

## Fishery Conservation and Management

## § 600.140

(i) Voting members of the Council who disagree with the majority on any issue to be submitted to the Secretary, including principal state officials raising federalism issues, may submit a written statement of their reasons for dissent. If any Council member elects to file such a statement, it should be submitted to the Secretary at the same time the majority report is submitted.

[66 FR 57887, Nov. 19, 2001]

EFFECTIVE DATE NOTE: At 75 FR 59150, Sept. 27, 2010, §600.135 was amended by revising paragraphs (a) through (e), effective October 27, 2010. For the convenience of the user, the revised text is set forth as follows:

### § 600.135 Meeting procedures.

(a) *Regular meetings.* Public notice of a regular meeting, including the meeting agenda, of each Council, CCC, SSC, AP, FIAC, or other committees established under Magnuson-Stevens Act, Sec. 302(g), must be published in the FEDERAL REGISTER at least 14 calendar days prior to the meeting date. Appropriate notice by any means that will result in wide publicity in the major fishing ports of the region (and in other major fishing ports having a direct interest in the affected fishery) must be given. E-mail notification and website postings alone are not sufficient. The published agenda of a regular meeting may not be modified to include additional matters for Council action without public notice given at least 14 calendar days prior to the meeting date, unless such modification is necessary to address an emergency under section 305(c) of the Magnuson-Stevens Act, in which case public notice shall be given immediately. Drafts of all regular public meeting notices must be received by NMFS headquarters office at least 23 calendar days before the first day of the regular meeting. Councils must ensure that all public meetings are accessible to persons with disabilities, and that the public can make timely requests for language interpreters or other auxiliary aids at public meetings.

(b) *Emergency meetings.* Drafts of emergency public notices must be transmitted to the NMFS headquarters office at least 5 working days prior to the first day of the emergency meeting. Although notices of and agendas for emergency meetings are not required to be published in the FEDERAL REGISTER, notices of emergency meetings must be promptly announced through any means that will result in wide publicity in the major fishing ports of the region. E-mail notification and website postings alone are not sufficient.

(c) *Closed meetings.* After proper notification by any means that will result in wide publicity in the major fishing ports within

the region and, having included in the notification the time and place of the meeting and the reason for closing any meeting or portion thereof to the public, a Council, CCC, SSC, AP, FIAC, or other committees:

(1) Must close any meeting, or portion thereof, that concerns information bearing a national security classification.

(2) May close any meeting, or portion thereof, that concerns matters or information pertaining to national security, employment matters, or briefings on litigation in which the Council is interested.

(3) May close any meeting, or portion thereof, that concerns internal administrative matters other than employment. Examples of other internal administrative matters include candidates for appointment to AP, SSC, and other subsidiary bodies and public decorum or medical conditions of members of a Council or its subsidiary bodies. In deciding whether to close a portion of a meeting to discuss internal administrative matters, the Council, CCC, SSC, AP, FIAC, or other committees should consider not only the privacy interests of individuals whose conduct or qualifications may be discussed, but also the interest of the public in being informed of Council operations and actions.

(d) Without the notice required by paragraph (c) of this section, a Council, CCC, SSC, AP, FIAC, or other committees may briefly close a portion of a meeting to discuss employment or other internal administrative matters. The closed portion of a meeting that is closed without notice may not exceed two hours.

(e) Before closing a meeting or portion thereof, the Council, CCC, SSC, AP, FIAC, or other committees should consult with the NOAA Office of General Counsel to ensure that the matters to be discussed fall within the exceptions to the requirement to hold public meetings described in paragraph (c) of this section.

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### § 600.140 Procedure for proposed regulations.

(a) Each Council must establish a written procedure for proposed regulations consistent with section 303(c) of the Magnuson-Stevens Act. The procedure must describe how the Council deems proposed regulations necessary or appropriate for the purposes of implementing a fishery management plan or a plan amendment, or making modifications to regulations implementing a fishery management plan or plan amendment. In addition, the procedure must describe how the Council submits proposed regulations to the Secretary.

**§ 600.150**

(b) The Councils must include the procedure for proposed regulations in its SOPP, see §600.115, or other written documentation that is available to the public.

[75 FR 59150, Sept. 27, 2010]

EFFECTIVE DATE NOTE: At 75 FR 59150, Sept. 27, 2010, §600.140 was added, effective October 27, 2010.

**§ 600.150 Disposition of records.**

(a) Council records must be handled in accordance with NOAA records management office procedures. All records and documents created or received by Council employees while in active duty status belong to the Federal Government. When employees leave the Council, they may not take the original or file copies of records with them.

(b) [Reserved]

[66 FR 57887, Nov. 19, 2001]

EFFECTIVE DATE NOTE: At 75 FR 59151, Sept. 27, 2010, §600.150 was amended by adding paragraphs (b), effective October 27, 2010. For the convenience of the user, the added text is set forth as follows:

**§ 600.150 Disposition of records.**

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(b) Each Council is required to maintain documents generally available to the public on its Internet site. Documents for posting must include: fishery management plans and their amendments for the fisheries for which the Council is responsible, drafts of fishery management plans and plan amendments under consideration, analysis of actions the Council has under review, minutes or official reports of past meetings of the Council and its committees, materials provided by the Council staff to Council members in preparation for meetings, and other Council documents of interest to the public. For documents too large to maintain on the Web site, not available electronically, or seldom requested, the Council must provide copies of the documents for viewing at the Council office during regular business hours or may provide the documents through the mail.

**§ 600.155 Freedom of Information Act (FOIA) requests.**

(a) FOIA requests received by a Council should be coordinated promptly with the appropriate NMFS Regional Office. The Region will forward the request to the NMFS FOIA Official to secure a FOIA number and log into the

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FOIA system. The Region will also obtain clearance from the NOAA General Counsel’s Office concerning initial determination for denial of requested information.

(b) FOIA requests will be controlled and documented in the Region. The requests should be forwarded to the NMFS FOIA Officer who will prepare the Form CD-244, “FOIA Request and Action Record”, with the official FOIA number and due date. In the event the Region determines that the requested information is exempt from disclosure, in full or in part, under the FOIA, the denial letter prepared for the Assistant Administrator’s signature, along with the “Foreseeable Harm” Memo and list of documents to be withheld, must be cleared through the NMFS FOIA Officer. Upon completion, a copy of the signed CD-244 and cover letter transmitting the information should be provided to the NMFS FOIA Officer and the NOAA FOIA Officer.

[66 FR 57887, Nov. 19, 2001]

**Subpart C—Council Membership**

**§ 600.205 Principal state officials and their designees.**

(a) Only a full-time state employee of the state agency responsible for marine and/or anadromous fisheries shall be appointed by a constituent state Governor as the principal state official for purposes of section 302(b) of the Magnuson-Stevens Act.

(b) A principal state official may name his/her designee(s) to act on his/her behalf at Council meetings. Individuals designated to serve as designees of a principal state official on a Council, pursuant to section 302(b)(1)(A) of the Magnuson-Stevens Act, must be a resident of the state and be knowledgeable and experienced, by reason of his or her occupational or other experience, scientific expertise, or training, in the fishery resources of the geographic area of concern to the Council.

(c) New or revised appointments by state Governors of principal state officials and new or revised designations by principal state officials of their designees(s) must be delivered in writing to the appropriate NMFS Regional Administrator and the Council chair at