

natural resource values under 43 CFR 3826.2.

(h) Fail to notify BLM of, and leave intact, newly discovered cultural resources as required under 43 CFR 3826.2 (incorporating the relevant terms of 36 CFR 9.10).

(i) Fail to protect or report damage to survey and other monuments as required under 43 CFR 3826.2 (incorporating the relevant terms of 36 CFR 9.10).

(j) Fail to mark hazardous sites or conditions resulting from operations as required under 43 CFR 3826.2 (incorporating the relevant terms of 36 CFR 9.10).

(k) Fail to reclaim operations following an extended period of non-operations as required by 43 CFR 3826.210.

(l) Submit false or fictitious information or other misrepresentation.

§ 3826.430 Will I be penalized if I commit a prohibited act?

(a) If you knowingly and willfully commit one or more of the prohibited acts listed in 43 CFR 3826.420 or knowingly and willfully violate any other requirement of this subpart you are subject to criminal prosecution on each offense. Upon conviction, if you are an individual, you will be subject to a fine of not more than \$100,000, or the alternate fine provisions of 18 U.S.C. 3571, or imprisoned for no more than twelve months, or both.

(b) Any organization that knowingly and willfully commits one or more of the prohibited acts of 43 CFR 3826.420 or violates any other requirement of this subpart is subject to criminal prosecution on each offense. If convicted, the organization will be subject to a fine of not more than \$200,000, or the alternate fine provided for in the applicable provisions of 18 U.S.C. 3571.

(c) For each offense arising under 18 U.S.C. 1001, persons or organizations committing the offense may be fined \$250,000 or imprisoned for up to 5 years, or both.

Appeals

§ 3826.510 What if I disagree with a decision made under this subpart?

(a) Any party who is adversely affected by decision made by BLM under this subpart may appeal the decision in accordance with parts 4 and 1840 of this title.

(b) Decisions issued under 43 CFR 3826.160(b) which order the immediate suspension of your operations will go into effect immediately and will remain in effect while appeals are pending

unless a stay is granted in accordance with 43 CFR 4.21(b).

[FR Doc. 96-28482 Filed 11-7-96; 8:45 am]
BILLING CODE 4310-84-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 961030300-6300-01; I.D. 101696D]

RIN 0648-AJ30

Magnuson Act Provisions; Essential Fish Habitat (EFH)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Advance notice of proposed rulemaking; request for comments.

SUMMARY: NMFS is in the process of developing guidelines, by regulation, to implement the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), as mandated by the Sustainable Fisheries Act. These guidelines would assist Fishery Management Councils (Councils) in the description and identification of essential fish habitat (EFH), including adverse impacts on EFH, in fishery management plans (FMPs) and in the consideration of actions to conserve and enhance EFH. NMFS invites interested persons to submit written comments, information, and suggestions on all aspects of the EFH mandate. Comments from Councils, interstate fishery management commissions, state fishery management agencies, commercial and recreational fishing interests, environmental groups, and other interested parties are of particular interest.

DATES: Written comments must be received on or before December 9, 1996.

ADDRESSES: Comments should be sent to the Director, Office of Habitat Conservation, Attention: EFH, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3282.

FOR FURTHER INFORMATION CONTACT: Lee R. Crockett, 410-267-5672.

SUPPLEMENTARY INFORMATION: NMFS invites comments and information that will assist with the implementation of the new Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*) mandates to: (1) Develop guidelines to assist Councils in

the description and identification of EFH (including adverse impacts, and conservation and enhancement actions) for fisheries managed by any Council; (2) develop and provide information and recommendations to the Councils to assist in the identification of EFH in FMPs, adverse impacts to EFH (including adverse impacts from fishing), and actions to ensure the conservation and enhancement of EFH; and (3) recommend conservation and management measures for actions undertaken by any state or Federal agency that would adversely affect any EFH. NMFS is soliciting information on the habitat requirements, including the EFH, of fish species managed under the Magnuson-Stevens Act and the distribution of those habitats. NMFS is also soliciting information on the threats to EFH (including threats from fishing activities), the distribution of those threats, ways to prevent or mitigate the adverse impacts of those threats, and ways to conserve and enhance EFH.

Background

The Sustainable Fisheries Act, among other mandates, requires the Secretary of Commerce (Secretary), acting through NMFS, to carry out a number of activities to describe, identify, conserve, and enhance EFH. Below is a summary of the new EFH mandates of the Magnuson-Stevens Act.

Definition of EFH

EFH is defined as "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity."

Contents of FMPs

Several provisions were added to section (16 U.S.C. 1853(a)(7)) requiring that FMPs describe and identify EFH for the fishery based on guidelines established by the Secretary under section (16 U.S.C. 1855(b)(1)(A)). FMPs are also required to minimize the adverse effects on EFH caused by fishing, to the extent practicable. Finally, FMPs should identify other actions that encourage the conservation and enhancement of EFH.

Actions by the Secretary

- Develop guidelines, by regulation, to assist the Councils in the description and identification of EFH (including adverse impacts) in FMPs, and conservation and enhancement measures of such habitat, within 6 months of the date of enactment of the Magnuson-Stevens Act.

- Provide each Council, after consulting with the fishing industry, with recommendations and information

regarding each fishery under that Council's authority to assist in the identification of EFH, adverse impacts to EFH, and actions to ensure conservation and enhancement of that habitat.

- Review programs administered by NMFS and ensure that any relevant programs further the conservation and enhancement of EFH.
- Provide information to other Federal agencies to further the conservation and enhancement of EFH.
- Recommend conservation measures for any action undertaken by any state or Federal agency that would adversely affect any EFH.

Actions by the Councils

- The Councils are required to submit FMP amendments to the Secretary to implement the EFH and other new FMP requirements not later than 24 months

after the date of enactment of the Magnuson-Stevens Act.

- Councils may comment on and make recommendations to the Secretary and any Federal or state agency concerning any activity, or proposed activity, authorized, funded, or undertaken by any Federal or state agency that may affect the habitat, including EFH, of a fishery under its authority.
- The Councils must comment on and make recommendations to the Secretary and any Federal or state agency concerning an activity that is likely to substantially affect the habitat, including EFH, of an anadromous fishery resource.

Actions Required of Other Federal Agencies

- Federal agencies must consult with the Secretary with respect to any activity, or proposed activity,

authorized, funded, or undertaken by the agency that may adversely impact EFH.

- Within 30 days of receipt of a recommendation, Federal agencies are required to provide the Secretary and any Council that comments on an activity, or proposed activity, with a written description of the measures proposed by the agency for avoiding, mitigating, or offsetting the impact of the activity on EFH. If this response is inconsistent with the recommendations of the Secretary, the agency must explain that inconsistency.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 4, 1996.

Rolland A. Schmitt,

*Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

[FR Doc. 96-28791 Filed 11-7-96; 8:45 am]

BILLING CODE 3510-22-F