

Citicorp Bankers Leasing Corporation  
 Dollar Rent-A-Car Systems, Inc.  
 Donlen Corporation  
 Enterprise Rent-A-Car<sup>1</sup>  
 GE Capital Fleet Services<sup>1</sup>  
 Hertz Rent-A-Car Division (subsidiary of  
 Hertz Corporation)  
 Lease Plan USA, Inc.  
 National Car Rental System, Inc.  
 Penske Truck Leasing Company  
 PHH Vehicle Management Services<sup>1</sup>  
 Ryder System, Inc. (Both rental and leasing  
 operations)  
 U-Haul International, Inc. (Subsidiary of  
 AMERCO)  
 USL Capital Fleet Services  
 Wheels Inc.<sup>1</sup>

Issued on: April 29, 1998.

**L. Robert Shelton,**

*Associate Administrator for Safety  
 Performance Standards.*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric  
 Administration**

**50 CFR Part 600**

[I.D. 042798D]

**Magnuson-Stevens Act Provisions;  
 Essential Fish Habitat**

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

**ACTION:** Proposed recommendations for  
 essential fish habitat; notice of public  
 hearings and request for public  
 comments.

**SUMMARY:** NMFS requests public  
 comments on proposed  
 recommendations for essential fish  
 habitat (EFH) to the Western Pacific  
 Fishery Management Council (Council)  
 for its fishery management plans (FMP)  
 for bottomfish, crustaceans, pelagics and  
 precious corals. NMFS also announces a  
 public hearing on the proposed  
 recommendations.

**DATES:** Comments must be received by  
 June 22, 1998. The public hearing will  
 be held at 7:00pm, May 20, 1998, in  
 Honolulu, HI.

**ADDRESSES:** The meeting will be held at  
 Tokai University, Pacific Center, 2241  
 Kapiolani Blvd., Honolulu, HI. Send  
 comments or requests for a copy of the  
 proposed EFH recommendations for any  
 or all of the FMPs to: NMFS, Southwest  
 Region, 2570 Dole Street, Room 106,  
 Honolulu, HI 96822-2396.

<sup>1</sup> Indicates a newly listed company which must  
 file a report beginning with the report due on  
 October 25, 1998.

**FOR FURTHER INFORMATION CONTACT:** John  
 Naughton, NMFS, Southwest Region,  
 Pacific Islands Area Office, (808) 973-  
 2940.

**SUPPLEMENTARY INFORMATION:** The  
 Sustainable Fisheries Act of 1996  
 amended the Magnuson-Stevens Fishery  
 Conservation and Management Act  
 (Magnuson-Stevens Act) to establish  
 new requirements for EFH descriptions  
 in FMPs and require consultation  
 between NMFS and Federal agencies on  
 activities that may adversely impact  
 EFH for species managed under FMPs.  
 The Magnuson-Stevens Act requires all  
 Councils to amend their FMPs by  
 October 1998 to describe and identify  
 EFH for each managed fishery. In  
 accordance with the Magnuson-Stevens  
 Act, NMFS published an interim final  
 rule in the **Federal Register** on  
 December 19, 1997 (62 FR 66531),  
 providing guidelines to assist the  
 Councils in description and  
 identification of EFH in FMPs  
 (including adverse impacts on EFH) and  
 consideration of actions to ensure  
 conservation and enhancement of EFH.  
 The Magnuson-Stevens Act also  
 requires NMFS to provide each Council  
 with recommendations and information  
 regarding EFH for each fishery under  
 that Council's authority.

NMFS has developed proposed EFH  
 recommendations for the identification  
 of EFH for each of the Western Pacific  
 Council's FMPs through a process that  
 has involved input from the Council, its  
 advisory bodies, and the fishing  
 industry at the Council's public  
 meetings in November 1997, and April  
 1998.

The proposed EFH recommendations  
 for each FMP include a description of  
 EFH for the managed species; a  
 description of adverse effects to EFH,  
 including fishing and non-fishing  
 threats; and a description of measures to  
 ensure the conservation and  
 enhancement of EFH. Copies of the  
 proposed EFH recommendations are  
 available (see **ADDRESSES**). Public  
 comments are requested by June 22,  
 1998.

**Special Accommodations**

This meeting will be physically  
 accessible to people with disabilities.  
 Requests for sign language  
 interpretation or other auxiliary aids  
 should be directed to John Naughton  
 (see **FOR FURTHER INFORMATION CONTACT**)  
 at least 5 working days prior to the  
 hearing date.

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

Dated: April 28, 1998.

**James P. Burgess,**

*Director, Office of Habitat Conservation,  
 National Marine Fisheries Service.*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric  
 Administration**

**50 CFR Part 622**

[I.D. 121197E]

RIN 0648-AJ16

**Fisheries of the Caribbean, Gulf of  
 Mexico, and South Atlantic; Reef Fish  
 Fishery of the Gulf of Mexico;  
 Resubmission of Disapproved and  
 Revised Measure in Amendment 11**

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

**ACTION:** Notice of agency decision.

**SUMMARY:** NMFS announces the  
 disapproval of a revised, previously  
 disapproved measure submitted by the  
 Gulf of Mexico Fishery Management  
 Council (Council) and originally  
 contained in Amendment 11 to the  
 Fishery Management Plan for the Reef  
 Fish Resources of the Gulf of Mexico  
 (FMP). The measure would have  
 redefined optimum yield (OY) for that  
 FMP.

**ADDRESSES:** Requests for copies of the  
 documents supporting the disapproval  
 decision should be mailed to the  
 Southeast Regional Office, NMFS, 9721  
 Executive Center Drive N., St.  
 Petersburg, FL 33702.

**FOR FURTHER INFORMATION CONTACT:**  
 Robert Sadler, 813-570-5305.

**SUPPLEMENTARY INFORMATION:** The  
 Magnuson-Stevens Fishery  
 Conservation and Management Act  
 (Magnuson-Stevens Act) requires each  
 regional fishery management council to  
 submit any fishery management plan or  
 amendment to NMFS for review and  
 approval, disapproval, or partial  
 approval. The Magnuson-Stevens Act  
 also requires that NMFS, upon receiving  
 an amendment, immediately publish a  
 document in the **Federal Register**  
 stating that the amendment is available  
 for public review and comment.

On December 31, 1997, NMFS  
 published a notice of availability (NOA)  
 of a revised, previously disapproved  
 measure originally in Amendment 11,  
 and requested comments (62 FR 68246).  
 The revised definition would have

initially set OY for each reef fish stock managed under the FMP at a yield level that would result in at least a 30-percent spawning potential ratio (SPR) for that stock. This measure would have allowed the Council to propose setting OY for these species based on a more conservative (higher) SPR level if the Reef Fish Stock Assessment Panel indicates that appropriate biological information supports such action. Additional background, the Council's rationale for the revised measure in the amendment, and NMFS' concerns about inconsistency with national standards 1 and 2 of the Magnuson-Stevens Act are contained in the NOA.

On April 3, 1998, after considering the public comment received on the revised measure, NMFS disapproved the revised measure based on concerns expressed in the NOA and summarized here.

#### Comments and Responses

One public comment on the revised measure was received.

*Comment:* A recreational fishing association opposed an OY definition of 40-percent SPR for reef fish because it would be inconsistent with the Magnuson-Stevens Act and not based on the best available scientific information. The commenter did not provide any rationale in support of this position or address the concerns raised by NMFS.

*Response:* NMFS disagrees with this comment because the best available scientific information indicates that for some species an OY definition based on a 40-percent SPR would be necessary to prevent overfishing. As a result, such a definition would be necessary for the FMP to be consistent with the Magnuson-Stevens Act. NMFS' reasons for disapproving the revised OY

definition further explain why NMFS disagrees with this public comment.

#### NMFS' Reasons for Disapproving the Revised Measure

Comments from the Southeast Fisheries Science Center (SEFSC) indicate that OY should be defined at a more biologically conservative level than 30-percent SPR for species for which biological information is presently unavailable and for those species that may be especially vulnerable to overfishing because they change sex and are believed to be less resilient as they mature. The SEFSC recommended that OY be defined as a fishing mortality rate that allows a 40-percent SPR for these 15 species: red porgy (removed from the FMP under Amendment 15 to provide for management by Florida), rock hind, speckled hind, yellowedge grouper, red hind, jewfish, red grouper, misty grouper, warsaw grouper, snowy grouper, Nassau grouper, yellowmouth grouper, gag, scamp, and yellowfin grouper. Jewfish and Nassau grouper are overfished species.

The SEFSC concluded that the 30-percent OY is inappropriate for the 15 listed species. Specifically, an OY definition based on a 30-percent SPR does not address the fact that some species change sex from female to male, which reduces egg production and is believed to make the population less resilient to fishing and environmental factors that reduce reproductive success. Use of a 30-percent SPR to define OY for such species not only would fail to incorporate the best available scientific information for the sex-changing species, but also would put them at risk of overfishing.

For the species listed above for which biological information is currently

unavailable, the definition of OY based on a 30-percent SPR is inconsistent with NMFS' policy of employing a precautionary approach to fishery management. An OY definition based on a 40-percent SPR for species for which biological information is presently unavailable is more appropriate than one based on a 30-percent SPR, because an OY based on 30-percent SPR could produce a fishing mortality rate that exceeds maximum sustainable yield (MSY) and result in overfishing. It has been shown over a wide range of stock-recruitment parameter combinations that an OY based on a 40-percent SPR has a relatively low risk of producing a fishing mortality rate that would exceed MSY and result in overfishing. The Magnuson-Stevens Act requires that OY be no higher than MSY. For these reasons, NMFS has determined that approval of the resubmitted measure would risk overfishing of these species.

Public comments on the SEFSC's concerns were specifically invited in the NOA. The public comment did not address the SEFSC's concerns or provide a basis for approval of the revised measure. Following consideration of this comment and all other available information, NMFS found that the OY definition is inconsistent with national standards 1 and 2. This finding formed the basis for the final agency decision to disapprove the OY definition as part of Amendment 11.

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

Dated: April 28, 1998.

**Rolland A. Schmitt,**

*Assistant Administrator for Fisheries,  
National Marine Fisheries Service.*

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