Environment, which describes these resources as well as other relevant features of the human environment.

2. *The impacts that are expected in that area from the proposed action* – The proposed action would (1) prohibit the use of buoy gear for all recreational fishing in federal waters of Puerto Rico, St. Thomas and St. John, and St. Croix; and (2) increase the maximum number of hooks that can be used with buoy gear. Buoy gear is authorized in managed and unmanaged fisheries in the U.S. Caribbean. The environmental consequences of the proposed action are analyzed in Section 4.1 and Section 4.2.

Buoy gear is a gear type primarily used for the commercial harvest of deep-water snappers and groupers. Deep-water fishing with buoy gear is very specialized and practiced by a cohort of experienced commercial fishermen. It is unlikely that buoy gear is used to fish recreationally and it is a prohibited gear for recreational fishing, except for fishing for non-managed species in all three island-based fisheries. Prohibiting the use of buoy gear by the recreational sector (Action 1) is not expected to have any effects on the physical, biological/ecological, economic, and social environments because buoy gear is not a gear type used by the recreational sector. Prohibiting buoy gear use by the recreational sector would eliminate: (a) any potential future conflicts between commercial and recreation-oriented user groups at the subject fishing grounds, (b) any additional ecological/biological and physical effects that might accrue through additional (recreational fishing-related) pressure at those grounds and to those resources should recreational fisheries begin using the gear (e.g., risk of overfishing the deep-water snapper/grouper resource; risks to managed species from misuse of the buoy gear; limit bycatch of managed and unmanaged species), and (c) any safety concerns potentially associated with the presence of a

new (recreational) fleet at the deep-water reef fish fishing grounds which may arise due to the specialized characteristics of the buoy gear operations.

Increasing the maximum number of hooks that could be used with buoy gear to 25 hooks (Action 2) is not expected to increase interactions with the bottom as this gear has a low potential for affecting the physical environment (e.g., entanglement) because of the types of habitat, and the depth where it is used. An increase in the number of hooks could result in fishermen maximizing their landings and this translates into higher landings and the potential for overexploiting the resource. But this is only expected if there is full compliance with the number of hooks currently allowed to be used. Overall, an increase in the number of hooks could be negative but minor for species incidentally caught while pursuing the deep-water reef fish fishery. If increasing the number of hooks does not cause a change in fishing effort and associated landings and revenues, no other impacts would be expected. Short-term administrative impacts would be expected from the preparation of this amendment and implementing regulations for both Action 1 and Action 2. Long-term administrative effects would be expected from Action 2 if by increasing the number of hooks to maximize landings or profit, landings of deep-water reef fish (or other Council-managed reef fish) increase to the point where an ACL(s) is exceeded, prompting a potential application of AMs and a closure for the affected species. Some enforcement challenges could be expected from modifying the number of hooks just for the commercial harvest of managed reef fish instead of for all harvest where buoy gear is an authorized gear as it difficult distinguishing legal harvest, but this challenge is eliminated by applying the hook modification to other fisheries within each of the Puerto Rico, St. Thomas and St. John, and St. Croix FMPs.

3. Other past, present and reasonably foreseeable future actions that have or are expected to have impacts in the area – Listed are actions under development in the U.S. Caribbean that would be expected to have impacts associated with them.

Other fishery related actions – The island-based FMPs were approved by the Secretary of Commerce on September 22, 2020, and reorganized management measures from the U.S. Caribbean-wide level to each island management area. The cumulative effects associated with the island-based FMPs were analyzed in the EAs for the Puerto Rico FMP (CFMC 2019a), St. Thomas and St. John FMP (CFMC 2019b), and the St. Croix FMP (CFMC 2019c). Those cumulative effects analyses (CEA) are incorporated here by reference. The majority of the management measures included in the U.S. Caribbean-wide FMPs remained substantively unchanged under each island-based FMP, as the island-based FMPs incorporated most of those management measures that applied within each island area. The EAs in the island-based FMPs analyzed cumulative effects of the actions included in the FMPs that modified management measures including: listing the species to be managed in federal waters; organizing how those

species would be managed (as single stocks, in stock complexes, and with indicator stocks); revising or establishing (for species new to federal management) reference points (e.g., ACLs) and AMs; and updating framework procedures available for future management actions. The CEAs described how transitioning from U.S. Caribbean-wide FMPs to island-based FMPs only rearranged past Council actions and would not affect past actions taken by federal or non-federal entities. Specific to reef fish, each island-based FMP retained management measures such as size limits, seasonal closures, and recreational bag limits and revised the management reference points. The CEAs found that the overall impacts of the actions included in the island-based FMPs would be minimal.

A goal of establishing the island-based FMPs was to ensure the continued health of fishery resources occurring in the EEZ surrounding each island/island group within the context of the unique biological, ecological, economic, and cultural characteristics of those resources and the communities dependent upon them. The island-based FMPs established a place-based framework designed to provide the foundation for conserving and managing the Puerto Rico, St. Thomas and St. John, and St. Croix fisheries within an integrative, ecosystem-based approach. The Council, in partnership with the National Marine Fisheries Service (NMFS) and other regional constituencies, is in the process of moving towards implementation of ecosystem-based fishery management (EBFM) in the U.S. Caribbean. EBFM enables a more holistic approach to decision-making by considering trade-offs among fisheries, aquaculture, protected species, biodiversity, habitats, and the human community, within the context of climate, habitat, ecological, and other environmental change.

Other than the present action, no other actions are being developed by the Council or considered for implementation by NMFS that would affect reef fish and pelagic stocks of each of the island-based FMPs.

Non-fishery related actions – Actions affecting the U.S. Caribbean fisheries, including effects of global climate change, were included in the CEAs for the island-based FMPs. Other issues affecting human communities (e.g., high fuel costs, increased seafood imports, restricted access to fishing grounds, regional economies) were considered in the island-based FMPs.

Emerging information sheds light on how global climate change would affect, and is already affecting, fishery resources and the habitats upon which they depend. Impacts commonly mentioned are sea level rise, increased frequency of severe weather events, and change in air and water temperatures. In the U.S. Caribbean region, major climate-induced concerns include: (1) threats to coral reef ecosystems - coral bleaching, disease, and ocean acidification; (2) threats to habitats from sea level rise – loss of essential fish habitat; (3) climate-induced changes to species

phenology and distribution, (4) changes in resource composition in fishing areas, (5) rise in temperature including ocean temperatures and their relationship to more severe and frequent storms, (6) droughts, and (7) effects on environmental justice. Climate change may impact reef fish and pelagic stocks in the future, but the level of impacts cannot be quantified at this time, nor is the time frame known in which these impacts would occur. The proposed action is not expected to significantly contribute to climate change through the increase or decrease in the carbon footprint from fishing, as this action would not be expected to change how the fishery is prosecuted. However, on-going efforts to establish a baseline of deep-water temperature and salinity profiles in areas fished by deep-water snapper fishermen include engaging the fishermen to participate in the data collection.

In 2017, Hurricanes Maria and Irma severely affected all islands in the U.S. Caribbean region. Stresses to the social structures and economies of the islands caused by the hurricanes are discussed in detail in Sections 3.4 and 3.5. Socially and economically, impacts to gear and infrastructure were substantial, which prevented fishing in the short-term and caused some fishermen to modify their fishing methods, gear, or target species to adapt to new environmental conditions. Additional constraints occurred from loss of market demand due to increased emigration and reduced tourism. Tropical weather events would continue to be a certainty for the region, and experts predict that climate change would increase the frequency and severity of the tropical events.

U.S. Caribbean fisheries experienced broad declines in both effort and harvest in 2020 as a result of the COVID-19 public health crisis. Global protective measures (e.g., restaurant closures, social distancing protocols) instituted in March 2020 contributed to an almost-immediate impact on commercial, recreational, and subsistence fishermen. On March 15, 2020, the Governor of Puerto Rico instituted a 2-week closure (curfew) for the majority of businesses on the island of Puerto Rico. Although commercial fishermen were exempt from the curfew, 96% of those surveyed reported that COVID-19 related factors had affected their fishing operations and resulted in decreased revenues (NMFS 2021a). In early 2020, many fishermen in USVI were still struggling to recover from the 2017 hurricanes, with charter fishermen just starting to recover from the decline in tourism related to hotel closures and infrastructure damage related to the storms. In mid-March 2020, the Governor of the USVI announced the closure of USVI to all tourists, which lasted until mid-July. After a brief reopening to tourism, the USVI was closed again once the COVID-19 threshold was exceeded. Of those surveyed, 87% of commercial fishermen in the USVI reported revenue losses (NMFS 2021a). COVID-19 significantly altered the environment related to the management of the nation's fisheries and effects of the pandemic would be expected to continue in the U.S. Caribbean region, at least in the short-term.

4. *The impacts or expected impacts from these other actions* - The cumulative effects from managing fishery resources in the U.S. Caribbean have been analyzed in other actions as listed in part three of this section. They include detailed analysis of the Puerto Rico, St. Thomas and St. John, and St. Croix fisheries, effects on non-targeted and protected species, and habitats in the U.S. Caribbean. The effects of this action would be expected to be positive in the long term, as they ultimately act to maintain the deep-water stocks at a level that would allow the maximum benefits in yield and increased fishing opportunities to be achieved.

5. *The overall impact that can be expected if the individual impacts are allowed to accumulate* – Cumulative effects resulting from modifications to the buoy gear use in federal waters, in combination with other past, present, and reasonably foreseeable future actions, would be expected to be minimal in each island management areas.

No significant overall impacts to the biological/ecological environment, to protected species occurring within that environment, to the habitats constituting and supporting that environment, or to the dependent socio-economic environment would be expected from the cumulative past, present, or reasonably foreseeable future actions as it would not be expected to significantly affect current fishing practices (i.e., buoy gear is not currently used by the recreational sector). Similarly, no significant cumulative effects would be expected to result from reasonably foreseeable future actions that may be taken, by other federal or non-federal agencies in combination with this action.

5. *Summary* - The proposed action is not expected to have significant effects to the physical, biological, economic, or social environments. Any effects of the proposed action, when combined with other past actions, present actions, and reasonably foreseeable future actions are not expected to be significant. The effects of the proposed action are, and will continue to be, monitored through collection of data by NMFS, individual state programs, stock assessments (as available), life history studies, economic and social analyses, and other scientific observations.

Chapter 5. Regulatory Impact Review

5.1 Introduction

The National Marine Fisheries Service (NMFS) requires a Regulatory Impact Review (RIR) for all regulatory actions that are of public interest. The RIR does three things: (1) it provides a comprehensive review of the level and incidence of impacts associated with a proposed or final regulatory action; (2) it provides a review of the problems and policy objectives prompting the regulatory proposals and an evaluation of the major alternatives that could be used to solve the problem; and, (3) it ensures that the regulatory agency systematically and comprehensively considers all available alternatives so that the public welfare can be enhanced in the most efficient and cost-effective way. The RIR also serves as the basis for determining whether the regulations are a “significant regulatory action” under the criteria provided in Executive Order (E.O.) 12866.

5.2 Problems and Objectives

In Puerto Rico and the U.S. Virgin Islands (USVI), commercial fishermen targeting deep-water reef fish and incidentally harvesting other species have traditionally used buoy gear locally known as “cala con boya” in Puerto Rico and as “deep-drop buoy gear” in the USVI. Buoy gear as defined in 50 Code of Federal Regulations (CFR) Part 622.2 cannot contain more than 10 hooks connected between the buoy and the terminal end. However, commercial fishermen in Puerto Rico and the USVI are allowed to and traditionally use buoy gear in territorial waters that can contain more than 10 hooks connected between the buoy and the terminal end. Hence, the purpose of this action is to modify the federal definition of acceptable buoy gear to harmonize it with existing practices of harvesting deep-water reef fish and other species in the U.S. Caribbean.

Descriptions of the relevant components of the fisheries of Puerto Rico, St. Thomas and St. John and St. Croix are provided in Section 3.4. From 2012 through 2019, cala (bottom line) accounted for the largest average percentage of commercial landings of all species in Puerto Rico by both weight and value: 16% by weight and 21% by value.¹² Average annual ex-vessel revenue in Puerto Rico from species harvested with buoy gear was \$1,375,879 (2020 dollars) during the 8-year period from 2012 through 2019, and there was an increasing trend (Figure

¹² All hook-and-line gear (bottom line (buoy gear), hand line, long line, rod and reel, and troll line) accounted for an average of 40% of all annual landings by weight and 38% by value.

5.2.1).¹³ The constant-dollar price per pound increased from \$2.39 in 2012 to \$4.44 in 2019 (2020 dollars) in Puerto Rico.¹⁴

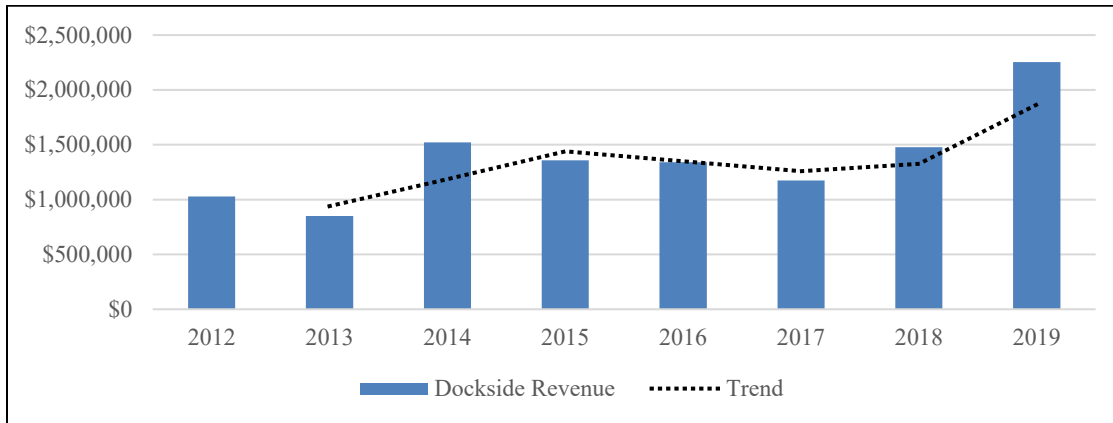


Figure 5.2.1. Annual ex-vessel revenue (2020 dollars) from landings of species harvested with buoy gear in Puerto Rico and trend (2-year moving average) of that revenue, 2012-2019. (Source: NMFS SERO LAPPS (2021) for revenue and BEA for GDP deflator (May 27, 2021 release).

In the USVI, deep-drop buoy gear is within the broad category of hook-and-line gear. From 2012 through 2019, hook-and-line gear accounted for an annual average of 16% of all commercial landings by weight in St. Thomas and St. John, and 31% of landings by weight in St. Croix.

Commercial landings in pounds whole weight (lbs ww) by all hook-and-line gear in St. Thomas and St. John show no obvious increasing or decreasing trend from 2012 through 2019, and 2017 commercial landings, despite the disastrous hurricane season, were greater than in 2013 (Figure 5.2.2). During the same 8-year period, commercial landings (lbs ww) by hook-and-line gear in St. Croix declined considerably after the disastrous 2017 hurricane season (Figure 5.2.3). In 2018 and 2019, landings by hook-and-line gear were 25% and 17% of what they had been in 2017.

¹³ There were fishery disaster declarations in the U.S. Caribbean in 2017 because of Hurricanes Irma and Maria.

¹⁴ The constant-dollar price (also called real-dollar price) is an adjusted price to compare prices from one year to another absent inflation.

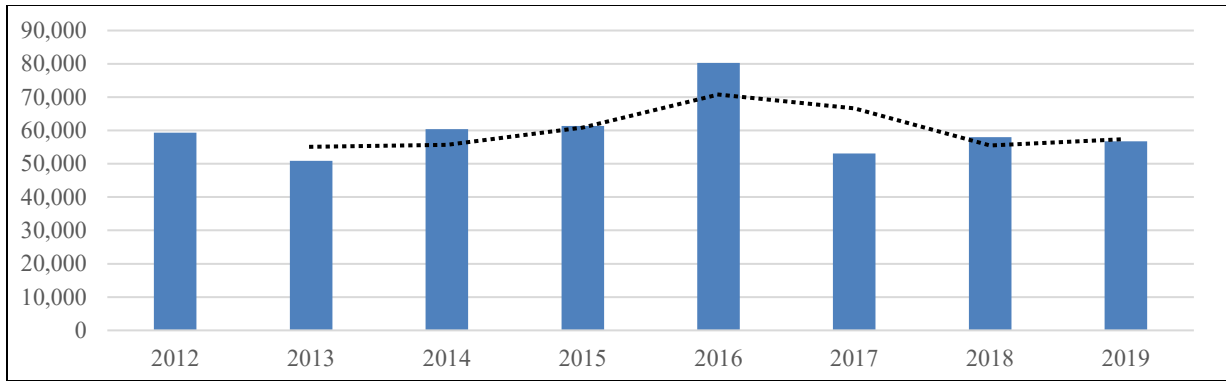


Figure 5.2.2. Annual commercial landings (lbs ww) and trend of those landings (2-year moving average) by all hook-and-line gear in St. Thomas/St. John, 2012 – 2019.

(Source: NMFS SERO LAPPS 2021)

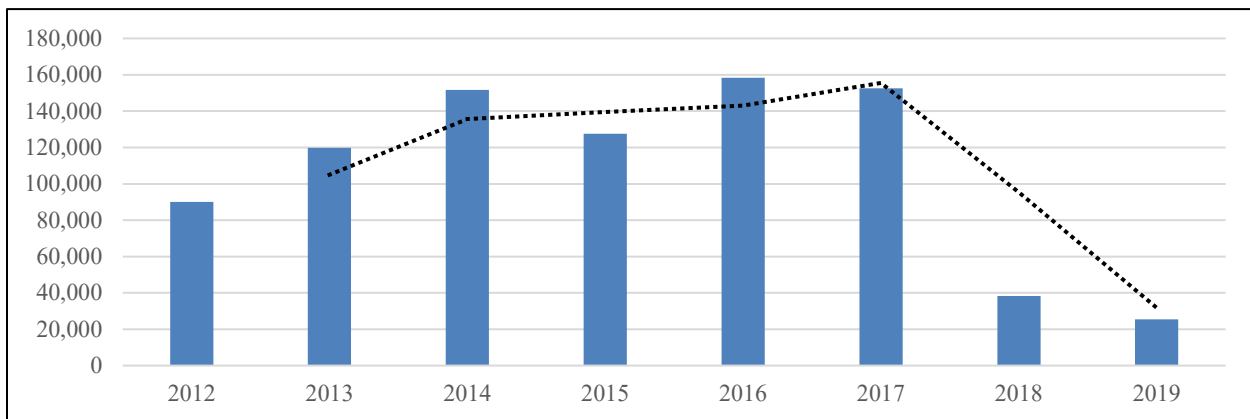


Figure 5.2.3. Annual commercial landings (lbs ww) in St. Croix by hook-and-line gear and trend (2-year moving average) of those landings, 2012 – 2019.

(Source: NMFS SERO LAPPS 2021)

5.3 Impact of Management Measures

The proposed rule is composed of two actions. Action 1 would prohibit the use of buoy gear for those fishing recreationally in federal waters off Puerto Rico, St. Thomas and St. John, and St. Croix. At present, there is no evidence that the recreational sector uses or has used buoy gear in the exclusive economic zone (EEZ) or that it would be likely used there in the future. Buoy gear is a highly specialized commercial gear. Therefore, the first action would have the same economic effects as the status quo.

Action 2 would modify the definition of buoy gear in federal regulations (50 CFR Part 622) in federal waters off Puerto Rico, St. Thomas and St. John, and St. Croix. Specifically, it would increase the maximum number of hooks allowed from 10 to 25 per line. The rest of the specifications included in the definition such as weight, construction materials for the drop line, and length of the drop line would remain unchanged.

It is common practice to assume full regulatory compliance when establishing the economic baseline; however, anecdotal evidence indicates that buoy gear traditionally used in federal waters of the U.S. Caribbean does not comply with current regulation. For that reason, the following sensitivity analysis examines the economic impact of Action 2 with varying rates of baseline compliance: full (100%), half (50%), and none (0%).

With full compliance, NMFS expects all commercial fishermen in the U.S. Caribbean who deploy buoy gear in the EEZ currently use no more than 10 hooks per drop line and could increase the numbers of hooks used, which could increase landings and ex-vessel revenues from those landings.¹⁵ An increase in ex-vessel revenues would generate other beneficial economic impacts such as income, jobs, sales and value-added. There is insufficient information, however, to quantify either the numbers of commercial fishermen that would increase the number of hooks they use or the increase in the numbers of hooks deployed. There is also insufficient information to quantify any increases in landings, ex-vessel revenues, and other beneficial impacts.

With 50% compliance, NMFS expects half of commercial fishermen who currently use buoy gear in the U.S. Caribbean EEZ could increase the numbers of hooks they use, which could increase landings and ex-vessel revenues from those landings, but not as much as if there were full compliance. There is insufficient information to quantify either the numbers of commercial fishermen that would increase the number of hooks they use or the changes in the numbers of hooks deployed. Nonetheless, NMFS expects some commercial fishermen would increase the number of hooks they use, which would increase their landings and ex-vessel revenues.

With no compliance, none of the commercial fishermen who use buoy gear would increase the number of hooks used, and there would not be increases in landings and ex-vessel revenues from those landings. Hence, with 0% compliance, the economic effects of the proposed action would be the same as those of baseline (No-action alternative). However, even with 0% compliance, NMFS expects there could be commercial fishermen that currently use more than 10, but less than 25 hooks per line, and an unknown number of those commercial fishermen could increase the number of hooks they use, which would increase their landings and ex-vessel revenues.

¹⁵ Using more hooks increases effort-related trip costs, and a commercial fisherman would not increase the number of hooks used if the increase in costs reduced the fisherman's profit.

In summary, NMFS expects the proposed rule would have beneficial economic impacts ranging from a positive economic benefit that would be at its maximum if there is currently full compliance of the 10-hook limit to zero economic benefit (beyond the baseline) if there is currently zero compliance with the 10-hook limit. The lower the rate of baseline compliance, the smaller the economic benefits of the proposed rule.

5.4 Public Costs of Regulations

The preparation, implementation, enforcement, and monitoring of this or any federal action involves the expenditure of public and private resources, which can be expressed as costs associated with the regulations. Costs, if any, to the private sector are discussed in Section 5.4 above. Total public costs associated with this action include Council and NMFS administrative costs of document preparation, meetings and review, which are estimated to total approximately \$77,579 (2020 dollars).

5.5 Determination of Significant Regulatory Action

Pursuant to E.O. 12866, a regulation is considered a “significant regulatory action” if it is likely to result in: (1) an annual effect of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights or obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in this executive order (E.O). Based on the information provided above, this action has been determined to not be economically significant for the purposes of E.O. 12866.

Chapter 6. Regulatory Flexibility Act Analysis

6.1 Introduction

The purpose of the Regulatory Flexibility Act (RFA) is to establish a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and applicable statutes, to fit regulatory and informational requirements to the scale of businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration. The RFA does not contain any decision criteria; instead, the purpose of the RFA is to inform the agency, as well as the public, of the expected economic impacts of the alternatives contained in the fishery management plan (FMP) or amendment (including framework management measures and other regulatory actions) and to ensure that the agency considers alternatives that minimize the expected impacts while meeting the goals and objectives of the FMP and applicable statutes.

With certain exceptions, the RFA requires agencies to conduct a regulatory flexibility analysis for each proposed rule. The regulatory flexibility analysis is designed to assess the impacts various regulatory alternatives would have on small entities, including small businesses, and to determine ways to minimize those impacts. The following regulatory flexibility analysis was conducted to determine if the proposed rule would have a significant economic impact on a substantial number of small entities or not.

6.2 Statement of the need for, objective of, and legal basis for the proposed rule

The primary purpose and need, issues, problems, and objectives of the proposed action are presented in Chapter 1 and are incorporated herein by reference.

6.3 Identification of federal rules which may duplicate, overlap or conflict with the proposed rule

No federal rules have been identified that duplicate, overlap or conflict with the proposed rule.

6.4 Description and estimate of the number of small entities to which the proposed action would apply

The rule concerns recreational and commercial fishing in the exclusive economic zone (EEZ) off Puerto Rico and the U.S. Virgin Islands (USVI). Both anglers (recreational fishermen) and commercial fishing businesses would be directly by the rule; however, anglers are not considered small entities as that term is defined in 5 United States Code (U.S.C.) 601(6), whether fishing from for-hire fishing, private or leased vessels. Therefore, estimates of the number of anglers affected by the rule and impacts on them are not provided here.

A business in the commercial fishing industry (NAICS code 11411) is 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 that are no more than \$11 million for all of its affiliated operations worldwide. The Puerto Rico fishery as a whole is estimated to generate direct revenues of \$6.06 million (2020 dollars) annually, assuming current landings have fully recovered from the 2017 hurricane season (NMFS 2017), and the USVI fishery as a whole is estimated to generate direct revenues of \$5.48 million (2020 dollars) annually, assuming full recovery from the 2017 hurricane season (Mapp 2017). Therefore, all commercial fishing businesses in Puerto Rico, St. Thomas and St. John, and St. Croix are small.

The rule would directly apply to those small businesses that operate fishing vessels that use buoy gear in federal waters off Puerto Rico, St. Croix and St. Thomas and St. John. Buoy gear is a highly specialized commercial gear. Commercial fishermen who harvest deep-water reef fish and other species, such as Caribbean Fishery Management Council-managed pelagic species, have traditionally used buoy gear locally known as “cala con boya” in Puerto Rico and as “deep-drop buoy gear” in the USVI. Therefore, estimates of the numbers of small businesses that use buoy gear in federal waters are based on the numbers/percentages of fishermen who report fishing in federal waters and targeting deep-water reef fish or reef fish.

In 2016, there were 1,074 licensed commercial fishermen in Puerto Rico (CFMC 2019), and each of those licensed commercial fishermen represent a small commercial fishing business. In 2016, 811 of those commercial fishermen submitted catch reports and 383 of them submitted reports operated in federal waters (Southeast Regional Office Caribbean Branch logbook data 2020). Puerto Rico’s fishermen tend to target multiple categories of fish and shellfish, and the most popularly targeted category is reef fish. Approximately 77% of the fishermen/small businesses target reef fish, and approximately 56% target deep-water snapper. It is estimated that from 214 (56%) to 295 (77% of the 383 active small commercial fishing businesses that operate in federal waters off of Puerto Rico may be directly affected the proposed rule.

The most recent Census of Licensed Fishers of the U.S. Virgin Islands reported 119 licensed commercial fishermen in St. Thomas and St. John and 141 licensed commercial fishermen in St. Croix (Kojis et al. 2017), and each of those fishermen represent a small commercial fishing business. An estimated 80.7% (96) of the 119 licensed fishermen in St. Thomas and St. John and 52.5% (74) of the 141 licensed commercial fishermen in St. Croix were active (Kojis et al. 2017). Kojis et al. (2017) found that 14.8% of licensed fishermen in St. Thomas and St. John and 52.3% of licensed fishermen in St. Croix harvest deep-water snapper. Hence, an estimated 14 (14.8%) of 96 active small commercial fishing businesses in St. Thomas and St. John and an estimated 39 (52.3%) of 74 active small commercial fishing businesses in St. Croix would be directly affected by the proposed rule.

6.5 Description and economic impacts of the compliance requirements of the proposed rule

This proposed rule is composed of two actions. Action 1 would directly affect anglers and, as such, would have no impact on any small entities. Action 2 would directly affect small commercial fishing businesses by modifying the definition of buoy gear. Currently, buoy gear is defined as gear that fishes vertically in the water column and 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 lbs. The proposed rule would change the definition to allow the use of up to 25 hooks connected between the buoy and the terminal end.

It is common practice to assume full regulatory compliance when establishing the baseline; however, anecdotal evidence indicates that buoy gear traditionally used in the U.S. Caribbean does not comply with current regulation. For that reason, the following sensitivity analysis examines the economic impacts of the proposed action with varying rates of baseline compliance: full (100%), half (50%), and none (0%).

With full compliance, NMFS expects all of the small businesses that deploy buoy gear in the EEZ could increase the numbers of hooks they use, which could increase landings and dockside revenues from those landings. However, there is insufficient information to quantify either the numbers of small businesses that would increase the number of hooks they use or the changes in the numbers of hooks deployed. Using more hooks increases effort-related trip costs, and a commercial fishing business would not increase the number of hooks used if the increase in costs reduced its profit. Nonetheless, NMFS expects that at least some of the small businesses would increase the number of hooks they use and have increased landings and revenues (gross and net).

With 50% compliance, NMFS expects half of the small businesses that currently use buoy gear in the EEZ could increase the numbers of hooks used, which could increase landings and dockside revenues from those landings, but not as much as if there were full compliance. There is insufficient information to quantify either the numbers of small businesses that would increase the number of hooks they use or the changes in the numbers of hooks deployed. Nonetheless, NMFS expects some small businesses would increase the number of hooks they use, which would increase their landings and revenues.

With no compliance, NMFS expects none of the small businesses that currently use buoy gear in the EEZ would change the number of hooks used because they currently use the maximum number of hooks they prefer to use, and no more than 25 per line. So, there would be no changes in landings and dockside revenues from those landings. Hence, with 0% compliance, the economic impact could be the same as the no-action alternative. However, even with 0% compliance, there could be small businesses that currently use more than 10, but less than 25, hooks per line, and an unknown number of those small businesses could increase the number of hooks they use, which would increase their landings and revenues, but less than if there were 50% compliance.

Summary

There would be no adverse economic impact on any small businesses. The lower the rate of baseline compliance, the smaller the beneficial economic impact. Hence, there would be no beneficial economic impact if there is currently no compliance and none of the small businesses increase the number of hooks they presently deploy. However, NMFS expects that at least some small businesses would increase the number of hooks they use so as to increase their landings and revenues.

6.6 Significance of economic impacts on a substantial number of small entities

The proposed action would not have a significant economic impact on a substantial number of small commercial fishing businesses of Puerto Rico, St. Thomas and St. John or St. Croix. Therefore, an initial regulatory act analysis is not required and none has been prepared.

Chapter 7. List of Preparers

Table 7.1. List of Interdisciplinary Plan Team Members who assisted in the preparation of the amendment.

Name	Agency	Title
María del Mar López-Mercer	NMFS/SFD	IPT Co-Lead / Fishery Biologist
Graciela García-Moliner	CFMC	IPT Co-Lead / Habitat Specialist
Sarah Stephenson	NMFS/SFD	Fishery Biologist
John McGovern	NMFS/SFD	SFD Assistant Regional Administrator
Denise Johnson	NMFS/SFD	Economist
Edward Glazier	NMFS/SFD	Social Scientist
Jocelyn D’Ambrosio	NOAA/GC	Attorney
Katharine Zamboni	NOAA/GC	Attorney
Scott Sandorf	NMFS/SFD	Technical Writer
Patrick O’Pay	NMFS/PRD	Fishery Biologist
Michael Larkin	NMFS/SFD	Data Analyst
Nancy Cummings	NMFS/SEFSC	Fishery Biologist
Loren Remsberg	NOAA/GC	Enforcement Attorney
Brent Stoffle	NMFS/SEFSC	Anthropologist
Miguel Borges	NMFS/OLE	Assistant Special Agent
Mike Jepson	NMFS/SFD	Social Sciences Branch Chief
Jose Rivera	NMFS/HCD	Fishery Biologist

CFMC = Caribbean Fishery Management Council, GC = General Counsel,
HCD = Habitat Conservation Division, NEPA = National Environmental Policy Act,
NMFS = National Marine Fisheries Service, NOAA = National Oceanic and Atmospheric
Administration, OLE= Office of Law Enforcement, PRD = Protected Resources Division, SERO =
Southeast Regional Office, SER = Southeast Region,
SFD = Sustainable Fisheries Division, SEFSC = Southeast Fisheries Science Center

Chapter 8. List of Agencies, Organizations, and Persons Consulted

Department of Commerce Office of General Counsel
National Marine Fisheries Service Office of General Counsel
National Marine Fisheries Service Office of General Counsel Southeast Region
National Marine Fisheries Service Southeast Regional Office
National Marine Fisheries Service Southeast Fisheries Science Center
National Marine Fisheries Service Silver Spring Office
National Marine Fisheries Service Office of Law Enforcement Southeast Division
United States Coast Guard
United States Department of the Interior
U.S. Virgin Islands Department of Planning and Natural Resources
Puerto Rico Department of Natural and Environmental Resources
Puerto Rico Junta de Calidad Ambiental (Puerto Rico Environmental Quality Board)

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CFMC (Caribbean Fishery Management Council). 2019b. Comprehensive Fishery Management Plan for the St. Thomas/ St. John Exclusive Economic Zone, environmental assessment, regulatory impact review, and fishery impact statement. Caribbean Fishery Management Council, San Juan, Puerto Rico. 507 pp.

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Appendix A. List of Managed Reef Fish and Pelagic Stocks Included in the Island-based Fishery Management Plans

Puerto Rico Reef Fish

- **Snappers:** black, blackfin, silk, vermilion, wenchman, cardinal, queen, lane, mutton, dog, schoolmaster, yellowtail, cubera*
- **Groupers:** Nassau, goliath, coney, graysby, black, red, tiger, yellowfin, yellowmouth*, yellowedge, misty, red hind, rock hind
- **Parrotfishes:** blue, midnight, rainbow, queen, princess, redband, stoplight, redband, striped
- **Surgeonfishes:** blue tang, ocean surgeonfish, doctorfish
- **Triggerfishes:** ocean, queen, gray*
- **Wrasses:** hogfish, puddingwife, Spanish hogfish
- **Angelfishes:** queen, grey, French
- **Grunts:** white grunt
- **Jacks:** crevalle jack*, African pompano*, rainbow runner*

* *New to management*

Puerto Rico Pelagics

All new to management

- **Tripletail:** tripletail
- **Dolphinfish:** dolphin, pompano dolphin
- **Mackerels and Tunas (Scombridae):** little tunny, blackfin tuna, king mackerel, cero mackerel, wahoo
- **Barracudas:** great barracuda

St. Thomas and St. John Reef Fish

- **Snappers:** black, blackfin, silk, vermilion, queen, lane, mutton, yellowtail
- **Groupers:** Nassau, goliath, coney, red hind, black, red, tiger, yellowfin, yellowmouth*, yellowedge, misty
- **Parrotfishes:** blue, midnight, rainbow, queen, princess, redband, stoplight, redband, striped, redfin
- **Surgeonfishes:** blue tang, ocean surgeonfish, doctorfish

- **Triggerfishes:** queen
- **Wrasses:** hogfish
- **Angelfishes:** queen, grey, French
- **Grunts:** white grunt, bluestriped, margate
- **Jacks:** Blue runner
- **Porgies:** jolthead, saucereye, sheepshead, sea bream

** New to management*

St. Thomas and St. John Pelagics

All new to management

- **Dolphinfish:** dolphin
- **Mackerels and Tunas (Scombridae):** wahoo

St. Croix Reef Fish

- **Snappers:** black, blackfin, silk, vermilion, queen, lane, gray, mutton, schoolmaster, yellowtail
- **Groupers:** Nassau, goliath, graysby, coney, red hind, rock hind, black, red, tiger, yellowfin, misty
- **Parrotfishes:** blue, midnight, rainbow, queen, princess, redband, stoplight, redband, striped, redfin
- **Surgeonfishes:** blue tang, ocean surgeonfish, doctorfish
- **Triggerfishes:** queen
- **Angelfishes:** queen, grey, French
- **Grunts:** white grunt, bluestriped
- **Squirrelfish:** longspine squirrelfish

St. Croix Pelagics

All new to management

- **Dolphinfish:** dolphin
- **Mackerels and Tunas (Scombridae):** wahoo

Appendix B. Authorized Gear Types Under Each of the Island-based FMPs

The following table is excerpted from federal regulations § 600.725(v) under V. Caribbean Fishery Management.

Fishery	Authorized gear types
* * * * *	
V. Caribbean Fishery Management Council	
1. Exclusive Economic Zone around Puerto Rico	
A. Puerto Rico Reef Fish Fishery (FMP):	
i. Commercial fishery	i. Automatic reel, bandit gear, buoy gear, handline, longline, rod and reel, trap, pot, spear.
ii. Recreational fishery	ii. Dip net, handline, rod and reel, slurp gun, spear, trap, pot.
B. Puerto Rico Pelagic Fishery (FMP):	
i. Commercial fishery	i. Automatic reel, bandit gear, buoy gear, handline, longline, rod and reel, gillnet.
ii. Recreational fishery	ii. Spear, handline, longline, rod and reel.
C. Puerto Rico Spiny Lobster Fishery (FMP):	
i. Commercial fishery	i. Trap, pot, dip net, hand harvest, snare.
ii. Recreational fishery	ii. Trap, pot, dip net, hand harvest, snare.
D. Puerto Rico Coral Reef Resources Fishery (FMP):	No harvest or possession in the EEZ.
E. Puerto Rico Queen Conch Fishery (FMP):	No harvest or possession in the EEZ.
F. Puerto Rico Commercial Pelagic Fishery (Non-FMP):	Gillnet, automatic reel, bandit gear, buoy gear, handline, longline, rod and reel.
G. Puerto Rico Recreational Pelagic Fishery (Non-FMP):	Spear, handline, longline, rod and reel.
H. Puerto Rico Commercial Fishery (Non-FMP)	Automatic reel, bandit gear, buoy gear, handline, longline, rod and reel, trawl, gillnet, cast net, spear.
I. Puerto Rico Recreational Fishery (Non-FMP)	Automatic reel, bandit gear, buoy gear, handline, longline, rod and reel, spear, powerhead, hand harvest, cast net.

Fishery	Authorized gear types
2. Exclusive Economic Zone around St. Croix	
A. St. Croix Reef Fish Fishery (FMP):	
i. Commercial fishery	i. Automatic reel, bandit gear, buoy gear, handline, longline, rod and reel, trap, pot, spear.
ii. Recreational fishery	ii. Dip net, handline, rod and reel, slurp gun, spear, trap, pot.
B. St. Croix Pelagic Fishery (FMP):	
i. Commercial fishery	i. Automatic reel, bandit gear, buoy gear, handline, longline, rod and reel, gillnet.
ii. Recreational fishery	ii. Spear, handline, longline, rod and reel.
C. St. Croix Spiny Lobster Fishery (FMP):	
i. Commercial fishery	i. Trap, pot, dip net, hand harvest, snare.
ii. Recreational fishery	ii. Trap, pot, dip net, hand harvest, snare.
D. St. Croix Coral Reef Resource Fishery (FMP):	No harvest or possession in the EEZ.
E. St. Croix Queen Conch Fishery (FMP):	
i. Commercial fishery	i. Hand harvest.
ii. Recreational fishery	ii. Hand harvest.
F. St. Croix Commercial Pelagic Fishery (Non-FMP)	Gillnet, automatic reel, bandit gear, buoy gear, handline, longline, rod and reel.
G. St. Croix Recreational Pelagic Fishery (Non-FMP)	Spear, handline, longline, rod and reel.
H. St. Croix Commercial Fishery (Non-FMP)	Automatic reel, bandit gear, buoy gear, handline, longline, rod and reel, trawl, gillnet, cast net, spear.
I. St. Croix Recreational Fishery (Non-FMP)	Automatic reel, bandit gear, buoy gear, handline, longline, rod and reel, spear, powerhead, hand harvest, cast net.
3. Exclusive Economic Zone around St. Thomas and St. John	
A. St. Thomas and St. John Reef Fish Fishery (FMP):	
i. Commercial fishery	i. Automatic reel, bandit gear, buoy gear, handline, longline, rod and reel, trap, pot, spear.

Fishery	Authorized gear types
ii. Recreational fishery	ii. Dip net, handline, rod and reel, slurp gun, spear, trap, pot.
B. St. Thomas and St. John Pelagic Fishery (FMP):	
i. Commercial fishery	i. Automatic reel, bandit gear, buoy gear, handline, longline, rod and reel, gillnet.
ii. Recreational fishery	ii. Spear, handline, longline, rod and reel.
C. St. Thomas and St. John Spiny Lobster Fishery (FMP):	
i. Commercial fishery	i. Trap, pot, dip net, hand harvest, snare.
ii. Recreational fishery	ii. Trap, pot, dip net, hand harvest, snare.
D. St. Thomas and St. John Coral Reef Resource Fishery (FMP):	No harvest or possession in the EEZ.
E. St. Thomas and St. John Queen Conch Fishery (FMP):	No harvest or possession in the EEZ.
F. St. Thomas and St. John Commercial Pelagic Fishery (Non-FMP)	Gillnet, automatic reel, bandit gear, buoy gear, handline, longline, rod and reel.
G. St. Thomas and St. John Recreational Pelagic Fishery (Non-FMP)	Spear, handline, longline, rod and reel.
H. St. Thomas and St. John Commercial Fishery (Non-FMP)	Automatic reel, bandit gear, buoy gear, handline, longline, rod and reel, trawl, gillnet, cast net, spear.
I. St. Thomas and St. John Recreational Fishery (Non-FMP)	Automatic reel, bandit gear, buoy gear, handline, longline, rod and reel, spear, powerhead, hand harvest, cast net.

Federal regulations at 50 CFR 622.2 also define other allowable gear types under the hook-and-line category:

Automatic reel means a reel that remains attached to a vessel when in use from which a line and attached hook(s) are deployed. The line is payed out from and retrieved on the reel electrically or hydraulically.

Bandit gear means a rod and reel that remain attached to a vessel when in use from which a line and attached hook(s) are deployed. The line is payed out from and retrieved on the reel manually, electrically, or hydraulically.

Handline means a line with attached hook(s) that is tended directly by hand.

Longline means a line that is deployed horizontally to which gangions and hooks are attached. A longline may be a bottom longline, i.e., designed for use on the bottom, or a pelagic longline, i.e., designed for use off the bottom. The longline hauler may be manually, electrically, or hydraulically operated.

Rod and reel means a rod and reel unit that is not attached to a vessel, or, if attached, is readily removable, from which a line and attached hook(s) are deployed. The line is payed out from and retrieved on the reel manually, electrically, or hydraulically.

Appendix C. List of Species Identified in the Literature as Incidental Catch in the Deep-water Snapper/Grouper Fishery of Puerto Rico

Ault et al. (2018) identified the following species: lionfish (*Pterois volitans*), Jacks (*Seriola rivoliana* and *S. dumerili*), Atlantic scombrops (*Scombrops oculatus*), tilefishes (*Caulolatilus spp.*), Longfin Bulleye (*Cookeolus japonicus*), American sackfish (*Neoepinnula americana*), Oilfish (*Ruvettus pretiosus*), red hogfish (*Decodon puellaris*), beardfishes (*Polymixia spp.*), Spanish flag (*Gonioplectrus hispanus*), yellow flagfin (*Aulopus filamentosus*), pomfret (*Taractichthys longipinnis*), cornetfish (*Fistularia petimba*), grunt (*Pomadasys sp.*), groupers (*Hyporthodus spp.*) and various species of sharks (*Squalus cubensis*, *Ginglymostoma cirratum*, *Carcharhinus perezii*, *Mustelus spp.*, *Scyliorhinus sp.* and *Hexanchus spp.*).

Reference: Ault, H.S, Smith, S.G., Appeldoorn, R, Lylestrom, C, Peña, N., Cass-Calay, S., Ruiz, H. Extending Fishery-Independent Surveys for Reef-fishes in Puerto Rico to Mid-Depth and Deep Reefs – Progress Report 2018 DNER.

Schärer-Umpierre et al. (2019) list the following species as caught in the Puerto Rico deep-water fishery: Aulopidae *Aulopus filamentosus*; Holocentridae *Ostichthys trachypoma*; Carcharhinidae *Carcharhinus perezii*; Scyliorhinidae *Scyliorhinus sp.*; Triakidae *Mustelus canis*; Hexanchidae *Heptranchias perlo*; Hexanchidae *Hexanchus nakamurai*; Ginglymostomatidae *Ginglymostoma cirratum*; Bramidae *Taractichthys longipinnis*; Caproidae *Antigonia capros*; Carangidae *Caranx crysos*; Carangidae *Caranx lugubris*; Carangidae *Decapterus tabl*; Carangidae *Seriola dumerili*; Carangidae *Seriola rivoliana*; Echeneidae *Echeneis naucrates*; Emmelichthyidae *Erythrocles monodi*; Gempylidae *Neoepinnula americana*; Gempylidae *Ruvettus pretiosus*; Haemulidae *Pomadasys sp.*; Labridae *Decodon puellaris*; Lutjanidae *Apsilus dentatus*; Lutjanidae *Etelis oculatus*; Lutjanidae *Lutjanus buccanella*; Lutjanidae *Lutjanus vivanus*; Lutjanidae *Pristipomoides aquilonaris*; Lutjanidae *Pristipomoides macrophthalmus*; Lutjanidae *Rhomboplites aurorubens*; Malacanthidae *Caulolatilus dooleyi*; Malacanthidae *Caulolatilus cyanops*; Priacanthidae *Cookeolus japonicus*; Scombroptidae *Scombrops oculatus*; Serranidae *Cephalopholis fulva*; Serranidae *Epinephelus guttatus*; Serranidae *Gonioplectrus hispanus*; Serranidae *Hyporthodus flavolimbatus*; Serranidae *Hyporthodus mystacinus*; Serranidae *Hyporthodus nigrinus*; Serranidae *Hyporthodus niveatus*; Serranidae *Serranus notospilus/phoebe*; Polymixiidae *Polymixia lowei*; Polymixiidae *Polymixia nobilis*; Scorpaenidae *Pontinus castor*; Scorpaenidae *Pterois volitans*; Dalatiidae *Dalatias licha*; Etmopteridae *Etmopterus hillianus*; Squalidae *Squalus cubensis*; Fistulariidae *Fistularia petimba*.

Reference: Schärer-Umpierre, M.T., Peña-Alvarado, N., Smith, S.G., Appeldoorn R., Ault, J.S. 2019. Deeper water fauna caught incidentally in the Puerto Rico fishery. La fauna de aguas

profundas capturada incidentalmente en la pesquería de Puerto Rico. Le faune plus profonde capturée accidentellement dans la pêcherie de Porto Rico. GCFI 71.

Overly (2020) identified bycatch species from the deep-water snapper grouper fishery including: jacks (*Caranx lugubris*, *Seriola dumerili*), Atlantic scombrops (*Scombrops oculatus*), tilefishes (*Caulolatilus williamsi*, *C. sp.*), lionfish (*Pterois volitans*), beardfishes (*Polymixia lowei*, *P. nobilis*), Tattler (*Serranus phoebe*), King snake eels (*Ophichthus rex*), New Granada drum (*Protosciaena trewavasae*), Three-spine bass (*Synagrops trispinosus*), and several shark species (*Squalus cubensis*, *S. clarkae*, *Mustelus canis*).

Reference: Overly, K. 2020. Essential Fish Habitat Classification and Age & Growth of Deepwater Snappers in Puerto Rico Using Remote Video Camera's Tethered to Deep Drop Fishing Gear. SEFSC. EFP F/SER28:SS Final Report.

Appendix D. Other Applicable Law

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801 et seq.) provides the authority for fishery management in federal waters of the exclusive economic zone. However, fishery management decision-making is also affected by a number of other federal statutes designed to protect the biological and human components of U.S. fisheries, as well as the ecosystems that support those fisheries. Major laws affecting federal fishery management decision-making are summarized below.

Administrative Procedure Act (APA)

All federal rulemaking is governed under the provisions of the APA (5 U.S.C. Subchapter II), which establishes a “notice and comment” procedure to enable public participation in the rulemaking process. Under the APA, the National Marine Fisheries Service (NMFS) is required to publish notification of proposed rules in the Federal Register and to solicit, consider and respond to public comment on those rules before they are finalized. The APA also establishes a 30-day wait period from the time a final rule is published until it takes effect, which can be waived in certain instances.

The proposed rule associated with this amendment will include a request for public comment, and if approved, upon publication of the final rule, there will most likely be a 30-day wait period before the regulations are effective in compliance with the APA.

Coastal Zone Management Act (CZMA)

The CZMA of 1972 (16 U.S.C. 1451 et seq.) encourages state and federal cooperation in the development of plans that manage the use of natural coastal habitats, as well as the fish and wildlife those habitats support. When proposing an action determined to directly affect coastal resources managed under an approved coastal zone management program, NMFS is required to provide the relevant State agency with a determination that the proposed action is consistent with the enforceable policies of the approved program to the maximum extent practicable at least 90 days before taking final action. NMFS may presume State agency concurrence if the State agency’s response is not received within 60 days from receipt of the agency’s consistency determination and supporting information as required by 15 C.F.R. §930.41(a).

Upon submission to the Secretary of Commerce, NMFS will determine if this amendment is consistent with the Coastal Zone Management programs of Puerto Rico and the U.S. Virgin Islands (USVI), to the maximum extent possible. Their determination will then be submitted to the responsible agencies under Section 307 of the CZMA administering approved Coastal Zone Management programs.

Information Quality Act (IQA)

The IQA (Public Law 106-443) effective October 1, 2002, requires the government to set standards for the quality of scientific information and statistics used and disseminated by federal agencies. Information includes any communication or representation of knowledge such as facts or data, in any medium or form, including textual, numerical, cartographic, narrative, or audiovisual forms (includes web dissemination, but not hyperlinks to information that others disseminate; does not include clearly stated opinions).

Specifically, the IQA directs the Office of Management and Budget (OMB) to issue government wide guidelines that “provide policy and procedural guidance to federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information disseminated by federal agencies.” Such guidelines have been issued, directing all federal agencies to create and disseminate agency-specific standards to: (1) ensure information quality and develop a pre-dissemination review process; (2) establish administrative mechanisms allowing affected persons to seek and obtain correction of information; and (3) report periodically to OMB on the number and nature of complaints received.

Scientific information and data are key components of fishery management plans (FMP) and amendments and the use of best available information is the second national standard under the Magnuson-Stevens Act. To be consistent with the IQA, FMPs and amendments must be based on the best information available. They should also properly reference all supporting materials and data, and be reviewed by technically competent individuals. With respect to original data generated for FMPs and amendments, it is important to ensure that the data are collected according to documented procedures or in a manner that reflects standard practices accepted by the relevant scientific and technical communities. Data will also undergo quality control prior to being used by the agency and a pre-dissemination review.

Endangered Species Act (ESA)

The ESA of 1973 (16 U.S.C. Section 1531 et seq.) requires that federal agencies must ensure actions they authorize, fund, or carry out are not likely to jeopardize the continued existence of threatened or endangered species or destroy or adversely modify the habitat designated as critical habitat (habitat essential to the species’ conservation). The ESA requires NMFS to consult with the appropriate administrative agency (itself for most marine species, and the U.S. Fish and Wildlife Service for all remaining species) when proposing an action that may affect threatened or endangered species or critical habitat. Consultations are necessary to determine the potential impacts of the proposed action. They conclude informally when proposed actions may affect but are “not likely to adversely affect” threatened or endangered species or designated critical habitat. Formal consultations, resulting in a biological opinion, are required when proposed

actions may affect and are “likely to adversely affect” threatened or endangered species or designated critical habitat.

NMFS completed a biological opinion on September 21, 2020, evaluating the impacts of the Puerto Rico, St. Thomas and St. John, and St. Croix fisheries on ESA-listed species. Refer to Section 3.2.3 for additional information.

Marine Mammal Protection Act (MMPA)

The MMPA established a moratorium, with certain exceptions, on the taking of marine mammals in U.S. waters and by U.S. citizens on the high seas. It also prohibits the importing of marine mammals and marine mammal products into the United States. Under the MMPA, the Secretary of Commerce (authority delegated to NMFS) is responsible for the conservation and management of cetaceans and pinnipeds (other than walruses). The Secretary of the Interior is responsible for walruses, sea otters, polar bears, manatees, and dugongs.

In 1994, Congress amended the MMPA, to govern the taking of marine mammals incidental to commercial fishing operations. The MMPA requires a commercial fishery to be placed in one of three categories, based on the relative frequency of incidental serious injuries and mortalities of marine mammals. Category I designates fisheries with frequent serious injuries and mortalities incidental to commercial fishing; Category II designates fisheries with occasional serious injuries and mortalities; Category III designates fisheries with a remote likelihood or no known serious injuries or mortalities. To legally fish in a Category I and/or II fishery, a fisherman must obtain a marine mammal authorization certificate by registering with the Marine Mammal Authorization Program (50 CFR 229.4) and accommodate an observer if requested (50 CFR 229.7(c)) and they must comply with any applicable take reduction plans.

In the 2022 List of Fisheries published by NMFS, all gear types used to harvest reef fish in the Puerto Rico, St. Thomas and St. John, and St. Croix fisheries are considered Category III (87 FR 23122; April 19, 2022). This classification indicates the annual mortality and serious injury of a marine mammal stock resulting from the reef fish fishery is less than or equal to one percent of the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock, while allowing that stock to reach or maintain its optimum sustainable population. The amendment is not expected to alter existing fishing practices in such a way as to alter the interactions with marine mammals.

Paperwork Reduction Act (PRA)

The PRA of 1995 (44 U.S.C. 3501 et seq.) regulates the collection of public information by federal agencies to ensure that the public is not overburdened with information requests, that the

federal government's information collection procedures are efficient, and that federal agencies adhere to appropriate rules governing the confidentiality of such information. The PRA requires NMFS to obtain approval from the Office of Management and Budget before requesting most types of fishery information from the public. This action does not contain a collection-of-information requirement for purposes of the PRA.

Small Business Act

The Small Business Act of 1953, as amended, Section 8(a), 15 U.S.C. 634(b)(6), 636(j), 637(a) and (d); Public Laws 95-507 and 99-661, Section 1207; and Public Laws 100-656 and 101-37 are administered by the Small Business Administration. The objectives of the act are to foster business ownership by individuals who are both socially and economically disadvantaged; and to promote the competitive viability of such firms by providing business development assistance including, but not limited to, management and technical assistance, access to capital and other forms of financial assistance, business training and counseling, and access to sole source and limited competition federal contract opportunities, to help the firms to achieve competitive viability. Because most businesses associated with fishing are considered small businesses, NMFS, in implementing regulations, must assess how those regulations will affect small businesses.

Essential Fish Habitat (EFH)

The Magnuson-Stevens Act includes EFH requirements, and as such, each existing and new FMPs must describe and identify EFH for the fishery, minimize to the extent practicable adverse effects on that EFH caused by fishing, and identify other actions to encourage the conservation and enhancement of that EFH.

The areas affected by the proposed action have been identified as EFH for managed species, as described under the Puerto Rico, St. Thomas and St. John, and St. Croix FMPs. As specified in the Magnuson-Stevens Act, EFH consultation is required for federal actions, which may adversely affect EFH. Any required consultation requirements will be completed prior to implementation of any new management measures.

National Environmental Policy Act (NEPA)

The NEPA of 1969 (42 U.S.C. 4321 et seq.) requires federal agencies to consider the environmental and social consequences of proposed major actions, as well as alternatives to those actions, and to provide this information for public consideration and comment before selecting a final course of action. This document contains an Environmental Assessment to satisfy the NEPA requirements.

Executive Orders

E.O. 12630: Takings

The Executive Order on Government Actions and Interference with Constitutionally Protected Property Rights, which became effective March 18, 1988, requires that each federal agency prepare a Takings Implication Assessment for any of its administrative, regulatory, and legislative policies and actions that affect, or may affect, the use of any real or personal property. Clearance of a regulatory action must include a takings statement and, if appropriate, a Takings Implication Assessment. The NOAA Office of General Counsel will determine whether a Takings Implication Assessment is necessary for this amendment.

E.O. 12866: Regulatory Planning and Review

Executive Order 12866, signed in 1993, requires federal agencies to assess the costs and benefits of their proposed regulations, including distributional impacts, and to select alternatives that maximize net benefits to society. To comply with E.O. 12866, NMFS prepares a Regulatory Impact Review (RIR) for all fishery regulatory actions that either implement a new fishery management plan or significantly amend an existing plan. RIRs provide a comprehensive analysis of the costs and benefits to society associated with proposed regulatory actions, the problems and policy objectives prompting the regulatory proposals, and the major alternatives that could be used to solve the problems. The reviews also serve as the basis for the agency's determinations as to whether proposed regulations are a "significant regulatory action" under the criteria provided in E.O. 12866 and whether proposed regulations will have a significant economic impact on a substantial number of small entities in compliance with the Regulatory Flexibility Act.

NMFS has preliminarily determined that the proposed action would not have a significant economic impact on a substantial number of small entities.

E.O. 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations

This Executive Order mandates that each Federal agency shall make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States and its territories and possessions. Federal agency responsibilities under this Executive Order include conducting their programs, policies, and activities that substantially affect human health or the environment, in a manner that ensures that such programs, policies, and activities do not have the effect of excluding persons from participation in, denying persons the benefit of, or subjecting persons to

discrimination under, such, programs policies, and activities, because of their race, color, or national origin. Furthermore, each federal agency responsibility set forth under this Executive Order shall apply equally to Native American programs. Environmental justice considerations are discussed in Chapter 3.

The actions in this amendment are not expected to negatively impact minority or low-income populations.

E.O. 12962: Recreational Fisheries

This Executive Order requires federal agencies, in cooperation with states and tribes, to improve the quantity, function, sustainable productivity, and distribution of U.S. aquatic resources for increased recreational fishing opportunities through a variety of methods including, but not limited to, developing joint partnerships; promoting the restoration of recreational fishing areas that are limited by water quality and habitat degradation; fostering sound aquatic conservation and restoration endeavors; and evaluating the effects of federally-funded, permitted, or authorized actions on aquatic systems and recreational fisheries, and documenting those effects. Additionally, it establishes a seven-member National Recreational Fisheries Coordination Council responsible for, among other things, ensuring that social and economic values of healthy aquatic systems that support recreational fisheries are considered by federal agencies in the course of their actions, sharing the latest resource information and management technologies, and reducing duplicative and cost-inefficient programs among federal agencies involved in conserving or managing recreational fisheries. The Council also is responsible for developing, in cooperation with federal agencies, states and tribes, a Recreational Fishery Resource Conservation Plan, to include a five-year agenda. Finally, the Order requires NMFS and the U.S. Fish and Wildlife Service to develop a joint agency policy for administering the ESA.

E.O. 13089: Coral Reef Protection

The Executive Order on Coral Reef Protection (June 11, 1998) requires federal agencies whose actions may affect U.S. coral reef ecosystems to identify those actions, utilize their programs and authorities to protect and enhance the conditions of such ecosystems; and, to the extent permitted by law, ensure that actions they authorize, fund or carry out not degrade the condition of that ecosystem. By definition, a U.S. coral reef ecosystem means those species, habitats, and other national resources associated with coral reefs in all maritime areas and zones subject to the jurisdiction or control of the United States (e.g., federal, state, territorial, or commonwealth waters).

The Comprehensive Amendment to the FMPs of the U.S. Caribbean (CFMC 2005) designated habitats of particular concern in Puerto Rico and St. Croix for managed corals and established

management measures to minimize, to the extent practicable, adverse effects caused by fishing on those habitats. There are no implications to coral reefs by the actions proposed in this amendment.

E.O. 13132: Federalism

The Executive Order on Federalism requires agencies, when formulating and implementing policies, to be guided by the fundamental Federalism principles. The Order serves to guarantee the division of governmental responsibilities between the national government and the states that was intended by the framers of the Constitution. Federalism is rooted in the belief that issues not national in scope or significance are most appropriately addressed by the level of government closest to the people. This Order is relevant to FMPs and amendments given the overlapping authorities of NMFS, the states, and local authorities in managing coastal resources, including fisheries, and the need for a clear definition of responsibilities. It is important to recognize those components of the ecosystem over which fishery managers have no direct control and to develop strategies to address them in conjunction with appropriate international, state, tribal, and local entities.

No federalism issues have been identified relative to the actions proposed in this amendment.

E.O. 13112: Invasive Species

This Executive Order requires agencies to use their authority to prevent introduction of invasive species, respond to and control invasions in a cost effective and environmentally sound manner, and to provide for restoration of native species and habitat conditions in ecosystems that have been invaded. Further, agencies shall not authorize, fund, or carry out actions that are likely to cause or promote the introduction or spread of invasive species in the U.S. or elsewhere unless a determination is made that the benefits of such actions clearly outweigh the potential harm; and that all feasible and prudent measures to minimize the risk of harm will be taken in conjunction with the actions.

This action will not introduce, authorize, fund, or carry out actions that are likely to cause or promote the introduction or spread of invasive species in the U.S. or elsewhere.

E.O. 13158: Marine Protected Areas (MPA)

Executive Order 13158 (May 26, 2000) requires federal agencies to consider whether their proposed action(s) will affect any area of the marine environment that has been reserved by federal, state, territorial, tribal, or local laws or regulations to provide lasting protection for part or all of the natural or cultural resource within the protected area. This action will not affect any MPAs in federal waters off Puerto Rico, St. Thomas and St. John, or St. Croix.