marsh wandering (vagrant) shrew (Sorex vagrans halicoetes). This petition was dated April 15, 1988, and was received by the Service on April 18, 1988. Materials attached to the petition, excerpted from a contract report completed for the California Department of Fish and Game, indicated that these shrews have been severely impacted by conversion or degradation of habitats resulting from wetland modification for urban or agricultural purposes, water diversion, and/or introduction of exotic animal species. Information available from Service-funded status surveys for the Catalina shrew, salt marsh wandering shrew, and Suisun shrew, substantiates this claim. Recent sightings of two Buena Vista lake shrews confim that the subspecies is still extant. The rarity of these animals, however, has restricted the ability of investigators to gather information relating to current distribution and population trends. The Service found that substantial information was presented in the petition and the petitioned action may be warranted for these four taxa. In the case of positive findings, the Service is required to initiate status reviews of the involved species. However, status reviews of the shrews covered by the subject petition already are in progress, as these taxa were included as category 2 species in the Service's Review of Vertebrate Wildlife that was published in the **Federal Register** of September 18, 1985 (50 FR 37958–37967).

The Service would appreciate any additional data, comments, and suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning the status of these species, particularly the Suisun song sparrow.

Author

This notice was prepared by Dr. Kathleen E. Franzreb, Endangered Species Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room E–1823, Sacramento, California 95825 (916/978–4866 or FTS 460–4866).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411; Pub. L. 100–478, 102 Stat. 2306; Pub. L. 100–653, 102 Stat. 3825 (16 U.S.C. 1531 et seq.); Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Dated: December 22, 1988.

Becky Norton Dunlop,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 88–30100 Filed 12–29–88; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 602

[Docket No. 81011–8211]

Guidelines for Fishery Management Plans

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA issues this proposed rule to revise the national standard guidelines for fishery conservation and management issued in February 1983 under section 301(b) of the Magnuson Fishery Conservation and Management Act (the Magnuson Act). The national standards represent statutory criteria and principles with which all fishery management plans (FMPs) must be judged consistent by the Secretary of Commerce (Secretary). The Magnuson Act requires the Secretary to issue guidelines based on the national standards to assist in the development and review of FMPs, their amendments, and regulations. Pub. L. 97–453 amended section 301(b) to make the national standard guidelines advisory only. The guidelines are intended to improve the quality of FMPs by providing comprehensive guidance for Regional Fishery Management Councils (Councils) to use in developing FMPs and amendments, and to produce a more uniform understanding of the Secretary's basis for FMP review and implementation. These proposed rules revise the guidelines for national standards 1 and 2 only.

DATE: Comments must be received by February 28, 1989.

ADDRESSES: Send comments on these proposed guidelines to: Richard H. Schaefer, Office of Fisheries Conservation and Management, National Marine Fisheries Service, 1335 East West Highway, Silver Spring, Maryland 20910.

FOR FURTHER INFORMATION CONTACT: Richard H. Schaefer, telephone 301–427–2334.

SUPPLEMENTARY INFORMATION: Revision of the national standard guidelines was precipitated, in part by recommendations of the NOAA Fishery Management Study (the Study), commissioned by the Under Secretary of Commerce for Oceans and Atmosphere, and undertaken to assess and improve the Magnuson Act fishery management system. In June 1986, this Study recommended that NOAA assume the responsibility for determining the biologically acceptable catch (ABC) for each managed fishery. By ABC the Study meant the total allowable removals from the resource which would maintain a healthy and productive resource into the future. As used in this context, the ABC would be the maximum possible quota for the species or species complex in the fishery. It should be noted that this is different from the manner in which the term ABC is used in proposed paragraph 602.11(e). The Study's intent was that stocks be maintained at some level above that which protects the minimum spawning stock from recruitment overfishing. The Study sought a "conservation standard" such that stocks are not continually driven to, or maintained at, the threshold of overfishing.

In April 1987, NOAA distributed for Council/National Marine Fisheries Service (NMFS) pre-publication review and comment a draft revision of the uniform standards governing the organization, practices, and procedures of the Councils and the guidelines for FMPs. That draft revision included a section providing that a maximum fishing mortality (MFM) be established which would maintain the current spawning stock size with consideration of the variabilities in spawning stock estimates, and that ABC be specified so as not to exceed MFM. Again, ABC was to be used as a maximum annual quota for the fishery. Council and NMFS comments concering the MFM proposal made it clear that this proposal was not universally applicable for a variety of reasons.

Accordingly, in August 1987, NOAA convened a technical workship of NMFS fishery scientists and managers, and academic scientists recommended by the Councils, to address the Study's recommendations for a conservation standard and the comments on the April draft. In October 1987, in order to allow

time for a thorough examination of the issues raised by the workshop, the decision was made to separate the revisions concerning the conservation standard from those addressing the organization and administrative questions. In the spring of 1988, a series of Council/NMFS regional workshops was held to discuss the feasibility of the conservation standard concept, using as a basis for discussion the proposed revision of national standard guidelines 1 and 2 produced by the August 1987 technical workshop. Following the workshops, the guidelines were further revised, and served as the basis for discussion at a Council Chairmen's meeting in July 1988.

The proposed guideline revision that follows is responsive to the workshop series and the Council Chairmen's meeting, and sets forth a series of definitions and procedures, which together, are intended to provide the conservation standard.

Comments at the workshops centered primarily on the need for flexibility with regard to: (a) The mandatory nature of any definition of overfishing; (b) the difficulty or impossibility of applying any rigid or universal definition to a large number of diverse species; (c) the fact that the ABC concept is not used by all Councils; (d) the bureaucratic chaos that might result from the proposed Secretarial exemption process; and (e) the burden imposed by the proposed Stock Assessment and Fishery Evaluation (SAFE) requirement.

Concern was also expressed at the workshops that identification of thresholds might serve to establish targets for harvest rather than provide for conservation of the resources. Several Councils stated a need to: (a) Identify measurable "conditions of concern" for each stock, with monitoring and review procedures; (b) allow for conservative approaches when there is uncertainty because of lack of data; and (c) retain ability to take appropriate restrictive management actions at stock levels above the threshold.

Comments at the Council Chairmen's meeting focused primarily on: (a) The division of responsibility between the Councils and NMFS regarding providing data for, and preparing, The SAFE report; (b) including in the SAFE report a recommendation for a threshold level or other definition of overfishing; (c) establishing an OY "reserve", releasable to domestic and foreign fishermen as necessary, to solve operational problems and allow for uncertainties in stock estimates; and (d) several needed editorial clarifications.

Section 602.11 proposes an overall overfishing concept within which each Council must define a specific, measurable definition of overfishing for each stock or stock complex covered by an FMP. That concept is based on the premise that irreversible damage to a resource's ability to recover in a reasonable period of time is unacceptable, and to allow fishing on a stock at a level that severely compromises that stock's future productivity is counter to the goals of the Magnuson Act. As used in this revision, ABC is not meant as a quota for the fishery, but rather, may be used as a step in deriving OY from MSY. (See § 602.11(e).) In this context, the ABC is set by a Council, not NOAA. Since ABC is not necessarily applicable to all fisheries, Councils may establish an ABC level, but are not required to do so. Councils are provided with the flexibility needed to develop a definition of overfishing appropriate to the individual stock or species characteristics, and general criteria are set for th as a bisis for Secretarial review. Comments are particularly solicited on the provision made for phasing-in implementation of the guidelines.

NOAA believes that, although it is difficult to define precisely the level at which overfishing jeopardizes recovery of a stock, there are indicators of existing or impending overfishing that should be heeded. If these conditions exist, the best scientific advice may conclude that immediate remedial action should be taken. Councils are encouraged, but not required, to identify these conditions.

As management regimes become more comprehensive, the interrelationships of fishing pressures on target and non-target (both major and minor) species need to be addressed more directly. NOAA believes that in determining allowable fishing levels Councils should consider all sources of mortality on a stock, including both targeted and non-targeted fishing mortality, and levels of compliance. Because all removals from the stock, whether landed or unlanded, will affect spawning stock biomass levels now or in the near future, the Councils should attempt to obtain estimates of all sources of mortality and consider the estimates in adjusting directed fishing levels. Total fishing mortality on a stock should be managed such that overfishing does not occur.

In selected situations, a Council may determine that overfishing of a minor component species of a multi-species fishery is warranted based on net benefits expected for the fishery as a whole. Although fishing any stock to the extent that it requires protection under the Endangered Species Act should never be allowed to occur, some very limited overfishing may be acceptable if it is identified, and sufficiently analyzed and justified. However, in all cases, alternatives should be considered that would prevent such overfishing.

Section 602.12(e) proposes that a periodic SAFE document or set of documents be prepared or aggregated whereby Councils can obtain an objective periodic overview of the status of stocks and fisheries under management. Several Councils currently produce such fishery reviews annually, which generally provide the kinds of information called for in the SAFE report. The SAFE report would be expected to provide a summary of the best biological, social, and economic information available to a Council when needed: (a) To determine annual harvest levels or optimum yields (OYs) for species in each fishery management unit (FMU), and (b) to evaluate the effectiveness of its management in preventing overfishing as defined by the Council.

The SAFE report would thus provide a useful tracking tool for assessing the relative achievement of FMP objectives. It would establish a time-series data base indicating the relative health of stocks and the industry dependent on them. Including social and economic information in the same document or set of documents with biological information does not diminish the integrity of either type of information. By providing the best scientific information available for each type of data required in the determination of OY, subject to Council and outside peer review, the SAFE report is designed to improve the ability of Councils to derive OY or any specified harvest level as the Magnuson Act prescribes.

While the Secretary would have the responsibility for assuring that the SAFE report is produced, it is not intended to be exclusively authoried by NOAA. The SAFE report could be produced by any combination of talent from Council, academic, government, or other sources. The SAFE reports would not be required to be revised annually, except as there have been new developments or significant changes in a fishery. Although the contents of SAFE reports would not be mandatory, certain basic descriptive data on the stocks and industry should be included.

Classification

The guidelines indicate how NOAA interprets the fishery management principles in the national standards of the Magnuson Act. They describe a range of acceptable management

measures that could be adopted by the councils, appoved by the Secretary, and subsequently translated into regulations. The impact upon the public occurs through specific management measures contained within specific FMPs; until a specific FMP is developed, there is no basis for evaluating the consequences of these guidelines.

These amendments to the national standard guidelines do not themselves affect the human environment. Thus, NOAA has determined that no environmental impact statement (EIS) or environmental assessment (EA) is required. FMPs and FMP amendments developed as a result of these guidelines will require EISs or EAs.

Because these guidelines will not have any direct regulatory impact upon the public, the Under Secretary of Commerce for Oceans and Atmosphere has determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under E.O. 12291. The proposed rule will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs for consumers, individual industries, Federal, State, or local governmental agencies, or geographic regions; and it will not result in significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. A regulatory impact review (RIR) was not prepared.

This proposed rule has been submitted to the Director, Office of Management and Budget, pursuant to E.O. 12291.

Because the proposed guidelines will have no direct regulatory impact on the public, the General Counsel of the Department of Commerce has certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. As a result, a regulatory flexibility analysis (RFA) was not prepared. Any economic impacts on small entities will be addressed through RFAs for individual FMPs.

This rule contains no collection-of-information requirements subject to the Paperwork Reduction Act.

Because the proposed guidelines will have no direct regulatory impact upon the public, NOAA has determined that this proposed rule does not directly affect the coastal zone of any State with an approved coastal zone management program.

This proposed rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

Dated: December 22, 1988.

James W. Brennan,

Assistant Administrator For Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR 602 is proposed to be amended as follows:

PART 602—GUIDELINES FOR FISHERY MANAGEMENT PLANS

1. The authority citation for Part 602 continues to read as follows:

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

2. Section 602.11 is revised, § 602.12(a) is republished, and § 602.12(e) is added to read as follows:

§ 602.11 National Standard 1—Optimum Yield.

(a) *Standard 1.* Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.

(b) *General.* The determination of OY is a decisional mechanism for resolving the Act's multiple purposes and policies, for implementing an FMP's objectives, and for balancing the various interests that comprise the national welfare. OY is based on MSY, or on MSY as it may be adjusted under paragraph (d)(3) of this section. The most important limitation on the specification of OY is that the choice of OY—and the conservation and management measures proposed to achieve it—must prevent overfishing.

(c) *Overfishing.* (1) Overfishing is a level or rate of fishing mortality that jeopardizes the long-term capacity of a stock or stock complex to produce MSY on a continuing basis. Each FMP must specify, to the maximum extent possible, an objective and measurable definition of overfishing for each stock or stock complex covered by that FMP, and provide an analysis of how the definition was determined and how it relates to reproductive potential.

(2) The definition of overfishing for a stock or stock complex may be developed or expressed in terms of a minimum level of spawning biomass ("threshold"); maximum level or rate of fishing mortality; or formula, model, or other measurable standard designed to ensure the maintenance of the stock's productive capacity. Overfishing must be defined in a way to enable the Council and the Secretary to monitor and evaluate the condition of the stock or stock complex relative to the definition.

(i) If data indicate that an overfished condition exists, a program must be established for rebuilding the stock over a period of time specified by the Councils which is acceptable to the Secretary.

(ii) Councils should identify what actions or combination of actions will be undertaken if it is determined that a stock or stock complex is approaching an overfished condition.

(iii) If overfishing is defined in terms of a threshold biomass level, the Council must ensure that targeted fishing effort does not cause spawning biomass to fall or remain below that threshold.

(iv) If overfishing is defined in terms of a maximum fishing mortality rate, the Councils must ensure that targeted fishing effort on that stock does not cause the maximum rate to be exceeded.

(3) Overfishing definitions must be based on the best scientific information available. Councils should build into the definition appropriate consideration of risk, taking into account uncertainties in estimating domestic harvest, stock conditions, or the effects of environmental factors (see section 602.16). In cases where scientific data are severely limited, the Councils' informed judgment must be used, and effort should be directed to identifying and gathering the needed data (see sections 602.12 and 605.14 of this chapter).

(4) Secretarial approval or disapproval will be based on consideration of whether the proposal:

(i) Has sufficient scientific merit;

(ii) Is likely to result in effective Council action to prevent the stock from closely approaching or reaching an overfished status;

(iii) Provides a basis for objective measurement of the status of the stock against the definition; and

(iv) Is operationally feasible.

(5) Changes in environment/habitat conditions can produce the appearance of overfishing. Significant adverse alterations in the environment increase the possibility that fishing effort will contribute to a stock collapse. Care should be taken to identify the cause of any downward trends in spawning stock sizes or average annual recruitment. Whether these trends are caused by environmental changes or by fishing effort, the only direct control provided for by the Act is to reduce fishing mortality. Unless the Council asserts, as supported by appropriate evidence, that reduced fishing effort would not alleviate the problem, the FMP must include measures to reduce fishing mortality regardless of the cause of the low population level. If man-made environmental changes are contributing to the downward trends, in addition to controlling effort Councils should

recommend restoration of habitat and other ameliorative programs, to the extent possible.

(6) An FMP must prevent overfishing, except in certain limited situations. For example, harvesting the major component of a mixed fishery at its optimum level may result in the overfishing of a minor (smaller or less valuable) stock component in the fishery management unit. A Council may decide to permit this type of overfishing if it is demonstrated by analysis (paragraph (f)(5) of this section) that it will result in net benefits to the fishery as a whole, and if the Council's action will not cause any stock component to require protection under the Endangered Species Act.

(7) Fishing can produce a variety of effects on local and areawide abundance, availability, size, and age composition of a stock. Some of these effects have been called "growth", "localized", or "pulse" overfishing; however, these effects are not necessarily "overfishing" under the national standard 1 definition, which focuses on recruitment and long-term reproductive capacity. A Council may recommend conservation and management measures to prevent or permit these effects, depending on the objectives of a particular FMP, and the specific definition of overfishing established for the stock or stock complex under management. (See Appendix A to Subpart B of this part, which offers cautionary, explanatory material.)

(8) Implementation. (i) All new FMPs and the first amendment for existing FMPs submitted after [insert date six months after the effective date of these guidelines] should include a proposed definition of overfishing for the stock or stock complex managed under the affected FMP.

(ii) An amendment proposing an overfishing definition for each FMP not containing such a definition should be submitted before [insert date 18 months after the effective date of these guidelines].

(d) *MSY.* (1) MSY is an estimate of the largest average annual catch or yield that can be taken over a significant period of time from each stock under prevailing ecological and environmental conditions.

(2) MSY may be presented as a range of values. One MSY may be specified for a related group of species in a mixed-species fishery. Since MSY is a long-term average, it need not be specified annually, but must be based on the best scientific information available.

(3) MSY may be only the starting point in providing a realistic biological description of allowable fishery removals. MSY may need to be adjusted because of environmental factors, stock peculiarities, or other biological variables, prior to the determination of OY. An example of such an adjustment is determination of ABC.

(e) *ABC.* (1) ABC is a preliminary description of the acceptable harvest (or range of harvests) for a given stock or stock complex. Its derivation focuses on the status and dynamics of the stock, environmental conditions, other ecological factors, and prevailing technological characteristics of the fishery.

(2) When ABC is used, its specification constitutes the first step in deriving OY from MSY. Unless the best scientific information available indicates otherwise (see section 602.12), ABC should be no higher than the product of the stock's natural mortality rate and the biomass of the exploitable stock. If a threshold has been specified for the stock, ABC must equal zero when the stock is at or below that threshold (see paragraph (c)(2) of this section). ABC may be expressed in numeric and/or non-numeric terms.

(f) *OY.* (1) *Definition.* The term "optimum" with respect to the yield from a fishery, means the amount of fish which will provide the greatest overall benefit to the Nation, with particular reference to food production and recreational opportunities; and which is prescribed as such on the basis of the maximum sustainable yield from each fishery, as modified by any relevant economic, social, or ecological factors (section 3(18)(b) of the Act).

(2) *Values in determination.* In determining the greatest benefit to the Nation, two values that should be weighed are food production and recreational opportunities (section 3(18)(a) of the Act). They should receive serious attention as measures of benefit when considering the economic, ecological, or social factors used in modifying MSY to obtain OY.

(i) "Food production" encompasses the goals of providing seafood to consumers at reasonable prices, maintaining an economically viable fishery, and utilizing the capacity of U.S. fishery resources to meet nutritional needs.

(ii) "Recreational opportunities" includes recognition of the importance of the quality of the recreational fishing experience, and of the contribution of recreational fishing to the national, regional, and local economies and food supplies.

(3) *Factors relevant to OY.* The Act's definition of OY identifies three categories of factors to be used in modifying MSY to arrive at OY: economic, social, and ecological (section 3(18)(b)). Not every factor will be relevant in every fishery; for instance, there may be no Indian treaty rights. For some fisheries, insufficient information may be available with respect to some factors to provide a basis for corresponding modifications to MSY.

(i) *Economic factors.* Examples are promotion of domestic fishing, development of unutilized or underutilized fisheries, satisfaction of consumer and recreational needs, and encouragement of domestic and export markets for U.S.-harvested fish. Some other factors that may be considered are the value of industrial fisheries, the level of capitalization, operating costs of vessels, alternate employment opportunities, and economies of coastal areas.

(ii) *Social factors.* Examples are enjoyment gained from recreational fishing, avoidance of gear conflicts and resulting disputes, preservation of a way of life for fishermen and their families, and dependence of local communities on a fishery. Among other factors that may be considered are the cultural place of subsistence fishing, obligations under Indian treaties, and world-wide nutritional needs.

(iii) *Ecological factors.* Examples are the vulnerability of incidental or unregulated species in a mixed-species fishery, predator-prey or competitive interactions, and dependence of marine mammals and birds or endangered species on a stock of fish. Equally important are environmental conditions that stress marine organisms, such as natural and man-made changes in wetlands or nursery grounds, and effects of pollutants on habitat and stocks.

(4) *Specification.* (1) The "amount of fish" that constitutes the OY need not be expressed in terms of numbers or weight of fish. The economic, social, or ecological modifications to MSY may be expressed by describing fish having common characteristics, the harvest of which provides the greatest overall benefit to the Nation. For instance, OY may be expressed as a formula that converts periodic stock assessments into quotas or guideline harvest levels for recreational, commercial, and other fishing. OY may be defined in terms of an annual harvest of fish or shellfish having a minimum weight, length, or other measurement. OY may also be expressed as an amount of fish taken only in certain areas, or in certain seasons, or with particular gear, or by a specified amount of fishing effort. In the case of a mixed-species fishery, the incidental species OY may be a function

of the directed catch, or absorbed into an OY for related species.

(ii) If a numerical OY is chosen, a range or average may be specified.

(iii) In a fishery where there is a significant discard component, the OY may either include or exclude discards, consistent with the other yield determinations.

(iv) The OY specification can be converted into an annual numerical estimate to establish any TALFF and to analyze impacts of the management regime. There should be a mechanism in a multiyear plan for periodic reassessment of the OY specification, so that it is responsive to changing circumstances in the fishery. (See § 602.12(e).)

(v) The determination of OY requires a specification of MSY. However, where sufficient scientific data as to the biological characteristics of the stock do not exist, or the period of exploitation or investigation has not been long enough for adequate understanding of stock dynamics, or where frequent large-scale fluctuations in stock size make this concept of limited value, the OY should be based not on a fabricated MSY but on the best scientific information available.

(5) *Analysis.* An FMP must contain an analysis of how its OY specification was determined (section 303(a)(3) of the Act). It should relate the explanation of overfishing in paragraph (c) of this section to conditions in the particular fishery, and explain how its choice of OY and conservation and management measures will prevent overfishing in that fishery. If overfishing is permitted under paragraph (c)(6) of this section, the analysis must contain a justification in terms of overall benefits and an assessment of the risk of the species or stock component reaching a "threatened" or "endangered" status. A Council must identify those economic, social, and ecological factors relevant to management of a particular fishery, then evaluate them to arrive at the modification (if any) of MSY. The choice of a particular OY must be carefully defined and documented to show that the OY selected will produce the greatest benefit to the Nation.

(g) *OY as a target.* (1) The specification of OY in an FMP is not automatically a quota or ceiling, although quotas may be derived from the OY where appropriate. OY is a target or goal; an FMP must contain conservation and management measures, and provisions for information collection, that are designed to achieve OY. These measures should allow for practical and effective implementation and enforcement of the management regime, so that the harvest is allowed to reach but not to exceed OY by a substantial amount. The Secretary has an obligation to implement and enforce the FMP so that OY is achieved. If management measures prove unenforceable—or too restrictive or not rigorous enough to realize OY—they should be modified; an alternative is to reexamine the adequacy of the OY specification.

(2) Exceeding OY does not necessarily constitute overfishing, although they might coincide. Even if no overfishing resulted, continual harvest at a level about a fixed-value OY would violate national standard 1 because OY was exceeded (not achieved) on a continuing basis.

(3) Part of the OY may be held as a reserve to allow for uncertainties in estimates of stock size and of DAH or to solve operational problems in achieving (but not exceeding) OY. If an OY reserve is established, an adequate mechanism should be included in the FMP to permit timely release of the reserve to domestic or foreign fishermen, if necessary.

(h) *OY and foreign fishing.* Section 201(d) of the Act provides that fishing by foreign nations is limited to that portion of the OY that will not be harvested by vessesls of the United States.

(1) *DAH.* Councils must consider the capacity of, and the extent to which, U.S. vessels will harvest the OY on an annual basis. Estimating the amount that U.S. fishing vessels will actually harvest is required to determine the surplus.

(2) *DAP.* Each FMP must identify the capacity of U.S. processors. It must also identify the amount of DAP, which is the sum of two estimates:

(i) The amount of U.S. harvest that domestic processors will process. This estimate may be based on historical performance and on surveys of the expressed intention of manufacturers to process, supported by evidence of contracts, plant expansion, or other relevant information; and

(ii) The amount of fish that will be harvested, but not processed (e.g., marketed as fresh whole fish, used for private consumption, or used for bait).

(3) *JVP.* When DAH exceeds DAP, the surplus is available for JVP. JVP is a part of DAH.

§ 602.12 National Standard 2—Scientific Information.

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

* * * * *

(e) *Stock Assessment and Fishery Evaluation (SAFE) Report.* (1) The SAFE report is a document or set of documents that provides Councils with a summary of the most recent biological condition of species in the fishery management unit (FMU), and the social and economic condition of the recreational and commercial fishing industries and the fish processing industries. It summarizes, on a periodic basis, the best available scientific information concerning the past, present, and possible future condition of the stocks and fisheries being managed under Federal regulation.

(i) The Secretary has the responsibility to assure that a SAFE report or similar document is prepared, reviewed annually, and changed as necessary for each FMP. The Secretary or Councils may utilize any combination of talent from Council, State, university, or other sources (but at a minimum must include Council and NMFS representatives) to acquire and analyze data and produce the SAFE report.

(ii) The SAFE report provides information to the Councils for determining annual harvest levels from each stock, documenting significant trends or changes in the resource and fishery over time, and assessing the relative success of existing State and Federal fishery management programs. In addition, the SAFE report may be used to update or expand previous environmental and regulatory impact documents, and ecosystem and habitat descriptions.

(iii) Each SAFE report must be scientifically based, cite data sources and interpretations.

(2) Each SAFE report should contain information on which to base harvest specifications, such as:

(i) Estimates of total biomass and/or spawning biomass for each stock in the FMU;

(ii) Estimates of the annual surplus production (ASP) and MSY for each stock in the FMU;

(iii) Description of the estimated biomass, ASP, and MSY in previous years relative to those estimates for the current or next year;

(iv) Description of the model or assumptions on which these estimates are based and a discussion of the reliability of each estimate;

(v) If a stock is below the level which will produce MSY, estimated time necessary to allow the stock to rebuild to MSY, threshold or other specified level under various harvest levels and prevailing environmental conditions; and

(vi) Significant changes (if any) in the habitat or ecosystem since it was last described in the FMP, an amendment to the FMP, or previous SAFE report.

(3) Each SAFE report should contain information on which to assess the condition of the recreational and commercial fishing industries and fish processing industries, such as:

(i) Estimate of the amount of fish harvested from each stock in the FMU, by gear type and area, in the most recent three years and in the year immediately prior to implementation of the FMP governing fisheries for (or in) the FMU. If applicable, the amount of fish harvested in the same time period by wholly domestic, joint venture and foreign fisheries;

(ii) The approximate exvessel value of the harvested fish described in paragraph (e)(3)(i) of this section;

(iii) Amounts and estimated value of each type of processed products derived from the harvested fish described in paragraph (e)(3)(i) of this section;

(iv) Estimates of the numbers of commercial vessels, by gear type and in terms of individual vessels, involved in each fishery for (or in) the FMU;

(v) Estimates of the number of commercial fishermen employed in each fishery for (or in) the FMU;

(vi) The numbers of processing plants, floating and shore based, individual and by product type, involved in processing the harvested fish described in paragraph (e)(3)(i) of this section;

(vii) Estimates of the number of individuals employed in the processing plants described in paragraph (e)(3)(vi) of this section.

(viii) Estimates of the amount of fish harvested by recreational fishermen from the FMU;

(ix) Estimates of the numbers of recreational fishermen who harvested fish from the FMU;

(x) Estimates of the number of charter vessels and party boats involved in the recreational fishery; and

(xi) The estimated value of the recreational fishery for (or in) the FMU.

(4) Each SAFE report may contain additional economic, social, and ecological information pertinent to the success of management or the achievement of objectives of each FMP, such as:

(i) Enforcement actions taken and penalties assessed and collected over the most recent three years under an implemented FMP;

(ii) Significant changes (if any) in State regulations pertinent to the FMU and their known or anticipated effects on stocks in the FMU;

(iii) Significant changes (if any) in related fisheries which may affect the fishing effort for (or in) the FMU; and

(iv) Potential conservation and management problems, their possible causes and solutions.

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