

SUPPLEMENTAL NMFS REPORT
SALMON EFH NOTICE AND COMMENT RULEMAKING

BACKGROUND

NMFS initially approved Amendment 14 to the Salmon FMP, including EFH designations, in 2001. EFH designations were not included in the final rule NMFS issued to implement portions of Amendment 14 (see 66 FR 29238). NMFS subsequently published a final rule codifying salmon EFH in 2008, responding to the U.S. District Court for the District of Idaho's order requiring that NMFS codify the Amendment 14 EFH designations (73 FR 60987, October 2008). For efficiency in revising the EFH designations, NMFS is considering amending the current EFH designation rule to incorporate a link to the Council's website, where EFH designations would be located. This amendment would be made in conjunction with proposed Amendment 18.

AMENDMENT 18

The regulatory guidelines for implementing the EFH provisions of the MSA state that Regional Fishery Management Councils and NMFS should periodically review the EFH provisions of FMPs and revise or amend them as warranted, based on available information (50 CFR 600.815(a)(10)). The Pacific Fishery Management Council (Council) and NMFS initiated a review of salmon EFH in 2009. In the years since the Council first adopted Pacific Coast salmon EFH in 1999, NMFS has taken steps to clarify the process for designating and refining EFH. In 2002, NMFS published a final rule to implement the EFH provisions of the MSA (50 CFR Part 600), and, in 2006, issued a memorandum providing additional guidance to refine the description and identification of EFH (NMFS 2006). The 2009 review was guided by these two clarifying documents. Amendment 18 revises the description and identification of salmon EFH, based on the 2009 review.

In order to allow for public comment on the revisions to salmon EFH, NMFS intends to publish proposed and final rules (notice and comment rulemaking) concurrent with the approval process for Amendment 18. Additionally, because the salmon EFH definitions originally adopted under Amendment 14 are codified, and those definitions are being revised, NMFS will, of necessity, revise the codified language. There are two options for revising the codified language for salmon EFH.

- Option 1. Update the table at 50 CFR 660.412 to reflect the changes in Amendment 18. Under this option, the table would require updating every time EFH is modified.
- Option 2. Update 50 CFR 660.412 to remove the table and provide a link to the Council's website where EFH definitions will be available and current. Under this option, the codified text would only require future changes if the Council's website URL changes.

Under either option, NMFS intends to continue to notify the public of changes to salmon EFH, as they occur, and provide public comment opportunity through notice and comment rulemaking.