

period reasonably related to the date on which such a review is conducted.

(Authority: 38 U.S.C. 3672(e))

(b) *Enrollment agreement.* (1) An educational institution offering a program of education to be pursued exclusively by correspondence must enter into an enrollment agreement with the veteran, spouse, surviving spouse, or reservist who wishes to receive educational assistance from VA while pursuing the program. The enrollment agreement shall disclose fully the obligations of the institution and the veteran, spouse, surviving spouse, or reservist, and shall display in a prominent place on the agreement the conditions for affirmance, termination, refund, and payment of the educational assistance by VA.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3686(a)(1), 3686(b))

(2) A copy of the agreement shall be given to the veteran, spouse, surviving spouse, or reservist when it is signed.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3686(b))

(3) The agreement shall not be effective unless the veteran, spouse, surviving spouse, or reservist after the expiration of 10 days after the agreement is signed, shall have signed and submitted to VA a written statement, with a signed copy to the institution, specifically affirming the agreement.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3686(b))

(c) *Mandatory refund policy.* (1) Upon notification of the educational institution by the veteran, spouse, surviving spouse, or reservist of an intention not to affirm the enrollment agreement, any fees paid by the individual shall be returned promptly in full to him or her.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3686(c))

(2) Upon termination of enrollment under an affirmed enrollment agreement for training in the accredited course by the veteran, spouse, surviving spouse, or reservist, without having completed any lessons, a registration fee not in excess of 10 percent of the tuition for the course or \$50, whichever is less, may be charged him or her. When the individual terminates the agreement after completion of less than 25 percent of the lessons of the course, the institution may retain the registration fee plus 25 percent of the tuition. When the individual terminates the agreement after completing 25 percent but less than 50 percent of the lessons, the institution may retain the registration

fee plus 50 percent of the tuition for the course. If 50 percent or more of the lessons are completed, no refund of tuition is required.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3686(c))

(3) Where the school either has or adopts an established policy for the refund of the unused portion of tuition, fees, and other charges subject to proration, which is more favorable to the veteran, spouse, surviving spouse, or reservist than the pro rata basis as provided in paragraph (b)(2) of this section, such established policy will be applicable.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3686(c))

(4) Any institution that fails to forward any refund due to the veteran, spouse, surviving spouse, or reservist within 40 days after receipt of a notice of termination or disaffirmance, shall be deemed, prima facie, to have failed to make a prompt refund as required by this section.

(Authority: 10 U.S.C. 16136(b); 38 U.S.C. 3686(c))

3. In § 21.4279, paragraph (a) introductory text and paragraph (a)(4) are revised, and paragraph (a)(5) is added, to read as follows:

§ 21.4279 Combination correspondence-residence program.

(a) *Requirements for pursuit.* A program of education may be pursued partly in residence and partly by correspondence for the attainment of a predetermined and identified objective under the following conditions:

* * * * *

(4) The educational institution offering the course is accredited by an agency recognized by the Secretary of Education; and

(5) The State approving agency has approved the correspondence-residence course and has verified compliance with the requirement of 38 U.S.C. 3672(e) and § 21.4256(a) that at least 50 percent of those pursuing the correspondence-residence course require 6 months or more to complete it.

(Authority: 38 U.S.C. 3672(e))

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[FR Doc. 97-17216 Filed 6-30-97; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 970527125-7125-01; I.D. 032797B]

RIN 0648-AJ95

Magnuson Act Provisions; Appointment of Regional Fishery Management Council Members

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to amend the regulations governing the nomination and appointment of members of regional fishery management councils to establish the procedures applicable to the nomination and appointment to the Pacific Fishery Management Council of a representative of an Indian tribe with federally recognized fishing rights from California, Oregon, Washington, or Idaho. The purpose of this rule is to implement certain sections of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) as amended by the Sustainable Fisheries Act (SFA) which require such an appointment.

DATES: Comments on the proposed rule must be received on or before July 31, 1997.

ADDRESSES: Comments should be sent to Mr. Will Stelle, Jr., Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115-0070; or to Mr. William Hogarth, Acting Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802-4213.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206-526-6142 or Rodney McInnis at 310-980-4040.

SUPPLEMENTARY INFORMATION: On October 11, 1996, President Clinton signed into law the SFA which amended the Magnuson-Stevens Act. The SFA added a seat on the Pacific Fishery Management Council (Pacific Council) exclusively for a representative of an Indian tribe with federally recognized fishing rights from California, Oregon, Washington, or Idaho. Specifically, section 302(b)(5)(A) of the Magnuson-Stevens Act requires that:

The Secretary shall appoint to the Pacific Council one representative of an Indian tribe with Federally recognized fishing rights from California, Oregon, Washington, or Idaho from a list of not less than 3 individuals submitted by the tribal governments. The Secretary, in consultation with the Secretary of the Interior and tribal governments, shall establish by regulation the procedure for submitting a list under this subparagraph.

Sections 302(b)(5)(B)(i), (ii), and (iii) of the Magnuson-Stevens Act require that representation be rotated among the tribes taking into consideration the qualifications of the individuals on the list, the various rights of the Indian tribes involved and judicial cases that set out how those rights are to be exercised, and the geographic area in which the tribe of the representative is located. Finally, section 302(b)(5)(C) requires that "a vacancy occurring prior to the expiration of any term * * * be filled in the same manner as set out in subparagraphs (A) and (B), except that the Secretary may use the list from which the vacating representative was chosen."

Having consulted with the Secretary of the Interior and the tribal governments, NMFS proposes to consult with and rely on the advice of the Bureau of Indian Affairs, Department of the Interior, in determining from which Indian tribes to solicit nominations for the Council seat. By statute, NMFS must solicit nominees only from those Indian tribes with federally recognized fishing rights from California, Oregon, Washington, or Idaho. NMFS proposes to solicit nominees who are knowledgeable and experienced regarding the fishery resources affected by the recommendations of the Pacific Council. NMFS proposes to solicit nominations in writing from each tribal government to produce a list of not less than three individuals from which the Secretary of Commerce (Secretary) will appoint one individual to the Pacific Council for a term of 3 years. Since this new Council seat is specifically for a tribal representative, NMFS proposes that prior service on the Council in a different capacity will not disqualify a nominee proposed by a tribal government. NMFS proposes that if any tribal representative appointed to the Council vacates the Council seat prior to the expiration of any term, the Secretary may appoint a replacement for the remainder of the vacant term from the original list of nominees or may solicit a new set of nominees following the process described above. NMFS proposes that no tribal representative may serve more than three consecutive terms in the Indian tribal seat.

As required by statute, the Secretary will rotate the appointment of a tribal representative to the Pacific Council among the tribes, taking into consideration the qualifications of the individuals nominated, the various rights of the Indian tribes involved and judicial cases that set out how those rights are to be exercised, and the geographic area in which the tribe of the representative is located. Because numerous California, Oregon, Washington, and Idaho Indian tribes have federally recognized fishing rights that are potentially affected by actions of the Pacific Council, there is the potential for a large number of nominations, which may slow the process of appointing a single representative. NMFS encourages coordination among the tribes in order to nominate in total a limited number of qualified individuals. By having fewer individuals nominated, adequate time is assured to consider each nominee's qualifications and ensure the timely appointment of an individual to the Pacific Council seat.

Because this rule is a rule of agency organization and practice, under 5 U.S.C. 553(b)(A), it may be issued without prior notice and opportunity for public comment. Nevertheless, NMFS is voluntarily soliciting comments on this rule and will consider all such comments received within 30 days following publication of this proposed rule. NMFS is especially interested in receiving comments from potentially affected Indian tribes.

Classification

This proposed rule initially has been determined to be not significant for purposes of E.O. 12866.

Because prior notice and opportunity for public comment is not required for this rule by 5 U.S.C. 553 or by any other law, under 5 U.S.C. 603(a) and 604(a) it is not subject to the analytical requirements of the Regulatory Flexibility Act.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to penalty for failure to comply with a collection-of-information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection-of-information displays a currently valid Office of Management and Budget (OMB) control number.

This proposed rule contains a collection-of-information requirement subject to the PRA and which has been submitted to OMB for approval. The public reporting burden for Indian tribal governments' nominations for council appointments are estimated to average

120 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection-of-information.

Comments are invited on: (a) whether the proposed collection-of-information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection-of-information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection-of-information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection-of-information to the NMFS Northwest or Southwest Regional Administrators at the ADDRESSES above, and to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attention: NOAA Desk Officer).

List of Subjects in 50 CFR Part 600

Fisheries, Fishing.

Dated: June 24, 1997.

Charles Karnella,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 600 is proposed to be amended as follows:

PART 600—MAGNUSON ACT PROVISIONS

1. The authority citation for part 600 continues to read as follows:

Authority: 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

2. In § 600.215, the introductory text is removed; paragraphs (a) through (g) are redesignated as paragraphs (a)(1) through (a)(7) respectively; former paragraphs (c)(1) through (c)(6) are redesignated as paragraphs (a)(3)(i) through (a)(3)(vi) respectively; former paragraphs (f)(1) and (f)(2) are redesignated (a)(6)(i) and (a)(6)(ii) respectively; former paragraphs (g)(1) through (g)(6) are redesignated (a)(7)(i) through (a)(7)(vi) respectively; and paragraphs (a) introductory text and (b) are added to read as follows:

§ 600.215 Appointments.

* * * * *

(a) *Members appointed from Governors' lists.* This paragraph applies to council members selected by the

Secretary from lists submitted by Governors pursuant to section 302(b)(2)(C) of the Magnuson-Stevens Act.

* * * * *

(b) *Tribal member.* This paragraph applies to the selection of the Pacific Fishery Management Council's tribal member as required by section 302(b)(5) of the Magnuson-Stevens Act.

(1) The Secretary shall appoint to the Pacific Fishery Management Council one representative of an Indian tribe with federally recognized fishing rights from California, Oregon, Washington, or Idaho from a list of not less than three individuals submitted by the tribal Governments.

(2) The Secretary shall solicit nominations of individuals for the list referred to in paragraph (b)(1) of this section only from those Indian tribes with federally recognized fishing rights from California, Oregon, Washington, or

Idaho. The Secretary will consult with the Bureau of Indian Affairs, Department of the Interior, to determine which Indian tribes may submit nominations.

(3) To assist in assessing the qualifications of each nominee, each tribal government must furnish to the NMFS Office of Sustainable Fisheries a current resume, or equivalent, describing the nominee's qualifications with emphasis on knowledge and experience related to the fishery resources affected by recommendations of the Pacific Council. Prior service on the Council in a different capacity will not disqualify nominees proposed by tribal governments.

(4) Nominations must be provided to NMFS by March 15 of the year in which the term of the current tribal member expires.

(5) The Secretary shall rotate the appointment among the tribes taking into consideration:

(i) The qualifications of the individuals on the list referred to in paragraph (b)(1) of this section.

(ii) The various rights of the Indian tribes involved and judicial cases that set out how those rights are to be exercised.

(iii) The geographic area in which the tribe of the representative is located.

(iv) No tribal representative shall serve more than three consecutive terms in the Indian tribal seat.

(6) Any vacancy occurring prior to the expiration of any term shall be filled in the same manner as described above except that the Secretary may use the list referred to in paragraph (b)(1) of this section from which the vacating member was chosen.

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