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Approved: Antonio J. Colorado
Secretary of State

By: [Signature]
Assistant Secretary of State

REGULATION
FOR THE SPINY LOBSTER (PANULIRUS ARGUS) FISHERY

To control the Spiny Lobster (*Panulirus argus*) fishery activities within the jurisdictional waters surrounding the Commonwealth of Puerto Rico.

TITLE I

General Provisions

ARTICLE 1.01 - TITLE

This Regulation shall be cited as the "Spiny Lobster (*Panulirus argus*) Fishery Control Regulation".

ARTICLE 1.02 - AUTHORITY AND LEGAL BASIS

This Regulation is adopted and promulgated in conformity with the powers conferred upon the Secretary of the Department of Natural Resources by Article 5 of Act Number 83 of May 13, 1936, as amended, know as the Puerto Rico Fisheries Act; Article 5 of Act Number 23 of June 20, 1972, as amended, know as the Department of Natural Resources Organic Act; and Sections 3, 5, 6 and 7 of Act Number 82 of July 7, 1979, as amended, known as the Act to Create the Corporation for the Development and Administration of the Marine, Lacustrine and Fluvial Resources of Puerto Rico.

ARTICLE 1.03 - STATEMENT OF PURPOSES

The purpose of this Regulation is to promulgate regulations compatible with Federal Regulations under the Fishery Management Plan for the Spiny Lobster Fishery of Puerto Rico and the United States Virgin Islands, developed by the Caribbean Fishery Management Council under the Magnuson Fishery Conservation and Management Act.

ARTICLE 1.04 - APPLICATION AND SCOPE

This Regulation controls the Spiny Lobster (*Panulirus argus*) fishery activities within the jurisdictional waters of the Commonwealth of Puerto Rico from its coast up to the inner boundary of the Caribbean Fishery Conservation Zone of the United States.

ARTICLE 1.05 - DEFINITIONS

For the purposes of this Regulation, the following terms and phrases shall have the meanings hereinafter expressed, unless a different meaning can be clearly derived from the text:

1. **"CODREMAR" or "Corporation"** - shall mean the Corporation for the Development and Administration of the Marine, Lacustrine and Fluvial Resources of Puerto Rico.
2. **"Department"** - shall mean the Department of Natural Resources of Puerto Rico.
3. **"Executive Director"** - shall mean the executive Director of the Corporation for the Development and Administration of the Marine, Lacustrine and Fluvial Resources of Puerto Rico.
4. **"Owner"** - with respect to any vessel, means:
 - a. Any person who owns that vessel in whole or in part;
 - b. any charterer of a vessel, whether bareboat, time or voyage;
 - c. any person who acts in the capacity of a charterer, including, but not limited to parties to a management agreement, operating agreement, or any similar agreement that bestows control the destination, function or operation of the vessel; or
 - d. any agent designated as such by any person described in paragraph (a), (b) or (c) of this definition.
5. **"Vessel of the United States"** - shall mean:
 - a. Any vessel documented or numbered by the United States Coast Guard Under United States law; or
 - b. any vessel under five net tons which is registered under the laws of any state, territory of possession of the United States, including the Commonwealth of Puerto Rico and the United States Virgin Islands.
6. **"Fishing vessel"** - shall mean any vessel, boat, ship, or other craft which is used for equipped to be used for, or of a type which is normally used for:
 1. Fishing; or
 2. aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to preparation, supply, storage, refrigeration, transportation or processing fish.
7. **"Commonwealth of Puerto Rico"** - shall mean the Island that bears such name, those islands that politically belong to it, the seabed and submerged

lands and the waters under its jurisdiction up to the inner boundary of the Caribbean Fishery Conservation Zone.

8. **"Lobster"** - shall mean the Spiny Lobster (Panulirus argus).
9. **"Egg-Bearing of Berried Lobster"** - shall mean any female lobster in a reproductive state carrying its eggs.
10. **"Carapace Length"** - shall mean a head length measurement of the lobster taken from the orbital notch inside the orbital spine, between the horns of the lobster (lateral rostral sulcus) to the posterior margin of the cephalothorax (see Figure 1).
11. **"Magnuson Act"** - shall mean the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).
12. **"Official Number"** - shall mean the documentation number issued by the United States Coast Guard, or the registration number issued by a State, Territory or Possession of the United States, or the Coast Guard for undocumented vessels.
13. **"Operator"** - with respect to any vessel, shall mean the captain, master or any other individual on board and in charge of that vessel.
14. **"United States-harvested fish"** - shall mean fish caught, taken or harvested by vessels of the United States within any fishery regulated by the Magnuson act throughout all its range.
15. **"Person"** - shall mean any individual (whether or not a citizen or national of the United States), corporation, partnership, association, or any other entity (whether or not organized or existing under the laws of any state, territory or possession of the United States) and any federal, state, local or foreign government, or any entity of any such governments.
16. **"Authorized person"** - shall mean:
 - a. Any commissioned, warrant, or petty officer of the United States Coast Guard;
 - b. any certified enforcement of special agent of the National Marine Fisheries Service;
 - c. any officer designated by the head of any federal or state agency which has entered into an accord or agreement with the United States Secretary of Commerce and the Commandant of the United States Coast Guard

to implement the enforcement of the Magnuson Act;

- d. any United States Coast Guard personnel accompanying and acting under the direction and supervision of any of the persons described in paragraph (a) of this definition;
 - e. any police officer of the Government of the Commonwealth of Puerto Rico, or member of the Ranger Corps of the Department of Natural Resources; or
 - f. any authorized agent or personnel designated by the Executive Director of CODREMAR to implement the enforcement of regulations.
17. "Fishing" - shall mean any activity, other than scientific research conducted by a scientific research vessel, which involves and implies:
- a. The catching, taking or harvesting of fish;
 - b. the attempted catching, taking or harvesting of fish;
 - c. any other activity which can reasonably be expected to result in the catching, taking or harvesting of fish; or
 - d. any operation at sea in support of, or in preparation for any activity described in paragraphs a, b, and c of this definition.
18. "Fish" - shall include in its meaning the spiny lobster (Panulirus argus).
19. "Secretary" - shall mean the Secretary of the Department of Natural Resources of the Commonwealth of Puerto Rico, or his authorized representative.
20. "Fishery Conservation Zone" - shall mean that area adjacent to the United States which, except where modified to accomodate international boundary limits, encompasses all waters from the seaward jurisdictional boundary of each of the coastal states, territories or possessions, to a line on which each point of it is two hundred nautical miles from the baseline from which the territorial sea of the United States is measured.

ARTICLE 1.06 - RELATION TO OTHER LAWS AND REGULATIONS

- 1. Persons affected by this Regulation should be aware that other federal and state statutes and regulations may apply to their activities.
- 2. Certain responsibilities relating to data collection and enforcement or regulations may be

performed by authorized state personnel pursuant to Act Number 82 of July 7, 1979, or under a cooperative agreement entered into by the Commonwealth of Puerto Rico, the United States Coast Guard and the United States Secretary of Commerce.

ARTICLE 1.07 - PERMITS

1. In general: Each vessel in the spiny lobster fishery within jurisdictional waters must possess a valid permit and color code identification in force to fish, issued by the Secretary and be duly identified, in addition to other permits and registrations required by law or regulation.
2. Application to the Secretary of Natural Resources
 - a. Each application for the issuance of a State permit and to have a color code identification assigned to the vessel and the fishing gear will have to be submitted to the Secretary forty-five (45) days prior to the date on which the applicant desires receipt of the permit and assignment of identification.
 - b. Each application must contain, if applicable, the following information:
 - I. The applicant's name, his postal address and his telephone number;
 - II. the name and length of the vessel;
 - III. the vessel's official number;
 - IV. the vessel's radio call sign; and
 - V. the applicants' fishing license number.
3. Fees to be paid: Payment of a fee will not be required from the applicants for the issuance of a permit and color code identification by the Secretary.

ARTICLE 1.08 - RECORDKEEPING AND REPORTING REQUIREMENTS

(Reserved)

ARTICLE 1.09 - VESSEL AND GEAR IDENTIFICATION

- A. Vessel identification: Each fishing vessel subject to this Regulation must display its official number and color code identification issued with the vessel's permit of the starboard and port sides of the hull.
- B. Duties of the operator: The operator of each fishing vessel subject to this Regulation shall:
 1. Keep the markings that compose the official number clearly legible and in a good state of repair; and

2. insure that not part of the vessel, its rigging, or its fishing gear obstructs the view of the official number from an enforcement vessel or aircraft.
- C. Fishing gear identification: All the traps, pots and buoys used in the spiny lobster fishery must be marked and identified in the following manner:
1. Traps, pots and buoys must bear the number and the assigned color code identification that correspond with the number and color identification specified in the vessel's permit.
 2. All other fishing gear and equipment, to the extent practicable, must be marked and identified in accordance with the vessel's permit.

ARTICLE 1.10 - PROHIBITIONS

It is unlawful for any person to:

- a. Falsify or fail to affix and maintain fishing gear and vessel markings as required by Article 1.09;
- b. Fail to comply immediately with the enforcement and boarding procedures dispositions of this Regulation specified in Article 1.11;
- c. Retain on board or possess on land any egg-bearing or berried spiny lobster, as specified in Article 2.01 (A-1);
- d. Strip eggs from, or otherwise molest any egg-bearing spiny lobster as required by Article 2.01 (A-2);
- e. Willfully and intentionally tend, pull, open or otherwise molest another person's traps and pots, except as provided in Article 2.01 (B);
- f. Possess in jurisdictional waters of the Commonwealth of Puerto Rico any spiny lobster with a carapace length less than the minimum size limit specified in Article 2.02 (A, save for the exception provided in Article 2.02 (B);
- g. Possess spiny lobster tails separated from their carapace, except until after the lobsters have been landed in accordance with Article 2.02 (C);
- h. Use lobster traps or pots without at least one degradable panel, or use prohibited fishing gear or methods, as specified in Article 2.03;
- i. Possess, have custody or control of the ship transport, the offer for sale, the sale, the purchase, the importation, landing or the exportation of any spiny lobster aptured or

retained in violation of:

1. The Magnuson Act, or Act Number 83 of May 13, 1936, as amended, known as a Fisheries Act; or Act Number 23 of June 20, 1972, as amended, know as the Department of Natural Resources Organic Act; or Act Number 82 of July 7, 1979, as amended, known as the Act to Create the Corporation for the Development and Administration of the Marine, Lacustrine and Fluvial Resources of Puerto Rico;
 2. this Regulation;
 3. any permit issued under this Regulation; or
 4. any other regulation promulgated or permit issued under the Magnuson Act, the Fisheries Act, the Department of Natural Resources Organic Act or the Act to Create the Corporation for the Development and Administration of the Marine, Lacustrine and Fluvial Resources of Puerto Rico;
- j. Refuse to permit an authorized person to board a fishing vessel under his control for the purpose of conducting any search or inspection in relation with the enforcement of the Magnuson Act, the Fisheries Act, the Department of Natural Resources Organic Act, or the Act to Create the Corporation for the Development and Administration of the Marine, Lacustrine and Fluvial Resources of Puerto Rico, this Regulation, or any other regulation promulgated or permit issued under such laws;
- k. Employ force or violence to assault, resist, oppose, impede, intimidate, threaten or interfere with any authorized person during the conduction of any search or inspection described in paragraph (J.) of this Article;
- l. Resist a lawful arrest as a consequence of committing an act prohibited by this Regulation;
- m. Interfere with, delay, or prevent by any means the apprehension or arrest of another person, knowing that such other person has committed any of the acts prohibited by this Regulation;
- n. Transfer or attempt to transfer, directly or indirectly spiny lobsters captured within the jurisdictional waters of the Commonwealth of Puerto Rico to any foreing fishing vessel, while such vessel is within the jurisdictional waters of the Commonwealth of Puerto Rico;
- o. Violate any other provision of this Regulation,

the Magnuson Act, the fisheries Act, the Department of Natural Resources Organic Act and the Act to Create the Corporation for the Development and Administration of the Marine, Lacustrine and Fluvial Resources of Puerto Rico, or any regulation promulgated or permit issued under these law.

ARTICLE 1.11 - FACILITATION OF THE ENFORCEMENT FUNCTION OF THE REGULATION

- A. **In General:** The owner or operator of any fishing vessel subject to this Regulation, shall immediately comply with the instructions issued by an authorized person to facilitate the boarding and inspection of the vessel, its fishing gear, equipment and catch in the safest possible way for the purpose of enforcing the Magnuson Act, the Fisheries Act, the Department of Natural Resources Organic Act, the Act to Create the Corporation for the Development and Administration of the Marine, Lacustrine and Fluvial Resources of Puerto Rico, and this Regulation.
- B. **Signals:** Upon being approached by a vessel or aircraft of the United States Coast Guard, the Puerto Rico Police, the Ranger Corps of the Department of Natural Resources, or of another public order agency or dependency authorized to enforce the Magnuson Act, the fisheries Act, the Department of Natural Resources Organic Act or the Act to Create the Corporation for the Development and Administration of the Marine, Lacustrine and Fluvial Resources of Puerto Rico, the operator of any fishing vessel shall be alert for instruction transmission signals. The following signals, derived from the International Code of Signals, if applicable, are among those which may be used;
1. "L" shall mean: "You should stop your vessel immediately";
 2. "SQ3" shall mean: "You should stop or have the vessel heave to; I am going to board you";
 3. "AA AA AA etc." is the call to an unknown station, to which the signaled vessel should respond by illuminating the vessel identification required by Article 1.09.
- C. **Boarding:** A vessel signaled to stop or heave to the vessel shall:
1. Stop immediately and lay to or maneuver in

such a way as to permit the authorized person and his party to board;

2. If applicable, provide a safe ladder for the authorized person and his party;
3. When necessary, to facilitate the boarding, provide a man rope, safety line and illumination for the ladder; and
4. Take all such other measures as are necessary to ensure the safety of the authorized person and his party and to facilitate boarding.

ARTICLE 1.12 - PENALTIES

Any person or fishing vessel found to be in violation of this Regulation will be subject to the civil and criminal penalties provisions and forfeiture and embargo provisions of the Magnuson Act, the Fisheries Act, the Department of Natural Resources Organic Act and the Act to Create the Corporation for the Development and Administration of the Marine, Lacustrine and Fluvial Resources of Puerto Rico and in other applicable laws.

TITLE II

Management Measures

ARTICLE 2.01 - HARVEST LIMITATIONS

- A. Egg-bearing or berried lobster:
 1. Egg-bearing spiny lobster must be returned to the water unharmed. Egg-bearing lobsters may be retained in the same traps or pots in which they were caught, as attractants, until the eggs are shed, provided the traps and pots are returned to the water and not retained on the vessel or landed.
 2. Egg-bearing spiny lobsters shall not be stipped, scraped, shaved, clipped or in any other manner molested in order to remove their eggs.
- B. Pulling traps. Traps and pots may be pulled, tended, manipulated or opened only by the owner's vessel, unless the vessel tending other person's traps and pots has on board a written consent of the traps. This restriction shall not be applicable to authorized persons, as they are defined in this Regulation.

ARTICLE 2.02 - SIZE LIMITATIONS

- A. Spiny lobsters with a carapace length of less than three point five (3.5) inches, equivalent to eighty-nine (89) millimeters, must be returned immediately to the water unharmed.
- B. Spiny lobsters with a carapace length or less

than the three point five (3.5) inch minimum size limit may be used as attractants in the same traps and pots in which they were caught, but shall not be retained aboard the vessel or landed.

- C. Spiny lobsters shall remain whole while being retained prior to landing. Tails shall not be separated from the carapace until the spiny lobsters have been landed.

ARTICLE 2.03 - FISHING GEAR LIMITATIONS

- A. Self-degradable panel. All traps and pots used for fishing within the jurisdictional waters of the Commonwealth of Puerto Rico must be provided on any vertical side or on its top with an opening with a diameter no smaller than the diameter of the funnel or entrance of the trap or pot. The opening may be covered by a self-degradable netting constructed or made of any of the materials listed below in this paragraph, or by a cover made of any material and fastened to the trap or pot with any of the following enumerated materials:

- 1. Untreated fiber of biological origin, not more than three (3) millimeters, equivalent to approximately one-eighth (1/8) inch maximum diameter, including but not limited to tyre palm, hemp, jute, cotton, wool or silk.
- 2. Non-galvanized black iron wire not more than one sixteenth (1/16) inch (equivalent approximately to one point fifty-nine (1.59) millimeters) in diameter, that is, 16 gauge wire.

- B. Prohibited fishing gear and methods. Spiny lobsters shall not be taken using:

- 1. Explosives, poisons, drugs or other chemical products; or
- 2. Spears, hooks or similar devices.

ARTICLE 2.04 - SPECIFICALLY AUTHORIZED ACTIVITIES

The Secretary or his authorized representative may authorize, in writing, activities that have otherwise been prohibited by this Regulation for the purpose of acquiring scientific information and statistical data.

TITLE III

Final Provisions

ARTICLE 3.01 - AMENDMENTS TO THE REGULATION

This Regulation may be amended by the Secretary at any moment he deems it convenient for the benefit of the public

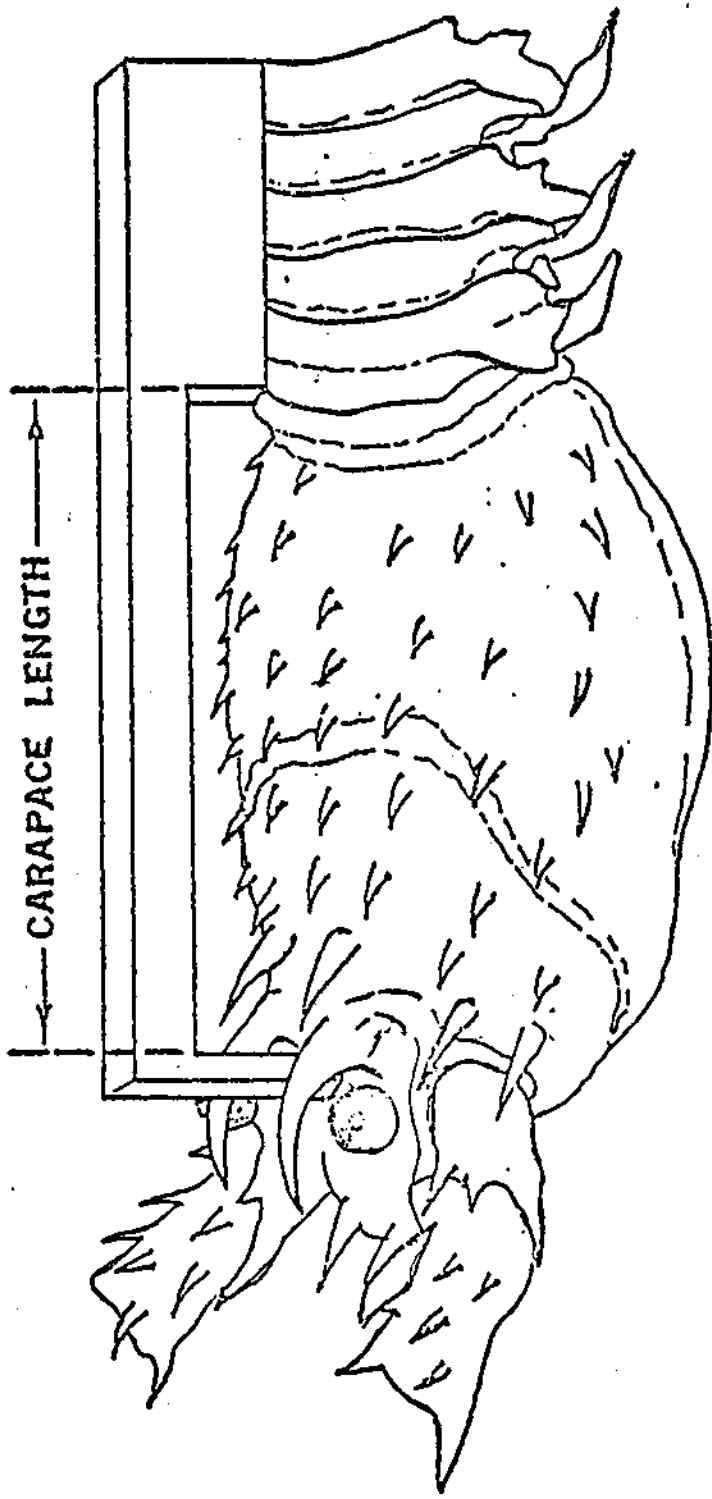


FIGURE 1
METHOD OF MEASURING CARAPACE LENGTH

interest.

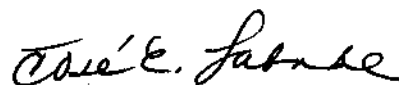
ARTICLE 3.02 - SEPARABILITY

If any article, clause, section, paragraph or part of this Regulation be declared unconstitutional by a competent tribunal, said judgment shall not affect or invalidate the other provisions of this Regulation.

ARTICLE 3.03 - EFFECTIVENESS

This regulation has been binding and in full force and effect since January 1, 1985 after its approval by the Governor of the Commonwealth of Puerto Rico, Carlos Romero Barceló, and the Secretary of the Department of Natural Resources, Hilda Díaz Soltero. It is now promulgated in accordance with the applicable provisions set forth in Law No. 170 of August 12, 1988, as amended, known as the Administrative Procedure Act for the Commonwealth of Puerto Rico.

At San Juan, Puerto Rico, this 8 day of January 1990.



José E. Laborde
Secretary of the Department
of Natural Resources