

2026 Priorities

Atlantic Herring
Amendment 10
Correspondence

**100 Davisville Pier
North Kingstown, RI 02852**

Dr. Cate O'Keefe, Executive Director
50 Water Street, Mill 2
Newburyport, MA 01950

**Comments RE: Executive Order (EO) 14276, “Restoring American Seafood
Competitiveness”**

Dear Dr. O'Keefe,

Thank you for providing an opportunity for public comment regarding Executive Order 14276, an initiative we believe has the potential to benefit our industry and business. Below are our recommendations to the New England Fishery Management Council and Trump Administration for action pursuant to the objectives of this Order:

1. Northeast Canyons and Seamounts Marine National Monument:

In 2016, the Obama Administration issued Presidential Proclamation 9496, imposing the Northeast Canyons and Seamounts Marine Monument on historic and productive U.S. commercial fishing grounds, over protests from the fishing industry and U.S. fisheries management bodies. In March 2017, leadership from every federal Regional Fishery Management Council in the United States wrote to President Trump during his first term advocating for fisheries management measures to be vested solely in the established Magnuson-Stevens Act process, not a Monument designation under the Antiquities Act of 1906, which was never intended to be used for fisheries management. In April 2017, President Trump issued Executive Order 13792, “Presidential Executive Order on the Review of Designations Under the Antiquities Act”,¹ directing the Secretary of Interior to conduct of review of certain Monument designations made by previous Administrations under the Antiquities Act, including the Northeast Canyons and Seamounts Marine National Monument. In his final report, the Secretary of Interior recommended that commercial fishing be allowed to continue in the Monument, managed by the Regional Fishery Management Councils under the authority of the Magnuson-Stevens Act, since fisheries are strictly regulated and Monument designation of fishing grounds is unnecessary for conservation of species or management of fisheries. In June 2020, President Trump issued Presidential Proclamation 10049, “Modifying The Northeast

¹ [Federal Register :: Review of Designations Under the Antiquities Act](#)

Canyons And Seamounts Marine National Monument,”² implementing the Secretary of Interior’s recommendation and reopening the Monument to commercial fishing. However, in October 2021, the Biden Administration issued Presidential Proclamation 10287,³ reversed President Trump’s order, and again prohibited commercial fishing in the Monument. It then codified the fishing prohibition through regulation in the Code of Federal Regulations.⁴ The Monument designation regarding the commercial fishing prohibition must be reversed and all implementation regulations in the Code of Federal Regulations eliminated.⁵

2. Hudson Canyon National Marine Sanctuary and National Marine Sanctuary Nomination Process:

In 2015, President Obama re-opened the “public nomination process” for establishing new National Marine Sanctuaries, which had been eliminated for 20 years by that point.⁶ Allowing the “public” to nominate new sanctuaries meant that environmental groups intent on regulation and elimination of various fisheries could nominate sanctuaries on important fishing grounds. In 2016, during the first Trump Administration, the Wildlife Conservation Society nominated Hudson Canyon, a critical commercial fishing ground, as a proposed National Marine Sanctuary and included in its nomination document advocacy for regulation of certain fisheries and gear types, including those of Seafreeze vessels, as a focus of future Sanctuary designation.⁷ The Mid Atlantic Fishery Management Council opposed this designation and the Trump Administration declined to begin any designation process at that time.⁸ In 2022, Wildlife Conservation Society again nominated the area using the same information, and the Biden Administration has since moved forward with the designation process, with NOAA creating a Hudson Sanctuary Advisory Council. While we have participated on this Advisory Council, we maintain all our previous concerns with this potential designation. The only industry that will experience regulation as the result of a final nomination of the Hudson Canyon is the fishing industry. The intent is evident in the Wildlife Conservation Society Sanctuary nomination document, which states that fishing “probably represents the most immediate and direct threat to the living resources and

² [Federal Register :: Modifying the Northeast Canyons and Seamounts Marine National Monument](#)

³ [Federal Register :: Northeast Canyons and Seamounts Marine National Monument](#)

⁴ [50 CFR 600.10](#).

⁵ See [50 CFR 600.10](#)

⁶ See [Protecting Vital Waters as Marine Sanctuaries | whitehouse.gov](#) and [Sanctuary Nomination Process Guide and Checklist | Sanctuary Nomination Process](#)

⁷ See <https://nominate.noaa.gov/media/documents/hudson-canyon.pdf>; specifically page 19, where the document alleges fishing is the most immediate and direct threat to living marine resources and habitats in the area, with an emphasis on trawl fisheries.

⁸ See [MAFMC+Hudson+Sanctuary+Comment+Letter+26+April+2017.pdf](#).

habitats”, and that “[t]rawling can be particularly damaging”.⁹ Sanctuaries may create more regulation over time as part of the Sanctuary review process. Therefore, even if restrictions do not exist in the initial designation, these may be introduced at a later date once the Sanctuary is designated. The commercial fishing industry cannot withstand more regulation now or in the future, particularly in the Hudson Canyon area which is home to a wide variety of fisheries, including significant trawl fisheries.¹⁰ The designation process of Hudson Canyon as a National Marine Sanctuary must end, and the citizen nomination process of Marine Sanctuary designation that the Obama Administration opened must be reversed. Without an elimination of the citizen nomination process, the nomination of new Sanctuaries with new regulations will only continue by environmentalist organizations, to the detriment of U.S. fisheries. While the Hudson Canyon National Marine Sanctuary is not located in the New England Council region of jurisdiction, it would affect multiple New England managed species and significant numbers of vessels homeported in New England.

3. Permanent Moratorium on all Offshore Wind Development in the Greater Atlantic Region:

Executive Order 14276 specifically names “selling our fishing grounds to foreign offshore wind companies” as one of the major factors restricting domestic fisheries. We could not agree more. We have fought offshore wind development on our commercial fishing grounds since the Obama Administration. We encourage the Trump Administration to void all existing offshore wind leases issued via the Obama Smart from the Start Program,¹¹ which, together with the Biden Administration’s 2022 NEPA Screening Criteria for offshore wind project reviews¹² violated the Outer Continental Shelf Lands Act Subsection 8(p)(4) and the Trump Administration’s Solicitor Memo M-37086. BOEM has already leased dozens of offshore wind leases from the Gulf of Maine to North Carolina on commercial fishing grounds,¹³ and the Biden Administration has approved 11 of these projects already, right up

⁹ See [hudson-canyon.pdf](#), p. 19.

¹⁰ For more information on the fisheries that take place in the Hudson Canyon, economic information on those fisheries, and other documentation, see the Mid Atlantic Fishery Management Council’s Proposed Designation of Hudson Canyon National Marine Sanctuary at [Proposed Designation of Hudson Canyon National Marine Sanctuary — Mid-Atlantic Fishery Management Council](#).

¹¹ See ¹¹ See [Salazar Launches ‘Smart from the Start’ Initiative to Speed Offshore Wind Energy Development off the Atlantic Coast | U.S. Department of the Interior](#).

¹² See [Process for Identifying Alternatives for Environmental Reviews of Offshore Wind Construction and Operations Plans pursuant to the National Environmental Policy Act \(NEPA\)](#).

¹³ See <https://boem.maps.arcgis.com/apps/instant/sidebar/index.html?appid=e2079773d85b43059abf15a16bce7aa7&locale=en>.

until three days before President Trump's 2024 inauguration,¹⁴ as well as identified the entire Central Atlantic from 3 nautical miles from shore to the edge of the U.S. Continental Shelf for offshore wind leasing.¹⁵ If these leases are to undergo construction, even in the future after the current Trump Administration, the future of the U.S. commercial fishing industry will be at risk. Therefore, we request that the Trump Administration issue a Permanent Moratorium for all Construction and Development of Offshore Wind in the Greater Atlantic Region, to protect the future of U.S. commercial fisheries, and to work with Congress to enact corresponding legislation.

4. Elimination of Industry Funded Monitoring in the Greater Atlantic Region:

Seafreeze commercial fishing vessels F/V Relentless and F/V Persistence were plaintiffs in the recent *Relentless Inc v. Department of Commerce* which together with *Loper Bright Enterprises, et al. v Raimondo* overturned the longstanding and damaging Chevron Deference at the U.S. Supreme Court in 2024.¹⁶ This case was brought due to the extreme financial impacts of the New England Fishery Management Council's Industry Funded Monitoring Omnibus Amendment for the Atlantic herring fishery and particularly our vessels attempting to fish herring simultaneously with other managed species, including those not managed by the New England Council. The length of Seafreeze freezer trawler vessel trips compared to those of all other vessels operating in the Atlantic herring fishery, combined with our unique fishing operations, mean that the Council's Industry Funded Monitoring Amendment affected Seafreeze vessels in a disproportionate manner to all other Atlantic herring vessels. That Amendment was approved and implemented by National Marine Fisheries Service (NMFS)¹⁷ because the agency, together with the Council, wished to deploy more observers in the Atlantic herring fishery than Congress had authorized funding for. The Industry Funded Monitoring Amendment for the Atlantic herring fishery and other Greater Atlantic Region fisheries should be abolished in its entirety, or the power of the Congressional purse will have no control over fisheries management in the Greater Atlantic region neither now nor in the future. Passing agency costs directly onto industry itself, when Congress doesn't authorize funding levels for things the agency wishes to pursue, is not economically sustainable for the commercial fishing industry.

¹⁴ See <https://maritime-executive.com/article/biden-administration-makes-final-moves-to-advance-offshore-wind-power> and <https://maritime-executive.com/article/biden-administration-makes-final-moves-to-advance-offshore-wind-power>.

¹⁵ See Central Atlantic 2 Call Area at <https://www.boem.gov/renewable-energy/state-activities/central-atlantic>.

¹⁶ See [In Landmark Victory for Civil Liberties, NCLA Persuades Supreme Court to Overturn Chevron Deference - New Civil Liberties Alliance](#) and [Relentless Inc., et al. v. U.S. Dept. of Commerce, et al. - New Civil Liberties Alliance](#)

¹⁷ See [Industry-Funded Monitoring \(IFM\) Omnibus Amendment - Library - NEFMC](#)

Abolishing the IFM Amendment in its entirety would reduce undue burdens on domestic fishing; foreign vessels do not adhere to such onerous requirements, which are the definition of overregulation.

5. Permanent Elimination of Council Development of Herring Amendment 10:

As we have continually reiterated at the Herring Advisory Panel, Amendment 10 is a recreation of Herring Amendment 8 which was defeated in court for the exact same rationale as that espoused by Herring Amendment 10. Not only would the amendment result in overregulation and more restricted access to the herring fishery vessels, but it is a waste of Council time and resources. This is made evident by the fact that the Council, in order to work on issues that actually have value, temporarily suspended the action to focus on these other issues.¹⁸ Additionally, as we have continued to remind the Council, the river herring and shad issues purportedly to be addressed by the amendment would serve to do only one thing: eliminate the Rhode Island small mesh bottom trawl herring fishery. Eliminating fisheries is the exact opposite of what is being considered in the Executive Order. Therefore, we request that all further development of this action be discontinued.

6. Returning the Saltonstall Kennedy Act funding to its original purpose:

Presidential Executive Order 14276, “Restoring American Seafood Competitiveness” directs the Secretary of Commerce, the Secretary of Health and Human Services, and Secretary of Agriculture to work together to accomplish this purpose, including the development and implementation of an America First Seafood Strategy to promote the marketing and sale of U.S. fishery products. U.S. commercial fishery profits have experienced a sharp decline since 2015 and in 2025 are at their lowest ever.¹⁹ Part of this decline can be attributed to NOAA’s mismanagement of the Saltonstall Kennedy Act funds, which are actually designed specifically for this purpose- marketing and sale of U.S. fishery products, development of U.S. fisheries, and a balancing of the US seafood trade deficit. As a result, domestically produced seafood has continually lost domestic market share to cheaper imports, which will only continue unless this issue is addressed.

The Saltonstall Kennedy Act establishes what is commonly known as the “S-K Fund”, officially the “Promote and Develop Fisheries Products Account”, into which 30% of all gross import duties on seafood is deposited, according to the law. It was designed to balance the seafood trade deficit and make U.S. fisheries competitive in the marketplace. As the Trump Administration implements tariffs, this account will grow even beyond its current levels. This money is transferred from the Secretary of Agriculture to the Secretary

¹⁸ See <https://www.nefmc.org/library/herring-amendment-10-2>.

¹⁹ See [State of the Ecosystem Mid-Atlantic 2025](#), slide 16.

of Commerce and “shall be maintained” in the fund “only for...use by the Secretary [of Commerce] (i) to provide financial assistance for the purpose of carrying out fisheries research and development projects...(ii) to implement the national fisheries research and development program”, which projects and program are to include research and development on aspects of U.S. fisheries including but not limited to harvesting, processing, marketing and associated infrastructures.²⁰ According to a 1983 amendment of the Saltonstall Kennedy Act, a minimum of 60% of each year’s USDA transfer to NMFS must go to “make direct industry assistance grants to develop the United States fisheries and to expand domestic and foreign markets for United States fishery products”.²¹

However, this is never done; instead NMFS pillages the account to fund basic agency responsibilities. S-K dollars are annually transferred into NOAA’s Operations, Research and Facilities (ORF) Account for NMFS’ internal use, and the majority of the funds allocated to promoting the U.S. fishing industry as dictated by the Act never see the light of day.²² According to a Congressional Research Service report for Congress containing information through 2004, “the S-K program has never allocated the minimum amount...specified by law for industry projects” since 1982.²³ Several attempts at legislation to amend the Act have been made, but none successfully.²⁴

The law also makes it very clear that “Notwithstanding any other provisions of law, all moneys in the fund shall be used exclusively for the purpose of promoting United States fisheries in accordance with the provisions of this section, and no such moneys shall be transferred from the fund for any other purpose.”²⁵ These transfers to the ORF account contravene the Act. According to the 2025 NOAA Budget, the amount transferred from the Department of Agriculture into the S-K Fund in 2024 was \$377,363,000, of which

²⁰ See <https://legcounsel.house.gov/Comps/76-696.pdf>. The Act also funded at that time a fishery reinvestment and fishing capacity reduction program.

²¹ See [15 USC 713c-3: Promotion of the free flow of domestically produced fishery products](#)

²² See <http://congressionalresearch.com/RS21799/document.php?study=Saltonstall-Kennedy+Fishery+Funding>.

²³ See <http://congressionalresearch.com/RS21799/document.php?study=Saltonstall-Kennedy+Fishery+Funding>. As of 1983, 60% of all S-K funds are to be used for industry projects. See P.L. 97-424, Section 423 at <https://www.gpo.gov/fdsys/pkg/STATUTE-96/pdf/STATUTE-96-Pg2097.pdf>. Also see <https://legcounsel.house.gov/Comps/76-696.pdf> at Section 2(e).

²⁴ See [Saltonstall-Kennedy Act: Background and Issues](#)

²⁵ Ibid. The section states that the Secretary shall use the balance of the moneys- after the 60% in direct industry grants- to finance “those activities which are directly related to development of the United States fisheries pursuant to subsection (d) of this section”. Section (d) is the National Fisheries Research and Development Program, which is supposed to conduct research and development on aspects of U.S. fisheries “including, but not limited to, harvesting, processing, marketing, and associated infrastructures”. That would apparently be contrary to how NMFS is currently using the funding, according to its budget reports- a.k.a., for expanding annual stock assessments, survey and monitoring projects, fish information networks, interjurisdictional fisheries grants.

\$344,901,00 was transferred into NOAA's ORF general account.²⁶ In 2025, NOAA's budget estimated that \$377,363,000 will be transferred into the "Promote and Develop Fisheries" account, and plans to take 100% of the money for its general operations, leaving \$0 for fisheries marketing and promotion as mandated by the Act.²⁷ This is simply unacceptable.

As NMFS has never used the money as Congress directed, the 60% of the funds directed specifically for marketing purposes should be transferred from NMFS, which does not have a marketing division, to the Department of Agriculture's Agricultural Marketing Services, which has the skills to develop a national seafood marketing program similar to the Checkoff programs it manages for other U.S. food products, with the exception that such a program would be funded by the S-K money rather than voluntary industry contributions.²⁸ The 40% remaining funds should be used by NMFS for fisheries research conducted by the agency's Cooperative Research Program, and no other agency programs or divisions. Prior Administrations zeroed out Cooperative Research Program funding, and it is imperative that this division- which benefits fishermen as well as science and stocks- be not only funded but elevated as one of the most crucial agency programs and that with the most benefit to the fishing industry. It should not only be funded but expanded.

As the Executive Order states, "Nearly 90 percent of seafood on our shelves is now imported, and the seafood trade deficit stands at over \$20 billion. The erosion of American seafood competitiveness at the hands of unfair foreign trade practices must end."²⁹ However, we must not only end unfair foreign trade practices; we must end unfair domestic trade practices. NMFS's emptying of the Saltonstall Kennedy fund, designed to balance the U.S. seafood trade deficit by marketing and developing U.S. seafood products- the very goals of the Executive Order, has put American seafood producers at a disadvantage for decades. The erosion of American seafood competitiveness at the hands of the U.S. government must end.

Thank you for your consideration of these issues.

Sincerely,

Meghan Lapp

Fisheries Liaison, Seafreeze Ltd, Seafreeze Shoreside

²⁶ See [NOAA FY 2025 Congressional Budget Justification](#), p. NMFS-136.

²⁷ "Activity: Promote and Develop Fisheries Products For FY 2025, NOAA estimates that a total of \$377,363 will be transferred from the Department of Agriculture to the Promote and Develop account, after accounting for sequestration and prior year recoveries. NOAA requests to transfer \$377,363 from the Promote and Develop account to the Operations, Research, and Facilities (ORF) account, leaving \$0 for the Saltonstall-Kennedy (SK) grant program in FY 2025." See [NOAA FY 2025 Congressional Budget Justification](#), p. NMFS-137.

²⁸ <https://www.ams.usda.gov/rules-regulations/research-promotion>.

²⁹ <https://www.whitehouse.gov/presidential-actions/2025/04/restoring-american-seafood-competitiveness/>.

August 15, 2025

Via Electronic Mail

Dr. Jamie Cournane
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950

RE: Response to Request for Comments on Executive Order 14276, “Restoring America’s Seafood Competitiveness”

Dear Dr. Cournane:

I understand that you are requesting suggestions for specific actions related to the herring fishery that address one or more of the stated goals of President Trumps Executive Order 14276, “Restoring America’s Seafood Competitiveness.” These include, among others, reducing burdens on domestic fishing, enhancing economic profitability, and preventing fishery closures. On behalf of the Sustainable Fisheries Coalition, a trade organization representing herring fishermen (including Herring Advisory Panel members) and businesses from North Carolina to Maine, I respectfully submit the following suggestions:

1. *Strike 50 C.F.R. § 648.2 Definitions (specifically, definition of “Slip(s) or slipping catch”) and 50 C.F.R. § 648.11(m)(4) (“Measures to address slippage”).*

Under these regulations, if a herring vessel releases any fish from its nets for reasons of mechanical problems, vessel safety, or because the fish cannot be pumped aboard (this generally occurs if there are large numbers of dogfish in the catch), it must relocate to a fishing area at least 15 nautical miles from its location. If a vessel releases fish for any other reason – a very rare occurrence, but one which may occur if the catch is primarily of a type of fish the vessel is not allowed to retain – it must terminate the trip and return to port.

Justification: The penalty this regulation attaches to various discarding events serve only to impose costs on herring fishermen while providing no benefit in terms of improved data or reduced bycatch. More to the point, all the events that would trigger the “move along” requirement – mechanical failure, dogfish, and conditions impacting vessel safety – are all beyond the control of the vessel and its crew. As such, a penalty serves as no deterrent, contrary to the rule’s stated purpose.

In fact, the mid-water trawl sector of the Atlantic herring fishery has one of the lowest percentages of total catch subject to discards – the overwhelming majority of which is dogfish. There is no overwhelming pattern of discarding in the fishery or bycatch of non-target species

largely because the gear is very selective and the economics of the herring fishery dictate that vessels be efficient in targeting and harvesting this relatively low-value resource.

The best scientific information available tends to undermine the premise upon which the so-called “slippage” penalties are based, as the National Marine Fisheries Service (“NMFS”) has agreed:

The need for, and threshold for triggering a slippage cap (10 slippage events by area and gear type) does not appear to have a strong biological or operational basis. Recent observer data (2008–2011) indicate that the estimated amount of slipped catch is relatively low compared to total catch (approximately 1.25 percent). Observer data also indicate that the number of slippage events is variable across years. During 2008–2011, the number of slippage events per year ranged between 35 and 166. The average number of slippage events by gear type during 2008, 2009, and 2011 were as follows: 4 by bottom trawl; 36 by purse seine; and 34 by midwater trawl.

79 Fed. Reg. 8786, 8793 (Feb. 13, 2014).

Perhaps primary among the reasons this unnecessary regulation should be jettisoned are those related to vessel safety. Not all vessels in the fishery are the same. Some have limitations, such as the lack of cranes and stern ramps that would allow them to bring unpumpable fish aboard. The severe economic stress in the herring sector today puts enormous pressure on vessels to be as efficient as possible. The slippage provision creates an incentive to engage in risky practices that is inconsistent with National Standard 10, 16 U.S.C. § 1851(a)(10). As the National Standard Guidelines state:

A fishing vessel operates in a very dynamic environment that can be an extremely dangerous place to work. Moving heavy gear in a seaway creates a dangerous situation on a vessel.... An FMP should consider the safety and stability of fishing vessels when requiring specific gear or requiring the removal of gear from the water.

50 C.F.R. § 600.355(c)(2). The slippage regulations serve no important purpose and unnecessarily compromise safety at sea. They should be eliminated.

2. *Strike 50 C.F.R. § 648.14(r)(2)(v)-(x). Amend 50 C.F.R. § 648.202(b)(1) by striking “, and is carrying onboard an observer” at the end of the paragraph. Strike paragraphs (2) and (4) and renumber paragraph (3) as paragraph “(2)”.*

Section 648.15(r)(2)(v) prohibits a herring mid-water trawl vessel from fishing in a Northeast Multispecies Closed Area without an observer. The two paragraphs suggested for elimination include “slippage” restrictions specific to the multispecies closed areas.

Justification: The former chief of NMFS’ Fisheries and Ecosystems Monitoring and Analysis Division, Dr. Wendy Gabriel, has stated at various meetings of the New England Council and its committees that there is no evidence of excessive discarding or bycatch in the fishery. In particular, the rate of incidental catch of haddock (which is low and otherwise subject to an overall bycatch

cap) is no higher within the groundfish closed areas than elsewhere in the fishery. There is no bycatch of other groundfish species. Thus, this regulation imposes costs, primarily in terms of eliminating access to productive fishing areas, while providing no conservation benefits.

Further, as there are no differences in the operation of mid-water trawl within such closed areas as elsewhere in the fishery, there should be no special and unwarranted regulations pertaining in these areas.

3. Permanently halt work on Amendment 10 to the Fishery Management Plan for Atlantic Herring

There has been a welcome pause in the development of Amendment 10, but the Council should take the next logical step and end its development completely. As the court battle over its predecessor, Amendment 8, showed. There is no scientific basis or conservation justification for singling out mid-water trawl vessels for discriminatory and punitive treatment. It would be a waste of increasingly small Council and NMFS resources to repeat past mistakes. The Council retains its full authority to deal with issue of concern, such as bycatch. But actions must be driven by science and solutions should focus on solving identified problems holistically. It should not be in the business of enshrining the prejudices and beliefs of special interest groups in the Code of Federal Regulations.

Thank you for your close attention to these important issues.

Sincerely,

/s/ Shaun M. Gehan

Shaun M. Gehan,

Counsel of the Sustainable Fisheries Coalition



Managing the Needs of our Customers Through our Commitment to Sustainable Fisheries

August 15, 2025

Dr. Cate O'Keefe, Executive Director
New England Fishery Management Council
50 Water St #2, Newburyport, MA 01950
Re: Executive Order (EO) 14276, "[Restoring American Seafood Competitiveness.](#)"

Dear Dr. O'Keefe:

Thank you for the opportunity to provide you and Council members with our comments in support of the opportunities provided to the region's commercial fisheries by Executive Order 14276.

Lund's Fisheries, Inc. is a family-owned, vertically integrated harvester, processor and distributor of fresh and frozen seafood, located in Cape May, NJ, producing seafood and bait products since 1954. We purchase and distribute nearly 75 million pounds of fresh and frozen fish annually. Strategically located in the heart of the Mid-Atlantic fishing grounds, Lund's Fisheries proudly distributes fresh and frozen seafood nationally to food service, retail and wholesale distributors, while our frozen exports extend to global markets. We have about 30 fishing vessels delivering a variety of seafood to our facility year-round. Many of these vessels call Cape May their home port. Several are company-owned, and we also work with independent vessels landing from Rhode Island, New York, Virginia, and North Carolina. Our east coast fishing grounds extend from the Gulf of Maine to Georges Bank, and south through Cape Hatteras, NC.

Elimination of Industry-Funded Observer Coverage in the Greater Atlantic Region

The National Marine Fisheries Service continues to argue in the Courts that this regulatory cost is simply a cost of doing business, dismissing legislative history and statutory construction, and relying on the MSA's §1853(b)'s Necessary and Appropriate clause.

Our company and vessels supported Loper Bright Enterprises, et al. v Raimondo in opposing the IFM amendment, arguing Congress has only approved IFM in three specific instances, as part of the Magnuson Stevens Fishery Conservation and Management Act (MSA); for fishing vessels operating in the North Pacific region, on foreign fishing vessels operating in the U.S. EEZ, and for Limited Access Privilege Program (LAPP) fisheries, such as the surf clam and ocean quahog fisheries under MAFMC management.



Managing the Needs of our Customers Through our Commitment to Sustainable Fisheries

In considering this case, the Supreme Court, in 2024, used it to overturn the Chevron Doctrine long used in the Courts to defer to Administrative Agencies' interpretation of the statutes controlling their activity. Even so, a lower Court in the RI District, ignoring the MSA's clear statutory language, ruled against the similar Seafreeze case, *Relentless Inc v Department of Congress*, on July 15, 2025. Loper Bright is still under consideration at the DC appeals court although we are very concerned about the outcome in Relentless and appeal to the Council and the Administration to keep any current or future IFM initiatives from being successful at the NEFMC.

Lund's Fisheries is a founding member of the Sustainable Fisheries Coalition, an unincorporated fishing association comprised of participants in the Atlantic Herring Fishery. This is perhaps the most over-regulated fishery on the East Coast, as demonstrated by the regulatory issues at play in the Loper Bright and Relentless cases.

As a SFC member, we support the recommendations to eliminate the slippage regulations requiring vessels to relocate 15 miles away when dogfish may clog a pump, for example, and the requirement prohibiting vessels from fishing in a Northeast Multispecies Closed Area – which was allowed for several years since these boats do not fish on the bottom or catch groundfish; two wholly arbitrary measures. The SFC's May 12, 2025, letter to OMB Director Russell Vought provides additional details and is attached.

In addition, we ask that the Council permanently set aside Herring Amendment 10 and commit to not establishing river herring & shad time and area closures, as an alternative to the existing catch caps, and refrain from using Atlantic herring buffer zones as a management tool again, in compliance with the Massachusetts District Court's March 29, 2022 decision to vacate the inshore Mid-water trawl restricted area measure of Herring Amendment 8.

National Marine Monuments authority must remain under MSA.

In October 2021, the Biden Administration issued Presidential Proclamation 10287 nullifying President Trump's Presidential Proclamation 10049 (June 2020), "Modifying the Northeast Canyons and Seamounts Marine National Monument." The Biden proclamation not only banned commercial fishing in the Monument, but it also codified the fishing prohibition through regulation in the Code of Federal Regulations.

The Monument designation regarding the commercial fishing prohibition must be reversed and all implementation regulations in the Code of Federal Regulations eliminated (50 CFR 600.10).



Managing the Needs of our Customers Through our Commitment to Sustainable Fisheries

The nomination process of Hudson Canyon as a National Marine Sanctuary must be reversed.

In 2015, President Obama re-opened the “public nomination process” for establishing new National Marine Sanctuaries, allowing the “public” to nominate new sanctuaries. In 2016, during the first Trump Administration, the Wildlife Conservation Society nominated Hudson Canyon, as a proposed National Marine Sanctuary. The Mid Atlantic Fishery Management Council opposed this designation, and the first Trump Administration declined to support the designation.

In 2022, the Hudson Canyon was nominated again, and the Biden Administration has since moved forward with the designation process, with NOAA creating a Hudson Sanctuary Advisory Council that is now federally staffed. If the Hudson Canyon becomes a National Marine Sanctuary, additional restrictions will be implemented in regional fisheries, and we have no idea what the size and boundaries of the sanctuary could be.

The nomination process of Hudson Canyon as a National Marine Sanctuary must end. The citizen nomination process of Marine Sanctuary designation that the Obama Administration opened, must be reversed. This can be found at 15 CFR Part 922 [Docket No. 130405334-3717-02] on the date of 6/13/2014.

Reverse a decades-old dispute between the U.S. Fish and Wildlife Service (USFWS) and the NMFS over the question of whether East Coast and West Coast squid resources are either a ‘shellfish’ or a ‘fishery product’.

The U.S. Fish and Wildlife Service (USFWS) is authorized to regulate wildlife imports/exports, there is a specific exemption for “shellfish and fishery products” that are harvested and under the authority of a federal and state Fishery Management Plan.

However, the USFWS has refused to recognize federally managed and harvested squid species (i.e. calamari) as either “shellfish” or a “fishery product”, despite that squid are technically a shellfish (mollusk) and are managed as a fishery under the Magnuson Stevens Act, with full blown federal Fishery Management Plans.

Furthermore, USFWS chooses to ignore these facts and does not care about the burden placed on the commercial fishing industry. Squid harvested by the U.S. commercial fishing industry are not an “endangered species” The USFWS has consistently refused to consider any reclassification to accept our squid as a “fishery product”.

LUND'S FISHERIES



Wild caught product of USA

Managing the Needs of our Customers Through our Commitment to Sustainable Fisheries

The USFWS must be required to lift the inspection burden on squid exports and reclassify the 3 domestic squid species as shellfish or fishery products. The original rule, published on 8/25/1980 at 45 FR 56673, can be found at 50 CFR Part 14. Below we have included a lengthy administrative record on this topic. We sincerely appreciate MAFMC staff's (Mary Sabo) significant support in seeking this administrative change in recent years and we now ask for the NEFMC's support.



Supplemental-USFW
S-Squid-Memo_2020

Support a permanent moratorium on all Offshore Wind development in the Greater Atlantic Region

The EO identifies “selling our fishing grounds to foreign offshore wind companies” as one of the major factors restricting Atlantic domestic fisheries. We agree and ask the Administration to void all existing offshore wind leases issued via the Obama Smart from the Start Program.

Allow scallop fishery access to the Northern Edge HAPC; closed since 1994

Annual scallop revenue lost to this closure is estimated at \$30 to \$50 million dollars. There is no existing ecological rationale for continued closure of the HAPC and no evidence that the closure is meaningfully contributing to groundfish recovery. A rotational harvest approach to this area is needed. Lobsters in the HAPC are found in complex habitat along the Eastern boundary where scallop access would not be targeted.

Finally, we ask the Council to evaluate current vessel baseline restrictions, for federal limited access permit holders, and consider initiating a joint management action with the MAFMC to modify current requirements and create additional flexibility in replacing aging vessels in the Region.

Thank you for your attention to and consideration of our comments and concerns.

With best regards,

Wayne Reichle, President

wreichle@lundsfish.com

Attachment: SFC to OBM, May 12, 2025

May 12, 2025

Via Regulations.gov

Russell T. Vought, Director Office
of Management and Budget 725
17th Street, N.W.
Washington, D.C. 20503

RE: Response to Notice of Request for Information, Docket No. OMB-2025-0003

Dear Director Vought:

This letter is submitted in response to the Office of Management and Budget's Request for Information "on regulations that are unnecessary, unlawful, unduly burdensome, or unsound." 90 Fed. Reg. 15481 (April 11, 2025). It reflects the concern of the Sustainable Fisheries Coalition ("SFC"), an unincorporated commercial fishing association comprised of participants in the Atlantic herring fishery. This is perhaps the most over-regulated fishery on the East Coast, as demonstrated by the regulatory issues at play in *Loper Bright Enter., Inc. v. Raimondo*, 603 U.S. 369 (2024) (challenging the industry-funded monitoring regulation).

Below are two unnecessary regulations that burden the fishery without providing conservation or other benefits that SFC suggest should be eliminated:

1. *Strike 50 C.F.R. § 648.2 Definitions (specifically, definition of "Slip(s) or slipping catch") and 50 C.F.R. § 648.11(m)(4) ("Measures to address slippage").*

Under these regulations, if a herring vessel releases any fish from its nets for reasons of mechanical problems, vessel safety, or because the fish cannot be pumped aboard (this generally occurs if there are large numbers of dogfish in the catch), it must relocate to a fishing area at least 15 nautical miles from its location. If a vessel releases fish for any other reason – a very rare occurrence, but one which may occur if the catch is primarily of a type the vessel is not allowed to retain – it must terminate the trip and return to port.

Justification: The penalty this regulation attaches to various discarding events serve only to impose costs on herring fishermen while providing no benefit in terms of improved data or reduced bycatch. More to the point, all the events that would trigger the "move along" requirement – mechanical failure, dogfish, and conditions impacting vessel safety – are all beyond the control of the vessel and its crew. As such, a penalty serves as no deterrent, contrary to the rule's stated purpose.

In fact, the mid-water trawl sector of the Atlantic herring fishery has one of the lowest percentages of total catch subject to discards – the overwhelming majority of which is dogfish.

There is no overwhelming pattern of discarding in the fishery or bycatch of non-target species largely because the gear is very selective and the economics of the herring fishery dictate that vessels be efficient in targeting and harvesting this relatively low-value resource.

The best scientific information available tends to undermine the premise upon which the so-called “slippage” penalties are based, as the National Marine Fisheries Service has agreed:

The need for, and threshold for triggering a slippage cap (10 slippage events by area and gear type) does not appear to have a strong biological or operational basis. Recent observer data (2008–2011) indicate that the estimated amount of slipped catch is relatively low compared to total catch (approximately 1.25 percent). Observer data also indicate that the number of slippage events is variable across years. During 2008–2011, the number of slippage events per year ranged between 35 and 166. The average number of slippage events by gear type during 2008, 2009, and 2011 were as follows: 4 by bottom trawl; 36 by purse seine; and 34 by midwater trawl.

79 Fed. Reg. 8786, 8793 (Feb. 13, 2014).

2. *Strike 50 C.F.R. § 648.14(r)(2)(v)-(x). Amend 50 C.F.R. § 648.202(b)(1) by striking “, and is carrying onboard an observer” at the end of the paragraph. Strike paragraphs (2) and (4) and renumber paragraph (3) as paragraph “(2)”.*

Section 648.15(r)(2)(v) prohibits a herring mid-water trawl vessel from fishing in a Northeast Multispecies Closed Area without an observer. The two paragraphs suggested for elimination include “slippage” restrictions specific to the multispecies closed areas.

Justification: The former chief of NMFS’ Fisheries and Ecosystems Monitoring and Analysis Division, Dr. Wendy Gabriel, has stated at various meetings of the New England Council and its committees that there is no evidence of excessive discarding or bycatch in the fishery. In particular, the rate of incidental catch of haddock (which is subject to an overall bycatch cap) is no higher within the groundfish closed areas than elsewhere in the fishery, and there is no bycatch of other groundfish species. Thus, this regulation imposes costs, primarily in terms of eliminating access to productive fishing areas, while providing no conservation benefits.

Further, as there are no differences in the operation of mid-water trawl within such closed areas as elsewhere in the fishery, there should be no special and unwarranted regulations pertaining in these areas.

Thank you for your close attention to these important issues.

Sincerely,

/s/ Shaun M. Gehan

Shaun M. Gehan,

Counsel of the Sustainable Fisheries Coalition

MEMORANDUM

Date: September 30, 2020
To: Council
From: Mary Sabo
Subject: Additional information regarding USFWS import/export rules for U.S. squid fisheries

The Executive Committee met on September 21 to develop recommendations regarding the Executive Order (EO) on Promoting American Seafood Competitiveness and Economic Growth. During this meeting, the Committee reviewed a request to consider recommending to the National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service (USFWS) to exempt squid from the inspection and user fee system established for monitoring the import and export of certain types of protected wildlife products (at 50 CFR 14). The Executive Committee directed staff to provide additional information on this topic for consideration at the October 2020 Council Meeting. Specifically, the Committee requested (1) information about the USFWS rationale for including squid in its import/export monitoring and user fee program and (2) documentation of NMFS' past opposition to the USFWS excluding squid from its definition of shellfish.

The following memo provides additional background information to support the Council's review of this issue. Several documents are also attached for Council consideration:

1. USFWS Fact Sheet: Importing & Exporting Shellfish & Fishery Products
2. Letter from Mr. Samuel D. Rauch, NMFS Deputy Assistant Administrator for Regulatory Programs, Regarding USFWS Import/Export License and Fee Proposals (4/24/2008)
3. Letter from Lund's Fisheries, Seafreeze, Ltd., and The Town Dock (7/28/20)
4. Relevant 50 CFR Excerpts: § 10.12, § 14.92(a)(1), and § 14.64(a)

Summary of the Issue

Under the authority of the Endangered Species Act (ESA), the USFWS regulates the import and export of wildlife. This is carried out through the licensing of importers and exporters, inspection of shipments, and charging and retaining fees for processing applications and performing inspections.

The ESA provides an exemption from these import/export requirements for "shellfish and fishery products." This exemption, which is reflected in the USFWS regulations found in [50 CFR Part 14](#), currently applies to the vast majority of domestic fisheries. However, because the USFWS has established a narrow definition of "shellfish," this exemption does not include invertebrates without external shells, such as squid, octopus, and cuttlefish (Attachment #1). NMFS has previously opposed the USFWS definition of shellfish as being inconsistent with that of NMFS and the United Nations Food and Agriculture Organization (Attachment #2).

Atlantic longfin squid, Atlantic *Illex* squid, and California market squid are among only a few commercially harvested domestic fisheries that are not exempt from the USFWS import/export regulations. USFWS has provided no specific rationale for its decision to classify squid as neither shellfish nor fishery products.

On July 28, 2020, the Council received a request from Lund's Fisheries, Seafreeze, Ltd., and The Town Dock (Attachment #3), requesting that the Council consider including in its EO response a recommendation that the USFWS revise the import/export rules to include squid in the exemption for shellfish and fishery products. The current regulations require squid producers to ship U.S. squid only from designated ports and pay duplicative inspection fees, paperwork fees, and license fees, resulting in higher costs for the industry and making U.S. squid less competitive in international markets.

U.S. squid meet the criteria of being intended for human consumption and they are not listed as endangered or threatened, protected under CITES, or listed as injurious under the Lacey Act. These fisheries are sustainably managed under the requirements of the Magnuson-Stevens Fishery Conservation and Management Act. In 2018 the Atlantic longfin squid fishery became the first squid fishery in the world to secure certification by the Marine Stewardship Council (MSC), and the *Illex* squid fishery was subsequently certified as MSC-sustainable in 2019.

Exemption Definitions

Shellfish

The USFWS currently uses the following definition of *Shellfish* provided at [50 CFR § 10.12](#):

“*Shellfish* means an aquatic invertebrate animal having a shell, including, but not limited to, (a) an oyster, clam, or other mollusk; and (b) a lobster or other crustacean; or any part, product, egg, or offspring thereof, or the dead body or parts thereof (excluding fossils), whether or not included in a manufactured product or in a processed food product.”

The USFWS interprets the above definition of shellfish to exclude species in the class Cephalopoda, including squid, octopods, and cuttlefish.

On February 25, 2008, USFWS published a proposed rule proposing clarification regarding when an import/export license is required and modification to the license requirement exemptions. During the comment period, USFWS received a number of comments from NMFS and the industry questioning the USFWS definition of shellfish and the rationale for excluding certain mollusks. The following is an excerpt from NMFS' letter (Attachment #2):

“Serious questions have arisen from seafood importers in the northeast as to whether this definition of *shellfish* should also include wildlife species in the class Cephalopoda (squids, octopods, and cuttlefish). NMFS understanding is that organisms in this class *are* shellfish. According to the definition listed in the NMFS 2006 Glossary, ‘Shellfish include both mollusks, such as clams and crustaceans, such as lobsters.’ This definition was sourced from the *United Nations Food and Agriculture Organization – Fisheries Glossary*. Shellfish are further defined in 50 CFR 10.12 as “*an aquatic invertebrate animal having a shell, including, but not limited to, (a) an oyster, clam, or other mollusk; and (b) a lobster or other crustacean...*”

Although the Magnuson-Stevens Act provisions (50 CFR 600.10) and the Northeast Region regulations (50 CFR 648.2) lack a clear definition of shellfish, both definitions above indicate that the phylum Mollusca classifies all species within as shellfish, which includes the class Cephalopoda.”

The [final rule](#), published on December 9, 2008, did not modify the definition of *shellfish*, and the USFWS continues to apply import/export requirements and fees to U.S. squid fisheries.

Fishery Product

The regulations found in 50 CFR § 10.12 and 50 CFR Part 14 do not include a definition for the term *Fishery Product*. The USFWS provides the following definition in its Fact Sheet on Importing & Exporting Shellfish & Fishery Products (Attachment #1):

A fishery product means a non-living fish of one of the following classes: Cyclostomata, Elasmobranchii and Pisces; and includes any part, product, egg or offspring whether or not included in a manufactured product or a processed product. Fishery product does not mean frogs, turtles, alligators, live fish, or other aquatic animals.

USFWS Justification for Excluding Squid from Import/Export Exemptions

Staff has reviewed current regulations and supporting documents from USFWS and has not identified a rationale for excluding squid or other non-exempt invertebrates from the exemption for shellfish and fishery products. USFWS leadership has stated that the exemption “is purposefully narrow to discourage smuggling and illegal trade in protected species, invasive species and other wildlife, and to protect the legal trade community.”¹ However, staff can find no evidence that squid fisheries are any more vulnerable to illegal import/export activities than other fisheries that are covered by the exemption.

In 2016, the topic was raised during a [Legislative: Hearing on H.R. 3070 and H.R. 4245](#) before the Subcommittee on Water, Power and Oceans of the Committee on Natural Resources U.S. House Of Representatives. The following exchange between Representative John Fleming, Mr. William Woody (Assistant Director of USFWS Office of Law Enforcement at the time), and Mr. Dan Morris (Deputy Regional Administrator of NMFS Greater Atlantic Region at the time) can be viewed [here](#) (beginning at 1:41:30). A full transcript can be found [here](#).

Dr. FLEMING. The gentlelady yields back. I believe we have finished the first round. Therefore, I now recognize myself for 5 minutes for the second round. This question is for Mr. Woody. I understand the U.S. squid industry is currently subject to these same inspection requirements by the Service, even though these products are also destined for human consumption. Can you please explain to the subcommittee why a U.S. company that processes squid caught by U.S. fishermen off our own coast, and then exports that same cleaned, frozen product for human consumption, is subject to the same excessive fees and aggressive inspection requirements as products that are actually dangerous to the environment, or highly protected, such as those listed under the Lacey Act, CITES, and the Endangered Species Act?

Mr. WOODY. OK. Under our service regulations, under shellfish and fishery products, they do not fall under our regulations. What we have is the exemption does not apply to aquatic invertebrates and other animals that may be imported or exported for human or animal consumption. Essentially, the definition of shellfish or fisheries product such as squid, octopus, cuttlefish, land snails, sea urchins, sea cucumbers, they don't apply. They do not fall under that exemption, under our regulations.

Dr. FLEMING. But your regulations could be changed, right? You don't require an Act of Congress to do that?

Mr. WOODY. Our regulations could be changed, correct.

Dr. FLEMING. All right. Why not change them?

Mr. WOODY. Because we think they are sufficient right now.

¹ Mr. William Woody, Assistant Director of Law Enforcement for the U.S. Fish and Wildlife Service, testimony before the Subcommittee on Water, Power and Oceans of the Committee on Natural Resources, February 2, 2016, https://naturalresources.house.gov/download/testimony_woody

Dr. FLEMING. But why? I know you think that, but why?

Mr. WOODY. Because we think what we have right now, under shellfish and fisheries product, under the exemptions that we give those particular things, we think that covers a broad base. Adding on these other exemptions can add on to other issues as well. In other words, anything possibly from wildlife trafficking to other invasive species coming in. We have not added anything on to that, under the exemptions.

Dr. FLEMING. So, you are concerned that it opens the floodgates to other types of critters that might be involved with the Endangered Species Act or——

Mr. WOODY. Potentially it opens up other smuggling avenues. Correct, sir.

Dr. FLEMING. OK. Why is domestic calamari from our own waters defined the same way as these other dangerous or protected products?

Mr. WOODY. It does not fall under the exemption, sir.

Dr. FLEMING. So it is the same answer, basically.

Mr. WOODY. That is correct.

Dr. FLEMING. OK. Mr. Morris, NOAA and the regional councils managed the domestic harvest of hundreds of metric tons of squid. To your knowledge, is U.S.-caught squid a dangerous threat to our environment, or is it protected under the ESA?

Mr. MORRIS. Thank you for the question, sir. Yes, the domestic caught fish and squid are sustainably harvested. They are under proper management and catches are set and managed at appropriate levels. They are not listed under the Endangered Species Act.

Dr. FLEMING. And they are not a danger to the environment? They are not invasive species or anything of that sort?

Mr. MORRIS. No.

Dr. FLEMING. So, would it—and I will open this to the panel. Does anyone else have any comment about this? It does not get the same protections as shellfish, the same waiver. But yet in many ways, it is similar to the shellfish, in that it is not under the Lacey Act, it is not an endangered species, it is not an invasive species. Any thoughts from anyone else on the panel about that?

[No response.]

Dr. FLEMING. OK, all right. Well, that is all the questions I have. I yield to Mr. Huffman.

Industry Impacts

The economic impacts and regulatory burden of these USFWS import/export regulations are described in detail in the joint letter submitted by Lund's Fisheries, Seafreeze Ltd., and The Town Dock (Attachment 3). The letter states: "Squid are generally considered to be a higher volume, lower value product so any fees associated with USFWS policies and regulations add layers of costs that make U.S. products more expensive to produce and thus less competitive in the international market. This undermines U.S. trade policy and our trade deficit, especially with China and Japan."

The letter provides the following example of how these regulations affect the operations and bottom line of U.S. squid fisheries:

The Agency requires at least a 48-hour notice prior to an export shipment but will not clear a shipment until it gets close to the export date. Companies that have provided the Agency with as much as a 10-

day advance notice do not see their export clearances until after the “port cut” – the last day a company can deliver a full container to the terminal in order to load the vessel that has been booked for the delivery.

If a company misses a port cut they are paying \$500-600 per day until the container boards the next vessel (about 9 days). Terminals are typically open for receiving just 2-3 days prior to the port cut and there is just a 3-4 day window to deliver loaded containers. If a company must wait for Agency clearance to begin the loading process they will miss every shipment because the Agency cannot provide timely approvals until after the port cut.

In addition, if the Agency rejects a container on the basis they want to inspect the contents they require a company to deliver the loaded container to a bonded warehouse at the company’s expense. Timing is critical when we are delivering refrigerated cargo due to its perishable nature. The Agency process is last minute and structured in a way that makes it impossible to load the vessel as customers require which can also result in added costs per container. Here are a few of the costs enumerated below --

Carrier detention: \$300/day for 9 days. \$2700

Chassis use: \$35/day for 9 days. \$315

Storage at trucker’s yard: \$150/day for 9 days. \$1350

Rolled booking charge: \$500

Trucking to Bonded Cold Storage: \$1200

Last Minute Appointment at Bonded Cold Storage: \$1000

Proposed Action

USFWS likely already has the authority under existing regulations to exempt domestic squid fisheries from import/export requirements and fees. Council staff notes that while squid lack external shells, they do have internal shells known as “pens” and therefore could potentially be classified as shellfish under the current definition. Additionally, in the absence of a definition of “fishery product” in the relevant CFR sections, USFWS could broaden the definition to exempt squid and other invertebrates from import/export requirements without requiring a regulatory change. However, in order to ensure a permanent exemption for these sustainably managed domestic squid fisheries, staff recommends that the Council include either or both of the following recommendations in its response to EO 13921.

1. **Revise the “Shellfish” definition at [50 CFR § 10.12](#) to include squid.** Below are two acceptable options:
 - a. Modified NMFS Definition (based on the [2006 NMFS glossary](#) definition): Shellfish include both mollusks, such as clams and squid, and crustaceans, such as lobsters and shrimp.
 - b. Modified USFWS Definition: Shellfish means an aquatic mollusk or crustacean or any part, product, egg, or offspring thereof, or the dead body or parts thereof (excluding fossils), whether or not included in a manufactured product or in a processed food product.
2. **Add a definition for “Fishery Products” which includes squid or all mollusks not otherwise covered under the shellfish definition.** This definition could be added to [50 CFR § 10.12](#) or [§ 14.4](#). This change would broaden the scope of a number of relevant sections which provide exemptions for “Shellfish and nonliving fishery products...”

The Council’s final recommendations will be included in the Council’s EO response to NMFS and transmitted via formal request to the applicable agencies (Dept. of Commerce/NMFS, Dept. of Interior/USFWS).

Importing & Exporting Shellfish & Fishery Products

Does the U.S. Fish and Wildlife Service (Service) regulate the import and export of shellfish and fishery products?

Yes. We regulate the trade of shellfish and fishery products under the wildlife laws we enforce. However, we exempt some shellfish and certain non-living fishery products from our basic import/export requirements. We also have exemptions for pearls and certain sport-caught fish.

How does the Service define shellfish?

Under Service regulations, shellfish means an aquatic invertebrate having a shell within either the phylum Mollusca or subphylum Crustacea, and includes any part, product, egg, or offspring whether or not included in a manufactured product or in a processed food product. The definition for shellfish does not include mollusks or crustaceans without a shell or any other aquatic invertebrate. Common edible shellfish include oyster, clam, mussel, scallop, cockle, abalone, conch, whelk, marine snail, lobster, crayfish and prawn.

How does the Service define fishery product?

A fishery product means a non-living fish of one of the following classes: Cyclostomata, Elasmobranchii and Pisces; and includes any part, product, egg or offspring whether or not included in a manufactured product or a processed product. Fishery product does not mean frogs, turtles, alligators, live fish, or other aquatic animals.

When are shellfish and fishery products exempt from Service import/export requirements?

Imports and exports of certain shellfish and non-living fish products are exempt from Service requirements if they are for human or animal consumption and the species is not listed as injurious ([50 CFR Part 16](#)) and does not require a permit under [50 CFR Part 17](#) (endangered or threatened species), or [50 CFR 23](#) (Convention on International Trade in Endangered Species (CITES)). Live shellfish imported or exported for grow out or rearing facilities are not considered to be an import or export for human or animal consumption.

Are pearls exempt from Service import/export requirements?

Yes. Pearls are exempt from Service requirements unless they come from or are cultivated using any piece or part of a shellfish protected under CITES or listed as endangered or threatened.

Are there any exemptions for sport-caught fish or shellfish?

Yes. Recreationally caught fish or shellfish taken in U.S. waters or on the high seas are exempt from Service import/export requirements, unless the species involved is injurious, or requires a permit under [50 CFR Part 17](#) or [50 CFR 23](#). In addition, fish taken for recreational purposes in Canada or Mexico are exempt from import declaration requirements unless the species involved is injurious, or requires a permit under [50 CFR Part 17](#), or [50 CFR 23](#).

Are there any other exemptions for shellfish?

Yes. Live aquatic invertebrates of the class Pelecypoda (commonly known as oysters, clams, mussels, and scallops) and their eggs, larvae, or juvenile forms, are exempt from Service requirements if they are exported for purposes of propagation or research related to propagation and they do not require a permit under [50 CFR Part 17](#) or [50 CFR 23](#).

Are there any exemptions for exports of farm-raised fish and fish eggs?

Yes. Live farm-raised fish and farm-raised fish eggs that meet our definition of “bred in captivity” (50 CFR 17.3) and that do not require a permit under our regulations as endangered or threatened (50 CFR 17) or under CITES (50 CFR 23) may be exported from any [Customs and Border Protection port](#) and are exempt from export declaration and licensing requirements.

What are some examples of shellfish that are not exempt?

Species such as queen conch (*Strombus gigas*) and giant clams (Family Tridacnidae) that require a permit under [50 CFR 23](#) do not qualify for the exemption for shellfish. Other examples include certain mussels originating in U.S. rivers that are listed under the Endangered Species Act and two types of shellfish – mitten crabs (genus *Eriocheir*) and zebra mussels (*Dreissena polymorpha*) – that are listed as injurious ([50 CFR Part 16](#)). All of these shellfish require permits and are subject to Service import/export requirements.

What are some examples of fishery products that are not exempt?

Imports or exports of any sturgeon or paddlefish product, including meat, caviar, and cosmetics made from sturgeon eggs, do not qualify for the exemption for fishery products since they require a permit under [50 CFR 23](#). Other examples of non-exempt fishery products include dead unviscerated salmon, trout and char and live fertilized eggs from these salmonid fish – imports for which special requirements exist under our injurious species regulations.

What are some examples of other animals that are not exempt?

Aquatic invertebrates and other animals that are imported or exported for human or animal consumption but that do not meet the definition of shellfish or fishery product are not exempt. Examples include squid, octopus, cuttlefish, land snails (escargot), sea urchins, sea cucumbers, frogs, or alligator.

Can a Service officer still look at my shipment even if it is exempt?

Yes. The Service has the legal authority to detain and inspect any wildlife imported or exported into the United States, even if we have exempted the shipment from Service port, declaration, and clearance requirements.

Contact:

U.S. Fish and Wildlife Service
Office of Law Enforcement
Phone: 703-358-1949
Fax: 703-358-2271
E-mail: lawenforcement@fws.gov

July 7, 2008



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, MD 20910

April 25, 2008

Public Comments Processing
Attn: RIN 1018-AV31
Division of Policy and Directives Management
U.S. Fish and Wildlife Service
4401 N. Fairfax Drive, Suite 222
Arlington, Virginia 22203

Re: Docket No. FWS-R9-LE-2008-0024
Import/Export License and Fee Proposals

Dear Sirs:

The National Oceanic and Atmospheric Administration (NOAA) National Marine Fisheries Service (NMFS) offers the following comments on the proposed amendments to the rules governing import/export licenses and fees that were published in the Federal Register on February 25, 2008 (73 FR 9972-9983).

The proposed change to 50 CFR 14.92 would redefine the import/export license exemption category from its current language of "*Shellfish and fishery products*" to "*Shellfish and nonliving fish products*". Based on the factsheet given in a public notice to the wildlife import/export community by the FWS on March 6, 2006, the FWS definition of "shellfish" was narrowed to the following:

"Shellfish are all species of oyster, clam, mussel, or scallop (Class Pelecypoda) or shrimp, crab, or lobster (Class Crustacea) that are live, shucked, or in the shell, fresh or frozen, whole or in part."

Serious questions have arisen from seafood importers in the northeast as to whether this definition of *shellfish* should also include wildlife species in the class Cephalopoda (squids, octopods, and cuttlefish). NMFS understanding is that organisms in this class *are* shellfish. According to the definition listed in the NMFS 2006 Glossary,



“Shellfish include both mollusks, such as clams, and crustaceans, such as lobsters.” This definition was sourced from the *United Nations Food and Agriculture Organization – Fisheries Glossary*. Shellfish are also further defined in 50 CFR 10.12 as “*an aquatic invertebrate animal having a shell, including, but not limited to, (a) an oyster, clam, or other mollusk; and (b) a lobster or other crustacean...*”

Although the Magnuson-Stevens Act provisions (50 CFR 600.10) and the Northeast Region regulations (50 CFR 648.2) lack a clear definition of shellfish, both definitions above indicate that the phylum Mollusca classifies all species within as *shellfish*, which includes the class Cephalopoda.

Based on the concerns we have identified, NMFS strongly recommends FWS provide clarification in this rule on the definition of *shellfish* to help those importing and exporting seafood better understand the import/export requirements of the FWS. Therefore, NMFS believes §14.92(a)(1) should read: “*Shellfish, as defined by 50 CFR 10.12, and nonliving fish products that do not require a permit under parts 16, 17, or 23 of this subchapter, and are imported or exported for purposes of human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes;*”. NMFS encourages FWS to pursue further interagency and industry dialogue, and looks forward to working with FWS in advancing environmentally-sound import/export regulations.

Sincerely,



Samuel D. Rauch III
Deputy Assistant Administrator for
Regulatory Programs, NMFS

July 28, 2020
Dr. Chris Moore
Executive Director
Mid-Atlantic Fishery Management Council
800 North State Street, Suite 201, Dover, DE 19901

RE: Request for Inclusion of a Squid Species Exemption from Duplicative and Burdensome USFWS Regulations, in the Council's Identification of Important Regulatory Reforms Pursuant to Executive Order (EO) 13921 Promoting American Seafood Competitiveness and Economic Growth

Dear Dr. Moore:

We learned during the May 27-28 meeting of the Regional Fishery Management Councils' Council Coordinating Committee we first heard that the National Marine Fisheries Service (NMFS) will be surveying the Councils to gather ideas to reduce regulatory barriers negatively affecting American seafood competitiveness, consistent with EO 13921.

After listening to your report on the EO to the Council last month, and receiving your recent EO Comment Form announcement, we understand that the Council is now actively soliciting ideas. We were pleased to hear your response to Council Member Dewey Hemilright's question about the possibility of HMS ideas being solicited, even though those regulatory constraints lie outside the Council's immediate jurisdiction.

With this in mind, we are asking the Council to support recommending to NMFS the reform of a U.S. Fish & Wildlife Service (USFWS) Loligo and Illex squid fishery regulatory issue, which is having serious negative economic and competitive effects on our businesses. The issue is directly related to the inclusion of squid fishery products in a USFWS inspection and user fee system established for monitoring the import and export of certain types of protected wildlife products (at 50 CFR 14).

NMFS has taken a position in opposition to the USFWS' justification for including U.S.-produced squid species as part of these program in the past, including most recently in Congressional testimony in 2016. Encouraging NMFS and USFWS to reform this program will not require any changes to the Council's Mackerel, Squid, Butterfish Fishery Management Plan (MSB FMP).

These USFWS policies and regulations require squid producers to ship U.S. squid only from designated ports, and pay duplicative inspection fees, paperwork fees, and license fees; all leading to higher costs for our goods and delays in the shipment of our perishable seafood products year-round.

The USFWS regulations in question are intended to apply to small shipments of wildlife species of concern, to prevent abuse through the unauthorized trade in protected animals. This program should have nothing to do with the legitimate commercial production and distribution of US seafood, including squid. Virtually all other US commercial fishery products are exempt from this program and these rules.

We fully recognize this issue has joint agency ramifications and that NOAA/NMFS may not have the direct authority to force a sister agency to adjust their regulations. However, NOAA officials have been clear that the new EO does give the Agency the authority to make recommendations on cross-cutting issues that impact NOAA's commercial fishing industry stakeholders. This issue of duplicative squid inspections, within the exclusive jurisdiction of the USFWS, is an example of where we need Council and NOAA assistance in making this recommendation for reform to the Administration.

The USFWS's current policy and associated regulations, which include squid products in an import/export monitoring program created to protect rare and endangered wildlife, negatively impacts small U.S.-owned businesses, and renders U.S.-produced squid less competitive in international markets, thereby exacerbating the annual \$16B seafood trade deficit (much of it with China and other Asian countries). These requirements provide zero environmental conservation benefit for U.S. interests. Furthermore, the USFWS's role in seafood inspection is redundant and provides no benefit to our fishing companies or U.S. consumers.

Our repeated requests to the USFWS to exempt squid as either a shellfish (i.e. mollusk) or a fishery product, and to provide relief to all our U.S. domestic squid fisheries, have long been ignored. The USFWS has clear authority to grant exemptions for shellfish and fishery products, and has done so for virtually all other seafood, but has refused to do so in the case of squid.

The Agency has never given a justifiable reason for their position other than to say they can interpret the statute and form policy decisions in any manner they so choose (and require fees to be paid to support those decisions). The FWS has likewise ignored comments from NMFS in the past, as described above, attempting to correct the USFWS's false assumption that squid does not meet their definition of 'shellfish' or 'fishery product'.

Now, the MAFMC working with NOAA/NMFS and the Administration has an excellent opportunity to make a substantial difference for our industry, consistent with the intent of EO 13931, by pressing the USFWS to make a logical and reasonable change to their inspection and user fee system by exempting U.S. squid products from it.

We believe our request for an exemption from this system, through an EO 13921 lens, is warranted in order to eliminate the significant negative impacts of the overregulation of harmless edible shellfish and fishery products and redundant seafood inspection requirements imposed by the USFWS. In our opinion, the USFWS has placed an unnecessary economic and regulatory burden on numerous small U.S. businesses for no justifiable benefit, environmental or otherwise.

Fishing Industry Request to the MAFMC

We believe the MAFMC should recommend to NOAA/NMFS and to the Administration that the USFWS revise its wildlife import/export rules (See 73 FR 74615 and 50 CFR Parts 10-14), to exempt U.S. squid species pursuant to the President's Executive Order.

Clearly, these harmless food products should be defined correctly either as "shellfish" or "fishery products" (or both) and thus exempted from the system at 50 CFR Parts 10-14. U.S. east coast

squid *fisheries* are managed by the MAFMC/NMFS under the MSA, our nation's premier *fisheries* management law, as components of federal *fisheries* management plans. California's squid *fishery* is also actively managed, by the CA Dept. of *Fish* and Wildlife. Thus, the Administration should amend this FWS policy and properly define squid as a "*fishery* product" and require the USFWS provide an exemption from the wildlife inspection user fee system.

A Brief Chronology of the Issue

Prior to the Final Rule of December 2008, U.S. squid seafood products were exempt from these USFWS requirements and inspection fees. During the 2008 rulemaking process the USFWS received comments from the commercial fishing industry and NMFS, both of whom opposed the USFWS' definition of "shellfish" as inconsistent with that of NMFS and the United Nations Food and Agriculture Organization (FAO). Frankly, all the evidence we have indicates that squid are considered to be *both* mollusks and fishery products by scientists including the lead federal agency responsible for managing fisheries and seafood resources, in fact by pretty much everyone except the USFWS.

At that time the NMFS requested the USFWS revise its definition of shellfish to include squid to be consistent with that of NMFS, the lead federal fisheries management agency; which could have provided relief to our industry in terms of an exemption from the USFWS inspection fee system (e.g. permissible for certain shellfish & fishery products). In the end, the USFWS did not agree with NMFS; did not alter its erroneous definition of shellfish; nor did it choose to consider squid products to be fishery products.

There is additional history here for the MAFMC to consider. In 2008 Congressman Henry Brown (R-SC), at that time the Ranking Member on the House Natural Resources Committee, Subcommittee on Fisheries, Wildlife and Oceans, submitted comments to the USFWS calling into question the lack of justification for the Agency to engage in seafood inspection by revising their import/export license requirements at 50 CFR 14.

It was not until 2012-13 that the Obama Administration began to aggressively enforce these regulations, due in part to what appears to be an effort by the USFWS to offset the fiscal impacts of budget sequestration at that time.

In October 2014, the House Natural Resources Chairman Doc Hastings (R-WA) raised similar issues in a letter to then Interior Secretary Sally Jewel, to which he received a rather lukewarm response (on December 22, 2014), essentially indicating the USFWS was entirely comfortable with their interpretation of the definition of shellfish and their enforcement of the 2008 Final Rule.

On January 22, 2016, the House Natural Resources Subcommittee on Water, Power and Oceans held a hearing on the USFWS licensing requirements. The Subcommittee heard testimony from NOAA/NMFS officials that our domestic squid fisheries were healthy, sustainably-managed seafood products that were not a threat to the environment; while the USFWS representative, Mr. William Woody, stated the agency has broad authority to interpret the definition of shellfish and fishery products in any manner they choose.

On June 22, 2017, three coastal Republican Members of Congress sent a joint letter to then Secretary Zinke requesting a review of the USFWS regulations and an exemption from the current user fee system regime. To date, we have not seen any helpful signs from the Agency. We believe both the President's EO 13771 and EO 13921 provide a legitimate and consistent opportunity for the Federal Government to reexamine this situation. We appreciate the possibility that the Council could now provide us with an opportunity to regain momentum on this issue by including it in your response to the NMFS' solicitation of issues negatively affecting American seafood competitiveness.

It is also important to recognize the Council's long-term efforts to develop measures to sustain the east coast squid fisheries, as part of the MSB FMP. Along with those efforts, our companies have been able to partner in the Marine Stewardship Council's (MSC) certification of our Atlantic Loligo and Illex squid products, which are in demand here, in Canada, Europe, and Asia.

The mission of the MSC is to use their ecolabel and fishery certification program to contribute to the health of the world's oceans by recognizing and rewarding sustainable fishing practices. By working with them, we can influence the choices people make when buying seafood and transform the world's seafood market to a sustainable future by offering top quality U.S. seafood products.

Clearly, MSC-certified squid products pose no threat to the environment despite the fact that the USFWS user fee and monitoring system treats them in a manner similar to a CITES, ESA, or Lacey Act-listed species of concern. These squid species (and products made thereof) are not listed as injurious under 50 CFR part 16; they are not ESA-listed or candidates for listing (part 17); nor are they a CITES species (part 23). These species are not considered to be aquatic invasive species nor are they a threat to the U.S. environment in any way -- so the justification for inclusion in the USFWS declaration process for fish and wildlife defies common sense.

The specific domestic fisheries being directly harmed by the USFWS' policy and associated regulations are these:

Atlantic Longfin/Loligo squid

Harvest season: Offshore September through mid-April; Inshore May through August

Available quota level: 50,555,887 lbs. (22,932 mt)

2017 Harvest level: 17,993,000 lbs. (8,162 mt); Value: \$23.4 million ex vessel

2018 Harvest level: 25,588,130 lbs. (11,588 mt); Value: \$38 million ex vessel

2019 Harvest level: 27,213,341 lbs. (12,242 mt); Value: \$39 million ex vessel

Atlantic Shortfin/Illex squid

Harvest season: May through October

Available quota: 50,518,927 lbs. (26,000 mt)

2017 Harvest level: 49,612,500 lbs. (22,500 mt); Value: \$22.5 million ex vessel

2018 Harvest level: 53,177,989 lbs. (24,117 mt); Value: \$23.6 million ex vessel

2019 Harvest level: 54,729,757 lbs. (24,825 mt); Value: \$28 million ex vessel

California Market / Loligo squid

Harvest season: April 1 through March 31, or attainment of 118,000 short ton harvest limit

2017 Harvest level: 137,671,129 lbs. (62,446.57 mt); Value \$68,726,265 ex vessel

2018 Harvest level: 73,145,367 lbs. (33,178.5 mt); Value: \$35,767,673 ex vessel

2019 Landings: 27,198,474 lbs. (12,337.14 mt); Value: \$13,434,163 ex vessel

Monitoring/Inspections of Squid Fisheries, Processing and Trade

As referenced above, U.S. squid fisheries are carefully managed and closely monitored in their respective regions by the federal government via the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and through the Secretary of Commerce pursuant to his authorities over NOAA and NMFS. In addition to monitoring by the federal government, California's squid fishery is actively managed by the California Department of Fish and Wildlife.

These fisheries are sustainably managed, they are not being overfished and overfishing is not occurring. In fact, the Atlantic Longfin squid fishery was the first squid fishery in the world to secure MSC certification, on May 22, 2018, and the Atlantic Shortfin (Illex) squid fishery was subsequently certified as MSC-sustainable on May 2, 2019. These certifications by a nongovernmental third-party is further evidence these fisheries are well-managed and not a threat to the marine ecosystem or U.S. commerce and thus should not require redundant USFWS oversight.

Squid are harvested by trawl (Atlantic) and purse seine (Pacific) gear on U.S.-owned/operated commercial fishing vessels on trips of short duration (e.g. typically 1 to 4 days; all within the U.S. EEZ). The vessels are subject to U.S. Coast Guard inspection and on-the-water federal observer coverage requirements by NOAA staff and contractors, in addition to compliance with the NOAA/NMFS Office of Law Enforcement (OLE).

Product quality is commonly maintained at-sea through the use of refrigerated sea water systems. The harvest is offloaded at shore-side plants in any number of coastal States (including but not limited to Massachusetts, Rhode Island, New Jersey, Virginia and California). There, product is subject to further processing under additional laws and chain of custody protocols.

Once the fresh squid are delivered to shore-side plants, for product not destined for the fresh market, it is processed/cleaned/packed/frozen for human consumption in both domestic and export markets. Market conditions vary by year and squid products are regularly imported and exported by U.S. companies, but the majority of U.S squid being harvested and processed today (approximately 65%) is destined for export markets.

In addition to vessel monitoring requirements; squid processing plants are subject to site inspections by the Department of Commerce and the Food & Drug Administration (FDA) as well as the CA Department of Fish and Wildlife, State Sanitation Departments, Bureau of Weights and Measures (scales) and even the local Fire Department. Squid processing plants are also required to meet comprehensive Hazard Analysis Critical Control Point ("HACCP") food safety requirements.

In sum, the fishery production process for squid is already monitored by federal and state governments and the products are of high quality, therefore seafood inspection by the USFWS is costly overkill and frequently threatens the timely and safe delivery of a highly-perishable product to our customers.

On the trade monitoring side, squid export shipments are tracked by the U.S. Department of Commerce (USDOC). Frozen squid are lot inspected by the USDOC. This also enables USDOC to issue health certificates required by non-EU Countries. Import documentation is checked by the FDA and U.S. Customs Service. Shipments are periodically flagged and inspected by the FDA. There is no need for additional USFWS oversight.

Added Cost of USFWS Oversight and the U.S. Seafood Trade Deficit

Squid are generally considered to be a higher volume, lower value product so any fees associated with USFWS policies and regulations add layers of costs that make U.S. products more expensive to produce and thus less competitive in the international market. This undermines U.S. trade policy and increases our trade deficit, especially with China and Japan.

Further, the FWS's limiting of the ports which can be used for squid exporting (to conduct duplicative inspections of shipments already inspected by USDOC) prevents companies from getting the best freight rates, further negatively impacting US product competitiveness abroad.

There are hundreds of import/export shipments, consisting of thousands of containers in the aggregate, of U.S. squid products each year, originating on both the East and West coasts. Collectively, the U.S. companies moving these shipments are subject to many tens of thousands of dollars of additive fees courtesy of the USFWS and for no environmental or economic benefit to the U.S. All the costs noted below must be added to the costs that U.S. squid producers must pay to export their products overseas while they attempt to successfully compete in international markets.

Furthermore, we understand there is growing interest among some U.S. companies to export fresh squid products, particularly to Canada, but they are unable to develop these additional business opportunities due to the overly burdensome USFWS regulations and cost of the fee system. In a very real sense, the USFWS is also harming the development of new U.S. products for export markets.

These fees should also be considered in the context of squid container shipments which range in the size of 35,000 pounds to 55,000 pounds (per container) with values ranging from \$25,000 to \$150,000 (depending on the species and market grade). As such, the size of these shipments far exceeds the Agency's current exemption for "trade in small volumes of low-value non-federally protected wildlife parts and products" which requires wildlife shipments where the quantity in each shipment of wildlife parts or products is 25 or fewer and the total value of each wildlife shipment is \$5,000 or less.

- Every U.S. company exporting/importing squid must secure a USFWS license at a cost of \$100.

- There is a \$93 USFWS base inspection rate for EACH squid shipment leaving/entering the U.S.
- In addition, there is a \$53 per hour overtime (OT) fee that companies may be required to pay the USFWS. This is particularly impactful on some West coast companies where approximately 90% of shipments are loaded on a Thursday/Friday and sail on the following Sunday/Monday. This may lead to thousands of dollars in OT payments to the federal government for a redundant layer of seafood inspection.
- The USFWS allows U.S. companies to only ship squid through designated ports. Any shipments not going through a port on the official list are subject to an added “non-designated port inspection fee” of \$146 per shipment. There are also FWS time requirements for advance notice and any inspection delays may also negatively impact the buyer process under rapidly changing market conditions.
- These U.S. companies must also pay staff time and hire freight firms to manage the USFWS paperwork requirements.

We thank you for this opportunity to seek the Council’s support for including a recommendation to the Administration to exempt squid species from the USFWS wildlife import/export requirements, in response to the opportunities provided to U.S. seafood producers by EO 13921. We truly appreciate your consideration of our request. Please do not hesitate to contact any of us for additional information.

Respectfully submitted,

Jeff Reichle

Jeffrey B. Reichle
Chairman
Lund’s Fisheries, Inc.

Meghan Lapp

Meghan Lapp
Fisheries Liaison, Gen Mgr.
Seafreeze, Ltd, Seafreeze Shoreside

Ryan Clark

Ryan G. Clark
President & CEO
The Town Dock

Attachment: *The following memo summarizing this issue, and a copy of this letter, were provided to Interior Secretary Bernhardt at a Roundtable Discussion in Boston, July 21, 2020.*

USFWS IMPORT/EXPORT REGULATIONS FOR SHELLFISH & FISHERY PRODUCTS ARE HARMING U.S. SEAFOOD COMPANIES

The USFWS regulates the trade of shellfish and fishery products under the wildlife laws enforced by the Agency at 50 CFR 14. The Agency provides exemptions from these import/export regulations for certain shellfish and non-living fishery products if they are for human or animal consumption and the species is not listed as injurious under the Lacey Act (50 CFR Part 16), does not require a permit under the Endangered Species Act (50 CRF Part 17), or is not listed under CITES (50 CFR 23).

The USFWS has the authority to determine whether a species meets the definition of “shellfish or fishery product” in the context of these regulations and provide exemptions for such products. Despite these possible exemptions -- the Agency continues to apply costly and unworkable import/export requirements on U.S. edible squid products. The products are not ESA/CITES-listed, are not considered injurious, and pose no threat to the environment. They are fishery products intended for human consumption, plain and simple.

On December 9, 2008 the USFWS published a final rule (73 FR 74615) to revise subpart I – Import/Export Licenses of 50 CFR14 to clarify license and fee requirements and revise statutory exemptions. The U.S. commercial fishing industry and NOAA/NMFS had commented on the proposed changes with respect to the inclusion of shipments of squid products. Both the fishing industry and NOAA/NMFS questioned the USFWS interpretation of the definition of “shellfish” (i.e. aquatic invertebrates with a shell) and noted the USFWS inconsistencies with FAO’s inclusion of squid species in the class Cephalopoda as shellfish. In the final rule the USFWS agreed the organisms were indeed mollusks but chose not to consider them to be aquatic invertebrates with a shell as per the existing USFWS definition of shellfish.

Furthermore, the Agency has refused to consider (and exempt) squid products as “fishery products”, a policy decision that defies logic. Thus, the USFWS is treating edible domestic frozen squid for human consumption exactly as they treat Lacey Act-listed injurious and invasive zebra mussels and Chinese mitten crabs, CITES-listed paddlefish and queen conch, ESA-listed fresh water mussels, and fertilized salmonid & trout eggs.

Based on questionable interpretations of “shellfish and fishery products” the USFWS continues to charge individual U.S. seafood companies tens of thousands of dollars each year in license fees, employee paperwork time, fines, storage, delays and travel/overtime for Agency employees to overregulate a harmless U.S. seafood product.

Here is just one example of the USFWS flawed and burdensome system, there are many. The Agency requires at least a 48-hour notice prior to an export shipment but will not clear a shipment until it gets close to the export date. Companies that have provided the Agency with as much as a 10-day advance notice do not see their export clearances until after the “port cut” – the last day a company can deliver a full container to the terminal in order to load the vessel that has been booked for the delivery. If a company misses a port cut they are paying \$500-600 per day until the container boards the next vessel (about 9 days). Terminals are typically open for receiving just 2-3 days prior to the port cut and there is just a 3-4 day window to deliver loaded containers. If a company must wait for Agency clearance to begin the loading process they will miss every shipment because the Agency cannot provide timely approvals until after the port cut.

In addition, if the Agency rejects a container on the basis they want to inspect the contents they require a company to deliver the loaded container to a bonded warehouse at the company’s expense. Timing is critical when we are delivering refrigerated cargo due to its perishable nature. The Agency process is last minute and structured in a way that makes it impossible to load the vessel as customers require which can also result in added costs per container. Here are a few of the costs enumerated below --

Carrier detention: \$300/day for 9 days. \$2700
Chassis use: \$35/day for 9 days. \$315
Storage at trucker’s yard: \$150/day for 9 days. \$1350
Rolled booking charge: \$500

Trucking to Bonded Cold Storage: \$1200

Last Minute Appointment at Bonded Cold Storage: \$1000

Squid are generally considered to be a higher volume, lower value product so any fees associated with USFWS policies and regulations add layers of costs that make U.S. products more expensive to produce and thus less competitive in the international market. This undermines U.S. trade policy and our trade deficit, especially with China and Japan.

Further, the Agency's limiting of the ports which can be used for squid exporting (to conduct duplicative inspections of shipments already inspected by USDOC) may prevent companies from getting the best freight rates, further negatively impacting US product competitiveness abroad.

There are hundreds of import/export shipments, consisting of thousands of containers in the aggregate, of U.S. squid products every year, originating on both the East and West coasts. Collectively, the U.S. companies moving these shipments are subject to many tens of thousands of dollars of additive fees courtesy of the USFWS and for no environmental or economic benefit to the U.S. All the costs of USFWS compliance must be added to the bottom line for U.S. squid producers to export their products overseas and to successfully compete in international markets.

In conclusion, we believe President Trump's recent Executive Order 13921 designed to remove unnecessary regulatory burden on the U.S. seafood industry and promote trade opportunities should be the tool by which the USFWS exempts domestic squid products from costly and unworkable inspections, licenses and user fees.

We also believe Congress did not intend for the USFWS to interject unscientific policy decisions into our national seafood inspection system, especially for shellfish and fishery products that are not a protected species and pose no threat to the environment.

The USFWS has no justifiable reason to treat U.S. squid products differently than other edible fishery products and should include squid products in the regulatory definition of "shellfish & fishery products" at 50 CFR-Chapter1-Subchapter B-Part 14.21(a)(1) and exempt these products from the inspections, licenses and user fees.

Prepared by: Rick Marks, ROMEA; rem@hsgblaw-dc.com (July 21, 2020)

###

50 CFR § 10.12 Definitions.

Shellfish means an aquatic invertebrate animal having a shell, including, but not limited to, (a) an oyster, clam, or other mollusk; and (b) a lobster or other crustacean; or any part, product, egg, or offspring thereof, or the dead body or parts thereof (excluding fossils), whether or not included in a manufactured product or in a processed food product.

50 CFR § 14.92 What are the exemptions to the import/export license requirement?

(a) *Certain wildlife.* Any person may engage in business as an importer or exporter of the following types of wildlife without obtaining an import/export license:

- (1)** Shellfish (see § 10.12 of this chapter) and nonliving fishery products that do not require a permit under parts 16, 17, or 23 of this subchapter, and are imported or exported for purposes of human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes;

§ 14.64 Exceptions to export declaration requirements.

(a) Except for wildlife requiring a permit pursuant to part 17 or 23 of this subchapter B, an exporter or his/her agent does not have to file a Declaration for Importation or Exportation of Fish or Wildlife (Form 3-177) for the exportation of shellfish and fishery products exported for purposes of human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes, and does not have to file for the exportation of live aquatic invertebrates of the Class Pelecypoda (commonly known as oysters, clams, mussels, and scallops) and the eggs, larvae, or juvenile forms thereof exported for purposes of propagation, or research related to propagation.

From: Monica Mackey <monica.mackey@gmail.com>

Sent: Thursday, September 18, 2025 12:55 PM

To: comments <comments@nefmc.org>

Subject: Opposition to Rollbacks of Herring Protections. Prioritize Amendment 10 ! Thank you!

September 18, 2025

Dr. Cate O'Keefe, Executive Director
Daniel Salerno, Council Acting Chair
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950

Re: Opposition to Rollbacks of Atlantic and River Herring Protections and Urgent Need to Prioritize Amendment 10

Dear New England Fishery Management Council Members,

We write as Massachusetts taxpayers and property owners. We are concerned about the Atlantic Herring Plan Development Team's recent discussion about actions that would roll back core conservation measures in the Atlantic herring fishery. In addition, we strongly support completion of Atlantic Herring Amendment 10. We love our ponds, streams, lakes and bays, and we want them protected. Our property value as homeowners is dependent on a thriving ecosystem of healthy fish and healthy waters.

Specifically, we request that the Council:

1. Reject Proposals to Rollback Herring Regulation in Light of Executive Order 14276 (Restoring American Seafood Competitiveness).
2. Prioritize and Complete Amendment 10 to Help Rebuild Atlantic Herring, Protect River Herring, and Achieve Optimum Yield in the Atlantic Herring Fishery

Atlantic herring has been overfished since at least 2020. Instead of rolling back, corrective action is necessary to restore Atlantic herring and other keystone forage species.

The Council should reject the PDT's recommendations to deregulate the industrial midwater trawl fleet and weaken protections for Atlantic herring, river herring and shad populations.

Amendment 10 will help ensure Atlantic herring can rebuild to again fill its ecosystem role as the foundation of the Northeast's predator populations, supporting thriving commercial and recreational fisheries. Rebuilding forage species and restricting or eliminating indiscriminate industrial midwater trawling is a prerequisite to "unleashing" fishing opportunities.

We thank the Council for its work toward these ends. We urge you to prioritize a sustainable and equitable future for Atlantic herring, river herring, and shad populations and the people that depend on them.

Thank you again! Sincerely,

Monica Mackey and Mark Holmes

Wellfleet Massachusetts

September 18, 2025

Dr. Cate O'Keefe, Executive Director
Daniel Salerno, Council Acting Chair
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950

Re: Opposition to Executive Order 14276 Rollbacks of Atlantic and River Herring Protections and Urgent Need to Prioritize Amendment 10 in 2026

Dear New England Fishery Management Council Members,

On behalf of the undersigned organizations representing thousands of recreational anglers, commercial fishermen, and conservation advocates along the Atlantic coast, we write because we are concerned about the Atlantic Herring Plan Development Team's recent discussion about actions that would roll back core accountability and conservation measures in the Atlantic herring fishery. In addition, we strongly support completion of Atlantic Herring Amendment 10, which is necessary to help the Council meet its legal obligations to achieve Optimum Yield (OY), rebuild Atlantic herring, safeguard depleted river herring and shad populations, and reduce user conflicts. Specifically, we request that the Council:

1. Reject Proposals to Rollback Herring Regulation in Response to Executive Order 14276 (Restoring American Seafood Competitiveness).
2. Prioritize and Complete Amendment 10 to Help Rebuild Atlantic Herring, Protect River Herring, and Achieve Optimum Yield in the Atlantic Herring Fishery.

* * * * *

Bait fish (forage fish), including small pelagic species like Atlantic herring, mackerel, river herring, shad, and squid play a pivotal role in Eastern marine ecosystems and coastal economies by sustaining predators and fisheries directly and indirectly. Forage fish transfer energy from primary producers like zooplankton and phytoplankton up the food web, supporting a wide range of fish and other marine animals such as tuna, striped bass, cod, seabirds, and marine mammals. They are the foundation for many of our most important fisheries. Despite this ecological and socioeconomic importance, however, Atlantic herring and other key forage fish populations in the Eastern U.S. are in crisis, overexploited or at risk of collapse due to industrial midwater trawling.

Atlantic herring has been overfished since at least 2020.¹ The 2024 management track assessment estimated the 2023 spawning stock biomass at only 26 percent of its biomass target.² Additionally, according to the 2025-2027 Atlantic Herring Specifications, revenue in 2022 was a

¹ NOAA Fisheries, Stock Smart, Atlantic herring - Northwestern Atlantic Coast, 2024.

² Northeast Fisheries Science Center, Atlantic Herring - 2024 Management Track Assessment Report, 2024.

mere \$3.7 million—a steep decline from 2013’s \$36.5 million revenue.³ Moreover, despite the rising price per pound of Atlantic herring and a 60 percent decrease in the number of vessels in the fishery, the revenue per vessel has also dropped. Rebuilding has been difficult as the timeline was recently extended three years to 2031 instead of 2028.

Instead of rolling back hard fought measures designed to protect our critical forage base and help ensure accountability in the midwater trawl fleet, corrective action is necessary to restore Atlantic herring and other keystone forage species. The Council has a responsibility to manage the Atlantic herring fishery for the greatest benefit to the Nation, “balancing the various interests” such as “food production, recreational opportunities, and marine ecosystems”.⁴⁵

Reject Proposals to Rollback Herring Regulation in Response to Executive Order 14276

On August 18th the PDT met to develop potential input for EO 14276 Restoring American Seafood Competitiveness. The PDT discussed several potential recommendations that would eliminate regulations providing accountability to the industrial midwater trawl fleet in particular or otherwise help to conserve severely depleted Atlantic herring and river herring populations. The proposals discussed included removal of slippage prohibitions and consequences, elimination of industry-funded monitoring, removal of midwater trawl observer coverage in groundfish closed areas, and elimination of river herring and shad monitoring and avoidance areas. These measures were established through years of Council work to increase accountability and conservation in the fishery, and elimination would dangerously weaken safeguards established based on the best available science. Removal would also delay rebuilding, increase bycatch, further hurt efforts to restore river herring populations, and disregard years of public input designed to improve the fishery.

The Council should reject the recommendations to deregulate the industrial midwater trawl fleet and weaken protections for Atlantic herring, river herring and shad populations.

Prioritize and Complete Amendment 10 to Help Rebuild Atlantic Herring, Protect River Herring, and Achieve Optimum Yield in the Atlantic Herring Fishery

The rollbacks discussed by the PDT would also undermine Amendment 10 and its purpose to “attain optimum yield and improve the conservation status of Atlantic herring by accounting for its critically important role as a forage species”.⁶ Rather, they would move the fishery in the opposite direction—eliminating measures explicitly designed to help achieve those goals. Further, meeting Amendment 10’s worthy purpose can only be achieved by prioritizing and completing Amendment 10, establishing needed spatial and temporal protections from destructive midwater trawling and updating protections for river herring and shad. Data shows that the only area in New England where river herring runs have improved and sustainable fisheries are allowed are in the Gulf of Maine, where the Council’s seasonal purse seine/fixed

³ NEFMC, Atlantic Herring - Fishery Management Plan 2025 – 2027 Specifications, 2024.

⁴ 50 CFR 600.310.

⁵ NOAA Fisheries, Overview of National Standards Outline.

⁶ NEFMC Atlantic Herring PDT, Summary of Public Scoping Comments for Amendment 10 to the Atlantic Herring Fishery Management Plan, 2024.

gear only area in the inshore Gulf of Maine implemented in 2007 protects river herring from catch by midwater trawlers while at sea.⁷

Amendment 10 will help ensure Atlantic herring can rebuild to again fill its ecosystem role as the foundation of the Northeast's predator populations, supporting thriving commercial and recreational fisheries. Contrary to repeated statements by industrial midwater trawl lobbyists, Amendment 10's purpose is consistent with the Court's narrow holding in the Amendment 8 case. Rebuilding forage species like Atlantic herring, mackerel, river herring and shad and restricting or eliminating indiscriminate industrial midwater trawling is a prerequisite to "unleashing" fishing opportunities.

* * * * *

Rolling back safeguards in the Atlantic herring fishery and failing to complete Amendment 10 will reverse years of Council progress toward ecosystem-focused fishery management. We thank the Council for its work toward these ends, and urge you to continue your progress toward a sustainable and equitable future for Atlantic herring, river herring, and shad populations and the communities that depend on them.

Sincerely,

Rob Kramer
Wild Oceans

Jaclyn Higgins
Theodore Roosevelt
Conservation Partnership

Kurt Martin
Cape Cod Commercial
Fishermen's Alliance

Jason Schratwieser
International Game Fish
Association

Willy Hatch
Cape Cod Charter Boat
Association

Rich Hittinger & Scott
Travers
Rhode Island Saltwater
Anglers Association

Steven Hasselbacher
Connecticut Surfcasters
Association

Bruce Kindseth
Narragansett Surfcasters

Thomas Chrosniak
Connecticut River Salmon
Association

Andrew Jacobs
Wampanoag Tribe of Gay
Head (Aquinnah)

Bailey Bowden
Alewife Harvesters of Maine

Douglas Erickson
Brewster Massachusetts
Alewife Warden

Drew McManus
Conservation Agent/ Herring
Warden Town of Mashpee

George M. Loring III
Weymouth Herring Run
Wardens

David J. Cavanaugh
Fish Warden Middleborough-
Lakeville Herring Fishery
Commission

⁷ NOAA, Fisheries of the Northeastern United States; Atlantic Herring Fishery; Amendment 1, 2007.

Arthur F. Benner
Alewives Anonymous, Inc.

Don Williams
The Herring Ponds Watershed
Association

Annie Chester
American Bird Conservancy

Joyce Leiz
The Connecticut Audubon
Society

Andrew Fisk, Ph.D.
American Rivers

Matt Best
Riverkeeper

Patrick Herron
Mystic River Watershed
Association

Lisa Kumpf
Charles River Watershed
Association

Luke Cadrin
Barnstable Clean Water
Coalition

Michael D. Zarum
Buckeye Brook Coalition

Fred Akers
Great Egg Harbor Watershed
Association

Christa Drew
Friends of Herring River
(Wellfleet/Truro)

Andrew Gottlieb
Association to Preserve Cape
Cod

Erica Fuller
Conservation Law
Foundation

Enrico Nardone
Seatuck Environmental
Association

Aaron Kornbluth
akorn environmental
consulting, LLC

Roger Fleming
Blue Planet Strategies

Paul Perra
Retired NOAA Sustainability
Fisheries Policy Analysis



Mashpee Wampanoag Tribe
Natural Resources Department
483 Great Neck Rd. South, Mashpee, MA 02649
Phone (508) 477-2800

September 22, 2025

Dr. Cate O'Keefe, Executive Director
Daniel Salerno, Council Acting Chair
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950

Re: Opposition to Rollbacks of Atlantic and River Herring Protections and Urgent Need to Prioritize Amendment 10

Dear New England Fishery Management Council Members,

On behalf of the undersigned organizations representing thousands of recreational anglers, commercial fishermen, and conservation advocates along the Atlantic coast, we write because we are concerned about the Atlantic Herring Plan Development Team's recent discussion about actions that would roll back core accountability and conservation measures in the Atlantic herring fishery. In addition, we strongly support completion of Atlantic Herring Amendment 10, which is necessary to help the Council meet its legal obligations to achieve Optimum Yield (OY), rebuild Atlantic herring, safeguard depleted river herring and shad populations, and reduce user conflicts. Specifically, we request that the Council:

- 1) Reject Proposals to Rollback Herring Regulation in Light of Executive Order 14276 (Restoring American Seafood Competitiveness).
- 2) Prioritize and Complete Amendment 10 to Help Rebuild Atlantic Herring, Protect River Herring, and Achieve Optimum Yield in the Atlantic Herring Fishery.

* * * * *

Bait fish (forage fish), including small pelagic species like Atlantic herring, river herring, shad, and squid play a pivotal role in Eastern marine ecosystems and coastal economies by sustaining predators and fisheries directly and indirectly. Forage fish transfer energy from primary producers like zooplankton and phytoplankton up the food web, supporting a wide range of fish and other marine animals such as tuna, striped bass, cod, seabirds, and marine mammals. They are the foundation for many of our most important fisheries. Despite this ecological and socioeconomic importance, however, Atlantic herring and other key forage fish populations in the Eastern U.S. are in crisis, overexploited or at risk of collapse due to industrial midwater trawling.

Atlantic herring has been overfished since at least 2020. The 2024 management track assessment estimated the 2023 spawning stock biomass at only 26 percent of its biomass target. Additionally, according to the 2025-2027 Atlantic Herring Specifications, revenue in 2022 was a mere \$3.7

million—a steep decline from 2013’s \$36.5 million revenue. Moreover, despite the rising price per pound of Atlantic herring and a 60 percent decrease in the number of vessels in the fishery, the revenue per vessel has also dropped. Rebuilding has been difficult as the timeline was recently extended three years to 2031 instead of 2028.

Instead of rolling back hard fought measures designed to protect our critical forage base and help ensure accountability in the midwater trawl fleet, corrective action is necessary to restore Atlantic herring and other keystone forage species. The Council has a responsibility to manage the Atlantic herring fishery for the greatest benefit to the Nation, “balancing the various interests” such as “food production, recreational opportunities, and marine ecosystems.”

Reject Proposals to Rollback Herring Regulation in Light of Executive Order 14276

On August 18th the PDT met to develop potential input for EO 14276 Restoring American Seafood Competitiveness. The PDT discussed several potential recommendations that would eliminate regulations providing accountability to the industrial midwater trawl fleet in particular or otherwise help to conserve severely depleted Atlantic herring and river herring populations. The proposals discussed included removal of slippage prohibitions and consequences, elimination of industry-funded monitoring, removal of midwater trawl observer coverage in groundfish closed areas, and elimination of river herring and shad monitoring and avoidance areas. These measures were established through years of Council work to increase accountability and conservation in the fishery, and elimination would dangerously weaken safeguards established based on the best available science. Removal would also delay rebuilding, increase bycatch, further hurt efforts to restore river herring populations, and disregard years of public input designed to improve the fishery.

The Council should reject the PDT’s recommendations to deregulate the industrial midwater trawl fleet and weaken protections for Atlantic herring, river herring and shad populations.

Prioritize and Complete Amendment 10 to Help Rebuild Atlantic Herring, Protect River Herring, and Achieve Optimum Yield in the Atlantic Herring Fishery

The PDT recommendations would also undermine Amendment 10 and its purpose to “attain optimum yield and improve the conservation status of Atlantic herring by accounting for its critically important role as a forage species.” Rather, they would move the fishery in the opposite direction—eliminating measures explicitly designed to help achieve those goals. Further, meeting this worthy purpose can only be achieved by prioritizing and completing Amendment 10, establishing needed spatial and temporal protections from destructive midwater trawling and updating protections for river herring and shad. Available data shows that the only area in New England where river herring runs have improved and sustainable fisheries are allowed are in the Gulf of Maine, where the Council’s seasonal purse seine/fixed gear only area in the inshore Gulf of Maine implemented in 2007 protected river herring from catch by midwater trawlers while at sea.

Amendment 10 will help ensure Atlantic herring can rebuild to again fill its ecosystem role as the foundation of the Northeast’s predator populations, supporting thriving commercial and recreational fisheries. Rebuilding forage species and restricting or eliminating indiscriminate industrial midwater trawling is a prerequisite to “unleashing” fishing opportunities.

* * * * *

Rolling back safeguards in the Atlantic herring fishery and failing to complete Amendment 10 will reverse years of Council progress toward ecosystem-focused fishery management. We thank the Council for its work toward these ends, and urge you to continue your progress toward a

sustainable and equitable future for Atlantic herring, river herring, and shad populations and the communities that depend on them.

Sincerely,


Jason Steiding

Natural Resources Director

Mashpee Wampanoag Tribe

From: Barbara Brennessel <bbrennes@wheatonma.edu>

Sent: Wednesday, September 24, 2025 7:53 AM

To: comments <comments@nefmc.org>

Subject: Amendment 10

I read with dismay that NEFMC is considering a "pause" to Amendment 10 which would protect Atlantic Herring, River Herring and Shad. As a herring count coordinator for Wellfleet's Herring River, I and my fellow volunteers have seen dismal numbers of river herring in our river herring run size estimates as calculated by the MA Division of Marine Fisheries. Atlantic Herring stocks are in serious decline. It makes NO SENSE to pause Amendment 10 . Such a pause would lead to the further decline of all three fish species.

There will be NO stock for the Atlantic herring fishery and eventually, our iconic anadromous fishes will be extirpated.

Barbara Brennessel (herring Count Coordinator, Wellfleet, MA)

From: Christine-FHR Odiaga <codiaga@herringriver.org>
Sent: Wednesday, September 24, 2025 10:31 AM
To: comments <comments@nefmc.org>
Subject: Fwd: Amendment 10

I echo the comments made by Dr. Brennessel, below. I participated in the Wellfleet herring count and concur that the run was dismal. It makes NO SENSE to pause Amendment 10.

~ ~ ~ \ | / ~ ~ ~ ~ ~ \ | / ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ \ | / ~ \ | / ~ ~ ~ ~ ~ ~ ~ \ | / ~ ~ ~
><{{°} ><{{°}

Christine Odiaga | Harwich MA

From: Kathy Ellis <kathyellis@yahoo.com>
Sent: Wednesday, September 24, 2025 10:18 AM
To: comments <comments@nefmc.org>
Subject: Shawme Pond Sandwich Ma

Please continue to support funding and monitoring herring runs and overall conditions of ALL of our Ponds -

From: **Erica Fuller** <efuller@clf.org>

Date: Mon, Nov 10, 2025 at 10:53 AM

Subject: Amendment 10 to the Atlantic Herring FMP

To: daniel.j.salerno@gmail.com <daniel.j.salerno@gmail.com>

Cc: Elizabeth Etrie <etetrie@clf.org>

Hi Dan,

I hope you had a good weekend. I'm writing, before the Executive Committee Meeting, to provide our hope that you will do what you can to ensure Amendment 10 to the Herring FMP remains a multi-year priority for the Council in 2026. Now that the Omnibus Flexibility Amendment is completed, the Council should turn its attention back to herring and address some critical conservation and equity concerns. Between climate change and high volume fisheries that have operated in the region in the recent past, multiple forage fish stocks, including Atlantic herring, Atlantic mackerel, bluebacks, alewives, and American and hickory shad, have collapsed.

Amendment 10 offers a path to facilitate rebuilding some of these populations by:

- Protecting additional spawning grounds
- Moving mid-water trawl fishing offshore where/when necessary
- Reducing bycatch of river herring and shad
- Supporting recreational and commercial fisheries (as well as ecotourism businesses) that depend on healthy forage fish populations; and
- Recognizing and addressing Tribal user group conflicts and upholding federal trust responsibilities.

The seasonal buffer zones in Maine under the FMP have led to the return of certain river herring runs and even a commercial fishery. I've been dragging my kids to Damariscotta Mills to see the alewives run for decades and the change over this time has been remarkable. From a few thousand fish in the late 90s to millions of fish now attracting bald eagles, osprey, and seals, as well as supporting a significant directed harvest for lobster bait. In contrast, Southern New England has invested hundreds of millions in restoration, yet river herring runs remain stagnant due in part to at-sea bycatch.

There is strong public support for this action and we hope the Council will ensure Amendment 10 remains on the priority list for 2026. Please reach out to either of us if you have any questions.

Thanks for all you do, Erica

Erica Fuller

Senior Counsel, Ocean Conservation

Conservation Law Foundation

62 Summer Street

Boston, MA 02110

P: 617-850-1727

C: 508-400-9080

E: efuller@clf.org

For a thriving New England



[Facebook](#) | [Twitter](#) | [LinkedIn](#)

CONFIDENTIALITY NOTICE

This e-mail message from Conservation Law Foundation is intended only for the individual to which it is addressed. This e-mail may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you are not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you received this e-mail by accident, please notify the sender immediately and destroy this e-mail and all copies of it.

From: Judith A Joiner <Judith.AJoiner.1042508273@p2a.co>

Sent: Thursday, November 20, 2025 7:46 PM

To: comments <comments@nefmc.org>

Subject: Protect river herring: include Amendment 10 on 2026 Priorities List

I appreciate the opportunity to comment on Amendment 10 of the Atlantic Herring Fishery Management Plan and recommend it remains on the Council's Priorities List for 2026. Amendment 10 is a crucial tool in protecting Southern New England river herring (alewife and blueback herring), reducing the incidence of midwater trawl bycatch, and allowing the recovery of a dangerously depleted species.

The first item related to herring on the Draft Proposed 2026 New England Fishery Management Council Priority List concerns setting specifications for the harvest of Atlantic herring and references "additional management measures." I support combining the provisions of Amendment 10 with that priority.

I understand that the Council's staff time is limited, and there's been a decrease in the availability of NOAA fisheries scientists to conduct stock assessments. But we saw a fantastic response to our river herring runs in Connecticut during the past two seasons, and that may be due to the lack of at-sea interception of river herring by the midwater trawl fleet.

The 2025 blueback herring run resulted in the highest final count since 1997. There were record returns registered at three long-term alewife monitoring locations. The combined runs in Connecticut totaled 414,000 river herring, a 39% increase in abundance from 2024.

Still, from a historical perspective those are low numbers; there should be closer to 11 million river herring in Connecticut.

Water quality is improving, more than 500 miles of habitat has been reopened, 50 fishways have been constructed and more than 45 dams removed. To continue this momentum and restore river herring runs to the level where the populations in Connecticut rivers can support fisheries as well as the entire ecosystem, we need the Council to reinstate the full protection of Amendment 10.

Thank you for your consideration.

From: Mark Kramer <Mark.Kramer.1032203467@grassrootsmessages.com>

Sent: Thursday, November 20, 2025 5:05 PM

To: comments <comments@nefmc.org>

Subject: Protect river herring: include Amendment 10 on 2026 Priorities List

I appreciate the opportunity to comment on Amendment 10 of the Atlantic Herring Fishery Management Plan and recommend it remains on the Council's Priorities List for 2026. Amendment 10 is a crucial tool in protecting Southern New England river herring (alewife and blueback herring), reducing the incidence of midwater trawl bycatch, and allowing the recovery of a dangerously depleted species.

The first item related to herring on the Draft Proposed 2026 New England Fishery Management Council Priority List concerns setting specifications for the harvest of Atlantic herring and references "additional management measures." I support combining the provisions of Amendment 10 with that priority.

I understand that the Council's staff time is limited, and there's been a decrease in the availability of NOAA fisheries scientists to conduct stock assessments. But we saw a fantastic response to our river herring runs in Connecticut during the past two seasons, and that may be due to the lack of at-sea interception of river herring by the midwater trawl fleet.

The 2025 blueback herring run resulted in the highest final count since 1997. There were record returns registered at three long-term alewife monitoring locations. The combined runs in Connecticut totaled 414,000 river herring, a 39% increase in abundance from 2024.

Still, from a historical perspective those are low numbers; there should be closer to 11 million river herring in Connecticut.

Water quality is improving, more than 500 miles of habitat has been reopened, 50 fishways have been constructed and more than 45 dams removed. To continue this momentum and restore river herring runs to the level where the populations in Connecticut rivers can support fisheries as well as the entire ecosystem, we need the Council to reinstate the full protection of Amendment 10.

Thank you for your consideration.

From: Noreen Slevin-Koczak

<Noreen.SlevinKoczak.1032237376@advocatesmessage.com>

Sent: Friday, November 21, 2025 10:01 AM

To: comments <comments@nefmc.org>

Subject: Protect river herring: include Amendment 10 on 2026 Priorities List

I appreciate the opportunity to comment on Amendment 10 of the Atlantic Herring Fishery Management Plan and recommend it remains on the Council's Priorities List for 2026.

Amendment 10 is a crucial tool in protecting Southern New England river herring (alewife and blueback herring), reducing the incidence of midwater trawl bycatch, and allowing the recovery of a dangerously depleted species.

The first item related to herring on the Draft Proposed 2026 New England Fishery Management Council Priority List concerns setting specifications for the harvest of Atlantic herring and references "additional management measures." I support combining the provisions of Amendment 10 with that priority.

I understand that the Council's staff time is limited, and there's been a decrease in the availability of NOAA fisheries scientists to conduct stock assessments. But we saw a fantastic response to our river herring runs in Connecticut during the past two seasons, and that may be due to the lack of at-sea interception of river herring by the midwater trawl fleet.

The 2025 blueback herring run resulted in the highest final count since 1997. There were record returns registered at three long-term alewife monitoring locations. The combined runs in Connecticut totaled 414,000 river herring, a 39% increase in abundance from 2024.

Still, from a historical perspective those are low numbers; there should be closer to 11 million river herring in Connecticut.

Water quality is improving, more than 500 miles of habitat has been reopened, 50 fishways have been constructed and more than 45 dams removed. To continue this momentum and restore river herring runs to the level where the populations in Connecticut rivers can support fisheries as well as the entire ecosystem, we need the Council to reinstate the full protection of Amendment 10.

Thank you for your consideration.