

NATIONAL MARINE FISHERIES SERVICE INSTRUCTION 30-102-13
October 27, 2009

Administration and Operations
Regulatory Guidance

Procedures for Clearance of Regulatory Packages Under the Regulatory Streamlining Program

NOTICE: This publication is available at: <http://www.nmfs.noaa.gov/directives/>.

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SUMMARY OF REVISIONS:

This guidance makes formal procedures for the submission of regulatory packages under the Magnuson-Stevens Act and other Fisheries Management laws. The procedures:

- What steps need to be taken prior to submission of regulatory packages to Headquarters;
- The procedures to follow to submit regulatory packages to Headquarters;
- The process followed for the clearance of regulatory packages under Regulatory Streamlining.

This Oct. 13, 2009 revision contains only updates of contact information.

Signed /s/ Emily Menashes _____ Oct. 13, 2009 _____
Deputy OD F/SF

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Procedures for Clearance of Regulatory Packages

Under the Regulatory Streamlining Program

1. **Introduction:** These procedures represent the overall process for submitting Magnuson-Stevens Act and other Fisheries Management regulatory packages from the Regions/Offices to NMFS Headquarters for clearance under the Regulatory Streamlining Program. Specific guidance on the requirements of each type of action is found on the Regulatory Streamlining Intranet site at <http://home.nmfs.noaa.gov/sf/regstream>, which includes the EXAMPLES package and the checklists for submitting each type of regulatory package.

2. **Actions to be taken by the Regional Office prior to formal submission of Regulatory Package to Clearance Unit.**
 - A. The Region will obtain a RIN from NMFS.Clearance@noaa.gov, if none was previously assigned.
 - B. At some point after RIN is obtained but before the regulation is published in the Federal Register, the Regional Point of Contact (POC) will create the Docket in the Federal Docket Management System (FDMS).
 - C. The Region will submit the Listing Document through the Region's Attorney Advisor to GCF¹.
 - D. After the RIN is obtained, the Region will create and complete the RIN in PRIME and submit to CC-Reg.
 - E. The Region will create the schedule for the RIN in PRIME and populate required milestones.
 - F. The Region will submit the PRA package to Jackie.Locks@noaa.gov, and carbon copy Sarah.Brabson@noaa.gov, and Larry.Goldberg@noaa.gov, if applicable.
 - G. The Region will submit the Issues Advisory (IA) via facsimile or pdf to the Clearance Unit. Once cleared by the AA, the Clearance Unit will inform the Region.
 - H. The Region will submit the draft rule electronically to the Regulations Unit (NMFS.edits@noaa.gov) for editing, once no further substantive changes to the regulatory text are anticipated.
 - I. Include in the subject line of the transmitting e-mail: the Region name (abbreviated), the FMP (use the old 3 letter designations or make up a unique one), a short name of the action, and the RIN. A complete subject line would look like: **NER-NMS-Framework 22-0648-AB01**.
 - J. The Region will complete the Regulations Editing Form (found at <http://home.nmfs.noaa.gov/sf/regstream/RulemakingForms.htm>) and send the form along with the advance copy of the FR document to NMFS.edits@noaa.gov. This form identifies the action, a POC, and phone number, the priority of the document, and any special issues or instructions for the editors.

¹ For Listing document procedures refer to Procedural Directive 30-102-01.

- K. The Regulations Unit will edit the rule and add an AX@ to the rule's RIN. The Regulations Unit will provide edits on the document, and return the edit comments to the Region via facsimile, PDF copy, or e-mail within 3 days of receipt.
- L. The Region will make necessary changes to the document, resolving any questions with the Regulations Unit.
- M. The Region will submit the formal regulatory package to the Clearance Unit at NMFS.Clearance@noaa.gov.

3. Submitting documents electronically to the Clearance Unit².

- A. The Region will submit all electronic documents³ that are part of a regulatory package as an attachment to an e-mail sent to the Clearance Unit (NMFS.clearance@noaa.gov).⁴
- B. Use the same subject line used for transmitting the document to the Regulations Unit in all e-mails dealing with the action to facilitate tracking of the action and compiling the administrative record.
- C. The Region will identify and provide contact information (e-mail address, facsimile number and telephone number) for the point of contact (POC) and an alternate POC.
- D. Note any critical dates or deadlines on the checklist.**

4. Submitting documents via facsimile or pdf to the Clearance Unit.

- A. The Region will submit all documents that are signed in the Region as part of a regulatory package via facsimile or as a pdf copy.
- B. The Region can submit facsimiles to 301-713-1175, Attention Clearance Unit. The facsimile cover sheet shall include the same subject line as that used in the e-mail transmitting the electronic parts of the package.
- C. The Region will identify the POC and alternate POC and POCs' e-mail addresses and telephone and facsimile numbers on the cover sheet.
- D. The Region can submit pdf versions electronically vice facsimiles, if preferred.
- E. The Region will send facsimile or pdf only documents that show signatures and are necessary to make the package complete when added to those submitted electronically.
- F. Including paper copies of documents submitted electronically (i.e., draft memos, draft Federal Register documents, etc.) is optional.

5. Submitting documents in paper or other hard copy form to the Clearance Unit.

- A. The Region can submit the regulatory package via Fed Ex Mail to: Clearance Unit

² Documents can be in Word or Word Perfect. The preferred format for Federal Register documents is Word Perfect.

³ The electronic titles of all documents may not contain any special characters (e.g., underscores, periods, dashes, etc.).

⁴ The required documents to be submitted are listed in Part 1 of the applicable checklist located on the Examples and Checklists page (http://home.nmfs.noaa.gov/sf/regstream/examples/examples_checklists.htm).

(F/SF5), Office of Sustainable Fisheries, National Marine Fisheries Service, NOAA, 1315 East-West Highway, Room 13321, Silver Spring, MD 20910.

- B. It is not necessary to include paper copies of documents submitted electronically (i.e., draft memos, draft Federal Register documents, etc.).

6. Clearance Unit acknowledgment of package receipt.

- A. The Clearance Unit will acknowledge receipt of a complete package by e-mail to the sender of the electronic package and the POC, identifying a primary Clearance Unit POC for the action.
- B. The Clearance Unit will contact the POC to correct discrepancies or if the package is not complete.⁵
- C. The Clearance Unit will e-mail the POC that the package is under review.

7. NOAA-GC and DOC-OGC review of rules packages.

- A. The Clearance Unit will forward the rule package to NOAA-GC and DOC-OGC once the Decision Memo and Clearance memos are signed by the Assistant Administrator for Fisheries, or the designee.
- B. At the same time, the Clearance Unit will send the regional POC and the attorney advisor an e-mail transmitting the cleared version of the rule electronically.
- C. The Clearance Unit will update the schedule in PRIME and upload the regulation and supporting documents into PRIME.
- D. When a NOAA-GC or DOC-OGC attorney has comments on a rule, the attorney will transmit those comments to the regional POC and the regional attorney advisor either by e-mail, facsimile, or phone call. If comments are sent by e-mail, the NOAA and/or DOC attorney will identify the action for which comments are provided by identifying the RIN for the action in the transmitting e-mail. NOAA-GC, DOC-OGC, regional POC, and regional attorney advisor will copy the Clearance Unit on all e-mails regarding the rule.
- E. The regional POC/regional attorney advisor will respond to comments as is agreed to between the region and the regional attorney advisor's office. The regional POC/regional attorney advisor will copy the Clearance Unit on all e-mails regarding the rule.
- F. DOC-OGC will provide the docket number to the regional POC, the regional attorney advisor, and Clearance Unit when all questions and issues have been satisfied and NOAA-GC and DOC-OGC have cleared the rule for publication. DOC-OGC will identify the RIN number for the action in the notification⁶.
- G. The regional POC is responsible for ensuring that the Clearance Unit is provided with the final "cleared" version of the rule including the docket number. In the e-mail the

⁵ A complete package is one that contains all of the documents as described in Part 1 of the applicable checklist and all documents adhere to proper format and language as laid out in the Examples package at http://home.nmfs.noaa.gov/sf/regstream/examples/examples_checklists.htm

⁶ The Administrative Assistant for DOC-OGC will enter the date NOAA-GC cleared off on the package in PRIME.

- Regional POC will note if a “file immediately” or “emergency publication” is needed.
- H. In cases where publication of the rule is urgent, the Clearance Unit may insert the docket number in the version of the rule provided by the regional POC.
 - I. The Region will add the DOC docket number to the Docket in FDMS.

8. Signing, Publication, and Disposition of Regulatory Package

- A. The Clearance Unit will prepare the cleared rule document for signing and submission to the Regulations Unit for publication.
- B. The Regulations Unit will certify the document and send it to the Office of the Federal Register.⁷
- C. On the day the regulation publishes, the Docket Owner will change all supporting documents from “pending post” to “post” in FDMS.
- D. The Clearance Unit will upload the final version of the rule into PRIME, with any edits made by the Office of the Federal Register and complete the schedule in PRIME.
- E. After the comment period for the regulation closes, the Region will post all comments for public access in FDMS.⁸
- F. The Clearance Unit will Fed-Ex the administrative record back to the Region within 30 days of publication.
- G. The Clearance Unit will make copies of all administrative records and relevant e-mails and retain them for one calendar year after the action is published.

9. Contact information.

Clearance Unit Address:

Mail: Office of Sustainable Fisheries (F/SF)
Regulatory Services Division
National Marine Fisheries Service, NOAA
1315 East-West Highway, Room 13322
Silver Spring, MD 20910
Attention: Clearance Unit

Telephone: 301-713-2337 (F/SF5)
E-mail: NMFS.Clearance@noaa.gov
Facsimile: Clearance Unit at 301-713-1175 (same as F/SF5)

⁷ A document is on the same day schedule if received at the Office of the Federal Register before 2p.m., after 2p.m. it is considered as received on the next day. It takes 2 days to file and 3 to publish unless unusual circumstances apply. “Emergency publication” documents must be received at the Office of the Federal Register before 12p.m. and will cause the document to publish in 2 days. “File immediately” documents must be at the Office of the Federal Register by 5p.m. and cause the document to be on file once received and processed by the Office of the Federal Register.

⁸ Comments may be omitted, edited, or redacted as outlined in the NMFS FDMS Business Rules.