



**Western  
Pacific  
Regional  
Fishery  
Management  
Council**

September 24, 2025

Mr. Eugenio Piñeiro Soler  
Assistant Administrator for Fisheries  
NOAA Fisheries  
1315 East-West Highway  
Silver Spring, MD 20910

Dear Genio:

The Western Pacific Regional Fishery Management Council is pleased to transmit its recommended actions pursuant to Executive Order 14276 *Restoring American Seafood Competitiveness*. These recommendations are necessary to reduce burdens on domestic fishing and to increase production by stabilizing markets, improving access, enhancing economic profitability, and prevent closures. The full list of recommended actions with the justifications are described in the attached document.

The Western Pacific region's fisheries are characterized by the Hawai'i longline fishery supplying nearly two-thirds of the U.S. domestic supply of fresh, high-quality bigeye and yellowfin tuna as well as more than half the supply of swordfish, the American Samoa longline fishery supplying albacore tuna to the single remaining cannery in the sole U.S. Territory located in the Southern Hemisphere, as well as small-scale bottomfish, pelagic and crustacean fisheries in Hawai'i, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands that generate high value for the local seafood markets in remote U.S. communities. The Council has strived to minimize burdens on the region's fisheries as much as possible to ensure these fisheries provide the maximum benefit to the region and the nation. Where there are federally imposed burdens, they primarily stem from other applicable laws such as Endangered Species Act Biological Opinions and the Marine Mammal Protection Act Take Reduction Plan. The small-scale fisheries in the Territories continue to struggle from data limitations, making it challenging to manage effectively under the MSA's Annual Catch Limit requirements. The Council's recommended actions are reflective of these realities in the Western Pacific region, and many of the actions will necessitate action from NMFS and/or Congress to resolve.

The Council requests NMFS to work with the Administration to address those recommendations that are outside of the Council's control. For those actions that may be modified through the MSA process, the Council will coordinate with NMFS on implementing those actions and is scheduled to discuss those plans in more detail at its December 2025 meeting.

We look forward to working with you to address these recommendations. Mahalo!

William Sword  
Chair

Sincerely,

Kitty M. Simonds  
Executive Director

Attachments: 1) WP Council recommendations document; 2) Matrix version of the recommended actions (electronic only)

Cc: Hon. Howard Lutnick, Secretary of Commerce  
Sam Rauch, NMFS Deputy Assistant Administrator for Regulatory Programs  
Kelly Denit, NMFS Office of Sustainable Fisheries Director  
Jarad Makaiau, NMFS Pacific Islands Regional Office, Assistant Regional Administrator for Sustainable Fisheries  
Honorable Governors of American Samoa, CNMI and Guam  
Council Members



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## **EO 14276 Seafood EO**

### **Updates to Recommendations Submitted Pursuant to EO 13921**

**September 24, 2025**

#### **Background**

On April 17, 2025, President Donald Trump signed Executive Order (EO) 14276 entitled “Restoring American Seafood Competitiveness.” EO 14276 sets out policies and procedures to promote the productive harvest of U.S. seafood resources; unburden U.S. commercial fishermen from costly and inefficient regulation; combat illegal, unreported, and unregulated (IUU) fishing; and protect U.S. seafood markets from the unfair trade practices of foreign nations.

Section 4(a)(i) of EO 14276 includes a directive to the Regional Fishery Management Councils (RFMCs) as follows:

(4)(a)(i) The Secretary of Commerce shall request that each Regional Fishery Management Council, within 180 days of the date of this order, provide the Secretary of Commerce with updates to their recommendations submitted pursuant to Executive Order 13921, to reduce burdens on domestic fishing and to increase production. Building upon the earlier goals, identified actions should stabilize markets, improve access, enhance economic profitability, and prevent closures. The Regional Fishery Management Councils will commit to a work plan and a schedule for implementation to ensure these actions are prioritized.

In a letter to the Council Executive Directors dated May 6, 2025, NOAA Fisheries Assistant Administrator Eugenio Piñero Soler requested the Councils to submit the updated recommendations by September 1, 2025 (deadline subsequently extended to September 30, 2025). The request specified that Councils provide following information for each recommended action:

- Action type (e.g., Changes to Regulations, Orders, Guidance Documents, Other Similar Agency Actions);
- Relevant code of federal register (CFR) citation under Title 50, if applicable;
- Updated description of recommended actions;
- Rationale of how the recommended action(s) stabilize markets, improve access, enhance economic profitability, and prevent closures;
- Proposed plan and schedule for implementation.

The Western Pacific Council’s previous recommendations for the original Seafood EO issued during the first Trump Administration (EO 13921) was submitted to the National Marine Fisheries Service (NMFS) in November 2020. More recently, Council staff in March 2025 developed a draft list of regulations for potential removal pursuant to EO 14192 entitled “Unleashing Prosperity Through Deregulation”.

### **Updated List of Recommendations**

The Western Pacific Council’s updated recommendations were developed by combining, updating, and reprioritizing the list of actions from the previously submitted recommendations for EO 13921 and the March 2025 draft list of regulations for potential removal. The Council endorsed the preliminary list of recommendations for reducing burdens on domestic fishing and to increase production at its 203<sup>rd</sup> meeting in June 2025 and directed staff to work with the Executive Committee to finalize the recommendations with the justification document. The Council reviewed the final set of recommendations at its 204th meeting in September 2025.

The list is divided into actions related to the Magnuson-Stevens Fishery Conservation and Management Act (MSA; **Table 1**) and all other applicable laws (OALs; **Table 2**) such as the Endangered Species Act (ESA), Marine Mammal Protection Act (MMPA), and Billfish Conservation Act (BCA). Within each list, the actions are sorted by relative priority. Detailed descriptions of each of the recommended actions are presented in the following sections.

The Western Pacific region’s fisheries are characterized by the Hawai’i longline fishery supplying nearly two-thirds of the U.S. domestic supply of fresh, high-quality bigeye and yellowfin tuna as well as more than half the supply of swordfish, the American Samoa longline fishery supplying albacore tuna to the single remaining cannery in the sole U.S. Territory located in the Southern Hemisphere, as well as small-scale bottomfish, pelagic and crustacean fisheries in Hawai’i, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands (CNMI) that generate high value for the local seafood markets in remote U.S. communities. The Council has strived to minimize burdens on the region’s fisheries as much as possible to ensure these fisheries provide the maximum benefit to the region and the nation. Where there are federally imposed burdens, they primarily stem from OALs such as ESA Biological Opinions (BiOps) and the MMPA Take Reduction Plan. The small-scale fisheries in the Territories continue to struggle from data limitations, making it challenging to manage effectively under the MSA’s Annual Catch Limit (ACL) requirements. The Council’s recommended actions are reflective of these realities in the Western Pacific region, and many of the actions will necessitate action from NMFS and/or Congress to resolve.

**Table 1. MSA Actions** (*note: numbers in the first column correspond to the item number in the remainder of the justification document*)

#	Recommended Action	Primary Authority	Relative Priority
1	Removing the fishing prohibitions in the Pacific Island Monuments and returning fishing regulations under the MSA (Pacific Islands Heritage, Marianas Trench, Seamount and Island Units, Muliava (Rose) Atoll, Papahānumokuākea MNMs)	Antiquities Act, Proclamations and associated MSA regulations	1
2	Remove shallow-set longline (SSLL) “strike two” of turtle trip limit measure	MSA (also ESA BiOp reasonable and prudent measure (RPM))	1
3	Remove SSLL leatherback turtle hard cap	MSA (also ESA BiOp RPM)	1
4	Remove swordfish retention limit in the deep-set longline (DSL) fishery	MSA	1
5	Remove SSLL blue-dyed bait requirement (seabird mitigation measure)	MSA (also ESA BiOp RPM)	1

#	Recommended Action	Primary Authority	Relative Priority
6	Remove Fishery Ecosystem Plan (FEP) fishing regulations tied to BiOp RPMs	MSA (also ESA BiOp RPM)	1
7	Provide flexibility in the application of ACL requirements for data-limited stocks	MSA	1
8	Remove American Samoa longline (ASLL) turtle mitigation measure (gear config to get hooks below 100 m depth)	MSA	2
9	Promulgate regulations to implement any future Take Reduction Plan measures through the MSA Council process and rulemaking procedures to allow greater transparency and flexibility	MMPA/MSA	2
10	Provide support for unfunded mandates under MSA and other Acts	MSA/YFDA	2
11	Revise NMFS procedure for initiating Secretarial review of fishery management actions recommended by RFMCs so that the more timely process described in the MSA section 304(a) and (b) can be followed	MSA	3
12	Provide an exemption to Essential Fish Habitat for man-made and degraded environments	MSA	3
13	Guam large vessel (>50 ft) bottomfish prohibited area	MSA	3

**Table 2. Actions under Other Applicable Law** (*note: numbers in the first column correspond to the item number in the remainder of the justification document*)

#	Recommended Action	Primary Authority	Relative Priority
14	Remove the Southern Exclusion Zone closure from the False Killer Whale Take Reduction Plan (FKWTRP) regulations	MMPA	1
15	Revise MMPA Guidelines for Assessing Marine Mammal Stocks & NMFS Serious Injury Determination Policy	MMPA	1
16	Revise ESA listing where the populations are increasing and threats do not pose immediate danger of extinction, especially: <ul style="list-style-type: none"> <li>· Green sea turtle</li> <li>· Olive ridley turtle</li> <li>· North Pacific loggerhead turtle</li> <li>· Oceanic whitetip shark</li> </ul>	ESA	1
17	Eliminate or relax ESA take prohibition rules for threatened sea turtles	ESA	1
18	Provide more discretion to the Secretaries of Commerce and the Interior to not designate critical habitat when there is little conservation benefit anticipated	ESA	1
19	Renegotiations of the Compact of Free Association to include stipulations that recipients of COFA support and cooperate with U.S. fisheries at international commissions	COFA	1
20	Provide exemption for Pacific Island fishermen to the amended BCA of 2018	BCA	1
21	Remove the weak hook requirement from the FKWTRP Regulations	MMPA	2
22	Reduce litigation risk toward U.S. fisheries by updating the ESA Citizen Suits provision	ESA	2



#	Recommended Action	Primary Authority	Relative Priority
23	Consistency of Western and Central Pacific Fisheries Commission (WCPFC) negotiations with Ensuring Access to Pacific Fisheries Act and EOs	WCPFC-IA	2
24	Streamlining application processes for dumping and countervailing investigations	Tariff Act	2
25	Streamline ESA consultations to ensure efficient environmental reviews within statutory 135 day timeline; ensure any RPMs are “reasonable” and commensurate with relative impact to populations	ESA	3
26	Stronger utilization of the Lacey Act on marine fishery products, including from tuna and tuna-like fisheries	Lacey Act	3

### **Detailed Description of Recommended Actions: MSA Actions**

#### **1. Removing the fishing prohibitions in the Pacific Island Monuments and returning fishing regulations under the MSA (Pacific Islands Heritage, Marianas Trench, Muliava (Rose) Atoll, Papahanumokuakea MNMs)**

- **Action type:** Order (Presidential Proclamation), associated changes to regulations
- **Relevant CFR Citation under Title 50 (if applicable):** 50 CFR 665 Subpart G; 50 CFR 665 Subpart H; 50 CFR 665 Subpart I
- **Description of recommendation action**

Presidential Proclamation 10918 removed the commercial fishing prohibitions in the Pacific Islands Heritage Marine National Monument (MNM). Further Presidential action is needed in order to remove the commercial fishing prohibitions in the other three MNMs in the Pacific (Marianas Trench, Muliava (Rose) Atoll, and Papahānaumokuākea). Fishery management regulations promulgated under the MSA, including area closures, quotas, and gear restrictions are still on record for these areas (50 CFR 665, Subpart C through F), providing for prohibited fishing areas, catch limits, gear restrictions, etc. The fisheries will therefore continue to be managed sustainably under pre-existing MSA-based regulations developed through the transparent Council process, which include monitoring of fishing activity through permit and reporting, observers, satellite vessel monitoring systems, and electronic reporting. The removal of unnecessary commercial fishing restrictions and the return of fishery management to the Council under the MSA will provide the U.S. fishing fleet in the Pacific fishing areas closer to their home port, thereby alleviating the increasing costs of fuel and supplies, as well as provide access to fish in areas where they do not have to compete with foreign fishermen.

- **Rationale of how the recommended action(s) stabilize markets, improve access, enhance economic profitability, and prevent closures**

The President’s Proclamation for the Pacific Islands Heritage MNM reduced the total area of the U.S. exclusive economic zone (EEZ) closed to commercial fishing from 26% to 17%. However, the remaining MNMs in the Pacific still represent more than 778,000 square miles of U.S. waters closed to commercial fishing, an area larger than the Gulf of America and more than double the area of the EEZ off the East Coast. These fishing restrictions in the MNMs continue to impede a vibrant and competitive seafood industry by reducing access to areas that sustain American jobs

and put safe and healthy food on American tables. These Monuments prohibit access to U.S. EEZ waters that could support productive and sustainable fisheries. Fishing costs continue to rise with the increasing price of fuel and other supplies, while MNMs close nearby areas, forcing U.S. fleets to operate on the high seas, where they face growing competition from foreign vessels and an ever-expanding Chinese fleet. These foreign vessels are not as well-managed as the U.S. fleet and contribute to the continued IUU fishing in the Pacific, despite U.S. monetary contributions to these countries.

➤ ***Proposed plan and schedule for implementation***

The Council at its 203<sup>rd</sup> meeting in June 2025 discussed the review of MNMs in the context of EO 14276 Section (h), and directed staff to develop a review report to its Executive Committee in advance of providing information to the Secretary of Commerce. The Council submitted the information to the Secretary of Commerce on July 24, 2025. At its 204<sup>th</sup> meeting in September 2025, the Council endorsed continuing efforts to remove the commercial fishing regulations and potentially prepare for additional fishing regulations under the MSA.

NMFS should request that the Administration provide relief to U.S. fishermen in the Pacific by lifting the commercial fishing prohibitions in the Pacific MNMs and allowing America's fishermen to once again fish in the U.S. EEZ under the regulations promulgated under the MSA.

<b>2. Remove shallow-set longline “strike two” of turtle trip limit measure</b>
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- ***Action type:*** FEP or Regulatory Amendment, BiOp RPM Revisions
- ***Relevant CFR Citation under Title 50 (if applicable):*** 50 CFR 665.813(b)(2)
- ***Description of recommendation action***

An amendment to the Pacific Pelagic Fishery Ecosystem Plan (FEP) and associated regulations is needed to remove the “strike two” provision related to the sea turtle trip interaction limit measure implemented in 2020.

Under Amendment 10 of the Pelagic FEP, Hawai'i shallow-set longline (SSLL) vessels targeting swordfish are required to terminate their trip and return to port when that vessel reaches an individual trip interaction limit of five loggerhead turtles or two leatherback turtles. The vessel is allowed to resume shallow-set fishing after remaining in port for five days. If a vessel reaches the trip limit for either leatherback or loggerhead turtles twice in a calendar year, it is prohibited from SSLL fishing for the remainder of that year. In the following calendar year, the vessel will be subject to an annual vessel limit equal to a single trip limit for the species for which two trip limits were reached. The provision associated with reaching the trip limit for the second time in a calendar year is referred to as the “strike two” provision.

- ***Rationale of how the recommended action(s) stabilize markets, improve access, enhance economic profitability, and prevent closures***

The Council developed the trip limit measure in Pelagic FEP Amendment 10 in response to the higher number of loggerhead turtle interactions in the shallow-set fishery, with the purpose of providing necessary tools to respond to and mitigate fluctuations in loggerhead and leatherback turtle interactions, and to ensure a continued supply of fresh swordfish to U.S. markets. However, the “strike two” provision was added due to a requirement under the BiOp Reasonable



and Prudent Measures (RPM), despite the BiOp concluding that the fishery was not likely to jeopardize ESA-listed sea turtles.

The “strike two” provision creates unnecessary cost to the industry by creating a punitive limit that has minimal conservation benefit for turtles. All leatherback turtles and nearly all loggerhead turtles accidentally caught in the SSL fishery have been released alive, with a high probability for survival. The risk of shallow-set vessels reaching the trip limit twice in a calendar is low, with only one case occurring in the five years since the measure became effective in September 2020.

Removal of the “strike two” provision would help to stabilize markets by allowing vessels to fish throughout the swordfish season and ensuring a consistent supply of fresh swordfish.

➤ ***Proposed plan and schedule for implementation***

The Council at its 204th meeting in September 2025 reviewed this and other MSA actions that may be modified through Council action, and directed staff to work with NMFS to develop a schedule for implementing them through the Council process. The Council is scheduled to review the staff report at its next meeting in December 2025. The Council will also coordinate with NMFS to address the associated BiOp RPM to ensure the Pelagic FEP’s consistency with ESA.

<b>3. Remove SSL leatherback turtle hard cap</b>
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- ***Action type:*** FEP Amendment, BiOp RPM Revisions
- ***Relevant CFR Citation under Title 50 (if applicable):*** 50 CFR 665.813(b)(1)
- ***Description of recommendation action***

An amendment to the Pelagic FEP and associated regulatory changes are needed to remove the leatherback turtle fleet-wide interaction limit (“hard cap”) for the Hawai‘i SSL fishery.

- ***Rationale of how the recommended action(s) stabilize markets, improve access, enhance economic profitability, and prevent closures***

The hard cap was first implemented for both leatherback and loggerhead sea turtles in 2004 as part of Regulatory Amendment 3 to the Pelagic Fishery Management Plan (FMP; currently the Pelagic FEP) that established a model Hawai‘i SSL fishery targeting swordfish. The amendment implemented a suite of sea turtle mitigation measures in 2004 to achieve optimum fishing yields for target species while not jeopardizing the long-term existence of sea turtles and other listed species (69 FR 17329, April 2, 2004; WPRFMC 2004). Key components of the sea turtle measures included the implementation of new technologies (i.e., large circle hooks and mackerel-type bait) to reduce sea turtle interaction rates and requiring Hawai‘i longline vessels to carry approved de-hooking devices to maximize the post-hooking survival. The hard caps were intended to ensure impacts of the fishery to sea turtle populations did not exceed levels analyzed in the ESA BiOp issued by NMFS while information was being gathered on the model fishery.

The loggerhead hard cap was removed when the sea turtle trip interaction limits were implemented as part of the Pelagic FEP Amendment 10 (see action #2 above), but the leatherback hard cap remains in place as NMFS continues to require the measure as an RPM in

the latest BiOp for the fishery (2019). In the 20+ years since hard caps were implemented, the fishery has only reached the current limit of 16 leatherback turtle interactions once. All leatherback turtles captured in the SSL fishery have been released alive with approximately 80% post-release survivorship. The mandatory use of large circle hooks in this fishery continues to maintain low leatherback turtle interaction rates.

When the fishery does reach a hard cap, the closure for the remainder of the calendar year can be highly disruptive to the fishery, which supplies approximately half of the domestic swordfish market on the U.S. East Coast. The Hawai'i SSL fishery is a seasonal fishery that starts in the fall and peaks in spring, and a hard cap closure may close a season early and delay the start of the next fishing season. The potential impacts of the closure creates unnecessary uncertainty in the market stability for swordfish.

➤ ***Proposed plan and schedule for implementation***

The Council at its 204th meeting in September 2025 reviewed this and other MSA actions that may be modified through Council action, and directed staff to work with NMFS to develop a schedule for implementing them through the Council process. The Council is scheduled to review the staff report at its next meeting in December 2025. The Council will also coordinate with NMFS to address the associated BiOp RPM to ensure the Pelagic FEP's consistency with ESA.

<b>4. Remove swordfish retention limit in the deep-set longline fishery</b>
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- ***Action type:*** Changes to Regulations
- ***Relevant CFR Citation under Title 50 (if applicable):*** [50 CFR 665.813\(j\)](#)
- ***Description of recommendation action***

A regulatory amendment under the Pelagic FEP is needed to remove the swordfish retention limit in the Hawai'i deep-set longline (DSL) fishery. Under current regulations, the DSL fishery targeting bigeye tuna may retain an unlimited number of swordfish when a NMFS observer is on board, and is limited to retaining up to 25 swordfish per trip without an observer.

The swordfish retention limit was originally implemented in 2002 as an emergency interim rule (with a limit of 10 swordfish per trip), and later implemented as a permanent rule in 2004. The limit was revised to 25 swordfish per trip with an observer in 2012. The measure was intended to prevent DSL vessels from targeting swordfish during the period when the swordfish fishery was closed due to a court order.

The analysis for the 2012 regulatory amendment that loosened the restrictions on swordfish retention considered the option for removing the limit. At the time, the analysis indicated that removing the swordfish trip limit is unlikely to create incentives to target swordfish and lead to an increase in sea turtle interactions because vessels are prohibited from switching to a shallow-set gear configuration during a declared deep-set trip. If illegal swordfish targeting occurred during a DSL trip, such activity could also be detected in the form of the large number of large-sized swordfish caught, characteristic of shallow-set trips. Vessel owners are also required to submit daily electronic logbooks, which are transmitted through satellite while at sea. There has been no indication from available data that DSL vessels are targeting swordfish when no observers are on board.



The 2012 regulatory amendment had also created an incentive for the DSLI to use circle hooks by allowing them to retain 25 swordfish per trip when using circle hooks instead of 10 swordfish per trip if using other hook types. However, the DSLI has been required to use circle hooks under the FKWTRP since 2013, thus all DSLI may retain 25 swordfish per trip without an observer and unlimited swordfish with an observer.

- ***Rationale of how the recommended action(s) stabilize markets, improve access, enhance economic profitability, and prevent closures***

Removing the swordfish trip limit would eliminate regulatory discards of swordfish caught in the DSLI fishery and allow vessels to land and sell all marketable swordfish when they catch more than 25 in a trip without observers.

- ***Proposed plan and schedule for implementation***

The Council at its 204th meeting in September 2025 reviewed this and other MSA actions that may be modified through Council action, and directed staff to work with NMFS to develop a schedule for implementing them through the Council process. The Council is scheduled to review the staff report at its next meeting in December 2025.

<b>5. Remove SSLI blue-dyed bait requirement (seabird mitigation measure)</b>
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- ***Action type:*** Changes to Regulations
- ***Relevant CFR Citation under Title 50 (if applicable):*** 50 CFR 665.815(a)(2)(vi)-(vii)
- ***Description of recommendation action***

A regulatory amendment under the Pelagic FEP is needed to remove the requirement to use blue-dyed bait in the Hawai'i SSLI fishery.

Blue-dyed bait was required as a primary seabird interaction mitigation measure through an RPM in the 2000 U.S. Fish and Wildlife Service (USFWS) BiOp, and implemented in the SSLI fishery through the Council's Pelagic FMP Regulatory Amendment 3 (2004). The Council's seabird mitigation measure was originally designed to allow more flexibility to fishermen by allowing vessels to choose different combinations of mitigation measures. The BiOp RPM limited those options by requiring the fishery to use blue-dyed bait in conjunction with night setting, despite no scientific evidence that it offers added conservation benefit beyond night setting, which is already highly effective for seabird species that forage during the day or crepuscular hours.

The Council recently removed the blue-dyed bait requirement from the Hawai'i DSLI sector, based on evidence that blue-dyed bait is significantly less effective in deterring seabird interactions compared to other mitigation measures. The Council in September 2024 recommended further research to evaluate the effect of blue-dyed bait in the SSLI fishery as a first step toward reconsidering the use of this measure in the fishery.

- ***Rationale of how the recommended action(s) stabilize markets, improve access, enhance economic profitability, and prevent closures***

Blue-dyed bait is known to create operational burdens to fishermen as the measure necessitates that the frozen bait used in the fishery be thawed before soaking the bait in food-grade blue dye prior to each setting operation. There are no pre-dyed bait commercially available on the market. Removing this requirement would reduce the cost and time burden incurred by the SSLL fishery.

- ***Proposed plan and schedule for implementation***

The Council at its 204th meeting in September 2025 reviewed this and other MSA actions that may be modified through Council action, and directed staff to work with NMFS to develop a schedule for implementing them through the Council process. The Council is scheduled to review the staff report at its next meeting in December 2025.

## **6. Remove FEP fishing regulations tied to BiOp RPMs**

- ***Action type:*** Changes to Regulations
- ***Relevant CFR Citation under Title 50 (if applicable):*** Various sections under [50 CFR 665 Subpart F](#)
- ***Description of recommendation action***

A comprehensive review of the FEP fishing regulations is needed to evaluate whether regulations implemented due to BiOp RPM requirements may be revised, updated, or removed.

In addition to previously identified actions, a number of other regulations implemented under the FEPs originate from old BiOps, dating back to the 1990s. These include required tools for the release of sea turtles and species-specific handling and release requirements for sea turtles and seabirds. These regulations have not been reviewed in a comprehensive manner to evaluate their current effectiveness and burdens to industry.

- ***Rationale of how the recommended action(s) stabilize markets, improve access, enhance economic profitability, and prevent closures***

A comprehensive review and revision of protected species-related fishery regulations originating from BiOp RPMs would help to identify areas of unnecessary burden and inefficiencies. Improving these protected species handling and other associated measures may improve operational efficiency and safety for fishermen, contributing to increased economic profitability.

- ***Proposed plan and schedule for implementation***

The Council at its 204th meeting in September 2025 reviewed this and other MSA actions that may be modified through Council action, and directed staff to work with NMFS to develop a schedule for implementing them through the Council process. The Council is scheduled to review the staff report at its next meeting in December 2025. The Council will also coordinate with NMFS to address the associated BiOp RPM to ensure the Pelagic FEP's consistency with ESA.

## **7. Provide flexibility in the application of ACL requirements for data-limited stocks**

- **Action type:** Amend NS1 Guideline for data-poor exemption; FEP amendment to amend 3-year cycle for benchmark assessments.
- **Relevant CFR Citation under Title 50 (if applicable):** N/A
- **Description of recommendation action**

The National Standard 1 (NS1) Guidelines has provided some flexibility for data-poor stocks under ACL management. This flexibility has allowed the Council to refine its ACL specification framework to allow for length-based data collection and assessments. However, many data-poor stocks should still be eligible for exemptions from ACL-based management, similar to the one year lifespan and the stock subject to international agreements. Forcing management of data-poor stocks under ACL continues to drain limited federal resources for fisheries that have little economic value. The Council recognizes the cultural importance of these fisheries and should be managed through other means besides ACLs. The Councils should be given more flexibility in managing data-limited stocks that are not maximum sustainable yield (MSY) and catch-based.

Utilizing the appropriate management tool for data-limited fisheries would support the perpetuation of culturally important fisheries and the development of underutilized fisheries to increase local economic production. In doing so, this would also enable territorial and federal programs to establish proper monitoring tools to improve fisheries data for management.

Additional flexibility may also be provided in the form of an FEP amendment to remove the 3-year cycle for benchmark stock assessments. This would provide flexibility based on monitoring, data availability and on the status of the stock. The Council may consider including in its FEPs criteria for determining stock assessment cycles utilizing the Western Pacific Stock Assessment Review (WPSAR) process and steering committee.

- **Rationale of how the recommended action(s) stabilize markets, improve access, enhance economic profitability, and prevent closures**

The management of stocks under ACLs requires a significant amount of information and regulatory mechanisms in place to manage it properly. These are typically not available for data-poor stocks, which include the majority of the Western Pacific insular fisheries. A significant amount of effort is expended on developing MSY-based science and management systems, including stock assessments, which are not suited for a small-scale island fishery. Forcing ACLs as a management tool for the data-poor stocks impedes the development of an underutilized fishery and poses significant challenges in the management of existing fisheries. An example is the American Samoa bottomfish fishery, where an MSY-based stock assessment relied on creel survey data that were not designed for assessment purposes, resulting in an overfished/overfishing status. The ACL dropped from 106,000 lbs to 2,000 lbs. Due to the change in stock status, a fishery development project to export bottomfish and the federally funded research cruise on bottomfish life history got cancelled. Fishery managers are then forced to limit this culturally important fishery to comply with the NS1 requirement to end overfishing immediately and rebuild the stock in 10 years. However, the rebuilding plan was discontinued in 2024 with the release of a new stock assessment that found that the fishery was not overfished. There has been no progress or intent to follow up on the fishery development project and research cruise for bottomfish life history.



➤ ***Proposed plan and schedule for implementation***

The Technical Guidance developed by NMFS should consider non-catch based management of data-poor stocks. While alternative approaches to managing based on catch limits such as length can be made available under existing NS1 guidance, these fisheries may be better managed using other methods that should be explored such as area-temporal based management and effort controls. A long-term solution would entail a statutory change to the MSA, allowing the Councils to identify data-poor fisheries and include them in the exemption clause alongside species with a one-year lifespan or those managed internationally.

For the FEP amendment to remove the 3-year benchmark stock assessment cycle, the Council at its 204th meeting in September 2025 reviewed this and other MSA actions that may be modified through Council action, and directed staff to work with NMFS to develop a schedule for implementing them through the Council process. The Council is scheduled to review the staff report at its next meeting in December 2025.

<b>8. Remove American Samoa longline turtle mitigation measure</b>
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- ***Action type:*** FEP amendment, changes to regulations
- ***Relevant CFR Citation under Title 50 (if applicable):*** [50 CFR 665.813\(k\)](#)
- ***Description of recommendation action***

An amendment to the Pelagic FEP is needed to revise or remove the sea turtle mitigation measure for the American Samoa longline (ASLL) fishery.

The ASLL fishery is required to follow a longline gear configuration aimed at setting hooks deeper than 100 meters to reduce interactions with green sea turtles. Specifically, the fishery is required to use float lines (line between floats and the suspended horizontal mainline) at least 30 meters in length, have a minimum of 15 branch lines between any two floats, and requires that the distance from each float to adjacent branch lines be at least 70 meters. This measure was implemented in 2011 under Amendment 5 to the Pelagic FEP, and developed in response to a request from the NMFS Pacific Islands Regional Office to reduce green sea turtle interactions in the ASLL fishery in advance of reinitiating consultation under ESA Section 7.

Since the implementation of this measure, the Council has requested that the NMFS Pacific Islands Fisheries Science Center (PIFSC) conduct an evaluation to determine whether it has been effective. PIFSC has declined on the basis that there are too few sea turtle interactions to conduct a robust analysis to statistically evaluate the effect. This measure has also been difficult to enforce as there is no practical way to measure the 70-meter distance from the float to the first branch line once the gear is deployed, and this specification cannot be enforced through dockside inspections. ASLL vessels use a line setting device (or line shooter) to deploy the mainline at consistent speed throughout the setting, which allows crew to adjust the distance between the float line and the first branch line using the time it takes for the line shooter to deploy 70 meters of mainline, which is approximately 17-18 seconds.



- ***Rationale of how the recommended action(s) stabilize markets, improve access, enhance economic profitability, and prevent closures***

The ASLL fishery is experiencing unprecedented economic hardship due to high costs, low catch rates of the target species (albacore tuna) and foreign competition. Restrictions on gear configuration limits flexibility for the industry in making adjustments according to oceanographic conditions or catch rates, and may be suppressing operational efficiency. Reducing unnecessary burdens such as gear restrictions are expected to contribute to less cost and economic stability.

- ***Proposed plan and schedule for implementation***

The Council at its 204th meeting in September 2025 reviewed this and other MSA actions that may be modified through Council action, and directed staff to work with NMFS to develop a schedule for implementing them through the Council process. The Council is scheduled to review the staff report at its next meeting in December 2025. The Council will also coordinate with NMFS to address the associated BiOp RPM to ensure the Pelagic FEP's consistency with ESA.

<p><b>9. Promulgate regulations to implement any future Take Reduction Plan measures through the MSA Council process and rulemaking procedures to allow greater transparency and flexibility</b></p>
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- ***Action type:*** Guidance Documents
- ***Relevant CFR Citation under Title 50 (if applicable):*** N/A
- ***Description of recommendation action***

NMFS should develop a Policy Directive to improve coordination between MSA and MMPA mandates and to develop a framework for implementing any changes to federal fishery regulations for meeting MMPA objectives through the MSA authority, specifically through the Council process established under Section 302. Such a framework would ensure transparency and flexibility for implementing management measures necessary for the conservation of marine mammals, while ensuring such measures are practical and do not place unnecessary burden on fishery participants.

- ***Rationale of how the recommended action(s) stabilize markets, improve access, enhance economic profitability, and prevent closures***

TRP measures are typically implemented as regulations under the MMPA, but the affected federal fisheries are otherwise managed under the MSA. For example, measures to implement the MMPA FKWTRP have modified gear requirements and fishing areas for a fishery that is otherwise sustainably managed under the Council's Pelagic FEP. In implementing the FKWTRP regulations, NMFS modified the longline exclusion zone established under the Pelagic FEP. The conforming regulatory change was made through MSA Section 305(d) (pertaining to responsibility of the Secretary) and without Council action, circumventing the process established under MSA Section 302.

MMPA regulations can create conforming fishery regulations without consultation with the MSA process, circumventing the transparency and flexibility that is afforded through the existing

fishery management process, as well as consideration of the 10 National Standards. Additionally, regulations promulgated under MMPA do not have emergency rule provisions equivalent to the MSA, preventing the Council and NMFS from providing regulatory relief on any measures implemented under the MMPA. The prioritization of MMPA over MSA prevents U.S. fisheries from performing at their optimum level and puts U.S. seafood markets at a competitive disadvantage.

➤ ***Proposed plan and schedule for implementation***

NMFS should coordinate with the RFMCs on the development of a framework for improving coordination between MSA and MMPA mandates and implementing any changes to federal fishery regulations for meeting MMPA objectives through the MSA authority. Such an effort would benefit from convening a NMFS-Council working group, similar to the effort undertaken to improve ESA-MSA integration.

<b>10. Provide support for unfunded mandates under MSA and other Acts</b>
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- ***Action type:*** Legislative
- ***Relevant CFR Citation under Title 50 (if applicable):*** N/A; MSA §305 (j), note; Public Law No: 116-289 (01/05/2021)
- ***Description of recommendation action***

Support for unfunded mandates under the MSA and other statutes should be restored. The MSA includes provisions for funding programs in the Western and Northern Pacific for marine education and training as well as demonstration projects. Funding for these programs have been non-existent since 2011, the last time funding was available for the demonstration projects. Other congressional actions to assist fisheries such as the Young Fishermen's Development Act and Saltonstall-Kennedy Act are frequently underfunded and the split of funding that is available is not equitable between regions.

➤ ***Rationale of how the recommended action(s) stabilize markets, improve access, enhance economic profitability, and prevent closures***

These programs were included in the MSA specifically to assist fishing communities in the Western and Northern Pacific to provide opportunities for training residents, including the indigenous peoples, in fishing and marine education. Providing funding for these programs will allow for capacity building in fisheries and fishery infrastructure as well as increase seafood production in the regions. The opportunities afforded by these programs include potential market development, increased fish catches, and a greater supply of fishermen for an already greying fleet.

➤ ***Proposed plan and schedule for implementation***

NMFS should work with the Administration to include funding for these MSA mandates in the federal budget. The Council has previously requested funding for these programs and to NMFS' credit have gotten a small amount of funding for such programs as a high school summer course and capacity-building scholarships. The Council will continue to request that these unfunded mandates be provided for in order to re-establish these programs and increase its reach to build the fishery capacity in the region.

## **11. Revise NMFS procedure for immediately initiating Secretarial review of fishery management actions recommended by RFMCs**

- **Action type:** Changes to Guidance Documents
- **Relevant CFR Citation under Title 50 (if applicable):** NMFS Procedure [01-101-01](#) and [01-101-03](#)
- **Description of recommendation action**

The Procedures for Initiating Secretarial Review of Fisheries Management Plans and Amendments (NMFS Procedure 01-101-01) and the Operational Guidelines for the MSA Fishery Management Process (NMFS Procedure 01-101-03) should be revised so that management actions recommended by the Councils are implemented in a timely manner without significant delay, as intended under the MSA.

MSA Sections 304(a) and 305(b) establish timelines for processing Council-recommended FMPs, FMP amendments, and regulatory amendments. These timelines specify a 95-day window for implementing FMPs and FMP amendments, and a maximum of 110-day window for regulatory amendments from the time that the Council transmits the recommended action. Section 305(a) also specifies that “if the Secretary does not notify the Council within 30 days of the end of the comment period...then such plan or amendment shall take effect as if approved.” However, NMFS through its own policy directive has effectively circumvented these timelines by giving itself the control over the transmittal date rather than the Council.

- **Rationale of how the recommended action(s) stabilize markets, improve access, enhance economic profitability, and prevent closures**

In the Western Pacific region, NMFS’s control of the transmittal timeline through its policy directives has led to the agency deciding the priority order for moving actions for which the Council has taken final action based on its own priorities and staffing availability, rather than those of the Council or the affected fishing community. Examples of actions that are currently stalled due to NMFS’s deprioritization include a deregulatory action that would increase the ACL under an ongoing rebuilding plan (i.e., Guam Bottomfish Rebuilding Plan ACL amendment) and ACL specifications necessary to ensure the fisheries are managed consistent with MSA requirements (e.g., main Hawaiian Islands bottomfish ACL for fishing years starting in 2024).

In the past, the procedural directives resulted in unwarranted Hawai‘i longline fishery closures due to systemic delays in NMFS processing (i.e., 65-day closure in 2015, 50-day closure in 2016, 43-day closure in 2017, 237-day closure in 2018, approximately 288-day closure in 2019) as well as Council recommendations becoming lost in the NMFS priority-list black hole for several years or more after Council final action (e.g., Aquaculture Permit and Reporting ongoing since June 2010, FEP review ongoing since March 2015).

Through the Regional Operating Agreement, the Western Pacific Council has strived to work with the regional NMFS offices to frontload the document development process including analysis needed for other applicable law (e.g., regulatory impact review; regulatory flexibility act analysis; the appropriate NEPA analysis) prior to Council final action to expedite the remaining process to transmittal. However, NMFS has not consistently contributed staff resources to fully

develop necessary documentation in advance, contributing to further delays following final action.

Revising the procedural directives to ensure NMFS implements Council-recommended actions in a timely manner will provide greater stability for fisheries, prevent fishery closures and ensure fisheries are managed as intended by the MSA.

➤ ***Proposed plan and schedule for implementation***

NMFS should coordinate with the RFMCs to develop a revised procedure for ensuring Council recommended actions are processed in a timely manner consistent with the procedures in MSA section 304(a) and (b). Revisions should provide mechanisms to ensure NMFS (as well as NOAA General Counsel) provide adequate staff resources to develop analysis documents to support Council decision at the time of final action; streamline review processes where appropriate to shorten the time between Council final action and transmittal; ensure NMFS coordinates with the Council in setting the transmittal date in accordance with the MSA; and ensure NMFS prioritization meets the Council and fishing community needs.

<b>12. Provide an exemption to Essential Fish Habitat for man-made and degraded environments</b>
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- ***Action type:*** Changes to Regulations; statutory change
- ***Relevant CFR Citation under Title 50 (if applicable):*** 50 CFR 600, Subpart J
- ***Description of recommendation action***

Essential Fish Habitat (EFH) is defined as those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity. The Council designated EFH in the late 1990s to meet the MSA mandate given the limited data available and the intent to protect important habitats utilized by fish. However, the broad designations have led to unintended consequences of delaying improvements to U.S. Western Pacific islands necessary infrastructure through burdensome EFH conservation recommendations for areas that are degraded or man-made. These non-fishing activities such as harbor improvements and related maintenance are often subject to unreasonable conservation recommendations, often delaying projects by months. In the final rule for EFH provisions (67 FR 2343, January 17, 2002), a Response F to comments under *17. Comments on the Guidance for Identifying Actions to Encourage the Conservation and Enhancement of EFH* regarding practicability of recommendations for minimizing adverse effects, NMFS states that while MSA doesn't mention practicability, "Nevertheless, Council recommendations should be reasonable." The same could be said about NMFS conservation recommendations under the EFH consultation process.

This issue could be resolved by either amending MSA to remove degraded habitats and man-made structures from EFH, or revising 50 CFR 600, Subpart J to include in the definitions that EFH does not include these areas.



- ***Rationale of how the recommended action(s) stabilize markets, improve access, enhance economic profitability, and prevent closures***

Currently, repairs to boat ramps, dredging at harbors, or construction of a new waterway access requires undergoing extensive consultations that result in mitigation recommendations to do such activities such as coral outplanting or research that is both costly and time consuming. Through the designation of “non-EFH” areas, domestic fishing will increase by removing barriers that delay or stop repairs or construction of piers, harbors, and boat ramps used for fishing activities. Existing designations for EFH would still allow for protection of habitat in areas that are deemed essential rather than places that were never essential habitat in the first place.

- ***Proposed plan and schedule for implementation***

The issue at hand is that not enough is known about the habitats in the Western Pacific in order to accurately designate areas that are essential for fish to breed, spawn, or grow to maturity. Lacking the available funding to determine the truly essential habitat, NMFS should consider revising 50 CFR 600 in consultation with the Councils, state and federal agencies, and other non-fishing entities that have concerns regarding this section.

### **13. Guam large vessel (>50 ft) bottomfish prohibited area**

- ***Action type:*** Regulatory and FEP amendment
- ***Relevant CFR Citation under Title 50 (if applicable):*** [50 CFR 665.403\(a\)](#)
- ***Description of recommendation action***

An amendment to the Mariana Archipelago FEP is needed to remove the vessel size limit (50 feet or longer in overall length) fishing for, landing, or transshipping bottomfish management unit species in the U.S. EEZ seaward of the Territory of Guam.

Amendment 9 to the Council’s Bottomfish FMP, implemented in 2006, aimed to prevent conflicts between small-scale bottomfish fishermen and a developing large vessel fishery in the Western Pacific region. The amendment established measures to protect small-scale fishermen by limiting the rapid expansion of large vessel operations to enter the Guam bottomfish fishery, which were perceived at that time to threaten the sustainability and economic viability of existing smaller bottomfish fishing fleet. Entrance of large vessels into the bottomfish fishery has not and is not anticipated to develop, rendering the existing restrictions moot and potentially restricting growth of Guam’s current small-scale bottomfish fishery.

- ***Rationale of how the recommended action(s) stabilize markets, improve access, enhance economic profitability, and prevent closures***

The recommended actions are designed to stabilize markets, improve access, enhance economic profitability, and prevent closures for small-scale bottomfish fishermen in the Western Pacific region. The recommended action would promote economic efficiency, equitable access, and sustainable management, ensuring the long-term viability of small-scale bottomfish fisheries in the Western Pacific region, including Guam.

➤ ***Proposed plan and schedule for implementation***

The Council at its 204th meeting in September 2025 reviewed this and other MSA actions that may be modified through Council action, and directed staff to work with NMFS to develop a schedule for implementing them through the Council process. The Council is scheduled to review the staff report at its next meeting in December 2025.

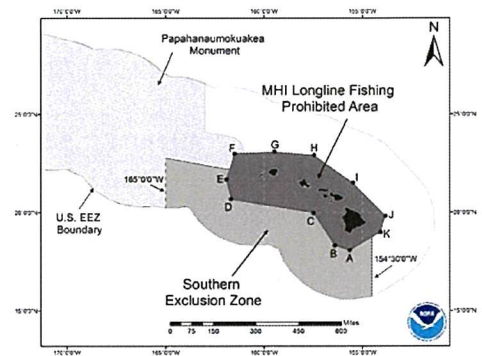
**Detailed Description of Recommended Actions: Actions under Other Applicable Law**

**14. Remove the Southern Exclusion Zone closure from the False Killer Whale Take Reduction Plan regulations**

- ***Action type:*** Changes to Regulations
- ***Relevant CFR Citation under Title 50 (if applicable):*** [50 CFR 229.37](#)
- ***Description of recommendation action***

NMFS should revise the FKWTRP to remove the Southern Exclusion Zone (SEZ) closure.

The FKWTRP was implemented in 2012 under the MMPA and requires the Hawai‘i DSL fishery targeting bigeye tuna to adhere to a suite of measures intended to reduce mortality and serious injury (SI) of FKWs. The measures include the required use of “weak” circle hooks intended to straighten upon incidental interaction with a FKW and a SEZ closure triggered after a small number of observed mortalities or serious injuries (trigger was originally 2 mortalities or serious injuries; current trigger is 3).



The SEZ provides no conservation benefit to FKWs. The measure was included in the FKWTRP at NMFS’s insistence that a punitive measure was needed so that Hawai‘i longline fishermen know that an interaction threshold was exceeded. The process for developing the plan was triggered when mortality and SI of the pelagic stock exceeded the potential biological removal (PBR) of 2.5 FKWs, based on the first EEZ-wide cetacean survey conducted in 2002, which sighted a single group of FKWs and produced an abundance estimate of 484 animals. Subsequent surveys in 2010 and 2017 indicate that the original FKWTRP was based on a severe underestimation of population abundance, as the updated data show the pelagic FKW population has likely remained stable at approximately 2,100 inside the EEZ over time.<sup>1</sup>

Further, an analysis recently published by NMFS PIFSC<sup>2</sup> demonstrated the unintended consequences of the SEZ closures on other protected species interactions. The analysis showed that the SEZ closures triggered in 2018 and 2019 displaced and concentrated fishing effort along

<sup>1</sup> Bradford AL, Becker EA, Oleson EM, Forney KA, Moore JE, Barlow J. 2020. Abundance estimates of false killer whales in Hawaiian waters and the broader central Pacific. U.S. Dept. of Commerce, NOAA Technical Memorandum NOAA-TM-NMFS-PIFSC-104, 78 p. doi:10.25923/2jjg-p807

<sup>2</sup> Van Wert, J. C., Siders, Z. A., Jones, T. T., & Ahrens, R. N. M. 2025. Hawai‘i’s pelagic longline fishery demonstrates the need to consider multispecies impacts in bluewater time-area closures. ICES Journal of Marine Science, 82(7), fsaf111. <https://doi.org/10.1093/icesjms/fsaf111>



the eastern and southern edge of the SEZ. There was no clear evidence for negative or positive impact on FKW bycatch, but the fishing effort changes indicate concentrated risk for the pelagic stock. Interaction risk with other protected species increased as a result of the SEZ closure, especially for species such as ESA-listed oceanic whitetip sharks and olive ridley turtles that have higher densities to the south of the SEZ. The closures also displaced effort onto the high seas, where the fleet faces competition with foreign fishing vessels. The Council's Scientific and Statistical Committee (SSC) at its 157th meeting in September 2025 endorsed the analytical approach used in PIFSC's assessment, and recommended that future spatial measures include a prospective evaluation of potential unintended impacts on protected species at the time that such measures are designed.

- ***Rationale of how the recommended action(s) stabilize markets, improve access, enhance economic profitability, and prevent closures***

This action would remove the SEZ, which, when closed in combination with other areas, results in 83% of the U.S. EEZ around Hawai'i being off-limits to U.S. longline vessels. These closures force Hawai'i longline vessels to travel greater distances to fishing grounds and onto the high seas, increasing operational costs and competition with foreign vessels.

- ***Proposed plan and schedule for implementation***

NMFS should initiate rulemaking to remove the SEZ regulations promulgated under the FKWTRP. NMFS should also coordinate with the Council to evaluate whether any management measures under the FKWTRP may warrant continued implementation under the Council's Pelagic FEP to meet other management objectives.

<b>15. Revise MMPA Guidelines for Assessing Marine Mammal Stocks &amp; NMFS Serious Injury Determination Policy</b>
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- ***Action type:*** Changes to Guidance Documents
- ***Relevant CFR Citation under Title 50 (if applicable):*** NMFS Policy Directive [02-204-01](#); and NMFS Procedural Directive [02-038-01](#)
- ***Description of recommendation action***

NMFS should revise its Policy Directives based on a review of the best available science and less precautionary assumptions to ensure that data gaps do not create additional regulatory burdens on fisheries. A statutory change is also needed to remove the Zero Mortality Rate Goal (ZMRG) from the MMPA.

- ***Rationale of how the recommended action(s) stabilize markets, improve access, enhance economic profitability, and prevent closures***

NMFS policy directive on Guidelines for Assessing Marine Mammal Stocks (GAMMS; NMFS Instruction 02-204-01) under the MMPA makes precautionary assumptions at every step in the process of estimating PBR. This results in unrealistic and unattainable PBR-based management goals especially for smaller populations. Although some of these assumptions were initially set conservatively to encourage more frequent surveys that would reduce uncertainty and improve PBR estimates, survey improvements are resource-dependent. In the meantime, the precautionary estimates place the burden on fishery participants through overly prohibitive

management measures for commercial fisheries, without providing measurable conservation benefits.

For example, the first EEZ-wide cetacean survey around Hawai‘i produced a FKW pelagic stock abundance estimate of 484 animals based on a single group sighting in 2002, which resulted in a PBR of 2.5 that triggered the FKW Take Reduction Team process and ensuing FKWTRP measures that required gear restrictions and area closures since 2012. Only three additional EEZ-wide surveys have been conducted since (in 2010, 2017, and 2023). The current abundance estimates published in 2020 based on the 2017 survey (2,038 animals inside the EEZ) indicate that the original abundance estimate of 484 was likely an underestimate due to survey sampling design. The consequence of the nearly 20-year process for improving surveys and analytical methods by NMFS have essentially been borne by the Hawai‘i longline industry. New abundance estimates from the 2023 survey are still pending.

These precautionary assumptions are further compounded in NMFS’s SI Determination Policy (Policy Directive 02-238 and Procedural Directive 02-238-01). Under the policy, small cetaceans released alive are assigned to SI or non-serious injury categories based on the type of injury, amount of gear remaining, and other conditions specific to each interaction. NMFS interprets SI as an injury that is more likely than not to result in mortality. Based on this definition, the estimated post-interaction mortality rate for FKWs that are released alive and the injury level determined to be serious would range between 50 and 100%. However, for the purpose of evaluating the impacts of SI against PBR, SI is considered 100% removal from the population regardless of the injury type and other available information for that interaction, and thus the population-level impact of a SI is considered equivalent to a mortality. More than 90% of the FKW interactions in the Hawai‘i longline fishery result in the animal released alive with varying amounts of trailing gear remaining, yet most of those interactions are categorized as SI and treated as if they are all mortalities. It is unlikely that all FKWs released alive and categorized as SI die from their injuries, and thus the impacts of the Hawai‘i longline fishery are overestimated and evaluated against an underestimated PBR.

The precautionary assumptions in these Policy Directives stem from the MMPA’s ZMRG, established in the 1994 Amendment, which requires commercial fisheries to reduce incidental mortality and SI of marine mammals to insignificant levels approaching zero (MMPA Section 118(b)). The ZMRG applies only to commercial fishery take of marine mammals, and no other anthropogenic impacts, placing undue burden on U.S. fisheries.

#### ➤ *Proposed plan and schedule for implementation*

NMFS should initiate a review of its Policy Directives in coordination with the Councils and its Scientific and Statistical Committees. A series of workshops may be necessary to review and revise the directives, in which case, the workshops should involve fishery representatives. For the SI Determination Policy, NMFS should consider developing a probability-based injury determination criteria for FKWs, based on expertise drawn from other marine mammal species including pinnipeds and with input from fishermen with experience handling marine mammal interactions. NMFS should also work with the Administration and Congress to remove ZMRG from the MMPA to reduce burden on U.S. commercial fisheries.



<b>16. Revise ESA listing where the populations are increasing and threats do not pose immediate danger of extinction</b>
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- **Action type:** Changes to Regulations
- **Relevant CFR Citation under Title 50 (if applicable):**
  - Threatened species under Commerce jurisdiction: [50 CFR 223.102\(e\)](#)
  - Endangered species under Commerce jurisdiction: [50 CFR 224.101\(h\)](#)
  - Sea turtles are also listed under Interior regulations: [50 CFR 17.11\(h\)](#)
- **Description of recommendation action**

NMFS should review and revise the ESA listing of marine species that are recovering or recovered, including green sea turtles, olive ridley sea turtles, North Pacific loggerhead sea turtles, and oceanic whitetip sharks.

NMFS has failed to remove endangered or threatened species from the ESA even when populations are increasing and there is no longer an imminent danger of extinction. In contrast, USFWS has delisted a number of species at a fraction of the historical abundance. For example, there are at least 550,000 nesting female green turtles worldwide, which translates into at least 73 million green turtles of all age classes and both sexes, yet all distinct population segments are listed as either threatened or endangered. The Eastern Pacific population of olive ridley turtles (listed as threatened) alone comprise at least 1 million nesting females. Sperm whale population worldwide is estimated at 300,000-450,000 individuals, and the Guadalupe fur seal population is estimated at 34,000-44,000 individuals. NMFS recently concluded in its 5-year status review that the North Pacific loggerhead turtle distinct population segment should remain listed as endangered, despite the population growing annually at a rate of 2.4% and the total abundance estimated at 340,000 individuals.

- **Rationale of how the recommended action(s) stabilize markets, improve access, enhance economic profitability, and prevent closures**

Many of the ESA-listed marine species are recovering or recovered, yet remain listed, creating unnecessary regulatory burdens for U.S. fisheries that have minimal incidental interactions with these species. Reducing the number of listed species would reduce the frequency, time and resources needed for ESA Section 7 consultations, as well as associated RPMs that may impose impractical measures that have insignificant effects on the recovery of the listed species.

When populations of ESA-listed species increase, interactions with fishing gear may also increase. Revising the ESA-listing by downlisting or delisting would provide greater flexibility in managing such interactions in fisheries, while also providing opportunities for the traditional use of marine species by U.S. Pacific Islands communities.

- **Proposed plan and schedule for implementation**

NMFS should initiate a comprehensive status review of ESA-listed species under the agency's jurisdiction consistent with evaluation approaches used by USFWS to identify species that qualify for immediate delisting. Priority should be placed on species with stable or increasing populations, and also have interactions with fishing activity in the U.S. Pacific Islands. Once species are identified, NMFS should proceed with rulemaking to revise ESA-listing status of those applicable species.

## 17. Eliminate or relax ESA take prohibition rules for threatened sea turtles

- **Action type:** Changes to Regulations
- **Relevant CFR Citation under Title 50 (if applicable):** Take prohibition rules for threatened sea turtles - Interior: [50 CFR 17.42\(b\)](#); Commerce: [50 CFR 223.205](#)
- **Description of recommendation action**

For species not delisted through the recommended action #18 above, NMFS should review and revise the take prohibition regulations for sea turtles listed as threatened under the ESA to provide greater flexibility for management.

ESA was intended to create a more flexible management approach for species listed as threatened by allowing NMFS and USFWS to promulgate species-specific take prohibition rules that target the most harmful activities to the listed species through the 4(d) rule. However, NMFS and USFWS have promulgated most of the take prohibition regulations for threatened sea turtles that apply to endangered species with only limited exceptions, resulting in incidental interactions in well-managed fisheries to be considered illegal take unless authorized under a BiOp Incidental Take Statement.

Most of the sea turtle populations that have incidental interactions in the region's fisheries are either stable or increasing, and their recovery trajectories are not impacted by U.S. fisheries. The BiOps for the region's Hawai'i and American Samoa longline fisheries nevertheless continue to include new RPMs that require further reduction in impacts with every consultation completed, creating further regulatory burdens to otherwise well-managed fisheries.

The blanket take prohibition for threatened sea turtles also creates a barrier to allowing the traditional harvest of green sea turtles in the U.S. Pacific Islands.

- **Rationale of how the recommended action(s) stabilize markets, improve access, enhance economic profitability, and prevent closures**

Revision to the 4(d) rules for threatened sea turtle species to provide blanket exemptions for incidental take in commercial fisheries or similar approaches recognizing the conservation successes achieved in the region would help reduce regulatory burden to the Hawai'i and American Samoa longline fisheries. This would allow the Council to manage the impacts to listed sea turtles by utilizing approaches that avoid fishery closures and focus on crew safety.

- **Proposed plan and schedule for implementation**

NMFS should initiate rulemaking to revise the 4(d) rule for threatened sea turtles to target the take prohibition to the most critical threats preventing recovery of the listed species. NMFS should work with the Councils to identify specific needs for fishery management and U.S. fishing communities.



<b>18. Provide more discretion to the Secretaries of Commerce and the Interior to not designate critical habitat when there is little conservation benefit anticipated</b>
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- **Action type:** Changes to Regulations
- **Relevant CFR Citation under Title 50 (if applicable):** [50 CFR 424.12\(a\)\(1\)](#)
- **Description of recommendation action**

Revisions to the ESA implementing regulations and/or development of a policy directive is needed to provide the Secretaries of Commerce and the Interior greater discretion not to designate ESA critical habitat when there is little conservation benefit anticipated. Alternatively, a statutory change could make critical habitat a discretionary provision under the ESA.

- **Rationale of how the recommended action(s) stabilize markets, improve access, enhance economic profitability, and prevent closures**

Limiting critical habitat designations to circumstances where it is crucial for species recovery would reduce consultation backlogs for federal fisheries and litigation over critical habitat cases. Such designations may also unnecessarily delay fishery infrastructure repairs and development when applied to coastal areas without exemptions for critical infrastructure.

Critical habitat designations overlapping with federal fishery operations add to lengthy ESA Section 7 consultations and create unnecessary regulatory burden for fisheries that are otherwise sustainably managed. When NMFS and/or USFWS are not able to designate critical habitat within the statutory timeframe of one year following a species listing, the agencies may be sued and the designation process may be driven by litigation rather than conservation needs.

Under the ESA and its implementing regulations, the Secretaries of Commerce and the Interior currently have limited discretion for not designating critical habitat. USFWS in 2004 indicated that the designation of critical habitat provides little additional protection for most listed species, while consuming significant amounts of available conservation resources (69 FR 53182, August 31, 2004). Critical habitat designations are also unlikely to be effective for highly migratory marine species that spend limited time in U.S. waters, or when most of the species' distribution is located outside of U.S. waters.

The U.S. Pacific Islands Territories of American Samoa and Guam as well as the CNMI have opposed the designation of coral and green sea turtle critical habitat proposed during the previous Administration. These species occur primarily outside of U.S. waters (e.g., no more than about 2% of each listed coral species' range occur in U.S. waters), and climate change is considered to be one of the major threats.

- **Proposed plan and schedule for implementation**

NMFS should work with USFWS and in consultation with the Councils, state, and federal agencies to identify additional circumstances in which not-prudent determinations may be appropriate, and propose further revisions to the ESA implementing regulations at 50 CFR 424.12(a)(1) or develop a policy directive. Alternatively, NMFS and USFWS should work with the Administration and Congress to provide greater agency discretion under the ESA in designating critical habitat.



<b>19. Renegotiations of the Compact of Free Association to include stipulations that recipients of COFA support and cooperate with U.S. fisheries at international Commissions</b>
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- **Action type:** Agency Action by the Department of State under Executive Order 14169
- **Relevant CFR Citation under Title 50 (if applicable):** N/A
- **Description of recommendation action**

COFA renegotiations need to include stipulations for material support for U.S. fishery proposals and U.S.-supported Conservation and Management Measures (CMMs) in international fishery commissions, specifically the Western and Central Pacific Fisheries Commission (WCPFC). Fisheries is an economic interest for the United States in the Pacific Region that is shared with COFA members. The freely-associated former territories need to openly support U.S. positions, or at a minimum be silent if not supportive rather than align themselves politically with parochial interests of other island nations which are heavily influenced by other industrialized nations.

COFA is an international agreement establishing and governing the relationships of free association between the United States and the three Pacific Island sovereign states of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.

- **Rationale of how the recommended action(s) stabilize markets, improve access, enhance economic profitability, and prevent closures**

According to EO14169 on “Reevaluating and Realigning United States Foreign Aid,” the United States should not disburse foreign assistance in a manner that contrasts with U.S. foreign policy. This would presumably extend to U.S. positions in international organizations. The U.S. provides at least ~\$150 million annually to the former Trust Territories in the Pacific through COFA and pledged \$2 billion over two decades beginning in 2023. The long term goal of United States’ Compact financial support is to assist the freely associated states “in their efforts to advance the economic self-sufficiency of their peoples.” The funding provided over the past 17 years provided the basis for meeting the two primary political goals of the compact: to (1) secure self-government for each country by ending the four decades-old Trusteeship; and (2) ensure national security rights for the United States in the freely associated states. U.S. fisheries are an important economic conduit in the Pacific Islands, yet these same nations that benefit from U.S. aid do not reciprocate support for, and in fact conflict with U.S. fisheries policies in the relevant international fisheries commissions/forums.

- **Proposed plan and schedule for implementation**

The Department of State is directed by EO14169 to review all foreign assistance and the benefits to the United States. The implementation of this EO and the Secretary’s direction furthers efforts to refocus on American national interests. As Secretary of State Marco Rubio has said, “Every dollar we spend, every program we fund, and every policy we pursue must be justified with the answer to three simple questions: Does it make America safer? Does it make America stronger? Does it make America more prosperous?” The Department of State, which is heavily involved in WCPFC negotiations, should provide the Department of the Interior with specific stipulations to be included in COFA negotiations. For instance, an EO or other policy could require this inter-agency cooperation and move U.S. positions in COFA to a more holistic representation of U.S. economic interests in the region.

## **20. Provide exemption for Pacific Island fishermen to the Billfish Conservation Act**

- ***Action type:*** Statutory Change
- ***Relevant CFR Citation under Title 50 (if applicable):*** N/A
- ***Description of recommendation action***

Statutory changes are needed to allow billfish to be sent from stocks that are not overfished in the Pacific to the U.S. markets and consumers.

In 2012, the 112<sup>th</sup> Congress passed the BCA to “address the global population decline of billfish” and “to protect the economic benefits to the U.S. economy of recreational fishing and marine commerce and the traditional cultural fisheries.” In the Act, Section 4 prohibits the sale of billfish, but part (c) provides for possible exemptions for traditional fisheries and markets. This exemption applies to billfish caught by U.S. fishing vessels and landed in Hawai‘i and the Pacific Insular Areas (American Samoa, Guam, and the CNMI). However, these exemptions were removed when the BCA was amended in 2018.

- ***Rationale of how the recommended action(s) stabilize markets, improve access, enhance economic profitability, and prevent closures***

The 2018 BCA amendment removed the ability for U.S. fishermen to provide billfish to domestic markets that would help reduce the seafood deficit and contribute to the national economy. Most billfish stocks in the Pacific, except for striped marlin, are not overfished nor experiencing overfishing and could support sustainable utilization and economic value to the fishery. Reducing the ability to market sustainably caught fish outside of the Pacific Islands impacts the U.S. fishermen and fishing industry.

Allowing the exemption in the Pacific would permit the sale of more than half a million pounds of billfish annually, with an estimated ex-vessel value of up to \$2.5 million. Further, the price of billfish at the Honolulu market has dropped to record lows and catch is instead discarded at sea or potentially wasted.

The 2018 BCA amendment is potentially unconstitutional, because it violates interstate commerce provisions of a food product.

- ***Proposed plan and schedule for implementation***

NMFS should provide information to, and work with, the Administration and Congress to allow for an exemption to the BCA for U.S. fishermen in the Pacific Islands, reverting to the original 2012 BCA that included the exemption.

## **21. Remove the weak hook requirement from the FKWTRP regulations**

- **Action type:** Changes to Regulations
- **Relevant CFR Citation under Title 50 (if applicable):** [50 CFR 229.37](#)
- **Description of recommendation action**

NMFS should revise the FKWTRP to remove the requirement for the Hawai‘i DSLR fishery to use “weak” circle hooks and focus on measures that incentivizes crew to cut the line as close to the hook as possible.

The FKWTRP implemented in 2012 (see action #16 for further details) includes the required use of circle hooks intended to straighten with the weight of a FKW but is strong enough to retain bigeye tuna and other economically valuable species. This is one of the primary measures in the FKWTRP to reduce post-release mortality of FKWs incidentally hooked in the fishery. While 90% of the FKWs caught in the fishery are released alive, NMFS categorizes most animals that are released alive with a hook in the mouth as SIs and treat them as if they are all mortalities, based on its SI Determination Policy (see action #17 for further details). If an animal is released without trailing gear or hook, NMFS may consider the interaction as non-serious injury. Due to the lack of a technical solution to prevent interactions in the first place, the FKWTRP focused on a measure to reduce post-release mortality by removing the hook.

Straightening the weak hook necessitates applying active tension on the line, which is stressful to the animal and creates a dangerous situation for the crew with potential for gear flyback. For most other protected species, Hawai‘i longline fishermen are required to remove trailing gear as much as possible prior to release. Thus, a consistent strategy for all protected species is likely to be more successful than the current strategy that requires crew to create tension on the line to straighten the weak hook in the event of a rare FKW interaction.

- **Rationale of how the recommended action(s) stabilize markets, improve access, enhance economic profitability, and prevent closures**

This action would reduce the regulatory burden on the Hawai‘i DSLR fishery by eliminating the restriction for the hook type used in the fishery and allowing fishermen to use hook types that optimize target catch rates. Incentivizing line cutting over hook straightening would also improve crew safety and has the potential to reduce the time spent during hauling activities in responding to FKW interactions.

- **Proposed plan and schedule for implementation**

NMFS should initiate rulemaking to revise the FKWTRP regulations pertaining to weak circle hooks and the associated handling of FKW interactions. NMFS should also coordinate with the Council to evaluate whether any management measures under the FKWTRP may warrant continued implementation under the Council’s Pelagic FEP to meet other management objectives.



## **22. Reduce litigation risk toward U.S. fisheries by updating the ESA Citizen Suits provision**

- *Action type:* Statutory Change
- *Relevant CFR Citation under Title 50 (if applicable):* N/A
- *Description of recommendation action*

A statutory change is needed to reduce incentives for litigation, such as through capping of attorney fees (Section 11(g)(4)), and/or to limit injunctions that affect U.S. fisheries (11(g)(1)(A)) if such cases may result in greater conservation impacts and/or exacerbate seafood trade deficit.

- *Rationale of how the recommended action(s) stabilize markets, improve access, enhance economic profitability, and prevent closures*

ESA includes an explicit Citizen Suits provision under Section 11(g) that allows for injunctions against any violations of the ESA or its implementing regulations, as well as awarding litigation costs to private parties. This ESA provision has enticed a large number of lawsuits against NMFS and USFWS, which have the ability to shut down U.S. fisheries that are otherwise sustainably managed. Additionally, these lawsuits encumber valuable agency resources that are necessary to address pressing recovery needs.

U.S. fishery closures due to litigation can further exacerbate the seafood trade deficit, as the U.S. seafood produced by that fishery may be supplanted by foreign imports from sources that are far less regulated or monitored. The Hawai'i SLL fishery targeting swordfish has long been a target of ESA litigation by environmental NGOs, and the small number of ESA-listed sea turtle interactions (more than 99% of which are released alive with a high chance of survival) have kept the fishery's capacity at less-than optimal levels for nearly 20 years. In years when the fishery has been closed due to court order, Hawai'i-sourced swordfish headed for the U.S. East Coast markets have been supplanted by imported swordfish from Mexico, Brazil, Ecuador, and other Central and South American countries.

- *Proposed plan and schedule for implementation*

NMFS should work with the Administration and Congress to revise the Citizen Suits provision of the ESA to provide greater protections for U.S. fisheries.

## **23. Consistency of WCPFC Negotiations with Ensuring Access to Pacific Fisheries Act, and EOs**

- *Action type:* Changes to Guidance Documents
- *Relevant CFR Citation under Title 50 (if applicable):* N/A
- *Description of recommendation action*

NMFS should develop procedures to ensure that U.S. positions on all WCPFC issues, throughout the course of negotiating conservation and management measures (CMMs), follow the provisions of Ensuring Access to Pacific Fisheries Act (amending Section 511 of the WCPFC Implementation Act, 16 USC 6909a).

➤ ***Rationale of how the recommended action(s) stabilize markets, improve access, enhance economic profitability, and prevent closures***

Title III of the Ensuring Access to Pacific Fisheries Act amended the WCPFC Implementation Act by specifying the objectives of U.S. negotiations for the development of CMMs to include: 1) not minimizing or disadvantaging U.S. fishermen relative to other WCPFC members; 2) maximizing opportunities for U.S. fishing vessels on the high seas; and 3) ensuring that CMMs take into consideration traditional fishing patterns of U.S. fishing vessels. Some U.S. positions in recent WCPFC negotiations led by the U.S. head of delegation have gone against these provisions, resulting in CMMs that disadvantage U.S. fishermen. Examples of such instances include CMM 2018-01, CMM 2020-01, and CMM 2021-01 that implemented catch limits for bigeye tuna that do not affect conservation of the stock and are not consistent with U.S. capacity. This catch limit was improved with CMM 2023-01, but at the cost of removing U.S. arrangements with territories to transfer bigeye catch. CMM 2024-06 on North Pacific striped marlin also decreased U.S. catch limits while not affecting competing distant-water fisheries.

➤ ***Proposed plan and schedule for implementation***

NMFS should work with the Council, affected industry representatives, other members of the Permanent Advisory Committee to review recent examples of WCPFC negotiations that were inconsistent with the provisions of the Ensuring Access to Pacific Fisheries Act at 16 USC 6909a, and develop necessary procedures and/or policy directives to ensure consistency in future negotiations. In developing these guidance documents, NMFS should also consider the applicability of recent EOs, including EO 14276 and EO 14150 *America First Policy Directive to the Secretary of State*.

<b>24. Streamlining application processes for dumping and countervailing investigations</b>
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- ***Action type:*** Statutory change
- ***Relevant CFR Citation under Title 50 (if applicable):*** N/A
- ***Description of recommendation action***

A statutory change to Title VII, Section 702 the Tariff Act of 1930 (19 U.S.C. 1671a) is needed to streamline the application process for antidumping and countervailing duties investigations for fisheries, and reduce the burden for U.S. fishing industry representatives in bringing these cases forward. Specifically, the following changes may be considered: 1) allow petitioners a process to refine the pre-defined scope in the initiation process and include additional petitioners once the Department of Commerce has begun investigative process to assist the petitioners; and 2) not require petitioners to have initial representation of the majority of the affected industry when information and capacity of petitioners is limited to identify the full scope of their affected fishery.

Procedures for initiating a countervailing duty investigation, as outlined in Section 702 of the Tariff Act of 1930, specify that petitions filed by or on behalf of the industry shall be determined to have support from “at least 25 percent of the total production of the domestic like product” and “the domestic producers or workers who support the petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for or opposition to the petition”. Some fishing industries are made up of numerous small business owners who may lack capacity to collectively identify constituents of

an entire domestic U.S. fishery or specific sector. A more flexible process is needed to provide opportunities for affected industries to bring forward petitions for investigations. For example, changes could allow petitioning fisheries with a vast number of participants and small business owners (i.e., vessel owners and operators) to provide a pre-defined scope which could be revised as the investigation process is carried forward. This would allow petitioners that may represent a significant portion of the affected industry who may have limited capacity to conduct the pre-investigation research. At this point, they may be able to include additional petitioners if needed to better represent the fishery or fishery sector and better define the scope once the Department of Commerce has commenced its investigation and research of the affected fisheries.

➤ ***Rationale of how the recommended action(s) stabilize markets, improve access, enhance economic profitability, and prevent closures***

An investigation into antidumping and countervailing duty involves a two-agency process to determine if unfair trade practices are harming a U.S. industry under Title VII the Tariff Act of 1930 (19 USC 1671a; implementing regulations at [19 CFR 351](#)). The Department of Commerce investigates whether foreign imports are being sold at unfairly low prices (dumped) or are subsidized by a foreign government, while the U.S. International Trade Commission investigates if these practices are causing or threatening "material injury" to the domestic industry. This requires industry to petition for an investigation ([19 CFR 351.201](#)) and provide the scope of U.S. products affected. This administrative process can be complex because of the many intertwined industries in the fishery sector and extensive research is needed to define which fishery products are affected directly and indirectly (scope) prior to the investigation. For example, potential petitioners in the Pacific Islands tuna sector would be a collective of small business owners who have limited resources to do the pre-investigation research needed. In many fisheries, the administrative requirement in getting full representation of the majority of the affected fishery sector is extremely difficult given the number of participating entities. Streamlining these administrative processes would reduce the burden for U.S. fishing industry representatives in bringing these cases forward, which in turn would enhance economic profitability of U.S. seafood products.

➤ ***Proposed plan and schedule for implementation***

NMFS should work with the Department of Commerce and Congress identify appropriate changes to the Tariff Act and associated procedures that would allow petitioning fisheries with a vast number of participants and small business owners (i.e., vessel owners and operators) to provide a pre-defined scope which could be revised as the investigation process is carried forward.

<p><b>25. Streamline ESA consultations to ensure efficient environmental reviews within statutory 135-day timeline; ensure any RPMs are “reasonable” and commensurate with relative impact to populations</b></p>
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| <ul style="list-style-type: none"><li>➤ <b><i>Action type:</i></b> Changes to Regulations, Guidance Documents</li><li>➤ <b><i>Relevant CFR Citation under Title 50 (if applicable):</i></b> 50 CFR 402 Subparts A and B</li><li>➤ <b><i>Description of recommendation action</i></b></li></ul> |
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NMFS should revise its ESA Consultation Handbook and/or implementing regulations to establish a policy directive that ensures formal consultations are completed within the statutory



135-day timeframe and provides exemptions or waivers for federal fishery actions to proceed if consultations are delayed. Only in extreme instances should NMFS be authorized to exceed the statutory limit.

NMFS should also implement regulations to ensure that included RPMs and Reasonable and Prudent Alternatives for fishery consultations are developed in close consultation with the Councils and applicants in a manner allowing for flexibility and transparency under the MSA process, and to prohibit RPMs from creating additional regulatory burdens to concerned fisheries.

➤ ***Rationale of how the recommended action(s) stabilize markets, improve access, enhance economic profitability, and prevent closures***

Overly complex ESA Section 7 consultation documents have prevented completion within the 135-day statutory timeline, resulting in delays to numerous fishery management actions. Although there is a statutory limit, in the Western Pacific, NMFS as a matter of course ignores that limit. For example, the latest BiOp for the Hawai'i SSL took 432 days to complete, or over three times the statutory timeframe. The lengthy consultation time delayed implementation of the Council's management action to improve management of sea turtle interactions in the fishery, led to unnecessary fishery closures, and curtailed participation in the SSL fishery. Consultations for the Hawai'i deep-set and American Samoa longline fisheries initiated in 2018 and 2019, respectively, took more than four years to complete. A number of the Council's recommended management actions, many of which were intended to increase efficiencies and reduce burdens on fishery participants, stalled during these consultation periods. These delays also led to significant uncertainty in investment in the affected fisheries by industry participants.

NMFS has also included RPMs that require additional regulations and restrictions on the Hawai'i longline fishery despite the conclusion that the fishery does not cause jeopardy, and the impacts from the fishery are minimal. Such RPMs place additional regulatory burdens on U.S. fishermen while providing no meaningful conservation benefit, and shift attention away from more critical conservation efforts necessary to recover populations of concern. For example, the recent SSL BiOp included a leatherback turtle fleet-wide interaction limit that was lower than the incidental take level determined to not cause jeopardy, and also required excessive backstops on the trip-based sea turtle interaction limits originally developed by the Council.

➤ ***Proposed plan and schedule for implementation***

NMFS should initiate a review of its ESA guidance and/or regulations to identify areas of streamlining to ensure timely completion of consultations and to provide exemptions or waivers for federal fishery actions to proceed if consultations are not completed in time.

NMFS in coordination with the Council Coordination Committee recently revised Policy Directive 01-117 on the Integration of ESA Section 7 with MSA Process, which enhanced the provisions for developing RPMs and Reasonable and Prudent Alternatives in close consultation with the Councils and applicants, and clarifying the types of actions that constitute "minor" changes under the RPMs. NMFS should consider codifying these provisions in regulations.

<b>26. Stronger utilization of the Lacey Act on marine fishery products, including from tuna and tuna-like fisheries</b>
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- *Action type:* Statutory Changes
- *Relevant CFR Citation under Title 50 (if applicable):* N/A
- *Description of recommendation action*

A statutory change is needed to provide stronger provisions limiting imports of such fish products into U.S. markets under the Lacey Act, including removing exceptions.

The Lacey Act prohibits the import, export, sale, acquisition, or purchase of fish, wildlife, or plants that are 1) taken, possessed, transported, or sold in violation of U.S. or Indian tribal law, or 2) involved in interstate or foreign commerce after being taken, possessed, transported, or sold in violation of state or foreign law. The law also aims to protect species listed in the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Currently, seafood products harvested on the high seas or under Tuna Convention Acts are exempt from requirements under the Lacey Act.

- *Rationale of how the recommended action(s) stabilize markets, improve access, enhance economic profitability, and prevent closures*

Section 3377 (16 USC 3377, Exceptions) of the Lacey Act exempts fish products managed in the high seas under the MSA and Tuna Convention Acts. However, many foreign fisheries operating under Tuna Convention Acts do not have complementary domestic legal measures to protect incidentally caught species of concern under ESA, CITES, or other conventions. Many fish products for consumption coming into the United States also originate from competing nations that exacerbate the U.S. trade and seafood deficit. The cultivation or harvest of these foreign fish products often has harmful impacts on species of concern under CITES and other foreign instruments or conventions, making the Lacey Act an appropriate tool to prohibit their import into the United States.

Using the Lacey Act to prohibit fish product imports would not only mitigate U.S. market demand indirectly contributing to negative “transferred” environmental impacts, but also “level the playing field” from competing foreign fisheries. Many cheaper foreign fishery products flooding U.S. markets come from fisheries or industrial activities that do not have legal accountability measures in their country of origin to ensure compliance with international conventions, such as CITES. The Lacey Act could be used as an instrument to have relevant U.S. agencies, including NMFS, use discretion to prohibit or limit the import of certain fish products that are competing with U.S. fisheries, yet originate from nations or fisheries that do not have comparable protections in place to comply with international conservation measures.

- *Proposed plan and schedule for implementation*

NMFS should work with the Administration and Congress to consider changes to the Lacey Act to remove the applicable exceptions in 16 USC 3377 and provide specific criteria for internationally managed fisheries for NMFS to enforce, so long as they have compliance measures in place (and verified enforced) for protection of species of concern. This could also be used as a means for NMFS to utilize “compliance monitoring schemes” within regional fishery management organizations to indirectly hold violating fisheries or flag states accountable.