

Inventory of comments received on the proposed regulations on Council operations (74 FR 13386, March 27, 2009 and 74 FR 64042, December 7, 2009)

Ltr #	Type	Who	Cmt #	Category	Cite 50 CFR:	Detail
1	FMC	GMFMC	a	Financial disclosure	600.235	The consequence of an SSC member not completing the financial disclosure form should be stated in the rule.
1	FMC	GMFMC	b	Council nom & appt procedure	600.215	Supports the req't that allows more time for submission of member nomination packages.
1	FMC	GMFMC	c	Lobbying	600.227	Clarify how the rule bears on interactions between Council members/staff and the Executive branch.
2	FMC	MAFMC	a	Stipends	600.133	Supports stipends for SSC members & recommends that the rate be equal to that of Council members.
2	FMC	MAFMC	b	Stipends	600.133	All eight Councils should pay the same rate to SSC members.
2	FMC	MAFMC	c	Terms of Council members	600.210	Does not agree that a full year break in service is necessary before becoming eligible for reappointment to fill an off-cycle opening.
2	FMC	MAFMC	d	Council member training	600.240	Requests that NMFS provide preliminary training materials to nominated members prior to their swearing-in.
3	FMC	NPFMC	a	Definitions (APs & FIACs)	600.10	As written, the rule would grant stipend allowances to MSA 302(g)(2) advisory panels, rather than to the 302(g)(3)(A) advisory committees. The rule should not preclude advisory committee members from receiving the stipend.
3	FMC	NPFMC	b	SOPP	600.115	Clarify whether/how SOPP changes that are minor and consistent with the MSA shall be reviewed and approved by the Secretary.
3	FMC	NPFMC	c	Procedure for proposed regulations	600.140	Supports establishing a written procedure for deeming.
3	FMC	NPFMC	d	Procedure for proposed regulations	600.140	Presumes that the rule intends the Council to describe/clarify the process leading to the transmittal, so long as that process is not inconsistent with the requirements of MSA and other applicable law.
3	FMC	NPFMC	e	Lobbying	600.227	Suggests that NMFS specify how the new regulations differ from existing regulations on lobbying and provide greater clarity with regard to prohibited activities.

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4	FMC	PFMC	a	Lobbying	600.227	Clarify how the rule bears on interactions between Council members/staff and the Executive branch. The rule ignores obligations under MSA to advise and direct the Secretary of Commerce and to consult with other agencies on EFH.
4	FMC	PFMC	b	Definitions (APs & FIACs)	600.10	The proposed distinction between advisory panels and fishing industry advisory committees are too specific and limiting to Council operations. Concerned that distinguishing between these advisory bodies may be an attempt to focus stipend payments only to SSCs and not the fuller suite of advisory bodies indicated in the MSA.
4	FMC	PFMC	c	Definitions (APs & FIACs)	600.10	The proposed definitions go beyond MSA and are not consistent with longstanding Council usage of the terms. Nor do they provide a workable and consistent solution to determine which groups would receive stipends.
4	FMC	PFMC	d	Stipends	600.133	Concerned that distinguishing between these advisory bodies may be an attempt to focus stipend payments only to SSCs and not the fuller suite of advisory bodies indicated in the MSA.
4	FMC	PFMC	e	Stipends	600.133	Supports stipends for SSC members & certain advisory panel members. However, recommends that no stipends be paid until a Council has adopted criteria (specified in subsequent comments).
4	FMC	PFMC	f	Stipends	600.133	Allow each Council to develop and adopt a formal procedure (within Council operating procedures), which provides criteria under which stipends will be paid. Details would include who would be paid, the rate, and other necessary guidance.
4	FMC	PFMC	g	Stipends	600.133	Stipends were meant primarily to compensate (and enable participation by) experts who would not normally be employed and paid directly to do so. The categories of federal employees and state marine fisheries staff are not entitled stipends. Other individuals, similarly employed should also not be entitled to stipend funds.

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4	FMC	PFMC	h	Stipends	600.133	NMFS should consider MSA intent with regard to paying stipends to those who are already receiving pay from other sources closely involved with marine issues, but who are not employees of the federal government or state marine fisheries agencies. For example: (1) Idaho Fish & Game staff are not from a "marine" fisheries agency; (2) state Law Enforcement staff may not be from a marine fisheries agency; (3) employees of tribes and the Pacific States Marine Fisheries Commission are not feds or state employees; and (4) employees of certain conservation and industry organizations are already paid by their employers for serving on an advisory body.
4	FMC	PFMC	i	SOPP	600.115	Supports posting the SOPP on the internet.
4	FMC	PFMC	j	SOPP	600.115	Clarify whether/how SOPP changes that are minor and consistent with the MSA shall be reviewed and approved by the Secretary.
4	FMC	PFMC	k	Procedure for proposed regulations	600.140	Supports establishing a written procedure for deeming.
4	FMC	PFMC	l	Financial disclosure	600.235	Existing financial form for Council and SSC members is awkward and unclear relative to the intent of the MSA. Provides details of suggested revisions to the form.
4b	FMC	PFMC	a	Disposition of records	600.150	It is unnecessary and potentially overly burdensome to require that minutes from advisory body meetings be posted on a Council website. Minutes are not required by MSA, and current practice of widely distributing meeting reports should suffice.
4b	FMC	PFMC	b	Employment practices	600.120	ED salary should be on par with that of the Regional Administrator or Science Director (SES, instead of GS-15) and commensurate adjustments should be made to salary for subordinate staff.
5	FMC	WPFMC	a	Procedure for proposed regulations	600.140	Supports establishing a written procedure for transmittal of proposed regulations and deeming.
5	FMC	WPFMC	b	Employment practices	600.120	ED salary should be on par with that of the Regional Administrator or Science Director (SES, instead of GS-15) and commensurate adjustments should be made to salary for subordinate staff.

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5	FMC	WPFMC	c	SOPP	600.115	WPFMC's SOPP changes, stemming from GAO recommendations, should be considered for standardizing across all Council SOPPs.
6	Gen Pub	American citizen	a	Other		Complains that Councils and NOAA allow overfishing and are not working to remedy the problem. Irrelevant to the proposed rule.
7	Gen Pub	Diane E. Shepherd	a	Other		Supports the proposed regulations. Complains that the WPFMC is ineffectual and its members have conflicts of interests; recommends public scrutiny and consistent supervision by NMFS.
8	Gen Pub	Patrick Flanigan	a	Meeting procedures	600.135	Section 600.135 should require 45 days, rather than 14, prior notice for meetings to accommodate fishermen.
8	Gen Pub	Patrick Flanigan	b	Meeting procedures	600.135	The term "wide publicity" should be read to require publication of meeting announcements in local and national trade magazines and distribution via VMS.
9	Gov	SBA	a	Other		Increasing transparency may lead to greater small business participation and consideration of less burdensome (per RFA) alternatives.
9	Gov	SBA	b	SOPP	600.115	Supports making the SOPPs available on Council websites, but would like to ensure they remain available by other means (mail, in person) as well, for those without internet access.
9	Gov	SBA	c	Procedure for proposed regulations	600.140	Suggests that NMFS provide guidance to Councils on the substance of the procedures at assure consistency and transparency across Councils.
9	Gov	SBA	d	Meeting procedures	600.135	NMFS should require Councils to post on-line all briefing materials, draft documents up for discussion, correspondence received, and other materials included as part of the meeting's briefing booklet.
9	Gov	SBA	e	Other		NMFS should establish a set of standards for information available on Council websites; including, FMPs, amendments, final rules, frameworks, NEPA documents, RIR, etc.
9	Gov	SBA	f	Meeting procedures	600.135	Supports announcing changes to announcement requirements, including that notice over the internet alone is not sufficient.
9	Gov	SBA	g	Financial disclosure	600.235	NMFS should include grants, income, or other forms of compensation as the kinds of financial benefits that must be disclosed by SSC members.
9	Gov	SBA	h	Definitions (APs & FIACs)	600.10	MSA 302(g)(4) refers to the formation of APs, yet it is not referenced in the proposed definition of advisory panels. Should section 302(g)(4) be included in the definition?

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10	Industry	FSF (Kelley Drye & Warren)	a	SOPP	600.115	Supports making the SOPPs available on Council websites.
10	Industry	FSF (Kelley Drye & Warren)	b	Meeting procedures	600.135	NMFS should require Councils to post on-line all meeting schedules, briefing materials, communications with the Council, draft amendments & FMPs, and copies of all past FMPs, amendments, framework actions, etc.
10	Industry	FSF (Kelley Drye & Warren)	c	Scientific and Statistical Committee	600.133	Since the MSA calls for both, an SSC and a peer review body, the SSC should consist of those experts in various fisheries (as is done in PDRs, FMATs, and the like) and a peer review panel should be separate and distinct (similar to the way NMFS uses the Center for Independent Experts).
10	Industry	FSF (Kelley Drye & Warren)	d	Meeting procedures	600.135	MSA requires SSC meetings to be held "in conjunction with the meeting of the Council, to the extent practicable," but this provision has not been honored. Councils & the SSC should justify any departure from meeting concurrently.
10	Industry	FSF (Kelley Drye & Warren)	e	Financial disclosure	600.235	The term "financial interest" should be broadened and clarified to include any income, grant, or other monetary or in-kind remuneration received by any of the persons or entities from any organization seeking to influence the decisions of any Council for which the SSC provides advice.
10	Industry	FSF (Kelley Drye & Warren)	f	Financial disclosure	600.235	The Council and the public should be made aware of any grants or other financial interests held by any SSC member, particularly where the issue is of concern to the management process.
10	Industry	FSF (Kelley Drye & Warren)	g	Financial disclosure	600.235	SSC members should be subject to recusal and conflict of interests rules similar to those that apply to Council members.
10	Industry	FSF (Kelley Drye & Warren)	h	Procedure for proposed regulations	600.140	Supports the requirement for establishing written procedures for deeming draft regulations.
11	NGO	EDF, NRDC, Oceana, & WWF	a	Council nom & appt procedure	600.215	Existing regulations concerning Council nominations and appointments provide for a clear and fair process and that adhering to the requirements would solve many of the identified problems.
11	NGO	EDF, NRDC, Oceana, & WWF	b	Council nom & appt procedure	600.215	NMFS should abandon the proposal to split the nomination deadline and should adhere to a single, hard deadline of 3/15. Otherwise, the following 16 days will become an intense period of attacking or defending the governors' nominees.

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11	NGO	EDF, NRDC, Oceana, & WWF	c	Council nom & appt procedure	600.215	NMFS should start outreach to state governors earlier in the year and specify qualifications for nominees. By 1/15, NMFS should announce the process in the FR, set up a dedicated website, and inform governors.
11	NGO	EDF, NRDC, Oceana, & WWF	d	Council nom & appt procedure	600.215	After the 3/15 deadline, NMFS should publish on a dedicated website (by 3/20) a list of nominees.
11	NGO	EDF, NRDC, Oceana, & WWF	e	Council nom & appt procedure	600.215	NMFS should require each nomination package to include a letter from the nominee to the governor requesting serve on the Council
11	NGO	EDF, NRDC, Oceana, & WWF	f	Security assurances	600.240	Nominees should be required to disclose any prior felony convictions.
11	NGO	EDF, NRDC, Oceana, & WWF	g	Council nom & appt procedure	600.215	NMFS should clarify how governors can replace nominees who turn out to be unqualified.
11	NGO	EDF, NRDC, Oceana, & WWF	h	Council nom & appt procedure	600.215	NMFS should clarify regulations regarding the required number of nominees. When a governor nominates individuals for both an obligatory and at-large seat, or two at-large seats, at least four names (or five, in the case of the GMFMC) must be submitted.
11	NGO	EDF, NRDC, Oceana, & WWF	i	Financial disclosure	600.235	NMFS should recognize a distinction between environmental advocacy organizations and fishing industry participants who have a direct financial stake in fisheries management by the Councils. ENGO staff do not have a "financial interest . . . In any fishery under the jurisdiction of the Council." Clarify that analysis of recusal should be focused on actual financial conflicts.
11	NGO	EDF, NRDC, Oceana, & WWF	j	Other		NMFS should seek to appoint more Council members who are not directly engaged in the commercial or recreational fisheries.
11	NGO	EDF, NRDC, Oceana, & WWF	k	Lobbying	600.227	Membership on a Council or advisory body should not disqualify a person acting strictly in his or her individual or professional capacity, from weighing in on important fisheries issues. Suggests a number of detailed points that should be clarified by NMFS regarding lobbying and serving on a Council.
11	NGO	EDF, NRDC, Oceana, & WWF	l	Financial disclosure	600.235	Suggests revising existing regulations that could be read as treating IFQ-managed fisheries differently from others for determining when recusal is required. Section 600.235(c)(2).
11	NGO	EDF, NRDC, Oceana, & WWF	m	Stipends	600.133	SSC stipends should be given a high priority for Council funding.

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11	NGO	EDF, NRDC, Oceana, & WWF	n	Definitions (APs & FIACs)	600.10	Differentiating advisory panels from advisory committees makes sense, however, the proposed definitions are not consistent with current practices in some Councils. A fishing industry advisory committee is too narrowly defined and should be dubbed as a "community advisory panel" instead.
11	NGO	EDF, NRDC, Oceana, & WWF	o	Meeting procedures	600.135	Suggests requiring advance public notification of plan development and technical team meetings, consistent with Council and committee announcement requirements.
11	NGO	EDF, NRDC, Oceana, & WWF	p	SOPP	600.115	Supports posting the SOPP on the internet.
11	NGO	EDF, NRDC, Oceana, & WWF	q	Oath of office	600.220	Supports putting the oath of office into regulation.
11b	NGO	EDF, WWF	a	Council nom & appt procedure	600.215	Supports clarification regarding the number of nominees a governor must submit when an obligatory and at-large Council seat are open for appointment.
11b	NGO	EDF, WWF	b	Security assurances	600.240	Supports making Council appointment conditional upon favorable background investigation.
11b	NGO	EDF, WWF	c	Security assurances	600.240	NMFS should specify what circumstances would result in an unfavorable background investigation triggering revocation of Council membership.
11b	NGO	EDF, WWF	d	Security assurances	600.240	Concerned that background investigations would not be conducted for all nominees, but only for those appointed to the Council.
11b	NGO	EDF, WWF	e	Financial disclosure	600.235	Supports extending disclosure of financial interests to include subsidiaries of entities that are engaged in fish harvesting, processing, lobbying, advocacy, or marketing.
11b	NGO	EDF, WWF	f	Financial disclosure	600.235	While the subheader (50CFR600.235(a)) lists "advocacy" and "lobbying" as types of reportable financial interest relationships, the definitions in the proposed rule text do not include references to advocacy or lobbying.
11b	NGO	EDF, WWF	g	Financial disclosure	600.235	Clarify that mere employment in an ENGO alone would not require recusal from voting in any matter pending before a Council.

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11b	NGO	EDF, WWF	h	Financial disclosure	600.235	NMFS intends to update the financial disclosure form to accommodate members who are not employed in the industry, but NMFS should also address the issue in regulations. Suggests specific language to the effect that employment by an ENGO alone does not constitute having significant and predictable effect on a financial interest in the issues addressed by the Council.
12	NGO	Food & Water Watch	a	Financial disclosure	600.235	Suggest creating mandatory recusal requirements that would require council members to step down if there is a direct conflict of interest.
12	NGO	Food & Water Watch	b	Scientific and Statistical Committee	600.133	Suggests separating the determination of the ACL from the determination of how to allocation the ACL. "Let the scientific community determine what a safe ACL is." [This point was restated in FFW's 2nd letter -- 12b]
12	NGO	Food & Water Watch	c	Other		NMFS should take a more active role in reviewing FMC decisions. Reasons for disapproval by NMFS should be expanded to include whether the "FMP looks self serving." [This point was restated in FFW's 2nd letter -- 12b]
12	NGO	Food & Water Watch	d	Meeting procedures	600.135	Meetings of Interdisciplinary Planning Teams (consisting of members and NMFS/Council staff and occasionally relying on input from outside experts) should be fully open to the public and announced in the FR, just as FMC meetings are -- or they should be discontinued. [This point was restated in FFW's 2nd letter -- 12b]
12b	NGO	Food & Water Watch	a	Other		NMFS must overhaul the Council system to improve accountability, transparency, and science-based policy. [This point was stated in FFW's 1st letter -- 12]
12b	NGO	Food & Water Watch	b	Disposition of records	600.150	Concurs with GAO report and proposed rule provisions requiring Councils to post current and archived documents on-line.
12b	NGO	Food & Water Watch	c	Disposition of records	600.150	Urge that the term "to the extent practicable" be removed from this provision. The technology exist to post all documents and there should be no variance to compliance.
12b	NGO	Food & Water Watch	d	Disposition of records	600.150	Councils should be required to budget for and maintain IT infrastructure and staff time to create and maintain the document archive on-line.
12b	NGO	Food & Water Watch	e	Financial disclosure	600.235	Supports the requirement for Council members to identify the financial interest affected when recusing themselves from votes.
12b	NGO	Food & Water Watch	f	Financial disclosure	600.235	Recusals and affected financial interests should be included in the publicly available record of meeting minutes.

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12b	NGO	Food & Water Watch	g	Financial disclosure	600.235	NMFS should mandate recusal when conflicts of interests exist and should apply penalties for noncompliance. Noncompliance with the recusal requirement could be vacating of the vote.
12b	NGO	Food & Water Watch	h	Financial disclosure	600.235	Suggests that the official record of meetings specify how Council members vote on each motion.
12b	NGO	Food & Water Watch	i	Financial disclosure	600.235	Supports having Council members indicate whether their employer has corporate connections to fisheries.
12b	NGO	Food & Water Watch	j	Financial disclosure	600.235	Supports requiring Council members to update financial disclosure forms annually.
12b	NGO	Food & Water Watch	k	Scientific and Statistical Committee	600.133	Suggests separating the determination of the ACL from the determination of how to allocation the ACL. "Let the scientific community determine what a safe ACL is." [This point was stated in FFW's 1st letter -- 12]
12b	NGO	Food & Water Watch	l	Other		NMFS should take a more active role in reviewing FMC decisions. Reasons for disapproval by NMFS should be expanded to include whether the "FMP looks self serving." [This point was stated in FFW's 1st letter -- 12]
12b	NGO	Food & Water Watch	m	Meeting procedures	600.135	Meetings of Interdisciplinary Planning Teams (consisting of members and NMFS/Council staff and occasionally relying on input from outside experts) should be fully open to the public and announced in the FR, just as FMC meetings are -- or they should be discontinued. [This point was stated in FFW's 1st letter -- 12]
13	NGO	Parker River Clean Water Association (Marks)	a	Scientific and Statistical Committee	600.133	Supports expanding the role of the SSC.
13	NGO	Parker River Clean Water Association (Marks)	b	Financial disclosure	600.235	Require that SSC members disclose all monetary interests, even those which the individual might think would have no bearing upon the Council's mission.
13	NGO	Parker River Clean Water Association (Marks)	c	Council member training	600.240	Training should be provided for all members and staff, including veterans, older staff. Training should cover scientific discoveries in marine fisheries.
13	NGO	Parker River Clean Water Association (Marks)	d	SOPP	600.115	Supports posting the SOPP on the internet.

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13	NGO	Parker River Clean Water Association (Marks)	e	SOPP	600.115	NMFS should clarify the regulatory sections with which SOPPs must comply.
14	Industry	West Coast Seafood Processors Assoc.	a	Other		Agrees with the proposed changes on disposition of records, Council nomination and appointment procedures, security assurances.
14	Industry	West Coast Seafood Processors Assoc.	b	Financial disclosure	600.235	The complete extent of corporate connections may not be known to an employee who serves as a Council member. Gives an example of a Council member on the board of directors of an organization, whose contractual members have many partnerships, agreements, and many other inter-connected business arrangements, of which the Council member may have no knowledge. Suggests that 600.235(a) should be suspended until it can be further considered and refined.
15	Gov	Marine Mammal Commission	a	Disposition of records	600.150	Require Councils to make all environmental and mgmt-related documents available to the public per NEPA and MSA.
15	Gov	Marine Mammal Commission	b	Disposition of records	600.150	NMFS should provide Councils with needed technical assistance for posting all pertinent documents on the internet. "The Commission sees no reason why the publication of any document would be considered impracticable."
15	Gov	Marine Mammal Commission	c	Other		NEPA documents should be made more succinct (so they are more easily accessible over the internet) by focusing on the significant issues involved.