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AUTHORITY: 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

SOURCE: 61 FR 32540, June 24, 1996, unless otherwise noted.

**Subpart A—General**

**§ 600.5 Purpose and scope.**

(a) This part contains general provisions governing the operation of the eight Regional Fishery Management Councils established by the Magnuson-Stevens Act and describes the Secretary's role and responsibilities under the Act. The Councils are institutions created by Federal law and must conform to the uniform standards established by the Secretary in this part.

(b) This part also governs all foreign fishing under the Magnuson-Stevens Act, prescribes procedures for the conduct of preemption hearings under section 306(b) of the Magnuson-Stevens Act, and collects the general provisions common to all domestic fisheries governed by this chapter.

[61 FR 32540, June 24, 1996, as amended at 63 FR 7075, Feb. 12, 1998]

**§ 600.10 Definitions.**

Unless defined otherwise in other parts of Chapter VI, the terms in this chapter have the following meanings:

*Administrator* means the Administrator of NOAA (Under Secretary of Commerce for Oceans and Atmosphere) or a designee.

*Advisory group* means a Scientific and Statistical Committee (SSC), Fishing

Industry Advisory Committee (FIAC), or Advisory Panel (AP) established by a Council under the Magnuson-Stevens Act.

*Agent*, for the purpose of foreign fishing (subpart F), means a person appointed and maintained within the United States who is authorized to receive and respond to any legal process issued in the United States to an owner and/or operator of a vessel operating under a permit and of any other vessel of that Nation fishing subject to the jurisdiction of the United States. Any diplomatic official accepting such an appointment as designated agent waives diplomatic or other immunity in connection with such process.

*Aggregate or summary form* means confidential data structured in such a way that the identity of the submitter cannot be determined either from the present release of the data or in combination with other releases.

*Allocated species* means any species or species group allocated to a foreign nation under § 600.517 for catching by vessels of that Nation.

*Allocation* means direct and deliberate distribution of the opportunity to participate in a fishery among identifiable, discrete user groups or individuals.

*Anadromous species* means species of fish that spawn in fresh or estuarine waters of the United States and that migrate to ocean waters.

*Area of custody* means any vessel, building, vehicle, live car, pound, pier or dock facility where fish might be found.

*Assistant Administrator* means the Assistant Administrator for Fisheries, NOAA, or a designee.

*Authorized officer* means:

(1) Any commissioned, warrant, or petty officer of the USCG;

(2) Any special agent or fishery enforcement officer of NMFS;

(3) Any officer designated by the head of any Federal or state agency that has entered into an agreement with the Secretary and the Commandant of the USCG to enforce the provisions of the Magnuson-Stevens Act or any other statute administered by NOAA; or

(4) Any USCG personnel accompanying and acting under the direction of

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any person described in paragraph (1) of this definition.

*Authorized species* means any species or species group that a foreign vessel is authorized to retain in a joint venture by a permit issued under Activity Code 4 as described by §600.501(c).

*Catch, take, or harvest* includes, but is not limited to, any activity that results in killing any fish or bringing any live fish on board a vessel.

*Center* means one of the five NMFS Fisheries Science Centers.

*Coast Guard Commander* means one of the commanding officers of the Coast Guard units specified in Table 1 of §600.502, or a designee.

*Codend* means the terminal, closed end of a trawl net.

*Confidential statistics* are those submitted as a requirement of an FMP and that reveal the business or identity of the submitter.

*Continental shelf fishery resources* means the species listed under section 3(7) of the Magnuson-Stevens Act.

*Council* means one of the eight Regional Fishery Management Councils established by the Magnuson-Stevens Act.

*Data, statistics, and information* are used interchangeably.

*Dealer* means the person who first receives fish by way of purchase, barter, or trade.

*Designated representative* means the person appointed by a foreign nation and maintained within the United States who is responsible for transmitting information to and submitting reports from vessels of that Nation and establishing observer transfer arrangements for vessels in both directed and joint venture activities.

*Directed fishing*, for the purpose of foreign fishing (subpart F), means any fishing by the vessels of a foreign nation for allocations of fish granted that Nation under §600.517.

*Director* means the Director of the Office of Sustainable Fisheries, 1315 East-West Highway, Silver Spring, MD 20910.

*Discard* means to release or return fish to the sea, whether or not such fish are brought fully on board a fishing vessel.

*Drift gillnet* means a gillnet that is unattached to the ocean bottom, whether or not attached to a vessel.

*Essential fish habitat* (EFH) means those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity. For the purpose of interpreting the definition of essential fish habitat: *Waters* include aquatic areas and their associated physical, chemical, and biological properties that are used by fish and may include aquatic areas historically used by fish where appropriate; *substrate* includes sediment, hard bottom, structures underlying the waters, and associated biological communities; *necessary* means the habitat required to support a sustainable fishery and the managed species' contribution to a healthy ecosystem; and "spawning, breeding, feeding, or growth to maturity" covers a species' full life cycle.

*Exclusive economic zone* (EEZ) means the zone established by Presidential Proclamation 5030, 3 CFR part 22, dated March 10, 1983, and is that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal states to a line on which each point is 200 nautical miles (370.40 km) from the baseline from which the territorial sea of the United States is measured.

*Exempted educational activity* means an activity, conducted by an educational institution accredited by a recognized national or international accreditation body, of limited scope and duration, that is otherwise prohibited by part 285 or chapter VI of this title, but that is authorized by the appropriate Director or Regional Administrator for educational purposes.

*Exempted or experimental fishing* means fishing from a vessel of the United States that involves activities otherwise prohibited by part 285 or chapter VI of this title, but that are authorized under an exempted fishing permit (EFP). These regulations refer exclusively to exempted fishing. References in part 285 of this title and elsewhere in this chapter to experimental fishing mean exempted fishing under this part.

*Fish* means:

(1) When used as a noun, means any finfish, mollusk, crustacean, or parts thereof, and all other forms of marine

animal and plant life other than marine mammals and birds.

(2) When used as a verb, means to engage in “fishing,” as defined below.

*Fishery* means:

(1) One or more stocks of fish that can be treated as a unit for purposes of conservation and management and that are identified on the basis of geographic, scientific, technical, recreational, or economic characteristics, or method of catch; or

(2) Any fishing for such stocks.

*Fishery management unit (FMU)* means a fishery or that portion of a fishery identified in an FMP relevant to the FMP’s management objectives. The choice of an FMU depends on the focus of the FMP’s objectives, and may be organized around biological, geographic, economic, technical, social, or ecological perspectives.

*Fishery resource* means any fish, any stock of fish, any species of fish, and any habitat of fish.

*Fishing, or to fish* means any activity, other than scientific research conducted by a scientific research vessel, that involves:

(1) The catching, taking, or harvesting of fish;

(2) The attempted catching, taking, or harvesting of fish;

(3) Any other activity that can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(4) Any operations at sea in support of, or in preparation for, any activity described in paragraphs (1), (2), or (3) of this definition.

*Fishing vessel* means any vessel, boat, ship, or other craft that is used for, equipped to be used for, or of a type that 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.

*Foreign fishing* means fishing by a foreign fishing vessel.

*Foreign fishing vessel (FFV)* means any fishing vessel other than a vessel of the United States, except those foreign vessels engaged in recreational fishing, as defined in this section.

*Gear conflict* means any incident at sea involving one or more fishing vessels:

(1) In which one fishing vessel or its gear comes into contact with another vessel or the gear of another vessel; and

(2) That results in the loss of, or damage to, a fishing vessel, fishing gear, or catch.

*Gillnet* means a panel of netting, suspended vertically in the water by floats along the top and weights along the bottom, to entangle fish that attempt to pass through it.

*Governing International Fishery Agreement (GIFA)* means an agreement between the United States and a foreign nation or Nations under section 201(c) of the Magnuson-Stevens Act.

*Grants Officer* means the NOAA official authorized to sign, on behalf of the Government, the cooperative agreement providing funds to support the Council’s operations and functions.

*Greenwich mean time (GMT)* means the local mean time at Greenwich, England. All times in this part are GMT unless otherwise specified.

*Handgear* means handline, harpoon, or rod and reel.

*Harass* means to unreasonably interfere with an individual’s work performance, or to engage in conduct that creates an intimidating, hostile, or offensive environment.

*Harpoon or harpoon gear* means fishing gear consisting of a pointed dart or iron attached to the end of a line several hundred feet in length, the other end of which is attached to a floatation device. Harpoon gear is attached to a pole or stick that is propelled only by hand, and not by mechanical means.

*Industry* means both recreational and commercial fishing, and includes the harvesting, processing, and marketing sectors.

*International radio call sign (IRCS)* means the unique radio identifier assigned a vessel by the appropriate authority of the flag state.

*Joint venture* means any operation by a foreign vessel assisting fishing by U.S. fishing vessels, including catching, scouting, processing and/or support. (A joint venture generally entails a foreign vessel processing fish received from U.S. fishing vessels and

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conducting associated support activities.)

*Magnuson-Stevens Act* means the Magnuson-Stevens Fishery Conservation and Management Act, as amended (16 U.S.C. 1801 *et seq.*), formerly known as the Magnuson Act.

*Metric ton (mt)* means 1,000 kg (2,204.6 lb).

*nm* means nautical mile (6,076 ft (1,852 m)).

*Official number* means the documentation number issued by the USCG or the certificate number issued by a state or by the USCG for an undocumented vessel.

*Operator*, with respect to any vessel, means the master or other individual aboard and in charge of that vessel.

*Optimum yield (OY)* means the amount of fish that:

(1) Will provide the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities, and taking into account the protection of marine ecosystems;

(2) Is prescribed as such on the basis of the maximum sustainable yield from the fishery, as reduced by any relevant economic, social, or ecological factor; and

(3) In the case of an overfished fishery, provides for rebuilding to a level consistent with producing the maximum sustainable yield in such fishery.

*Owner*, with respect to any vessel, means:

(1) Any person who owns that vessel in whole or in part;

(2) Any charterer of the vessel, whether bareboat, time, or voyage;

(3) 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 over the destination, function, or operation of the vessel; or

(4) Any agent designated as such by a person described in paragraph (1), (2), or (3) of this definition.

*Plan Team* means a Council working group selected from agencies, institutions, and organizations having a role in the research and/or management of fisheries, whose primary purpose is to assist the Council in the preparation and/or review of FMPs, amendments,

and supporting documents for the Council, and/or SSC and AP.

*Predominately* means, with respect to fishing in a fishery, that more fishing on a stock or stocks of fish covered by the FMP occurs, or would occur in the absence of regulations, within or beyond the EEZ than occurs in the aggregate within the boundaries of all states off the coasts of which the fishery is conducted.

*Processing*, for the purpose of foreign fishing (subpart F), means any operation by an FFV to receive fish from foreign or U.S. fishing vessels and/or the preparation of fish, including, but not limited to, cleaning, cooking, canning, smoking, salting, drying, or freezing, either on the FFV's behalf or to assist other foreign or U.S. fishing vessels.

*Product recovery rate (PRR)* means a ratio expressed as a percentage of the weight of processed product divided by the round weight of fish used to produce that amount of product.

*Prohibited species*, with respect to a foreign vessel, means any species of fish that that vessel is not specifically allocated or authorized to retain, including fish caught or received in excess of any allocation or authorization.

*Recreational fishing*, with respect to a foreign vessel, means any fishing from a foreign vessel not operated for profit and not operated for the purpose of scientific research. It may not involve the sale, barter, or trade of part or all of the catch (see §600.513).

*Retain on board* means to fail to return fish to the sea after a reasonable opportunity to sort the catch.

*Region* mean one of five NMFS Regional Offices responsible for administering the management and development of marine resources in the United States in their respective geographical regions.

*Regional Administrator* means the Administrator of one of the five NMFS Regions described in Table 1 of §600.502, or a designee. Formerly known as Regional Director.

*Regional Program Officer* means the NMFS official designated in the terms

and conditions of the grant award responsible for monitoring, recommending, and reviewing any technical aspects of the application for Federal assistance and the award.

*Round weight* means the weight of the whole fish before processing or removal of any part.

*Secretary* means the Secretary of Commerce or a designee.

*Science and Research Director* means the Director of one of the five NMFS Fisheries Science Centers described in Table 1 of §600.502 of this part, or a designee, also known as Center Director.

*Scientific cruise* means the period of time during which a scientific research vessel is operated in furtherance of a scientific research project, beginning when the vessel leaves port to undertake the project and ending when the vessel completes the project as provided for in the applicable scientific research plan.

*Scientific research activity* is, for the purposes of this part, an activity in furtherance of a scientific fishery investigation or study that would meet the definition of fishing under the Magnuson-Stevens Act, but for the exemption applicable to scientific research activity conducted from a scientific research vessel. Scientific research activity includes, but is not limited to, sampling, collecting, observing, or surveying the fish or fishery resources within the EEZ, at sea, on board scientific research vessels, to increase scientific knowledge of the fishery resources or their environment, or to test a hypothesis as part of a planned, directed investigation or study conducted according to methodologies generally accepted as appropriate for scientific research. At-sea scientific fishery investigations address one or more issues involving taxonomy, biology, physiology, behavior, disease, aging, growth, mortality, migration, recruitment, distribution, abundance, ecology, stock structure, bycatch, and catch estimation of finfish and shellfish (invertebrate) species considered to be a component of the fishery resources within the EEZ. Scientific research activity does not include the collection and retention of fish outside the scope of the applicable research plan, or the testing of fishing gear. Data collection de-

signed to capture and land quantities of fish or invertebrates for product development, market research, and/or public display are not scientific research activities and must be permitted under exempted fishing procedures. For foreign vessels, such data collection activities are considered scientific research if they are carried out in full cooperation with the United States.

*Scientific research plan* means a detailed, written formulation, prepared in advance of the research, for the accomplishment of a scientific research project. At a minimum, a sound scientific research plan should include:

(1) A description of the nature and objectives of the project, including the hypothesis or hypotheses to be tested.

(2) The experimental design of the project, including a description of the methods to be used, the type and class of any vessel(s) to be used, and a description of sampling equipment.

(3) The geographical area(s) in which the project is to be conducted.

(4) The expected date of first appearance and final departure of the research vessel(s) to be employed, and deployment and removal of equipment, as appropriate.

(5) The expected quantity and species of fish to be taken and their intended disposition, and, if significant amounts of a managed species or species otherwise restricted by size or sex are needed, an explanation of such need.

(6) The name, address, and telephone/telex/fax number of the sponsoring organization and its director.

(7) The name, address, and telephone/telex/fax number, and curriculum vitae of the person in charge of the project and, where different, the person in charge of the research project on board the vessel.

(8) The identity of any vessel(s) to be used including, but not limited to, the vessel's name, official documentation number and IRCS, home port, and name, address, and telephone number of the owner and master.

*Scientific research vessel* means a vessel owned or chartered by, and controlled by, a foreign government agency, U.S. Government agency (including NOAA or institutions designated as

federally funded research and development centers), U.S. state or territorial agency, university (or other educational institution accredited by a recognized national or international accreditation body), international treaty organization, or scientific institution. In order for a vessel that is owned or chartered and controlled by a foreign government to meet this definition, the vessel must have scientific research as its exclusive mission during the scientific cruise in question and the vessel operations must be conducted in accordance with a scientific research plan.

*Scouting* means any operation by a vessel exploring (on the behalf of an FFV or U.S. fishing vessel) for the presence of fish by visual, acoustic, or other means that do not involve the catching of fish.

*State* means each of the several states, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, the Northern Mariana Islands, and any other Commonwealth, territory, or possession of the United States.

*State employee* means any employee of the state agency responsible for developing and monitoring the state's program for marine and/or anadromous fisheries.

*Statement of Organization, Practices, and Procedures (SOPP)* means a statement by each Council describing its organization, practices, and procedures as required under section 302(f)(6) of the Magnuson-Stevens Act.

*Stock assessment* means the process of collecting and analyzing biological and statistical information to determine the changes in the abundance of fishery stocks in response to fishing, and, to the extent possible, to predict future trends of stock abundance. Stock assessments are based on resource surveys; knowledge of the habitat requirements, life history, and behavior of the species; the use of environmental indices to determine impacts on stocks; and catch statistics. Stock assessments are used as a basis to "assess and specify the present and probable future condition of a fishery" (as is required by the Magnuson-Stevens Act), and are summarized in the Stock Assessment

and Fishery Evaluation or similar document.

*Stock Assessment and Fishery Evaluation (SAFE)* means a document or set of documents that provides Councils with a summary of the most recent biological condition of species in an FMU, and the social and economic condition of the recreational and commercial fishing industries and the fish processing industries. It summarizes, on a periodic basis, the best available scientific information concerning the past, present, and possible future condition of the stocks and fisheries being managed under Federal regulation.

*Substantially (affects)* means, for the purpose of subpart G, with respect to whether a state's action or omission will substantially affect the carrying out of an FMP for a fishery, that those effects are important or material, or considerable in degree. The effects of a state's action or omission for purposes of this definition include effects upon:

- (1) The achievement of the FMP's goals or objectives for the fishery;
- (2) The achievement of OY from the fishery on a continuing basis;
- (3) The attainment of the national standards for fishery conservation and management (as set forth in section 301(a) of the Magnuson-Stevens Act) and compliance with other applicable law; or
- (4) The enforcement of regulations implementing the FMP.

*Support* means any operation by a vessel assisting fishing by foreign or U.S. vessels, including supplying water, fuel, provisions, fish processing equipment, or other supplies to a fishing vessel.

*Total length (TL)* means the straight-line distance from the tip of the snout to the tip of the tail (caudal fin) while the fish is lying on its side, normally extended.

*Transship* means offloading and onloading or otherwise transferring fish or fish products and/or transporting fish or products made from fish.

*Trawl* means a cone or funnel-shaped net that is towed through the water by one or more vessels.

*U.S. observer* or *observer* means any person serving in the capacity of an observer employed by NMFS, either directly or under contract, or certified as a supplementary observer by NMFS.

*Vessel of the United States* or *U.S. vessel* means:

- (1) Any vessel documented under chapter 121 of title 46, United States Code;
- (2) Any vessel numbered under chapter 123 of title 46, United States Code, and measuring less than 5 net tons;
- (3) Any vessel numbered under chapter 123 of title 46, United States Code, and used exclusively for pleasure; or
- (4) Any vessel not equipped with propulsion machinery of any kind and used exclusively for pleasure.

[61 FR 32540, June 24, 1996, as amended at 62 FR 14646, Mar. 27, 1997; 62 FR 66551, Dec. 19, 1997; 63 FR 7073, 7075, Feb. 12, 1998 ]

**§ 600.15 Other acronyms.**

- (a) *Fishery management terms.* (1) ABC—acceptable biological catch
- (2) DAH—estimated domestic annual harvest
- (3) DAP—estimated domestic annual processing
- (4) EIS—environmental impact statement
- (5) EY—equilibrium yield
- (6) FMP—fishery management plan
- (7) JVP—joint venture processing
- (8) MSY—maximum sustainable yield
- (9) PMP—preliminary FMP
- (10) TAC—total allowable catch
- (11) TALFF—total allowable level of foreign fishing
- (b) *Legislation.* (1) APA—Administrative Procedure Act
- (2) CZMA—Coastal Zone Management Act
- (3) ESA—Endangered Species Act
- (4) FACA—Federal Advisory Committee Act
- (5) FOIA—Freedom of Information Act
- (6) FLSA—Fair Labor Standards Act
- (7) MMPA—Marine Mammal Protection Act
- (8) MPRSA—Marine Protection, Research, and Sanctuaries Act
- (9) NEPA—National Environmental Policy Act
- (10) PA—Privacy Act
- (11) PRA—Paperwork Reduction Act
- (12) RFA—Regulatory Flexibility Act

- (c) *Federal agencies.* (1) CEQ—Council on Environmental Quality
- (2) DOC—Department of Commerce
- (3) DOI—Department of the Interior
- (4) DOS—Department of State
- (5) EPA—Environmental Protection Agency
- (6) FWS—Fish and Wildlife Service
- (7) GSA—General Services Administration
- (8) NMFS—National Marine Fisheries Service
- (9) NOAA—National Oceanic and Atmospheric Administration
- (10) OMB—Office of Management and Budget
- (11) OPM—Office of Personnel Management
- (12) SBA—Small Business Administration
- (13) USCG—United States Coast Guard

[61 FR 32540, June 24, 1996, as amended at 63 FR 7073, Feb. 12, 1998]

**Subpart B—Regional Fishery Management Councils**

**§ 600.105 Intercouncil boundaries.**

- (a) *New England and Mid-Atlantic Councils.* The boundary begins at the intersection point of Connecticut, Rhode Island, and New York at 41°18'16.249" N. lat. and 71°54'28.477" W. long. and proceeds south 37°22'32.75" East to the point of intersection with the outward boundary of the EEZ as specified in the Magnuson-Stevens Act.
- (b) *Mid-Atlantic and South Atlantic Councils.* The boundary begins at the seaward boundary between the States of Virginia and North Carolina (36°31'00.8" N. lat.), and proceeds due east to the point of intersection with the outward boundary of the EEZ as specified in the Magnuson-Stevens Act.
- (c) *South Atlantic and Gulf of Mexico Councils.* The boundary coincides with the line of demarcation between the Atlantic Ocean and the Gulf of Mexico, which begins at the intersection of the outer boundary of the EEZ, as specified in the Magnuson-Stevens Act, and 83°00' W. long., proceeds northward along that meridian to 24°35' N. lat., (near the Dry Tortugas Islands), thence eastward along that parallel, through Rebecca Shoal and the Quicksand Shoal, to the Marquesas Keys, and then