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.


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

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