

(d) *Relationship to other fishery management authorities.* Councils are encouraged to coordinate with state and interstate fishery management agencies where Federal fisheries affect state and interstate managed fisheries or where state or interstate fishery regulations affect the management of Federal fisheries. Where a state or interstate fishing activity adversely impacts EFH, NMFS will consider that action to be an adverse effect on EFH pursuant to paragraph (a)(5) of this section and will provide EFH conservation recommendations to the appropriate state or interstate fishery management agency on that activity.

**Subpart K—EFH Coordination, Consultation, and Recommendations**

SOURCE: 62 FR 66555, Dec. 19, 1997, unless otherwise noted.

**§ 600.905 Purpose and scope and NMFS/Council cooperation.**

(a) *Purpose.* These procedures address the coordination, consultation, and recommendation requirements of sections 305(b)(1)(D) and 305(b)(2-4) of the Magnuson-Stevens Act. The purpose of these procedures is to promote the protection of EFH in the review of Federal and state actions that may adversely affect EFH.

(b) *Scope.* Section 305(b)(1)(D) of the Magnuson-Stevens Act requires the Secretary to coordinate with, and provide information to, other Federal agencies regarding the conservation and enhancement of EFH. Section 305(b)(2) requires all Federal agencies to consult with the Secretary on all actions, or proposed actions, authorized, funded, or undertaken by the agency, that may adversely affect EFH. Sections 305(b)(3) and (4) direct the Secretary and the Councils to provide comments and EFH conservation recommendations to Federal or state agencies on actions that affect EFH. Such recommendations may include measures to avoid, minimize, mitigate, or otherwise offset adverse effects on EFH resulting from actions or proposed actions authorized, funded, or undertaken by that agency. Section 305(b)(4)(B) requires Federal agencies

to respond in writing to such comments. The following procedures for coordination, consultation, and recommendations allow all parties involved to understand and implement the requirements of the Magnuson-Stevens Act.

(c) *Cooperation between Councils and NMFS.* The Councils and NMFS should cooperate as closely as possible to identify actions that may adversely affect EFH, to develop comments and EFH conservation recommendations to Federal and state agencies, and to provide EFH information to Federal or state agencies. The Secretary will seek to develop agreements with each Council to facilitate sharing information on actions that may adversely affect EFH and in coordinating Council and NMFS comments and recommendations on those actions. However, NMFS and the Councils also have the authority to act independently.

**§ 600.910 Definitions and word usage.**

(a) *Definitions.* In addition to the definitions in the Magnuson-Stevens Act and § 600.10, the terms in this subpart have the following meanings:

*Adverse effect* means any impact which reduces quality and/or quantity of EFH. Adverse effects may include direct (e.g., contamination or physical disruption), indirect (e.g., loss of prey, reduction in species' fecundity), site-specific or habitatwide impacts, including individual, cumulative, or synergistic consequences of actions.

*Council* includes the Secretary, as applicable, when preparing FMPs or amendments under section 304 (c) and (g) of the Magnuson-Stevens Act; and when commenting and making recommendations under the authority of section 305(b)(3) of the Magnuson-Stevens Act to any Federal or state agency on actions that may affect the habitat of fishery resources managed under such FMPs.

*Federal action* means any action authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken by a Federal agency.

*Habitat areas of particular concern* means those areas of EFH identified pursuant to § 600.815(a)(9).