

**GERALD M. WARD, P.E.**  
*Consulting Engineer*  
*Coastal - Environmental*  
P.O. Box 10441  
Riviera Beach, Florida 33419

VIA FACSIMILE  
301/427-2570

26 January 2004

Office Location:  
Suite 202  
31 W 20th Street

Telephones:  
561/863-1215  
561/863-1216 FAX

E-Mail:  
wardgm@gate.net

National Marine Fisheries Service (NMFS) Attn:  
National Oceanic and Atmospheric Administration  
US Department of Commerce  
1335 East-West Highway  
Silver Spring, Maryland 20910

F/HC

Attn: Rolland A. Schmitt, Director-Office of Habitat Conserv.

Re: **Efficacy of the EFH Guidelines**  
Docket No. 031031272-3272 Adv. Notice of Proposed Rulemaking

Dear Sir:

In response to your Federal Register Notice of December 11, 2003, we note that you are correctly suggesting a significant rulemaking (EO-12866). In answer to your two questions:

(1) Without questions the existing rules (50CFR600.805-600.930) require major modifications or better yet revocation/suspension.  
(2) Great effort was taken in the Notice to point out that NMFS took a "**5-Year Public Process**" to adopt the Guidelines which were acknowledged as flawed upon adoption in the January 17, 2002 Federal Register and that numerous public were still unhappy with your language (and at the same time the environmental groups just wanted you to just implement without substantial change). The manager of this program is the exact same that took a similar fiasco though a "5-Year Public Process" with similar results (eg.-the Johnson's Seagrass Proposed Listing & Critical Habitat Rules Docket No. 930782-3182 & Docket No. 940701-4201). Just concluding a rulemaking because you have spent over a half decade of taxpayers money and no one is happy is one reason to see if you can still fix the mess.

Upon publishing the so-called "Final Rule" 17 January 2002, the agency spent about 10 Items responding to Comments (8 Federal Register pages) where the public predicted massive adverse impacts to the public over the consultation **process**. These worries have come true with much expensive time of the agency creating comments which induce much more expensive delays for the affected governments and public.

To specific rules, why did you omit revisions to 600CFR600.10 - Definitions? In reality, you danced around this issue in 2002 by alleging that such is a Congressional Act problem. Such is not totally true and this subsection needs to be further addressed.

Both **Subpart J** - Purpose/Scope, Further Definitions and Fish Management Plans and **Subpart K** - Allegedly Coordination, Consultation and Recommendations are the really expensive part of process, process, process and more which needs to be the focus of the rulemaking.

Re 50 CFR Part 600 - public comment for  
the record - Essential fish habitat  
Since commercial fishing interests  
have seized control of NOAA-NMFS, it  
is clear only commercial fish profiteer's  
interest have been considered, to date  
with Americas future generations - who  
want plentiful fish stocks in the sea -  
completely ignored. Set marine  
sanctuaries now before every single  
mile of ocean is barren of FISH  
+ use email for comments B Sachar  
15 Elm St Florham Park  
NJ 07932