

## § 600.748

the applicant of the negative determination with the reasons therefor.

(4) *Final determination and publication of a final rule.* Following public comment, NMFS will approve or disapprove the amendment to the list of gear and fisheries.

(i) If approved, NMFS will publish a final rule in the FEDERAL REGISTER and notify the applicant and the Council, if appropriate, of the final approval.

(ii) If disapproved, NMFS will withdraw the proposed rule, notify the applicant and the Council, if appropriate, of the disapproval; publish emergency or interim regulations, if necessary, to prohibit or restrict the use of gear or the participation in a fishery; and either notify the Council of the need to amend an FMP or prepare an amendment to an FMP in the case of Atlantic highly migratory species.

[64 FR 4043, Jan. 27, 1999]

## § 600.748 National Minimum Observer Provider Insurance Standard.

(a) *Applicability.* As part of regulations for observer provider companies to obtain approval or a permit to deploy a person in any mandatory or voluntary observer program, or regulations that specify approved or permitted observer provider responsibilities, NMFS must reference and ensure compliance with the following national minimum insurance standard.

(b) *Policies and Coverage Amounts.* (1) Marine General Liability (\$1 million any one occurrence or as provided under paragraph (d) of this section).

(2) Marine Employers Liability (\$1 million any one occurrence or as provided under paragraph (d) of this section) for an observer provider that is authorized, or has applied to be authorized, to deploy observers or monitors at-sea.

(3) State workers' compensation as required by each state in which the observer provider is authorized, or has applied to be authorized, to deploy observers or monitors at-sea or shoreside.

(4) U.S. Longshore and Harbor Workers' Act coverage, either as a stand-alone policy or as a state workers' compensation policy endorsement, if that policy or a policy endorsement is required by the respective state(s) in which the observer provider is author-

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ized, or has applied to be authorized, to deploy observers or monitors at-sea or shoreside.

(5) Excess or umbrella coverage (\$2 million any one occurrence).

(c) *Scope of coverages.* Coverage must extend to injury, liability, and accidental death during the period of employment, including training, of observers or monitors at-sea or shoreside.

(d) *Combined coverage amounts.* Coverage amounts specified for Marine General Liability and Marine Employers Liability may be higher or lower for each respective policy so long as the combined coverage for these policies is \$2 million.

[87 FR 54909, Sept. 8, 2022]

## Subpart I—Fishery Negotiation Panels

SOURCE: 62 FR 23669, May 1, 1997, unless otherwise noted.

### § 600.750 Definitions.

*Consensus* means unanimous concurrence among the members on a Fishery Negotiation Panel established under this rule, unless such Panel:

(1) Agrees to define such term to mean a general but not unanimous concurrence; or

(2) agrees upon another specified definition.

*Fishery negotiation panel* (FNP) means an advisory committee established by one or more Councils or the Secretary in accordance with these regulations to assist in the development of fishery conservation and management measures.

*Interest* means, with respect to an issue or matter, multiple parties that have a similar point of view or that are likely to be affected in a similar manner.

*Report* means a document submitted by an FNP in accordance with the Magnuson-Stevens Act.

[62 FR 23669, May 1, 1997, as amended at 63 FR 7075, Feb. 12, 1998]

### § 600.751 Determination of need for a fishery negotiation panel.

A Council or NMFS may establish an FNP to assist in the development of

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specific fishery conservation and management measures. In determining whether to establish an FNP, NMFS or the Council, as appropriate, shall consider whether:

(a) There is a need for specific fishery conservation and management measures.

(b) There are a limited number of identifiable interests that will be significantly affected by the conservation and management measure.

(c) There is a reasonable likelihood that an FNP can be convened with a balanced representation of persons who:

(1) Can adequately represent the interests identified under paragraph (b) of this section.

(2) Are willing to negotiate in good faith to reach a consensus on a report regarding the issues presented.

(d) There is a reasonable likelihood that an FNP will reach a consensus on a report regarding the issues presented within 1 year from date of establishment of the FNP.

(e) The use of an FNP will not unreasonably delay Council or NMFS fishery management plan development or rule-making procedures.

(f) The costs of establishment and operation of an FNP are reasonable when compared to fishery management plan development or rulemaking procedures that do not use FNP procedures.

(g) The Council or NMFS has adequate resources and is willing to commit such resources, including technical assistance, to an FNP.

(h) The use of an FNP is in the public interest.

### § 600.752 Use of conveners and facilitators.

(a) *Purposes of conveners.* A Council or NMFS may use the services of a trained convener to assist the Council or NMFS in: (1) Conducting discussions to identify the issues of concern, and to ascertain whether the establishment of an FNP regarding such matter is feasible and appropriate.

(2) Identifying persons who will be significantly affected by the issues presented in paragraph (a)(1) of this section.

(b) *Duties of conveners.* The convener shall report findings under paragraph

(a)(2) of this section and shall make recommendations to the Council or NMFS. Upon request of the Council or NMFS, the convener shall ascertain the names of persons who are willing and qualified to represent interests that will be significantly affected by the potential conservation and management measures relevant to the issues to be negotiated. The report and any recommendations of the convener shall be made available to the public upon request.

(c) *Selection of facilitator.* Notwithstanding section 10(e) of the Federal Advisory Committee Act (FACA), a Council or NMFS may nominate a person trained in facilitation either from the Federal Government or from outside the Federal Government to serve as an impartial, neutral facilitator for the negotiations of the FNP, subject to the approval of the FNP, by consensus. The facilitator may be the same person as the convener used under paragraph (a) of this section. If the FNP does not approve the nominee of the Council or NMFS for facilitator, the FNP shall submit a substitute nomination. If an FNP does not approve any nominee of the Council or NMFS for facilitator, the FNP shall select, by consensus, a person to serve as facilitator. A person designated to represent the Council or NMFS in substantive issues may not serve as facilitator or otherwise chair the FNP.

(d) *Roles and duties of facilitator.* A facilitator shall:

(1) Chair the meetings of the FNP in an impartial manner.

(2) Impartially assist the members of the FNP in conducting discussions and negotiations.

(3) Manage the keeping of minutes and records as required under section 10(b) and (c) of FACA.

### § 600.753 Notice of intent to establish a fishery negotiation panel.

(a) *Publication of notice.* If, after considering the report of a convener or conducting its own assessment, a Council or NMFS decides to establish an FNP, NMFS shall publish in the FEDERAL REGISTER and, as appropriate, in trade or other specialized publications, a document that shall include: