

§ 600.305(c) *Stocks that require conservation and management.*

(1) Magnuson-Stevens Act section 302(h)(1) requires a Council to prepare an FMP for each fishery under its authority that requires (or in other words, is in need of) conservation and management. [16 U.S.C. 1852\(h\)\(1\)](#). Not every fishery requires Federal management. Any stocks that are predominately caught in Federal waters and are overfished or subject to overfishing, or likely to become overfished or subject to overfishing, are considered to require conservation and management. Beyond such stocks, Councils may determine that additional stocks require “conservation and management.” (See Magnuson-Stevens Act definition at [16 U.S.C. 1802\(5\)](#)). Based on this definition of conservation and management, and other relevant provisions of the Magnuson-Stevens Act, a Council should consider the following non-exhaustive list of factors when deciding whether additional stocks require conservation and management:

- (i) The stock is an important component of the marine environment.
- (ii) The stock is caught by the fishery.
- (iii) Whether an FMP can improve or maintain the condition of the stock.
- (iv) The stock is a target of a fishery.
- (v) The stock is important to commercial, recreational, or subsistence users.
- (vi) The fishery is important to the Nation or to the regional economy.
- (vii) The need to resolve competing interests and conflicts among user groups and whether an FMP can further that resolution.
- (viii) The economic condition of a fishery and whether an FMP can produce more efficient utilization.
- (ix) The needs of a developing fishery, and whether an FMP can foster orderly growth.
- (x) The extent to which the fishery is already adequately managed by states, by state/Federal programs, or by Federal regulations pursuant to other FMPs or international commissions, or by industry self-regulation, consistent with the requirements of the Magnuson-Stevens Act and other applicable law.

(2) In evaluating factors in [paragraphs \(c\)\(1\)\(i\)](#) through [\(x\)](#) of this section, a Council should consider the specific circumstances of a fishery, based on the best scientific information available, to determine whether there are biological, economic, social and/or operational concerns that can and should be addressed by Federal management.

(3) When considering adding a stock to an FMP, no single factor is dispositive or required. One or more of the above factors, and any additional considerations that may be relevant to the particular stock, may provide the basis for determining that a stock requires conservation and management. Based on the factor in [paragraph \(c\)\(1\)\(iii\)](#) of this section, if the amount and/or type of catch that occurs in Federal waters is a significant contributing factor to the stock's status, such information would weigh heavily in favor of adding a stock to an FMP. However, Councils should consider the factor in [paragraph \(c\)\(1\)\(x\)](#) of this section before deciding to include a stock in an FMP. In many circumstances, adequate management of a fishery by states, state/Federal

programs, or another Federal FMP would weigh heavily against a Federal FMP action. *See, e.g.,* [16 U.S.C. 1851\(a\)\(7\)](#) and [1856\(a\)\(3\)](#).

(4) When considering removing a stock from, or continuing to include a stock in, an FMP, Councils should prepare a thorough analysis of factors in [paragraphs \(c\)\(1\)\(i\)](#) through [\(x\)](#) of this section, and any additional considerations that may be relevant to the particular stock. As mentioned in [paragraph \(c\)\(3\)](#) of this section, if the amount and/or type of catch that occurs in Federal waters is a significant contributing factor to the stock's status, such information would weigh heavily in favor of continuing to include a stock in an FMP. Councils should consider weighting the factors as follows. Factors in [paragraphs \(c\)\(1\)\(i\)](#) through [\(iii\)](#) of this section should be considered first, as they address maintaining a fishery resource and the marine environment. *See* [16 U.S.C. 1802\(5\)\(A\)](#). These factors weigh in favor of continuing to include a stock in an FMP. Councils should next consider factors in [paragraphs \(c\)\(1\)\(iv\)](#) through [\(ix\)](#) of this section, which set forth key economic, social, and other reasons contained within the MSA for an FMP action. *See* [16 U.S.C. 1802\(5\)\(B\)](#). Finally, a Council should consider the factor in [paragraph \(c\)\(1\)\(x\)](#) of this section before deciding to remove a stock from, or continue to include a stock in, an FMP. In many circumstances, adequate management of a fishery by states, state/Federal programs, or another Federal FMP would weigh in favor of removing a stock from an FMP. *See e.g.,* [16 U.S.C. 1851\(a\)\(7\)](#) and [1856\(a\)\(3\)](#).

(5) Councils may choose to identify stocks within their FMPs as ecosystem component (EC) species (*see* § [600.305\(d\)\(13\)](#) and [600.310\(d\)\(1\)](#)) if a Council determines that the stocks do not require conservation and management based on the considerations and factors in [paragraph \(c\)\(1\)](#) of this section. EC species may be identified at the species or stock level, and may be grouped into complexes. Consistent with National Standard 9, MSA section 303(b)(12), and other applicable MSA sections, management measures can be adopted in order to, for example, collect data on the EC species, minimize bycatch or bycatch mortality of EC species, protect the associated role of EC species in the ecosystem, and/or to address other ecosystem issues.

(6) A stock or stock complex may be identified in more than one FMP. In this situation, the relevant Councils should choose which FMP will be the primary FMP in which reference points for the stock or stock complex will be established. In other FMPs, the stock or stock complex may be identified as “other managed stocks” and management measures that are consistent with the objectives of the primary FMP can be established.

(7) Councils should periodically review their FMPs and the best scientific information available and determine if the stocks are appropriately identified. As appropriate, stocks should be reclassified within an FMP, added to or removed from an existing FMP, or added to a new FMP, through an FMP amendment that documents the rationale for the decision.