

STAFF COMMENTS ON PROPOSED CHANGES TO REGULATIONS THAT ADDRESS
THE OPERATIONS AND ADMINISTRATION OF REGIONAL FISHERY MANAGEMENT
COUNCILS (74 FR 13386, March 27, 2009)

§ 600.10 Definitions

The distinction of “advisory panel” and “fishing industry advisory committee” raises an unnecessary problem for our Council. All of what we call our “subpanels,” which are the equivalent to “panels” in the Magnuson-Stevens Fishery Conservation and Management Act (MSA), include industry members and we consider them to be “advisory panels” and/or Fishing Industry Advisory Committee (FIACs). The MSA lists both entities as carrying out the same tasks for councils. Advisors on our Groundfish Allocation Committee would also appear to be eligible for pay.

Comment: distinguishing between “advisory panels” and FIACs goes beyond the directives in the MSA and may add an unnecessary and confusing distinction.

§ 600.105 Intercouncil Boundaries

Not applicable to our Council—no comment required.

§ 600.115 Statement of Organization, Practices, and Procedures (SOPP)

Primarily adds that upon approval of an SOPP, a Notice of Availability must be published in the FR that includes an internet address where it may be read and downloaded.

Comment: We support internet availability and our SOPP is already available on the Council website.

§ 600.117 Council Coordination Committee (CCC)

Implements creation and operation of CCC—staff supports the proposed language.

§ 600.125 Budgeting, Funding, and Accounting

This is a technical change that simply updates the reference to the documents that direct a council’s financial management. Staff supports the proposed language.

§ 600.133 Scientific and Statistical Committee (SSC)

This is a new section that lays out requirements for SSCs. Staff believes our Council’s establishment and use of the SSC complies and is consistent with this section and supports the proposed language.

§ 600.135 Meeting Procedures

This section modifies the existing language that requires public notice of Council and advisory body meetings primarily through news media. Besides clarifying the timing of such notice, which fits our current procedures, the section allows notice by any means that will result in wide publicity in the major fishing ports and other ports and areas that may be directly addressed in the meeting. It also specifies that notice by website and email alone is not sufficient.

Staff supports the proposed language.

§ 600.140 Procedure for Proposed Regulations

In September 2008, we incorporated our deeming process in Council Operating Procedure 1 which meets the requirements of this section. Staff supports the proposed language.

§ 600.207 Pacific Fishery Management Council Tribal Indian Representation and Alternate

This section implements the MSA language that allows the tribal representative to have one alternate. Staff believes the proposed language accurately implements the MSA.

§ 600.210 Terms of Council Members

This section removes unnecessary language from the requirement that a council member who has completed three consecutive terms is eligible for reappointment one full year after completion of the third consecutive term. Staff believes no comment is necessary.

§ 600.215 Council Nomination and Appointment Procedures

The changes in this section that apply to our Council are primarily aimed at tightening up the nomination procedures for council members to ensure adequate timing and information for making the appointments. Staff supports the proposed language.

§ 600.220 Oath of Office

This section adds the actual oath of office to the regulations which is the one used by the councils. Staff supports the proposed language.

§ 600.225 Rules of Conduct

This section merely serves as a preamble to § 600.227 which deals with prohibitions on lobbying. No comment is necessary.

§ 600.227 Lobbying

This section attempts to clarify the existing restrictions on the use of Federal funds (Council's cooperative agreement) by staff or Council members for lobbying the Administration, Congress, or State governments. Staff believes there is no change from our current practices. However, we suggest our that our legal counsel review the restrictions with the Council at this meeting and answer any questions.

Comment: The Council may wish to comment that NMFS revise this section to provide better clarity on just what Council's may or may not do and recognize the special relationship between the councils and NMFS.

§ 600.235 Financial Disclosure

This section:

- Adds SSCs to those required to file statements of financial interest ("affected individuals").
- Adds "lobbying" and "advocacy" to the list of financial interests that must be considered.
- Removes "environmental advocacy" from the financial interests that may be excluded from consideration.
- Requires that the financial disclosures made by Council members (not SSCs) be posted on the internet and accessible to the public.

Staff has no comments on these changes. Council and SSC members should carefully review the requirements to identify any problems or areas which are not clear.

§ 600.240 Security Assurances

This is primarily a clean up to specify that security clearances must be "acceptable" as well as just "completed." Staff supports the proposed language.

§ 600.250 Council Member Training

This implements the MSA requirement for Council member training. Staff supports the proposed language.

PFMC
05/29/09