

## Fishery Conservation and Management

## § 600.930

may request that the Assistant Administrator initiate further review of the Federal agency's decision and involve the Council in any interagency discussion to resolve disagreements with the Federal agency. The Assistant Administrator will make every effort to accommodate such a request. NMFS may develop written procedures to further define such review processes.

(l) *Supplemental consultation.* A Federal agency must reinitiate consultation with NMFS if the agency substantially revises its plans for an action in a manner that may adversely affect EFH or if new information becomes available that affects the basis for NMFS EFH Conservation Recommendations.

### **§ 600.925 NMFS EFH Conservation Recommendations to Federal and state agencies.**

(a) *General.* Under section 305(b)(4)(A) of the Magnuson-Stevens Act, NMFS is required to provide EFH Conservation Recommendations to Federal and state agencies for actions that would adversely affect EFH. NMFS will not recommend that state or Federal agencies take actions beyond their statutory authority.

(b) *Recommendations to Federal agencies.* For Federal actions, EFH Conservation Recommendations will be provided to Federal agencies as part of EFH consultations conducted pursuant to § 600.920. If NMFS becomes aware of a Federal action that would adversely affect EFH, but for which a Federal agency has not initiated an EFH consultation, NMFS may request that the Federal agency initiate EFH consultation, or NMFS will provide EFH Conservation Recommendations based on the information available.

(c) *Recommendations to state agencies—*  
(1) *Establishment of procedures.* The Magnuson-Stevens Act does not require state agencies to consult with the Secretary regarding EFH. NMFS will use existing coordination procedures or establish new procedures to identify state actions that may adversely affect EFH, and to determine the most appropriate method for providing EFH Conservation Recommendations to state agencies.

(2) *Coordination with states on recommendations to Federal agencies.* When an action that would adversely affect EFH is authorized, funded, or undertaken by both Federal and state agencies, NMFS will provide the appropriate state agencies with copies of EFH Conservation Recommendations developed as part of the Federal consultation procedures in § 600.920. NMFS will also seek agreements on sharing information and copies of recommendations with Federal or state agencies conducting similar consultation and recommendation processes to ensure coordination of such efforts.

(d) *Coordination with Councils.* NMFS will coordinate with each Council to identify the types of actions on which Councils intend to comment pursuant to section 305(b)(3) of the Magnuson-Stevens Act. For such actions NMFS will share pertinent information with the Council, including copies of NMFS' EFH Conservation Recommendations.

### **§ 600.930 Council comments and recommendations to Federal and state agencies.**

Under section 305(b)(3) of the Magnuson-Stevens Act, Councils may comment on and make recommendations to the Secretary and any Federal or state agency concerning any activity or proposed activity authorized, funded, or undertaken by the agency that, in the view of the Council, may affect the habitat, including EFH, of a fishery resource under its authority. Councils must provide such comments and recommendations concerning any activity that, in the view of the Council, is likely to substantially affect the habitat, including EFH, of an anadromous fishery resource under Council authority.

(a) *Establishment of procedures.* Each Council should establish procedures for reviewing Federal or state actions that may adversely affect the habitat, including EFH, of a species under its authority. Each Council may receive information on actions of concern by methods such as directing Council staff to track proposed actions, recommending that the Council's habitat committee identify actions of concern, or entering into an agreement with

NMFS to have the appropriate Regional Administrator notify the Council of actions of concern that would adversely affect EFH. Federal and state actions often follow specific timetables which may not coincide with Council meetings. Therefore, Councils should consider establishing abbreviated procedures for the development of Council recommendations.

(b) *Early involvement.* Councils should provide comments and recommendations on proposed state and Federal actions of concern as early as practicable in project planning to ensure thorough consideration of Council concerns by the action agency. Each Council should provide NMFS with copies of its comments and recommendations to state and Federal agencies.

### Subpart L—Fishing Capacity Reduction Framework

AUTHORITY: 16 U.S.C. 1861a(b)–(e).

SOURCE: 65 FR 31443, May 18, 2000, unless otherwise noted.

#### § 600.1000 Definitions.

In addition to the definitions in the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and in § 600.10 of this title, the terms used in this subpart have the following meanings:

*Address of Record* means the business address of a person, partnership, or corporation. Addresses listed on permits or other NMFS records are presumed to be business addresses, unless clearly indicated otherwise.

*Bid* means the price a vessel owner or reduction fishery permit holder requests for reduction of his/her fishing capacity. It is an irrevocable offer in response to the invitation to bid in § 600.1009.

*Borrower* means, individually and collectively, each post-reduction fishing permit holder and/or fishing vessel owner fishing in the reduction fishery.

*Business plan* means the document containing the information specified in § 600.1003(n) and required to be submitted with a request for a financed program.

*Business week* means a 7-day period, Saturday through Friday.

*Controlling fishery management plan or program (CFMP)* means either any fishery management plan or any state fishery management plan or program, including amendments to the plan or program, pursuant to which a fishery is managed.

*Delivery value* means:

(1) For unprocessed fish, all compensation that a fish buyer pays to a fish seller in exchange for fee fish; and

(2) For processed fish, all compensation that a fish buyer would have paid to a fish seller in exchange for fee fish if the fee fish had been unprocessed fish instead of processed fish.

Delivery value encompasses fair market value, as defined herein, and includes the value of all in-kind compensation or all other goods or services exchanged in lieu of cash. It is synonymous with the statutory term “ex-vessel value” as used in section 312 of the Magnuson Act.

*Deposit principal* means all collected fee revenue that a fish buyer deposits in a segregated account maintained at a federally insured financial institution for the sole purpose of aggregating collected fee revenue before sending the fee revenue to NMFS for repaying a reduction loan.

*Fair market value* means the amount that a buyer pays a seller in an arm’s length transaction or, alternatively, would pay a seller if the transaction were at arm’s length.

*Fee* means the amount that fish buyers deduct from the delivery value under a financed reduction program. The fee is the delivery value times the reduction fishery’s applicable fee rate under section 600.1013.

*Fee fish* means all fish harvested from a reduction fishery involving a financed program during the period in which any amount of the reduction loan remains unpaid. The term fee fish excludes fish harvested incidentally while fishing for fish not included in the reduction fishery.

*Final development plan* means the document NMFS prepares, under § 600.1006(b) and based on the preliminary development plan the requester submits, for a subsidized program.

*Financed* means funded, in any part, by a reduction loan.