

Fishery Conservation and Management

§ 600.1400

review. Otherwise, NMFS shall publish a notice in the FEDERAL REGISTER to inform the Council and the public of its decision not to conduct the referendum, as proposed, including reasons for the Agency's decision.

(B) Upon implementation of the referendum through a final rule, NMFS shall provide eligible voters referenda ballots and shall make available information about the schedule, procedures, and eligibility requirements for the referendum process and the proposed IFQ program.

(2) NMFS shall notify the public in the region of the subject fishery of the referendum eligibility criteria.

(3) Individuals who wish to vote as other fishery participants in a NEFMC IFQ referendum, based on criteria established by the NEFMC under (c)(2), must contact NMFS and produce all required documentation and certifications to receive a ballot. NMFS shall provide sufficient time in the referendum process to allow for crew members to request, receive, and submit referendum ballots.

(g) *Referenda ballots.* (1) Ballots shall be composed such that voters will indicate approval or disapproval of the preferred IFQ program proposal.

(2) NMFS may require voters to self-certify on referenda ballots that they meet voter eligibility criteria. To be considered valid, ballots must be signed by the eligible voter.

(3) Referenda ballots shall be numbered serially or otherwise designed to guard against submission of duplicate ballots.

(4) If votes are weighted, the value of weighted votes shall be indicated on the ballot. The weighted vote must be cast as a single unit. Its value may not be split. The full value must be applied to the selection made on the ballot.

(5) NMFS shall allow at least 30 days for eligible voters to receive and return their ballots and shall specify a deadline by which ballots must be received. Ballots received after the deadline shall not be considered valid.

(h) *Determining the outcome of an IFQ referendum.* (1) NMFS shall tally and announce the results of the referendum within 90 days of the deadline by which completed ballots must be received. NMFS may declare a referendum in-

valid if the Agency can demonstrate the referendum was not conducted in accordance with the procedures established in the final rule implementing the referendum.

(2) A NEFMC IFQ program referendum shall be considered approved only if more than $\frac{2}{3}$ of the votes submitted on valid ballots are in favor of the referendum question.

(3) A GMFMC IFQ program referendum shall be considered approved only if a majority of the votes submitted on valid ballots are in favor of the referendum question.

(i) *Council actions.* (1) If NMFS notifies a Council that an IFQ program proposal has been approved through a referendum, then the Council may submit the associated FMP or FMP amendment for Secretarial review and implementation.

(2) Any changes that would modify an IFQ program proposal that was reviewed by referenda voters may invalidate the results of the referendum and require the modified program proposal to be approved through a new referendum before it can be submitted to the Secretary for review and implementation.

(3) If NMFS notifies a Council that an IFQ referendum has failed, then the Council may modify its IFQ program proposal and request a new referendum pursuant to paragraph (b) of this section.

Subpart P—Marine Recreational Fisheries of the United States

SOURCE: 73 FR 79717, Dec. 30, 2008, unless otherwise noted.

§ 600.1400 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. For purposes of this subpart, if applicable, the terms used in this subpart supersede those used in § 600.10.

Anadromous species means the following:

American shad: *Alosa sapidissima*
Blueback herring: *Alosa aestivalis*
Alewife: *Alosa pseudoharengus*

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Hickory shad: *Alosa mediocris*
Alabama shad: *Alosa alabamae*
Striped bass: *Morone saxatilis*
Rainbow smelt: *Osmerus mordax*
Atlantic salmon: *Salmo salar*
Chinook, or king, salmon:
Oncorhynchus tshawytscha
Coho, or silver, salmon: *Oncorhynchus kisutch*
Pink salmon: *Oncorhynchus gorbuscha*
Sockeye salmon: *Oncorhynchus nerka*
Chum salmon: *Oncorhynchus keta*
Steelhead: *Oncorhynchus mykiss*
Coastal cutthroat trout: *Oncorhynchus clarki clarki*
Eulachon or candlefish: *Thaleichthys pacificus*
Dolly varden: *Salvelinus malma*
Sheefish or inconnu: *Stenodus leucichthys*
Atlantic sturgeon: *Acipenser oxyrinchus oxyrinchus*
Shortnose sturgeon: *Acipenser brevirostrum*
Gulf sturgeon: *Acipenser oxyrinchus desotoi*
White sturgeon: *Acipenser transmontanus*
Green sturgeon: *Acipenser medirostris*

Angler means a person who is angling (see 50 CFR 600.10) in tidal waters.

Authorized officer has the same meaning as in 50 CFR 600.10.

Combination license means either:

(1) A single state fishing license that permits fishing in fresh waters and tidal waters at one price; or

(2) A single state license that permits a group of fishing and hunting activities, including fishing in tidal waters, at a price that is less than the sum of the cost of the individual licenses.

Commercial fishing has the same meaning as in 16 U.S.C. 1802.

Continental shelf fishery resources has the same meaning as in 16 U.S.C. 1802.

Exempted state means a state that has been designated as an exempted state by NMFS pursuant to § 600.1415.

For-hire fishing vessel means a vessel on which passengers are carried to engage in angling or spear fishing, from whom a consideration is contributed as a condition of such carriage, whether directly or indirectly flowing to the owner, charterer, operator, agent or any other person having an interest in the vessel.

Indigenous people means persons who are documented members of a federally recognized tribe or Alaskan Native Corporation or persons who reside in the western Pacific who are descended from the aboriginal people indigenous to the region who conducted commercial or subsistence fishing using tradi-

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tional fishing methods, including angling.

Spearfishing means fishing for, attempting to fish for, catching or attempting to catch fish in tidal waters by any person with a spear or a powerhead (see 50 CFR 600.10).

State has the same meaning as in 16 U.S.C. 1802.

Tidal waters means waters that lie below mean high water and seaward of the first upstream obstruction or barrier to tidal action and that are subject to the ebb and flow of the astronomical tides under ordinary conditions.

[77 FR 42191, July 18, 2012]

§ 600.1405 Angler registration.

(a) Effective January 1, 2010, the requirements of this section apply to any person who does any of the following:

(1) Engages in angling or spearfishing for:

(i) Fish in the EEZ;

(ii) Anadromous species in any tidal waters; or

(iii) Continental Shelf fishery resources beyond the EEZ.

(2) Operates a for-hire fishing vessel in the EEZ.

(3) Operates a for-hire fishing vessel that engages in angling or spearfishing for:

(i) Anadromous species in any tidal waters; or

(ii) Continental shelf fishery resources beyond the EEZ.

(4) Possesses equipment used for angling or spearfishing and also possesses:

(i) Fish in the EEZ;

(ii) Anadromous species in any tidal waters; or

(iii) Continental shelf fishery resources beyond the EEZ.

(b) No person may engage in the activities listed in paragraph (a) of this section unless that person:

(1) Has registered annually with NMFS in accordance with § 600.1410 of this part;

(2) Holds a valid fishing license issued by, or is registered by, an exempted state;

(3) Is a resident of an exempted state, but is not required to hold a fishing license, or to be registered to fish, under the laws of that state;