interest of endangered and threatened species and habitat conservation. NMFS encourages the development of conservation plans and intends to continue pursuing such agreements in the future with willing parties.

Change in Enumeration of Threatened and Endangered Species

In the proposed rule, issued on May 1, 1998 (63 FR 24148), the definition of harm was added in alphabetical order to 50 CFR 217.12. Since May 1, 1998, NMFS has issued a final rule consolidating and reorganizing existing regulations regarding implementation of the ESA. In this reorganization, § 217.12 has been redesignated as § 222.102; therefore, the definition of harm has been added in this final rule to § 222.102.

Classification

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.* requires the preparation of an initial and final Regulatory Flexibility Analyses unless an agency determines that a rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A final Regulatory Flexibility Analysis has been prepared for this action and is available from NMFS (see **ADDRESSES**).

A Final Environmental Assessment and Finding of No Significant Impact have been completed for this final rule.

This rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

The Assistant Administrator for Fisheries, NOAA (AA), has determined that this rule will make no change in existing law.

List of Subjects in 50 CFR Part 222

Administrative practice and procedure, Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Dated: November 2, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 222 is amended as follows:

PART 222—GENERAL ENDANGERED AND THREATENED MARINE SPECIES

1. The authority citation for part 222 continues to read as follows:

Authority: 16 U.S.C. 1531 *et seq.*; 16 U.S.C. 742a *et seq.*; 31 U.S.C. 9701.

2. In § 222.102, the definition for ''Harm'' is added in alphabetical order to read as follows:

§ 222.102 Definitions.

* * * * *

Harm in the definition of ''take'' in the Act means an act which actually kills or injures fish or wildlife. Such an act may include significant habitat modification or degradation which actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including, breeding, spawning, rearing, migrating, feeding or sheltering.

* * * * *

[FR Doc. 99–29216 Filed 11–5–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[I.D. 120996A]

Magnuson-Stevens Act Provisions; Essential Fish Habitat

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

ACTION: Interim final rule; reopening of comment period.

SUMMARY: NMFS announces the reopening of a public comment period to assist in the development of a final rule for Essential Fish Habitat (EFH). The interim final rule established guidelines to assist the Regional Fishery Management Councils (Councils) and the Secretary of Commerce (Secretary) in the description and identification of EFH in fishery management plans, including the identification of threats and conservation measures. The interim regulations also detailed the procedures that the Secretary, other Federal agencies, state agencies, and the Councils should use to coordinate, consult, or provide recommendations on Federal and state actions that may adversely affect EFH. NMFS now requests additional comments on four specific issues.

DATES: Comments must be received at the appropriate address or fax number (See **ADDRESSES**) no later that 5:00 p.m., eastern standard time, on December 23, 1999.

ADDRESSES: Comments should be addressed to EFH Coordinator, Office of Habitat Conservation, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3282. Comments also may be sent via facsimile (fax) to 301–713–1043. Comments will not be accepted if submitted via e-mail or Internet.

FOR FURTHER INFORMATION CONTACT: Jon Kurland, NMFS, 301–713–2325, fax 301–713–1043, e-mail *jon.kurland@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Background

This rulemaking is required by section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act, 16 U.S.C. 1855(b)). The interim final rule was promulgated on December 19, 1997 (62 FR 66531). Details concerning the justification for and development of the interim final rule were provided in the proposed rule (62 FR 19723, April 23, 1997).

The interim final rule contains two subparts. Subpart J of 50 CFR part 600 provides guidelines to the Councils for including information in fishery management plans on the description and identification of EFH, the identification of threats to EFH from fishing and non-fishing activities, and the identification of recommended measures to conserve and enhance EFH, as required by sections 303(a)(7) and 305(b)(1)(A) of the Magnuson-Stevens Act (16 U.S.C. 1853(a)(7), 1855(b)(1)(A)). Subpart K of 50 CFR part 600 details the procedures for implementing the coordination, consultation, and recommendation requirements of section 305(b) of the Magnuson-Stevens Act (16 U.S.C. 1855(b)).

In issuing the interim final rule, NMFS decided to postpone development of a final rule for two reasons. First, NMFS decided to provide an additional comment period to allow another opportunity for affected parties to provide input prior to the development of a final rule. Second, NMFS determined that it would be advantageous to implement the EFH provisions of the Magnuson-Stevens Act for a period of time via interim final regulations, which would afford an opportunity to gain experience adding EFH information to fishery management plans and carrying out consultations and coordination with Federal and state agencies whose actions may adversely affect EFH.

Since the promulgation of the interim final rule, EFH provisions for 39 fishery management plans have been developed by the Councils and approved or partially approved by the Secretary. Additionally, NMFS and Federal agencies have begun consulting on actions that may adversely affect EFH. Approximately 2000 EFH consultations have been completed to date.

The comment period on the interim final regulations closed on March 19, 1998 (63 FR 8607, February 20, 1998). NMFS carefully reviewed and is considering the written comments received on the interim final rule. NMFS now intends to proceed with development of a final rule.

Electronic Access

The interim final rule is accessible via the Internet at *http://www.nmfs.gov/habitat/*.

Request for Comments

In light of the comments received on the interim final rule and NMFS' experience implementing the EFH provisions of the Magnuson-Stevens Act under the interim final rule for approximately 20 months, NMFS has identified four issues that warrant additional public input prior to the development of a final rule. Commenters on the interim final rule need not resubmit their previous comments. When developing the final rule, NMFS will consider all comments received on the interim final rule as well as comments received in response to this document.

NMFS requests comments on the following issues:

(1) Given the statutory definition of EFH in section 3(10) of the Magnuson-Stevens Act (16 U.S.C. 1802(10)), what suggestions do you have for improving the regulatory guidance regarding the description and identification of EFH, including the breadth of EFH designations, in §§ 600.815(a)(1) and (2) of the interim final rule?

(2) Section 600.815(a)(3) of the interim final rule addresses fishing activities that may adversely affect EFH. What additional guidance, if any, should the final rule contain on how Councils should document their efforts to minimize the effects of fishing on EFH, to the extent practicable, as required by section 303(a)(7) of the Magnuson-Stevens Act (16 U.S.C. 1853(a)(7))?

(3) Has the use of existing environmental review procedures as described in § 600.920(e) of the interim rule been an effective way to handle EFH consultations? What additional guidance, if any, should the final rule provide on how to use existing environmental reviews to satisfy EFH consultation requirements?

(d) Federal action agencies are required by § 600.920(g) of the interim rule to prepare an EFH Assessment as part of the consultation process. How, if at all, should the EFH Assessment requirement be revised in the final rule?

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

Dated: November 2, 1999.

Penelope D. Dalton,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

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