

**Environmental Assessment for Amendments 1 to the Puerto Rico, St. Thomas and St. John, and St. Croix Fishery Management Plans: Modification to the Buoy Gear Definition and Use (0648-BL56)**

**FINDING OF NO SIGNIFICANT IMPACT**

**I. Purpose of the Finding of No Significant Impact (FONSI):**

The National Environmental Policy Act (NEPA) requires the preparation of an Environmental Impact Statement (EIS) for any proposal for a major federal action significantly affecting the quality of the human environment. 42 U.S.C. § 4332(C). The Council on Environmental Quality (CEQ) Regulations direct agencies to prepare a FONSI when an action not otherwise excluded will not have a significant impact on the human environment. 40 CFR §§ 1500.4(b), 1500.5(b), & 1501.6. To evaluate whether a significant impact on the human environment is likely, the CEQ regulations direct agencies to analyze the potentially affected environment and the degree of the effects of the proposed action. 40 CFR § 1501.3(b). In doing so, agencies should consider the geographic extent of the affected area (i.e., national, regional, or local), the resources located in the affected area (40 CFR § 1501.3(b)(1)), and whether the project is considered minor or small-scale (NAO 216-6A CM, Appendix A-2). In considering the degree of effect on these resources, agencies should examine both short- and long-term effects (40 CFR § 1501.3(b)(2)(i)-(iv); NAO 216-6A CM Appendix A-2 - A-3), and the magnitude of the effect (e.g., negligible, minor, moderate, or major). CEQ identifies specific criteria for consideration. 40 CFR § 1501.3(b)(2)(i)-(iv). Each criterion is discussed below with respect to the proposed action and considered individually as well as in combination with the others.

In preparing this FONSI, we reviewed the Amendments 1 to the Puerto Rico, St. Croix, and St. Thomas and St. John Fishery Management Plans (island-based FMP): Modification to the Buoy Gear Definition and Use (proposed action), which includes an Environmental Assessment (EA). The EA evaluates the affected areas, the scale and geographic extent of the proposed action and the degree of effects on those resources (including the duration of impact, and whether the impacts were adverse and/or beneficial and their magnitude). The EA is hereby incorporated by reference. 40 CFR § 1501.6(b).

**II. Approach to Analysis:**

The proposed action is not expected to meaningfully contribute to significant impacts, because the action is considered small-scale as it only deals with one gear type managed within each island-based FMP. The proposed action would prohibit the use of buoy gear for all harvest by the recreational sector and would increase the maximum number of hooks that can be used with buoy gear when fishing for any species for authorized fisheries in federal waters off Puerto Rico, St. Thomas and St. John, and St. Croix. The proposed action and comparison of alternatives are

summarized in Chapter 2 of the EA. Detailed discussions of the magnitude of impacts of the alternatives on the human environment, including biological, economic, social, and administrative, are in Chapter 4 of the document. None of the impacts of the actions included in these amendments, in combination with past, present, and future actions have been determined to be significant (Section 4.3 of the EA). The proposed action would not meaningfully contribute to significant impacts to specific resources (Chapter 4).

### **III. Geographic Extent and Scale of the Proposed Action:**

The geographic extent and scale for the proposed action includes the exclusive economic zone (EEZ) around Puerto Rico, St. Thomas and St. John, and St. Croix, as described in Sections 1.3, 3.1, and 3.2 of the EA. Although this is a large area, the scale of the proposed action affects only fishing activities conducted with one particular gear type, the buoy gear, which is used by a small and specialized group of fishermen in each island management area to fish for deep-water snappers, mostly cardinal and queen snapper, and groupers. Thus, the proposed action is relatively small scale.

### **IV. Degree of Effect:**

- A. The potential for the proposed action to threaten a violation of Federal, state, or local law or requirements imposed for environmental protection.*

The proposed action is being taken pursuant to federal legal mandates for the management of fishery resources, which ensures state participation in management decisions (see Section 3.6 and Appendix D of the EA). It is not reasonably expected to threaten a violation of federal, state, local law, or requirements imposed for the protection of the environment.

- B. The degree to which the proposed action is expected to affect public health or safety.*

The proposed action is not reasonably expected to have a significant adverse impact on public health or safety. 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 for commercial fishing. 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 buoy gear use by the recreational sector would eliminate any potential future conflicts between commercial and recreation-oriented user groups at the subject fishing grounds, and 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 is also not expected to have a substantial adverse impact on public health or safety as it would not substantially alter the manner in which the Puerto Rico,

St. Thomas/St John, and St. Croix fisheries as a whole are conducted (e.g., overall gear use and effort) and would not impact the health or safety of commercial or recreational fishermen.

*C. The degree to which the proposed actions is expected to affect a sensitive biological resource, including:*

*a. Federal threatened or endangered species and critical habitat;*

The proposed action is not reasonably expected to have a significant adverse effect on endangered or threatened species, or their critical habitat. Section 3.2.3 of the EA provides a description of the protected and endangered species and critical habitat occurring in the biological environment of the action area. Any impacts on the physical and biological environments (Sections 4.1.1, 4.1.2, 4.2.1, and 4.2.2 of the EA), which include those species and their critical habitat, are expected to be minimal. As discussed in Chapter 4 of the EA, no effects to Endangered Species Act (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 feet).

*b. Stocks of marine mammals as defined in the Marine Mammal Protection Act;*

The proposed action is not expected to adversely affect stocks of marine mammals (Section 3.2.3 and Appendix D of the EA). In the 2023 proposed List of Fisheries published by the National Marine Fisheries Service (NMFS), all gear types used to harvest reef fish in the Puerto Rico, St. Thomas and St. John, and St. Croix fisheries are classified as Category III fishery (87 FR 55348; October 11, 2022) and is unchanged from the 2022 List of Fisheries (87 FR 23122; April 19, 2022). This classification indicates the annual mortality and serious injury of a marine mammal stock resulting from these gear types 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.

*c. Essential fish habitat identified under the Magnuson–Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act);*

The proposed action is not reasonably expected to affect essential fish habitat (EFH) in federal waters off Puerto Rico, St. Thomas/St. John, and St. Croix, as described in Sections 4.1.1 and 4.1.2 of the EA. At present, there is no evidence that the recreational sector uses or has used buoy gear in the EEZ to fish for deep-water reef fish or any other non-managed species. Therefore, physical negative effects are not expected from the prohibition on the use of buoy gear by the recreational sector under Action 1. Physical effects are not expected from any of the alternatives in Action 2 as the buoy gear used to fish for deep-water reef fish in the U.S.

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Finding of No Significant Impact

Amendments 1: Modification to the Buoy Gear Definition and Use (0648-BL56)

Caribbean has a low potential for affecting the physical environment (e.g., entanglement). The gear is used in depths of 400-1,200 feet 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. Increasing the maximum number of hooks that can be used with the buoy gear in Action 2 is not expected to increase interactions with the bottom.

*d. Bird species protected under the Migratory Bird Treaty Act (MBTA);*

The proposed action is not reasonably expected to adversely affect bird species protected under the MBTA. There is no information to indicate birds rely on deep-water reef fish for food. Additionally, there is no evidence that the reef fishery under the Puerto Rico FMP, the St. Thomas and St. John FMP, and the St. Croix FMP, are adversely affecting birds (Section 3.2.2).

*e. National Marine Sanctuaries or Monuments;*

The proposed action is not reasonably expected to adversely affect marine sanctuaries or monuments, as described in Appendix D of the EA. The U.S. Caribbean has a diverse network of marine protected areas, which includes two national monuments: Buck Island Reef National Monument off St. Croix, United States Virgin Islands (USVI) and Virgin Islands Coral Reef National Monument off St. John, USVI, both of which are located in state waters. Commercial fishing is prohibited in the Virgin Islands Coral Reef National Monument and all fishing is prohibited in the Buck Island Reef National Monument.<sup>1</sup> There are no national marine sanctuaries located in the U.S. Caribbean.<sup>2</sup> Regulations are in place to prevent, mitigate, or minimize adverse fishing-related impacts on coral habitats in federal waters (Appendix D of the EA). As the two monuments are fully located in state waters, and the majority of fishing is prohibited in those monuments, this action is not expected to have significant effects on monuments in the U.S. Caribbean region.

*f. Vulnerable marine or coastal ecosystems, including, but not limited to, shallow or deep coral ecosystems;*

The proposed action is not reasonably expected to adversely affect vulnerable marine or coastal ecosystems, including but not limited to, shallow or deep coral ecosystems in the U.S. Caribbean waters. As discussed in Sections 4.1.1, 4.1.2, 4.2.1, and 4.2.2 in the EA and in Appendix D, this action is expected to only have minor, if any, impacts to the physical and biological environments because no substantial changes to fishing practices are expected.

*g. Biodiversity or ecosystem functioning (e.g., benthic productivity, predator-prey relationships, etc.)*

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<sup>1</sup> <https://www.vinow.com/inc/vi-fishers-booklet.pdf>

<sup>2</sup> <https://sanctuaries.noaa.gov/welcome.html>

The proposed action is not expected to adversely affect biodiversity and/or ecosystem function within the affected area. As discussed in Sections 4.1.1 and 4.1.2 of the EA, prohibiting the use of buoy gear by the recreational sector (Action 1) is not expected to have any effects on the biological/ecological environments because buoy gear is not a gear type currently used by the recreational sector. Also as discussed in Sections 4.2.1 and 4.2.2 of the EA, increasing the maximum number of hooks that could be used with buoy gear to 25 by the commercial sector has a low potential for affecting the physical environment because of the types of habitat, and the depth where it is used, and thus increased interactions with the bottom is not expected. Minor effects from increasing the number of hooks may occur on target and incidental catch species (e.g., potential for overexploiting the resource) if the increase in hooks translates into higher landings when compared to current levels. However, this is not expected because as discussed in the EA, fishing practices are not expected to change in such a manner that would affect benthic productivity or predator-prey relationships.

*D. The degree to which the proposed action is reasonably expected to affect a cultural resource: properties listed or eligible for listing on the National Register of Historic Places; archeological resources (including underwater resources); and resources important to traditional cultural and religious tribal practice.*

The proposed action is not expected to affect cultural resources in Puerto Rico or the USVI such as properties listed or eligible for listing on the National Register of Historic Places, archeological resources, or resources important to traditional cultural and religious practices. The proposed action is not expected to significantly change fishing practices in the deep-water reef fish component or the fishery as a whole and therefore is not expected to increase any risk of loss or destruction to any significant scientific, cultural, or historical resources in the affected area.

*E. The degree to which the proposed action has the potential to have a disproportionately high and adverse effect on the health or the environment of minority or low-income communities, compared to the impacts on other communities (EO 12898).*

The proposed action is not expected to have a disproportionately high and adverse effect on the health or the environment of minority or low-income communities, compared to the impacts on other communities. As stated in the Environmental Justice (EJ) analysis in Section 3.5.3 of the EA, the EJ communities on the islands have depicted vulnerabilities but the proposed actions are not expected to have any additional impact on those communities.

*F. The degree to which the proposed action is likely to result in effects that contribute to the introduction, continued existence, or spread of noxious weeds or nonnative invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of the species.*

The proposed action is not likely to result in effects that contribute to the introduction, continued existence, or spread of noxious weeds or nonnative invasive species. The proposed action is directed towards the management of a fishing gear type used to harvest deep-water snappers and groupers, which are native to the U.S. Caribbean (see Section 3.2.1). Additionally, the action does not propose any activity, such as increased ballast water discharge from foreign vessels, which is associated with the introduction or spread of invasive species. The Puerto Rico, St. Thomas and St. John, and St. Croix fisheries that target deep-water reef fish are conducted within the boundaries of the U.S. Caribbean EEZ, reducing the likelihood of introducing non-indigenous species.

*G. The potential for the proposed action to cause an effect to any other physical or biological resources where the impact is considered substantial in magnitude (e.g., irreversible loss of coastal resource such as marshland or seagrass) or over which there is substantial uncertainty or scientific disagreement.*

The proposed action is not expected to cause a substantial effect to any other physical or biological resource, nor is there substantial uncertainty or scientific disagreement on the impacts of the proposed action, as described in Chapter 4 of the EA. As described in Sections 4.1.1, 4.1.2, 4.2.1, and 4.2.2 of the EA, it is not anticipated that there is potential for the proposed action to cause an effect to any other physical or biological resource where the impact is considered substantial because the proposed action is not expected to change the manner in which the island-based fisheries are conducted as a whole (e.g., the gear types and fishing methods used, or the overall fishing effort). The analyses and data used in the decision-making process were based on standard techniques used to evaluate fish stocks and fisheries (see Chapters 1-4 of the EA). Fishery participants may disagree with the scientific information, making for controversial opinions, but National Standard 2 of the Magnuson-Stevens Act requires conservation and management measures be based upon the best scientific information available. The proposed action was certified by the Southeast Fisheries Science Center as based on the best available scientific information in a memorandum dated January 9, 2023.

## **V. Other Actions Including Connected Actions:**

The proposed action is part of a larger action, which is the management of fishery resources under the Puerto Rico, St. Thomas and St. John, and St. Croix island-based FMPs. As discussed in Section 4.3 of the EA, the proposed action, when added to the effects of other past, present, and reasonable foreseeable actions, is not expected to result in individually insignificant but cumulatively significant impacts. 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 are likewise not expected to significantly alter current fishing practices (i.e., buoy gear is not currently used

by the recreational sector and commercial fishing effort with buoy gear is expected to modestly change with the increase to the maximum number of hooks allowed). Similarly, no significant cumulative effects are expected to result from reasonably foreseeable future actions that may be taken, by other federal or non-federal agencies in combination with this action.

## **VI. Mitigation and Monitoring:**

The proposed action does not include any mitigation measures because it involves relatively minor changes to management of fishing. As stated in Section 4.3 of the EA, the effects of the proposed action would be monitored through collection of landings data by NMFS, stock assessments and stock assessment updates, life history studies, economic and social analyses, and other scientific observations. The monitoring burden for law enforcement would go largely unchanged, as law enforcement officers would continue to monitor compliance with any established gear regulations.

## **DETERMINATION:**

The CEQ NEPA regulations, 40 CFR § 1501.6, direct an agency to prepare a FONSI when the agency, based on the EA for the proposed action, determines not to prepare an EIS because the action will not have significant effects. In view of the information presented in this document and the analysis contained in the supporting EA prepared for the proposed action, it is hereby determined that the proposed action would not significantly impact the quality of the human environment. The EA for the proposed action is hereby incorporated by reference. In addition, all beneficial and adverse impacts of the proposed action have been evaluated to reach the conclusion of no significant impacts. Accordingly, preparation of an EIS for this action is not necessary.

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Andrew J. Strelcheck  
Regional Administrator  
Southeast Regional Office  
National Marine Fisheries Service

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Date