RULES AND REGULATIONS

DISCUSSION OF MAJOR AMENDMENTS

Three commenters believe that NOAA lacks authority to promulgate regulations governing Council operations. The Secretary of Commerce is authorized to promulgate regulations under sec. 305 (g) of the Act to carry out any provision of the Act. The commenters describe the rules and regulations contained below has been delegated to the Associate Administrator for Marine Resources, NOAA.

COMMENTS ON PART 601

One commenter requested clarification of the definition of a "Confidential" (§601.2(e)). That part of the definition pertaining to information/data that is accepted by the Secretary of Commerce and inappropriate implementing regulations will be amended and explanatory information concerning access to classified material placed within §601.23(e)(2).

Several commenters requested clarification of the responsibility of the Councils over the three categories of fishery resources listed in §601.11(b)(2). The language is amended to read: "* * * * each Council shall develop fishery management plans for each fishery involving the following categories of fishery resources * * * *".

One comment was received regarding the designation, by the Secretary of Commerce, to prepare fishery management plans where the range of a fishery extends beyond the geographical area of authority of any one Council. The commenter suggested that §601.11(c)(2) be modified to require that the Secretary of Commerce consult with the concerned Councils before designation and that any Council so designated be required to consult with the other affected Council(s). The suggestion is adopted and the language is amended.

Two commenters suggested that §601.21(b) be amended to include a listing of the relevant Indian treaties entered into by the United States with a number of Pacific Northwest Indian tribes. The principal purpose, however, of this section is to describe the Federal statutes and the language amended. Section 21(b) is modified to provide for the preparation and submission of a fishery management plan to the Secretary. The procedure for review is being revised to, among others, require a description of the nature and extent of the Indian treaty fishing rights applicable to the geographical area within the authority of each Council.

One comment was received disagreeing with the statement in §601.21(b)(1)(ii) that "Preparation and submission of a fishery management plan to the Secretary is a major Federal action." The procedure for compliance with the National Environmental Policy Act of 1969 are now under review and will be published at a later date. Therefore (b)(ii) is deleted.

A commenter questioned the need for incorporation of the Federal Advisory Committee Act into the operation of the Councils. The provisions of the Federal Advisory Committee Act apply to the Councils in accordance with the intent of Congress as expressed in the Report of the Committee on Education and Labor on H.R. 208 (House Rept. No. 94-918, March 24, 1976).

The section on Designees (§601.22(b)-(c)) is amended in order to provide clarification on the use of designees by certain voting and non-voting members of Councils.

The section on Appointments (§601.23 (b)-(e)) is amended to provide additional detail and clarification of the procedure whereby new Council members are nominated for appointment by the Secretary. Section 23(b)-(d) (i) provides that Governors submit lists of nominees by May 15 of each year rather than the first of each year required by the Interim Regulations. The earlier date provides more time for consideration of the nominees. Sections 23(b)-(d) (ii) through (vi) describe the two categories of seats, the nomination procedures, and provide that an individual whose is expiring no longer be considered for re-election. The prohibition of election of a Chairman whose appointment will expire in less than one year from the date of election is deleted as overly burdensome. The length of the term of a Chairman is set at one year.

The section on Administrative staff (§601.22(c)) is amended to prescribe that the number of Council employees may not exceed seven for any one Council except as authorized by the Director, NMFS. Seven is the maximum number of employees determined to be necessary at this time to the performance of the functions of a Council.

One commenter questioned the restriction in the section on Staffing on multiple panels (§601.23(e)) that prohibited Federal members from receiving remuneration of actual expenses from Councils. The restriction is deleted. Section (e) (2) is amended to suggest that each Council establish one broad based advisory panel with subpanels as needed. This procedure, if adopted by the Councils, will minimize the excessive administrative requirements resulting from chartering and reporting on multiple panels for each Council.

The section on Federal funds (§601.23 (c)-(1)) is amended by deleting the second paragraph which was rendered obsolete by the development of Council administrative capacity. New language was added which states that annual grants as the means by which Federal funds are provided to the Councils.

One commenter was concerned about possible "OMB supervision" of Council staff because of the reference to OMB Circular A-110 in the section on Staffing (§601.23(d)(1)). The Circular provides...
standard administrative procedures, including the budget process through which Council positions must be justified. The Councils maintain oversight of their employees subject to the provisions of the Fair Labor Standards Act and other applicable law. Therefore, no amendment is considered necessary.

The section on experts and consultants (§ 601.23(d)) is amended to include a restriction that experts and consultants, who provide technical assistance under contract to Councils, may not provide services on a permanent basis.

One commenter questioned the provision in the section on Details of governing procedures that a provision for the determination of the maximum number of days of sick leave is equal to 15 days in advance of a Council meeting rather than the 20 days as required by the Secretary of Commerce. This suggestion is not adopted in the belief that the 10 day period would not provide sufficient time for the public to become aware of the announced meeting. Section (d) (ii) is amended so as to provide flexibility to the Councils in determining optimum yield, while maintaining the intent of the statute to assure a reasonable interpretation of the intent of Congress in enacting the Act, and other applicable regulations.

The requirement in Hearings (§ 602.2(a) (iv)) that a Council take a plan to public hearing at least once a quarter is deleted and new language is added that clarifies the intent that the need for fishery management plan jointly with their constituent States shall be the purpose of developing a plan. The language concerning the North Pacific Council's "geographical area of concern" that appeared in § 602.3(c) (ii) of the existing regulations is added to this section.

One commenter suggested that the requirement for verification and audit of Councils for hotel receipts as documentation of public hearings be distributed to all interested parties of the hearing.

Several comments were received regarding the technical or ambiguous language in existing regulations. Amendments were accordingly made to clarify the terms or delete unnecessary references in § 602.2(a) (iv).

Several commenters expressed the view that the interpretation of overfishing in § 602(b) (1) was not contained in the Act and should be omitted from regulations. Amend-
and management objectives (§ 602.2(b) (4)) that the determination of optimum yield will be "dictated" by unspecified national objectives as well as regional objectives. The language is amended to clarify the National perspective as consideration of the term "optimum" as defined in the Act.

One comment was received regarding Optimum yield and foreign fishing (§ 602.2(b) (5)) that in determining yield is for U.S. fishermen to be considered as well as the capacity of U.S. vessels. The term "desire" was used in the Report of the Conference Committee, the language is amended to indicate the phrase "and the extent to which fishing vessels of the United States will harvest such yield," which is based upon sec. 303(a)(4) (A) of the Act.

The portions of § 602.2(b) that pertain to optimum yield may be modified in the future based upon ongoing discussions with the Councils and others and consideration by the Secretary of future Council recommendations.

Four commenters expressed a desire that the Councils have stronger roles in the development of plans for transnational stocks than provided for in jurisdiction (§ 602.2(d) (2)) of the Interim Rule. This issue is being reviewed by NOAA with careful consideration of the commenter’s views. Therefore, the last two sentences are deleted. When the revised rule is promulgated, (2) (ii) may be rephrased to incorporate a policy concerning appropriate responsibility for plans developed by Councils.

Two comments were received concerning the second sentence of § 602.e (1) (ii) that stated application of conservation and management objectives with respect to the conservation and management of the fisheries within their geographical area of concern shall have the meanings that are provided in parts 303 and 602, as revised. Is published herein.

NEED FOR EFFECTIVE DATE

These regulations constitute integral and essential clarification of guidance to the Councils and become effective upon date of publication.

PUBLIC COMMENT

The Councils, government agencies, and the public are invited to submit comments and suggestions at any time. By delegation authority in Department of Commerce Organization Order 25-5A, Section 3.01dd, Amendment 4 (dated September 30, 1976) and NOAA Directive Manual 05-57 (dated December 1, 1976), the Associate Administrator for Marine Resources of the National Oceanic and Atmospheric Administration has approved these regulations.

NOTE—The National Oceanic and Atmospheric Administration has determined that this document does not constitute a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11211, 11049 and OMB Circular A-107.

(§ 602.1, 602.2 (f) (6), 602.4, and 605.9 of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1802, 1803, 1804, 1805)).


WINFRED H. MELHOON, Associate Director, National Marine Fisheries Service.

In consideration of the foregoing, parts 601 and 602 are revised and Part 603 is reserved as follows:

PART 601—REGIONAL FISHERY MANAGEMENT COUNCILS

Subpart A—General

Sec. 601.1 Purpose.

601.2 Definitions.

Subpart B—Geographical Boundaries

601.11 General.

601.12 Method of determination. [Reserved]

601.13 Description. [Reserved]

FEDERAL REGISTER, VOL. 42, NO. 128—TUESDAY, JULY 5, 1977

HeinOnline -- 42 Fed. Reg. 34452 1977
an individual, business, or some other entity that is accepted from any person by the Secretary under a stipulation that limits disclosure.


(g) Director. The Director of the National Marine Fisheries Service.

(2) The 33-month process of formulating and executing the Federal budget.

(1) Fishery management plan. A document that contains a systematic description of a given fishery and that sets forth the objectives and strategies for the management of the fishery.

(i) Highly migratory species. [Reserved]

(b) Regional Director. The regional representatives of the Director. There are five regional offices of the National Marine Fisheries Service whose Regional Directors serve on the various Councils as specified by the Act.

(1) Regional Fishery Management Council Operations Manual. A compilation of technical and explanatory information for the purpose of providing assistance to the Councils in the fulfillment of their various functions.

Subpart B—Geographical Boundaries

§601.11 General.

(a) Fishery conservation zone. The Act creates a zone contiguous to the territorial sea, which is called the fishery conservation zone. The outer boundary of the zone is 200 nautical miles from the baseline from which the territorial sea is measured and the inner boundary is a line coterminous with the seaward boundary of each of the coastal States. (43 U.S.C. 1316(b) and 1312 for definition of "seaward boundary").

(b) Scope. (1) The boundaries described in §601.12 (Reserved), delineate the geographical area of authority of adjacent Council within this fishery conservation zone.

(2) Within the geographical area of authority, each Council shall develop fishery management plans for each fishery involving the following categories of fishery resources:

(i) Those fish within this zone, except "highly migratory species": (1) and all anadromous species, throughout their migratory range, except when within a conservation zone recognized by the United States; and (ii) Continental Shelf fishery resources.

(1) State. Generally the Act does not diminish the fishery jurisdiction of any State within its own boundaries, nor does it extend State fishery jurisdiction beyond a State's seaward boundary.

(2) Intercouncil. In any case in which the range of a stock or a fishery extends beyond the geographical area of authority of any one Council, as defined in §601.12 (Reserved), the Secretary is authorized to create a Council, that shall prepare the fishery management plan for such a fishery, after consultation with the Councils concerned. When such anadromous fishwaters extend to the States represented on more than one Council, the Councils thus designated shall consult with the other affected Council(s). The Secretary may require that a plan be prepared jointly by the Councils concerned. This case, any plan or amendment, before being submitted to the Secretary, shall be approved by a majority of the voting members of each participating Council.

§601.12 Method of determination. [Reserved]

§601.13 Description. [Reserved]

Subpart C—Uniform Standards for Organization, Practices, and Procedures

§601.21 General.

(a) Purpose. Section 602(1)(6) of the Act requires each Council to determine its own organization, practices, and procedures for carrying out its functions in accordance with such uniform standards as the Councils may prescribe. The regulations contained in this Subpart provide the uniform standards in accordance with which the Councils shall operate.

(b) Applicability of other laws. (1) National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The National Environmental Policy Act (NEPA) sets forth the strategy of the Congress to achieve coordination of Federal activities and environmental considerations. NEPA's basic purpose is to insure that, in addition to technical and economic considerations, Federal officials weigh and are apprised of the environment. Procedures for compliance with NEPA in the preparation and submission of fishery management plans and amendments to such plans are set forth in §602.6. (Reserved)

(2) Provisions of three interconnected laws affect Council practices and procedures, particularly concerning opportunity for public input, public access to Council meetings and to agendas, records, and reports of such meetings. These laws are:

(I) The Federal Advisory Committee Act (5 U.S.C. App. 1). The intent of Congress is to provide for the conduct of Federal Advisory Committee Act (FACA) is stated in the Report of the Conference Committee (House Rep. No. 94-549, March 24, 1976). The provisions of FACA apply to the Councils and their committees and panels. Meetings must be open to the public except as provided for in 1 U.S.C. (f) (3) of this regulation. The application of FACA is designed to ensure open meetings and public access to information generated at the request of the Federal Government, and to rec

ORDS generated at the request of the Federal Government. Nine groups of exceptions are provided that allow the withholding of information. Application of FACA is found more specifically in Part 603. (Reserved)

(II) The Privacy Act (5 U.S.C. 552 (a) (4)). The Act provides individuals certain rights of access to records kept about them, and at the same time requires that the confidentiality and use of the information be used to regulate, placing restrictions on the collection, retention, and use of personal information. Specific application of this Act is found in Part 603. (Reserved)

(3) Coastal Zone Management Act of 1972, as Amended (16 U.S.C. 1451 et seq.). The principal objective of this Act is to encourage and assist States in developing coastal zone management programs, to coordinate State activities, and to safeguard the regional and national interests in the coastal zone. While the coastal zone does not extend beyond the territorial sea, activities taking place beyond the territorial sea may impact on the coastal zone and thus come within the influence of coastal zone management programs. In the past, Federal management plans, Councils should be particularly cognizant of the provisions of sec. 305(c) of this Act that require that Federal activity directly affecting the coastal zone of a State be consistent with that State's approved coastal zone management programs. Thus, Councils should new regulations their planning actions with the appropriate State agencies involved in coastal zone program development.

§601.22 Organization.

(a) General. This part addresses such questions as organization of the Council members, administrative staff, and advisory groups.

(b) Council members. The Councils consist of voting and nonvoting members or their designees, as specified in the Act.

(1) Terms. Members appointed following initial constitution of the Councils serve for a term of three years. An individual appointed to fill a vacancy occurring prior to the expiration of any term of office shall be appointed for the remainder of that term. The anniversary date for measuring terms of membership is August 1.

(2) Designees. (I) The Act authorizes the principal State officials, the NMFS Regional Directors, and the non-voting members to designate individuals to attend Council meetings in their absence. Only one designee per Council may be so specified by each of the above officials.

(ii) A designee may serve for all or part of a Council meeting in the absence of the individual he or she is replacing and has the same voting power as his or her designee.

(iii) If circumstances require, the Chairman of the Council may change his or her designee. In such case, the Chairman of the Council must be notified and given in writing, in advance of the meeting at which the designee will represent the Council member, the name, address, and
RULES AND REGULATIONS

position of the individual designated. A
designee may not name a designee for
himself or herself, nor may a designee
be appointed to fill a position he or she
holds. (iv) Designees without ap-
propriate security clearance may not attend
meetings closed for security reasons, nor
may they be classified material. (See § 601.23
(e) (3).)

(v) Remuneration of actual ex-

censes and compensation, as described

in § 601.23 (f), associated with travel to
any meeting shall be limited to the mem-
ber, or, in the case of the absence of the
member, one designee. A designee who
serves for part of a Council meeting may
receive remuneration of actual ex-
censes and compensation associated with
necessary travel and attendance at
that part of a Council meeting wherein
the member is absent.

(3) Designation of regional directors. The Regional Directors, NMFS shall, in
accordance with the Act, serve as voting
members on the Councils as follows:

Council Regional director
New England............. Northeast region
Mid-Atlantic............... South Atlantic region
South Atlantic........... Do.
Caribbean.................. Do.
Central Gulf................ Northwest region
North Pacific............. Alaska region
West Pacific............... Southwest region

(4) Appointments. (1) In so much as
each year approximately one-third of a
Council's appointed membership will
expire, new members shall be appointed
by the Secretary or the Secretary's dele-
gate from lists of nominees submitted by
the Governors of each applicable con-
stituent State by May 15 of each year.

The Governors are responsible for de-
termining that their nominees meet the
qualification requirements of the Act
and for providing appropriate documenta-
tion for the Secretary or the Secret-
ary's delegate to make a reasoned
choice.

(2) There are two categories of seats
for which appointed voting members
may be eligible: "obligatory" and "at-
large." Each Council constituent State has
one obligatory seat. When the term of
an obligatory State member expires, the
Governor of that State is required to
submit at least three nominations from
which the selection of a replace-
ment will be made by the Secretary or
the Secretary's delegate. When the term
of an at-large State member expires, the
Governor of each member State of a
Council shall submit at least three nom-
inations for each vacancy, and the selec-
tion will be made by the Secretary or
the Secretary's delegate from among
the collective nominations by the Gov-
ernors of all applicable constituent States.
Any individual whose term is expiring may
be renominated for consideration.

(3) The number of individual
members who must be nominated by a Governor shall be limited to three times the
number of vacancies available, and each such
nominee shall be considered as available
for any such vacancy. However, in a case

where the terms of both an obligatory
member and an at-large member expires
in the same year, only one Governor of the
State holding the expiring obligatory seat
may indicate that remaining nominees for
an obligatory seat may be considered for
an at-large position.

(iv) The procedures in § 601.23 (b) (4)
(I)-(III) also apply when a vacancy oc-
curs prior to the normal expiration of a
term of membership of a voting member
appointed by the Secretary or the Secre-
tary's delegate.

(v) If a Governor fails to submit a list
of at-large nominees within the time
allotted, then the new at-large mem-
ber(s) may be appointed from the list of
names submitted by approved lists of
the other applicable constituent States.

(5) Council organization. The Chair-
man shall be elected from among the
voting members by a majority vote of
the voting members present and voting.
The term of office for the Chairman may
not exceed one year; however, the Chair-
man is eligible for re-election. The Coun-
cil may establish other officers as deemed
necessary and set their terms of office.

The Council's voting and ad hoc committees from among the vot-
ing and nonvoting members as it deems
necessary for the conduct of Council
business. Such committees shall conform
to the procedures for ensuring open
meetings specified for the Council.

(c) Advisory Councils. Each Council shall appoint an Executive Director and
other full and part time administrative
employees as the Secretary determines
are necessary for the performance of its
functions and which are consistent with
budgetary limitations. However, the
number of such employees may not ex-
ceed seven except as approved by the
Director, NMFS. The Executive Direc-
tor and Staff are responsible to the Chair-
man of the Council.

(1) Executive director.—(1) Duties. Each Council, through its Chairman,
shall assign such duties to the Execu-
tive Director as it deems appropriate
consistent with these uniform standards.

(2) Compensation. The administrative
responsibilities, coupled with the com-
mitment of the time of the Council of the
Council, that the Council shall assign to
the Executive Director, will influence the
level of compensation as it deems appro-
riate. The Council's governing body shall
approve the compensation of the Ex-
ecutive Director, in consultation with the
Secretaries of the NMFS.

(3) Other administrative staff.—(1) Minimum. As a general rule, in the
beginning of its term of office, and at any
time during the term of office, the Coun-

cil shall have an administrative staff con-
sisting of an executive director, an ad-
ministrative officer, and a secretary.

(ii) Additional staff. Additional Ad-
ministrative staff above the minimum
prescribed above will vary by Council
because of differences in workload and
availability of resources. The number
and types of additional positions will also
vary over time as the work of the Coun-
cil is defined during its initial phase of
operation.

(d) Scientific and statistical commit-
tee. Each Council shall establish and
maintain, and appoint the members of a
Scientific and Statistical Committee to
assist it in the development, collection,
and evaluation of statistical, biological,
economic, social, and other scientific in-
formation as is relevant to the development or amendment of any fish-
ery management plan. The Council is
authorized to pay the actual expenses of
such Committee members while engaged
in Council business.

(1) Committee function. The Sci-
entific and Statistical Committee provides
expert scientific and technical advice to
the Council on the development of fish-
ery management policy, on the prepara-
tion of fishery management plans, and
on the effectiveness of such plans once
in operation. The Committee aids the
Council in identifying scientific resources
available for the development and
operation of the fishery management plan.

(ii) Committee organization. The
Chairman and the Chair of each Panel
shall be elected from among the voting
members of the Committee.

(2) Committee organization. The
members of the Committee and a Chair-
man are appointed by the Council. Mem-
ber of the Committee shall be nominated
by the Governor or Governors of the
State. The size of the Committee is dis-cretionary within the resources available to
the particular Council. In any case, the
Chairman shall meet in the area encompassed by
the Council's constituent States, with the ap-
proval of the Chairman of the Council.

(3) Ex-officio members. The Chair-
man, member, and a designee of the
Governor shall serve on the Council.

(4) Salmon advisory panels. Each
Council is authorized to establish other
advisory panels as are necessary in each
particular state to obtain the expertise
necessary for the performance of Council
business.

(5) Fishery administrator panels. Each
Council is authorized to establish other
advisory panels as are necessary in each
particular state to obtain the expertise
necessary for the performance of Council
business.

(6) Other administrative staff. Each
Council is authorized to establish other
advisory panels as are necessary in each
particular state to obtain the expertise
necessary for the performance of Council
business.

(7) Panel organization. The members
and a Chairman are appointed by the
Council. The membership of each panel
shall include individuals knowledgeable
and interested in the fisheries to be man-
aged, processing or consumption of, or are
elusive biological and social scientists
from the Federal, State, and private sci-
entific community who are able to provide
the Council with informed advice about
the fisheries within the area encompassed
by the Council's constituent States, with the
approval of the Chairman of the Council.

(8) Meeting place. Panels shall meet
in the United States or Canada, unless
otherwise agreed by the particular Council
and the Secretary.

(9) Scope of panel function. The
Functional Committees are authorized to

assist the Council in the development of fishery
management policy, on the preparation of
fishery management plans, and on the effec-
tiveness of such plans once in operation.

(10) Authority to conduct business.
The Council is authorized to establish other
advisory panels as are necessary in each
particular state to assist the Council in the
development of fishery management policy,
the preparation of fishery management plans,
and on the effectiveness of such plans once
in operation.
be of sufficient size to permit a balanced representation of interests. It is suggested for the purpose of minimizing administrative requirements that each Council shall be comprised of an executive advisory panel. Subpanels may be used to provide advice on individual fisheries or unique fishery resources under Council consideration. The panels shall meet in the area encompassed by the Council's constituent States as deemed necessary by the Council Chairman. His staff is assigned to these panels, but staff support may be requested from the Chairman of the Council or the Executive Director. Each panel shall have its own charter separate from those of other panels, from the Scientific and Statistical Committee, and from its parent Council.

§601.23 Administrative practices and procedures.

(a) General. The Act directs the Secretary to provide the Councils with administrative support services as are necessary for their effective functioning. The Administrator of the General Services Administration is directed by the Act to furnish each Council with such offices, equipment, supplies, and services as he is authorized to furnish to any agency or instrumentality of the United States. All Federal agencies are authorized to detail personal on a reimbursable basis to the Councils after consulting with the Director, NMFS. (See paragraphs (d)(3) and (e)(2) of this section.) Uniform procedures in this section are provided in order to expedite the delivery of this support with a minimum burden on the substantive work of the Councils.

(b) NOAA field units. NOAA field units are assigned to provide services and support to each Council as follows:

Council Serving field unit
New England NMFS
Northeast region.
Mid-Atlantic NMFS
Southeast region.
South Atlantic NMFS
Northeast region.
Caribbean NMFS
Do.
Gulf of Mexico NMFS
Do.
Pacific NMFS
Northwest region.
North Pacific NMFS
Alaska region.
Western Pacific NMFS
Southwest region.
These NOAA field units are authorized to provide for budgetary, accounting, personnel, and procurement support to their respective Councils, and for liaison between the Councils and other Federal agencies.

(c) Budgeting, funding, and accounting.

(1) Federal funds. The funding for the administrative and technical support of Council operations is included in the budget of the Department of Commerce and the Service, in the appropriation for the administration of NOAA and NMFS. The funding requirements for the Councils are subject to regular budgetary review procedures. Amendment will be required to provide such Federal funds as the Secretary determines are necessary to the performance of the functions of the Councils and consistent with budgetary limitations.

(2) Funds from other sources. [Reserved]

(3) Financial procedures and standards. [Reserved]

(4) Payment practices. The following sets forth the responsibilities of the Councils with regard to personnel matters and the establishment of standards to be used by the Secretary in analyzing Council budgets.

(1) Staffing. Each Council may appoint and assign duties to an Executive Director and other full and part-time administrative employees as the Secretary determines are necessary to the Council. Each position must be justified during the budget process described in OMB Circular A-110. Descriptions of the work to be performed may be submitted in accordance with §601.23(d)(6) dealing with salary and wage administration.

(2) Experts and consultants. Each Council may contract with experts and consultants as needed and within their respective budgets to provide technical assistance. Such experts and consultants may not provide services on a permanent basis (see §601.23(e)(2)).

(3) Details of government employees. Each Council shall be responsible for maintaining a list of all Federal employees in the position of Executive Director and any other employee to whom a budget for such agency may be submitted in accordance with §601.23(e)(2)). The length of such detail shall be mutually agreed to by the Council and the Federal employee and his or her agency. Federal employees so detailed retain all benefits, rights and status to which they are entitled in their employment. The Councils may negotiate arrangements with State and local governments to utilize employees of those governments.

(4) Councils. The Councils are responsible for maintaining high standards of ethical conduct among themselves, their employees, and the public, and for carrying out the work of the Council on a reimbursable basis as determined by the Council. A Federal agency determines that any Council is not operating under the Act (see §601.23(e)(2)). The length of such detail shall be mutually agreed to by the Council and the Federal employee and his or her agency. Federal employees so detailed retain all benefits, rights and status to which they are entitled in their employment. The Councils may negotiate arrangements with State and local governments to utilize employees of those governments.

(5) Personnel actions. Subject to these instructions, and within budgetary constraints, the Councils may establish positions, recruit, hire, compensate, and dismiss personnel. Involuntary separations should be for cause alone, with reasonable notice given to the employee.

(6) Salary and wage administration.

(1) In setting rates of pay for Council staff, the principle of equal pay for equal work shall be followed. Variations in basic rates of pay should be in proportion to substantial differences in the difficulty and responsibilities of the work performed.

(2) A cost of living allowance may be applied to the salaries of Council members. The primary duty is in one of the following areas: Alaska, Hawaii, Guam, Virgin Islands, and Puerto Rico. The rate of cost of living allowance may not exceed that paid by the Federal Government in the same area.

The current rates may be obtained from the applicable NOAA field unit.

(III) The duties of any new position shall be contained in a brief description and shall be submitted to the Council office servicing the NMFS Regional Office assigned to a Council prior to the submission of a budget in which the establishment of that position is requested. The Council may fill the position at any salary level within that range, except that, unless the re-appointment of each annually qualified employee is hampered, the policy of hiring at the beginning rate shall be recognized. The annual pay for any staff position may exceed the current rate for the top step of GS-15 of the General Schedule at the time of appointment. After a position has been filled, any employee may be promoted annually and recognized for superior performance in accordance with Council policies.

(1) Leave. Employees of the Council may be granted paid leave for holidays, vacations or exigencies, sickness, and civil duty jury, military reserve, or other official duties. Leave may be granted for up to 10 working days per year. Sick leave may not exceed 10 working days per year. Earned annual and sick leave may be accumulated from year to year.

(2) Employee benefits. The Councils are responsible for maintaining high standards of ethical conduct among themselves, their employees, and the public, and for carrying out the work of the Council on a reimbursable basis as determined by the Council. The Councils may establish positions, recruit, hire, compensate, and dismiss personnel. Involuntary separations should be for cause alone, with reasonable notice given to the employee.

(3) Conduct. The Councils are responsible for maintaining high standards of ethical conduct among themselves, their employees, and the public, and for carrying out the work of the Council on a reimbursable basis as determined by the Council. Any employee of the Council shall use his or her official authority or influence derived from his or her position with the Council for the purpose of interfering with or affecting the result of an election to or a nomination for any national, state, county, or municipal elective office.

(4) No employee of the Council shall be deprived of employment, position, work, compensation, or benefit provided for or made possible by the Act on account of any political activity or lack of such activity in support of or in opposition to any candidate or any political party in any national, state, county, or municipal elective office.

(5) No employee of the Council shall use his or her official authority or influence derived from his or her position with the Council for the purpose of interfering with or affecting the result of an election to or a nomination for any national, state, county, or municipal elective office, or on account of his or her political affiliation.

(6) No employee of the Council shall have a direct or indirect financial inter-
est that conflicts with the fair and impartial conduct of his or her Council duties.

(e) No Council member, employee of the Council or member of a Council advisory group shall use or allow the use, for other than official purposes, of information, obtained through personal connection with his or her Council employment or advisory group membership, that has not been made available to the general public.

(vi) No Council member or employee of the Council shall engage in criminal, infamous, dishonest, notorious immoral, or disgraceful conduct prejudicial to the Council.

(vii) No Council member or employee of the Council shall engage in criminal, infamous, dishonest, notorious immoral, or disgraceful conduct prejudicial to the Council.

(x) Personnel Files. A file for each Council member containing appointment papers, security reports, biographical data, or evidence of discharge or other employment record shall be centrally maintained in NOAA under security and safeguard conditions required of files subject to the Privacy Act. This file will be available to the member, and to other persons only when a need to know has been established. Each Council member shall maintain in its office, a personnel file on its employees and experts and consultants under contract under appropriate safeguards in accordance with the Privacy Act.

(11) Security Investigations. When it is anticipated that security classified information will be kept or handled in Council offices, certain employees shall be designated to be permitted access to the information in accordance with Federal standards. All personnel files are prepared for security classification in accordance with the Office of Investigation and Security of the Department of Commerce.

(c) Personnel.—(1) Council staff. The Councils may, consistent with the standards of employment practices contained in §601.23(d)(2), establish positions and recruit, hire, compensate, and dismiss personnel. The personnel procedures of each Council will be subject to audit periodically.

(2) Ad hoc support. All Federal agencies are authorized by sec. 309(f)(2) of the Act to detail personnel to the Council on a reimbursable basis. Any Council requests to the heads of such agencies must contain the purpose of the detail, the length of time of the detail, the compensation to be paid and the stipulation that the Director, NMFCS, be consulted prior to granting the request. Copies of this correspondence shall be transmitted to the Director, NMFCS, through the appropriate NOAA field office to facilitate such consultation. Legal counsel on a continuing basis is available from the regional office of the NOAA Office of General Counsel. Councils are expected to obtain legal counsel from NOAA through existing legal counsel. Other experts and consultants, including legal counsel, may be used as the Council considers appropriate, consistent with budgetary limitations (see §601.23(d)(2)).

(d) Council access to security classified material. The security investigation that is routinely conducted at the time a nominee to the Council is appointed is the basis for authorizing access on a need-to-know basis to classified or classified Confidential. Normally this should be sufficient for Council purposes (see also §601.22(b)(2)(i)(v) ). Clearance for travel shall be limited to the following regular Federal procedures, by the Secretary. Access to security classified material is governed by security regulations and procedures pursuant to Executive Order 11652, effective June 1, 1972. Need-to-know is determined by the authority having custody of the material. Persons who are not members of the Council, including Council staff and members of advisory groups, must possess the need-to-know before they may be present when classified materials are discussed or examined. Such clearances will be requested through the appropriate NOAA field unit.

(1) Compensation and expenses.—(1) Compensation. The voting members of each Council will be reimbursed by the Federal government or any State or local government shall receive compensation at the daily rate for a GS-18 in the General Schedule when engaged in the actual performance of duties, including travel time, as assigned by the Chairman of the Council.

(2) Expenses. Council voting members, the nonvoting Executive Director of the Marine Fisheries Commission for the geographical area concerned (if any), the additional nonvoting member of the Pacific Council, and the members of the advisory panels shall be reimbursed for actual expenses associated with travel on official Council business. The Council may also pay the transportation and expenses, on an actual expense basis, of invited experts and consultants, and Council staff. All such expenses must be authorized by the Chairman of the Council or the Executive Director and be supported by detailed vouchers attested to by the person incurring the expenses. Individual receipts, if not required for other purposes, are not required. Foreign travel must have the prior consent of the Administrator.

(3) Actual expense defined. Actual expenses include transportation by air, coach, rail coach, bus or privately owned vehicle (automobile or private plane) reimbursed on a per mile basis; and meals and lodging while away from home or base, as required by the NOAA Travel Handbook; and incidental expenses such as taxi fares, parking and telephone calls on official business.

(g) Reporting.—(1) Annual report. The Act requires the Councils to report to the Secretary annually before February 1 of each year, during the immediately preceding calendar year. The annual report will be used by the Secretary to fulfill her obligation to report to the President no later than March 1 of each year on her, and the Councils’ activities in the preceding year. The annual Council report shall be submitted directly to the Administrator, NOAA, Washington, D.C. 20590.

FEDERAL REGISTER, VOL. 42, NO. 128—TUESDAY, JULY 5, 1977

§601.23(f) Actual expense defined.

§601.23 Operational practices and procedures.

(a) General. In fulfilling the Council’s responsibilities and functions, the Council members will meet in plenary session, in working groups, or individually to hear statements in order to clarify issues, gather information or make decisions regarding material before them. This section establishes uniform standards for the conduct of those activities necessary to meet the requirements of the Act and to facilitate the exercise of Council responsibilities.

(c) Meetings. General. The Councils shall meet at the call of the Chairman or upon request of a majority of the voting members. Advisory groups shall meet
with the approval of the Chairman of the Council. The Councils shall develop a mechanism for coordinating requests for advice from their advisory groups through the Executive Director.

(2) Notice. Notice of meetings, including time, location, subjects to be discussed, etc., must appear in the Federal Register. Notice of Council meetings shall be submitted to the Secretary no later than 30 days prior to the meeting. Notices shall be submitted by the Council, no later than 25 days prior to the meeting, to the Director, NMFS, who shall submit such notices to the Federal Register.

(3) Record. Detailed minutes shall be kept and made available to the public upon request, except where the meeting or portion thereof was closed, in which case only the open portions must be made available.

(4) Conduct. (1) Meetings shall be conducted in a manner to permit the greatest possible participation by all members of the Council and the public. Decisions by consent are permitted except where the issue is Council approval or amendment of a fishery management plan (including any proposed regulations), or comments for the Secretary on foreign fishing applications or fishery management plans developed by the Secretary. In these cases, a vote is required.

(ii) A majority of the voting members of any Council shall constitute a quorum for Council meetings, but one or more such members designated by the Council may hold hearings.

(iii) A meeting or portion thereof shall be open to the public with only those exceptions set forth in the Federal Advisory Committee Act (PACAct) as amended by the Government in the Sunshine Act of 1976 (Pub. L. 94-409, 90 Stat. 1241). Closure of a meeting requires a prior determination by the Secretary or the Secretary's delegate that the reasons for excluding the public are valid and that it is in the public interest to exclude the meeting. Such a determination must be requested through the Assistant Secretary for Administration, Department of Commerce. A notice of a meeting which a Council desires to be closed entirely or in part to the public shall be submitted by the Council, no later than 45 days prior to the meeting, to the Secretary, NMFS who shall request a determination. If the determination permits closing of the meeting, such notice shall be published in the Federal Register.

(iv) When there is a vote, the majority of the voting members present and voting shall rule. Voting by proxy is not permitted.

(v) Voting members of the Council who disagree with the majority on any issues submitted to the Secretary may submit a statement of their reasons for dissent to the Secretary.

(5) Frequency and duration. The Councils shall meet in plenary session at least once every three months. Council advisory groups may meet as frequently as necessary, with the approval of the Council Chairman.

(6) Location. (1) Each Council shall conduct all meetings and hearings within its geographic area of concern. In the particular case of the North Pacific halibut fishing ground and the central coastal area of concern, "geographic area of concern" means within the State of Alaska. When two or more Councils have been designated by the Secretary to prepare a fishery management plan jointly, Councils so designated may meet jointly within their constituent States for the purpose of developing or amending such a plan.

(ii) The Council meeting place should have a capacity large enough to accommodate the anticipated public attendances and be easily accessible to those interested in attending.

(7) Hearings. (1) General. The Act directs the Councils to hold public hearings to afford the opportunity for all interested persons to be heard in the development of fishery management plans, amendments thereto, and with respect to the development of an operational structure(s) selected. The Council may use its judgment regarding when and where such hearings should be held, consistent with §601.24(b)(4) and (6).

(2) Conduct. When it is determined that a hearing is appropriate, the Chair of the Council shall designate at least one voting member of the Council to conduct. Conduct of the hearing, beyond the stipulation that all points of view be given a chance for express consideration, is within the discretion of the hearing official under whatever instructions the Council may wish to provide.

(3) Notice. Hearings shall follow the same procedures for announcement as for Council and advisory group meetings. Advance notice shall be given in the local media where the hearing is to take place. Publicity should be sufficient in time, substance, and area coverage to assure that all interested persons are aware of the opportunity to make their views known.

(4) Record. An accurate record of the participants and their views shall be reported back to the Council and maintained as a part of the Council's official records.

(ii) Council operational structure. (1) General. In addition to the Council staff and the advisory groups that are provided for in the Act, an operational structure will be needed to develop basic inputs to the fishery management plans and to assemble drafts for formal review by the Councils and their advisors. The operational structure(s) selected by a Council should: (1) Address directly the responsibilities and functions listed in sec. 305(c) of the Act; and (ii) Strive for a reasonable balance among the following criteria:

(iii) Flexibility. Within defined responsibilities, the structure should be able to bring the necessary expertise on planning problems and to respond to shifts in Council priorities.

(iv) Independence and relevance of science. The scientific input to the development of plans should, to the extent possible, be institutionalized from managerial biases and pressure from interested parties while remaining relevant to the problems of management.

(v) Quality of scientific and technical information. The structure should assure that the best scientific and technical information available will be applied in plan development.

(vi) Minimum cost. Cost, in dollars, manpower, and diversification impact on ongoing programs should be minimized within the constraints of the other criteria.

§601.25 Council statement of organization, practices and procedures.

(a) General. (1) The Act requires that the details of how a Council operates shall be published by the Council and made available to the public. The required Statement of Organization, Practices and Procedures, as a minimum, shall address the items listed in the format below.

(b) Publication shall be in the Federal Register and include an address where interested members of the public may write to request copies. Changes in operating procedures shall be reflected in revisions to the statement, which shall likewise be published and made available to the public.

(1) Name of Council.

(2) Location of offices.

(3) Legal authority.

(4) Principal functions.

(5) Council composition.

(6) Officers and terms of office.

(7) Staff.

(i) Composition.

(ii) Functions.

(iii) Employment practices.

(8) Standing committees of Council members.

(i) Name.

(ii) Composition.

(iii) Function.

(9) Meetings and hearings.

(i) Frequency.

(ii) Duration.

(iii) Location.

(iv) Agenda or orders of business.

(v) Minutes.

(vi) General rules of procedures.

(vii) Authority of the chair.

(10) Advisory panels.

(i) Name.

(ii) Composition.

(iii) Function.

(11) Organization of management plan development teams.

(i) Organization.

(ii) Practices and procedures.

(iii) Balance among criteria.

(A) Focused responsibility.

(B) Administrative simplicity.

(C) Flexibility.

(D) Independence and relevance of science.

(E) Quality of scientific and technical information.

(F) Minimum cost.

FEDERAL REGISTER, VOL 42, NO. 128—TUESDAY, JULY 5, 1977
PART 602—GUIDELINES FOR DEVELOPMENT OF FISHERY MANAGEMENT PLANS

§ 602.1 Purpose and scope.

(a) A major purpose of the Fishery Conservation and Management Act is to provide for the preparation and implementation of fishery management plans that will achieve and maintain, on a continuing basis, the optimum yield from each fishery covered by the exclusive fishery management authority established by the Act.

(b) The III of the Act establishes seven National Standards for fishery conservation and management. Any fishery management plan prepared either by the Councils or the Secretary and any regulation promulgated to implement a plan shall be consistent with these National Standards. The Secretary is required to establish guidelines based on the National Standards to assist in the development of fishery management plans.

(c) This Part accordingly constitutes the Secretarial Guidelines for fishery management plan development based on the National Standards. It contains explanatory comments with regard to these National Standards, guidance regarding the content of fishery management plans in accordance with other procedures involved in the development, submission, review, and amendment of plans.

§ 602.2 National Standards for fishery conservation and management.

(a) General. Each fishery management plan, and any amendment to such plan, prepared by any Council or the Secretary shall be consistent with the National Standards, the other provisions of the Act, and any other applicable law (sec. 304(b)).

(1) Purpose. This section provides explanatory comments with respect to the National Standards, to assist the Councils in preparing fishery management plans and amendments that are consistent with the National Standards.

(2) Definitions. (i) Habitat. Habitat is that combination of physical, chemical, and biological conditions and factors necessary for the completion of the life functions of a fish or plant that is to be managed under the Act.

(ii) Management unit. Any species, stock, or group of species or stocks of fish that is biologically or ecologically interrelated or is affected as a group by fishing practices, that is capable of being managed as a unit on a rational and timely basis.

(3) Optimum yield concept. (I) The concept of optimum yield is broader than the consideration of only the stocks of fish. It takes into account the economic well-being of the commercial fishermen, the interests of recreational fishermen, the habitat quality and the national interest in conservation and management of the fisheries as expressed in sec. 2, and the National Standards in sec. 301(a) of the Act. Optimum yield:

(A) Recognizes resource uses and values other than harvesting;

(B) Allows for the importance of quality to the recreational fishing experience;

(C) Considers social and economic factors as important criteria in setting harvest rates;

(D) Recognizes the need for fisheries products; and

(E) Considers the present extent and condition of the habitat as well as long-term changes.

(4) Optimum yield and management objectives. The determination of optimum yield for a particular fishery will depend heavily upon the objectives that must be determined and adopted by the Councils in accordance with their advisory groups and in consideration of the views of user groups and the general public. Relative weighting of the elements of the optimum yield determination will be influenced by both regional objectives and national considerations (as set forth in sec. 3(18) of the Act). Rarely will a fishery be managed to meet a single objective. Objectives sought may conflict to a degree with one another. Consequently, priority decisions must be made in developing objectives.

(5) Optimum yield and foreign fishing. Section 301(d) of the Act provides that fishing by foreign nations is limited to that portion of the optimum yield of any fishery subject to the fishery management plan that will not be harvested by vessels of the United States. In determining whether U.S. fishermen will not harvest an optimum yield, the Councils or the Secretary are to give consideration to the capacity and the extent to which fishing vessels of the United States will not harvest such yield.

(e) Standard 2. Conservation and management measures shall be based upon the best scientific information available.

(1) Scientific information. The term "scientific information" is meant to include information of a biological, economic, and social nature. Success of a fishery management plan depends on the quantity and quality of its scientific and technical information. After thorough analysis of this information, and the degree to which it is applied, the Councils, by means of fishery management plans, shall specify pertinent data to be submitted with respect to the fishery. Council guidance concerning standardizing the methods of obtaining and presenting such data expected from a variety of sources and areas would facilitate data collection, analysis, and evaluation.

(2) Availability of information. The type and extent of scientific information available may vary substantially from fishery to fishery. The lack of complete scientific information concerning a fishery shall not prevent the preparation and implementation of a fishery management plan. Councils should identify information gaps and indicate the need for acquisition of additional information. As better data become available, plans should be modified.

(f) Standard 3. To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.

(1) Management unit. It is expected that the management unit will incorporate the entire range of the species and, to the extent practicable, also, a unit should, to the extent practicable, consist of several stocks that are biologically interrelated or are affected as a group by fishing practices. Management units may be broadly defined to take account of
RULES AND REGULATIONS

multitude of fishing practices that can include effort directed toward: (1) a single species in a particular area; (ii) different stocks of fish caught by the same vessels or gear; (iii) all the stocks in a certain area, and so on. The objective of management, or at least cooperation between various jurisdictional authorities (e.g., State, Council, Federal Government), is vital to prevent jurisdictional disputes from adversely affecting conservation practices. Where management units cross Council or Federal-State boundaries, coordination should be sought among the several fishery managers and Councils in the development of plans and regulations. To facilitate the design of a stock on a given Council area does not necessarily mean that a plan will be written specifically for that limited Council area. Where a stock's range overlaps Council areas, one plan may be written to cover the entire range.

(e) Standard 4. Conservation and management measures shall not discriminate against fishermen, such allocation shall be calculated to promote conservation and to take into consideration both public and private interests. When allocation of fishing privileges becomes necessary, (i.e., among recreational or commercial fishermen or different gear types, it must be done fairly. The requirement for fairness and equity should ensure that attention is given to the preservation of the quality of the recreational fishing experience with respect to any species of substantial interest to recreational fishers. In determining fair and equitable allocations, considerable attention should be given to the economic and social consequences of alternative allocation schemes. Any plan must provide for fair and equitable treatment of U.S. citizens and corporations engaged in the fisheries concerned without regard to their particular state of residence or incorporation.

(2) Traditional fishing. Traditional or historic fishing patterns will also be considered when allocation of fishing privileges is necessary.

(3) Right of entry. The opportunity of new participants to enter a fishery should be seriously considered and allocation of fishing privileges is necessary.

(4) Standard 5. Conservation and management measures shall, where practicable, promote efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose.

(1) Efficiency in the utilization of fishery resources. This standard is intended to incorporate in a fishery the three elements of utilization: harvesting, processing, and marketing of fish products.

(2) Economic efficiency. (a) Economic efficiency may be regarded as one of many factors to be considered in the development of fishery plans. Councils will be involved in decisions about the distribution of costs and benefits, provision of employment opportunities, changes in the value of species, and the development of economic, environmental, effects, etc. To follow efficiency principles exclusively may not provide the greatest benefit to the consumer or necessarily reduce costs to the consumer. Accordingly, both the advantages and disadvantages of "efficiency" will have to be weighed and, in the context of the objectives for the particular fishery involved.

(b) Economic analyses made during plan development and amendment will provide a basis for management choices concerning economic efficiency. Where considered advisable, an economic analysis of such factors as the effects on the price of fish, or the price of vessels, or alternative employment problems, etc., will be necessary for an informed decision regarding the implementation of such systems.

(3) Economic allocation. Where conservation and management measures are recommended for economic allocation and for other purposes, due consideration shall be made of the biological, ecological, and social consequences of such measures.

(g) Standard 6. Conservation and management measures shall take into account and allow for variations among, and contingencies in, fishery resources, and catches.

(1) Causes of variations. There can be great uncertainty with regard to the location, size, and even the existence of fish stocks. Historic "peaks" and "valleys" in annual catches, changes in environmental conditions, and species replacement in various areas provide indications of possible variations that can be expected. Changes in habitat conditions may alter population levels. Variations are also to be expected in harvesting effort, fishing strategy, and gear efficiency within a fishery.

(2) Flexibility in plan development and implementation. Sufficient flexibility must be built into the fishery management process to allow for timely response to unforeseen changes, either mancaused, (e.g., change in catch size) or natural, (e.g., spawning failure). To the extent that information is available, every effort should be made to develop fishery management plans that take into account these variations and provide a suitable buffer in favor of conservation. Constant acquisition and analysis of fishery and resource data will help reduce uncertainty. Councils should respond to changes in the fishery and the resource and additional information by amending management plans and by promoting improved management techniques.

(h) Standard 7. Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication. A continuing goal of management is to eliminate, to the extent possible, the inefficient and unnecessary costs of economic development, environmental costs, etc. To follow efficiency principles exclusively may not provide the greatest benefit to the consumer or necessarily reduce costs to the consumer. Accordingly, both the advantages and disadvantages of "efficiency" will have to be weighed and, in the context of the objectives for the particular fishery involved.

§ 602.2 Contents of fishery management plans. (Reserved)

§ 602.4 Standard format for fishery management plans. (Reserved)

§ 602.5 Procedures for development, review, and amendment of fishery management plans. (Reserved)

(a) Plans prepared by the Councils. In preparing a fishery management plan, a Council shall:

(1) Identify fisheries to be managed. The Council shall assess all the fisheries within the geographical area of author-

ity. It will be the Council's responsibility, after consultation with the Secretary, to identify those fisheries requiring plan development and to set priorities for plan development.

(2) Develop management options. The Council shall assemble and analyze all relevant information (e.g., biological, economic, social, ecological, user, and constituency) with regard to a particular fishery and develop specific technical management options. The Secretary and the Secretary of State shall furnish the Councils with information concerning foreign fishing and international fishery agreements. Scientific and technical information will be available to the Councils from a variety of sources, including the National Marine Fisheries Service's Regional Offices and Research Centers,
the States, private institutions, other Councils, and any interested persons.

(5) Select preferred management options; complete final plan. (1) Consideration of the management options shall be made by the Council and its advisory groups. The Council shall select the preferred management options that are to be the basis of the final plan, and shall prepare a final plan for submission to the Secretary.

(ii) The Council's decision to approve a plan prior to submission to the Secretary must be made by a vote of the majority of the voting members present and voting. When a plan has been prepared jointly by more than one Council at the direction of the Secretary, it must be approved by a majority of the voting members present and voting, of each Council concerned prior to submission to the Secretary.

(4) Consult with other Councils. A Council shall consult with appropriate Councils when the Secretary has designated a single Council to prepare a plan for a management unit that extends into the geographical area of authority of other Councils or when the Secretary has designated more than one Council to prepare a plan jointly. (See § 601.11(c) (2).)

(5) Receive and consider public comments. The Council shall solicit, through public hearings and any other appropriate means, the advice and recommendations from all interested persons during the development of plans and amendments to such plans. Such persons include the States, the fishing industry (recreational and commercial), consumer and environmental organizations, and others.

(6) Comply with requirements of the National Environmental Policy Act (as set forth in § 601.21(b) (1), and in § 602.6 [Reserved]).

(1) Coordinate fishery management plan development with coastal zone programs of constituent States under the Coastal Zone Management Act. (See § 601.21(b) (3).)

(8) Prepare fishery management plans consistent with the National Standards (see § 602.3), the guidelines contained herein, other provisions of the Act, and any other applicable law.

(6) Amend existing fishery management plans (1) Council review. The Act directs each Council to review on a continuing basis, and revise as appropriate, the assessments and specifications made regarding the optimum yield from, and the total allowable level of foreign fishing in, each fishery within its geographical area of authority.

(2) Scope of review. This review of each plan shall also include reexamination of the management objectives and the effectiveness of conservation and management measures and implementing regulations. Each Council must assess the accuracy of the estimates of MSY, and optimum yield, and total allowable level of foreign fishing at least once a year for each plan that is implemented, regardless of whether the plan is prepared by a Council or by the Secretary.

(3) Amending the plan. Based on this review, or for other reasons, a Council may amend the plan. The procedures for Council preparation and approval of an amendment (e.g., hearings, majority vote, and transmittal to the Secretary) are the same as those that apply to a management plan. The same procedures as for a plan also apply when an amendment is disapproved or partially disapproved by the Secretary and returned to the Council for modification.

(e) Proposed regulations. A Council may recommend to the Secretary any proposed regulations which it deems necessary and appropriate to carry out any plan, or any amendment to any plan. Proposed regulations shall be submitted as a separate document, together with such plan or amendment, to the Secretary. The Secretary has the final responsibility to determine whether to adopt any proposed regulations recommended by a Council.

§ 602.6 Compliance with NEPA. [Reserved]