Attachment 2

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

July 28, 2025

Dear Council Executive Directors,

We received numerous communications (letters) from constituents regarding Executive Order 14276 "Restoring American Seafood Competitiveness" following its issuance by President Trump on April 17. Some of the letters also reference other EOs or outline requests for various actions that could be taken to deregulate or otherwise improve fisheries flexibility.

Attached is a PDF document containing all of the correspondence received to date. The communications are organized by region and council jurisdiction, where appropriate, based on the sender's location. Please feel free to review submissions from across regions as the comments may also be informative to your respective council, particularly as you develop recommendations in response to the Assistant Administrator's May 6th request.

Please also be aware that this compilation only includes formal letters received by, or forwarded directly to the agency, and may not include all communications sent to NOAA Fisheries, NOAA, or DOC leadership (i.e., emails and email threads involving NOAA staff are omitted, and other communications may not have been forwarded to the agency).

If you have any questions, please contact Max Appelman, OSF's Domestic Fisheries Division, at max.appelman@noaa.gov.

Sincerely,

Mike Ruccio
Office of Sustainable Fisheries

March 4, 2025

TO: The Honorable Howard Lutnick
Secretary of Commerce
1401 Constitution Ave NW
Washington, DC 20230

The Honorable Brooke Rollins
Secretary of Agriculture
1400 Independence Ave SW
Washington, DC 20250

RE: Working Together to Secure Strong American Fishing and Seafood Businesses

Dear Secretary Lutnick and Secretary Rollins,

We write to you as representatives of the U.S. commercial fishing industry. We represent 170 businesses and associations from Alaska to the Gulf of America to Maine dedicated to strengthening American fisheries and the benefits they provide to the nation. America is a seafood superpower. Our hardworking fishing families produce the finest seafood in the world. We feed our neighbors by providing 10 billion meals each year produced from the healthiest protein available, generate over $180 billion in seafood sales annually, and sustain 1.6 million U.S. jobs. Our industry represents the purest forms of American maritime tradition, coastal economic prosperity, healthy food production, and food security.

Our nation's commercial fishing and seafood businesses wish to be a key part of the President's efforts to bolster domestic food production, nutrition, and self-sufficiency. We represent American businesses that can help Make America Healthy Again by increasing U.S. consumption of nutritious, domestically produced seafood. Today's fishing businesses are strong, but like our colleagues in other food-producing sectors, we face three main threats: **market challenges** that impact our bottom line, **instability and unpredictability** that reduce our ability to confidently participate in the marketplace, and a **federal system that undervalues us as food producers and under-invests in our success**. We respectfully request that you work with our industry to fix these problems. Here's how we can do this together:

Boost Domestic Seafood Markets. Americans deserve to eat more US-caught seafood. For too long, our industry has been shut out of United States Department of Agriculture (USDA) programs, such as Farm Credit and marketing programs, available to nearly all other food producers. This allows foreign interests to undercut and gain control of an excessive share of seafood markets. By integrating seafood into USDA programs, we can ensure that more Americans have access to the healthy protein produced by our fishing families. Studies show that seafood consumption supports heart health and increases children's IQs. The equally vital Saltonstall-Kennedy Program enables fishing industry-supported investments in marketing development, infrastructure, capacity building, and advances in technologies to support U.S. fisheries and seafood. Enhancing domestic seafood production, consumption, and marketing will allow Americans to eat more US-caught seafood, increase the health of our nation, and sustain American fishing businesses.

- **We request that you work with Congress and your staff to enhance fishermen's and seafood producers' access to USDA programs that will strengthen American fisheries and seafood.**
- **We also request that the Department of Commerce preserves access to the Saltonstall-Kennedy Program, which allows us to make business development and marketing investments that strengthen the American fishing and seafood industry.**

Combat Global Seafood Bad Actors. Like many homegrown American industries, U.S. fisheries have been targeted by international bad actors whose practices destroy American markets and the value of our products. Many of our direct international competitors use forced labor on fishing vessels and in processing plants, and advance predatory pricing strategies that undermine the U.S. industry's global market share. Foreign producers of cheap, low-quality seafood have been dumping their products into our markets for years, causing immense harm to American fishermen. The competitive pressure from non-market economies is unfairly harming the U.S. private sector, hurting American workers and

communities—especially in rural areas.

- **We request the opportunity to work with you to establish rules for fair competition through tightly targeted and reciprocal trade and tariff policies that benefit American producers and put more U.S. seafood onto America's dinner plates.**
- **We also request that you direct the National Oceanic and Atmospheric Administration (NOAA) to prioritize international seafood market fairness in cooperation with the Department of State and strengthen the systems that keep artificially cheap, contaminated, and slavery-produced seafood out of the U.S. marketplace.**

Prioritize Business Stability and Predictability, and Reduce Unnecessary Regulatory Burdens. To ensure the continued prosperity of American fisheries, it is essential to prioritize stability and predictability in the regulatory environment. Our industry relies on accurate fish population surveys and their timely interpretation. The current stakeholder-driven system is anchored by the Regional Fishery Management Councils, which enable bottom-up engagement from fishing and seafood businesses. Additionally, U.S. fisheries are heavily dependent on the regulatory process to open fishing seasons and implement reasonable management measures, and any delays or inconsistencies can have immediate and severe consequences for our fishermen's livelihoods.

- **We request that you ensure the normal function of the Regional Fishery Management Councils and the fishery management process so American fishermen can continue to work.**
- **We request that you work with the Office of Management and Budget (OMB) to expeditiously advance the regulatory actions necessary to operate the fishery management system and open, close, and adjust fishing seasons expeditiously.**
- **We request that officials throughout your agencies be directed to prioritize stability and predictability in the commercial fishing industry.**

Invest in Stable and Prosperous Fishing Businesses and Communities. All too often, commercial fishermen experience fishery management and agency governance as happening *to* us, not *with* us. Our industry works hard to make American fishing and seafood processing businesses both strong and innovative. Federal agency reform should prioritize managing fisheries effectively and increasing access to U.S. seafood. Research and development operations such as Sea Grant provide significant benefits to fishing businesses in the form of job creation and workforce development, efficient fishing practices, economic development, and significant return on investment. Other programs that support vessel construction, permit and quota purchases, workforce development and safety at sea, fishery disaster response, and infrastructure development are also important to our continued prosperity.

- **We request that USDA and NOAA focus on boosting domestic wild seafood production and investing in and prioritizing research that benefits our industry.**
- **We request that NMFS reforms be focused on strengthening participatory governance and management of our great ocean resources, with priority for stability, fixing broken fish survey systems, integration of fisherman-generated cooperative research data, and strong fiscal investments in the success of our industry.**
- **We request that you ensure that fishery disaster responses keep our fishing families afloat and that new investments in port and harbor infrastructure are made to support vital fishing and maritime commerce.**
- **We also request that you ensure the fishing industry's continued access to life-saving weather data, crew safety training programs, workforce development initiatives like the Young Fishermen's Development Act program, and Sea Grant.**

The undersigned businesses and organizations are a resource for your administration and our nation's decision-makers. We are here to provide insight and information as the nation navigates change and promotes domestic industry. We appreciate the opportunity to be your partners in fortifying domestic seafood economies, U.S. food security, and the health of all Americans.

Sincerely,

Linda Behnken
Alaska Longline Fishermen's Association
Sitka, Alaska

Michelle Stratton
Alaska Marine Conservation Council
Anchorage, Alaska

Aubrey Church
Cape Cod Commercial Fishermen's Alliance
Chatham, Massachusetts

Eric Brazer
Gulf Reef Fish Shareholders' Alliance
Galveston, Texas

Ben Martens
Maine Coast Fishermen's Association
Brunswick, Maine

Jamie Goen
Alaska Bering Sea Crabbers
Anchorage, Alaska

Willow Moore
Alaska Sustainable Fisheries Trust
Sitka, Alaska

Ray Melovidov
Central Bering Sea Fishermen's Association
Saint Paul Island, Alaska

Joel Kawahara
Coastal Trollers Association
Quilcene, Washington

Ava Schulenberg
Commercial Fishermen of Santa Barbara
Santa Barbara, California

Katie Harris
Fishing Vessel Owners' Association
Seattle, Washington

Harrison Ibach
Humboldt Fishermen’s Marketing Association
Eureka, California

Andrea Tomlinson
New England Young Fishermen's Alliance
Portsmouth, New Hampshire

Alexis Meschelle
Organized Fishermen of Florida
Cortez, Florida

Peter Halmay
San Diego Fishermen's Working Group
San Diego, California

Kendall Whitney
Seafood Producers Cooperative
Sitka, Alaska

Kathy Hansen
Southeast Alaska Fishermen's Alliance
Juneau, Alaska

Bob Zales
Southeastern Fisheries Association
Panama City, Florida

Justin Zeulner
The Wave Foundation
Portland, Oregon

Max Worhatch
United Southeast Alaska Gillnetters
Petersburg, Alaska

Dan Tucker
Whatcom Working Waterfront Coalition
Bellingham, Washington

Carolyn Wood
Crusty's Marine Services
Dauphin Island, Alabama

J.T. Mckissack
Evans Meats and Seafood
Birmingham, Alabama

David Walker
Walker Fishing Fleet, Inc.
Andalusia, Alabama

Nels Ure
Bristol Bay Fisherman
Naknek, Alaska

Karen Rosvold
Cape Reliant Fisheries, Inc
Petersburg, Alaska

Dustin Connor
Coast to Coast Fish Co., LLC
Petersburg, Alaska

Tyler Martin
Dawn Treader/ Petersburg vessel owners association
Petersburg, Alaska

Clifton Ivanoff
F/V New Dawn
Kodiak, Alaska

Jeff Farvour
F/V Apollo
Sitka, Alaska

Jim Eastwood
F/V Charles-T
Petersburg, Alaska

Karen L. Johnson
F/V Cloud Nine crewmember
Sitka, Alaska

Nels Otness
F/V Commander
Petersburg, Alaska

Eric Bezenek
F/V El Roi
Ketchikan, Alaska

Luke Whitethorn
F/V Haakon
Petersburg, Alaska

Stewart Vick
F/V Heather Lee
Petersburg, Alaska

Loren Lensegrav
F/v Indigo
Sitka, Alaska

Erick Sabo
F/V Insanity
Ekuk, Alaska

Kurt Kvernvik
F/V Island Girl
Petersburg, Alaska

Kirby Green
F/V Janet G LLC
Petersburg, Alaska

Nicholas Versteeg
F/V Jilly D
Petersburg, Alaska

Dave Gibson
F/v Judy May
Juneau, Alaska

Steve Fish
F/V Kariel
Sitka, Alaska

Allan Mathisen
F/V Marathon
Petersburg, Alaska

Jeffrey Turner
F/V Mirage
Sitka, Alaska

Alexus Kwachka
F/V No Point
Kodiak, Alaska

Lauren & Courtney Howard
F/V Norfjord
Sitka, Alaska

Karen, Mark, & Cameron Severson
F/V Odin Inc.
Petersburg, Alaska

Leann Cyr
F/V Patience
Sitka, Alaska

Michael Dunn
F/V Radio
Sitka, Alaska

Ryder Torgeson
F/V Republic
Sitka, Alaska

Chris Ystad
F/V True North
Sitka, Alaska

Lars Stangeland
F/V Valhalla
Juneau, Alaska

Danya Ortega & Jacob Smith
F/V Valle Lee
Sitka, Alaska

Lexi & Adam Hackett
Fish & Family LLC, F/V Myriad
Sitka, Alaska

Grace Allan
Graceful Fisheries
Kodiak, Alaska

Nick Martin
Keta Bay
Ketchikan, Alaska

Casey Flint
Rocky's Marine Inc
Petersburg, Alaska

Michael Kohan
Sitka Seafood Market
Juneau, Alaska

Jeb Phillips
Valkyrie LLC
Petersburg, Alaska

Bill Connor
Alaska Sustainable Wild Seafoods
Petersburg, Alaska

Steven Burrell
F/V Emery Nicole
Petersburg, Alaska

Teresa Stoddard
F/V Mirage
Sitka, Alaska

Raymond evens
F/V Southeastv
Petersburg, Alaska

Patrick ONeill
F/V Warthog
Dillingham, Alaska

Jo Anne & Joseph Smatlan
Angelique fisheries
Scottsdale, Arizona

Noah Strouse
California FarmLink
Santa Cruz, California

Elizabeth Penniman
F/V Katuvi
San Diego, California

Kim Selkoe
Get Hooked Seafood
Santa Barbara, California

Nicole Litvack
Local Fish Inc.
San Diego, California

Cynthia Fuller Quinonez
Parada del Mar California
National City, California

Kristie Maingot
Santa Barbara Fish Market
Santa Barbara, California

Tanner Saraspe
Saraspe Seafoods
San Diego, California

Camilla Lombard
Sea Forager
San Francisco, California

Mike Conroy
West Coast Fisheries Consultants
Long Beach, California

Glen & Ciara Brooks
Brooks Dockside Seafood
Inglis, Florida

Captain Gary Jarvis
Brotulas Seafood LLC, East Pass Seafood & Oyster House
Destin, Florida

Mark Tryon
Commercial fisherman
Gulf Breeze, Florida

Brad Kenyon
F/V Dawn Mari Florida Family Fishies
Satellite Beach, Florida

Gary Jarvis
F/V Labella, Jarvis Family Restaurants, Boat Owners Assist & Training LLC
Destin, Florida

Mike Eller
F/V Lady Em
Destin, Florida

Brian Lewis
F/V Trip limit
Clearwater, Florida

Mike Colby
Florida Coast Charters
Clearwater, Florida

Raymond Scott Childress
G&S Fishing, LLC & F/V Affinity 2
New Port Richey, Florida

Justin Bruland
JB Fisheries Inc.
Marathon, Florida

Paul Bertell & Louis Rimondi
Leebe Fish, Inc.
Marco Island, Florida

Michael Lombardi
Lombardi's Seafood
Winter Park, Florida

Paul Loughridge
Loughridge brothers seafood co
Yankeetown, Florida

Vincent Buie
Miss Martha
Steinhatchee, Florida

Bob Gill
Retired Fisherman
Crystal River, Florida

Billy Archer
Seminole Wind Fishing
Panama, Florida

Bryce Jarvis
Slick Lipps Seafood & Oysters LLC
Miramar, Florida

James Zubrick
Tides Up Fisheries & Fish For America USA
Steinhatchee, Florida

Anna Woods
Woody's Fisheries
Perry, Florida

John Coulter & Dennis Crosby
Captain Show LLC
St Marks, Florida

Robert Lanier Pair
F/V Pair A Dice
Steinhatchee, Florida

Jimmy Hull
Hulls Seafood Inc.
Ormond Beach, Florida

Paul Reeves
Reeves Fishing Inc.
Steinhatchee, Florida

Molly Lutcavage
Tuna2Oceans LLC
Koloa, Hawaii

Karen Wollins
Hooked on Fish
Chicago, Illinois

Anthony Colletti
F/V Almost There
Leeville, Louisiana

Ed Pitre
Southern Pride Charters
Galliano, Louisiana

Emily Lane
Blue Lobster Consulting LLC
Vinalhaven, Maine

Togue Brawn
Downeast Dayboat
Bath, Maine

Joseph Locurto
F/v Jasmine Marie
Steuben, Maine

Julie Robillard & Dennis Robillard Jr
F/V Julie Ann III
Eliot, Maine

Noah Oppenheim
Homarus Strategies LLC
Brunswick, Maine

John Painter
Maine Green Crabs
Owls Head, Maine

Douglas Niven
Mere Point Oyster
Brunswick, Maine

Dustin Emery
F/V Every Last $$$
Jonesboro, Maine

David Peterson
F/V Bjorn Sven
Chatham, Massachusetts

Zachary bennett
F/V Helltown
Chatham, Massachusetts

Hudson Frye
F/V Mckensie Lee
New Bedford, Massachusetts

Joe Clancy
F/V Nobska, F/V Proud Mary, F/V Beast of Burden, F/V Michael and Kristen
Gloucester, Massachusetts

Jacob Lane
F/V Time Machine
Cohasset, Massachusetts

Robert Keese
Keese Fishing LLC
Bourne, Massachusetts

Daniel Howes
Last Resort Fisheries Inc.
Orleans, Massachusetts

Rhodes Cole
Lured By Adventure
Gloucester, Massachusetts

Braden Wilson
Olive Juice Fisheries, LLC
Provincetown, Massachusetts

Courtney Cole
Resolve Place, LLC
Rockport, Massachusetts

Philip Michaud jr
Scout fisheries Inc.
Sandwich, Massachusetts

Eric Hesse
Tenacious Marine
Barnstable, Massachusetts

David Hills
F/V Certifiable
Orleans, Massachusetts

Sean Leach
F/V Jessica Beth
Harwich, Massachusetts

Don Nadeau
F/V Rover
Chatham, Massachusetts

Thomas Luce
F/V Sea Win
Harwich, Massachusetts

Glen LeGeyt
F/V Tricia Lynn
Harwich, Massachusetts

John Oliveira
Jillian and Peri LLC
Gloucester, Massachusetts

Michael Goodwin
Mg fisheries
Gloucester, Massachusetts

Max Nolan
Outlaw Fisheries Inc.
Eastham, Massachusetts

Joseph M Letourneau
Sustainable Fisheries, LLC. & F/V Lady Rebecca
Newburyport, Massachusetts

Steve Tomeny
Steve Tomeny Inc
Pass Christian, Mississippi

Clarence Seymour
SYL Charters
Biloxi, Mississippi

Tyler Robillard
Deckhand on the F/V Katie Rue
Portsmouth, New Hampshire

Laura Brown
Fox Point Oysters, LLC
Dover, New Hampshire

Ryan Horwath
Pacific Cloud Seafoods
Buffalo, New York

John Aldridge
Anna Mary Fisheries
Montauk, New York

George Beyer
F/V Grateful
Southport, North Carolina

Laura Ritter
LMR Consulting
Raleigh, North Carolina

Jason Hall
Washington Crab Co.
Washington, North Carolina

Amy Sharp
F/V Spring Persuader
Seaside, Oregon

AnnaRose Adams
Resilient Systems Consulting
Salem, Oregon

Talia Young
Fishadelphia
Philadelphia, Pennsylvania

Patrick Duckworth
F/V Stella Maris
Point Judith, Rhode Island

Kate Masury
Eating with the Ecosystem
Wakefield, Rhode Island

Marilyn Hemingway
Gullah Geechee Seafood Trail of the Gullah Geechee Chamber
Georgetown, South Carolina

Billy Wright
Brand-X
Galveston, Texas

Costa Kouzounis
Costa's Fishing Company
Galveston, Texas

Rachael Diane Jackson-Hisler & George Hisler II
F/V Edna Hisler
Double Bayou, Texas

Greg Ball
F/V Wave Dancer 2 & B & B Sportfishing, LLC
Galveston, Texas

Buddy Guindon
Katie's Seafood Market
Galveston, Texas

Chance Adams
Salt and Light Fishing LLC
Freeport, Texas

Bubba Cochrane
Southern Seafood LLC
Galveston, Texas

Maria Steyaart
F/V Miss Alice & Community Dock Seafood
Duxbury, Vermont

Andrew Shelton
Andrew Shelton Homes Realty
Bellingham, Washington

Amy Grondin
Duna Fisheries, LLC
Port Townsend, Washington

Season & James Long
F/V Longshot
Chinook, Washington

Garrett Elwood
F/V Western Freedom LLC
Bellingham, Washington

Kevin Scribner
Forever Wild Seafood
Walla Walla, Washington

Karl Jordan
Jordan Fisheries & F/V Samara
Sequim, Washington

Pete Granger
Legoe Bay Fisheries
Bellingham, Washington

Tele Aadsen & Joel Brady-Power
Nerka Sea Frozen Salmon & F/V Nerka
Bow, Washington

Chelsea Keutmann
Sea to Shore Seafood Co.
Bellingham, Washington

Sena Wheeler
Sena Sea Seafoods
Cashmere, Washington

Kiefer Hermann
Slangin Salmon
Oak Harbor, Washington

Eryn Domeyer
Tre-Fin Day Boat Seafood & F/V Gracee B
Ilwaco, Washington

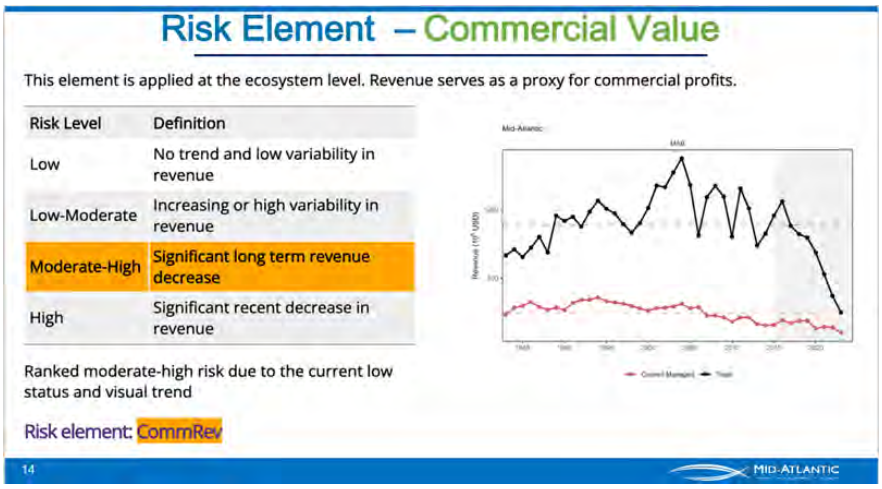
Frances Bursch
Wild North Salmon LLC
Seattle, Washington

Robert Briscoe Jr
Royal Fisheries LLC
Blaine, Washington

Adra Kusnirova
Alaska Fresh
Milwaukee, Wisconsin

Todd & Carin Hickey Stuth
Baileys Harbor Fish Company LLC
Baileys Harbor, Wisconsin

cc: Ashley Schiller, Senior Advisor for Policy and Program Integration, Department of Commerce
Sean Flowers, Chief Information Security Officer, Office of the Secretary of Commerce
Kurt Bersani, Enterprise Services Office, Office of the Secretary of Commerce
Vice Admiral Nancy Hann, Deputy Under Secretary for Operations, NOAA
Emily Menashes, Acting Deputy Assistant Administrator for NOAA Fisheries
Erik Noble, Deputy Assistant Secretary of Commerce for Oceans and Atmosphere, NOAA
Laura Grimm, Chief of Staff, NOAA
Kailee Marie Tkacz, Chief of Staff, USDA
Preston Parry, Deputy Chief of Staff, USDA
Dominic Restuccia, White House Liaison, USDA
Kayleigh Hurley, Deputy White House Liaison
Michael Stumo, Associate Director for Economic Policy and the Made in America Office, OMB
Mark Calabria, Associate Director for Treasury, Housing, and Commerce, OMB
Stuart Levenbach, Associate Director for Natural Resources, Energy, Science, and Water, OMB



U.S. Commercial Fisheries and the Saltonstall Kennedy Act Funds

- **U.S. Commercial fishery profits have experienced a sharp decline since 2015 and are at their lowest ever.**
- **Part of this decline can be attributed to NOAA's mismanagement of the Saltonstall Kennedy Act funds.**
- **The Saltonstall Kennedy Act requires that 30% of all gross import duties on imported seafood be deposited into NOAA's "Promote and Develop Fisheries Products Account" for the sole purpose of promoting and developing U.S. fisheries and markets for U.S. seafood. A 1983 amendment to the Act requires that a minimum of 60% of these funds be used for "direct industry assistance grants to develop the United States fisheries and to expand domestic and foreign markets for United States fishery products".**
- **NOAA has not allocated the minimum amount specified by law since 1982. NOAA instead embezzles the account and annually transfers the majority of the money into its Operations, Research and Facilities (ORF) Account for general internal agency use. In some years, NOAA takes 100% of the funds; in some years it leaves a small percentage for fisheries science projects.**
- **In the meantime, the commercial fishing industry has been left to compete with increasing imports with no national support or national marketing campaign, common for many other domestically produced agricultural products.**
- **NOAA's 2025 budget estimates that over $377 million will be deposited in the "Promote and Develop Fisheries Products" account and plans to take 100% of these funds for its internal agency operations. The commercial fishing industry will receive zero of these funds.**

Request: That the U.S. Department of Commerce work with the USDA's Agricultural Marketing Service to develop national and international marketing programs for U.S. fisheries products using the Saltonstall Kennedy Act funds, to be administered by USDA AMS. The commercial fishing industry is not a science project; it is a food producer. The Saltonstall Kennedy Act recognizes this fact; however, NOAA does not and has not been faithful to administer the funds for 40 years. This must change.

Deregulation suggestions

A red asterisk (*) indicates a required field.

Which agency/agencies promulgated the regulation? * (128 characters allowed)
Department of Commerce/National Oceanographic and Atmospheric Administration/National Marine Fisheries Service.
Which title, parts, and/or sections of the Code of Federal Regulations (C.F.R.) should be rescinded? * (Please include the relevant CFR section(s) and the Federal Register citation for the final rule. If you are proposing a repeal of a particular rulemaking, it should note the relevant portions of the C.F.R. that are implicated.)
Repeal of final rule published at 81 Fed. Reg. 88975-88998 (Dec. 9, 2016) (NOAA-NMFS-2015-0122-0111). *Status quo ante* revision of: (i) 50 CFR § 300.321 Definitions; (ii) 50 CFR § 300.323 Reporting and Recordkeeping Requirements; (iii) 50 CFR § 300.325 Prohibitions; and (iv) 50 CFR § 600.725 General prohibitions. Repeal of 50 CFR § 300.324 Seafood Traceability Program.
What is your name? (Only answer if you would like the rescission to be named after you or your organization. Providing your name does not guarantee that it will appear on any final agency action, and we reserve the right to refrain from using names that are inappropriate or offensive. (128 characters allowed))
National Fisheries Institute.
Is your proposed rescission a notice of proposed rulemaking, final rule, direct final rule, interim final rule, or interpretive rule? * (A notice of proposed rulemaking is appropriate where the rescission is likely to be controversial and where the agency has not yet proposed rescinding the rule. (You may submit a final rule at a later time). A final rule is appropriate where the agency has already issued a proposal to rescind the regulation. A direct final rule is appropriate where the rescission is unlikely to be controversial and where the agency has not yet proposed rescinding the rule. An interim final rule is appropriate where there is good cause for the effective date of the rescission to be immediate and where the agency has not yet proposed rescinding the rule. An interpretive rule explains a regulation or the meaning of a statute the agency administers.)

What is the name of the regulation being rescinded, if applicable? *(This could be the name of the part of the C.F.R. or the name of a previous rulemaking.)
Seafood Import Monitoring Program.
Please provide a short summary of the justifications for the rescission. *
1. SIMP does not fulfill its central objective, *as the agency itself concedes*. In a May 2021 report, NOAA stated, "SIMP does not prevent or stop IUU fish and fish products from entering U.S. commerce." NOAA also concluded that most SIMP enforcement issues relate to administrative errors. To NFI's knowledge, 7 years of SIMP enforcement has not produced a single DOJ referral. 2. The program rests on shaky legal ground, in light of *Loper Bright Enterprises v. Raimondo* (and as described below in greater detail). 3. The Administration has ample alternative means to police illegal fishing around the globe, including preexisting border enforcement tools, the biennial IUU fishing report, RFMO consultation, USCG enforcement, Lacey Act prosecutions, and the like.
Please insert the address of the agency. [NPRM, DFR, and IFR only] (This information can be found on the most recent agency notice of proposed rulemaking, direct final rule, or interim final rule.)
National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910.
Please insert the contact information for the agency. * (This information can be found on the most recent agency rulemaking.)
https://www.fisheries.noaa.gov/contact-us.
What is the background for the regulation being rescinded? * (You should discuss the current state of the regulation, how it operates, and its history. A high level of detail is preferred.)
The regulation applies to a group of "at risk" species. The regulation requires seafood companies to collect and report a series of data elements that purport to demonstrate the provenance of relevant shipments, as a condition of entry. NOAA then conducts random, post-importation audits of those companies involving thousands of pages of data per shipment. Because much domestically harvested seafood goes out to a 2d country for processing and reexportation to the U.S. market, SIMP compels U.S. fishermen harvesting, *e.g.*, cod, to collect data from USG agencies and to then report that data to … the U.S. government. In the process, the program raises costs for U.S. fishermen to sell their catch to American families. The program, moreover, applies to products that are farmed and that therefore cannot possibly be illegally fished. Lastly, because SIMP stops at the U.S. border, the program is useless in combatting seafood fraud, which occurs in the U.S., post-importation. Complications such as these persuaded NOAA in 2023 to withdraw a rulemaking that would have expanded SIMP to additional seafood products.
Explain the reasons for the rescission. * (This is the analysis part of the rule. You should provide as much detail as possible. Possible reasons for rescission include, but are not limited to: (1) the regulation is inconsistent with a statute;

(2) the regulation is inconsistent with the Constitution; (3) the regulation's costs outweigh its benefits; (4) the regulation no longer reflects the current state of technology; or (5) the regulation is bad policy, unreasoned, or unsound. If this is a final rule, you should respond to any relevant and timely comments. If there are other requirements for repealing a rule, please address those here.)
1. The SIMP final rule violates the Magnuson-Stevens Act, as amended, and is *ultra vires*. NOAA has no direct authority to regulate seafood fraud. The court in *Alfa International Seafood v. Ross* relied upon *Chevron* deference in holding that the Department has authority to regulate seafood fraud. Citing *Chevron* more than any other case, the court held that "that the Department's interpretation of the scope of its authority is reasonable under *Chevron*." 264 F. Supp. 3d 23 (D.D.C. 2017). Without *Chevron* deference, this unsupportable view of agency authority would not have prevailed. 2. SIMP costs almost certainly exceed its benefits. Program costs imposed on industry have ballooned since 2018. Regulated firms – most of which are small businesses – spend huge amounts on training, submissions, auditing, and general compliance, for a program that virtually never unearths illegally harvested product in supply chains, especially as to farmed products that *cannot be illegally fished*. That burden raises costs for, *inter alia*, U.S. harvesters caught up in program requirements. 3. SIMP ignores development of improved beacons and other monitoring capabilities, dramatically expanded big data/AI knowledge regarding vessel ownership and fleet activity, heightened USCG interdiction capabilities, and a host of other improvements. The regulation's attempt to deputize a marginal player in harvest operations – the importer-processor-distributor – into the IUU fishing enforcement team has failed and should be ended.
Describe the text of the relevant C.F.R. provisions as it will exist after the rescission. * (This is usually contained in the List of Subjects section of a regulation.)
50 CFR § 300.324 will be eliminated. The 4 additional provisions cited above will be revised to appear as they did prior to promulgation of the December 9, 2016 Final Rulemaking found at 81 Fed. Reg. 88975.
Please insert the name of the current agency head. *
Laura Grimm (NOAA) and Eugenio Piñeiro Soler (NMFS).
Please insert the title of the agency head. *
Ms. Grimm is Chief of Staff and performing the duties of Under Secretary of Commerce for Oceans and Atmosphere and NOAA Administrator. Mr. Piñeiro Soler is Assistant Administrator for NOAA Fisheries Service and Acting Assistant Secretary of Commerce for Oceans and Atmosphere/Deputy NOAA Administrator.

Via Electronic Mail

May 30, 2025

Mr. Eugenio Piñeiro Soler
Assistant Administrator
National Oceanic and Atmospheric Administration
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Mr. Drew Lawler
Principal Deputy Assistant Secretary for International Fisheries
National Oceanic and Atmospheric Administration
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Re: Using Embargos to Level U.S. Playing Field and Protect Marine Wildlife

Dear Mr. Piñeiro and Mr. Lawler,

We write to urge the National Marine Fisheries Service (NMFS) to use the various embargo powers available to level the playing field for U.S. fishers while furthering America's interest in conserving our shared, global marine wildlife.

For decades, Congress has recognized that U.S. fishers suffer an economic disadvantage when competing with foreign fishers who fail to meet protections for fish, whales, dolphins, and other marine wildlife that are required of U.S. fishers. As a result, numerous legislative provisions direct the Department of Commerce, through NMFS, to require other nations to meet U.S. conservation standards—or lose access to the lucrative U.S. seafood and imports market. This mandate has not been met in full by previous administrations.

Use of U.S. embargo powers will further one of the key directives in President Trump's April 17, 2025 Executive Order entitled *Restoring American Seafood Competitiveness*. Specifically, the Order directs the Department of Commerce, with the U.S. Trade Representative, to develop a seafood trade strategy that "addresses unfair trade practices — including IUU fishing . . . — while ensuring a fair and competitive domestic market for United States seafood producers."

We urge NMFS to evaluate opportunities and robustly implement the following provisions:

(1) The Marine Mammal Protection Act (MMPA) Import Provisions

Since 1972, the MMPA has required that NMFS "shall ban the importation" of seafood caught in foreign fisheries that cause bycatch "in excess of United States standards." 16 U.S.C. § 1371(a)(2). Under the MMPA Import Rule and a subsequent settlement, NMFS must determine which nations meet these standards by September 1, 2025 and ban non-conforming imports by January 1, 2026.

Our organizations have worked in concert with fishing industry representatives for over a decade to support the Import Rule and press for its strong implementation, and we remain committed to

assisting NMFS in ensuring equitably high standards on bycatch around the globe. We have also expressed our concerns that some countries may receive a "pass" for this upcoming round of comparability determinations despite only making minimal efforts toward some future compliance. The law requires an affirmative demonstration of full compliance with U.S. standards, and nations that fail to meet this standard should have their seafood banned.

(2) High Seas Driftnet Fishing Moratorium Protection Act (MPA)

Recently amended, the MPA requires NMFS to biannually "identify" nations that engage in illegal, unreported, or unregulated (IUU) fishing, shark finning, or bycatch of protected species. Following negotiations, NMFS must then "certify" nations that fail to take corrective actions, which can result in seafood import bans. Specifically, the MPA covers:

- IUU fishing: NMFS must identify a nation that engages in IUU fishing by:
  a. Violating management measures, including reporting requirements, set under a regional fisheries management agreement,
  b. Failing to address IUU fishing "in any areas where [a nation's] vessels are fishing," or
  c. Producing seafood with forced or child labor. 16 U.S.C. § 1826j(a)(2).

- Sharks: NMFS must identify a nation if it targets or incidentally catches sharks on the high seas or within the exclusive economic zone of another nation and does not maintain a comparable regulatory program requiring sharks to be brought to port with fins naturally attached. *Id.* § 1826k(a)(1)(B).

- Bycatch: NMFS must identify a nation if any vessel is engaged in fishing, whether on the high seas or in its own exclusive economic zone, that results in bycatch of any fish, sea turtle, or marine mammal protected under a listed conservation law. *Id.* § 1826k(a)(1)(A).

NMFS must identify nations in a report to Congress every two years, with the next report due in August 2025. In its 2023 report to Congress, NMFS identified seven nations under the MPA, and the agency must also decide whether to certify those nations in its upcoming report. We note that previous administrations have not issued seafood import bans under the MPA, despite certifying nations, and instead have elected to only deny those nations access to U.S. ports. We urge NMFS to leverage to the statute's full effect by also instituting import bans to ensure other nations' compliance.

(3) Pelly Amendment

As noted in our recent letter to the Departments of Commerce and the Interior, other nations often fail to comply with treaty obligations that protect shared fish stocks, whales, and other wildlife, in contrast with the United States' diligent efforts. To address this inequity, the Pelly Amendment to the Fishermen's Protective Act directs the agencies to "certify" nations whose wildlife trade or fishing practices "diminish[ ] the effectiveness" of an international agreement. 22 U.S.C. § 1978(a)(2). The President may then embargo products from the nations to prompt

compliance. *Id.* § 1978(c). The Pelly Amendment should be used to ensure other nations comply with a multitude of fish and whale conservation treaties, including various RFMOs and the International Whaling Convention.

(4) Seafood Import Monitoring Program (SIMP)

For the United States to successfully leverage its market power to counter IUU fishing and ensure nations are complying with any import ban issued, it must be capable of blocking illegally-harvested or non-compliant seafood imports from its commerce stream. SIMP is a key policy aimed at these goals by requiring collection, screening, and auditing of seafood import data.

At the end of 2024, NOAA released an "Action Plan" for improving SIMP based on a year-long review process with over 7,000 stakeholder consultations. The Action Plan provides a detailed roadmap for major improvements to the SIMP that would greatly enhance its efficacy including: improving screening and detection processes; expanding traceability requirements to all seafood imports (potentially utilizing a "tiered" system to designate which data elements must be reported for which species); aiding labor enforcement efforts by partner agencies, such as under the Tariff Act; and promoting government-to-government data sharing to enhance global enforcement efforts. NMFS should expeditiously implement the Action Plan to eliminate unsafe imports and ensure illegally-harvested, foreign seafood does not compete with domestic seafood products on the U.S. market.

In sum, robust implementation of these laws will level the playing field for U.S. fishers who have worked for years to comply with domestic and international mandates while simultaneously ensuring that fishers abroad do their part to protect our shared, global marine resources.

We would welcome an opportunity to discuss these issues with you and your staff in the weeks ahead.

Sincerely,

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CC:
Alexa Cole, Director of the Office of International Affairs, Trade, and Commerce, National Oceanic and Atmospheric Administration

ASSOCIATION of FISH & WILDLIFE AGENCIES

The voice of fish and wildlife agencies

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June 5, 2025

Mr. Eugenio Piñeiro Soler
Director, NOAA Fisheries Service
1315 East-West Highway, 14th Floor
Silver Spring MD 20910

Dear Mr. Piñeiro Soler:

The Association of Fish and Wildlife Agencies (Association) is the professional association that serves as the collective voice of North America's state, provincial, and territorial fish and wildlife agencies on a broad spectrum of biodiversity and conservation issues from migratory bird conservation to invasive species management to engagement in international treaties and conventions. We were founded to advance science-based management and conservation of species and their habitats for the American public's long-term benefit and use. The U.S. state fish and wildlife agencies and the U.S. Government have a long history of collaboration and partnership on the implementation of international treaties, conventions, and initiatives.

To support the implementation of the Executive Order 14199 that requests a review "of all international intergovernmental organizations of which the United States is a member and provides any type of funding or other support, and all conventions and treaties to which the United States is a party," we are providing information about how the continued participation in and implementation of some treaties, conventions, and agreements are critical to the interests of the American people. They impact our fish and wildlife and the ability of current and future Americans to enjoy these resources, contribute to our economy, and provide jobs.

We believe that the participation of both state and federal representatives is critical for successful implementation. We respectfully request that if a fish and wildlife agreement may be considered for alteration or termination to reach out to the affected state fish and wildlife agencies involved in the agreement for consultation to discuss the impacts to fish and wildlife conservation and the alignment of state fish and wildlife agencies' interests.

The following list is not comprehensive but highlights some of the critical treaties, conventions, and initiatives from the perspective of the U.S. state fish and wildlife agencies. We provide examples of economic and other benefits for a limited number as well. Also, many of these agreements are critical to realizing the objectives outlined in other recent Executive Orders, such as "Restoring American Seafood Competitiveness" and in the implementation of the Department of the Interior's Strategic Plan Draft Framework. We look forward to continuing to work with you and your staff on these important agreements.

Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES): CITES was established in 1973 as a response to growing concerns about over-exploitation of wildlife through international trade. The aim of CITES is to ensure that international trade of wild animal and plant species does not threaten their survival. This Convention is important because of its economic impact and its impact on our fish and wildlife heritage.

As an example, the American alligator is a conservation success story made possible in part by U.S. participation in the CITES Treaty. Although depleted to around 100,000 animals in the wild in the late 1960s, the American alligator has recovered from endangered species status with more than 5,000,000 alligators living in the southeastern U.S. wetlands today. The U.S. Fish and Wildlife Service, along with Florida, Louisiana, and other states that manage alligator populations, developed a sustainable use model that proactively addresses research, management, enforcement, compliance, and trade monitoring of the American alligator. These sustainable use programs are underpinned by science and are supported by conservation scientists and policy makers around the globe, including CITES, the United Nations, and the IUCN (The International Union for Conservation of Nature).

- Estimated Federal Taxes Generated Annually on Retail Sales of Alligator Leather Goods: $79 million.
- Estimated Sales Taxes Generated Annually on Retail Sales of Alligator Leather Goods: $24 million.
- Economic Impact to Louisiana: $250 million annually which includes hides, meat, leather products, tourism, and more.
- Nearly 20,000 U.S. jobs are created by the alligator industry

Additionally, the conservation of CITES-listed U.S. furbearers helps address nuisance wildlife issues and supports the important fur industry in the U.S. We estimate the current number of trappers in the U.S. to be approximately 250,000 and the value of the fur trade in the last five years to be worth over $200 billion. Finally, the conservation of American eel (being considered for listing at the upcoming CITES Conference of the Parties) has great value to the American people and the tribes. In 2023, the value of the eel trade in Maine was over $19 million and over $20 million across the rest of the U.S. states that participate in the trade. If the U.S. is not a signatory to the CITES Treaty, international trade in alligators, furbearers and other CITES listed species would not be allowed; trade would abruptly end.

Canada/Mexico/U.S. Trilateral Committee for Wildlife and Ecosystem Conservation and Management (Trilateral): The Trilateral was created in 1995 by the federal wildlife conservation agencies of the U.S., Mexico, and Canada. This agreement formally brought together for the first time the three federal wildlife agencies in North America, consolidating a continental effort for wildlife and ecosystem conservation and management. The Trilateral can help define common purpose, collaborate on shared, cross-border wildlife management, and support our wildlife heritage.

Conservation of Migratory Birds: Our bird heritage is a shared resource, with wide-ranging species that can have intercontinental migrations to breeding or wintering areas. For U.S. birdwatchers and hunters, we need to support work in the U.S. and international partnerships through such programs as the North American Wetlands Conservation Act and the Neotropical Migratory Bird Conservation Act so that the birds continue to return to the U.S. In 2022, 96 million people engaged in birdwatching. They had a total economic output of $279 billion. There were over 14 million Americans that hunted in 2022, and they spent over $45 billion.

Fisheries Treaties: The U.S. is party to many treaties involving fisheries which have large economic impacts and support jobs in local communities. The **Pacific Salmon Treaty/Pacific Salmon Commission** embodies the commitment made by the U.S. and Canada to carry out their salmon fisheries and enhancement programs. The Pacific Salmon Treaty is critical to meeting the provisions of the federal Endangered Species Act (ESA), addressing tribal fishing rights, and maintaining sustainable U.S. fisheries that provide 26,700 full time equivalent jobs and $3.4 billion in economic value annually. Other economically important fisheries treaties include the **North Pacific Anadromous Fish Commission,** the **International Pacific Halibut Commission,** and the **Pacific Hake/Whiting Treaty.**

The **Convention on Great Lakes Fisheries / Great Lakes Fishery Commission** supports a $5.1 billion fishery and 35,800 jobs. The Convention allows for the generation of $90 million in annual household income, $4 billion in retail sales, and nearly $2 billion in wages. This Commission also facilitates the Great Lakes Law Enforcement Committee; the only existing mechanism in the Great Lakes Basin that brings together state, provincial, federal, and Indigenous law enforcement agencies with Great Lakes enforcement authority. The Commission's infrastructure programming delivers a 5 to 1 return on investment, saving American taxpayers $250 million, while keeping invasive species like sea lamprey and invasive carp from collapsing the fishery. The Commission has also been successful at leveraging U.S. investments to encourage Canada to increase funding to shared Great Lakes priorities by $500 million since 2022.

Treaty on Pacific Albacore Tuna Vessels and Port Privileges (1981). This treaty allows U.S. vessels to fish for albacore tuna in Canadian waters seaward of 12 miles from shore and allows Canadian vessels to fish for albacore tuna in U.S. waters seaward of 12 miles from shore.

International Commission for the Conservation of Atlantic Tunas (ICCAT). ICCAT was established in 1966 to conserve and manage Atlantic tuna and tuna-like species, including swordfish, marlin, and sharks. The Commission, made up of 54 parties, considers mutual interests and maximizes sustainable catch while minimizing bycatch in the fisheries. Management is based on science, statistics, and monitoring of stocks.

North Atlantic Salmon Conservation Organization (NASCO). To address Article 66 of the United Nations Convention on the Law of the Sea treaty, the Convention for the Conservation of Salmon in the North Atlantic Ocean came into force in 1983 and created NASCO. This international organization, made up of seven governments and the European Union, cooperates to conserve wild Atlantic salmon. The goal of NASCO is to slow the decline of wild Atlantic salmon populations and prioritize restoration.

Northwest Atlantic Fisheries Organization (NAFO). NAFO was established in 1979 to ensure conservation and sustainability of fishery resources of the Northwest Atlantic. This fisheries management body currently includes 13 parties that cooperate to manage most Northwest Atlantic fishery resources except salmon, tuna/marlins, whales, and sedentary species

Each of these treaties/agreements impacts cross border management of wildlife in Alaska— the **International Agreement for the Conservation of the Porcupine Caribou Herd**, the **Agreement on the Conservation of Polar Bears, Bilateral Agreement between USA - Canada (Inuvialuit - Inupiak), and the Bilateral Agreement between USA - Russia (Alaska - Chukotka).**

Other important treaties, conventions, and initiatives include the International Union for Conservation of Nature and the Ramsar Wetland Convention.

Please do not hesitate to contact myself or Deb Hahn, International Relations Director at 202-838-3458 or dhahn@fishwildlife.org should you require any further information or clarification or to connect you to the appropriate state fish and wildlife agency contact.

Sincerely,

Judith Camuso
President, Association of Fish and Wildlife Agencies

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Steven E. Wilson, Deputy Director
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USDC – NOAA
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May 7, 2018

RE: USDC QMP / AE programs pose as Trade Hurdle for Smaller Seafood Businesses

Dear Mr. Wilson,

Together my husband and I own and operate the F/V Kruzof, a small freezer longliner home based in Seward, Alaska that fishes within state and federal waters throughout Alaska and engages in domestic and international trade. Our products consist of groundfish species and corresponding by-products that are caught, processed, frozen on board, and halibut sold on ice to local seafood processors for their fresh and frozen domestic markets. Our vessel typically catches and/or produces less than 250 tons annually, and international markets of interest have ranged between, Canada, Europe, and Asia. We have been catching and processing seafood at sea for over 30 years, and have successfully traded with various customers without any un-inherited health and/or sanitary claims.

As of late, in order to import our products, certain foreign trading partners have requested that we be engaged in a USDC sponsored QMP / Approved Establishment program. These programs are very comprehensive, involve quarterly inspections and a litany of paperwork that must be performed and compensated solely by us. We find this extra oversight redundant and onerous for a small operation like ours to engage in, therefore have had to decline sales opportunities into certain markets.

Furthermore the program is over and above the State and Federal food safety requirements already instituted within ADEC (Alaska Department of Environmental Conservation) and FDA (Food and Drug Admin) which we fully comply with. We also engage with USDC to perform lot inspections to obtain a Health Certificate documents when required. However for some countries and items lot inspections are not sufficient and without being involved in the QMP/AE

programs such products will not be allowed import by that country[i]. In my current case this would be China and South Korea.

A few years ago, in attempt to avoid scheduling hassles for lot inspections and open up trading options for our catch, we engaged in the AE program. However after engaging we found it would cost us over $8K plus hiring a specialist to manage inspections over the 2 or 3 quarters we may or may not operate within an annual season. Since only a small percentage of our catch may have interest to those markets that require "Approved Establishment" status, the cost far out-weigh a reasonable economies of scale.

In our most recent case, out of the 10 tons of groundfish product we sold to our Korean buyer, 2.5 tons of the cod roe had this requirement. Consequently the roe could not be shipped due not having AE status. This is difficult since Korea provided the best market for the roe and saved us from discarding this marketable item of decent value. We run into this same issue when China customers contact us for items we produce, yet must decline their purchase orders since we do not participate in the QMP/AE programs.

<u>Suggested Solution to QMP/AE Trade Barrier for Smaller Entities:</u>

Over the years I have had numerous discussions with several colleagues, government officials and regional USDC supervisors about the unfair treatment of small operations and business models in the seafood industry who would like to sell certain items into international markets that maintain the QMP/AE requirements. Unfortunately the scale of production from smaller producers or Direct Market operations does not justify the cost and reporting demands of participating in the AE/QMP programs that USDC offers. Consequently we are eliminated from competing in what should be a fair trade environment as well as fully utilizing the products we catch.

I suggest USDC reference to those certain countries mandating QMP/AE programs the importance of making them affordable to smaller U.S. operators. Then tailor and propose a less expensive and onerous program for lower volume producers, like ourselves, to help them export product into these marketplaces. It should be recognized that smaller entities deserve the same fair trade access in spite of the existing inspection requirements that are currently fashioned for big industrial type entities producing high tonnage volumes.

Since USDC is the mediating department with countries on seafood inspection requirements of U.S. exports, it should be incumbent on them to negotiate with the international community the importance of helping smaller entities, just as you do larger entities, to participate in international trade. Since we already meet State and FDA requirements to operate as a catcher-freezer vessel in the State of Alaska Fishery regions, and manage lot inspections with USDC when required, it seems redundant and excessive to ask a smaller and highly traceable operation for more comprehensive inspections and recordkeeping.

I hope your department and those I have copied see the benefits of removing trade barriers for small entities and will give this issue their attention and support in seeking solutions. I look forward to being contacted for further discussion in pursuing affordable and rational alternatives that enable smaller business models to compete in international markets with their products.

Sincerely yours,

Rhonda A. Hubbard
General Manager & Sales

CC:

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[i] See Attached memo from USDC Seafood Inspection Program

25-0095490

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

Angel Drobnica, Chair | David Witherell, Executive Director
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May 7, 2025

Howard W. Lutnick
Secretary of Commerce
U.S. Department of Commerce
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Via Email: thesec@doc.gov, laura.grimm@noaa.gov

Dear Secretary Lutnick:

The North Pacific Fishery Management Council (Council) recommends management measures and regulations to the Secretary of Commerce for federal fisheries off Alaska and is proud of its role in providing the majority of the Nation's domestic seafood supply. We were pleased to see our work is directly aligned with a stated goal of the recent Executive Order (*Restoring American Seafood Competitiveness,* April 17, 2025) to promote the productive harvest of our U.S. seafood resources. Our region also leads the Nation in the part of the executive order relative to modernizing data collection and analytical practices, including support for new and less expensive technologies to monitor and assess fish stocks, use of exempted fishing permits, and use of cooperative research programs reliant on fishing industry collaboration. We are ready to work with you on fulfilling these goals.

The North Pacific Council has a successful record of science-based, sustainable fisheries management which facilitates long-term production of our Nation's fisheries resources. Since 1976, the harvest of groundfish in the federal waters of the North Pacific has totaled 4 to 5 billion pounds annually. These harvests account for approximately 60% of the total U.S. catch and are critical to ensuring the viability of the U.S. seafood supply chain and food security for the Nation due to both the size and the stability of the annual yield. Across state and federal fisheries in Alaska, over $5 billion worth of seafood products are produced by Alaska processors annually, and almost 50,000 people are directly employed in Alaska. U.S. economic output related to Alaska's seafood industry totals $15.8 billion including all direct and multiplier impacts and supports an estimated 81,100 FTE jobs annually in the U.S (on average 2021/2022). Workers in these jobs earn an estimated $5.8 billion in total annual labor income.

Our ability to maintain and further production of the Nation's seafood resources, as described in the April 17 Executive Order, is critically dependent on the NOAA workforce and Federal marine surveys and research. Federal employees at the National Marine Fisheries Service (NMFS) Alaska Region open and close fisheries in-season, issue permits or fishing privileges required to support management programs recommended by the Council to promote maximum sustainable yield and implement fisheries monitoring to ensure thousands of fishermen can access the resource each year. The NOAA Alaska Fisheries Science Center (AFSC) conducts critical research to estimate fish volume and abundance, determine maximum acceptable biological harvest rates, and monitor ecosystem changes, all of which is necessary to ensure sustainable, maximum long-term production for the Nation. The National Weather Service

provides weather prediction services that fishermen rely on for safety at sea, as well as ensuring the well-being of our coastal communities with significant marine infrastructure. Maintaining domestic seafood harvesting and processing opportunities and providing revenue and jobs for support businesses and communities depends on maintaining sufficient staff resources at these Federal agencies.

We wholly rely on NOAA's marine surveys and the associated research that flows from those surveys to determine optimum yield for each fish and crab species, as required by the Magnuson-Stevens Act. Without these surveys, scientists would be required to account for substantially increased uncertainty by lowering catch limits for U.S. fishermen, which lowers U.S. seafood production. The majority of surveys in the North Pacific are conducted as charters with private commercial vessels, but some of our most important surveys can currently only be conducted with the NOAA ship (*Oscar Dyson*). Even missing one of our core surveys creates immediate impacts for the following year's harvests.

Recently, we have been focusing our work with NOAA on modernizing our survey methods, as well as partnering with industry on exempted fishing permits and cooperative research, to improve the responsiveness of fisheries management to real-time ocean conditions and use more efficient and effective tools, such as electronic monitoring. NOAA's survey modernization project is underway with the explicit goals of greater efficiency, flexibility, and cost effectiveness. We hope to work with you to ensure this project's completion as a key step in meeting the mandate of the recent Presidential E.O. We are highly dependent on the Alaska Fisheries Science Center staff and funding to complete this critical work.

The regional fishery management process is unique in that it is largely directed by fishery participants, and our regulated community is essential in identifying ways to improve management and increase access to fisheries and economic opportunities. Adequate funding for the regional fishery management councils is necessary to support this collaborative public process and promote effective and streamlined management. Costs for the councils (including personnel, health care, meeting, and travel costs) have increased relative to annual funding obligations. Combined with the mandatory requirements the councils must complete, the ability of the councils to manage for optimum yields, provide effective management, and react to changes in ocean conditions is greatly reduced without sufficient funding. In response to rising costs, we have recently reduced our operations by decreasing the number of meetings, reducing the number of staff, and eliminating all but mission critical travel and expenses.

Federal funding for fisheries research and management brings an enormous return on investment for the Nation. In 2022, for example, the U.S. spent about $700 million on Sustainable Fisheries Science, Management, and Enforcement through NOAA Fisheries, and about $30 million on the Regional Fishery Management Councils. In turn, this investment in U.S. commercial and recreational fisheries management supported 2.3 million jobs, generated $321 billion in sales impacts, and generated $149 billion in value-added impacts.[1] Sustained federal funding is

[1] Fisheries Economics of the United States 2022. NOAA Technical Memorandum NMFS-F/SPO-248B. https://www.fisheries.noaa.gov/resource/document/fisheries-economics-united-states-reports

critical to the revenue and jobs provided by U.S. seafood industry, food security for the Nation, and conservation and management of recreational fisheries.

In sum, fisheries off Alaska represent the majority of U.S. seafood harvest and production, and ensuring the Federal staff and resources necessary to their continued management provides immense benefits to the Nation. We look forward to working with you to ensure the long-term productivity of our Nation's federal fisheries and to increase America's seafood competitiveness.

Sincerely,

Angel Drobnica
Chair, North Pacific Fishery Management Council

Cc:

Laura Grimm, laura.grimm@noaa.gov
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THE STATE of ALASKA
GOVERNOR MIKE DUNLEAVY

Department of Fish and Game

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May 8, 2025

The Honorable Lisa Murkowski
United States Senate
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The Honorable Dan Sullivan
United States Senate
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The Honorable Nick Begich
United States House of Representatives
153 Cannon House Office Building
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Alaska Congressional Delegation:

Governor Dunleavy asked me to forward our thoughts regarding the President's recent E.O. Restoring American Seafood Competitiveness. I had a chance to speak with ASMI and the following are our combined thoughts on ways to capitalize on the opportunities afforded by this E.O and expand the Alaskan seafood market share.

- **Ensure Alaskan seafood is put on the plates of Americans.**
  - With your help American seafood markets were protected from Russian-harvested seafood products until Russia implements market reforms in its fisheries sector and reestablishes access to its market for U.S. seafood.
  - We need to seize on the opportunities afforded by this E.O. and develop marketing strategies for Alaskan seafood to meet this new market. Currently, most federal grant opportunities for ASMI focus on international marketing. We ask that grant opportunities also include domestic marketing.
  - We need to have Alaskan seafood served as a protein source in American schools and military bases.
- **Establish fair and equitable trade policies.**
  - Engage with governments of major U.S. seafood export markets to ensure they do not allow Russian-harvested seafood to flood their markets and undercut U.S. exports.
  - Demand that China establishes reciprocity in its terms of seafood trade with the United States, and that China makes purchases of U.S. seafood at appropriate levels.
  - Negotiate more favorable access for U.S. seafood into the markets of other key trading partners—including Japan, the European Union, the United Kingdom,

South Korea and Canada—to achieve bilateral fairness and reciprocity. This includes non-tariff trade barriers that limit access to these markets.
  - In the event that disputes between the United States and key trading partners disrupt U.S. seafood market access, ensure that U.S. seafood exporters are compensated on equal terms with U.S. agriculture.
  - Support and prioritize market competitiveness for seafood through USDA Market Access Program (MAP) and Regional Agricultural Promotion Program (RAPP).

- **Provide better domestic support for American seafood.**
  - Establish an Office of Seafood within USDA to liaise between USDA and NOAA to better facilitate U.S. seafood as a food production industry.
  - Increase federal purchases of U.S. seafood to match federal dietary guidelines, including improving access to school lunch programs.
  - Provide resources to address supply chain challenges within the seafood industry.
  - Provide resources to modernize U.S. fishing fleets, processing facilities, cold storage, etc. so that U.S. seafood production can be re-shored.
  - Create equal market access for "sustainable fisheries." Access to the U.S. market should be limited to fisheries that meet U.S. sustainability and labor standards.
  - Support and adequately fund the NOAA Saltonstall-Kennedy program to promote American fisheries to U.S. consumers.

- **Support for the development and acceptance of an alternative seafood certification process.**
  - The current industry norm is not fair and equitable to Alaska. It puts Alaska at a competitive disadvantage. Alaska is developing an alternative certification process, and we need Congressional action to support this effort as acceptable in U.S. markets.

- **Streamline fisheries disaster funding.**
  - The current disaster program takes years to get money into the hands of impacted fishermen and communities. We need to streamline bottlenecks, most notably in NMFS HQ and OMB, to ensure more timely review and approval of spend plans.
  - We should look at how USDA handles farming relief as a model.

- **Pause all reforms to national standards and guidelines under the MSA.**
  - The national standards and guidelines under the MSA significantly impact seafood competitiveness. They also invite lawsuits into Council actions which create uncertainty and undermine fisheries and seafood competitiveness
  - We need a pause on the rewrite of these standards and guidelines and to begin a new review process that includes consideration of the recent E.O.

I am available to answer any questions you may have regarding these suggestions to improve the competitiveness of Alaska seafood. You have been strong advocates for our seafood industry in the past and I encourage you to continue your advocacy with the new opportunity afforded by the recent presidential E.O.

Thank you,

Doug Vincet-Lang
Commissioner

Cc: Tyson Gallangher, Chief of Staff, Governor's Office, State of Alaska
Lee Cruise, Special Assistant, Governor's Office, State of Alaska
Jerry Moses, Director - DC Office, Governor's Office, State of Alaska
Rachel Baker, Deputy Commissioner, Department of Fish and Game, State of Alaska

May 9, 2025

The Honorable Howard Lutnick
Secretary, United States Department of Commerce
Herbert Clark Hoover Building
1402 Constitution Avenue, NW
Washington, D.C., 20230

Dear Secretary Lutnick:

We appreciate the critical focus that the *Restoring American Seafood Competitiveness* Executive Order (EO 14276) brings to the urgent challenges facing domestic seafood producers. The Executive Order is an important framework for the next four years, and we look forward to working with you to advance effective implementation. As you consider initial steps to advance the EO's intent, we are pleased to share some initial perspectives.

PSPA and APA represent major American seafood harvesting and processing companies operating in Alaska and off the U.S. West Coast. PSPA represents processors that operate at the center of the Alaska seafood supply chain for all species harvested off Alaska, while APA represents the Alaska pollock catcher-processor fleet. Alaska fishermen harvest 5 to 6 billion pounds of seafood each year, which processors turn into more than $5 billion worth of products. Alaska fisheries account for about 60% of U.S. commercial fisheries harvest, support 100,000 FTE jobs, and generate nearly $6 billion in annual labor income nationally. U.S. economic activity related to Alaska's seafood industry alone totals $15.8 billion.

Overall, we strongly support the stated purpose of the Executive Order. It is critical for the continued viability of the seafood sector that the United States address unfair trade practices, level the playing field, and reduce regulatory and other cost burdens on our sector so that we can sustain our businesses and compete in the domestic and global markets.

A broad range of regulations impact our sector, and we are pleased to have the opportunity to provide public comment as the Department of Commerce and other agencies evaluate federal fisheries regulations for modification or removal. With respect to fishery management regulations specifically, the regional fishery management council process established under the Magnuson Stevens Act is unique in developing and informing regulations at the regional level with significant stakeholder input. Fishermen and processors value regulatory certainty and have invested in assets supported by the current management system, including federally issued limited entry permits, vessels, processing plants, equipment, docks, cold storage, and other capital investments. Our industry's input into regulatory

improvements during the evaluation period set forth by the EO will be essential in ensuring that the EO's intent is achieved.

We also support the EO's directive to modernize data collection and improve the responsiveness of fisheries management to real-time ocean conditions. To that end, our members strongly support the ongoing survey modernization project by NOAA's Alaska Fisheries Science Center, the purpose of which is to reduce survey costs and adapt fisheries research/surveys more quickly year to year. We also have participated in the development of many new approaches and technologies for research and monitoring including electronic monitoring (to replace human observers on boats), cooperative surveys, and exempted fishing permits. We encourage you to complete the survey modernization project, which will lower the cost to government while serving to maximize domestic production for the largest fisheries in the U.S.

We also support the EO's prioritization of partnership between the Department of Commerce and the Department of Agriculture to advance U.S. seafood sector interests through the development and implementation of an America First Seafood Strategy. Stronger and more strategic interagency cooperation on policy support for U.S. seafood producers on equivalent terms to other U.S. food producers is urgently needed and overdue.

We also support the development of a comprehensive U.S. Seafood Trade Strategy. Too often U.S. trade policy has harmed rather than supported domestic seafood producers. We are encouraged by the willingness of your administration to engage directly with our sector on trade priorities as you seek to negotiate revised agreements with trading partners. We look forward to working on a fundamentally different approach to trade that supports domestic seafood producers and allows us to compete in both the domestic and global markets.

We also support the EO's intent to create an efficient and effective Seafood Import Monitoring Program (SIMP). Import controls have an important role to play, but SIMP has not proved itself to be fit for purpose. We support a seafood import control system operating to achieve clearly defined outcomes. It should collect key data, including country of harvest; focus enforcement on high-risk countries; and support a broader strategy of countering human rights abuses and environmentally destructive practices in foreign fisheries.

More broadly, it is very important to note that American seafood competitiveness depends on continued access to the resource through the availability of core, mission-critical federal agency services. We cannot continue to produce and sell American seafood without federal surveys and stock assessments and the NOAA staff to complete them; high-functioning Regional Fishery Management Councils; and timely regulatory processing and permitting from the National Marine Fisheries Service. There are significant litigation risks from anti-fishing advocacy groups if legal requirements relating to protected species and habitat are not effectively performed. As you work to streamline your Department consistent with the President's agenda, please ensure the National Marine Fisheries Service staff and resources are sufficient to continue to serve U.S. fisheries and seafood producers effectively.

With respect to mission critical data, the most important surveys include:

- Eastern Bering Sea Summer Bottom Trawl Survey (charter)
- Northern Bering Sea Summer Bottom Trawl Survey (charter)
- Gulf of Alaska and Eastern Bering Sea and Aleutian Islands summer longline survey (charter)
- Northern Bering Sea Fall Ecosystem Surface Trawl (charter)
- Gulf of Alaska Summer Bottom Trawl (charter)
- Gulf of Alaska (Shumagin/Sanak + Shelikof Strait) Winter Pollock Acoustic Trawl (NOAA ship)

Thank you for recognizing the importance of the American seafood industry and Alaska's place in it. We look forward to working with you to accomplish the intent of the EO, strengthening the American seafood industry and restoring our competitiveness.

Sincerely,

Julie Decker
President, PSPA

Matt Tinning
CEO, APA

Southeast Alaska Fishermen's Alliance

1008 Fish Creek Rd
Juneau, AK 99801

Email: kathy@seafa.org

Cell Phone: 907-465-7666
Fax: 907-917-5470 Website: http://www.seafa.org

June 16, 2025

U.S. Department of Commerce
Secretary of Commerce Howard Lutnick
1401 Constitution Ave NW
Washington DC 20230

U.S. Department of Commerce, NOAA Fisheries
Assistant Administrator Eugenio Pineiro-Soler
1401 Constitution Ave NW Room 512B
Washington DC 20230

Sent via email eugenio.e.pineirosoler@noaa.gov

U.S. Department of Commerce, Office of International Affairs
Seafood Inspection Program
Acting Division Director Jon Bell

Sent via email jon.bell@noaa.gov

RE: Export trade barrier for small seafood businesses

Dear Secretary Lutnick, Mr Pineiro-Soler & Mr Bell

Southeast Alaska Fishermen's Alliance (SEAFA) is a commercial fishing association representing our 300+ small fishing business members and associated support businesses involved in a variety of fisheries in Alaska particularly in the Southeast region of the state. We are writing regarding the Presidential Executive Order *Restoring American Seafood Competitiveness* and an issue with trade barriers for direct marketers trying to export their seafood products to some countries.

Under the Seafood Inspection Program located within the Department of Commerce (DOC) some foreign trading partners have requested that these smaller seafood operators (under 250 tons of product annually) be engaged in a US DOC sponsored Quality Management Program (QMP) / Approved Establishment program (AEP). These programs with their comprehensive and expensive quarterly inspections and major

increase in the amount of additional paperwork are redundant and onerous, thereby preventing participation in sales to some marketplaces such as China & Korea.

In addition, the program is in addition to the State of Alaska and Federal food safety requirements already instituted within the Alaska Department of Environmental Conservation (ADEC) and Federal Food and Drug Administration (FDA) and the US DOC to perform lot inspections to obtain Health Certificates when required.

The scale of production from Direct Marketers /small producers does not justify the cost and reporting demands of participating in the QMP/AE programs that DOC offers, consequently being eliminated from competing in what should be a fair trade environment as well as fully utilizing the products harvested. Additional information written by one of our members previously sent in 2018 more fully outlines the issue and possible solutions. We hope that this issue may finally be addressed under this administration.

Sincerely,

Kathy Hansen
Executive Director

CC: Senator Lisa Murkowski
Senator Dan Sullivan
Representative Nick Begich

6 Resnik Road, Suite 208
Plymouth, MA 02360
www.stellwagenbank.org

May 8, 2025

Mr. Randy Blankinship
Chief, Atlantic Highly Migratory Species Management Division
Office of Sustainable Fisheries
National, Oceanographic and Atmospheric Administration
1315 East-West Highway
Silver Spring, Maryland 20910

Re: Comments to the Commercial Bluefin Tuna and Recreational Measures

Dear Mr. Blankinship:

On behalf of the Stellwagen Bank Charter Boat Association ("SBCBA") whose membership includes the for hire and commercial fleet and recreational anglers, recommendations and comments associated with the measures set forth above is detailed below.

Commercial Bluefin Tuna Quota for 2025 & 2026

The General Category ("GC"), Bluefin tuna ("BFT") quota for Jan to March was exceeded earlier this year. The New England BFT commercial GC fishery relies on its historic access to the BFT fishery from June to December. The June to August, GC quota has been reduced to address the quota exceedance earlier this year. As a result, New England's historic access to the GC BFT tuna fishery has been impacted to the detriment of New England GC fleet and all of those that rely on such to make a living consistent with the Magnuson Stevens Act, National Standard 8. The 2025 and 2026 GC quota needs to be revised to address New England's historic access to the quota.

Recreational Bluefin Tuna 2024 & 2025

The recreational angler BFT quota was exceeded in 2024 the first time in many years. It should be noted that the BFT GC and Harpoon category quota were subject to quota increases over their baseline in 2024, which was not the case for the recreational angler quota that may not have been exceeded if an equitable increase was made to the recreational angler quota.

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If one reviews the recreational BFT catch the past five years it has its peaks and valleys consistent with historical trends. We do not doubt based our observations on the water that more fish were caught in 2024, but there is uncertainty associated with this data that requires further review as set forth below.

- The Large Pelagic Survey ("LPS") for many years now has done a good job validating the other recreational reporting methods. The LPS is conducted from June to October. Reported catch beyond these timelines is not validated by LPS. We have come down a long road with continued improvement of recreational data for many years now. The process is not perfect and is certainly better than any other nations but we need to continue to evolve and improve the data set and ultimate outcome of recreational catch annually. The outliers and suspect data below needs to be reviewed before finalizing the 2024, catch.
- The historical recreational catch is inconsistent with 2024. As set forth in, the data provided on line, Table 5 and Figure 3 have a breakdown of catch by state and month with the annual quota for Massachusetts, Maryland, and South Jersey exceeding 50% of the percent standard error ("PSE"). It should be noted that other states exceeded 50% of the PSE select months of the year. This data is suspect and need to be reviewed. In addition, we question that the North Jersey catch exceeded 50% of the PSE every month yet the cumulative annual North Jersey total did not exceed 50% of the PSE?
- The LPS does not consider the change in the means and method, inventory and movement of BFT over time. There are variables or observations by those on the water that can account for these factors that need to be considered as a second look to revise or validate the catch accordingly. Observations such as foul weather, fewer boats on the water as the season progresses, fish size and other variables needs input from the HMS AP and the public to assist in the process.

NOAA as well as the recreational community the past few years has informed the public of the need to report their catch and participate in the collection of recreational BFT DNA samples to support the science and Management of the fishery. SBCBA believes that to some extent the increase in catch may be partially attributed to those efforts with additional reporting. Outreach to the public needs to continue to improve

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reporting, DNA sampling and ultimately improve the annual recreational catch data. SBCBA will continue that public outreach.

Ultimately, BFT has moved closer to shore and is accessible to the public where 10 to 20 years ago one would have to transit 30 plus miles or all the way to the Hague Line to catch Bluefin. This near shore accessibility has resulted in increased catch as well as catch typically beyond the timelines that LPS is conducted.

The New England recreational community and specifically the for hire fleet have few other options with cuts to seasons and bag limits to cod, black sea bass, striped bass, etc., BFT is the last fish available with reasonable seasons and bag limits to rely on customers to book trips. Due to the uncertainty associated with the recreational catch to implement a one fish limit will result in fewer booking and have a detrimental impact to the marinas, tackle shops or entire blue economy that relies on such to make a living. Based on the lines of evidence noted above maintain status quo consistent with 2024 recreational seasons and bag limits for 2025. If this is not possible, the SBCBA recommends an assessment of the following:

- If the 2024 recreational seasons or bag limits are maintained for the private angler and for hire modes what would be the seasons and bag limits for 2025?
- Considering the fact that the for hire fleet in New England has much at stake as noted above, and the private mode results in the majority of mortality what would be the season and bag limit if the for hire fleet maintained the 2024 seasons and bag limits and the private angler is reduced to one fish as proposed. Our membership has recommended a season from July to October.

Higher annual catch for commercial and recreational users reflects improved abundance resulting from sound fishery management and a higher availability affecting recreational catch. Consistent with the administrations Restoring American Seafood Competitiveness we need access to this extremely abundant fishery and subsequently an increase in the recreational quota at ICCAT. Due to the uncertainty noted and subsequent impact to the recreational community and entire blue economy that relies on such to make a living, the recreational data needs to be

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further reviewed to assess any outliers and avoid a regulatory response that could necessarily restrict U.S. fishing opportunity.

We understand NOAA Fisheries is required to submit 2024 BFT catch estimates to ICCAT in early June. Given the uncertainty surrounding the angling category figures, we strongly urge NOAA to conduct a formal review of the 2024 recreational data. This would be a responsible and appropriate approach and preserves the opportunity to present updated harvest estimates.

The commercial and recreational BFT biomass from Maine to North Carolina is tremendous and confirmed with BFT close kin DNA sampling as a result ICCAT quota increases are long overdue and necessary to the benefit of the U.S. fisherman. We recommend a U.S. BFT quota (commercial & recreational) increase and that such be proposed, agreed to and implemented at the November 2025 ICCAT annual meeting.

We thank you for the opportunity to comment on this important matter. If you have any questions or comments, please contact the SBCBA at the email below.

Very truly yours,

Capt Timothy Brady

Capt. Timothy Brady
SBCBA, Vice President
sbcbaofficers@gmail.com

Capt Patrick Kearney

Capt Patrick Kearney
SBCBA Regulatory Liaison
sbcbaofficers@gmail.com

cc: Eugenio Pineiro Soler, NOAA
Drew Lawler, NOAA, ICCAT
Randy Blankenship, NOAA, HMS
David Detlor, NOAA
Samantha Berkowitz, NOAA
John Foster, NOAA
Russ Dunn, NMFS
Dan McKiernan, MassDMF

Regulatory Relief Request from Blue Water Fishermen's Association (BWFA) U.S. Atlantic Pelagic Longline (PLL) fishery

These 3 requests focus specifically on what have become archaic and obsolete regulations that are redundant to a suite of more recent and more effective and efficient regulations governing this fishery - the most sustainable and intensively monitored and regulated PLL fishery in the world.

As explained in some detail in the attached document, those regulations we are requesting to be rescinded are -

1) the Biden EO prohibition on PLL fishing within the Northeast Canyons & Seamounts Marine National Monument;

2) portions of PLL fishery closures in the Charleston Bump Area, the East Florida Coast Area, and the DeSoto Canyon Area; and

3) the regulatory requirement for PLL fishery to use 'weak hooks' in the Gulf of America.

Recognizing that the 2025 Charleston Bump closure is essentially behind us and that area will reopen on May 1, 2025, we hope the remainder of these requests for regulatory relief can be implemented as soon as possible so that the benefits of such relief can be realized during the 2025 fishing season. This fishery is on the brink of collapse and will not survive until 2026 without this relief - especially to restore access to these highly productive fishing grounds.

Finally, please note that there are other important elements referenced in the Executive Order - beyond the impacts of overly burdensome fishery regulations we've addressed in this document - that also have major impacts on this and other U.S. fisheries. These include issues addressed in this EO and in Mr. Trump's 2020 Executive Order 13921 as referenced in this EO such as IUU fishing, unfair trade, forced labor, SIMP, etc.. We hope to continue to discuss those other very important matters with you in the coming weeks.

Please see attachment for more details

Blue Water Fishermen's Association Requests for Regulatory Relief pursuant to President Trump's Executive Order "Restoring American Seafood Competitiveness"

1) **Request: Restore access by the U.S. Atlantic Pelagic Longline Fishery (PLL Fishery) to the Northeast Canyons & Seamounts Marine National Monument**

- President Obama established this Monument on September 15, 2016, by Proclamation which prohibited PLL fishing in the Monument. President Trump re-opened the Monument to the PLL fishery by Proclamation on June 5, 2020. See: https://trumpwhitehouse.archives.gov/presidential-actions/proclamation-modifying-northeast-canyons-seamounts-marine-national-monument/

- On October 8, 2021, President Biden reversed President's Trump's Proclamation and reinstituted a prohibition on PLL fishing in the Monument.

- The PLL Fishery targets highly migratory species (HMS) such as swordfish and various species of Atlantic tunas. These species and this fishery are managed through the International Commission for the Conservation of Atlantic Tunas (ICCAT) and domestically, by the NMFS HMS Division.

- As part of the process leading to President Trump's re-opening of the Monument to the PLL fishery, the Blue Water Fishermen's Association- speaking on behalf of the PLL industry- submitted comments to then-Interior Secretary Ryan Zinke explaining in detail the many reasons why *"this and all Marine National Monuments (MNMs) are not an appropriate or effective tool for conserving and managing our nation's fisheries, and that a comprehensive conservation and management regime already exists that is widely recognized as the most effective in the world. Therefore, we recommend that all fishing restrictions in all MNMs be eliminated and that such fisheries continue to be managed appropriately through the existing domestic and international conservation and management regime."*

- See this comment and other BWFA comments here: https://www.regulations.gov/comment/DOI-2017-0002-297446

- As President Trump recognized in 2020, fishery closures such as this prohibition on PLL fishing in this Monument are archaic – they are the bluntest and least effective and efficient tools to conserve and manage fisheries and fish stocks – especially highly migratory species. Such closures have been rendered obsolete by a suite of highly effective and efficient fishery management measures making the U.S. Atlantic PLL fishery the most sustainable PLL fishery in the world by orders of magnitude.

- See here for map of the Monument: https://media.fisheries.noaa.gov/dam-migration/750xnortheast_canyons_and_seamounts_marine_national_monument_map.jpg

2) Request: Restore full access by the PLL Fishery to portions of the Charleston Bump Area, East Florida Coast Area and DeSoto Canyon Area closed areas

- NMFS HMS Division regulations impose year-round closures to PLL fishing in the Florida East Coast Area and the DeSoto Canyon Area and seasonally, from February 1- April 30 each year, in the Charleston Bump area.

- These closures, some of which date back more than 25 years to the late 1990's, have since been rendered obsolete by the application of a suite of highly effective and efficient fishery management measures making the U.S. Atlantic PLL fishery the most sustainable PLL fishery in the world by orders of magnitude. But that is a pyrrhic victory in that these many layers of redundant and unnecessary regulations have reduced the U.S. Atlantic PLL Fishery from approximately 430 actives vessels, when these closures first began to be put into place, to 68 currently active vessels.

- As another tragic example of the consequence of these excessive regulations, the PLL Fishery is now able to harvest only approximately 20 percent of its ICCAT quota of the north Atlantic swordfish stock – historically one of the most important stocks for this fishery. Loss of access to some of the most productive fishing areas that lie within these closed areas is the largest contributing factor to the decimation of this iconic U.S. fishery.

- These redundant regulatory closures to the PLL fishery that have so substantially reduced its ability to harvest its ICCAT swordfish quota present a stark inconsistency with the Magnuson-Stevens Act (MSA) National Standard 1 requirement that fishery regulations must achieve "*on a continuing basis the optimum yield from*" this fishery. These regulatory closures also represent a blatant violation of MSA section 304(g) requirements for the Secretary to "*minimize, the extent practicable, any disadvantage to United States [Atlantic PLL] fishermen in relation to foreign competitors",* and for the Secretary to *"provide [Atlantic PLL] fishing vessels of the United States with a reasonable opportunity to harvest*" its ICCAT swordfish quota.

- In addition to these closed areas, these regulations include *inter alia* the use of circle hooks to minimize any serious injuries to sea turtles and other protected species, specific fishery-wide catch quotas and bycatch limits, individual catch share quotas for bluefin tuna, and the installation of and video monitoring by 2 cameras on 100% of the fleet that, along with a NMFS-determined level of human observers, renders this the most intensively monitored fishery in the U.S.

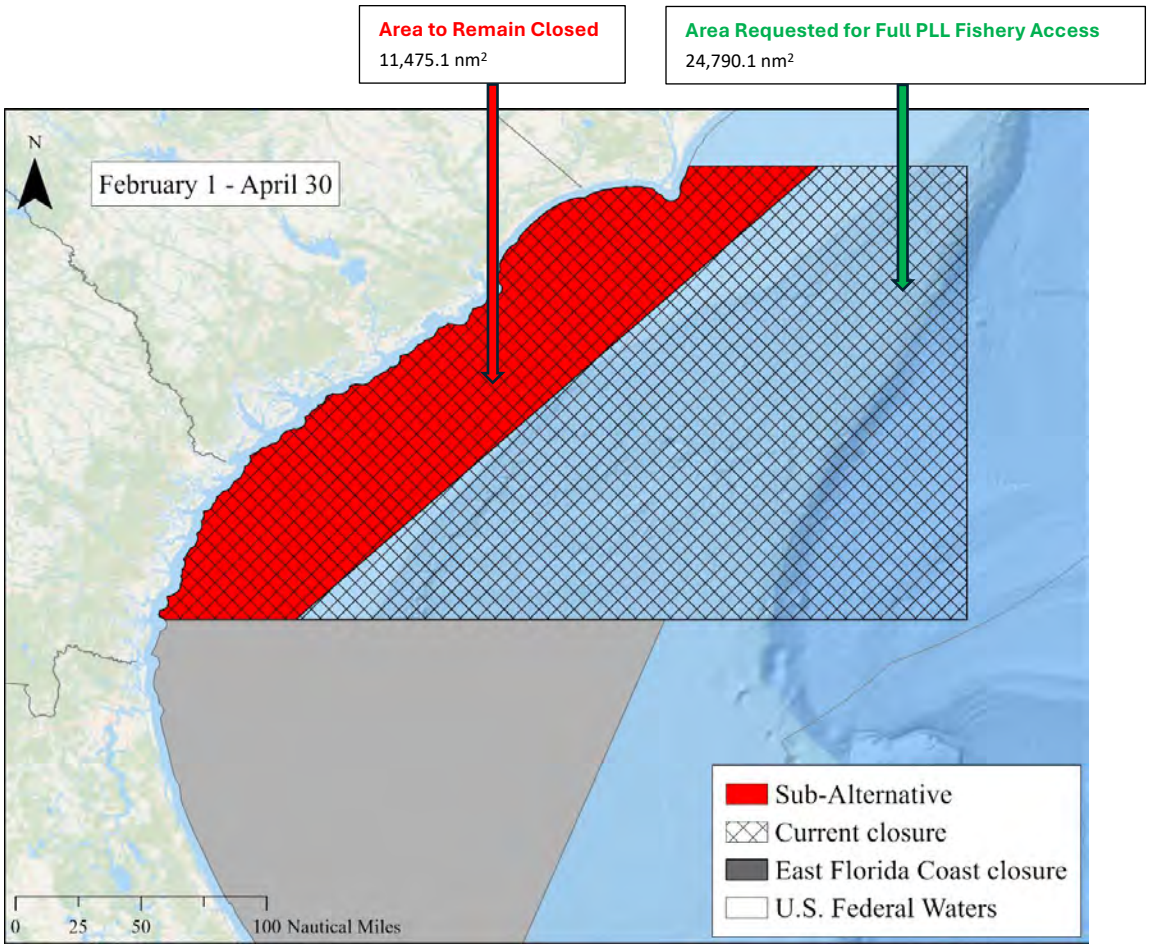
- With some recognition of the reality that these closures are redundant and obsolete, NMFS HMS Division developed HMS Amendment 15 that would provide the PLL fishery with only very limited access to portions of the Charleston Bump Area and the East Florida Coast Area, while keeping the DeSoto Canyon Area permanently closed. The Amendment 15 Final Rule remains pending.

- This request is to restore full access by the U.S. PLL fleet to the same offshore portions of the Charleston Bump Area and the East Florida Coast Area identified in Amendment

15 for only limited access. This request is also to restore full access by the U.S. PLL fleet to portions of the DeSoto Canyon that lie outside of the Rice's Whale Critical Habitat area.

- The areas requested for full access by the U.S. PLL fleet and those areas to remain closed are set forth in the following maps taken from the Final Amendment 15 document. The Charleston Bump and the East Florida Coast Areas chosen to remain closed are, in part, intended to minimize conflicts with U.S. recreational fisheries, while the DeSoto Canyon Area chosen to remain closed is in respect of the need to protect endangered Rice's Whales in their Critical Habitat area identified by NMFS in the Gulf of America.

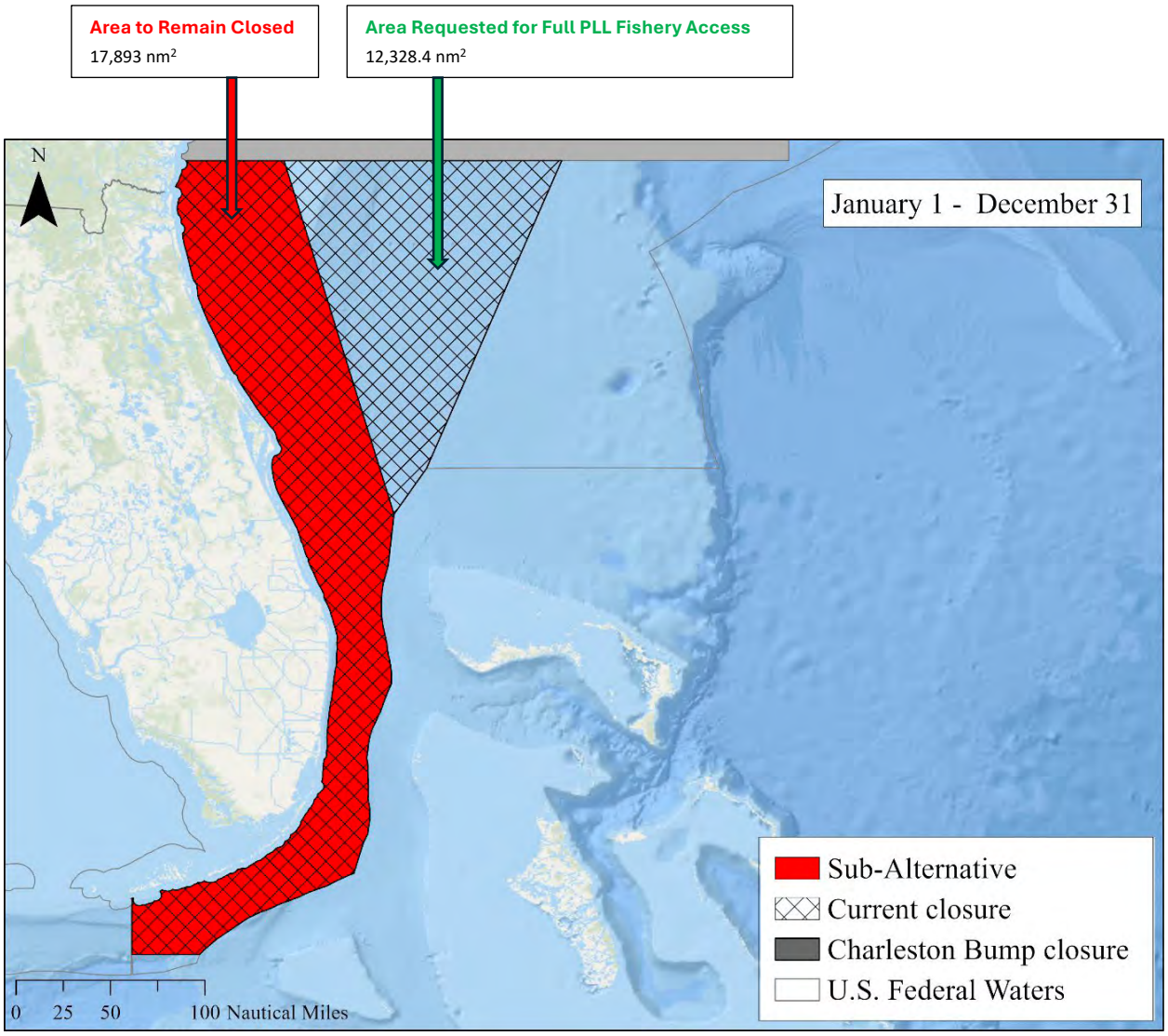
Charleston Bump Closed Area



Description:

Move the eastern boundary of the current Charleston Bump closed area, westward, inside of the 100-fathom shelf break, to a diagonal line 45 nm from shore at the northern and southern extents. Specifically, the eastern boundary of the closed area would be formed by a new line from a point on the northern border of the current Charleston Bump closed area (34° 00' 00" N. lat., 76° 58' 52" W. long.) to a point on the current southern border of the current Charleston Bump closed area (31° 00' 00" N. lat., 80° 26' 42" W. long.). The western boundary of the area to remain closed is the same as the current western boundary of Charleston Bump closed area. See Amendment 15 Preferred Sub-Alternative A2f for further details.

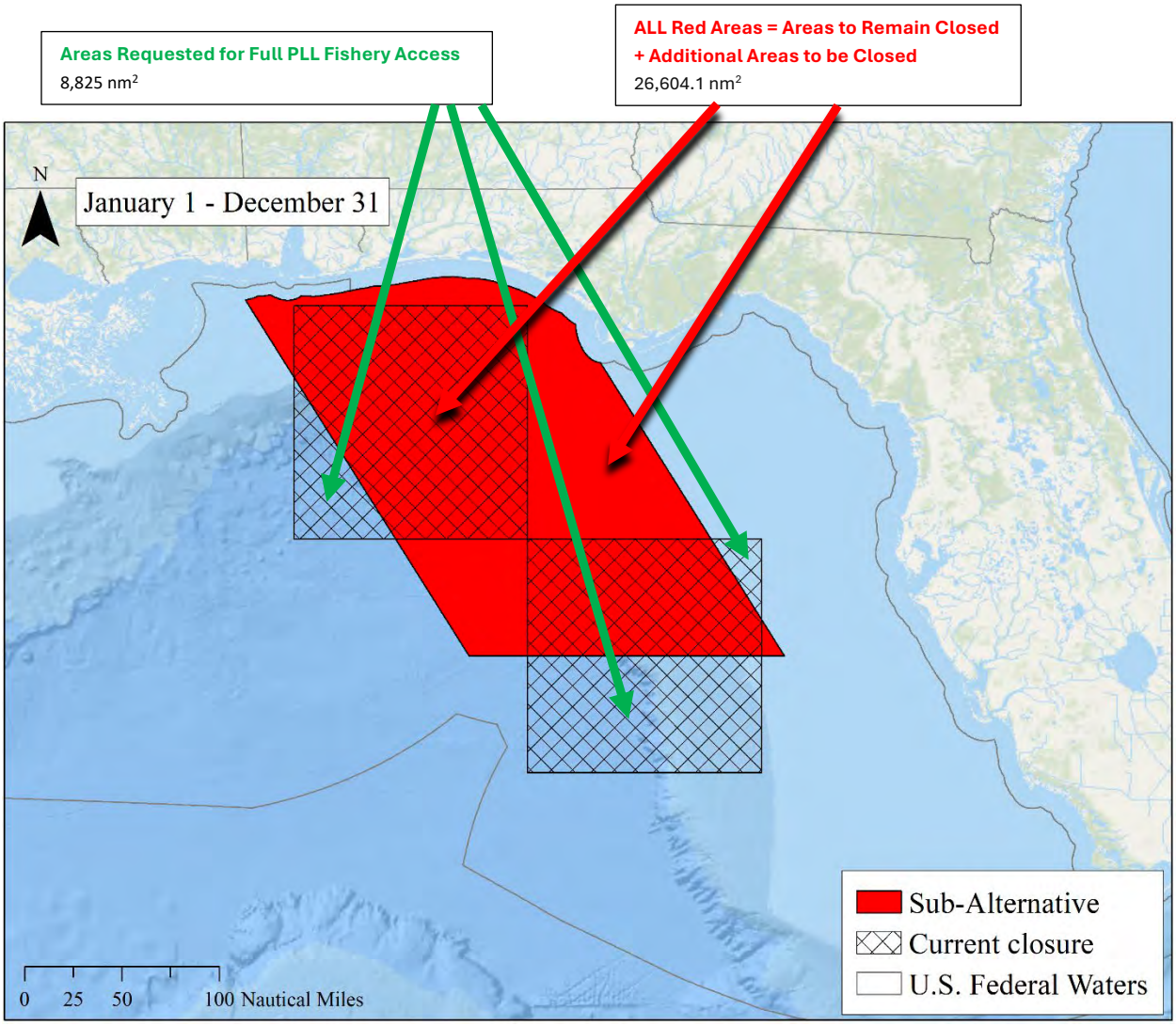
East Florida Coast Closed Area



Description:

Move the eastern boundary of the current East Florida Coast closed area, westward, to a diagonal line beginning inside of the 100-fathom shelf break in the north, extending southeast to a point at the eastern edge of the current closure around Sebastian, Florida. Specifically, the eastern boundary of the area to remain closed would be formed by a new line from a point on the northern border of the current East Florida Coast closed area (31° 00' 00" N. lat., 80° 26' 42" W. long.) to a point on the current eastern border of the current East Florida Coast closed area (27° 52' 55" N. lat., 79° 28' 34" W. long. See Amendment 15 Preferred Sub-Alternative A3f for further details.

DeSoto Canyon Closed Area



Description:

Revise the current closed areas by closing an area described by a parallelogram that represents the NOAA proposed Rice's Whale Critical Habitat Area in the northwestern Gulf of America. The parallelogram connects southern points; 27° 00' N. lat., 86° 30' W. long. and 27° 00' N. lat., 83° 48' W. long., while the northern boundary would be defined by the state water boundary between 88° 24' 58" W. long. and 85° 22' 34" W. long. The areas outside this parallelogram that are within the current DeSoto Canyon spatial management area would be opened to full access by the PLL Fishery. See Amendment 15 Sub-Alternative A4d for further details.

3) **Request: Eliminate the regulation requiring the use of 'weak hooks' by the U.S. Atlantic Pelagic Longline Fishery year-round in the Gulf of America.**

- This regulation was originally developed and implemented to reduce incidental bluefin tuna catch by the PLL Fishery.

- This regulation to use 'weak hooks' was rendered redundant and obsolete by the subsequent adoption in HMS Amendments 7 and 13 of the current Individual Bluefin Quota (IBQ) program that assigned specific bluefin tuna catch shares to each active PLL fishing vessel.

- These individual catch shares (quotas) are intensively monitored and enforced through the required placement of 2 cameras on 100% of the PLL fleet and the review by NMFS of the videos. This ensures the accounting for of 100% of any and all Bluefin tuna interactions in this fishery and ensures that the PLL Fishery's allocation of the U.S. ICCAT bluefin tuna quota is not exceeded.

- This regulation requiring the PLL Fishery to use 'weak hooks' in the Gulf of America has resulted in the substantial unnecessary loss in catches by this fishery of large swordfish with the consequences that the U.S. PLL Fishery is now able to harvest only approximately 20 percent of its ICCAT quota of the north Atlantic swordfish stock. The fishery has suffered an unnecessary substantial loss in revenues contributing to the considerable reduction in the U.S. PLL fleet over the years.

- This redundant regulation to use 'weak hooks' also presents a stark inconsistency with the Magnuson-Stevens Act (MSA) National Standard 1 requirement that fishery regulations must achieve "*on a continuing basis the optimum yield from*" this fishery - and also represents a violation of MSA section 304(g) requirements for the Secretary to "*minimize, the extent practicable, any disadvantage to United States [Atlantic PLL] fishermen in relation to foreign competitors",* and for the Secretary to *"provide [Atlantic PLL] fishing vessels of the United States with a reasonable opportunity to harvest*" its ICCAT swordfish and other quotas.

May 20, 2025

Mr. Eugenio Piñeiro Soler
NMFS/NOAA
1315 East-West Highway
Silver Spring, MA 20910

Re: Restoring American Seafood Competitiveness Executive Order

Dear Mr. Soler,

We all wish to congratulate your recent appointment to head the National Marine Fisheries Service. Your reputation precedes you and we are looking forward to the future with both you at the helm of NMFS and President Trump working on behalf of the United States fishing community.

We are writing to request that the Atlantic bluefin tuna ("ABT") fishery be considered over-regulated under the ***Restoring American Seafood Competitiveness*** Executive Order ("EO"), and that actions to be taken to remedy our current overburdened regulatory situation. Since our fishery currently lacks a competent industry association, I am submitting this on behalf of the undersigned fishermen, as well as thousands of other stakeholders from Maine to Texas who are impacted by ABT management.

Management System

Due to their highly migratory nature, ABT are managed both internationally and domestically. International management is overseen by the International Commission for the Conservation of Atlantic Tunas ("ICCAT"). ICCAT and is formalized within U.S. law by the Atlantic Tunas Convention Act ("ATCA"). ICCAT has immense power over the U.S. fishery. ICCAT decides what is best available science and sets quotas for member nations. While the U.S. has often led the way in restricting its own fishery, European, African, and Asian nations wield serious power on ICCAT outcomes and have historically worked against U.S. interests. Any increase in western Atlantic allowable catch is seen as a threat to these other countries.

U.S. policy goals and negotiating tactics at ICCAT meetings are made by high level career or appointed employees of NOAA and the Department of State. The public plays little to no part in the process. The only required public oversight of U.S. policy is an advisory committee that has no real power. There are also two 'private' appointed Commissioners that have only as much power as allowed to them by the 'Federal' Commissioner, who is a NOAA employee appointed by the President. As a rule, the U.S. ABT industry has been grossly underrepresented and in the dark until after decisions are made.

Domestically, the National Marine Fisheries Service ("NMFS) manages ABT under authority granted by the Magnuson-Stevens Act ("Magnuson"). NMFS takes quotas set by ICCAT and splits

it up over time, space, and gear type. While a Highly Migratory Species Advisory Panel (HMS AP) is required by law, it has little authoritative power and is merely window dressing. NMFS has sole authority for rulemaking. For all its' faults, the national regional fishery management council system allows stakeholders to participate much more effectively in the management of their fisheries than does the current structure of management of highly migratory species (HMS).

Why We Need Help

It would be hard to find a U.S. fishery that has been more disadvantaged by the regulatory process than the ABT fishery. The problems began in the early 1960s when landings increased in various areas of the Atlantic. This created concerns that helped usher in the creation of ICCAT, at which the U.S. wasted little time pushing for quota reductions—with even modest reductions rejected by the Eastern Atlantic and Mediterranean fisheries.

Until 1981, ABT was managed as a single stock Atlantic-wide. As it became clear the U.S. could not influence growing landings in the East and Mediterranean, the decision was made by the U.S. to push for implementation of the infamous "two-stock theory." Our own government went to great lengths to install a system allowing for quasi-unilateral "management" on both sides of an arbitrary line. Suddenly there was an "eastern" stock and a "western" stock.

Over time, lower U.S. quotas—and stricter domestic regulations in the U.S.—were met with significant increases in landings on the other side of the ocean, driven in part by subsidized "ranching" operations of enormous magnitude. The "eastern" fisheries were soon doubling their already-massive quotas. In fact, it became so out of control that there was accurate data on the quota overages. In other words, they were barely even hiding their cheating. *Adding insult to injury, the "ranching" process allows for the Mediterranean fisheries to sell fish in the U.S. year-round undercutting our markets especially during periods when domestically caught bluefin are readily available.*

It has only gotten worse: today, the U.S. quota is only 1,316 mt which is a paltry 3% pf the Total Allowable Catch (TAC) for the Atlantic Ocean. Meanwhile the European Union and Mediterranean Countries are allowed to catch upwards of 40,000 mt. *For example: the EU controls 49% of the (TAC) at 22,000 MT; Spain, France, and Italy are each allowed to harvest four to five times more fish than the US, and Morocco, Tunisia, Turkey, and Libya are allowed two to three times our level.* How did this happen? While the US conserved, the Eastern countries fished hard and then used those inflated catches to justify larger quotas. A lack of assessment science allowed power and politics to rule. In recent years Management Strategy Evaluation has memorialized this inequity, by using past landings to project future quotas. Our over-regulation has penalized us, while those that were fishing with no controls were rewarded.

As a result of all the management efforts put forth by U.S. fishermen, today, there are more fish than at any time in recent generations. Unfortunately, our current quotas are so low that US fishermen cannot take advantage of this healthy resource. *We have actually had to ask the government for more regulations to slow landings to try and make our quota last long enough to have an actual season.* Amazingly, more regulations have only led to higher catch rates. We have

more rules than ever, shorter seasons than ever, stricter reporting requirements, and less hope than ever. We need help.

Potential Short Term and Long-Term Solutions:

The ABT fishery is incredibly important to the U.S. economy. Commercial landings generate at least $20 million directly in ex-vessel value. That fish is then marked up dramatically by the time it reaches a plate in a restaurant. There are also many layers of activity to support the commercial vessels—boat builders, marinas, tackle shops, fuel distributors, etc.—that add much more additional value. The charter and recreational fisheries are even bigger, arguably, and there are thousands of permitted vessels. Conservatively this fishery as a whole has an economic impact of 500 million dollars.

It is time for the U.S. to right the many wrongs that have often been a result of its own biased agenda.

We are respectfully suggesting the following action items be undertaken to address short term and long-term improvements to the ABT fishery.

1) Increase the United States quota for ABT for the 2025 fishing season above the ICCAT allocation of 1,316 mt. Additional quota should be divided among all subcategories under the same percentage allocations currently utilized by NOAA. This will provide a significant economic stimulus to commercial fishermen, charter fishermen, recreational fishermen, tackle shops, boat builders and the overall communities supported by these fish.

2) The Trump Administration has an opportunity to increase the U.S. allocation this year at ICCAT. While final decisions are made in November, the tracks are being laid, as we write this, for what will transpire. If this Administration sends a tough delegation to ICCAT with the authority to be ruthlessly tough, it will make a major impact. *But there is no time to waste*. Your appointment as head of NMFS, as well as Drew Lawler's appointment, is a great start—but we need to continue to both build a strong team and change the culture of the U.S. delegation. The sole goal should be to finally become a power at ICCAT that, like the EU, is tough as nails and does all it can to improve the fisheries they oversee. There are still career NOAA employees involved that internally work against US interests and this is unacceptable. There should be one mission and one mission only.

3) The justification for a larger US share is glaring. The so-called science used to develop the two-stock theory was faulty from the start. Trans-Atlantic migration has been documented since the 1960s. Fish spawn in multiple locations and mix freely throughout the Atlantic. It was not until 2022 that ICCAT was able to admit that the imaginary line was, in fact, meaningless. Despite this admission, negotiators for the E.U. ensured that nothing improved for the U.S. even after they admitted the basis of the whole system is flawed. This flawed narrative and rigged system needs to be exposed.

4) Inadequate science has been the tool used by nations to get whatever they want at ICCAT. Good, objective science, not agenda-driven, 'political-narrative-masquerading-as-science' science is an

important long-term solution. Our industry is pushing this issue by trying to help the new wave of NOAA scientists gather data and progress the methods used. We have also begun our own effort to gather data and get more accurate answers. But it is important that U.S. scientists have the freedom and resources to help answer the questions that have been left unanswered for too long.

5) To accurately quantify the dollar amount of this fishery, NMFS should consider commissioning an economic impact study. This study will show that this is one of the most valuable fisheries in the country.

I welcome the opportunity to discuss this further. I can make the trip to Silver Spring with little advance notice.

Respectfully,

R. Tyler Macallister
Owner/Captain Cynthia. C. 2 & Bottom Line
(508) 221-8991 (M)

cc: Mr. Annie Hawkins, NOAA
Mr. Andrew Lawler, NOAA
Mr. Eric Noble, NOAA

HMS Permit Holders

	Last Name	First Name	Vessel Name	HMS Permit ID
1	Adams	Bo	Cindy K	
2	Alexandropoulos	Frank	Kiska B 2	10197825
3	Alois	Edward	Jackpot	10175481
4	Alten	Jeffrey	Wish N Well	10213276
5	Amaral	David	Steiger 21	10206610
6	Antonino	Richard	Black Rose	10200401
7	Apon	Edward	Janessa Lynn	10141681
8	Appolonia	David	Blitzen	10138546
9	Arruda	Timothy	Keepin It Reel	10179950
10	Arsenault	Mark	Spine-A-Liner	10178941
11	Bellificune	Anthony	Shocker	
12	Barbour	William	5150	10167408
13	Basoukas	Kyle	Ashley Victoria	10032699
14	Beshada	Donald	Waxing Gibbous II	10228931
15	Blake	Christopher	Unreel	10208147
16	Bode	Spencer	Chillin	10157901
17	Boike	David	All In	10228042
18	Bois	Carl	Topspin	10050854
19	Brady	Scott	Fish Hag	10164025
20	Braga	Chad	Bragaboutit	10173627
21	Briggs	Aaryn	Keep Smilin'	10162191
22	Brown	Alexander	Seven Dragons	10196448
23	Brown	Douglas	Jennifer Ann	10127927
24	Bunar	Jason	K-Day	10142731
25	Burke	Sean	Predator	10222496
26	Byrd	James	Hitman	10144623
27	Campbell	Daniel	Big Dog	10228130
28	Campbell	Kyle	Autumn Mist	10214291
29	Cannel	Gary	Tuna Hunter	
30	Cappucio	Anthony	Seven C's	10209035
31	Cardillo	Mark	Pipe Dreams	10157468
32	Caron	Jordan	Reel Addiction	10176046
33	Carpenter	James	Wasabby	10075849
34	Chadwick	William	Fresca IV	10113389
35	Christensen	Kurt	Molly Jane	10172524
36	Christman	David	Texas Tea	10220749
37	Cicchetti	Robert	Insurgent	10167872
38	Conway	Benjamin	Reel Action	10176506
39	Cook	Robert	Fat Tuna	10213169
40	Cook	Charley	Tonno	10181283
41	Crompton	David	Drifter	10002230
42	Cullinane	Christopher	Edna Mae	
43	Cutts	Robert	Dark:30	10154576
44	Daley	Thomas	Eliie Rose	10019695

45	Dayz	Daniel	Silly Dayz	10171809
46	Decarolis	Peter	Miss Sidney	
47	DeCosta	Robert	Albacore	10018259
48	DeCosta	Steven	Albermarle	10179067
49	DeMarco	John	Lobster Tales	
50	Demers	Philip	Island Time	10188671
51	Depersia	Jeffrey	Chasin Tail II	10181124
52	DeAnzeris	Michael	To The Moon	10166275
53	DiMare	Anthony	Vine Ripe	10213063
54	Denman	Blair	Erin Marie	10014194
55	Dennis	Randy	Slack Tide	10208028
56	Deskin	Michael	Destiny	10127634
57	DeWolf	Hank	Backlash	10188131
58	Diamond	Arron	JAH Reel	10179092
59	Dion	Joseph	Lightning	10227437
60	Donovan	James	Rocket	10202909
61	Douglas	Robert	Two Sonny	10167596
62	Doumani	Daniel	Mary D	
63	Doumani	Daniel	Phyllis E	
64	Duval	Mark	Fagans Cross	10047070
65	Edwards	Ronald	Speechless	10057108
66	Fallon	Michael	Boomer	10206846
67	Finley	Joel	Fishizzle	10008766
68	Finley	Joel	Fishizzle	10222406
69	Figueroa	Michael	Two&Five	10186629
70	Fontes	Jeffrey	Reel Easy	10179120
71	Foote	Jeffrey	Little Sister	10177431
72	Forbes	Matthew	Amy Elizabeth	
73	Fortin	Jeffrey	Pistol	10215210
74	Fowler	Michael	Bad Dog	10014233
75	Fraser	Daniel	Bonnie Lynne	10177575
76	French	Jonathan	Ranger	
77	Galvin	Jonathan	El Diablo	10210834
78	Gardella	James	Blue	10144841
79	Gerew	Brendan	Eternal	10221842
80	Gibbs	Gregory	Peregrine	10170313
81	Goodwin	Jay	Cassidy Anne	10165439
82	Goodwin	Jay	Gina Marie	10215092
83	Goodwin	Jay	Savage	10225613
84	Gould	Jack	Bloodline Charters	10227125
85	Graham	Jack	Afishionado	10023087
86	Granfield	Kevin	Whistler	10142557
87	Hallett	Cody	Twilight Zone	10162536
88	Harris	Thomas	Lady J	10145371
89	Hatch	William	Machaca	10139339
90	Hess	Eric	Mattanza	
91	Hitinger	Doug	Hittman	10211108

92	Hochman	David	Spearit	10050499
93	Holt	Dean	Katie May	
94	Huberty	Brandon	Side Job	10226367
95	Humphrey	Robert	Falcon IV	10181398
96	Hutchinson	Nathan	Hot Mess	10193568
97	isreal	Mark	Reaper	10206897
98	Jenks	Robert	Salty Dog	
99	Jurek	Joseph	Mystique Lady	
100	Karplus	Christos	Anastasia	
101	Kelleher	John	M Kathleen	10175861
102	Khalil	Fahmy	Hawaii	10207868
103	Kissell	Shane	Osprey	10166294
104	Klosterman	Ryan	Stella	10183668
105	Klosterman	Ryan	ADHD	10171301
106	Koutalakis	James	On Time	10164327
107	Kuhl	James	Tuna Junkie	10132485
108	Kulda	Daniel	War Horse	10194836
109	LaFazia	Thomas	Island Lure	10022754
110	Larochelle	Timothy	Mary Jean	10170349
111	Leary	Steven	Wingman	10154839
112	Leito	Ian	Bellator	10222284
113	Lentz	Kyle	Mandy Lynn	10087489
114	Lundholm	Cullen	Cape star	10223353
115	Lyons	Peter	Faceoff	10183598
116	Macallister	Robert	Cynthia C. 2	10017307
117	Macallister	Robert	Bottom Line	10198820
118	Maclean	Putnam	Shadowline	10011066
119	MacWalter	Sean	Reel Love	10203960
120	Manafo	Ronald	Kalm Seas	
121	Marciano	David	Hard Merchandise	10061714
122	Marsden	Andrew	Tunacious	10176132
123	Matvichuk	D.J.	A-Salt Weapon	
124	Matvichuk	Daryl	Clean Sweep	
125	Mayer	Gregory	Fishin' Frenzy	10015270
126	McCrae	Wesley	Beast	10152740
127	McLaughlin	Tyler	Pinwheel	10207896
128	McLaughlin	Tyler	Cartwheel	10201430
129	Merryman	Hunter	Wildfire	
130	Merryman	James	Hey Jude	
131	Miams	George	Reel Crazy	
132	Miller	Mike	Hot Tamale	10223461
133	Miller	Michael	Tuna Mill 3	10028900
134	Monty	William	Bounty Hunter	
135	Morlock	Paul	Cathy Ann	10221463
136	Moulton	Dale	Iswhatitis	1009409
137	Murray	Francis	Fish Tales	10220307
138	Nichols	Seth	Stanley	10215222

139	Niden	Adam	Olivia Mae	10208376
140	Noon	James	Midnight Rambler	10005765
141	Nourse	Nathan	Miss Mary	10223457
142	Novello	Dominick	On Call	10209374
143	Novello	Nicholas	Breakaway	
144	Nugent	Terry	Riptide	10186411
145	Oliver	Christopher	Keepin It Reel	10228800
146	O'Maley	Kevin	Connemara	
147	Otley	Victor	Dash Between	10177230
148	Paddock	Joseph	Doctor Bones	11848781
149	Pappas	Thomas	C-Btook	10200875
150	Parkinson	John	Cool Change	10189908
151	Paseika	Raymond	Christine P.	10155139
152	Pastore	Nicholas	Sandman II	10208514
153	Pawsey	Kevin	iTunas	10209474
154	Pazolt	Dana	Black Sheep	10184464
155	Pearson	Cody	Tins & Fins	10226353
156	Pearson	Todd	Fools Gold	10006731
157	Penta	Joseph	Miss Jennie	10133897
158	Perrachio	Matthew	Tighten Up	10199699
159	Peruzi	Andrew	Ruff Life	
160	Pesce	Devin	Starlight	10216960
161	Picciotti	Christopher	Reaper	10148744
162	Picco	Sean	Liliana	
163	Piriano	Jamie	Reel EZ	
164	Poulin	Kieth	Kingfisher	
165	Pramas	Richard	JJ	
166	Price	Daniel	Naked Tuna	10013322
167	Putney	Tyler	Flatliner	10202230
168	Quigley	Gene	Reel Freedom	10182215
169	Quintal	Sean	Pamela Jean	10101194
170	Rice	Robert	Done Deal	10181014
171	Rice	Robert	Real Deal	10053685
172	Rice	Robert	Real Deal II	10135294
173	Richardson	Paul	Tight Lines	10213206
174	Robert	Robert	Hawkeye II	10198884
175	Roth	Christopher	In The Chop	10200744
176	Ryback	Jodi	Bad Influence	
177	Sacco	Damon	Castafari	10028902
178	Sargent	Brian	Melissa Sue	10184578
179	Scala	Robert	Anna Elizabeth	10200016
180	Scheafer	Eric	Reel Steel	10207778
181	Shearer	Mark	Gannet	10213707
182	Sears	Ryan	Knot in the Woods	
183	Sigman	Jason	Wing'n It	10214364
184	Simmons	Shelden	Josie B	10018106
185	Simmons	Malcolm	Illusion	10145439

186	Sirignano	Daniel	Deadly Force	10009142
187	Smith	Corey	No Name	10220377
188	Smith	Daniel	Key Lime	10226192
189	Smith	Robert	Get The Net	10229604
190	Smith	Timothy	Full House	
191	Standley	Matthew	Arty's Party 2	10036802
192	Starr	James	Starrfish	10011056
193	Stasio	James	Random Hook Up	
194	Stevenson	Andrew	No Name	10181374
195	Stokes	Jonathan	Grace & Caitlin	
196	Sullivan	Shawn	Back Off	10017312
197	Sutton	Brian	Janet Lee	10171197
198	Sweet	Bruce	Sweet Dreams	
199	Sweet	Jonathan	Reel Time	
200	Tavano	Nicholas	Ashley Rose	10208865
201	Tina	Alexander	Procrastunator	10201792
202	Torrence	Phillip	Flip Out 2	
203	Tougas	Roger	Lez Went	10191136
204	Unger	Katherine	Three W's	10205692
205	Venticinque	Dean	Twentyfive	10163299
206	Vincente	Armondo	Daze Off	10222607
207	Virgin	Timothy	Bettina H	
208	Waldrin	Jonathan	Stephanie Lynn	10000192
209	Walinski	Gregory	Alicia Ann	
210	Walsh	James	Braveheart	10219436
211	Ward	Bradford	Moana	10221256
212	Waters	Ian		10221897
213	Weber	Jefferey	Hotreels	10020714
214	Weber	Matthew	Seldom Seen	
215	Whitaker	Romulus	Release	10015255
216	Wilson	Brett	Hindsight	10061281
217	Wilson	David	Ella P.	10156599
218	Wood	Ryan	Relentless	10121689
219	Woodruff	Willie	High Hook	10208680
220	Yeaton	Herbert	Morning Starr	
221	Zammito	Michael	Godspeed	
222	Zoccolillo	Carmine	Canyon Bound	10139464

Bluefin Dealers and Industry Suppliers

Auerbach	Jared	Red's Best	Fed. Dlr. 3748
Cliss	Robert	North Atlantic Traders	Fed. Dlr. 1818
LaFazia	Thomas	Narragansett Bay Lobsters	Fed. Dlr. 1833
Gore	Dennis	Sea Fresh USA	Fed. Dlr. 0950
Mead	Patrick	Compass Seafood	Fed. Dlr. 3724
Rome	Monte	Intershell International	Fed. Dlr. 2389
Bunar	John	Duxbury Bait and Tackle	
Howarth	Phillip	Goose Hummock Shops	
Fred	Malcarme	Winthrop Tackle, LLC.	
Zachary	Richardson	Zach's Custom Rods	
Brian	Sargent	Straight Line Tackle	

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May 27, 2025

Mr. Andrew Lawler
Principal Deputy Assistant Secretary
National Oceanic And Atmospheric Administration
U.S. Department of Commerce
1401 Constitution Ave. NW,
Washington, DC 20230

Re: ICCAT U.S. Bluefin Tuna Quota

Dear Mr. Lawler:

On behalf of the Stellwagen Bank Charter Boat Association ("SBCBA") whose membership includes HMS Permitted recreational, for hire and commercial vessels, we adamantly recommend an increase in the U.S Bluefin tuna ("BFT") quota for all user types and/or categories that reflects the tremendous biomass of such along the Atlantic coast and Gulf of America. The BFT and select forage conservation measures have worked, and the biomass is no longer 30 to 50 miles or more off shore or beyond, all the way to the Hague Line. We remember the days where we struggled to catch our quota, and if you do not use it, you lose it that has not been the case for some time now. The BFT biomass is now in some instances accessible from the beach or within miles of the shore all the way to the Hague Line. The commercial scallop fleet that fish eastern Georges Bank all the way the Hague line can attest to the fact there is no lack of BFT well offshore when there is no longer any need to transit such distances.

The fishery could be open in the northeast nine months out of the year if there was adequate quota and the same could be said with an extended season in our southerly waters. The for hire fleet and General and Harpoon Category BFT user types in the northeast continue to quickly use up their quota with closures the middle to end of August as well as early September through December, and the same could be said for the early closures the first quarter of the year.

In 2024, the BFT quota was exceeded for the General, Harpoon and Recreational Angler categories. The economic impact of all of these user types resulting from these closures to New England and the rest of the

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U.S. blue economy is such that continued closures and cuts to seasons and bag limits will be to the detriment of the U.S. economy and all of those that rely on such to make a living consistent with the Magnuson Stevens Act, National Standard 8.

Higher annual catch for commercial and recreational users reflects improved abundance resulting from sound fishery management and a higher availability affecting recreational and commerical catch. Consistent with the administration's Restoring American Seafood Competitiveness, we need access to this extremely abundant fishery and subsequently an increase in the U.S. quota at ICCAT.

We recommend the recreational angler catch data for 2024 be further reviewed to assess any outliers and avoid a regulatory response that could necessarily restrict U.S. fishing opportunity. SBCBA understands that NOAA Fisheries is required to submit 2024 BFT catch estimates to ICCAT in early June. Given the uncertainty surrounding the angling category catch, we strongly urge NOAA to decertify and initiate a review of the 2024 recreational BFT harvest estimates. This would be a responsible and appropriate approach and preserves the opportunity to present updated harvest estimates.

The commercial and recreational BFT biomass from Maine to North Carolina is tremendous and confirmed with BFT close kin DNA sampling. As a result, ICCAT quota increases are long overdue and necessary to the benefit of the U.S. fisherman. We recommend a U.S. BFT quota (commercial & recreational) increase and that such be proposed, agreed to and implemented at the November 2025 ICCAT annual meeting.

We thank you for the opportunity to comment on this important matter. If you have any questions or comments, please contact the SBCBA at the email below.

Very truly yours,

Capt. Timothy Brady

Capt. Timothy Brady
SBCBA, Vice President
sbcbaofficers@gmail.com

Capt. Stew Rosen

Capt. Stew Rosen
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cc: Eugenio Pineiro Soler, NOAA
Walter Golet, ICCAT Chair
Randy Blankenship, NOAA, HMS
Russ Dunn, NMFS
Dan McKiernan, MassDMF

25-0095751

Sea Watch International, Ltd.

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Fax: 410-822-1266

May 15, 2025

The Honorable Secretary Howard Lutnick
U.S. Department of Commerce
1401 Constitution Avenue NW
Washington, DC 20230

Dear Mr. Secretary:

On behalf of Sea Watch International, Ltd. and our associated companies, I write to express our appreciation for the administration's continued commitment to strengthening the American seafood sector. As a vertically integrated harvester and processor of surf clams and ocean quahogs with operations in Massachusetts, New Jersey, Delaware, Maine and Maryland, we commend President Trump and his signing of *Executive Order 14276 - Restoring American Seafood Competitiveness*. This action rightly underscores the strategic importance of the domestic seafood industry in enhancing American manufacturing and reducing our trade deficit.

We wish to draw your attention to several critical policy and regulatory matters that are directly impacting both our company and the broader fishery in which we operate.

Urgent Need for Investment in Working Waterfront Infrastructure

New Bedford, Massachusetts—ranked first nationally in the value of fisheries landings ($443.2 million in 2022)—serves as a vital hub for our operations. The condition of the waterfront infrastructure under the management of the New Bedford Port Authority has deteriorated significantly, resulting in multiple dock collapses. This degradation has caused substantial operational disruptions.

We respectfully urge your office to collaborate with the Department of Transportation to address this pressing matter through the *Port Infrastructure Development Program*, ensuring the long-term viability of this essential working waterfront.

Reclassification of the Georges Bank PSP Closure Area

We respectfully request that the National Marine Fisheries Service (NMFS) remove the outdated Georges Bank Paralytic Shellfish Poisoning (PSP) closure designation for Atlantic surf clams and ocean quahogs. The current classification no longer reflects the realities of modern testing and management capabilities.

The Food and Drug Administration (FDA) has taken commendable steps toward regulatory modernization through revisions to the Model Ordinance of the Interstate Shellfish Sanitation Conference (ISSC), which collectively aim to reduce testing burdens under an approved biotoxin monitoring regime. NMFS's removal of the closure designation is a prerequisite for FDA's intended reclassification of the area as "controlled access," thereby enabling broader participation in the fishery under a science-based framework.

Since the resumption of harvest activities in 2012, our company has overseen the testing of over 20,000 individual samples, with no out-of-specification results recorded. However, stakeholders continue to await guidance from the NOAA Seafood Inspection Program (SIP) on compliance obligations under this new designation.

It is imperative that any new SIP requirements do not replicate or exceed the regulatory and financial burdens imposed by the previous closure. The SIP program should be structured to complement existing quality assurance systems already in place. Additionally, regulatory parity must be maintained to ensure imported shellfish products are subject to the same food safety and marine biotoxin standards as those applied to domestic producers.

Management of Commingled Clam Species and Catch Accounting

The spatial overlap of surf clam and ocean quahog populations has led to the commingling of species during harvest—creating challenges within a management system designed for single-species landings. Through sustained collaboration between industry stakeholders, NMFS, and the Mid-Atlantic Fishery Management Council (MAFMC), a proposed solution has emerged involving enhanced discard and plant-level accounting protocols.

While implementation remains at least two years away, anticipated increases in observer coverage and inspection efforts will significantly impact cost recovery. To avoid undue financial strain on the industry, we advocate for a phased, regionally targeted rollout focused on areas with the highest incidence of mixed landings. This approach is consistent with adaptive fisheries management principles and reflects the exceptional sustainability record of the surf clam and ocean quahog fisheries, which are neither overfished nor experiencing overfishing.

Reassessment of Habitat Management Area Restrictions

Sea Watch supports the broader industry position to relax restrictions on hydraulic dredge gear, particularly within the Nantucket Shoals and Northern Edge Habitat Management Areas

(HMAs). We share concerns about accepting status quo for continued exclusion to these areas with no mechanism to assure HMAs can be adapted to assure their intended purpose.

Recent findings from projects conducted through the Science Center for Marine Fisheries (SCEMFIS) suggest that the HMAs are no longer effectively supporting cod spawning, due in part to sustained increases in water temperature. We encourage a reevaluation of these areas to ensure management measures remain aligned with current environmental conditions and fishery science.

Strengthening Oversight of Imported Clam Products

Imported clams and clam products often do not adhere to the rigorous sustainability and food safety standards required of U.S. fisheries. Notable examples include:

- The FDA's addition of eight Chinese seafood companies to Import Alert 99-84, due to the detection of elevated levels of per- and polyfluoroalkyl substances (PFAS) in canned "baby clams."
- Canada's offshore clam management plans, which permit unlimited bycatch of non-target species such as Greenland cockles and propeller clams—practices inconsistent with the accountability standards mandated by the U.S. Magnuson-Stevens Act.

We respectfully urge greater interagency coordination between the Department of Commerce and the FDA to ensure foreign shellfish products are held to the same food safety, environmental, and sustainability standards as those demanded of domestic producers.

Conclusion

We are grateful for your leadership and for this Administration's continued efforts to champion the American seafood industry. Sea Watch International remains committed to advancing responsible and sustainable practices and stands ready to assist your Department in promoting policies that support the long-term health and competitiveness of U.S. fisheries.

Respectfully,

Robert Brennan

Robert Brennan
President
Sea Watch International, Ltd.

additionally sent via e-mail

Request for Support

Based on the Executive Order 14276 “Restoring American Seafood Competitiveness”

The Surf Clam and Ocean Quahog (SCOQ) industry is seeking the Trump Administration to alleviate certain regulatory burdens they consider unnecessary.

The President's Executive Order to Restore American Seafood Competitiveness instructed the Secretary of Commerce to reduce regulatory burdens, modernize fisheries, and promote domestic fishing.

This Executive Order closely aligns very closely as the clam industry faces a range of challenges, including regulatory pressures, environmental changes, and market competition. The industry continues to advocate for regulatory reforms that will allow for greater flexibility and innovation yet continues to meet severe resistance by regulators.

The fishery, managed by the Mid-Atlantic Fishery Management Council, operates from Virginia to Massachusetts, including Georges Bank. The Fishery Management Plan needs updates to align with current resource and commerce trends.

The industry has identified three primary areas where changes are needed: **1. Reopening the entire Great South Channel Habitat Management Area (GSCHMA)**, **2. Reopening the Georges Bank Paralytic Shellfish Poisoning (PSP) Closed Area,** and **3. Expediting the process to allow the landing of Surf Clams and Ocean Quahogs on the same trip.**

1. Reopening (GSCMA) is vital for New England's clam industry.

Smaller vessels, unable to work offshore, relied on this productive area 15 miles SE of Cape Cod for their livelihood, supplying fresh clam products to local processors.

It was closed and designated a Habitat Area of Particular Concern (HAPC) in April 2019. The New England Fishery Management Council (NEFMC), which oversees habitat, made this designation to protect cod spawning. There is no evidence regarding the effect of the closure on cod stocks.

HAPCs are not mandated by the Magnuson-Stevens Act (MSA). They are a regulation established by NEFMC and NMFS, extending beyond MSA’s objective to minimize impacts on Essential Fish Habitat (EFH).

Reopening the GSCHMA is an ideal opportunity to create immediate benefits from the *Executive Order on Reducing Regulatory Burdens (Section 4(a)), Increase Production and Access (Section*

4(a)(i)), Stabilizing Markets and Enhancing Profitability (Section 4(a)), and Prevent Closures (Section 4(a)(i)).

2. Shellfish dealers involved in SCOQ fisheries are requesting that NOAA's NMFS reopen the Georges Bank Paralytic Shellfish Poisoning Closed Area for the harvest of SCOQ.

The FDA is working to revise the Model Ordinance of the Interstate Shellfish Sanitation Conference. These revisions aim to increase fishery participation and reduce testing for current vessels. After NMFS updates the area status, the FDA will designate Georges Bank as a "controlled access" harvest area. NMFS must first lift the current closure.

Georges Bank was closed to surf clam and ocean quahog harvest in 1989 due to PSP concerns. Harvest resumed in 2012 with a marine biotoxin management plan. Over 14 years, 20,000 samples were collected without any issues.

Shellfish dealers in the "controlled access" sector must enter an inspection contract with NOAA Seafood Inspection Program (SIP). However, compliance requirements under this new SIP component have not been provided to dealers yet.

New SIP requirements must avoid creating new regulatory barriers. Costs must not be as high as outdated testing requirements or opportunity losses from closures. The SIP program should support existing seafood quality programs for shellfish dealers. Imported clams should undergo the same testing and monitoring as domestic products.

Reopening and proper designation of the harvest area will have direct and immediate benefits meeting the objectives set out in the *Executive Order on Reducing Regulatory Burdens (Section 4(a)), Modernize Fisheries Management (Sec. 4(c)), Increase Production and Access (Section 4(a)(i)), Stabilizing Markets and Enhancing Profitability (Section 4(a)), and Prevent Closures (Section 4(a)(i))*.

3. Expediting the process to allow the landing of Surf Clams and Ocean Quahogs on the same trip.

Fishery Management Plan (FMP) regulations only allow surf clam or ocean quahog on one trip. This worked decades ago, but now species mix due to resource shifts, making separation on vessels impractical. As a result, mixed landings are occurring illegally across the industry and becoming a widespread issue.

The industry informed the MAFMC of its need to comply years ago. They requested a simplification of regulations to allow landing both species on the same trip when federally permitted, similar to other fisheries. Reforming the current FMP would be necessary, but the MAFMC was initially reluctant and drafted amendments that would impose significant taxes on non-target species. The industry opposed these measures for two years as they believed such taxes would severely impact the clam business.

A workshop was held in late 2024 to allow industry and regulators to understand the issues and reach core agreements to amend the FMP. All sectors agreed on a path forward, and the council chose an amendment process. They estimated it would take two years to finalize. Meanwhile, NMFS suggested creating an Experimental Fishing Permit (EFP) be created for the industry to operate under so as not to be out of compliance. The industry collaborated with NMFS to develop an EFP that would generate industry-funded data to inform the amendment process. The only opposition letter came from the MAFMC.

The clam industry has been under extreme burdens with the SCOQ FMP. It does not meet the complexity of the business on is causing distress. We feel this expediting the Mixing Amendment and approval of the EFP will address the *Executive Order on Reducing Regulatory Burdens (Section 4(a)), Modernize Fisheries Management (Sec. 4(c)), Increase Production and Access (Section 4(a)(i)), Stabilizing Markets and Enhancing Profitability (Section 4(a))*.

Request for Help:

The SCOQ fishery is burdened by outdated and onerous regulations, threatening businesses, jobs, and economies. Families are struggling due to these rules and need relief. Despite repeated requests to the Mid-Atlantic Fishery Management Council, we face constant refusals to simplify the process. We need authority to enact changes and unlock the fishery's potential.

Sincerely,

Sam Martin, CEO
Atlantic Capes Fisheries Inc
On behalf of the SCOQ Industry

EST. 2024

BLACK POINT

MARITIME LAW PLLC

Drew Minkiewicz
Attorney at Law
Black Point Maritime
Law PLLC
202 870 4013

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

Eugenio:

I am writing to you on behalf of the Sustainable Scalloping Fund (SSF) an organization that represents the majority of the Full time Limited Access Atlantic scallop fleet. First, SSF wishes to congratulate you on your appointment to lead NMFS. SSF is asking for your support in adding the Atlantic Sea scallop fishery to the list of overregulated fisheries pursuant to the Restoring American Seafood Competitiveness Executive Order (EO), signed on April 17, 2025. SSF believes the scallop fishery is the poster child for overregulated fisheries. The Scallop fishery has gone from landing nearly 60 million pounds to only 15 million pounds this last fishing year. Regulations are crushing the fishery's ability to operate efficiently and maximize yield from the resource.

Due to excessive regulations, Scallop vessels currently sit at the dock for over 320 days a year. In 2008, NMFS issued a report, "Excess Harvesting Capacity in U.S. Fisheries," in which it identified the Scallop fishery as the second most overcapitalized fishery in the nation. Since the issuance of the report, the most overcapitalized fishery, Bering Sea Crab went through a rationalization process, and NMFS has not changed a single regulation

addressing the overcapacity issues in the Scallop fishery. No changes have occurred in the scallop fishery despite repeated pleas from the industry.

Due to excessive regulations, the Scallop fishery currently does not have access to over 20% of the exploitable biomass due to unscientifically supported closures that NMFS has maintained for 30 years. Unproductive habitat closures are currently denying the Scallop fleet access to 25 million pounds of scallops. Harvesting just 6 million of those pounds would generate over $200 million in ex-vessels revenue and create over a billion dollars in economic activity.

There are currently over 450 pages of regulations in the Code of Federal Regulations that are directed at the Scallop fishery. Scallopers must report their position every 5 minutes, fish in specified areas at specified amounts and within specified times. The regulations mandate the number of crew members a vessel may carry, how they must process the scallops on board, the size of the dredges they may carry, the size of the rings in the dredge bag, how many rings can make up a bag, the number of pieces of twine rope they may use on the top of a dredge, what style of dredge they can use in certain areas, how many chains they must put over the opening of a dredge, and so on. While many of these regulations are necessary to have a sustainable fishery, there is certainly a level of overkill. New regulations are constantly added, while old ones are rarely, if ever, removed.

The collective regulatory framework that is currently in place reduces the economic viability of our sector. This in turn prevents fleet renewal investments which has resulted in an older and less efficient fleet. This has resulted in increased costs and made us less competitive domestically and internationally.

SSF strongly supports the EO and the President's intention to restore American fisheries. If the Scallop fishery is added to the list of overregulated fisheries, the SSF is eager to partner with NMFS and the New England Council to bring about a more efficient and successful fishery.

Sincerely,

Drew Minkiewicz
Attorney for SSF

Atlantic States Marine Fisheries Commission

1050 N. Highland Street • Suite 200A-N • Arlington, VA 22201
703.842.0740 • www.asmfc.org

Joseph Cimino (NJ), Chair *Dan McKiernan (MA), Vice-Chair* *Robert E. Beal, Executive Director*

Sustainable and Cooperative Management of Atlantic Coastal Fisheries

July 1st, 2025

The Honorable Howard Lutnick
U.S. Department of Commerce
1401 Constitution Ave. NW
Washington, D.C. 20230

Dear Secretary Lutnick,

The Atlantic States Marine Fisheries Commission (Commission) and its 15-member state fishery management agencies stand ready to play a critical role in this administration's goal of restoring American seafood competitiveness. The recent Executive Order (E.O. 14276) acknowledges that inaccurate and outdated fisheries data, as well as the delayed adoption of modern technology, impose burdens on fishers through costly and inefficient regulations. Due to data limitations and associated uncertainties, fishery managers are sometimes legally obligated to enact non-optimal regulations that lead to negative economic consequences for fishing communities. Stakeholders and managers alike want to avoid this outcome. The East Coast states and the Commission are uniquely positioned to work with the administration to improve data through cooperative fishery research programs in partnership with commercial fishers and recreational fishery data collection program improvements. Witnesses at a recent House Natural Resources Committee hearing titled *Restoring American Seafood Competitiveness* individually identified these as areas for improvement, and the Commission agrees.

The Commission was formed in 1942 by the 15 Atlantic Coastal states to promote cooperative management of fisheries of the Atlantic Coast. The Commission serves as the deliberative body of the states, coordinating the conservation and management of 27 of the coast's most economically and culturally significant fisheries, nine of which are cooperatively managed with our federal partners at the Fishery Management Councils. Supporting our fisheries management process are programs focused on fisheries science, habitat conservation, and law enforcement. Through these programs, the states and our federal partners collectively ensure the sound conservation and management of our shared coastal fishery resources and the resulting benefits to the fishing and non-fishing public. The Commission is funded through federal grants and state dues, with most of our budget dedicated to working with the states on cooperative fisheries management.

We have a long history of conducting highly successful and cost-effective cooperative research programs between commercial and recreational fishery participants, and state agencies to collect and share data that advance science and improve fishery management. The NorthEast Area Monitoring and Assessment Program (NEAMAP) has been conducted by the Virginia Institute of Marine Science from Cape Hatteras, NC, to Cape Cod, MA, twice a year since 2006, and is complemented by the Maine-New Hampshire inshore trawl survey which has operated since 2000. These industry-based surveys fill in gaps in the federal survey, collecting abundance, biomass, hydrographic, atmospheric, and other data where NMFS cannot due to NOAA vessel maneuverability or depth limitations. The NorthEast Fishery Science Center pays $2.6 million per year to completely cover the boat, staff, and

data processing costs of these surveys. The SouthEast Area Monitoring and Assessment Program (SEAMAP) is run on state-owned research vessels from Cape Hatteras, NC, to Cape Canaveral, FL, filling in similar gaps in federal surveys. NOAA spends approximately $1 million per year on vessels alone to conduct half of the SouthEast Reef Fish Survey, while the states spend less than $400,000 on vessels for the same coverage.

States often have positive relationships with the local fishing industry because of their history and accessibility. The involvement of industry in research improves and amplifies stakeholder trust in fisheries management decisions. Due to the cost effectiveness, data quality and qualitative benefits, this administration should continue to develop state-based and industry-based survey capacity to achieve the goals of the E.O. The Industry-Based Trawl Survey Pilot Program is a plan developed by the Northeast Trawl Advisory Panel with the full support of both the New England and Mid Atlantic Fisheries Management Councils and the Commission to help expand that capacity on the East Coast.

Recreational effort and catch are estimated by NOAA Fisheries' Marine Recreational Information Program (MRIP), composed of three primary surveys: Access Point Angler Intercept Survey (APAIS), Fishing Effort Survey (FES), and For-Hire Survey (FHS). On the Atlantic Coast, APAIS has been conducted by the state agencies through the Commission since 2016. In 2019, the states switched from using paper logbooks to tablets and electronic forms. The electronic forms standardized the question order of the survey, streamlined the input choices for respondents, and allowed staff to receive data immediately. This innovation by the states produced higher-quality data at substantial cost savings. These electronic forms have been shared with the Gulf Coast states and Hawaii at no cost, increasing the value of the investment in state data collection. This serves as just one example of how partnership with the states can improve fisheries management nationwide. As the federal government looks to empower state-run recreational fisheries data collection programs, data must have standards and be comparable between states and across regions. Incomparable data would further contribute to uncertainty in fisheries.

We would be remiss if we did not mention our concern about the proposed cuts in the President's FY26 Budget. Cuts to National Marine Fisheries Service staffing and programs, such as the Interjurisdictional Fisheries Act Grants and Species Recovery Grants, jeopardize data quality and state-run management programs. Reduced uncertainty in the data can lead to more consistent regulations and greater economic opportunities. For the public, reduced uncertainty can mean increased investment in commercial and recreational fisheries, more planned fishing trips, the purchase of new vessels and gear, or a host of other ways the public commits to these fisheries. Our states and the Commission are well-positioned to support increased cooperative research and recreational data collection activities if federal funding is sustained. Bolstering these programs would increase the amount of seafood caught in the U.S., reduce the seafood trade deficit, and help unleash American seafood competitiveness. My staff and I look forward to working with you to achieve these goals.

Respectfully,

Robert E. Beal

CC:
House Committee on Appropriations
House Committee on Natural Resources
Senate Committee on Appropriations
Senate Committee on Commerce, Science, and Transportation
ASMFC Commissioners and Proxies

List of ASMFC Commissioners:

State:	Administrative Commissioner:	Governor's Appointee:	Legislative Commissioner:
Maine	Carl Wilson	Stephen Train	Rep. Allison Hepler
New Hampshire	Cheri Patterson	Doug Grout	Sen. David H. Watters
Massachusetts	Dan McKiernan	Raymond W. Kane	Rep. Jennifer Armini
Rhode Island	Jason McNamee, Ph.D	David V.D. Borden	Sen. Susan Sosnowski
Connecticut	Justin Davis, Ph.D.	William Hyatt	Rep. Joseph P. Gresko
New York	Martin L. Gary	Emerson C. Hasbrouck, Jr.	Vacant
New Jersey	Joseph Cimino	Jeff Kaelin	Sen. Vin Gopal
Pennsylvania	Timothy D. Schaeffer, Ph.D.	Loren W. Lustig	Rep. Anita Astorino Kulik
Delaware	John Clark	Roy W. Miller	Rep. William J. Carson
Maryland	Lynn Waller Fegley	H. Russell Dize	Delegate Dana Stein
Virginia	Jamie Green	James Minor	Sen. Danny Diggs
North Carolina	Kathy Rawls	Michael Wray	Rep. Brian Turner
South Carolina	Blaik Keppler	Dr. Malcolm Rhodes	Sen. Ronnie W. Cromer
Georgia	Doug Haymans	A.G "Spud" Woodward	Rep. Trey Rhodes
Florida	Jessica McCawley	Gary Jennings	Vacant

L25-60

PETITION FOR DEREGULATION AND RULEMAKING TO CREATE A SCALLOP ACCESS AREA ON THE NORTHERN EDGE OF GEORGES BANK

BEFORE THE DEPARTMENT OF COMMERCE

(NOAA FISHERIES)

April 28, 2025

FISHERIES SURVIVAL FUND

For more information, please contact:

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NOTICE OF PETITION

Honorable Howard Lutnick, Secretary
U.S. Department of Commerce
1401 Constitution Avenue, NW, Rm 5516
Washington, D.C. 20230
TheSec@doc.gov

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

The Fisheries Survival Fund ("FSF" or "Petitioner") respectfully submits the following Petition for Deregulation and Rulemaking ("Petition") to the Secretary ("Secretary") of the United States Department of Commerce ("Commerce") pursuant to the Administrative Procedure Act ("APA");[1] Executive Orders 14276, 14192, and 14219; and the Office of Management and Budget's Request for Information: Deregulation, 90 Fed. Reg. 15,481 (Apr. 11, 2025). This Petition pertains to the authority conferred upon the Secretary to conserve and manage United States Atlantic sea scallop stocks pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. § 1801 et seq. ("Magnuson-Stevens Act" or "MSA").

Specifically, Petitioner seeks that the Secretary compel the National Marine Fisheries Service[2] to order the New England Fishery Management Council ("NEFMC" or "Council")[3], to create a rotational limited access scallop area within the Closed Area II ("CAII") Habitat Closure Area ("habitat management area" or "HMA") along the Northern Edge of Georges Bank, seaward of Massachusetts. Within this access area, scallop vessels with valid limited access commercial vessel permits would be allowed to dredge periodically for scallops, as supported by the best scientific information available. Scallop vessels are currently prohibited from fishing in this area pursuant to 50 C.F.R. § 648.370(g). More scallops are present in the CAII HMA than the entire fishery harvested coast-wide in total in 2024.

[1] The APA states that, "Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule." 5 U.S.C. § 553(e).

[2] 1315 East-West Highway, Silver Spring, MD 20910 (Eugenio Pineiro Soler, Assistant Administrator for Fisheries)

[3] Under the MSA, regional fishery management councils are tasked with developing fisheries conservation and management measures and recommending them to the Secretary for implementation. The Secretary can approve or disapprove these recommendations, depending on whether they are consistent with the law. 16 U.S.C. §§1852-1855.

In making this request, Petitioner seeks two specific actions by the Secretary based on the ongoing effort by the Office of Management and Budget and the Executive Office of the President to revitalize American businesses through targeted deregulation:[4]

1. Rescind 50 C.F.R. § 648.370(g), which prevents scallop fishing in the CA II HMA despite imposing significant economic and non-economic costs without any commensurate environmental benefits, with an effective date of 365 days after the granting of the petition; and
2. During this period prior to rescission, direct the Council and NOAA Fisheries to implement and design a scallop rotational access program in the CAII HMA, ensuring that such actions are based on a set of goals and objectives that comply with the law. Access can be allowed through a replacement regulation to 50 C.F.R. § 648.370(g) that authorizes scallop rotational access, while otherwise implementing the regulation's currently existing purposes.

For well over a decade, efforts by both the Council and the scallop fishing industry to reopen parts of this closed historic scallop fishing area on the Northern Edge have stopped just short of the finish line. The Council "discontinued" the last attempt in June 2024, just three months before the Council expected to finalize it. But that effort was essentially doomed from the start by the Council's adopting extra-statutory, practicably unattainable, goals and objectives for the management action. In light of President Trump's recent executive order ("EO") directing the Secretary to consider the suspension or revision of regulations unduly burdening the commercial fishing industry, this is an opportunity to contribute to revitalizing the Atlantic scallop fleet.[5] In addition to providing an economic boon to fishing communities along the Eastern seaboard, action by the Secretary would also help conservation by better optimizing scallop yield. The action would focus fishing on older, larger scallops. This also reduces scallop fishing mortality, as it will take fewer, larger, scallops to obtain a poundage-based fishing trip limit.

[4] Request for Information: Deregulation, 90 Fed. Reg. 15,481, 15,482 (Apr. 11, 2025); Exec. Order No. 14276, 90 Fed. Reg. 16,993, § 1 (2025).

[5] Exec. Order no. 14276, 90 Fed. Reg. 16,993, § 1 (2025).

I. EXECUTIVE SUMMARY

Fisheries management is an ever-evolving practice, requiring a careful balance between conservation, and the productive use of a fishery.[6] In the face of ever-increasing evidence to support a limited re-opening of the CAII HMA to the scallop fishery, the NEFMC has not successfully balanced these considerations. For over 30 years, the Council has maintained some form of closure on the Northern Edge of Georges Bank for the purpose of protecting groundfish populations, but the results from this closure on those populations have been mixed, at best.[7] Addition of a limited access area within the CAII HMA, with a reasonable rotational period (no longer than four years), is necessary to avert major resource and economic losses for the scallop fishery and is consistent with the full range of the Secretary's obligations under the Magnuson-Stevens Act. Fishery conservation and management science has evolved significantly since the time of the original closure, and the Council now has more accurate data than existed in the early 1990s to identify the most sensitive areas to protect, and how to protect them. This petition is further based upon a recent scientific study indicating that parts of the CAII HMA can be fished in a sustainable way, with complete habitat recovery occurring within two to three years for the areas of the Northern Edge of Georges Bank that have been considered for scallop access.[8]

We are at a critical juncture for the scallop fishery. While the fishery is not overfished, and overfishing is not occurring, scallop abundance levels have declined precipitously in recent years. To contextualize this drop-off, the fishery in 2024 harvested less than a third of the scallops it harvested in 2019. While FSF hopes this scallop downturn is cyclical, there are other factors at play. In particular, changing ocean conditions are causing the scallop population to concentrate in the northern (Georges Bank) part of its range. Destabilizing die-offs and declining recruitment (i.e., birth and subsequent growth and entry of young scallops into the fishery) have been occurring in the Mid-Atlantic region of the scallop resource. The Northern Edge of Georges Bank is the northern-most area available in the United States for the limited access scallop fleet to fish.

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[6] 16 U.S.C. §§ 1801(b), (c).

[7] Scott Gallagher, et al., *Impact of Disturbance on Habitat Recovery in Habitat Management Areas on the Northern Edge of Georges Bank: Ecosystem Perturbation Experiment*, WOODS HOLE OCEANOGRAPHIC INST. 3 (Oct. 2022), https://d23h0vhsm26o6d.cloudfront.net/221112-BACI-HAPC-analysis-report-FINAL_2023-07-06-194906_cnnl.pdf [Gallagher, et al.].

[8] *Id*. at 1–2.

The Magnuson-Stevens Act requires NMFS and the Council to protect essential fish habitat from the adverse effects of fishing to the extent *practicable*.[9] The Northern Edge has *twice* been on the cusp of reopening to scallop fishing, but in both instances, plans for a discrete rotational opening of the least ecologically-sensitive parts of the Northern Edge have been abruptly shelved on grounds that do not comport with the Magnuson-Stevens Act's "practicability" requirements. "Practicability" represents a policy construct that does not speak in absolutes, whether in terms of absolute habitat protection, or absolute fishing access. Instead, these often-conflicting considerations, along with the costs and benefits of a proposed action, must be balanced.

The opening did not occur the first time because NMFS wanted more information on the prospects for habitat recovery from scallop fishing, and how an opening would proceed. That information was available the second time, but the Council improperly framed its goal for the opening as being to "protect essential fish habitat," rather than to protect it to the extent practicable. The resulting Council process, without practicability as a consideration, set up a gauntlet that even the most conservatively designed opening plan, which reasonably accounted for all of the habitat considerations, could not meet.

Following the President's signing of Executive Order 14276, which places new scrutiny on longstanding "overregulation [that] has restricted fisherman from productivity harvesting American seafood," NOAA has an opportunity to direct the Council to reinstate a process to allow scallop access to the CA II HMA in a manner that abides by the law, while freeing up millions of dollars' worth of scallops that would otherwise be left to die of old age, unharvested by the fishery.[10] The Council's median estimate of net revenue to the fleet from a CA II HMA opening is $52 million, based on a very conservative estimate of ex vessel scallop prices. The conservative high-end estimate of net vessel revenues is $79 million.[11]

[9] 16 U.S.C. 1853(a)(7).

[10] Exec. Order no. 14276, 90 Fed. Reg. 16,993, § 1 (2025).

[11] https://d23h0vhsm26o6d.cloudfront.net/1a.-240627-Staff-Presentation_Northern-Edge.pdf, slides 54 & 55.

II. BACKGROUND

A. PETITIONER

Petitioner FSF's participants include nearly one hundred and fifty limited access scallop vessels, many of them small businesses, from the along the Eastern Seaboard, ranging from North Carolina to Massachusetts. All of FSF's participants are small entities. Within the scallop fleet, in 2023, there were 7 large entities (representing 111 permits) and 146 small entities (representing 301 permits).[12]

FSF was formed in 1998 to ensure the long term sustainability of the Atlantic sea scallop fishery.[13] The Atlantic sea scallop resource Petitioner's members and others utilize represents the "most economically important commercial bivalve species in North America" and has been utilized for "more than 120 years."[14] From 2000 to 2021, scallop populations were high, and the Atlantic scallop fleet brought annually up to a half billion dollars (and even over that in some years) of revenue to fishing vessels, crew, and fishing communities, with economic impacts that expand in multiples as the scallop product travels through the supply chain to consumers. As explained above, however, in recent years, the scallop fishery has confronted both ecological and economic challenges. This strain has been furthered by latest annual harvest allocation for 2025, which will reduce the yearly catch by over 50 percent from the historically high harvest of 2019.[15] The American scallop fishery is also confronting a flood of lower-priced sea scallop imports, primarily from Japan, further compromising the domestic market.[16] In the face of these challenges,

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[12] NEW ENGLAND FISHERY MGMT. COUNCIL, Final Submission – Framework 39 to the Atlantic Sea Scallop Fishery Management Plan 264 (Apr. 8, 2025), https://d23h0vhsm26o6d.cloudfront.net/Framework-39-Final-Submission.pdf.

[13] FISHERIES SURVIVAL FUND, https://atlanticscallops.org/ (last visited Apr. 1, 2025).

[14] Cate O'Keefe, *Evaluation of the Atlantic Sea Scallop Rotational Management Program*, NEW ENGLAND FISHERY MGMT. COUNCIL'S SCALLOP PLAN DEV. TEAM 14 (Jan. 28, 2022), https://d23h0vhsm26o6d.cloudfront.net/3.-220128-Evaluation-of-Rotational-Management-Report-FINAL.pdf [O'Keefe Report].

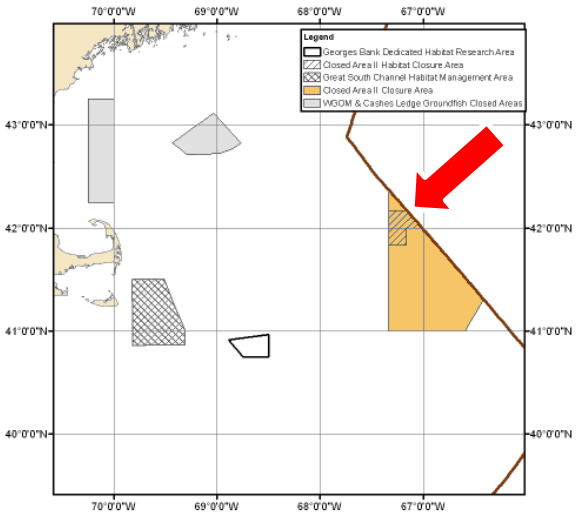
[15] Chris Chase, *Council Advances Plan to Cut Northeast US Scallop Quote 28 Percent*, SEAFOOD SOURCE (Dec. 6, 2024), https://www.seafoodsource.com/news/supply-trade/northeast-us-scallop-fishery-getting-28-percent-lower-quota-in-2025#:~:text=The%20New%20England%20Fishery%20Management,trend%20for%20the%20scallop%20fishery.

[16] James Berstein, *East End Scallop Industry in Dire Struggle Amid Ongoing Die-Off*, DAN'S PAPERS (Mar. 12, 2025), https://www.danspapers.com/2025/03/east-end-scallop-industry-struggles/; Jason Huffman, *US scallop prices continue downward tack, further narrow size-related gap*, UNDERCURRENT NEWS (July 10, 2024), https://www.undercurrentnews.com/2024/07/10/us-scallop-prices-continue-downward-tack-further-narrow-size-related-gap/.

the scallop industry, and its many small business participants across the eastern United States, is in need of intervention by Commerce and NOAA.

B. GEORGES BANK OVERVIEW

Georges Bank, pictured left, is a submerged portion of North American continental shelf.[17] This region, although small in size, has supported some of the world's most lucrative fisheries for hundreds of years. Enriched by ancient glacial sediment deposits, Georges Bank is home to hundreds of millions of dollars' worth of Atlantic cod, herring, halibut, lobsters, and scallops, among other species.[18] Scallops, in particular, are most plentiful in the northeastern region of the Bank which is bisected by the border between American and Canadian fishing waters. This is, not coincidentally, an active area for many of the species previously listed that are frequently targeted by fisherman. However, following years of population decline, in the early-mid 1990s, the federal government stepped in to implement closure areas on and around Georges Bank to help conserve and rebuild populations of groundfish (cod, yellowtail flounder and haddock). As we will discuss, closure areas have evolved on Georges Bank since 1994. The current closures are shown on the map, pictured right.[19] The CAII HMA area in question, which runs along the U.S.-Canada boundary line is designated by a red arrow.



[17] NAT'L OCEANIC & ATMOSPHERIC ADMIN., Gulf of Maine, https://celebrating200years.noaa.gov/magazine/globec/map_gulfofmaine.html (last visited Apr. 24, 2025).

[18] UNITED STATES GEOLOGICAL SURVEY, Fact Sheet: Geology and the Fishery of Georges Bank, https://pubs.usgs.gov/fs/georges-bank/ (last visited Apr. 16, 2025).

[19] NAT'L OCEANIC & ATMOSPHERIC ADMIN., Georges Bank Dedicated Habitat Research Area, Closed Area II, and Great South Channel Habitat Management Area, https://www.fisheries.noaa.gov/new-england-mid-atlantic/commercial-fishing/northeast-multispecies-closed-area-regulations-georges (last visited Apr. 21, 2025).

C. INITIAL CLOSURE AND DESIGNATION AS ESSENTIAL FISH HABITAT AND HABITAT AREA OF PARTICULAR CONCERN

In 1996, Congress reauthorized the Magnuson-Stevens Act by enacting the Sustainable Fisheries Act ("SFA"). The SFA included two provisions that are most relevant here. First, 16 U.S.C. § 1853(a)(7) requires the Secretary to "describe and identify essential fish habitat… [and] minimize to the extent practicable adverse effects on such habitat caused by fishing and identify other actions to encourage the conservation and enhancement of such habitat." Essential fish habitat (EFH) is defined under the statute as the "waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity." [20] The SFA also added to its list of national standards, a new National Standard Eight, which, inter alia, requires the Secretary, "to the extent practicable, [to] minimize adverse economic impacts on [fishing] communities" based on the "importance of fishery resources to [such] communities," provided that conservation objectives related to the prevention of overfishing and the rebuilding of overfished stocks are achieved.[21]

Environmental groups soon filed suit, arguing that the MSA's habitat objectives trump its fishing community protection objectives, but this argument failed.[22] So, too, did their argument that protecting EFH "to the extent practicable" equated to protecting EFH "to the extent possible."[23] Rather, the Court of Appeals for the First Circuit concluded these objectives must be balanced.[24] Importantly, this decision occurred in the precise context of scallop management, including the implementation of access areas within the Georges Bank groundfish closures.

By way of background, facing population decline of cod and other groundfish, in late 1994, NEFMC implemented an emergency rule pursuant to its authority under the Magnuson-Stevens Act to close off the certain areas within Georges Bank to commercial fishing in an effort to protect their spawning grounds, including Closed Area II.[25] Following these closures, the biomass of scallops in Closed Area II "rapidly increased," while the regenerative effects on cod populations

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[20] 16 U.S.C. § 1802(10).

[21] 18 U.S.C. 1851(a)(8).

[22] *Conservation Law Foundation v. Evans*, 360 F.3d 21, 27–28 (1st Cir. 2004).

[23] *Id.*

[24] *Id.*

[25] Northeast Multispecies Fishery, 59 Fed. Reg. 26 (Jan. 3, 1994).

have been inconclusive at best.[26] Soon thereafter, in response to the SFA, the Commerce Department approved NEFMC's designation of EFH areas within Georges Bank via Omnibus Habitat Amendment 1, as well as the creation of a habitat area of particular concern ("HAPC"), an extra-statutory designation that highlights targeted EFH areas, for juvenile Atlantic cod along the Northern Edge within Closed Area II.[27]

This Northern Edge HAPC designation served as a supplemental basis for the habitat closure area subsequently established within CAII, but under the Supreme Court's holding in *Sackett*, this designation is invalid because it is based on an extra-statutory regulation.[28] In *Sackett*, the Court recently held that the Environmental Protection Agency ("EPA") must repeal all regulations inconsistent with a properly bounded interpretation of "waters of the United States" as elucidated in the Clean Water Act ("CWA"). This included all regulations utilizing the infamous "significant nexus" test, which "the CWA never mentions" and thus, "the EPA has no statutory basis to impose it."[29] Accordingly, the Court, whose job "is to ascertain whether clear congressional authorization exists for the EPA's claimed power," nullified all regulations under this standard.[30] Even though the MSA does not specifically provide for HAPCs as a specially protected subclassification of EFH, NOAA and the Council have argued the Northern Edge's HAPC designation itself represents a rationale for keeping the Northern Edge completely closed to scallop fishing. Given the HAPC designation's lack of statutory authorization, the Secretary should direct NOAA and the Council that the HAPC designation should no longer factor in as a special consideration to limit fishing. It is illegal to base government decision-making on considerations that are not statutorily authorized.[31]

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[26] Gallagher, et al. at 7.

[27] Fisheries of the Northeastern United States; Northeast Multispecies Fishery, Atlantic Sea Scallop Fishery, and Atlantic Salmon Fishery; Fishery Management Plan (FMP) Amendments to Designate Essential Fish Habitat (EFH), Atlantic Salmon Overfishing Definition, and Aquaculture Framework Specification Process, 64 Fed. Reg. 19,503, 19,504 (April 21, 1999); NEW ENGLAND FISHERIES MGMT. COUNCIL, *Habitat Management Considerations for the Northern Edge of Georges Bank* 18 (Jan. 20, 2022), https://s3.us-east-1.amazonaws.com/nefmc.org/6.-220120-Northern-Edge-Habitat-Management-Considerations.pdf.

[28] 64 Fed. Reg. at 19,505; *Sackett v. EPA*, 598 U.S. 651 (2023).

[29] *Id*. at 680–81.

[30] *Id*. at 681–82.

[31] *Id.*

Subsequent to these designations, an HMA was created for the Northern Edge "via an amendment to [NEFMC]'s Multispecies [Fishery Management Plan], and this co-designation as a habitat management area remains in effect."[32] The designated area is closed year-round to "all bottom-tending mobile gears" to "minimize the adverse effects of fishing" on EFH.[33] In addition to measures adopted through this and other groundfish area closures aimed at protecting juvenile cod, NFMS has steadily slashed allowable Georges Bank cod catch levels since the 1990s to historically infinitesimal levels. Despite these ultra-strict conservation measures, cod stocks have not rebounded anywhere near what was hoped. The cod-related closures contained in 50 C.F.R. § 648.370(g) impose heavy costs on fishermen yet have realized few demonstrable (if any) benefits in over 30 years of trying.

D. FISHERY MANAGEMENT PLAN – SCALLOP AMENDMENT 10

In 2004, the Council in Amendment 10 to its Atlantic Scallop Fishery Management Plan ("Scallop FMP"), formalized scallop rotational area management.[34] Scallops tend to settle and grow in particular places on the ocean floor, at certain depths, and on substrate with some modest surface roughness, and where currents are strong enough to provide nutrients to these filter-feeders. The idea behind scallop fishery rotation is to monitor the ecologically favorable areas of historic abundance closely, identify promising "sets" of small scallops when they appear, close the area for the scallops to grow out, and then harvest them at optimal size. The objectives of Amendment 10 included the improvement of fishing yield per recruit, "reducing mortality of small scallops," a modification of the framework adjustment process to "shorten the time between the availability of data and annual adjustments [to fishery management plans]," and to "maximize the social and

[32] NEW ENGLAND FISHERIES MGMT. COUNCIL, *Habitat Management Considerations for the Northern Edge of Georges Bank* 7 (Jan. 20, 2022), https://s3.us-east-1.amazonaws.com/nefmc.org/6.-220120-Northern-Edge-Habitat-Management-Considerations.pdf.

[33] 50 C.F.R. § 648.370(g); NEW ENGLAND FISHERIES MGMT. COUNCIL, *Habitat Management Considerations for the Northern Edge of Georges Bank* 7 (Jan. 20, 2022), https://s3.us-east-1.amazonaws.com/nefmc.org/6.-220120-Northern-Edge-Habitat-Management-Considerations.pdf; *see also* NAT'L OCEANIC & ATMOSPHERIC ADMIN, *Northeast Multispecies Closed Area Regulations: Georges Bank and Southern New England*, https://www.fisheries.noaa.gov/new-england-mid-atlantic/commercial-fishing/northeast-multispecies-closed-area-regulations-georges (last visited Mar. 31, 2025).

[34] Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Amendment 10, 69 Fed. Reg. 35,194 (June 23, 2004); O'Keefe Report at 17.

economic benefits to the industry and the nation."[35] The Council adopted a "fully adaptive area rotation scheme" which provides great flexibility to define future rotational areas, given the lack of any standardized closure area boundaries, dimensions, or durations.[36]

Amendment 10 provides for two elements to the scallop fishery: open area days at sea ("DAS") that allow scallop vessels to fish a prescribed number of days each year in areas not subject to closure or special management; and access area allocations. Access areas represent the rotational harvest areas in which scallop vessels are allocated a certain number of trips each year subject to a limit on the number of pounds of scallops the vessel may harvest from the access area.[37] The first Georges Bank access area was established in the southern part of the Groundfish Closed Area II in 1999. Subsequently, in 2000, access areas were also created in the other two Groundfish Closure Areas established in 1994, Closed Area I and the Nantucket Lightship Area. Under Amendment 10, a series of access areas have also been created in the Mid-Atlantic as well. Through all this time, the Northern Edge of Closed Area II has remained closed to scallop fishing, and to fishing by all bottom tending mobile fishing gear.

E. OMNIBUS HABITAT AMENDMENT 2

The Council began working to revise Omnibus Habitat Amendment 1 almost as soon as NMFS implemented it. In Omnibus Habitat Amendment 2, implemented in 2018, the Council recommended "retaining the HAPC, converting Closed Area II to a seasonal spawning closure, removing the Closed Area II Habitat Closure Area, and designating three new habitat management areas."[38] "These areas include: (1) the Georges Shoal 2 HMA, closed to mobile bottom-tending gear, with a 1-year delay in closure to hydraulic clam dredges; (2) the Northern Edge Reduced Impact HMA, closed to mobile bottom-tending gear, with [exemptions for scallop dredge fishing

[35] O'Keefe Report at 16, 21 (mortality mitigation measures include, among other efforts, an increase of the "minimum ring size for all scallop permitted vessels to 4 inches in diameter and required the use of twine tops with mesh no less than 10 inches).

[36] *Id*. at 16, 54; *see also* Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Amendment 10, 69 Fed. Reg. at 35,196.

[37] Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Amendment 10, 69 Fed. Reg. 35,194, 35,196 (June 23, 2004).

[38] NEW ENGLAND FISHERIES MGMT. COUNCIL, *Habitat Management Considerations for the Northern Edge of Georges Bank* 9 (Jan. 20, 2022), https://s3.us-east-1.amazonaws.com/nefmc.org/6.-220120-Northern-Edge-Habitat-Management-Considerations.pdf.

under a rotational program]; and (3) the Northern Edge Mobile Bottom-Tending Gear HMA, closed to mobile bottom-tending gear without any exceptions."[39] However, these recommendations, for the most part, were disapproved by NOAA in 2018, aside from the creation of a new spawning closure within Closed Area II.[40] NOAA's action here all but disregarded the nearly 13-year long Omnibus Habitat Amendment 2 development process that involved immense effort from both the Council and the fishing industry to find common ground on updated habitat protection measures, including Northern Edge rotational scallop access, that would meet the Magnuson-Stevens Act's habitat requirements, while balancing the economic interests of fisherman.

NOAA, in its promulgation of the final Omnibus Habitat Amendment 2 rule, stated that the Council's recommended scallop access authorization failed to "sufficiently address the impact of limited access scallop dredging" on the Closed Area II HMA, given the Magnuson-Stevens Act's requirements to "minimize the adverse effects of fishing to the extent practicable."[41] At the time of this final rule, NOAA did yet have the scientific data that now supports opening an access area in the region. Nor was it aware of the subsequent severe decline in scallop populations that would halve the fishery's size along the Eastern seaboard in the years since.[42] Nonetheless, the agency did note that the Council may revisit this issue in a subsequent action, a process which the Council began with the Northern Edge Framework in 2022.

F. NORTHERN EDGE FRAMEWORK

Following the disappointment of NOAA's disapproval to Omnibus Habitat Amendment 2's Northern Edge scallop access provisions, scallop fisherman were thrilled when, in late 2022, the

[39] Omnibus Habitat Amendment 2 at 15,242.

[40] NEW ENGLAND FISHERIES MGMT. COUNCIL, *Habitat Management Considerations for the Northern Edge of Georges Bank* 9 (Jan. 20, 2022), https://s3.us-east-1.amazonaws.com/nefmc.org/6.-220120-Northern-Edge-Habitat-Management-Considerations.pdf.

[41] Omnibus Habitat Amendment 2 at 15,243.

[42] NAT'L FISHERMAN, *New England Scallop Quotas Cut by 28 Percent for 2025* (Dec. 12, 2024), https://www.nationalfisherman.com/new-england-scallop-quotas-cut-by-28-percent-for-2025#:~:text=The%20current%20outlook%20follows%20a,cautious%20support%20for%20the%20framework.

Council voted to "develop a rotational harvest program" within the Closed Area II HMA and review the current boundaries for the HMA to consider future modifications.[43]

But the Council then developed goals and objectives for the Northern Edge Framework that represented a departure from the limitations on habitat actions the MSA sets forth. The Council aimed to, in part, "develop a scallop rotational harvest program within/or around the [CAII HMA] … that avoids habitat important to juvenile cod, [and] minimizes adverse effects to essential fish habitats." Although ostensibly well-intentioned, these goals completely disregarded the requirement that measures be taken to protect essential fish habitat to the extent practicable, as opposed to an absolute requirement.

In spite of this early mistake, in 2023, the Council also tasked its Scallop and Habitat Plan Development Teams to analyze four potential access areas along the Northern Edge for estimates of scallop biomass and disturbances or other impacts to other fisheries resources.[44] The Council subsequently reduced the potential areas to two in the spring of 2024.[45] This effort by the Council to create a framework to allow seasonal/rotational fishing in the HMA was strongly supported by the communities most-impacted by the long-time closure. In an April 2024 letter to NEFMC Chairman Reid, Jonathan Mitchell, the mayor of New Bedford, Massachusetts, encouraged the opening of a rotational access area within Closed Area II based on the continued economic strain placed on his community as catch limits, and days at sea, continue to shrink.[46] New Bedford has been the most valuable commercial fishing port in the U.S. over the last 20 years, largely due to the scallop fishery. The Mayor recommended the opening of two of the smallest considered areas with low complexity bottom conditions (therefore less impact on juvenile cod and the overall

[43] NEW ENGLAND FISHERIES MGMT. COUNCIL, *Northern Edge Habitat-Scallop Framework Goal and Objectives* 1 (April 18, 2023), https://d23h0vhsm26o6d.cloudfront.net/230418-Northern-Edge-Approved-Goal-and-Objectives_2023-07-06-194942_wdny.pdf.

[44] *See* Memorandum from the Habitat Plan Development Team & Scallop Plan Development Team to the New England Fisheries Mgmt. Council, Requested Concept Area Analysis for Northern Edge Habitat-Scallop Framework 1 (Apr. 12, 2024), https://d23h0vhsm26o6d.cloudfront.net/3.-Concept-Areas-Evaluation-Memo-April-12.pdf.

[45] *See* Memorandum from the Habitat Plan Development Team & Scallop Plan Development Team to the New England Fisheries Mgmt. Council, Potential alternatives for rotational intervals and seasonal closures in the Northern Edge scallop access area 1 (June 13, 2024), https://d23h0vhsm26o6d.cloudfront.net/3.-240613-Northern-Edge-Seasonal-Restrictions-Memo-corrected.pdf.

[46] Letter from John F. Mitchell, Mayor of New Bedford, to Eric Reid, Chair of the New England Fishery Management Council (April 11, 2024), https://newbedford-ma.s3.amazonaws.com/wp-content/uploads/20240417083654/Mayor-Jon-Mitchell-letter-re-Northern-Edge_NEFMC_April-2024.pdf.

benthic environment caused by scallop dredge fishing), and with a high concentrations of scallops.[47] The mayor correctly noted that "the scallop fishery is facing some challenging years upcoming" based on low recruitment and anticipated decreases in catch limits.[48]

In its June 27, 2024, presentation to the Council, the Scallop and Habitat Plan Development teams laid out the potential alternatives to be decided by NEFMC with regard to the rotation intervals for the fishery, access areas, and the extent of seasonal accessibility of the fishery.[49] The access area options the Council considered balanced many habitat conservation objectives. The areas generally avoided complex ocean floor habitat thought to be of value to juvenile cod, and two of these options avoided such complex habitat altogether.[50] Further, these access areas would only be opened every four, six, or eight years depending on the option chosen, to allow for habitat recovery.[51] In terms of seasonal access, the Council was divided on the three options presented to them for the varying access windows, with concerns raised concerns about conflicts with things like the occurrence of ovigerous lobsters, and Atlantic cod and herring spawning.[52] The presenting Development teams noted, however, that while there might be scallop fishing on the Northern Edge during the period of time where cod are spawning, the specific access areas proposed for opening were created to minimize physical overlap with these spawning grounds.[53] Similarly, although the proposed areas spatially overlapped with herring spawning areas, this geographic overlap could be rendered moot by the fact that the timing of the opening need not be in the peak herring spawning season. Further, any opening could also be timed to avoid the main influx of ovigerous lobsters along the Northern Edge during late summer months. It is also important to

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[47] *Id.*

[48] *Id.*; *see also* Chris Chase, *Council Advances Plan to Cut Northeast US Scallop Quote 28 Percent*, SEAFOOD SOURCE (Dec. 6, 2024), https://www.seafoodsource.com/news/supply-trade/northeast-us-scallop-fishery-getting-28-percent-lower-quota-in-2025#:~:text=The%20New%20England%20Fishery%20Management,trend%20for%20the%20scallop%20fishery.

[49] Michelle Bachman, et al., Scallop and Habitat Plan Development Teams, New England Fisheries Mgmt. Council, Presentation to NEFMC regarding the Northern Edge Habitat / Scallop Framework 6 (June 27, 2024), https://d23h0vhsm26o6d.cloudfront.net/1a.-240627-Staff-Presentation_Northern-Edge.pdf [Bachman, et al.].

[50] *Id*. at 8.

[51] *Id*. at 30.

[52] Audio tape: Meeting of the New England Fisheries Management Council (June 27, 2024), https://d23h0vhsm26o6d.cloudfront.net/2.-Northern-Edge.mp3.

[53] *Id*.

consider the fact that, given the concentration of scallop populations in the Closed Area II HMA, scallop vessels would need less time to land their maximum allowable catch, reducing the potential for impacts on cod spawning and habitats.

In designing this framework, the Council's goals to "develop a scallop rotational harvest program within/or around the [CAII HMA] that avoids habitat important to juvenile cod, [and] minimizes adverse effects to essential fish habitats" did not fully comply with the law.[54] As previously discussed, the Council is obligated to protect EFH to the extent *practicable*, not to the extent *possible*. Yet, during all of its considerations of the Northern Edge reopening plan, the question of practicability never entered the Council's discussions or analysis. This is made clear by the Council's deliberations with regard to cod. Access area spatial alternatives were developed to avoid the complex-bottom habitats used by juvenile cod, but Councilmembers then argued that scallop fishing must *also* avoid the areas *not* used by juvenile cod, either.[55] Similarly, the scallop access areas under consideration did not overlap in any meaningful spatial way with cod spawning areas, but the Council expressed concern that cod spawning might be occurring in areas outside the potential access areas at the time the access area would be open for scallop fishing. Taken together, the Council's apparent desires to completely avoid both any temporal, and geographic, overlap with the cod spawning season and juvenile cod habitat areas, respectively, were completely impracticable. It was not enough to avoid the areas where cod were, the Council did not want scallopers in the areas where cod were not.[56]

In spite of the ever-increasing headwinds to the scallop fleet, as well as scientific evidence supporting the reopening,[57] on the same day that the Scallop and Habitat Development teams presented their plans to the Council, NEFMC voted to "discontinue development" on the Northern Edge Framework in its entirety.[58] In making its decision, the Council highlighted its interest in the

[54] NEW ENGLAND FISHERY MGMT. COUNCIL, Draft Northern Edge Habitat-Scallop Framework 7 (Jun. 11, 2024), https://d23h0vhsm26o6d.cloudfront.net/4.-240610-Northern-Edge-Habitat-Scallop-FW-EA-DRAFT.pdf.

[55] Audio tape: Meeting of the New England Fisheries Management Council (June 27, 2024), https://d23h0vhsm26o6d.cloudfront.net/2.-Northern-Edge.mp3.

[56] Bachman, et al. at 13–15.

[57] *See* discussion, *infra* § IV.

[58] *See* NEW ENGLAND FISHERY MGMT. COUNCIL, *Northern Edge: Action Discontinued*, https://www.nefmc.org/library/northern-edge (last visited Apr. 1, 2025); Bella Pelletiere, *Mayor Jon Mitchell*

"long-term productivity of the Georges Bank scallop resource."[59] Specifically, the Council pointed to the fact that it couldn't identify "an appropriate time for an access program" because the peak fishing time for Atlantic scallops, in June and July, coincides with the growth periods of juvenile Atlantic cod, and the spawning seasons of cod and lobsters.[60] As a result of the Council's discontinuance of the reopening, NEFMC councilmember Eric Hansen noted that there is "a lot of resource (scallops) that [have] been wasted there. They were not harvested; they were not revenue for the scallop industry and were not food for the country. They are dying of old age."[61]

Currently, the Closed Area II HMA prohibition against all bottom-tending mobile fishing gear still remains in place despite the previously discussed attempts and efforts at reopening.[62] In the meantime, scallop populations along the Northern Edge have boomed, while a scallop populations in open areas have declined; in 2023, there was an estimated 27 million pounds of scallops along the Northern Edge, while the *entire scalloping industry* only landed 30 million pounds across all areas the year prior.[63] In 2024, the scallop fishery landed approximately 16 million pounds, while the catch projections for 2025 laid out in Framework Adjustment 39 remain historically low, at 19 million pounds.[64]

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responds to work being halted on Northern Edge scalloping grounds, ABC 6 PROVIDENCE (July 3, 2024), https://www.abc6.com/mayor-jon-mitchell-responds-to-work-being-halted-on-northern-edge-scalloping-grounds/.

[59] *See* NEW ENGLAND FISHERY MGMT. COUNCIL, *Northern Edge: Action Discontinued*, https://www.nefmc.org/library/northern-edge (last visited Apr. 1, 2025); *see also* Will Sennott, *Fishermen Protest Ongoing Closure of Northern Edge*, NAT'L FISHERMAN (Jul. 30, 2024), https://www.1nationalfisherman.com/fishermen-protest-ongoing-closure-of-northern-edge.

[60] *See* NEW ENGLAND FISHERY MGMT. COUNCIL, *Northern Edge: Action Discontinued*, https://www.nefmc.org/library/northern-edge (last visited Apr. 1, 2025); *See also* Memorandum from the Habitat Plan Development Team & Scallop Plan Development Team to the New England Fisheries Mgmt. Council, Potential alternatives for rotational intervals and seasonal closures in the Northern Edge scallop access area 6 (June 13, 2024), https://d23h0vhsm26o6d.cloudfront.net/3.-240613-Northern-Edge-Seasonal-Restrictions-Memo-corrected.pdf.

[61] Will Sennott, *Fishermen Protest Ongoing Closure of Northern Edge*, NAT'L FISHERMAN (Jul. 30, 2024), https://www.1nationalfisherman.com/fishermen-protest-ongoing-closure-of-northern-edge.

[62] NEW ENGLAND FISHERIES MGMT. COUNCIL, *Habitat Management Considerations for the Northern Edge of Georges Bank* 7 (Jan. 20, 2022), https://s3.us-east-1.amazonaws.com/nefmc.org/6.-220120-Northern-Edge-Habitat-Management-Considerations.pdf.

[63] Will Sennott, *Fishery council considering Mitchell's plea to open Northern Edge to scallopers*, NEW BEDFORD LIGHT (Apr. 18, 2024), https://newbedfordlight.org/jon-mitchell-scalloper-industry-northern-edge/.

[64] Fisheries of the Northeastern United States: framework Adjustment 39 to the Atlantic Sea Scallop Fishery Management Plan, 90 Fed. Reg. 12,510 (Mar. 18, 2025); Press Release, New England Fishery Mgmt. Council, Scallops: Council signs off on Framework 30 with Measures for Fishing Year 2025; May 15th Delayed Opening for

G. EXECUTIVE DIRECTIVES

Since taking office, President Trump has signed a series of executive orders and other directives that individually and collectively support the Secretary's granting this Petition. This section will briefly outline these three EOs, as well as some recent Supreme Court decisions that together demonstrate that the CAII HMA revision is necessary as no reasonable cost-benefit analysis can defensibly demonstrate environmental benefits concordant with the economic and non-economic toll imposed by the CAII HMA.

Turning first to the EOs, President Trump on April 17, 2025, signed EO 14276 entitled *Restoring American Seafood Competitiveness*, which contained a set of directives for the Secretary to identify ways to bolster American commercial fishing, aquaculture, and fish processing specifically by compelling the Secretary to "immediately consider ***suspending, revising, or rescinding regulations*** that overly burden America's commercial fishing, aquaculture, and fish processing industries at the fishery-specific level."[65] In doing so, the Secretary was directed to "identif[y] actions [that] stabilize markets, improve access, enhance economic profitability, and prevent closures."[66] The Secretary is also required to "solicit direct public comments, including from fishing industry members, technology experts, marine scientists, and other relevant parties, for innovative ideas to improve fisheries management and science."[67] The scallop fishermen of FSF submit this Petition for Deregulation in response to Executive Order 14276. Allowing Petitioner to participate in this process, and advocate for revisions to the CAII HMA, aligns directly with the President's mandate to incorporate industry expertise when evaluating regulations that potentially "overly burden" American fishing operations.[68] Granting this petition would do everything President Trump enumerated in the order: stabilize markets, improve access, enhance economic profitability, and prevent closures.

Access Areas (Dec. 5, 2024), https://d23h0vhsm26o6d.cloudfront.net/NEFMC-Signs-Off-on-Scallop-Framework-39-with-Measures-for-Fishing-Year-2025-May-15th-Delayed-Opening-for-Access-Areas.pdf.

[65] Exec. Order no. 14276, 90 Fed. Reg. 16,993, § 4(a) (2025). (emphasis added).

[66] *Id.* at § 4(a)(i).

[67] *Id.* at § 4(a)(ii).

[68] *Id*. at § 4(a).

More broadly, the President issued EOs 14192, *Unleashing Prosperity Through Deregulation*,[69] and 14219, *Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative*,[70] which seek to standardize the measurement and estimation of regulatory costs and identify classes of regulations that should be repealed due to statutory overreach and adverse economic effects, respectively.

EO 14192 requires federal agencies to identify 10 existing regulations for repeal for every one proposed. While guidance is forthcoming on this EO from the Director ("Director") of the Office of Management and Budget ("OMB"), the forthcoming guidance will outline "processes for standardizing the measurement and estimation of regulatory costs" and "standards for determining the costs of existing regulations that are considered for elimination."[71] As explained above, we submit this petition in response to OMB's RFI on Deregulation, 90 Fed. Reg. 15,481, as well.

Moreover, EO 14219 orders federal agencies to identify classes of regulations for potential repeal and revision if they: are based on "unlawful delegations of legislative power;[72] are based on "anything other than the best reading of the underlying statutory authority or prohibition;"[73] implicate matters of "economic significance" and are "not authorized by clear statutory authority;"[74] "impose significant costs upon private parties that are not outweighed by public benefits;"[75] or if they "impose undue burdens on small business and impede private enterprise and entrepreneurship."[76] To effectuate EO 14219, President Trump promulgated a Memorandum[77] requiring federal agencies to rescind regulations inconsistent with 10 Supreme Court cases via the APA's "good cause" exception where appropriate.

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[69] 90 Fed. Reg. 9,065 (Jan. 31, 2025).

[70] 90 Fed. Reg. 10,583 (Feb. 19, 2025).

[71] Exec. Order no. 14192 at §3(d).

[72] *Id.* at § 2(a)(ii).

[73] *Id.* at § 2(a)(iii).

[74] *Id.* at § 2(a)(iv).

[75] *Id.* at § 2(a)(v).

[76] *Id.* at § 2(a)(vii).

[77] White House, *Fact Sheet: President Donald J. Trump Directs Repeal of Regulations That Are Unlawful Under 10 Recent Supreme Court Decisions* (Apr. 9, 2025).

Five of these cases are particularly relevant to this petition. First, as explained above, *Sackett* is relevant to NMFS's extra-statutory designation of the CAII HMA as an HAPC. *Michigan v. EPA*[78] and *Ohio v. EPA*[79] hold that cost-benefit analysis must be substantiated by a consideration of relevant factors, and demand federal agencies to revise this analysis as circumstances change. Taken together, these cases demonstrate that the Secretary must substantially revise the CAII HMA by rescinding 50 C.F.R. § 648.370(g), based on an updated cost-benefit analysis that accounts for both the economic hardships suffered by Petitioner (comprised of small businesses), the environmental ineffectiveness of the current CAII HMA in protecting juvenile cod, and the limited negative environmental impact a targeted scallop opening would yield.[80] In addition, a court would not defer under *Loper Bright Enterprises v. Raimondo*[81] to NMFS with respect to two matters of statutory construction that drove the Council to discontinue work on CA II HMA access: (1) whether the MSA's practicability standard for essential fish habitat protection allows for habitat protection "to the extent possible;" and (2) whether the Secretary has authority to confer special protections on an extra-statutory subcategory of essential fish habitat called a habitat area of particular concern. Finally, NMFS's failure to balance the MSA's co-equal twin goals of fishing community protection and essential fish habitat protection, in favor of solely promoting habitat protection, impermissibly strays from the agency's mission.[82] These conclusions, especially under the auspices of all three EOs, and in light of the recent Supreme Court precedent, compel the Secretary to grant this Petition.

III. THE CLOSED AREA II HMA MUST BE REVISED BECAUSE DOING SO CAN PROVIDE GREAT BENEFIT WITH LITTLE COST

The costs borne by the scallop industry in light of the ongoing CA II HMA closure to rotational scallop fishing vastly exceed the minimal conservation benefits received from its continuation. In 2018, when NMFS disapproved access in Omnibus Habitat Amendment 2, scallop catches were high, and the other access areas were slated to open the following year. NOAA could not have

[78] 576 U.S. 743 (2015).

[79] 603 U.S. 279 (2024).

[80] *See infra* Section IV.

[81] 603 U.S. 369 (2024).

[82] *Cf. West Virginia v. Envt'l Protection Agency*, 597 U.S. 697 (2022).

predicted the extent to which the scallop population's decline in the years since has strained the fishing industry.[83] Similarly, in June 2024 (when the Council discontinued work on the Northern Edge framework), the projected catch for 2024 was more than 27 million pounds of scallops, whereas the actual landed number for last year was nearly half that, at less than 16 million pounds.[84] In contrast, the conservation costs from a controlled reopening of Georges Bank to scallop fishing would be minimal in comparison; as recent scientific findings demonstrate, rotational scallop fishing does not inflict long-term harm on the CAII HMA habitat being considered for opening. A thoughtful plan of geographic and temporal access can practicably limit habitat impacts to managed species, while allowing, by a conservative estimate, $52 million, in net revenue to scallop vessels.

A. CHANGING OCEAN CONDITIONS HAVE FURTHER STRAINED THE ALREADY STRUGGLING SCALLOP INDUSTRY

Scallops are a sensitive species, with exceptionally low tolerance to increasing water temperatures. Twenty-five years ago, when FSF was founded, scallops were found from areas off Virginia Beach to well within Canadian waters. Since that time, the southern extent of the scallops' range has gradually, but steadily, moved northward up the Delmarva Peninsula. Abundances, moreover, have decreased across the whole of the Mid-Atlantic.[85] This is the case for many species beyond scallops, with estimates predicting hundreds of kilometers worth of northern movement for some species in the coming decades.[86] Recent NOAA-supported research has shown on-going changes in ocean conditions can "depress the growth of juvenile Atlantic sea scallops," and

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[83] Caroline Losneck, *Atlantic Scallop Haul tops 60 million Pounds*, NAT'L FISHERMAN (May 23, 2019), https://www.nationalfisherman.com/northeast/atlantic-scallop-haul-tops-60-million-pounds.

[84] NAT'L OCEANIC & ATMOSPHERIC ADMIN., Press Release, NOAA Fisheries Announces Final Rule for 2024 Atlantic Sea Scallop Fishery (Mar. 22, 2024), https://content.govdelivery.com/accounts/USNOAAFISHERIES/bulletins/3920a32#:~:text=NOAA%20Fisheries%20is%20announcing%20a%20final%20rule,from%20the%20fishing%20year%202023%20projected%20landings.

[85] *See* NAT'L OCEANIC & ATMOSPHERIC ADMIN., *American Lobster, Sea Scallop Habitat Could Shift Off the Northeast* (May 28, 2020), https://www.fisheries.noaa.gov/feature-story/american-lobster-sea-scallop-habitat-could-shift-northeast#:~:text=Warmer%20water%20in%20these%20southern,England%2C%20and%20Georges%20Bank%20areasl; *see also* Karl Vilacoba, *Five Decades at Sea, Scallopers See Changes in Business & Environment*, MID-ATLANTIC OCEAN DATA PORTAL, https://portal.midatlanticocean.org/ocean-stories/commercial-scallops/ (last visited Mar. 27, 2025).

[86] Matthew O. Berger, *Fish Crossing Genetic Borders as Oceans Warm*, THE NEW HUMANITARIAN (Mar. 28, 2018) https://deeply.thenewhumanitarian.org/oceans/articles/2018/03/28/fish-crossing-genetic-borders-as-oceans-warm.

"significantly reduce [juvenile] scallops' ability to take up energy."[87] There is also evidence that these changing ocean conditions, are partially to blame for the failed return of the cod stocks, despite 30-plus year closures. Research has shown that Atlantic cod stocks are slow to adapt to warming waters, causing higher levels of mortality through both predation and poor conditioning of juveniles.[88]

More acute episodic localized die-off events, like the Elephant Trunk sea scallop die-off in 2022, are also likely to increase as water temperatures increase.[89] Unusually warmer waters in the Mid-Atlantic Elephant Trunk region caused a significant die-off in sea scallops, along with other fish and shellfish in 2022.[90] In a study of a Peconic Bay bay scallop die-off, Stony Brook School of Marine and Atmospheric Science's Stephen Tomasetti noted that scallops are particularly susceptible to changes in ocean conditions because they are sessile.[91]

B. THE COUNCIL'S REASONS FOR MAINTAINING THE CLOSURE ARE NOT SUPPORTED BY THE BEST SCIENTIFIC INFORMATION AVAILABLE

At the time of the initial groundfish closures in the 1990s, cod landings were at a then all-time low, at approximately 17,000 tons.[92] Following the myriad of closures across Georges Bank and the waters off of Massachusetts, the population has not rebounded. In 2023, for example, the cod landings totaled a mere 492 tons, representing a nearly 35-fold decrease in the cod catch during

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[87] NAT'L OCEANIC & ATMOSPHERIC ADMIN., New Study Finds Ocean Acidification and Warming Hinder Juvenile Atlantic Sea Scallop Growth (Mar. 1, 2023), https://www.fisheries.noaa.gov/feature-story/new-study-finds-ocean-acidification-and-warming-hinder-juvenile-atlantic-sea-scallop (citing Emilien Pousse, et al., *Juvenile Atlantic sea scallop, Placopecten magellanicus, energetic response to increased carbon dioxide and temperature changes*, PLOS CLIMATE (Feb. 22, 2023), https://doi.org/10.1371/journal.pclm.0000142).

[88] Andrew J. Pershing, et al., *Slow adaptation in the face of rapid warming leads to collapse of the Gulf of Maine cod fishery*, 350 Science 809, 811 (Nov. 13, 2015), https://www.science.org/doi/pdf/10.1126/science.aac9819.

[89] J.D. Allen, *Scallops ding off in Long Island are 'a cautionary tale' for New England*, WBUR (Jan. 23, 2023), https://www.wbur.org/news/2023/01/23/scallop-death-massachusetts-climate-change; NAT'L OCEANIC & ATMOSPHERIC ADMIN., *2024 State of the Ecosystem: Mid-Atlantic* 42–43 (Mar. 27, 2024), https://doi.org/10.25923/vz5a-d111.

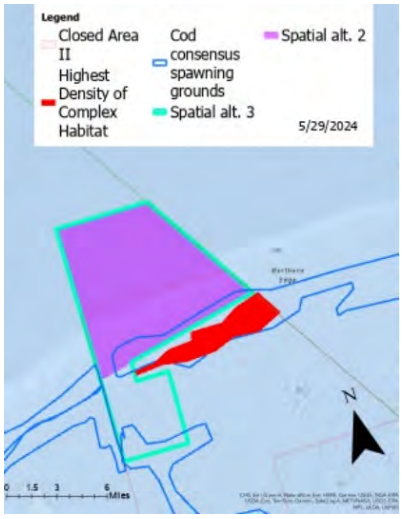
[90] J.D. Allen, *Scallops ding off in Long Island are 'a cautionary tale' for New England*, WBUR (Jan. 23, 2023), https://www.wbur.org/news/2023/01/23/scallop-death-massachusetts-climate-change

[91] *Id*.

[92] NAT'L OCEANIC & ATMOSPHERIC ADMIN, Landings Data, available at https://www.fisheries.noaa.gov/foss/f?p=215:200:13047689965498:::::.

the period of the closure.[93] In 2024, the shared quota between the US and Canada for eastern Georges Bank cod totaled only 520 tons.[94] Despite the apparent ineffectiveness of the HMA in bringing cod back to Georges Bank, the Council and NOAA have still retained the closure in spite of the large and continuing costs borne by scallop fisherman.

The reasons provided by the Council for discontinuing its most recent CAII HMA reopening plan are overstated, and disregard recent scientific findings that provide ample evidence that Georges Bank can be fished rotationally, and in a manner that is both sustainable and practicably minimizes habitat impacts.



For instance, the maps shown during the June 2024 Council meeting show incredibly minimal overlap between the spatial alternatives under consideration and the cod spawning grounds at issue. One of these maps, displayed on the left, shows the very limited overlap between cod spawning grounds and the principal potential scallop access areas.[95] Neither Spatial Alternative 2 nor 3 overlaps in any significant way with cod spawning areas. These cod spawning areas are also found in other places on Georges Bank, and not just in the area of the zoomed-in view shown here on the map. Spatial Alternatives 2 and 3 also were designed specifically to avoid the complex habitat believed to be important to juvenile cod.

Questions related to the overlap of herring spawning grounds with the proposed scallop fishing access areas were also a point of contention during the meeting. [96] But, the overlap represents only a small fraction of the overall Atlantic herring spawning areas, which also include the Great South Channel, the entire northern boundary area of Georges Bank, Jeffrey's Ledge in the Gulf of Maine,

[93] *Id*.

[94] NAT'L OCEANIC & ATMOSPHERIC ADMIN., Northeast Multispecies (Groundfish) Fishing Year 2024 Catch Limits, Allocations to Sectors (May 1, 2024), https://www.fisheries.noaa.gov/bulletin/northeast-multispecies-groundfish-fishing-year-2024-catch-limits-allocations-sectors.

[95] Bachman, et al. at 16.

[96] *Id*. at 18.

and also areas off the coast of Maine. Furthermore, as explained above, scallop access could be timed to avoid herring spawning.[97]

Similarly, with regard to lobsters, the options for seasonal access proposed to the Council could have avoided the peak times for the lobster fishery and the presence of large egg-bearing lobsters on Georges Bank.[98] Further in terms of spatiality, the geographically-limited scallop access area alternatives proposed to the Council covered *less than five percent* of the relevant offshore lobster statistical area.[99]

Further, new scientific information developed specifically in response to NOAA's 2018 disapproval of CAII HMA scallop access, further demonstrates the limited ecological costs of a tailored scallop access area program. Between 2016 to 2022, researchers with the Woods Hole Oceanographic Institution, in collaboration with members of the fishing industry, conducted long-term experiments by conducting intensive controlled scallop fishing in certain areas within Closed Area II to assess the ecosystem's recovery rate in comparison to a control group of untouched ocean bottom.[100] During these studies, six locations between two different habitats were "surveyed twice before and four times after impact by scraping with a commercial scallop dredge to base sediment."[101] It is important to note that the dredging methods used during these studies were "more intensive than commercial fishing operations," according to the Council's own experts.[102] The research found that in the short-term, two- to three-year range, sand/gravel bottom habitats (those considered for rotational access) fully recovered, and at the six-year range, *all* impacted areas, including complex epifaunal habitats, "returned to or exceeded the control with no significant difference between control and impact."[103] The study—representing the best scientific information available—concluded that it would be possible to "target specific low complexity

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[97] Dr. Graham Sherwood, et al., *Review and analysis of Atlantic herring (Clupea harengus) spawning on Georges Bank*, Prepared for the New England Fishery Mgmt. Council 55 (Nov. 22, 2019), https://s3.amazonaws.com/nefmc.org/2_Herring-Spawning-Review-191122.final.pdf.

[98] Bachman, et al. at 17.

[99] *Id*.

[100] Gallagher, et al. at 1.

[101] *Id*.

[102] Bachman, et al. at 9.

[103] *Id.* at 2, 9 (noting that the only exception to this was Monkfish, which increased in population, potentially due to "its highly mobile and exploitive nature" moving into the impacted sites") (emphasis added).

homogenous habitats for opening a limited fishery where scallop abundance is high while maintaining no-take zones in complex epifaunal habitats" with delimited boundaries.[104] The MSA requires NMFS to base conservation and management measures on the "best scientific information available."[105]

It was precisely these low complexity, relatively homogenous habitats, that the scallop access alternatives were centered on with the preferred alternatives avoiding more complex areas nearly altogether. Further, the council had the option to add additional precautions by extending the closure periods between openings to four, six, or even eight years. [106] Instead, the Council abandoned the entire access area project.[107]

C. THE CLOSURE IS HINDERING AMERICAN SMALL BUSINESSES IN COMPETING WITH SCALLOP IMPORTS

The opening of scallop fishing within the CAII HMA would meet NOAA's own stated goals per its National Seafood Strategy, which aims to "maintain or increase sustainable U.S. wild capture production," and "foster access to domestic and global markets for the U.S. seafood industry."[108] Remaining on our current path puts these goals directly at risk. The domestic scallop market is being subjected to a targeted flood of the market by Japanese imports, which have increased from less than 5 million pounds in 2020 to more than 20 million pounds in 2024 as Japanese producers attempt to make up for sales lost when China banned imports of Japanese scallops.[109] Failing to allow limited CAII HMA access harms domestic small businesses in their efforts to compete against international producers. The President has recognized this concerning trend, as the recent fishing industry Executive Order specifically pointed to the "erosion of

[104] *Id*. at 2, 11.

[105] 16 U.S.C.§1851(a)(2).

[106] Bachman, et al. at 7.

[107] *Id*. at 9.

[108] NAT'L OCEANIC & ATMOSPHERIC ADMIN., National Seafood Strategy 4–6 (updated Feb. 2025), https://www.fisheries.noaa.gov/s3/2023-08/2023-07-NOAAFisheries-Natl-Seafood-Strategy-final.pdf.

[109] Official statistics on U.S. imports for consumption under HTSUS statistical reporting numbers 0307.21.0000, 0307.22.0000, 0307.29.0100, 1605.52.0500, and 1605.52.6000 via USITC DataWeb.

American seafood competitiveness" at the hands of unfair trade practices and unfavorable domestic regulations and policies.[110]

IV. THE COUNCIL AND NOAA FISHERIES SHOULD BE GIVEN ONE YEAR TO DEVELOP A SCALLOP ACCESS PLAN

As explained above, federal regulations set forth at 50 C.F.R. §648.370(g) prohibit fishing by bottom-tending mobile fishing gears including scallop dredges in the CAII HMA. For the reasons set forth above, that ban has proven ineffective in restoring cod stocks and has ignored very high costs on the scallop industry. Accordingly, the Secretary should rescind the ban. However, that ban should be rescinded in a manner that allows for the continued reasonable and practicable protection of cod stocks.

More specifically, the Secretary should delay the effective date of Section 648.370(g)'s rescission by 365 days from the granting of this Petition. This year-long delay will allow the Council and NMFS to develop a more tailored HMA provision that allows rotational scallop access in the CAII HMA that protects essential fish habitat to the extent practicable. For instance, Spatial Alternative 3, as proposed in 2024,[111] encompasses merely 90 square miles, and only consists of a small portion of the HMA.[112] But the dredge-survey based estimate of scallop biomass in this area exceeds 20 million pounds.[113] During that year, the Council can also evaluate how mobile bottom-tending fishing gear other than scallop dredge should be regulated in the CAII HMA

V. CONCLUSION

Millions of dollars in scallop harvesting, processing, and marketing opportunities are locked-up in the increasingly geriatric population of scallops within the CAII HMA. As explained above, conservative net estimates of projected net revenue to scallop vessels exceeds $50 million, without considering the multiplier effect from processing and marketing to regional, scallop-dependent fishing communities. New scientific information shows that these scallops can be harvested in a manner that would not compromise the conservation objectives of the Magnuson-Stevens Act.

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[110] Exec. Order no. 14276, 90 Fed. Reg. 16,993, § 2 (2025).

[111] Bachman et al. at 4.35

[112] NEW ENGLAND FISHERY MGMT. COUNCIL, Draft Northern Edge Habitat-Scallop Framework 24 (June 11, 2024), https://d23h0vhsm26o6d.cloudfront.net/4.-240610-Northern-Edge-Habitat-Scallop-FW-EA-DRAFT.pdf.

[113] *Id*.

The Council had also nearly concluded development of this action when it discontinued it, so action should be able to move forward quickly upon secretarial order.

Favorable action on this petition is needed to ensure CA II HMA access. Although NOAA and the Council have both stated their desire to continue to work with the scallop industry in developing an access area for the CAII HMA, it was announced at the April 2025 Council meeting that any such Council action is not on the Council's agenda or planning horizon. As explained above, the condition of the scallop fishery calls for more urgent attention, before another generation of highly valuable scallops dies of old age in the CAII HMA. Accordingly, Petitioners strongly urge the Secretary to initiate a process that would allow for a limited access scallop fishery in the Closed Area II Habitat Closure Area.

May 2, 2025

Northeast Seafood Coalition Requests for Regulatory Relief pursuant to President Trump's Executive Order "Restoring American Seafood Competitiveness"

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1) **Request: To rescind the regulatory requirement set forth in the Northeast Multispecies (Groundfish) FMP for NE groundfish fishermen to pay the costs of at-sea monitoring, consistent with section 4(a) of the EO to rescind such regulations that overly burden America's commercial fishing industry.**

- This Industry Funded Monitoring (IFM) requirement is set forth in regulations that implement Groundfish FMP Amendment 16 and Amendment 23.
- To date, there has never been an adequate Costs/Benefits analysis, or a solvency/breakeven analysis conducted in the context of the **Industry Funded** Monitoring requirements of the Sector Management program.
- The Amendment 23 process was (but should not have been) conducted in the context of annual Congressional appropriations being provided to reimburse the industry's costs of this expensive program. The coverage target level has been set at 100% of the fleet since 2022.
- The industry costs for 100% coverage in fishing year 2024 eclipses $5.5 million. The total annual ex-vessel, gross revenues of the fishery has been reduced to approximately $37 million and will likely be considerably lower in 2025 due to the significant catch limits recently published to start the fishing year.
- Adding an expense equal to 15% of gross revenues equates to a much larger proportion of net revenues. It is only from net revenues that vessel owners and crew can extract a living. Finding crew is increasingly difficult in the industry. If the IFM regulation is not rescinded a **significant portion of the fishery would become insolvent** once Congressional appropriations are reduced or eliminated.
- The Agency, the NEFSC, and the Council's Plan Development Team (PDT) have completely failed to even acknowledge, let alone utilize, the highly granular and accurate data gained from the heavily monitored fishery **to ground-truth the biological plausibility** of their "scientifically" derived stock assessments. ***See Request 2) below***
- Throughout the Amendment 23 development process, Industry (NSC) strenuously and repeatedly emphasized the need for the industry's hypothesis to be tested along with the

1 Blackburn Center
Gloucester, MA 01930
Tel: (978) 283-9992
www.northeastseafoodcoalition.org

Agency's (NEFSC, NEFMC, GARFO) sole hypothesis that there is "missing (unreported) catch" in the fishery sufficient to account for the huge downward changes in stock status that otherwise would be biologically implausible.

- Instead, the Amendment 23 administrative record clearly illustrates the reality that the entire program was designed to satisfy the wishes of the NEFSC and the regional federal managers and to ignore the industry's inputs and financial realities.
- The industry's well stated hypothesis was to use the federally funded period of extraordinary coverage levels of monitoring (target rates of as high as 100%) was dismissed and ignored entirely.
- The Amendment 23 process effectively resulted in imposing an existential cost/tax on a struggling industry while denying the industry requests for a benefit to offset the costs of the program.

2) **Request: That the Secretary of Commerce amend the 2025 United States, Western Georges Bank Haddock specification to mitigate the NEFSC's developed and profoundly inaccurate United States / Canada biomass apportioning method. The results of using this method for the first time (for this 2025 fishing year) has essentially eliminated United States fishery access to this healthy target species on the US side of Georges Bank and effectively forfeited the fishery to Canada.**

- The 2025 Georges Bank haddock and cod assessment and apportionment results are indicative of the scientific and policy that has plagued the Northeast Multispecies fishery for decades. Unfortunately, the disconnects have only gotten worse as fishery dependent data has become extraordinarily granular, dense, accurate and precise.
- However, the "inexplicable" disconnects between what the fishery dependent data indicates and the output from the scientific assessments is not very difficult to explain. Simply put, the fishery dependent data is primarily used to quantify the removals directly. However, this highly granular and precise fishery dependent data is not used to ground truth the assessment scientists estimate of stock size. It is the NOAA bottom trawl survey that is used for this vitally important, abundance input to the assessments.
- The Northeast Seafood Coalition and the Gloucester Fishing Community Preservation Fund have compiled several documents and graphics to illustrate perhaps the most obvious and irrefutable inconsistency between the Survey Biomass Apportionment method and the actual fishery catches. The survey biomass distribution concluded that 0% of the Georges Bank haddock and cod stocks was in the US Western Area and 100% was in the Eastern Area that we share with the Canadiens. Yet, the US fishery catches were 94% from the Western Area and 6% in the Eastern Area.
- We hope to have the opportunity to present the issue and to provide answers and clarifications when requested.

3) **Request: For senior NOAA officials to conduct an in-depth NOAA evaluation of the efficacy of the U.S. - Canada bilateral arrangement governing the transboundary management of Georges Bank Cod, haddock, and yellowtail stocks to effectively manage these stocks and advance the interests of American fishermen.**

- It has become the experience of the U.S. groundfish industry that this bilateral arrangement is now seriously broken and has led to the imposition of over-burdensome and scientifically unjustified fishery regulations on U.S. fishermen. The process has become so dysfunctional that it has provided grossly disproportional access to these valuable resources to Canadian fishermen to the extreme detriment of U.S. fishermen.

New England Fishermen Stewardship Association
500 Southborough Drive, Suite 204
South Portland, ME 04106

May 5, 2025

Eugeno Piñeiro Soler
Director of NOAA Fisheries
Silver Spring, MD 20910

Dear Director Piñeiro Soler,

I am writing on behalf of the 700 members of the New England Fishermen's Stewardship Association to ask for your assistance in securing better performing fisheries for our country.

As you know, Maine's fisheries are a touchstone of our state's economic prosperity and cultural heritage. Our industry accounts for tens of thousands of jobs, billions of dollars in economic activity, and significant tax revenues for our state. But we face an uncertain future because of overregulation, overlapping mandates, and poorly informed management decisions. According to NOAA data, our groundfish fishery left $124M of uncaught sustainable seafood in the water in 2011. In 2022, that number was up to $414M. If that product were brought across the dock, it would have generated billions of dollars of much needed economic activity to our coastal communities and provided millions of healthy American-caught meals to our dinner tables. These drastic declines in efficiency can only be reversed by revamping our approach to this resource.

To that end, we hope to meet with you to discuss action items that will revitalize our nation's fisheries. It is essential that we work with NOAA Fisheries to develop a single, holistic ocean model that synthesizes industry data and streams of information from different agencies. We envision a public-private partnership that gives fishermen genuine buy-in and trust in the process, increasing the likelihood of a revamped sector. This approach ensures models will be updated by real time scientific and market intelligence and attracts high quality talent to the overall effort working in partnership with the NOAA Fisheries Cooperative Research Branch.

New England Fishermen Stewardship Association
500 Southborough Drive, Suite 204
South Portland, ME 04106

The decline of our industry is bad for our state and worse for the country. The U.S. has the second largest exclusive economic zone in the world, yet we import more than 80% of our seafood. The American people deserve access to nutritious, heart-healthy, US-caught seafood. This is a major failure, but it's not insurmountable if we bring the right players to the table. This problem is fixable, and fishermen are keen to work with their government and industry partners to work on the solution.

We are grateful for the work you have done in the past. You have shown yourself to be a reliable advocate of the fisheries sector, and I look forward to further collaboration with NOAA to unlock the vast potential of our nation's fishery resources. I look forward to discussing this important subject with you and your staff at the soonest opportunity.

Sincerely,

Jerry Leeman
CEO, New England Fishermen's Stewardship Association

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May 5, 2025

Mr. Howard Lutnick
Secretary of Commerce
Washington DC

Regarding: Restoring American Seafood Competitiveness, Letter one of two

Dear Secretary Lutnick,

Please let me start by thanking you and the Administration for your efforts to support US fisheries by eliminating unnecessary regulations and promoting domestic fishing operations to reduce our seafood trade deficit.

My family has been in the live shellfish business for over 40 years. We harvest, process and sell wild blue mussels fished from New England waters. We compete directly with subsidized Canadian grown mussels from Prince Edward Island and Newfoundland.

Ninety-Two percent of mussels consumed in the US are imported.

In 2018, we were getting ready to rig a boat to fish a mussel resource in an area East of Cape Cod that later became the Great South Channel Habitat Management Area (GSC HMA).

As the New England Fisheries Management Council discussed the details of the GSC HMA, myself, my father and our fishing partner, Domenic Santoro, attended most of the meetings to make sure that the mussel resource would remain accessible.

At a meeting in January of 2018, Mr. Mike Pentony, a member of the council and regional administrator for NOAA's Greater Atlantic Regional Fisheries Office, verbally assured Domenic that the mussel fishery will be exempt from the no mobile gear clause that would blanket the entirety of the GSC HMA.

After attending many meetings over two years at our own expense, the council voted in December of 2018 to exclude mussel and clam fishing from the entire GSC HMA, with the exception of two small areas where mussels and clams were not present.

Given the objectives of EO's 13921 and 14276, we ask that the action/order that created the GSC HMA be rescinded and the commercial mussel and clam fisheries be reinstated in this area.

Sincerely,

Adam Silkes
Owner

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May 5, 2025

Mr. Howard Lutnick
Secretary of Commerce
Washington DC

Regarding: Restoring American Seafood Competitiveness, Letter two of two

Dear Secretary Lutnick,

Please let me start by thanking you and the Administration for your efforts to support US aquaculture by eliminating unnecessary regulations and promoting domestic aquaculture operations to reduce our seafood trade deficit.

My family has been in the live shellfish business for over 40 years. We harvest, process and distribute live restaurant ready™ mussels oysters and clams through our extensive national customer base. We compete directly with subsidized Canadian grown mussels and oysters from Prince Edward Island and Newfoundland.

Ninety-two percent of mussels consumed in the US are imported.

We are very interested in pioneering shellfish farming in federal waters off the coast of New England. We have a business plan, global support network and the experience to attempt such a challenge. The roadblock is permitting.

The National Aquaculture Act of 1980 established aquaculture as a National Policy Priority. To date, no commercial aquaculture is happening in federal waters of the United States. Congress has not acted.

We are asking for:

1. Executive Orders 13921 and 14276 be expanded upon to create a clear, timely, and affordable permitting application process for aquaculture in federal waters.
2. General support from the federal government to help start an industry that has the potential to significantly reduce our nation's seafood trade deficit, create traditional fishing jobs and sustain vibrant working waterfronts.

Sincerely,

Adam Silkes
Owner

From:	Kelly Quickle - NOAA Federal
To:	Missouri Johnson, Marcellina (Federal); Gardner, Frandell (Federal); Nelson, Camille (Federal); DOCExecSecPOCs@doc.gov
Cc:	Exsec Ecorr - NOAA Service Account; West, Michelle (Federal)
Subject:	Fwd: : American Mussel Harvesters
Date:	Wednesday, May 14, 2025 6:56:27 AM
Attachments:	2227_001.pdf 2226_001.pdf

Please log in and assign to NOAA. Thanks!
Kelly

---------- Forwarded message ---------
From: **Michael Weiss - NOAA Federal** <michael.weiss@noaa.gov>
Date: Fri, May 9, 2025 at 11:36 AM
Subject: RE:: American Mussel Harvesters
To: Kelly Quickle - NOAA Federal <kelly.quickle@noaa.gov>, Exsec Ecorr - NOAA Service Account <exsec.ecorr@noaa.gov>
Cc: Fisheries PCO - NOAA Service Account <fisheries.pco@noaa.gov>

Hi Kelly.

This went to the Secretary but will likely be assigned to NOAA for response.

Thanks

---------- Forwarded message ---------
From: **Adam** <adam@americanmussel.com>
Date: Fri, May 9, 2025 at 8:14 AM
Subject: American Mussel Harvesters
To: laura.grimm@noaa.gov <laura.grimm@noaa.gov>, fisheries.pco@noaa.gov <fisheries.pco@noaa.gov>
Cc: Bob Rheault <bob@ecsga.org>, Bill <bill@americanmussel.com>, Domenic Santoro <dsantoro3@icloud.com>

Good Morning Ms. Grimm,

Bob Rheault of the East Coast Shellfish Growers Association recommended I send you letters I wrote to Secretary Lutnick regarding EO's 13921 and 14276.

Please see attached.

I look forward to hearing from you.

Thank you,

Adam Silkes

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Katherine (Katie) Dziedzic, Ph.D.
Program Coordination Officer
NOAA Fisheries
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Cell: 240-204-1597

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~*~*~*~*~*~*~

Kelly L. Quickle, Director
Office of Decision Coordination and Executive Secretariat
National Oceanic and Atmospheric Administration
NOAA Executive Secretariat Google Site:
https://sites.google.com/a/noaa.gov/noaaexecsec/home?authuser=0

GehanLaw
The Law Office of Shaun M. Gehan

May 7, 2025

Via Electronic Mail & Regulations.gov
The Honorable Howard Lutnick
Secretary of the Department of Commerce
1401 Constitution Ave NW, Room 5516
Washington, DC 20230

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

RE: Petition for Rulemaking, Elimination of the Restriction on Surf Clam Fishing in the Great South Channel Habitat Management Area

Dear Secretary Lutnik and Director Voght:

Attached please find a petition for rulemaking submitted on behalf of Intershell International Corporation, a Gloucester, Massachusetts based fishing company. The petition requests elimination of the regulation prohibiting the dredging of surf clams and mussels in an area off Cape Cod referred to as the "Great South Channel Habitat Management Area" ("GSC HMA"). The regulation sought to be lifted imposes significant economic costs on small fishing businesses like Intershell and the communities they support, while providing no tangible conservation benefits. This request is consistent with President Trump's Executive Orders 14276, "Restoring American Seafood Competitiveness," and 14219, "Ensuring Lawful Governance and Implementing the President's 'Department of Government Efficiency' Deregulatory Initiative." Granting the requested relief will boost both the United States economy and exports.

Designation of these traditional fishing grounds as a "habitat management area" (a term not defined either by law or regulation) and the attended restrictions on dredge fishing undermines one of the principal purposes of the Magnuson-Stevens Fishery Conservation and Management Act ("MSA") – that is, the achievement of optimum yield from the Atlantic surf clam fishery on a continuing basis. Surf clams are not only not subject to overfishing, they are an underutilized and valuable food resource. Less than fifty percent of the annual total allowable catch is harvested each year, while in past years, this area has accounted for upwards of twenty percent of the total Atlantic surf clam annual harvest.

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Moreover, this regulation elevates a subsidiary MSA objective – minimization of "adverse impacts" on essential fish habitat (but only to "the extent practicable," a term of limitation) – over the law's primary objective of realizing the economic and social benefits of this Nation's marine resources. The area was closed ostensibly to protect habitat of spawning cod. However, even had the area once been important for cod, it appears it is no longer utilized by the species.

More importantly, however, research shows that the GSC HMA is a highly dynamic environment, subject to strong tidal and storm forces. Relative to the bottom disturbance caused by natural forces, the small areas impacted by dredges are utterly inconsequential. In fact, there is a substantial amount of research showing that moderate dredging can increase shellfish and productivity of other bottom-tending fish and organisms by creating clean surfaces to which spat can attach and recirculating nutrients. It is questionable, therefore, whether the minimal impact of dredges in this highly dynamic area can even be considered "adverse" within the meaning of the law.

We appreciate your close attention to, and action on, the attached petition. Intershell International and I stand ready to answer any questions you may have. Thank you very much.

Sincerely,

/s/ Shaun M. Gehan
Shaun Michael Gehan

Counsel for Intershell Int'l Corp.

cc: Ms. Anne Hawkins, NOAA General Counsel
Mr. Eugenio Piñeiro Soler, Director, NOAA Fisheries
Ms. Kelly Denit, Director, Office of Sustainable Fisheries
Mr. Samuel D. Rauch III, Deputy Assistant Administrator for Regulatory Programs

Petition for Rulemaking to Reopen the Great South Channel Habitat Management Area to the Atlantic Surf Clam Fishery

Submitted by:

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Submitted on Behalf of:

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May 7, 2025

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Intershell International Corporation ("IIC" or "Petitioner") respectfully submits the following Petition for Rulemaking ("Petition") to the Secretary of Commerce pursuant to the Administrative Procedure Act ("APA").[1] This Petition pertains to the authority conferred upon the Secretary to conserve and manage United States Atlantic surf clam stocks pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. § 1801 *et seq.* ("Magnuson-Stevens Act" or "MSA"). The relief requested is also consistent with President Trump's Executive Order, "Restoring American Seafood Competitiveness," which seeks to " to promote the productive harvest of our seafood resources [and] unburden our commercial fishermen from costly and inefficient regulation."[2]

Petitioner IIC respectfully requests the Secretary initiate a rulemaking to open the Great South Channel ("GSC") Habitat Management Area ("HMA") for the purpose of harvesting surf clams. (*See* Figure 1, below.) At the very least, Petitioner would request a reopening of the areas within the HMA of the areas colloquially referred to as the "Rose and Crown" and "Davis Bank East." Consistent with prior analysis relating to enforceability, this latter proposal incorporates a five-minute rate of vessel monitoring systems ("VMS").

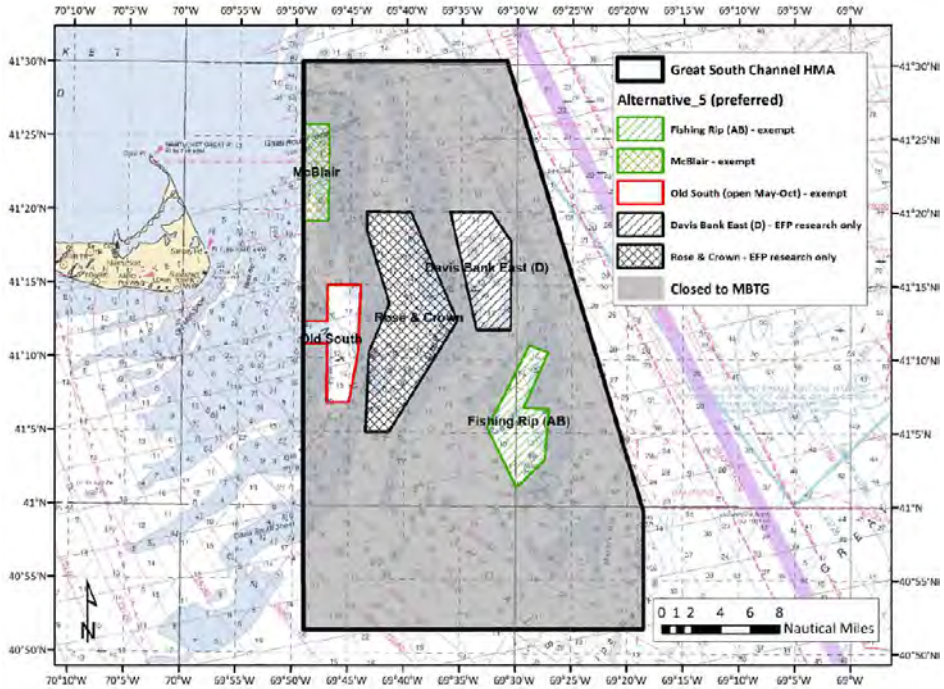

Table 1: The Great South Channel Habitat Management Area[3]

[1] The APA states that, "Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule." 5 U.S.C. § 553(e).

[2] Office of the Federal Register, Executive Order 14276, "Restoring American Seafood Competitiveness." 90 Fed. Reg. 16992 (April 22, 2025).

[3] NEFMC, Clam Dredge Framework Adjustment ("Clam Dredge FW") (Map 5), at 26 (July 22, 2019), *available at* https://d23h0vhsm26o6d.cloudfront.net/2020-04-21-Final-Clam-Dredge-Framework_signed.pdf.

It is appropriate for the Secretary to initiate and adopt this measure given that the two aspects of the MSA at issue – managing the Atlantic surf clam fishery and practicably minimizing adverse impacts on EFH in the Great South Channel – are divided among two fishery management councils, Mid-Atlantic and New England. The Mid-Atlantic Council is hamstrung in its ability to manage the surf clam resource to achieve optimum yield by the New England Council's designation of HMAs and attendant fishing limitations for stocks under its jurisdiction.

It is also appropriate in accordance with Executive Order ("EO") 14219, "Ensuring Lawful Governance and Implementing the President's 'Department of Government Efficiency' Deregulatory Initiative."[4] Section 2 of EO 14219, "Rescinding Unlawful Regulations and Regulations That Undermine the National Interest," directs all federal agencies to, among other things, identify –

> (iii) regulations that are based on anything other than the best reading of the underlying statutory authority or prohibition;
>
> (iv) regulations that implicate matters of social, political, or economic significance that are not authorized by clear statutory authority;
>
> (v) regulations that impose significant costs upon private parties that are not outweighed by public benefits; [and]
>
> (vii) regulations that impose undue burdens on small business and impede private enterprise and entrepreneurship.

Id. Sec. 2(a) The head of any agency should, in consultation with the Administrator of the Office of Information and Regulatory Affairs, should "develop a Unified Regulatory Agenda that seeks to rescind or modify" regulations meeting these criteria. *Id.* Sec. 2(d).

As explained in detail below, the current prohibition on surf clam fishing in the GSC HMA meets each of these criteria. For example, while the Magnuson-Stevens Fishery Conservation and Management Act ("MSA"), 16 U.S.C. § 1801 *et seq.*, does require fishery management councils to "minimize … adverse impacts on" essential fish habitat ("EFH"), such duty only extends "to the extent practicable." *Id.* § 1853(a)(7). The Secretary's primary duties under the MSA are to (1) "prevent overfishing" and (2) "achiev[e], on a continuing basis, the optimum yield from each fishery for the United States fishing industry." *Id.* § 1851(a)(1). Surf clams are not only not overfished, they are, in fact, an under-utilized resource largely due to inaccessibility to significant amounts biomass due to EFH restrictions like the one at issue here.

Neither the MSA itself nor the regulations promulgated by the National Marine Fisheries Service ("NMFS") to implement the EFH provision define or mention of "habitat management areas." **Elevation of the concept of "habitat management" over that of productive fisheries is antithetical to the law's purposes of "promot[ing] domestic commercial and recreational fishing under sound conservation and management principles" and "encourag[ing] the**

[4] 90 Fed. Reg. 10583 (Feb. 13, 2025).

development by the United States fishing industry of fisheries which are currently underutilized or not utilized by United States fishermen." *Id.* § 1801(b)(3),(6). As such, the designation of this area as an HMA and imposition of restrictions on that basis is wholly unmoored from the law. This action imposes significant costs on fishermen and the Nation while providing no identifiable benefits and significantly burdens small businesses that have traditionally relied on fishing in this area.

For all these reasons, and those explained below, IIC respectfully requests that the Secretary initiate a process to adopt Petitioner's proposed regulation. An implementing draft of regulatory language is appended hereto as Exhibit 1.

I. INTRODUCTION

The Atlantic surf clam fishery is managed by the Mid-Atlantic Fishery Management Council. Surf clams are neither overfished nor is overfishing of this resource occurring.[5] In fact, this fishery has been unable to harvest the full amount of its annual catch level, or the amount of harvest that Council has determined to be optimum yield for the fishery, on an ongoing basis. *See* Exhibit 2 ("Federal surfclam catch limits and landings: 2003 and 2016-2025").

An increasingly significant portion of the surf clam fishery occurs on Georges Bank and in the waters of southern New England, areas managed by the New England Fishery Management Council. As such, the New England Council has the responsibility for identifying and practicably minimizing adverse impacts on essential fish habitat ("EFH") for the species and the habitat under its jurisdiction. As explained herein, bifurcation of responsibilities between the Councils, one with a duty to manage the surf clam fishery to achieve optimum yield on an ongoing basis and the other with practicably minimizing adverse impacts on EFH for its managed fisheries, has impeded the surf clam fishery's ability to harvest this underutilized resource.

Specifically, designation of the Great South Channel Habitat Management Area[6] and its subsequent closure to most bottom-tending gear has resulted in significant surf clam biomass being unavailable to the fishery.[7] Ideally, under the MSA's EFH protection rubric, a fishery management council would consider closing a fishing ground as tool for minimizing adverse fishing impacts by evaluating not only fishing gear's impact on such habitat, but also determining the practicability of access denial in light of the MSA's primary objectives. Of

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[5] MAFMC, 2024 Atlantic Surfclam Fishery Information Doc. ("2024 Surfclam Doc."), at 1 (July 2024), *available at* https://static1.squarespace.com/static/511cdc7fe4b00307a2628ac6/t/66843584407961390a39bf6e/1719940484575/2024_SC_FishInfoDoc_2024-07-02.pdf#page=1.39.

[6] The term "habitat management area" does not appear in the Magnuson-Stevens Fisheries Conservation and Management Act ("MSA"), 16 U.S.C. § 1801 *et seq.*, nor is it defined or mentioned in the MSA implementing regulations relating to EFH. *See generally* 50 C.F.R. Part 600, Subpart J. In practice, the term "HMA" appears to be used synonymously with "habitat area of particular concern," a defined category of EFH that meets certain criteria. *See* 50 C.F.R. § 600.815(a)(8). "Habitat area of particular concern" is also not mentioned or defined in the MSA.

[7] Through its Clam Dredge Framework, the New England Council has allowed clam dredges limited access to fish parts of the GSC HMA. 2024 Surfclam Doc., at 1. However, the historically most productive areas, such as the Rose and Crown and David Bank East, remain off limits.

greatest importance is a council's duty to achieve optimum yield from a fishery on an ongoing basis for the fishing industry. 16 U.S.C. § 1851(a)(1).

In this case, however, the New England Council has implemented the closure ostensibly to protect species under its jurisdiction, while the Mid-Atlantic Council is precluded (likely more by comity than by the MSA itself) from separately undertaking a practicability analysis of such a closure for its impacts on the surf clam fishery it manages. Under these circumstances, it is appropriate for the Secretary and NMFS's Greater Atlantic Regional Office to take a role in evaluating the impacts of the surf clam fishery in this area on EFH for managed species, determining whether this fishery's impacts on such habitat is adverse within the meaning of the law, and, if so, whether a closure of the GSC HMA, or important fishing areas therein, to clam dredges is "practicable."

The potential for surf clam dredges to adversely impact EFH for, particularly, depleted species like cod depends on whether such impacts both reduce the quantity or quality of such habitat and whether such impacts are more than minimal and not temporary in nature. If the surf clam fishery's impacts on EFH are temporary or transitory, then the existing closures are not practicable and run counter to other important MSA objectives.

We first review the legal background governing fisheries management and the duty under the law to protect EFH. We then review the Nantucket Shoals surf clam fishery and the best available scientific information relating to the habit with key fishing areas within the HMA, particularly the areas referred to as the "Rose and Crown," "Davis Bank East," and the "Fishing Rip." This includes information considered in Omnibus Habitat Amendment 2 ("OHA2") and the Clam Dredge Framework as well as subsequent published research and reports from research projects. We conclude with an analysis of this research in light of the legal standards governing NMFS' duties under the MSA.

II. Legal Background Relating to EFH Protection

The Magnuson-Stevens Fishery Conservation and Management Act of 1976 ("MSA" or "Act"), as amended over the years, sets forth the framework for managing this nation's fisheries resources. In adopting the MSA, Congress found that

> [t]he fish off the coasts of the United States, the highly migratory species of the high seas, the species which dwell on or in the Continental Shelf appertaining to the United States, and the anadromous species which spawn in United States rivers or estuaries, constitute valuable and renewable natural resources. These fishery resources contribute to the food supply, economy, and health of the Nation and provide recreational opportunities.

16 U.S.C. § 1801(a)(1). To realize these benefits over the long term, the MSA establishes conservation and management system as "necessary to prevent overfishing, to rebuild overfished stocks, to insure conservation, to facilitate long-term protection of essential fish habitats" in order "to realize the full potential of the Nation's fishery resources." *Id.*§ (6). The statute thus "balances the twin goals of conserving our nation's aquatic resources and allowing U.S. fisheries to thrive." *Oceana, Inc. v. Pritzker*, 26 F. Supp. 3d 33, 36 (D.D.C. 2014).

Toward these ends, Congress established a process for promulgating fishery management plans ("FMP"), the development of which are guided by ten National Standards for fisheries conservation and management. *See* 16 U.S.C. §§ 1853, 1851(a). Chief among them is National Standard 1, which requires implementation of conservation and management measures that "prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry."[8]

While courts have found that the conservation mandate of the MSA is paramount,[9] it is so only to the extent that socioeconomic concerns cannot be used as an excuse to avoid action when the best scientific information indicates that a stock of fish is overfished or subject to overfishing. *See, e.g.*, *id.* When a managed stock is "healthy" in the sense that, at a minimum, its biomass is above—and fishing mortality rates are below—their thresholds, the goal of management is to help ensure the fishery can harvest the full amount of catch which has been determined to be sustainable, both annually and over the long term. "Once optimal yield is set, the Secretary is charged with 'achieving' the optimum yield."[10]

As one measure to sustain fish populations for their economic and social benefits, FMP's must "describe and identify" EFH for the fishery. 16 U.S.C. § 1853(a)(7). Councils must also consider measures that "minimize to the extent practicable adverse effects on such habitat caused by fishing" in each FMP. *Id.* There are two elements to this prescription: (1) that fishery impacts must be "adverse" and (2) that measures to minimize such impacts must be "practicable."

NMFS' regulations explain these terms. For an impact from fishing activity to be adverse, it must reduce the "quality and/or quantity of EFH." 50 C.F.R. § 600.810(a). If an adverse effect is found, it must be minimized *only* if the impact "is more than minimal and not temporary in nature." *Id.* § 600.815(a)(2)(ii). Measures to minimize adverse EFH effects must also be "practicable." The practicability determination is made by (1) "determining the nature and extent of the adverse effect on EFH" and (2) evaluating "the long and short-term costs and benefits of potential management measures to EFH, associated fisheries, and the nation, consistent with national standard 7." *Id.* § 600.815(a)(2)(iii).

Courts have read the "practicability" language as a limitation, rather than a requirement to protect EFH no matter the cost. "The upshot of [the MSA's] structure is that Congress did not intend any of these specified goals — *i.e.*, the ones limited to actions that are 'practicable' — to take priority over the others."[11] Indeed, "the 'practicable' language permits, or perhaps even requires, the Council to weigh social and economic harms to fishers against any conservation value." *Id.* at 90. The practicability limitation in the EFH and other MSA provisions is "the

[8] 16 U.S.C. § 1851(a)(1); *see also Oceana, Inc. v. Pritzker*, 26 F. Supp. 3d at 37.

[9] *See, e.g., Nat'l Res. Def. Coun. v. Daley*, 209 F.2d 747, 753 (D.C. Cir. 2000).

[10] *Western Seas Fishing Co. v. Locke*, 722 F. Supp. 2d 126, 133 (D. Mass. 2010).

[11] *Conservation Law Foundation v. Ross,* 374 F. Supp. 3d 77, 91 (D.D.C. 2019).

means by which [Congress] 'delegated to the agency the discretion to weigh the relevant factors' embodied in the MSA's competing objectives."[12]

With this background, we turn to the importance of the resource in the GSC HMA to the surf clam fishery overall.

III. The Importance of the GSC HMA to Fishing Communities, the Atlantic Surf Clam Fishery, and the Adverse Impacts of its Closure

A. The Importance of the Nantucket Shoals Surf Clam Fishery

The Southern New England ("SNE") Atlantic surf clam fishery has historically represented only a small portion of the overall species landings, but since 2010 landings from the SNE have become increasingly important to the fishery overall. Since 2011, the SNE surf clam fishery has comprised about twenty percent of the total coastwide landings. (Clam Dredge FW, at 69.) The areas of the GSC HMA that are now closed accounted for than a third of nominal revenue generated by the Massachusetts surfclam industry. (Surf Clam FW at 150, 66 (Fig. 6).) Surf clams inhabit sandy bottom but can be found in association with cobbles, rocks, and boulders.[13]

Medium sized clam vessels (60' to 80') comprise the majority of the New England fleet's catch. (Clam Dredge FW at 63, 188). Such clam vessels are concentrated in a small number of communities—New Bedford, Fairhaven, and Hyannis—which have "the high rates of dependence … on Great South Channel HMA" because they are unable to fish safely on Georges Bank. (Clam Dredge FW at 64.) "While a minority **(20%) of coast-wide surfclam revenues are generated in the Great South Channel HMA**, these revenues are **concentrated among a relatively small number of permits, owners, and communities**." (*Id.* (emphasis added).) At least until recently, in fact, surf clams were the second highest valued species landed in New Bedford after scallops. The amounts of lost revenue to these dependent surf clam fishing communities are significant. Prior to the New England Council's near total closures, the fishing grounds impacted by the HMA designation accounted for as much as $7,800,000 in annual revenues. (*See* Table 35 from the Surf Clam Framework below).

The surf clam fishing grounds within the HMA are also important because harmful algal blooms which can contaminate surf clams and cause Paralytic Shellfish Poisoning intermittently occur on Georges Bank.[14] Vessels fishing offshore must therefore adhere to costly testing

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[12] *Id.* at 91-92 (quoting *Oceana, Inc. v. Pritzker*, 24 F.Supp.3d 49, 67 (D.D.C. 2014).

[13] *See, e.g.,* E.N. Powell, *et al*., The conundrum of biont-free substrates on a high-energy continental shelf: Burial and scour on Nantucket Shoals, Great South Channel ("Powell et al. 2021"), Estuarine, Coastal and Shelf Science 249 (2021) 107089 (citations omitted) ("Cobbles, rocks, and boulders are routinely encountered on the neighboring Georges Bank in regions occupied by surfclams. Surfclams, however, are sand denizens and, presumably, do not require or benefit from the presence of such sedimentary components in their habitat.").

[14] N.F. Jennings, et al., Great South Channel Habitat Management Area Survey, Final Report for Exempted Fishing Permit #19066 ("Jennings et al. 2022"), at 7 (June 15, 2022), *available at* https://s3.us-east-1.amazonaws.com/nefmc.org/6.-CFF-PR-EFP19066-Feb2022.pdf.

protocols. (*Id.*) By contrast, fishing grounds southeast of Nantucket do not experience such algal blooms. (*Id.*) Thus, both proximity, which reduces trip costs, and costs avoided by not having to implement shellfish testing protocols make the GSC HMA a more efficient and profitable area to fish. Surf clams in this area are also unique because they grow to a larger size than elsewhere in the fishery. (Powell et al. 2021.)

Table 35 – Revenue (to nearest $100K) and fishing effort (hours) within the Alternative 2 areas (note that these are year-round estimates for Old South and Rose and Crown South) for January 2011-December 2017.

Metric	Area	2011	2012	2013	2014	2015	2016	2017	Average
Revenue (logbook)	Fishing Rip	$ -	$ 100,000	$ 700,000	$ 600,000	$ 300,000	$ 300,000	$ 300,000	$ 300,000
	Davis Bank East	$ -	$ 300,000	$ 700,000	$ 400,000	$ 600,000	$ 500,000	$ 300,000	$ 400,000
	McBlair	$ 100,000	$ 100,000	$ 100,000	$ 100,000	$ 100,000	$ -	$ -	$ 100,000
	Old South	$ 500,000	$ 300,000	$ 300,000	$ 1,200,000	$ 1,000,000	$ 1,300,000	$ 400,000	$ 700,000
	Rose and Crown N	$ 500,000	$ 1,300,000	$ 1,300,000	$ 1,000,000	$ 1,200,000	$ 600,000	$ 500,000	$ 900,000
	Rose and Crown S	$ 300,000	$ 1,200,000	$ 600,000	$ 1,100,000	$ 800,000	$ 900,000	$ 400,000	$ 800,000
	Total Alt 2	**$ 1,500,000**	**$ 3,400,000**	**$ 3,700,000**	**$ 4,300,000**	**$ 4,000,000**	**$ 3,600,000**	**$ 1,900,000**	**$ 3,200,000**
	Total HMA	**$ 2,800,000**	**$ 6,100,000**	**$ 7,800,000**	**$ 7,800,000**	**$ 7,100,000**	**$ 7,300,000**	**$ 4,700,000**	**$ 6,200,000**
	% of HMA revenue	**52%**	**56%**	**48%**	**55%**	**56%**	**50%**	**41%**	**52%**
Fishing Effort (hrs, VMS)	Fishing Rip	17	208	1,843	2,070	1,254	222	97	816
	Davis Bank East	45	248	1,956	532	1,375	2,974	2,077	1,315
	McBlair	795	10	106	178	564	300	34	284
	Old South	855	469	1,111	2,788	2,204	5,220	2,171	2,117
	Rose and Crown N	911	3,182	2,877	3,036	3,962	5,821	1,715	3,072
	Rose and Crown S	111	2,151	1,250	1,684	1,356	3,214	1,645	1,630
	Total	**2,734**	**6,268**	**9,143**	**10,288**	**10,714**	**17,752**	**7,738**	**9,234**
	Total in HMA	**3,887**	**7,562**	**11,262**	**12,364**	**13,100**	**21,567**	**9,645**	**11,341**
	% of HMA hours	**70%**	**83%**	**81%**	**83%**	**82%**	**82%**	**80%**	**81%**

Source: Revenue from surfclam logbook analysis, fishing effort from VMS.

The Nantucket Shoals surf clam fishery harvest area differs from all other productive East Coast harvest areas due to the clam's large physical size and the high yield of meat per unit of clam. The size and health of the resident surf clams in the GSC HMA have been crucial to the interests of New England processors for the ease of removing the meat in a hand shuck surf clam operation and the supportive yields to the smaller processing operations. (Jennings et al. 2022.)

B. The Closure of Most of the GSC HMA Adversely Impacts Fishing Dependent Communities and the Achievement of Optimum Yield for the Atlantic Surf Clam Fishery

In the late 1990s and early 2000s, the Atlantic surf clam fishery routinely met or approached its annual total allowable catch ("TAC").[15] The fishery has not caught its total allowable catch ("TAC") since 2003 and over the past four years, less than fifty percent of allowable landings were harvested. (2024 Surfclam Doc. at 5.) In 2023, the lowest amount of surf clams were harvested— only 10,653 mt or 41% of the TAC—since at least 1999. *Id.* Landings from Georges Bank and Southern New England have declined precipitously since 2019 even though the fishery is generally moving northward. (*Id.* at 6 (Figure 4), 1.)

The COVID pandemic may have affected landings in 2020 and 2021.[16] Even in those years, when restaurant demand was low, demand still exceeded supply. (*Id.* at 2-3.) Currently,

[15] *See* 2024 Surfclam Doc., Table 1, reproduced as Appendix 1 below.

[16] MAFMC, Atlantic Surfclam and Ocean Quahog Fishery Performance Report ("2022 Performance Rpt."), at 2 (April 2022).

demand continues to exceed surf clam supply, limiting the potential for expanding export markets.[17] Also depressing overall landings was the closure of the GSC HMA in April 2019 to surf clam fishing following the expiration of the one-year exemption under the New England Council's Omnibus Essential Fish Habitat Amendment 2.[18] From 2013-2017, this area accounted for 16-28% of total surf clam fishery revenue. (Clam Dredge FW at 123-24 (Table 32).) In June 2020, access to some of those historic fishing grounds, specifically the areas referred to as McBlair, Fishing Rip, and Old South, were restored. However, access to fishing grounds that produced 87% of the surf clam revenue from the GSC HMA remain closed.[19]

Under the New England Council's Clam Dredge Framework, the alternative that would have restored access to the largest number of fishing areas, Alternative 2, still reduced total revenue by 60%. (*Id.*) Had the two additional areas, the Rose and Crown and Davis Bank East, been open, only 17.7% of the total area within the GSC HMA would be open to fishing. The footprint of the fishery, however, is much smaller due to the need to avoid large boulders (greater than 5') that can damage clam dredges and the industry's focus on grounds known to be most productive. (Jennings et al. 2022.)

C. The Minimal and Potentially Positive Impacts of Clam Dredges on EFH

1. Minimal Impact of Dredges

Furthermore, the Habitat Plan Development Team ("PDT") estimated the total area swept within the five exemption areas considered in the Clam Dredge Framework Action ranged from 4 to 20 percent annually. (Clam Dredge FW at 101.) During the industry-funded research project conducted by Jennings et al., only a total of 3.12 square kilometers of bottom within the 24 sq. km study area, or 13 percent, was swept during a total of 3,236 tows (104 trips). (Jennings et al. 2022.) On average, only 0.03 sq. km of bottom was impacted per trip during the two-year study period. By contrast, the Habitat PDT estimated that 160.52 sq. km of bottom was impacted by 985 trips by surf clam vessels in 2014.[20] That equates 0.16 sq. km per trip estimated by the PDT, which is over five times greater than the carefully measured trips studied during the Jennings et al. research project. This indicates that the assumptions used to estimate swept area in the Clam Dredge Framework are likely to be very conservative.

Overall, the total impact of the surf clam fishery in terms of swept area is small, particularly compared to other New England fisheries. On average, the total amount of annual bottom impacted by clam dredges ranged from 371 to 860 sq. km from 2000-2010. (OHA2, Vol.

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[17] *Id.* at 4.

[18] NEFMC, Omnibus Essential Fish Habitat Amendment 2 ("OHA2") (Dec. 8, 2016), *available at* https://www.nefmc.org/library/omnibus-habitat-amendment-2.

[19] *Id.* at 125 (Table 33) (showing a reduction from $6.3 to $0.8 million under the selected alternative). Some of those revenues have been recouped through research fishing, but such amounts have been low and a number of research proposals that could have generated landings and revenue, not to mention valuable data, have been denied.

[20] *See* Clam Dredge FW at 123 ("During 2011-2017, the entire HMA was fished on 423-985 trips per year."); *id.* at 102 (Table 24). It is here assumed that the year with the highest swept area estimates was the year with the highest number of trips.

4, at 46.) This is less than 0.3% of the area swept during that period by otter trawls, and between 2% and 3.24% of that by scallop dredges.[21] Even this may be an overstatement. **In 1998, it was estimated that the total area swept by the entire surf clam fishery was less than 100 square miles annually, or about 260 sq. km**.[22]

These figures almost certainly overstate the amount of EFH impacted by the surf clam fishery. "Surfclams are found primarily in sandy sediment and are predominantly oceanic, where they are most common in turbulent waters just beyond the breaker zone." (*Id.*, at 41 (citing Ropes 1980).) The fishery tends to return to the same areas over time, (Clam Dredge FW, at 94), and recovery rates of surf clams within the GSC HMA are high. (*See* Jennings et al. 2022 (noting that catch-per-unit-of-effort remained stable over the research period).)

2. Low-to-Moderate Dredging as a Tool for Benthic Productivity[23]

Dredging is often associated with habitat disturbance, but controlled low to moderate dredging can, in some contexts, enhance benthic productivity. A growing body of research indicates that mild seafloor disturbances may boost the recruitment, growth, or diversity of benthic organisms such as clams, oysters, and other infauna. This benefit aligns with ecological principles (*e.g.*, the intermediate disturbance hypothesis) whereby periodic disruption prevents stagnation and encourages new growth.

Mechanisms for Increased Benthic Productivity

- **Clearing Silt and Algae**: Light dredging can remove accumulated silt, detritus, and algal mats from the seabed, exposing cleaner substrate or even depositing fresh shell material. For example, experimental dredging in Alabama that removed silt and added oyster shell dramatically increased oyster spat settlement. By mitigating sedimentation and fouling, such disturbance creates a more hospitable surface for larvae to settle.[24]

- **Provision of New Settlement Surfaces (Cultch):** The act of dredging often breaks apart shells and invertebrates, redistributing shell fragments and gravel across the seabed. These materials serve as valuable "cultch" – hard surfaces on which larvae can attach. Studies have noted that dredge furrows tend to trap broken shells, effectively creating settlement hotspots for oyster and clam spat. In one observation, dredge tracks functioned as sinks where shell debris accumulated and subsequently yielded higher densities of young oysters

[21] *Id.* From 2000 to 2010, generic otter trawls' swept area ranged from 125,694 to 297,954 sq. km, while limited access scallop dredges impacted 19,523 to 26,525 sq. km annually. *Id.*

[22] MAFMC, Amendment 13 to the Surf Clam and Ocean Quahog FMP, Vol. 1, at 173 (June 2003).

[23] This section is based on research by John Everett and Eric Newton of The Everett-Vehrs Conservation and Research Foundation, www.evcarf.org

[24] Mercaldo-Allen, Renee and Goldberg, Ronald, 1952- (2011). Review of the ecological effects of dredging in the cultivation and harvest of molluscan shellfish. https://repository.library.noaa.gov/view/noaa/3971 (and citations therein).

settling on the remaining shell. Similarly, spreading shell hash over a clam bed (whether by intentional cultivation or as a byproduct of dredging) increases clam larval settlement, as the shell material stabilizes sediments and offers ample attachment points. Hard clam and quahog abundance is known to rise in areas rich in shell hash, due in part to these enhanced settlement surfaces. (Mercaldo-Allen and Goldberg, 2011).

- **Reducing Overcrowding and Predation:** Mild seafloor disturbance can thin out overly dense populations of benthos (or their competitors/predators) in ways that favor recruitment. In the case of surf clams, removing a portion of large adults can reduce competition for food and space and may lower predation pressure on juveniles (since some predators target large clams). A Maryland study in the 1970s found that plots where adult softshell clams were removed by an escalator dredge subsequently had higher recruitment of young clams than undredged plots. One explanation is that the dredging eliminated adult clams which either preyed on larvae or attracted predators, thereby improving survival of the next generation. Additionally, the shell fragments left behind by dredging can "confuse" predators and protect small bivalves (by providing refuge and camouflage), further boosting juvenile recruitment (Mercaldo-Allen and Goldberg, 2011).

- **Sediment Mixing and Water Circulation:** By physically turning over bottom sediments, dredging can alter sediment texture and chemistry in ways beneficial to certain benthic species. In many shallow, dynamic habitats, benthic infauna are adapted to disturbance and actually thrive when sediments are periodically resuspended. Moderate disruption can mix oxygen into anoxic sediment layers and increase pore-water exchange, improving habitat quality for burrowing organisms. Field experiments have shown that "cultivating" the seabed (*e.g.*, by harrowing or dredging the top layer) increases sediment pore size and permeability, leading to better water circulation through the seabed. This creates a more oxygenated, sandier substrate that many benthic invertebrates prefer. In fact, fishermen have long observed that muddy, compacted bottoms are suboptimal for clams, whereas a turned-over, aerated sand bottom yields better clam sets. Dredging in a sandy habitat can thus rejuvenate the sediment profile – one early study noted that hydraulic harvesting could either degrade or improve the habitat depending on context, sometimes converting fine sediment into a coarser mix more suitable for clams (Mercaldo-Allen and Goldberg, 2011).

- **Nutrient Release and Trophic Stimulation:** Another mechanism by which disturbance can boost productivity is through the release of organic nutrients from the sea floor. Dredging stirs up sediment plumes that carry organic matter into the water column. These plumes can transiently increase the availability of nutrients and food particles for filter feeders and deposit feeders. A 2014 review noted that dredging disturbances have been reported to enhance the diversity and abundance of benthic fauna near dredged channels,

possibly by releasing buried organic nutrients that enrich the local food supply.[25] In essence, the act of dredging can create a short-term pulse of productivity as benthic animals capitalize on the sudden influx of organic detritus. Suspension-feeding bivalves like clams and oysters quickly ingest resuspended matter; studies observed that oysters fattened rapidly when feeding on the fine particulates kicked up by nearby dredging operations. Those bivalves then excrete biodeposits back to the sediment, which further fertilizes the benthic environment and promotes microbial and detrital food webs. A moderate disturbance can set off a chain of nutrient recycling that ultimately supports greater benthic biomass (at least until the system re-equilibrates).

- **Intermediate Disturbance Effects**: The intermediate disturbance hypothesis suggests that ecosystems experience maximum diversity at intermediate levels of disturbance. Low-to-moderate dredging, if not too frequent, can create a patchwork of seafloor zones in various stages of recovery, thereby increasing overall benthic diversity. Immediately after a disturbance, fast-colonizing opportunistic species invade, and later, longer-lived species establish, resulting in a more heterogeneous community. A seafloor study in Long Island Sound found that one to two years after a clam bed was dredged, the site hosted significantly more species than either an undisturbed control site or a freshly dredged plot .[26] In that study, the undredged seabed (left fallow ~10 years) had fewer total species – likely dominated by a stable assemblage – whereas the moderately disturbed sites had a mix of both pioneer and equilibrium species, yielding higher diversity.

Controlled disturbances like low-to-moderate dredging can act as a form of benthic habitat management. The evidence – from improved shellfish recruitment and growth to higher post-dredging diversity – shows that under the right circumstances, dredging is not purely detrimental to benthic ecosystems. Key factors include the intensity, frequency, and technique of dredging, as well as the natural resilience of the habitat. When carefully implemented (*e.g.*, infrequent, shallow dredging that avoids sensitive areas), it can reduce siltation, increase habitat heterogeneity, and release nutrients, collectively supporting benthic productivity rather than suppressing it (Mercado-Allen and Goldberg, 2011).

IV. The Value of Habitat in the Great South Channel HMA to New England Council Managed Species

The designation of the "habitat management area" in the Nantucket Shoals/Great South Channel, *i.e.*, the GSC HMA, is predicated on scientific information demonstrating:

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[25] Todd et al. (2014), *ICES J. Mar. Sci.* – review of dredging impacts (noting nutrient release can enhance benthic prey) https://academic.oup.com/icesjms/article/72/2/328/676320.

[26] Mercaldo-Allen, Renee et al. (2016). Benthic Ecology of Northern Quahog Beds with Different Hydraulic Dredging Histories in Long Island Sound. https://doi.org/10.2112/jcoastres-d-15-00055.1

(1) use of the area by several life stages of stocks managed by the New England Council (primarily Atlantic cod)[27];

(2) bottom features within the area; particularly complex, structured habitat and emergent epifauna; and

(3) assumptions, based on research, about the importance of those habitat features to survival and reproduction of managed stocks.

More specifically, that cobble and boulder bottom provide refuge for young fish and hard surfaces to which epifauna may attach, creating sources of food and attracting a variety of marine life. Such habitat features can increase species diversity and expand trophic linkages that benefit managed stocks. Some research indicates that mobile bottom-tending gear such as clam dredges can adversely impact such habitat in a way that reduces the quantity and quality of such EFH. *But see supra*.

The GSC HMA is also within a highly dynamic region that faces some of the highest tidal, wave, storm, and current stresses of any area within the Mid-Atlantic Bight and Southern New England. As a result, large parts of the area are characterized by shifting sediments and mobile sand waves that can reach up to 5 meters in height. Some research suggests that bottom with significant percentages of coverage of gravel, cobble, and boulder can provide stability and resistance to such forces. More recent research, however, suggests that large areas within the HMA lack attached epifauna and that slow-growing epibionts are rare. These findings, coupled with frequent findings of barnacle scars on boulders and pebbles, are suggestive of sediment scour and processes of burial and re-exhumation, consistent with a high-energy environment.

Here we review the science related to these issues, including research conducted and published after adoption of the Clam Dredge Framework in 2019.

A. EFH Findings with Respect to the GSC HMA

"The function of the Great South Channel Habitat Management Area HMA as fish habitat is related partly to benthic habitat characteristics, including sediments and bedforms (geological features) as well as biota (biological features)." (Clam Dredge FW at 28.) "Field studies conducted in shallow water show that survival rates of juvenile cod were higher in more structured habitats (e.g., in vegetation or rocky reefs and on cobble bottoms) where they find refuge from predators." (*Id.* at 36.) Sand waves provide a similar protective function, while simpler habitats are used for foraging at night. (*Id.*)

"Substrate complexity is expected to add significantly to ecosystem value by expanding the range of habitat options and consequently increasing species richness and trophic linkages."

[27] Though, notably, only small portions along the eastern and western edges of the HMA (including only a portion of one fishing area, Old South) are considered to be cod spawning areas. (Clam Dredge FW at 8.) **More recent research suggests that cod spawning no longer occurs within the area**. G. Bellin, Effect of Ocean Warming Trends on Cod Spawning, Analyzing the GSC HMA and looking at large scale temperature related trends (Nov. 13, 2022), *available at* https://storymaps.arcgis.com/stories/d83e34031dcf4d34a13a4260954c1297.

(Powell et al. 2021.) "[S]tructurally complex gravel, cobble, and boulder habitat, … supports a wide array of emergent epifauna that juvenile cod rely on for food and shelter from predation. Within the GSC [Habitat Area of Particular Concern], many different types of habitats exist that are important to juvenile cod. The area is sensitive to anthropogenic stresses, contains habitat features that are particularly sensitive to the adverse effects associated with bottom trawling, scallop dredging, and clam dredging." (OHA2, Vol. 1, at 392.)

Hydrodynamically, the Great South Channel HMA is subject to "strong southward-flowing tidal and residual currents on the western side of this area [that] have produced 5-15 m high sand waves that run east and west with steeper slopes on their southern sides." (OHA2, Vol. 1, at 118.) "Sand waves, typically 1–5 m in height and hundreds of meters in length, occur between major shoal systems and move with bottom currents and storm activity." (Powell et al. 2021) (citing Emery and Uchupi 1965, Twitchell 1983)).)

Research reported in the Omnibus Habitat Amendment FEIS suggest that critical bottom shear stress in this area "range from >2 to <0.5." (OHA2, Vol. 1, at 118 (citing Dalyander et al., (2013)).) In fact, the median annual bottom shear stress for Nantucket Shoals is 1.41-2.36. (*Id.* at 121 (Map 32).) Sediment mobility thresholds on Nantucket Shoals are exceeded over 50% of the time (annually) due to the combined effects of currents and wave action. (*Id.*) "Currents in these areas are strongest where water depth is shallower than 50 m." (*Id.*, at 118.)

Harris et al., mapped areas within Nantucket Shoals, the Great South Channel, and Georges Bank and estimated tidal currents over the region to identify areas of sediment stability.[28] Maps drawn from this study were used to identify areas of gravel, cobble, and boulder coverage in the second Omnibus Habitat Amendment. (OHA2, Vol. 1, at 120.) The researchers found extremely high stresses over the Nantucket Shoals, resulting in areas of stable seabed outcrops (generally areas of gravel pavement, cobble dominant, and larger particles) that "were patchy and surrounded by highly unstable areas." (Harris et al. 2012.)

Dalyander et al., measured critical stress throughout the Mid-Atlantic Bight attempting to take into account all the forces acting on the seafloor.[29] "In previous regional studies, numerical model estimates of wave, mean current, and tidal forcing, each calculated independently, have been used, which would underestimate wave–current stress in areas where strong storm-driven currents accompany large waves and neglect the non-linear effects of wave–current interaction." (*Id.*) They found that while, from a sediment transport perspective, Nantucket Shoals is dominated by tidal stress sufficient on its own to transport sediment over a tidal cycle, it is also subject to high levels of wave and storm-induced current stresses. (*Id.*)

While Harris et al., recognized that their study did not account for these additional forces that could impact seafloor stability, they indicated that the level of additional stress necessary to move increasingly large particles were unlikely to occur. As to areas which are unstable, the

[28] B.P. Harris et al., Surficial sediment stability on Georges Bank, in the Great South Channel and on eastern Nantucket Shoals, Continental Shelf Research 49 (2012) 65–72.

[29] P. S. Dalyander et al., Characterizing wave- and current- induced bottom shear stress: U.S. middle Atlantic continental shelf. Continental Shelf Research 52 (2013) 73–86.

authors noted "that frequent seabed disturbances may mitigate anthropogenic impacts such as commercial fishing relative to less disturbed areas by selecting for organisms which are less susceptible to disturbances or are capable of faster recovery."

B. Summary of Recent Research in the GSC HMA

Prior to and following the 2019 closure of the GSC HMA to clam dredges (and the subsequent 2020 reopening to some areas by the Clam Dredge Framework), there have been several industry-funded research projects to address questions about the fishery's impact on EFH. Relevant findings of these projects are discussed below.

Powell et al., conducted a survey of an area off Nantucket in 2017, including a large portion that was then under consideration to become the GSC HMA.[30] In particular, the researchers examined the assumption that substrate complexity increases species richness and trophic linkages in "high energy subtidal regimes where burial, exhumation, and sediment scour" processes may limit epibiont coverage. In such high energy environments, the "assumed importance of substrate complexity in determining present-day community structure and in application to ecosystem management" may not hold.

The survey revealed that "[l]onger-lived attached biota are extremely rare. By inference from a range of studies, these substrates must be buried and exhumed frequently and exposed to scour by moving sand, all of which would be anticipated from the known tidal currents in the region and the presence of large mobile sand waves; otherwise occupation by attached epibionts would be much more common and a wider range of taxa would be expected." Particularly striking was the finding that mussels rarely attached to hard substrate. **"**Their tendency to have limited resistance to scour and prolonged burial is consistent with their infrequent collection on these substrates in this survey."

The authors concluded that the "rarity of long-lived attached epibionts suggests the ephemerality of exposed surfaces reminiscent of some intertidal sand-scoured rocky shores and that cobbles, rocks, and boulders contribute little to the community composition in the surveyed region, which is composed almost exclusively of infaunal clams, less commonly, mat-forming mussels, and exclusive of the mussel mats, infrequent gastropods and other mobile fauna." Where epibionts where found, they tended to be "opportunistic fast-growing epibionts," suggesting "hydrodynamic and edaphic processes minimize the importance of substrate complexity in community structure" within the study area.

Jennings et al., conducted a cooperative research study within a 24 sq. km area in a historically important surf clam fishing area known as the "Rose and Crown" within the GSC HMA. A total of 3,236 tows were videotaped over a period ranging from June 2020 to February 2022. The study's purpose was "to document substrate, habitat features…, fishes and invertebrates within the Rose and Crown area"; "[c]reate spatiotemporal distributions of biotic and abiotic habitat features"; "[e]stablish relationships between high clam CPUE and habitat

[30] E.N. Powell et al. 2021. Some data from this research project was available to the NEFMC during development of the Clam Dredge Framework. This paper, however, was written and published subsequent to the Framework.

complexity[;] and "[d]etermine spatiotemporal presence of Atlantic cod in this area." Over the project, questions about changing substrate composition and shifts in sandy habitat arose.

Among the researchers' observations was significant interannual change in substrate within the study area. The mean proportion of pebble/cobble substrate composition was highest in the winter, intermediate in the summer, and lowest in the fall. "[I]n summer of 2020, 71% of observations saw less than 50% coverage of pebble/cobble while summer of 2021 consisted of 4% of observations." There was also evidence of a dynamic substrate on a much shorter time scale. "Bottom types in the area changed not only between seasons, but also over shorter time spans of weeks or even days following disturbance events like storms." "[D]redge paths from different time intervals were undetectable beyond a 24-hour period following disturbance." As with the Powell et al., researchers, Jennings et al., also observed the "presence of barnacle scars on some rocks and barnacles in the annotated video demonstrate[ing] that rocks can be subjected to sediment scour and burial."

In this regard, the report concluded: "The parameters in play and the limiting factors to productivity and hard bottom are less understood in areas like the HMA than in areas of low energy regimes. It is our speculation that productivity is a function of disturbance in this area, following disturbance theory norms. Heavily disturbed areas are hypothesized to have lower levels of diversity. This raises the question of whether fishing impacts are significant relative to natural disturbance. Due to the nature of our sampling, distinguishing between the two factors is difficult."

Finally, Jennings and other researchers with the Coonamessett Farm Foundation ("CFF") initiated a collaborative research project with the surf clam industry to use multibeam sonar to map habitat within the GSC HMA. The purpose was to "to elucidate the spatial and temporal dynamics" of bottom habitat features within the HMA.[31] The team mapped a 10 sq. km area within the Rose and Crown area, first on November 15, 2022 and again on April 14, 2023. Both backscatter and bathymetry were collected and mapped and compared between the two surveys.

The researchers found that the backscatter changes demonstrate positive and negative changes in seafloor hardness occurring as softer sediments shift to cover or expose areas of harder bottom. Specifically, "[t]he bathymetry and sediment composition of the R&C survey area changed during the 150-days between acoustic surveys…. Depth increased by up to 1.2 m to the north of the survey and decreased by up to 1.2 m within the central portion of the survey area." The CFF researchers found 10-meter movement of individual sand waves in the southern portion of the study area and positive and negative changes in seafloor hardness. This further supports prior findings that the area is highly dynamic and unlikely to be adversely impacted by surf clam dredges working in sandy or sand/cobble areas.

A similar research project by Jennings, et al., is currently underway in the Davis Bank East portion of the HMA. An interim report notes

[31] Jennings and CFF, Supplementary materials for the EFP request entitled: Great South Channel Habitat Management Area Study Phase II: A Video and Acoustic mapping Survey of Davis Bank East (2023), *appended hereto as* Exhibit 3.

> that the Davis Bank East study area is predominately characterized by coarse sandy sediments with granule, gravel, and pebble patches that had a little low-relief epibenthic growth. Epibenthic organisms identified were limited to barnacles, bryozoans, and hydroids. Boulders, dense mussel beds, and other features observed in the Rose and Crown research area were absent in Davis Bank East.[32]

In sum, the weight of the evidence shows a dynamic area with changing distributions of hard and sand bottom. While many areas may be stable, as suggested by Harris et al., there is widespread evidence of sand scour and processes of burial and exhumation limiting the growth of long-lived epifauna and epibionts throughout much of the area (at least the Rose and Crown) where productive surf clam grounds are found. Similar research is being undertaken in the Davis Bank East area and initial results suggest similar processes.

V. ANALYSIS

The MSA requires Fisheries Management Councils to "minimize adverse impacts on EFH to the extent practicable." An impact is considered adverse only where the impact is "more than minimal" and "not temporary." Even when an adverse impact on EFH caused by fishing activity can be identified, the MSA requires only that such impact be minimized, not avoided in its entirety. And any such conservation and management measures undertaken to protect EFH must be "practicable" in light of the MSA's other objectives. Thus, the relevant questions are whether the surf clam fishery's impacts on EFH in the GSC is adverse with the MSA's meaning and, if so, whether closing these grounds is a practicable means to minimize such impacts.

The GSC HMA was "based on the understanding that structured habitats enhance groundfish resource productivity by increasing the survival and growth of juveniles." (NEFMC 2019, at 35 (citing OHA2 FEIS, Vol. 1, Sec. 4.1.1).) The relevant question, however, is what aspects of complex, structured habitats with the HMA are benefiting juvenile fish? The surf clam fishery has no adverse impact on EFH's function as shelter. Even to the extent clam dredging results in burial of some cobble, either within the dredge track or through suspension and resettlement of silt and sand, those tracks themselves provide shelter. Furthermore, discarded shells enhance EFH by providing additional shelter and hard surfaces to which epifauna can attach.[33] Perhaps most importantly, the GSC HMA was primarily designed to protect spawning cod, a stock that appears to no longer use the area for reproduction and growth.

Thus, the pertinent question is whether operation of the surf clam fishery within the GSC HMA is disrupting emergent epifauna and attached epibionts in a manner that harms the biological communities and disrupts trophic linkages, and in a way that is more than temporary. Both research available at the time the Clam Dredge FW was considered and newly published and unpublished research available since then tend to suggest not. At least as to the areas

[32] A copy of the interim report is appended hereto as Exhibit 4.

[33] *See, e.g.,* Powell et al. 2021 (observing common attachment of epibiota, primarily hydroids and slipper shells on discarded clam shells).

studied—productive surf clam fishing grounds within the HMA—research shows consistently changing subsurface and largely biota free hard surfaces within zones that are "characterized by prograding sand dunes, high tidal current velocities, and sand scour." (Powell et al. 2021.) Generally speaking, the impacts of the fishery are overwhelmed by natural processes within the region to the extent they are imperceptible.

In such a dynamic area, the impacts on the hard-bottom EFH in terms of its value as shelter and foraging grounds is undoubtedly temporary and unlikely to be adverse in either a legal or practical sense. The New England Council's habitat analysis also excluded research, cited above, that shows the potential for beneficial habitat impacts resulting from light to moderate dredging.

Understanding that the New England Council's Habitat PDT has raised questions about some of the findings of the various cooperative research projects, there is consistency in the findings of shifting substrate, a dearth of long-lived epifauna, and evidence of scour within mixed sand and cobble areas in which the surf clam fishery operates. It is therefore unlikely that the surf clam fishery operates in a manner which adversely affects the habitat value that extensive epifauna coverage is shown to provide.

There is, of course, no conclusive evidence that surf clam fishery operates exclusively in areas with the characteristics observed by researchers (although to the extent it occurs in areas with high percentages of gravel or cobble, they would be mixed with sand which is necessary habitat for clams). It is possible that the fishery operates in some areas with extensive, long-lived epifaunal growth. That possibility alone, however, is not a sufficient basis to prohibit the surf clam fishery from operating within the GSC HMA.

As discussed above, protection of EFH is not a primary goal of the Magnuson-Stevens Act. Rather, minimizing impacts on EFH from fishing activity is a means to ensure fishery resources remain productive and able to reach optimum yield levels over the long run. The pertinent question is whether prohibiting surf clam dredging throughout the GSC HMA is "practicable" within the meaning of the law. The evidence suggests that it is not.

For example, under Alternative 2 of the Clam Dredge Framework, the five areas within the HMA that would have been open constituted only 17% of its total area. Analysis in the framework noted that within these open areas, the fishery impacted only 4% to 20% of the bottom. This constitutes a total of only 0.7% to 3.4% of the total area within the GSC HMA that would be subject to disturbance, not accounting for the fact that the fishery tends to concentrate in and revisit productive areas.[34] Much of that activity will occur in primarily sandy, highly dynamic, and epifauna-free areas in which the fishery will have no adverse impact on EFH as defined by regulation, and may even have positive benefits.

In the practicability analysis, both the requirements of National Standard 1 and economic impacts are relevant. The Atlantic surf clam fishery currently is not achieving optimum yield.

[34] Not to mention the fact that amount of estimated area swept by clam dredges by the Habitat PDT is likely overestimated. *See supra* at 8-9.

The percentage of annual allowable catch found to be sustainable has been declining since the closure of the GSC HMA in 2017. This decline has been particularly steep in the New England region of the fishery, which is only going to become a more important part of the fishery as climate change continues to result in a northward-shifting stock. Reopening the HMA to the surf clam fishery will allow the sector to access areas that accounted for up to 21% of total landings prior to the closure and likely a higher percentage in the future.

National Standard 1 concerns are particularly relevant to the practicability inquiry because the Atlantic surf clam fishery is not overfished nor is it experiencing overfishing. Thus, achievement of optimum yield is the paramount MSA objective. Taking a fifth of the available resource out of production to prevent potential adverse impacts to a small fraction of vulnerable EFH runs counter to the law's primary objective. Perhaps more to the point, the creation of a "habitat management area" is sanctioned neither by law or regulation. It is a wholly artificial construct which unlawfully elevates habitat considerations over the MSA's primary purpose.

Economic considerations equally weigh heavily in favor of restoring access, particularly when coupled with the requirements of National Standard 8.[35] It is recognized that the fishing communities of Massachusetts have "high rates of dependence [on the] Great South Channel HMA. While a minority (20%) of coast-wide surfclam revenues are generated in the Great South Channel HMA, these revenues are concentrated among a relatively small number of permits, owners, and communities." (Clam Dredge FW at 188.) Furthermore, the New England Council's analysis demonstrated that all measures contained in the Clam Dredge Framework was likely to reduce "employment and the size of the fishery-related workforce." (*Id.* at 120.) This conservation measure has had a particularly severe economic impact on the communities of Hyannis, Fairhaven, and New Bedford whose surf clam infrastructure "is particularly dependent on the Nantucket Shoals fishery." (Clam Dredge FW at 120.)

National Standard 10[36] is also relevant to the practicability and impact of these closures. It is the smaller clam vessels which are dependent on access to Nantucket Shoals and the areas within the GSC HMA. It was recognized that its closure would have "negative impacts on vessel safety, particularly if the small vessels active in the GSC HMA attempt to fish further offshore. (Clam Dredge FW at 120.)

The practical effect of the exclusion of clam dredges from the HMA is to elevate one MSA objective, which is cabined by a practicability limitation, over several other goals found by Congress to be more important in making conservation and management decisions. While some of these considerations, like those under National Standards 8 and 10, are also constrained by a practicability requirement, the chief objective – achieving optimum yield on an ongoing basis for the United States fishing industry – is not. Indeed, it is the MSA's most essential objective.

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[35] 16 U.S.C. § 1851(a)(8) ("Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities by utilizing economic and social data that meet the requirements of paragraph (2), in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.").

[36] 16 U.S.C. § 1851(a)(10) ("Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.").

Notably, when the Mid-Atlantic Council assessed the practicability of using closed areas as a means to minimize the impacts of clam dredges on EFH, it reasonably found such measures to be impracticable. This was a particularly rigorous review of the science and the fishery's impact on EFH because the National Marine Fisheries Service had disapproved the Council's prior evaluation of this subject in Amendment 12 to the Atlantic Surfclam and Ocean Quahog FMP.[37] While this decision was made twenty years ago, current science and the state of the law suggests that such a determination was and remains correct.

VI. CONCLUSION

The surf clam industry is seeking reasonable access to the historic fishing grounds within the GSC HMA. This request is consistent with the Trump Administration's policies of reducing unnecessary and costly regulations, specifically within the commercial fishing sector. *See* E.O. 14276, Sec. 3 ("It is the policy of the United States to promote the productive harvest of our seafood resources [and] unburden our commercial fishermen from costly and inefficient regulation."). The relief requested promotes these goals by adding jobs, economic prosperity, and exports of domestic seafood products, all while maintaining a sustainable surf clam fishery.

Therefore, IIC respectfully requests that NMFS initiate a rulemaking to reopen this historic fish area. IIC, the surf clam industry more broadly, and their scientific partners stand ready to work with NMFS to achieve common fishery management objectives.

[37] MAFMC, Amend. 13 to the Atlantic Surfclam and Ocean Quahog FMP, at 5-6.

BIBLIOGRAPHY

B.P. Harris et al., Surficial sediment stability on Georges Bank, in the Great South Channel and on eastern Nantucket Shoals, Continental Shelf Research 49 (2012) 65–72.

E.N. Powell et al., The conundrum of biont-free substrates on a high-energy continental shelf: Burial and scour on Nantucket Shoals, Great South Channel ("Powell et al. 2021"), Estuarine, Coastal and Shelf Science 249 (2021) 107089.

G. Bellin, Effect of Ocean Warming Trends on Cod Spawning, Analyzing the GSC HMA and looking at large scale temperature related trends (Nov. 13, 2022).

Mercaldo-Allen, R., & Goldberg, R. (2011). Review of the ecological effects of dredging in the cultivation and harvest of molluscan shellfish.

Mercaldo-Allen, Renee et al. (2016). Benthic Ecology of Northern Quahog Beds with Different Hydraulic Dredging Histories in Long Island Sound.

MAFMC, Amendment 13 to the Surf Clam and Ocean Quahog FMP, Vol. 1 (June 2003).

MAFMC, Atlantic Surfclam and Ocean Quahog Fishery Performance Report (April 2022).

MAFMC, 2024 Atlantic Surfclam Fishery Information Doc. (July 2024).

N.F. Jennings et al., Great South Channel Habitat Management Area Survey, Final Report for Exempted Fishing Permit #19066 (June 15, 2022).

NEFMC, Clam Dredge Framework Adjustment (July 22, 2019).

NEFMC, Omnibus Essential Fish Habitat Amendment 2 (Dec. 8, 2016).

Office of the Federal Register, Executive Order 14219, "Ensuring Lawful Governance and Implementing the President's 'Department of Government Efficiency' Deregulatory Initiative." 90 Fed. Reg. 10583 (Feb. 13, 2025).

Office of the Federal Register, Executive Order 14276, "Restoring American Seafood Competitiveness." 90 Fed. Reg. 16992 (April 22, 2025).

P. S. Dalyander et al., Characterizing wave- and current- induced bottom shear stress: U.S. middle Atlantic continental shelf. *Continental Shelf Research*, 52 (2013) 73–86.

Todd, V. L., Todd, I. B., Gardiner, J. C., Morrin, E. C., MacPherson, N. A., DiMarzio, N. A., & Thomsen, F. (2015). A review of impacts of marine dredging activities on marine mammals. *ICES Journal of Marine Science*, *72*(2), 328-340.

EXHIBIT 1

Proposed Regulatory Change:

In 50 C.F.R. § 648.370, revise paragraph (h)(2) to read as follows:

(2) ***Atlantic Surfclam and Mussel Dredge Exemption.***

(i) ***Dredge Exemption Requirements.*** A vessel may fish in the Great South Channel HMA, provided the vessel meets the following requirements:

(A) Holds a federal Atlantic surfclam vessel permit.

(B) Has a NMFS-approved VMS unit capable of automatically transmitting a signal indicating the vessel's accurate position at least once every 5 minutes while in or near the Great South Channel HMA.

(C) Declares each trip into the HMA through the VMS.

(D) When fishing for surfclams in the HMA, uses only hydraulic clam dredge gear.

(E) When fishing for blue mussels in the HMA, any dredge on board the vessel does not exceed 8 ft (2.4 m), measured at the widest point in the bail of the dredge, and the vessel does not possess, or land any species of fish other than blue mussels.

EXHIBIT 2

Table 1. Federal surfclam catch limits and landings: 2003 and 2016-2025. Landings for state waters are approximated as total landings – EEZ landings and may not accurately reflect state landings.

Year	OFL (mt)	ABC/ ACL (mt)	Total Landings[d] (mt meats; w/state waters)	Total CAMS Landings[e] (mt meats w/state waters)	EEZ Landings (mt meats)	EEZ Landings[a,f] ('000 bu)	EEZ Quota ('000 bu)	% Quota Harvested
2003 (last time full quota taken)	NA	NA	31,526	31,526	24,994	3,240	3,250	100%
2016	75,512	48,197	18,202	18,344	18,339	2,378	3,400	70%
2017	69,925	44,469	17,690	17,761	16,902	2,192	3,400	64%
2018	Not specified by SSC[b]	29,363[b]	17,114	17,344	16,287	1,936	3,400	62%
2019	74,281[c]	56,419[c]	16,502	16,593	14,986	1,781	3,400	57%
2020	74,110[c]	56,289[c]	-	13,159	12,034	1,430	3,400	46%
2021	51,361	47,919	-	13,171	12,797	1,521	3,400	49%
2022	48,202	44,522	-	12,403	11,971	1,423	3,400	46%
2023	45,959	42,237	-	12,329	10,653	1,266	3,400	41%
2024	44,629	40,946	-	NA	NA	NA	3,400	NA
2025	44,048	40,345	-	NA	NA	NA	3,400	NA

[a]1 surfclam bushel is approximately 17 lb. [b]Revised previous 2018 values due to new stock assessment. [c]Revised previous 2019-2020 values due to new analyses. [d]Total landings for 2018-2022 were from a dealer database (CFDBS). [e]CAMS landings for 2019-2022 use CAMS LNDLB. [f]EEZ landings are from a logbook database (SFOQVR).

Source: Mid-Atlantic Fishery Management Council, *Atlantic Surfclam Fishery Information Document* (July 2024), at 5.

EXHIBIT 3

Supplementary materials for the EFP request entitled:

Great South Channel Habitat Management Area Study Phase II: A Video and Acoustic mapping Survey of Davis Bank East

Introduction

Encompassing the Nantucket Shoals and surrounding waters, the Great South Channel Habitat Management Area (HMA) was created in 2018 for the protection of essential Atlantic cod and other groundfish habitat from the impacts of bottom-tending mobile fishing gears. Prior to its closure in 2018, productive Atlantic surfclam (*Spisula solidissima*) grounds within the HMA were regularly fished by vessels from Cape Cod and Southeast Massachusetts using hydraulic dredges. While fishing vessels are able to access surfclam grounds within the HMA, there is a paucity in the scientific information concerning the area due to the navigation hazards that the Nantucket Shoals pose to large research vessels. Despite the limited availability of scientific information about benthic habitat and faunal distributions within the HMA, the productive surfclam fishery was displaced when the area was closed to mobile bottom tending gear.

The Nantucket Shoals form a notoriously dynamic benthic environment continuously re-shaped by shifting sandy sediments. Sand waves, typically 1–5 m in height and hundreds of meters in length, occur between major shoal systems and move with bottom currents and storm activity (Emery and Uchupi 1965, Twitchell 1983). The burial and exhumation of benthic features by sediment redistribution could be a determining factor in epi- and infaunal species distributions (Harris *et al*. 2012, Powell *et al*. 2020). The spatial and temporal scales at which these sediment redistribution and habitat modification processes occur are not yet understood. Relative to the natural processes that drive sediment movement within the HMA, the impacts of hydraulic clam dredging may be small and warrants additional investigation. Understanding the natural processes within the HMA is essential to determining the extent to which fishing practices could impact essential fish habitat among the Nantucket Shoals, and whether these fisheries can sustainably operate within the HMA through the refinement of area, seasonal, and gear closures.

Recognizing the potential impact of these sediment movement processes on habitat availability and epibenthic successional state, the NEFMC has determined that high-resolution bottom mapping is needed to elucidate the spatial and temporal dynamics within the HMA. Through a collaborative partnership with members of the surfclam fishery, Coonamessett Farm Foundation, Inc. (CFF) launched a program in 2018 to map habitat in the HMA using optical methods (Jennings et al. 2022). Presented below are the Methods and Results from recent additional acoustic surveys of the Rose and Crown fishery exemption area of the HMA (R&C).

Methods

We used a hull-mounted, 160 kHz Furuno WASSP generation 3 multibeam sonar with integrated real-time-kinematics and inertial measurement units (GNSS L1 by Hemisphere and Spatial by Advanced Navigation) aboard the F/V *Tom Slaughter* to chart the bathymetry and backscatter of 10 km^2 of the R&C on November 15, 2022 and April 14, 2023. The system was professionally installed and calibrated and operated using the surveying and backscatter licenses. Transect lines were oriented northeast to southwest to account for the dominant north-south current direction, and the exposure of this area to northeasterly winter storms notorious of this coastal region that are capable of substantial sediment redistribution. Survey lines were spaced 50 m apart to provide 19 m or approximately 28% overlap between adjacent transect lines based on the 1:3 depth:swath ratio of the beam pattern. Surveys were conducted between 6–8 knots.

The raw .wmb sonar files were processed using the software SonarWiz (by Chesapeake Technology). The beam segments from all files were cropped from 70° to 56° (20%) to reduce error at the outer beam areas while still retaining enough overlap for full area coverage. Patch test corrections of 1.5° and 2.5° were applied to the roll and the pitch, respectively to correct for the differences between the port and

starboard portions of the beam pattern. Files were reviewed and any outlying pings (return signals) were removed manually. Tide files were created from the Great Point tide station on Nantucket, MA (NOAA station 8448566), and a 60-minute advanced offset was applied based on the known difference between this tide station and the R&C survey area. Backscatter processing was run on the resulting files and bathymetry and backscatter grids of the R&C survey area were generated with 10-cm spatial precision. Gaps in the survey ≤ 25 m were filled using inverse-distance weighted interpolation, and .geotif images were exported at 25-cm spatial resolution. Bathymetry contours were generated at 0.1-, 0.25-, 0.5-, 1-, and 2-m intervals and exported as shapefiles. Both sets of bathymetry and backscatter were consistently scaled (18 to 30 m and −30 to −18 db, respectively). The bathymetry and backscatter .geotif images and contour shapefiles from both surveys were imported into a geographic information system (Arc 10.8.2). Raster subtraction was used to create a set of new raster files providing the difference in each variable per 25-cm point between the surveys.

Results

The bathymetry and sediment composition of the R&C survey area changed during the 150-days between acoustic surveys. **Figure 1** shows the difference in bathymetry with 1-m contours and soundings plotted to highlight the differences. Depth increased by up to 1.2 m to the north of the survey and decreased by up to 1.2 m within the central portion of the survey area. Backscatter was substantially lower throughout the area on April 14, 2023 relative to November 15, 2022, with the greatest changes (±12 db) occurring to the northeast (**Figure 2**). These softer sediments were distributed as long streaks oriented from 9° to 189°. The magnitude of these changes highlighted by the raster subtraction in **Figure 3** provides the most clear presentation. The change in bathymetry shown in **Figure 3** (upper panel) also shows the movement of individual sand waves in the southern portion of the survey area. These features moved approximately 10-m to the southwest between surveys, or a rate of 6.67 cm per day (**Figure 4**). The change in backscatter shown in **Figure 3** (lower panel) emphasizes the positive and negative changes in seafloor hardness occurring as softer sediments shift to cover or expose areas of harder bottom. These patterns largely agree with those reported by Jennings et al. (2022) while providing higher spatial resolution.

References

Emery, K.O., Uchupi, E., 1965. Structures of Georges Bank. Mar. Geol. Vol 3: 349-358.

ESRI (Environmental Systems Research Institute). 2016. ArcGIS 10.4.

Harris, B.P., Cowles, G.W., Stokesbury K.D.E., 2012. Surficial sediment stability on Georges Bank, in the Great South Channel and on eastern Nantucket Shoals. Continental Shelf Research, 49, p 65-72.

Jennings, N.F., Garcia, L., Davis, F., Munnelly, R. (2022). Great South Channel Habitat Management Area Survey: Final Report for Exempted Fishing Permit #19066.

Powell, E.N., Mann, R.L., Long, M.C., Timbs, J.R., Kuykendall, K.M. 2021. The conundrum of biont-free substrates on a high-energy continental shelf: Burial and scour on Nantucket Shoals, Great South Channel. Estuarine, Coastal and Shelf Science, 249, 107089.

Twitchell, D.C., 1983. Bedform distribution and inferred sand transport on Georges Bank, United States Atlantic continental shelf. Sedimentology, 30(5), p 695-710.

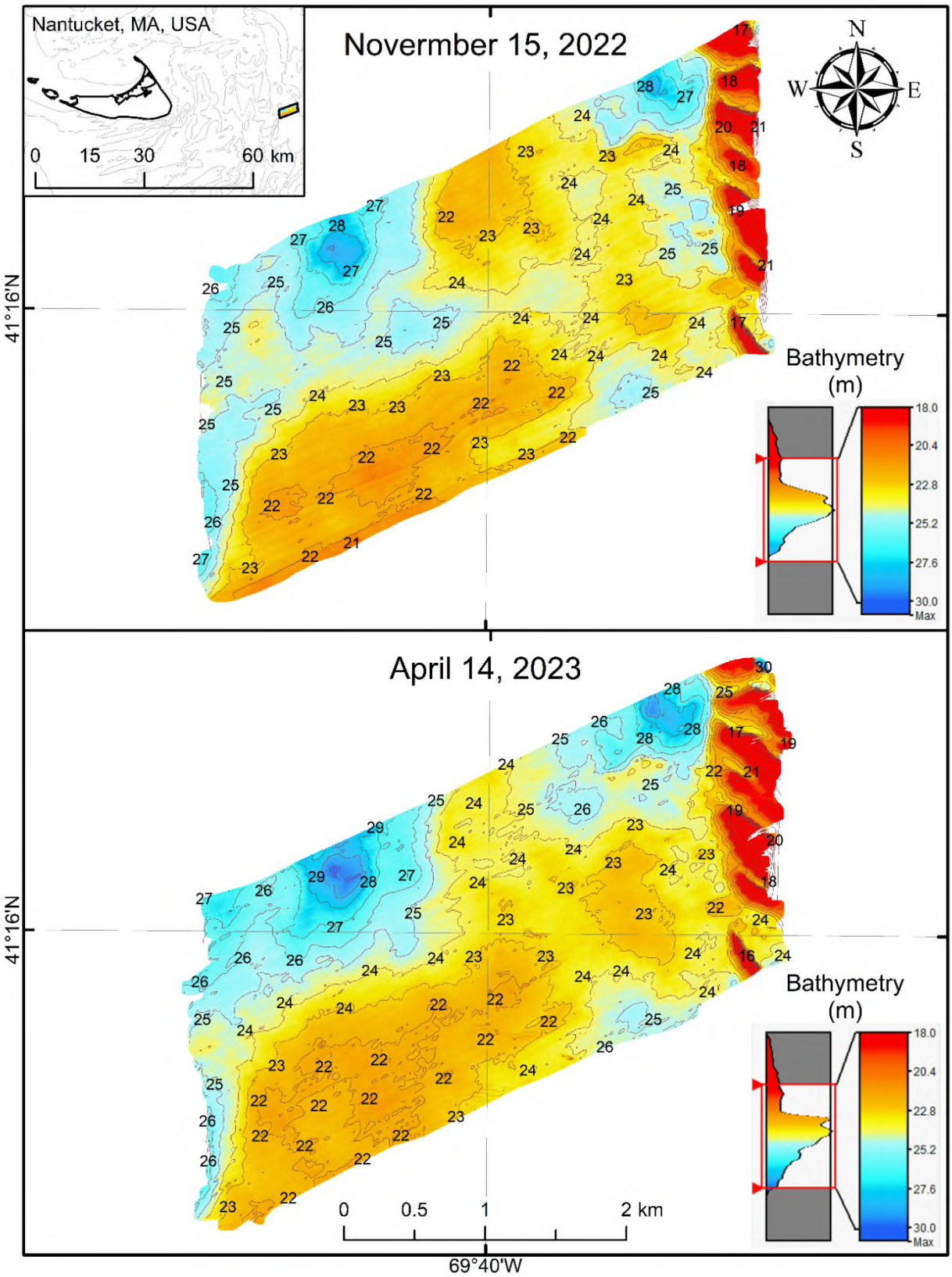


Figure 1. The tide-corrected bathymetry (m) of the Rose and Crown survey area on November 15, 2022 (upper panel) and April 14, 2023 (lower panel). Warmer and cooler colors represent shallower and deeper depths, respectively. Contour lines are plotted at 1-m intervals.

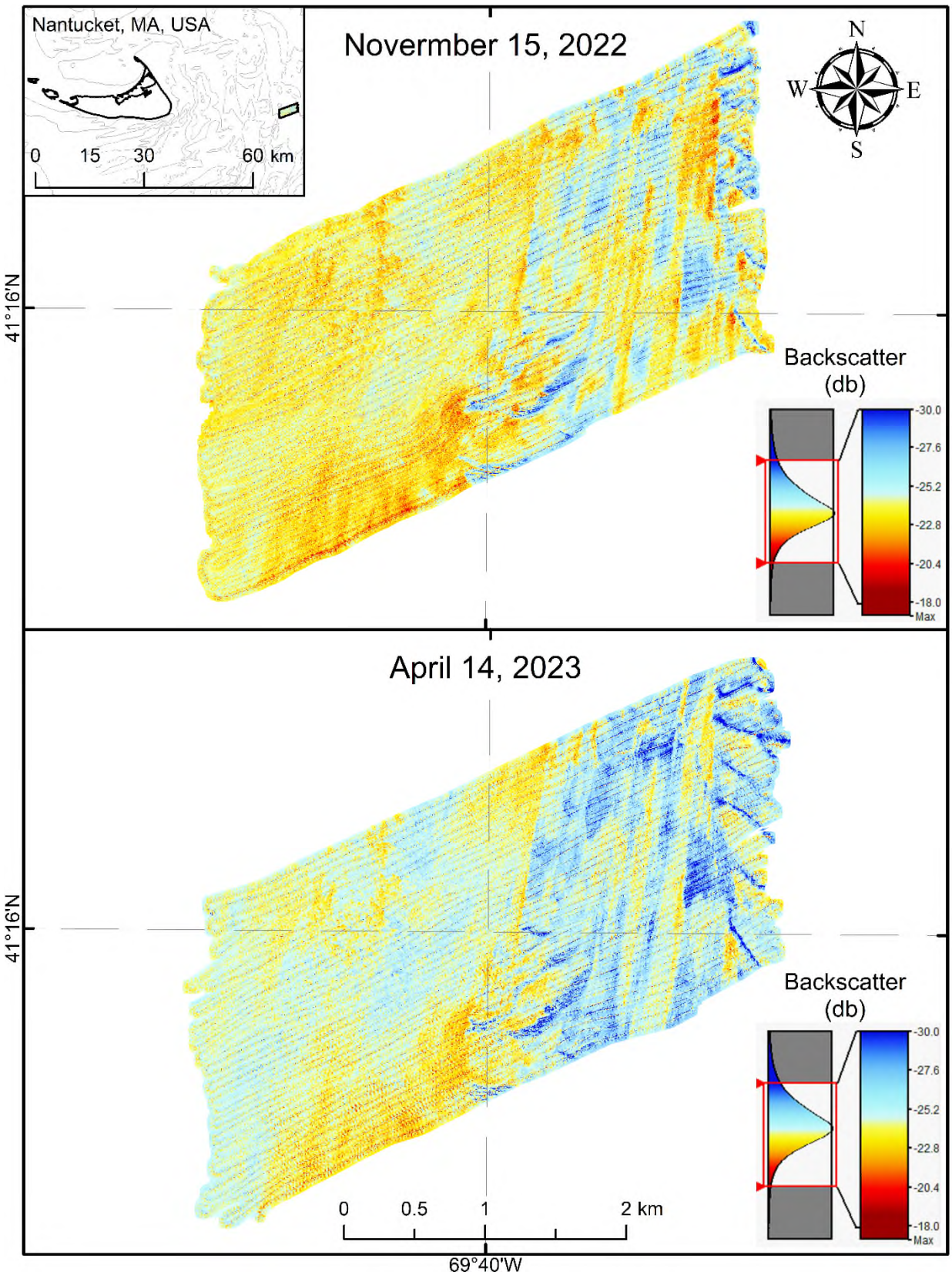


Figure 2. The backscatter (db) of the Rose and Crown survey area on November 15, 2022 (upper panel) and April 14, 2023 (lower panel). Warmer and cooler colors represent harder and softer seafloor sediments, respectively.

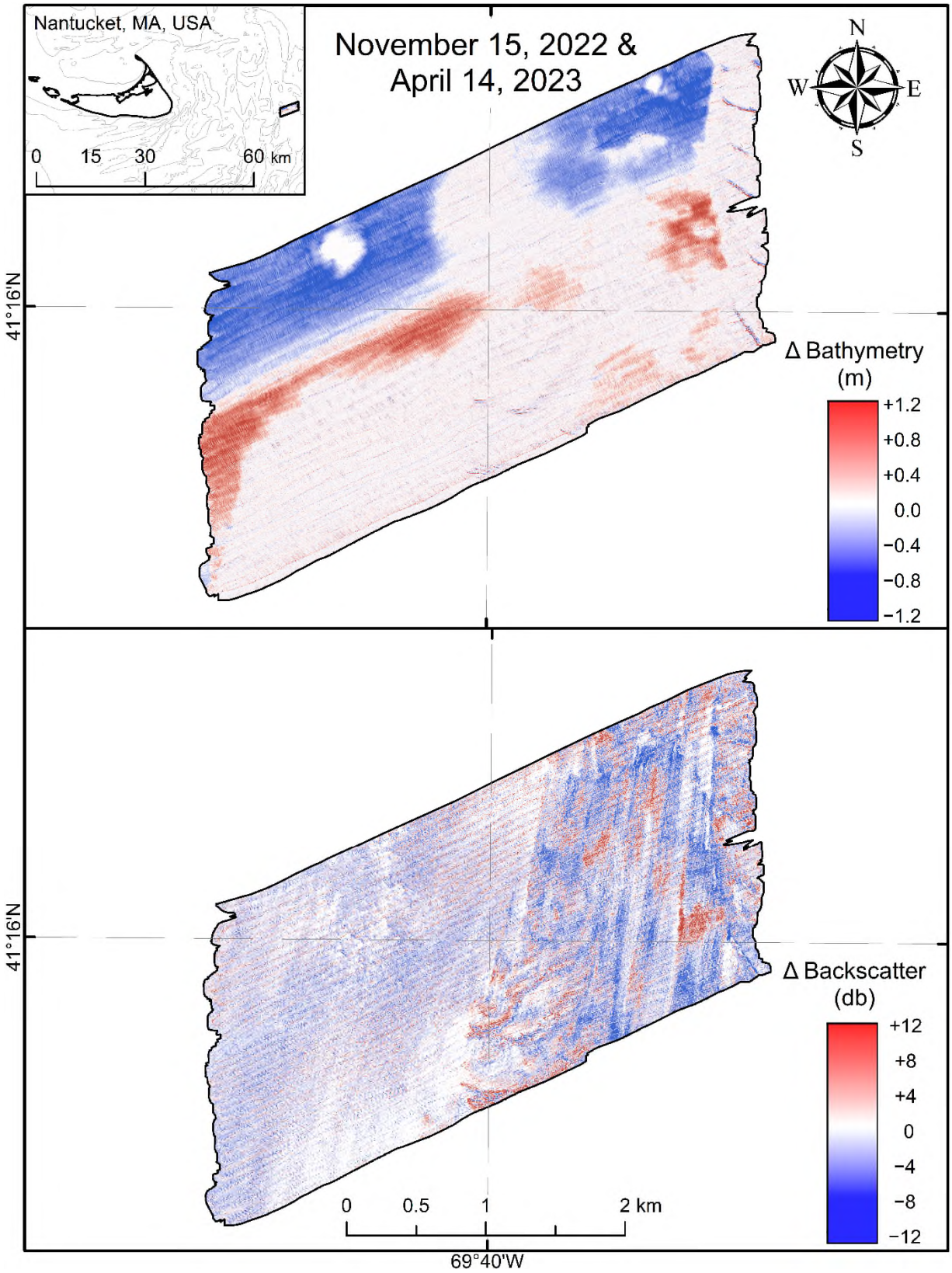


Figure 3. The change in the bathymetry (m) (upper panel) and backscatter (db) (lower panel) of the Rose and Crown survey area that occurred from November 15, 2022 to April 14, 2023. Warmer and cooler colors indicate positive and negative changes, respectively. White represents no net change.

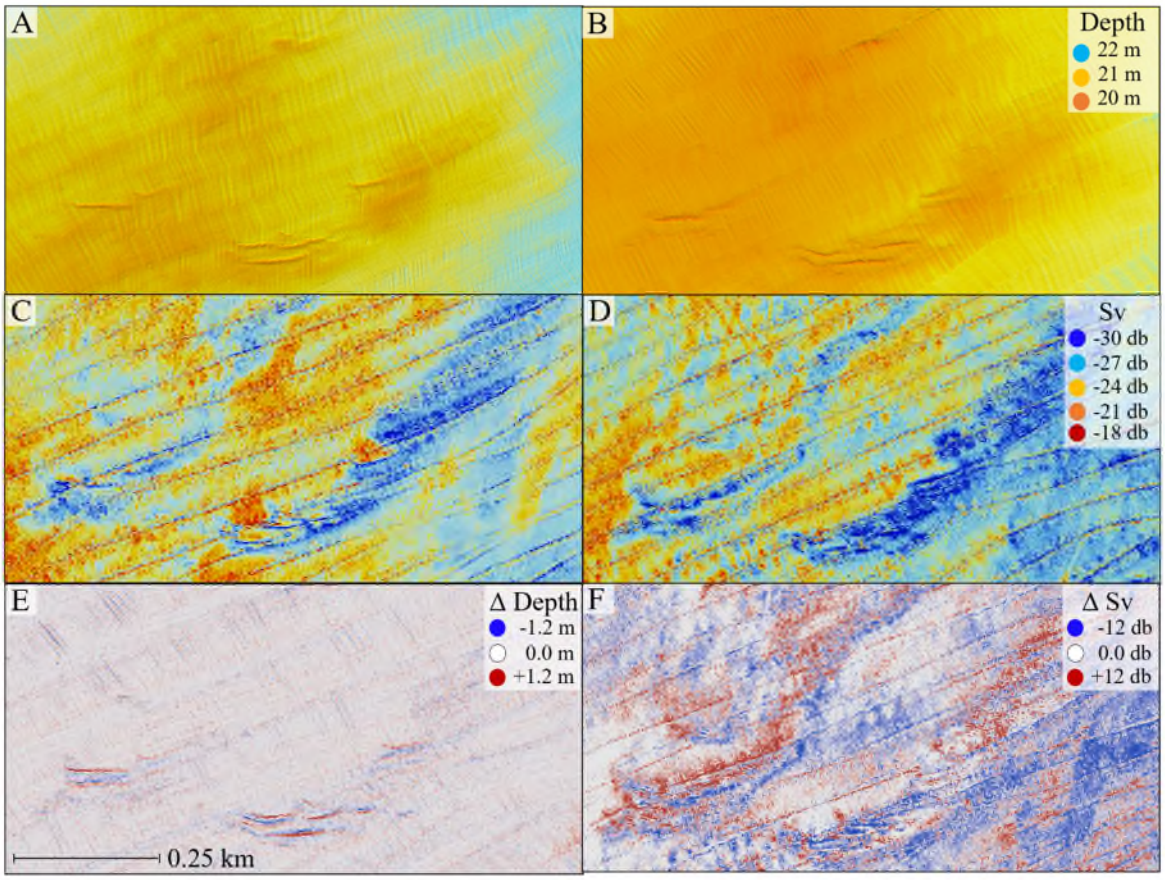
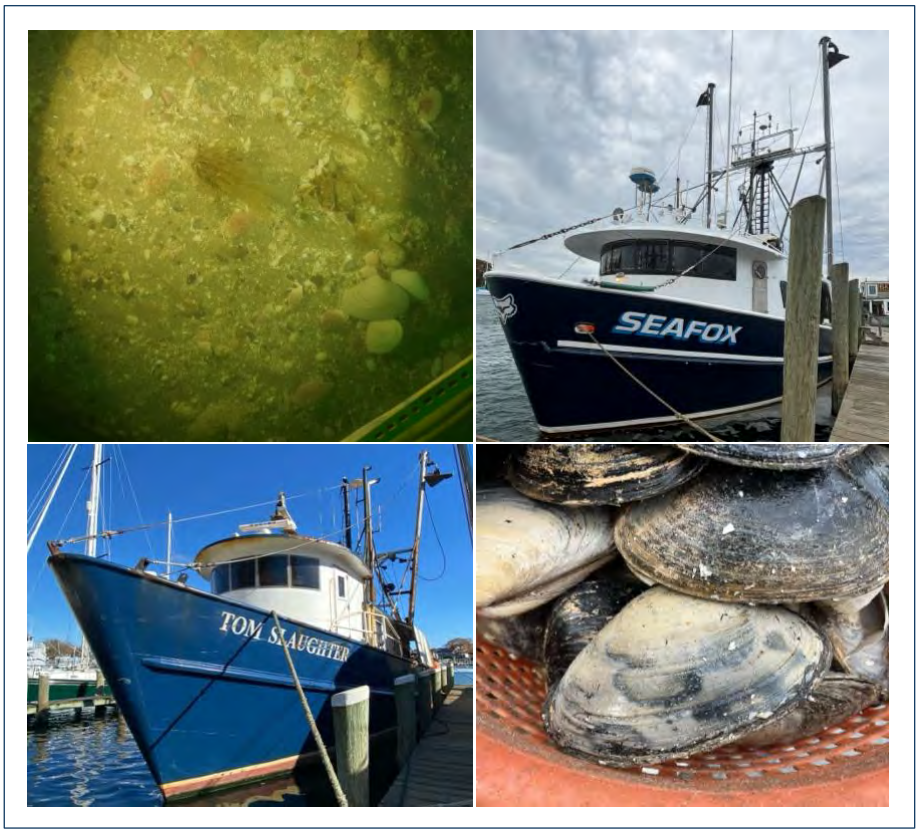


Figure 4. A close up of the sand waves in the southern-central portion of the Rose and Crown study area on November 15, 2022 (A, C, E), and April 14, 2023 (B, D, F). Panels A and B compare the change in bathymetry, panels C and D compare the change in backscatter (db), and panels E and F compare the bathymetry and backscatter differences between surveys using a raster subtraction, respectively.

EXHIBIT 4

Davis Bank East Survey

Progress Report for
Exempted Fishing Permit #23073
February 7, 2025



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Exempted Fishing Permit #23073 Progress Report
Project Reporting Period August 1, 2024 - February 1, 2025

Introduction

We report on progress from a habitat mapping project of the Davis Bank East research exemption area of the Great South Channel Habitat Management Area (HMA). Methodology for the reported study was developed through collaboration among Atlantic surfclam (*Spisula solidssima*) industry members of Nantucket Sound Seafood, Inc. and Intershell International, Corp., staff members of the GARFO, and Coonamessett Farm Foundation, Inc. following suggestions from a prior study in the HMA (Jennings et al. 2022, Exempted Fishing Permit #19066). Using paired multibeam sonar mapping and optical benthic imagery we surveyed a 60 km^2 area divided into fished and unfished subareas of 30 km^2 each. The research plan was to map both subareas prior to compensation fishing, and remap the area to assess changes due to natural processes compared with fishing. Fifteen percent of the landings from each compensatory fishing trip was used to fund the research.

When the research trips began, we had the 60 km^2 area broken into a north-south designation. After completing 18 fishing trips in the south box, catch rates were determined to be less than one cage per hour, which was not viable for supporting normal commercial fishing business operations and additionally funding the research costs. After conferring with GARFO, the area was changed to an east-west designation where the western 30 km^2 box was set aside for surveys assessing natural seasonal changes within the area and the east 30 km^2 box being reserved for fishing trips. Because analysis was already underway, the preliminary data analysis below is shown in north (survey) and south (fishing trip) boxes.

Goal and Objectives

The broad goal of this research is to identify habitats and species associations throughout the HMA, gauge their vulnerability to Atlantic surfclam fishing, and address a critical data gap to inform management decisions.

The specific objectives of this study include:

1. Map benthic features within the Davis Bank Easy fishery exemption area of the HMA
2. Assess seasonal changes in bathymetry and seafloor composition using multibeam sonar ground-truthed by optical benthic imagery using a drop camera array
3. Describe the epibenthic community associated with various substrates

Data Collection Tasks

Research trips

Sampling design

The pre-fishing surveys began August 5, 2024 and concluded September 12th. Multibeam surveys were completed aboard the *F/V Tom Slaughter* and drop camera surveys were completed aboard the *F/V Seafox*. The initial multibeam survey of the south box was used to guide the drop camera survey of the south box, which followed immediately after. Subsequently, the process was repeated for the north box. Compensation fishing trips began after mapping was completed.

Each multibeam mapping survey was 4-days in duration with 24-hour operations. Survey lines were spaced at 40 m intervals (10–50% path overlap depending on depth) oriented east to west. Along with collecting multibeam imagery (collected by a Furuno WASSP) on the trips, a Valeport mini sound velocity probe (SVP) was deployed. During the first trip, it was deployed every slack tide (twice a day) for the duration of the four-day trip. On the second leg of the multibeam survey the SVP was deployed once at slack tide. This information was used to correct for differences in sound speed through the water column due to summertime stratification, which affects mapping quality. Benthic features representative of the broad combination of bathymetric and backscatter characteristics of the area. Features of interest were marked and a stratified-random selection of 200 sites were selected for surveying with the drop camera array (**Figure 1a**).

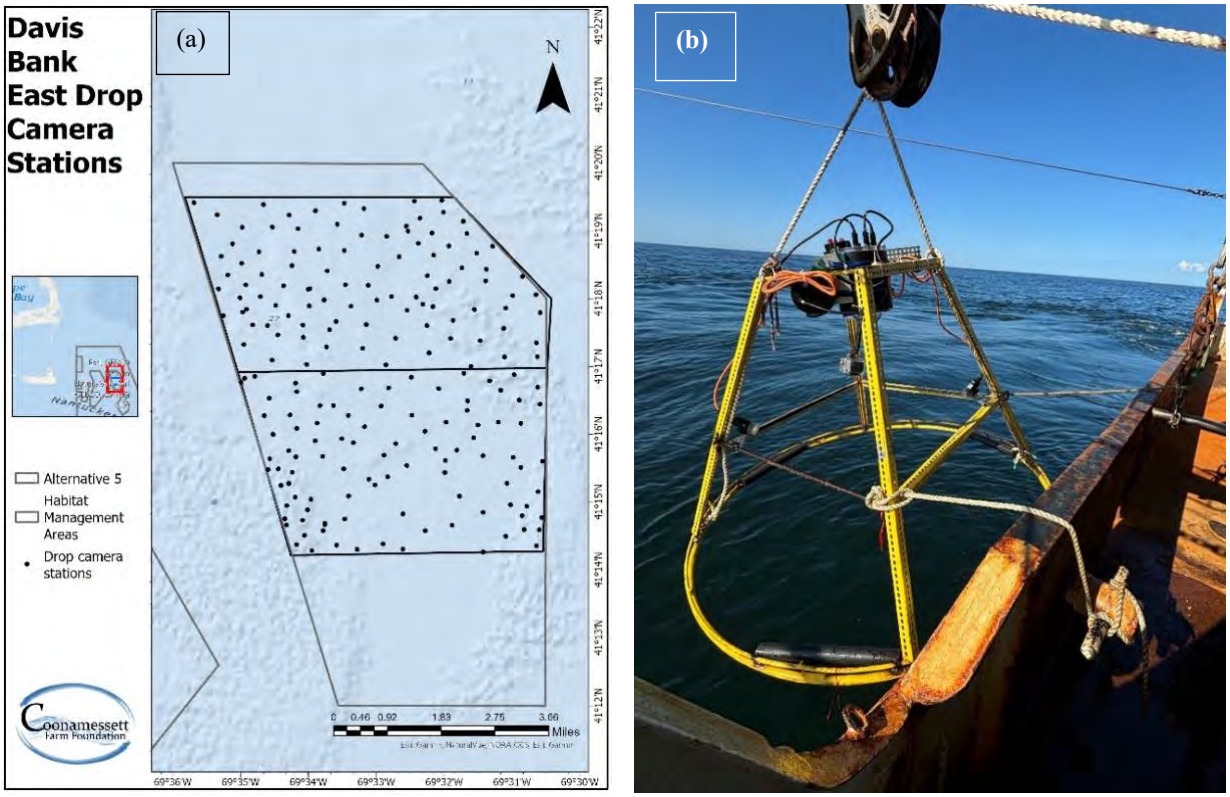

Figure 1. (a) Drop camera stations in the Davis Bank East sample area. (b) Drop camera array with a time lapse still-image camera system outfitted with 2 lights, a video camera pointed straight down, and a sideways facing GoPro camera recording video.

The drop camera array was outfitted with downward-facing time lapse camera (Marine Acoustic Technologies, Inc.) recording 1 image 5 s^{-1} with synchronized strobe lighting, a downward-facing high-definition video camera (ArtCam), and a horizontal facing video camera (GoPro Hero+) (**Figure 1b**). Still images were collected by deploying the drop camera array at each of the 200 stations and held on the seafloor for approximately 15 s. A temperature and depth logger (Lotek, Inc.) was attached to the drop camera frame for the duration of the trips.

Data analysis

The multibeam data was processed using SonarWiz 8.0 software, which allowed the merging of overlapping swath data, interpolate and grid the data to form a continuous bathymetric surface, filter the data to correct errors and extraneous noise in the data, and apply sound velocity profile and tidal stage corrections.

One image from each station was annotated in the software photoQuad (Trygonis and Sini 2012). This software allows for image calibration and a user defined species library. Two bars of the camera stand on the seafloor were visible in the still images and were used for image calibration (**Figure 2**); the smaller bar was 1cm while the larger bar was 2.3 cm. The field of view remained the same over the survey period. The species library included substrate characteristics such as sand, sand with shell hash, rock particles, clam shell, mussel shell, and epifauna such as barnacles, encrusting bryozoan, and hydrozoans. One hundred points were generated in the visible range of the image to characterize the substrate (**Figure 2**). If the points landed on rocks of any size, shells, or epifauna, the shape was outlined as a region of interest that is defined using the same species library. If a rock had more than one species of epifauna present, the most dominant species was listed on the annotation. For this report, the term "rock" refers to a hard particle, not a specific size. The size was characterized after measurement.

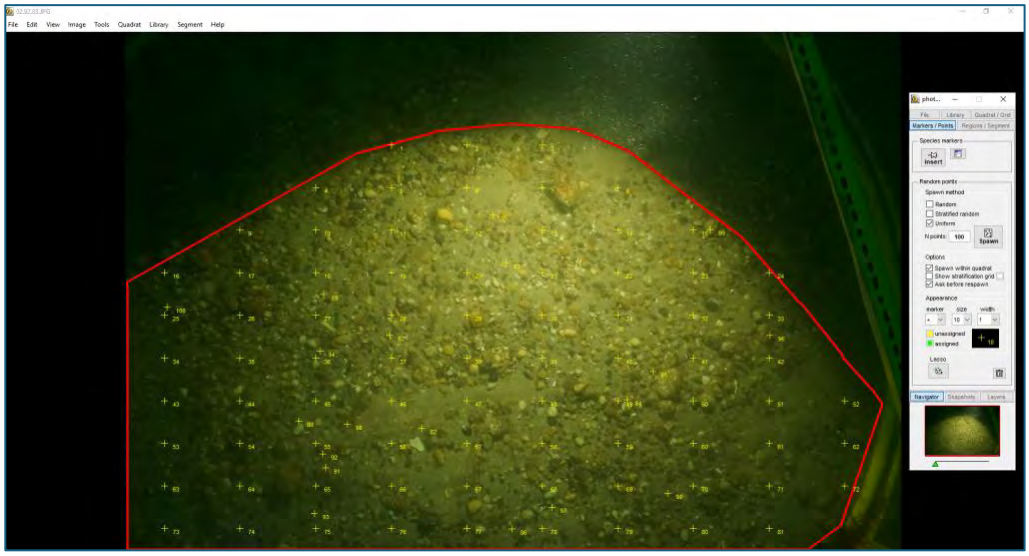

Figure 2. User interface when annotating in photoQuad. The bars of the drop camera stand in the lower right corner of the image were used for calibration. One hundred generated points were assigned whichever substrate or habitat characteristic on which the point landed from the species list. If the point landed on a rock or type of shell, a region of interest outline was drawn around it characterized from the same list.

Several variables describing the annotated substrate images were exported from photoQuad, including: point substrate classification, substrate and species regions, centroid relative location, eccentricity, perimeter length, short, and long axis lengths. These, along with station name, GPS position, and water temperature, were added to an Access database. Because the Wentworth scale (Wentworth 1922) classifies particles based on their diameter, rock sizes were categorized

using the major axis length (cm) metric in photoQuad. This metric is the longest side of the region of interest that was measured.

Fishing trips

Surfclam catch data was collected from 15 compensation fishing trips. Data collected per tow includes tow start and end times and GPS positions, depth, vessel speed, number of surfclam bushels per tow, current tidal stage, and a 1-bushel catch subsample. Subsamples were sorted and all contents counted and weighed to the nearest hundredth of a kg. Surfclams, finfish, and American lobster (*Homarus americanus*) were measured.

Preliminary Results

Sonar data

Multibeam sonar imagery was processed in SonarWiz 8.0 (**Figure 3**). Both bathymetry and backscatter indicate sand dunes and large sand shoals on both east and west sides of the sample area. The other areas indicate a mixture of hard and soft substrate and varying depths.

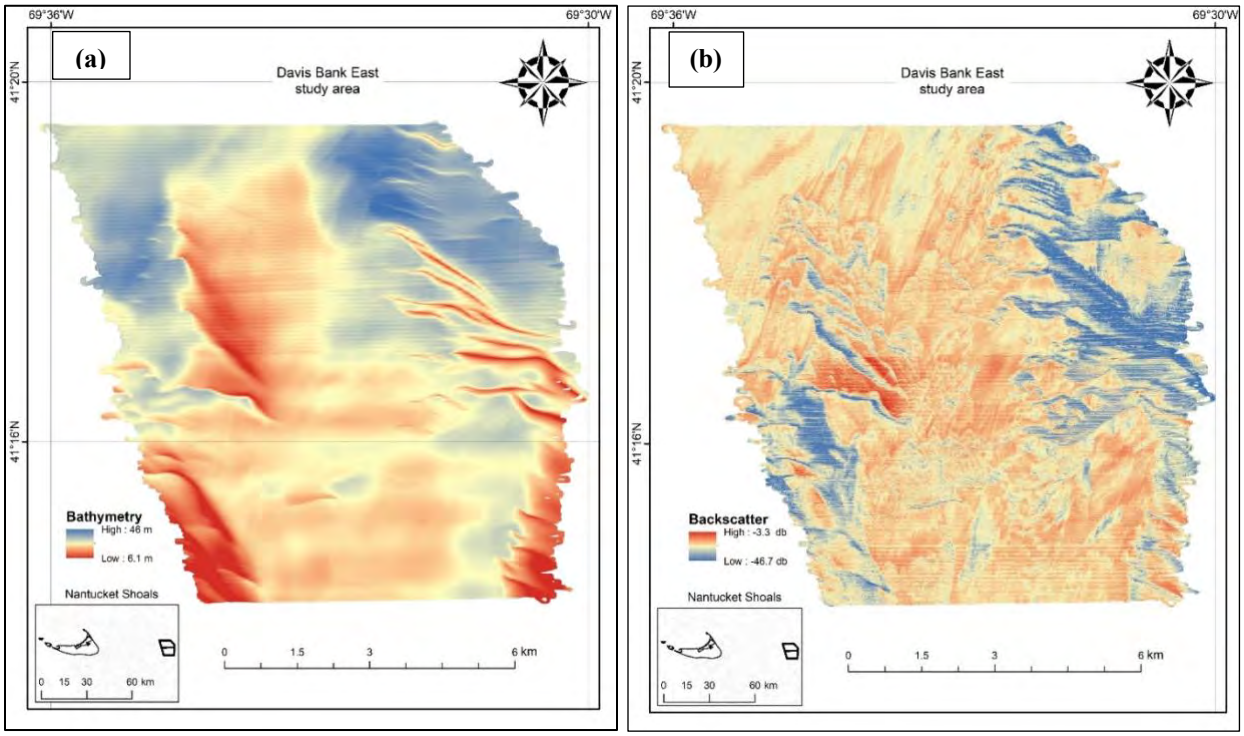

Figure 3. Multibeam sonar measured (a) bathymetry in meters of the sample area in Davis Bank East where cool and warm colors represent deeper and shallow areas, respectively. Multibeam sonar measured (b) backscatter where cool and warm colors represent soft and hard substrates, respectively.

Drop camera data

The 100 uniformly distributed points per image in the annotations yielded 19,899 data points describing substrate and other benthic habitat characteristics (see **Table 1A** in **Appendix A** for total point breakdown by habitat characteristic). One skate (*Leucoraja erinacea* or *L. ocellata*) and four Jonah crab (*Cancer borealis*) The dominant substrate by station was calculated (**Figure**

4) and the three major categories annotated were sand, sand with shell hash, and rock (see **Figure 1A** in **Appendix A** for example images of these substrates). The calculated dominant substrate generally agrees with the patterns seen from the multibeam backscatter where stations dominated by sand are most dense around the edges of the sample area where the dunes and shoals are located (**Figure 3b**).

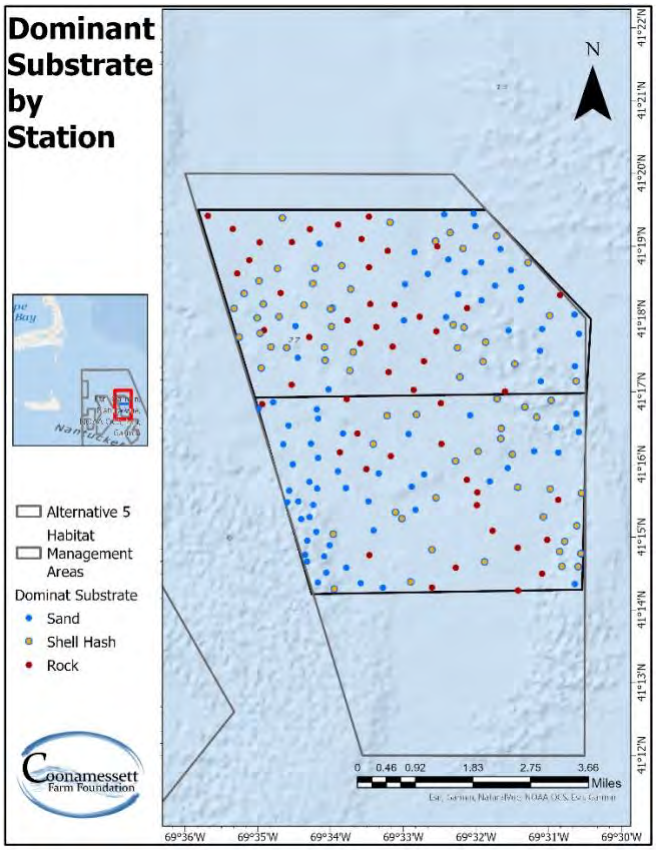

Figure 4. Dominant substrate recorded in the 200 drop camera stations in the Davis Bank East sample area. Blue station points represent stations where sand is dominant, orange with a blue outline represent stations where sand and small shell hash were dominant, and red represents stations where rocks were the dominant substrate present.

Three types of epifauna were annotated in the drop camera images including barnacles, encrusting bryozoan, and hydrozoan. These were seen growing on hard surfaces including rocks, clam shells, mussel shells, and other shells (full distribution of hard surfaces and epifauna coverage can be seen in **Appendix A**, **Figures 2A – 5A**). The north box stations had higher instances of rock, shell hash, and epifauna groups (**Figure 4, 5**).

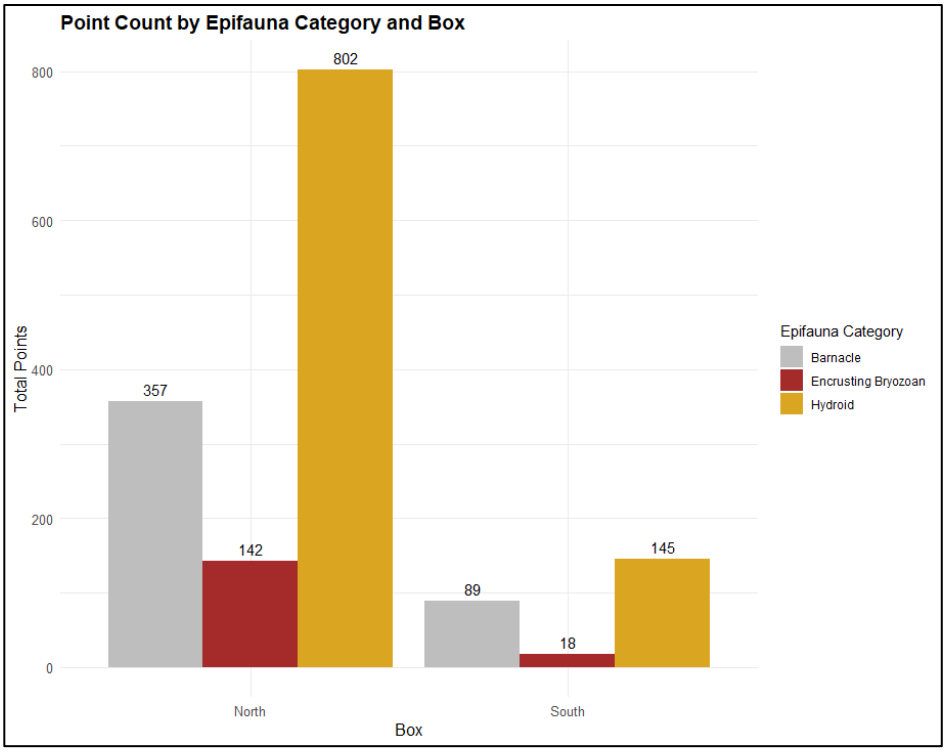

Figure 5. All epifauna points were pooled according to category and box in the Davis Bank East sampling area. Total point numbers are listed above the bars where gray were barnacle points, red were encrusting bryozoan points, and gold were hydrozoan points. The total number of points containing epifauna was 1,553 of 19,899 total points annotated (< 8%).

Rock particles were classified, using the Wentworth scale based on their maximum axis length (cm) for the whole sample area; granule, pebble, cobble, and boulder were identified within the area (**Table 1**). Distribution of the rock was patchy, and more rocks were recorded from the north box drop camera images.

Table 1. Rock particles categorized by the Wentworth scale and broken into the north and south boxes.

Rock Particle by Major Axis Length (cm)	Wentworth Scale (mm)	North Box	South Box	Total
Sand	0.625 < 2	6313	7636	**13949**
Granule	2 to < 4	24	11	**35**
Pebble	4 to < 64	3008	1846	**4854**
Cobble	64 to < 256	33	20	**53**
Boulder	256 to < 4,096	1	0	**1**
	Total	**9379**	**9513**	**18892**

At stations where rocks were annotated, the dominant epifauna on the rock was categorized. It was found that most stations were dominated by pebble sized bare rocks (**Figure 6a**). The north box had more stations dominated by rocks with hydroid present. Station images had anywhere from 1-99 rocks (**Figure 6b**).

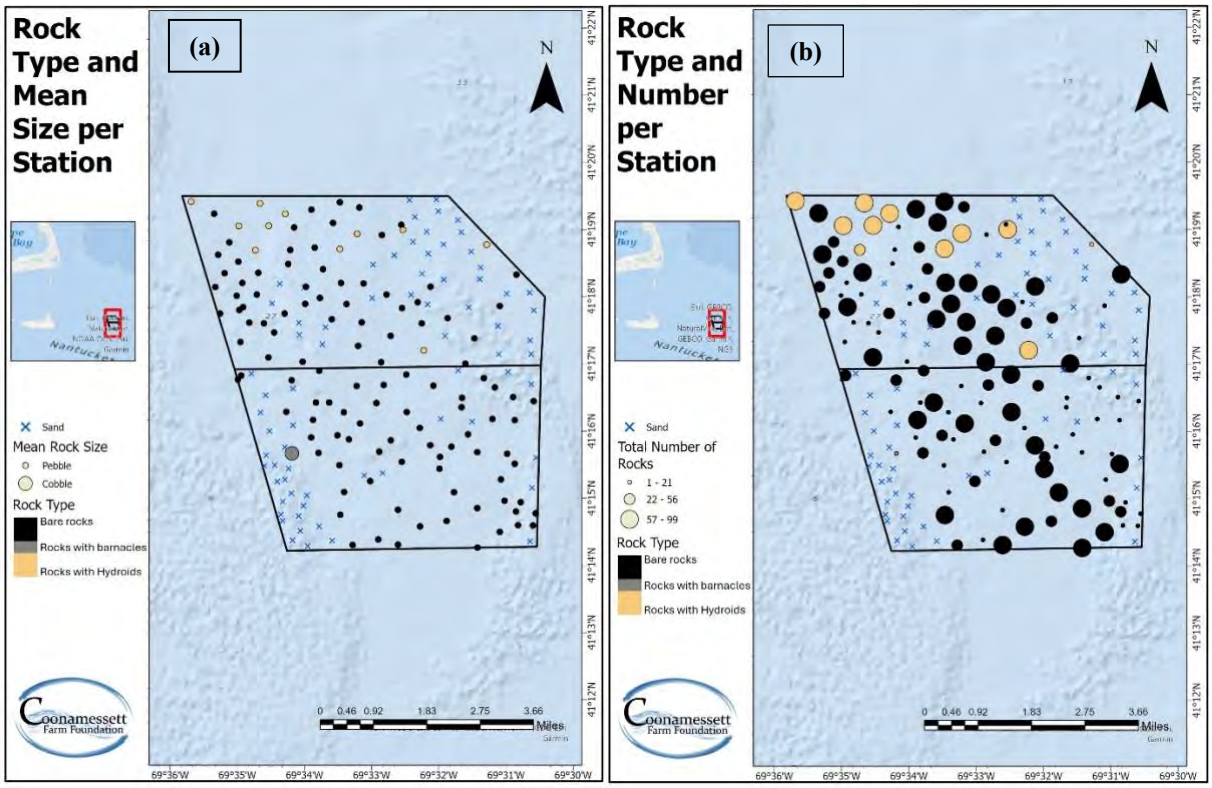

Figure 6. Rocks illustrated by dominant epifauna type found per station with (a) mean size of all rocks present at east station and (b) number of rocks found at each station. Stations represented by blue x's had no rocks present.

All substrate characteristics including substrate, types of shell present, epifauna category, and live mussels were analyzed in relation to depth using a linear regression. In the north box, the category "sand with small shell hash" was significant with a minor negative trend with increasing depth (**Figure 7a**). In the south box, both rock and sand with shell hash showed a positive trend with increasing depth while sand showed a negative trend with increasing depth (**Figure 7b**). This can be explained by the shallow nature of the shoals for which the area is known.

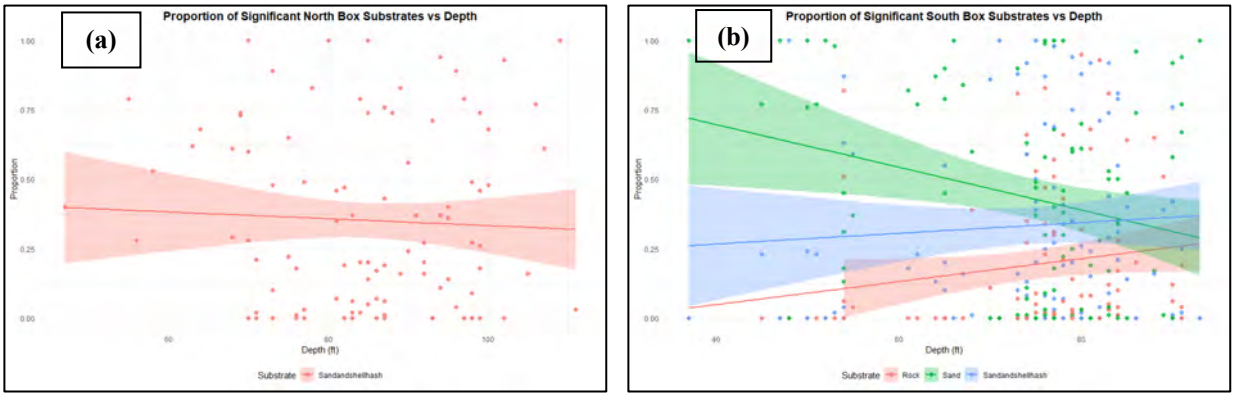

Figure 7. Habitat characteristics from the drop camera annotations were plotted versus depth using a linear regression. Significant characteristics are shown for the (a) north and (b) south boxes.

Compensation fishing trip data

Fifty-two compensation fishing trips have been accomplished between both vessels. CFF has had a scientist onboard 15 trips to collect tow and catch data. Data was collected from 438 tows (**Figure 8**) that ranged in time from 4 – 31 min with an average tow length of 17 min.

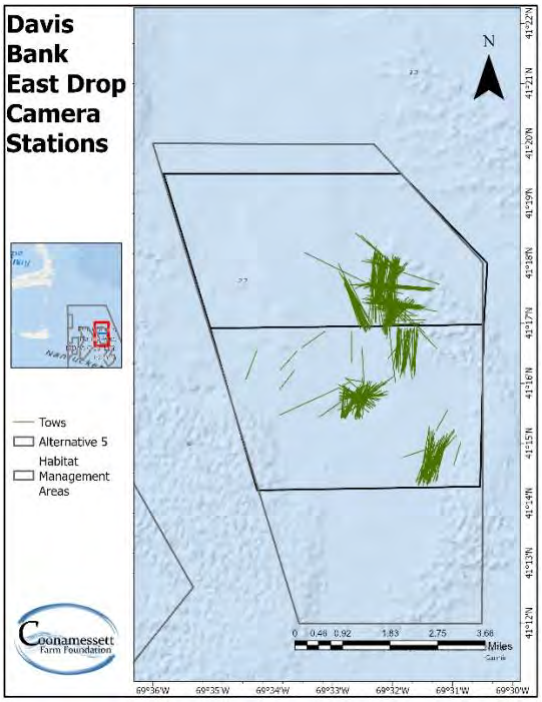

Figure 8. Mapped tows from the trips on which a CFF scientist was present to collect tow and catch data in the Davis Bank East sampling area.

The total tows on trips CFF covered account for approximately 124 h of dredge contact with the seafloor with a total area swept of 0.63 km^2 (**Table 2**).

Table 2. Tow information from 438 tows from which CFF collected data.

Data from Covered Trips				
Total Tows	Bottom Contact Time (h)	Total Tow Lengths (km)	Total Swept Area (km^2)	Average Swept Area per Tow (km^2)
438	123.87	515.38	0.63	0.0014

Organisms caught as bycatch were pooled from the one-bushel subsample taken in each tow (**Table 3**). The most common organisms caught, surfclam excluded, were northern moon snails (*Euspira heros*), skate, and *Cancer* spp. crab. Winter flounder (*Pseudopleuronectes americanus*) was the most common finfish bycatch species (35 fish from 438 tows).

Table 3. Bycatch species and their total number caught in the 15 compensation fishing trips (438 tows) where a CFF scientist was onboard.

Species	**Scientific Name**	**Total Number Caught**
Northern moon snail	*Neverita duplicata*	782

Leucoraja skate	*L. ocellata* and *L. erinacea*	233
Atlantic rock crab	*Cancer irroratus*	80
Waved whelk	*Buccinum undatum*	76
Jonah crab	*Cancer borealis*	46
Winter flounder	*Pseudopleuronectes americanus*	35
Cancer crab	*C. irroratus* and *C. borealis*	25
Windowpane flounder	*Scophthalmus aquosus*	12
Monkfish	*Lophius americanus*	7
Seastar	*Asterias* sp.	3
Barndoor skate	*Dipturus laevis*	2
Summer flounder	*Paralichthys dentatus*	5
American lobster	*Homarus americanus*	1
Northern sea robin	*Prionotus carolinus*	1
Longhorn sculpin	*Myoxocephalus octodecemspinosus*	1
Atlantic surfclam	*Spisula solidissima*	18,444 bushels landed

Along with weights, surfclams lengths were recorded from the bushel subsample. They were recorded in 5 mm bins and ranged from 47 to 177 mm (**Figure 9**). Three species of flounders were caught, winter, windowpane (*Scophthalmus aquosus)*, and summer (*Paralichthys dentatus)* (**Table 3**). Lengths were recorded for all flounders caught in each tow. Thirty-five winter flounder were caught, with a size range of 10-51 cm. Twelve windowpane flounder were caught with a size range from 25-33 cm. One summer flounder was caught at 17.6 cm (length frequencies for flounder can be seen in **Appendix A**, **Figure 6A**).

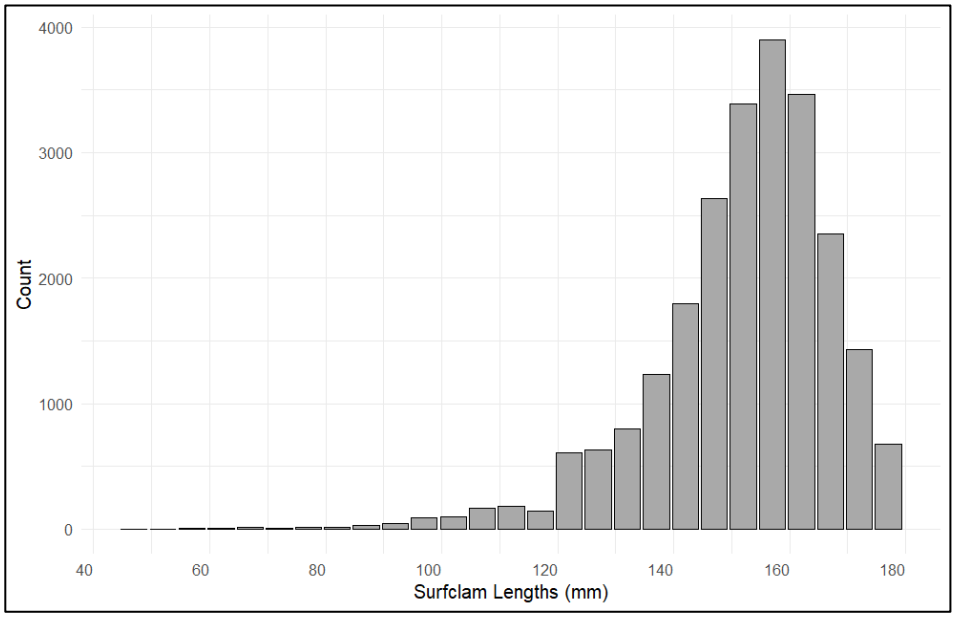

Figure 9. Length frequency of measured surfclams (mm) from a one-bushel subsample from approximately 438 tows from the compensation fishing trips.

Preliminary Findings and Next Steps

Our preliminary results indicate that the Davis Bank East study area is predominately characterized by coarse sandy sediments with granule, gravel, and pebble patches that had a little low-relief epibenthic growth. Epibenthic organisms identified were limited to barnacles, bryozoans, and hydroids. Boulders, dense mussel beds, and other features observed in the Rose and Crown research area were absent in Davis Bank East.

In this progress report we illustrate our process of using optical tools to accurately assess substrate and epibenthic composition and other benthic habitat characteristics of the HMA. We are currently working on correlating the backscatter from the multibeam sonar to the substrate composition in the images from the drop camera array.

We plan to re-survey the west box in April. Because data analysis started when the area was changed from a north – south to an east – west orientation, this report was completed with the data in a north – south fashion. The final report will be changed to an east – west designation to match with the bulk of the fishing and survey effort. The final report will include more complex analysis and multi-variate statistical models that will consider temperature, tidal stage, and other oceanographic variables.

Literature Cited

Jennings, N., Garcia, L., Davis, F., and Munnelly, R., 2022 Great South Channel Habitat Management Area Survey, Final Report for Exempted Fishing Permit #19066. (https://s3.us-east-1.amazonaws.com/nefmc.org/6.-CFF-PR-EFP19066-Feb2022.pdf)

Trygonis, V., Sini, M., 2012. photoQuad: a dedicated seabed image processing software, and a comparative error analysis of four photoquadrat methods. Journal of Experimental Marine Biology and Ecology 424-425, 99-108.

Wentworth, C.K., 1922. A Scale of Grade and Class Terms for Clastic Sediments. Journal of Geology, 30, 377-392.

Appendix A. Additional figures

Table 1A. Still image point annotations by category from the 200 drop camera stations in Davis Bank East by sample box.

Random Point Designation	North	South	Total
Sand	2808	4339	7147
Sand plus small shell hash	3511	3297	6808
Rock	2092	1843	3935
Rock with hydroid	658	86	744
Rock with barnacles	275	61	336
Clam shell	191	108	299
Mussel shell	73	53	126
Rock with encrusting bryozoan	73	12	85
Clam shell with hydroid	21	29	50
Clam shell with hydroid	49	0	49
Live mussel with barnacles	33	15	48
Mussel shell with hydroid	34	10	44
Live mussel with hydroid	39	4	43
Clam shell with encrusting bryozoan	39	1	40
Clam shell with barnacles	22	11	33
Mussel shell with barnacles	26	2	28
Mussel shell with encrusting bryozoan	20	1	21
Hydroid	9	11	20
Live mussel with encrusting bryozoan	8	3	11
Other shell	5	6	11
Live mussel	7	1	8
Other shell with hydroid	1	5	6
Algae	3	0	3
Other shell with encrusting bryozoan	2	1	3
Other shell with barnacles	1	0	1
Total	**10000**	**9899**	**19899**

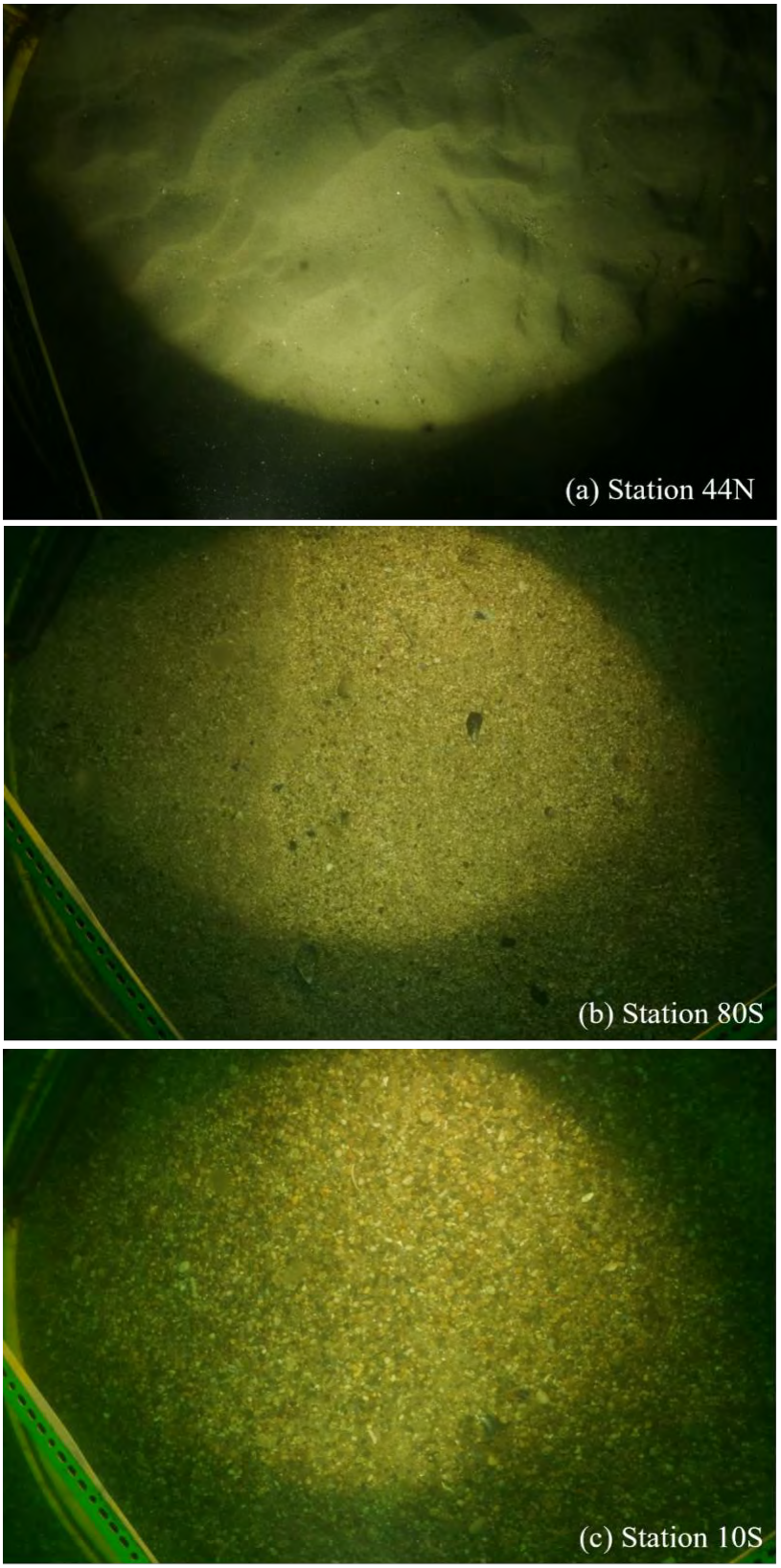

Figure 1A. Drop camera image examples of (a) sand, (b) sand with shell hash, and (c) rocks.

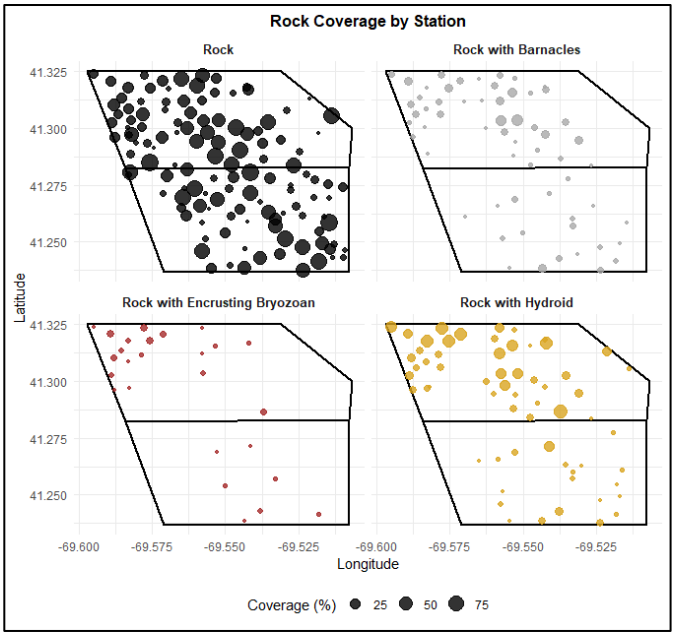

Figure 2A. Distribution of annotated rock particles by station. Coverage percentage refers to the percentage of the total points per station image (100) that were recorded as rocks. Gray points represent rocks with barnacles, brown are rocks with encrusting bryozoan, and gold are rocks with hydroids.

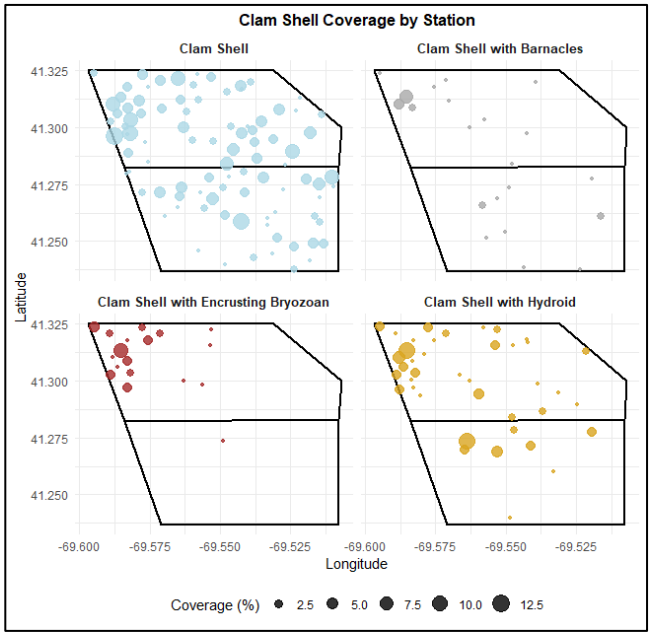

Figure 3A. Distribution of annotated clam shell by station. Coverage percentage refers to the percentage of the total points per station image (100) that were recorded as clam shell. Gray points represent clam shell with barnacles, brown were clam shell with encrusting bryozoan, and gold were clam shell with hydroids.

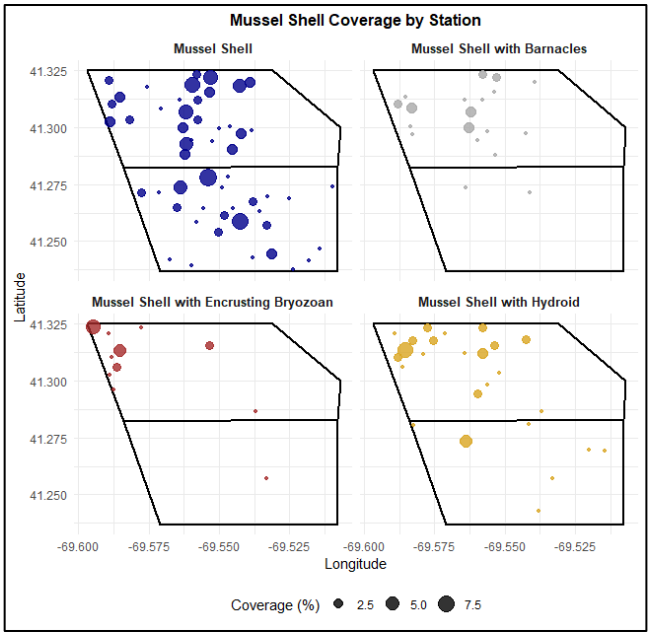

Figure 4A. Distribution of annotated mussel shell by station. Coverage percentage refers to the percentage of the total points per station image (100) that were recorded as mussel shell. Gray points represent mussel shell with barnacles, brown were mussel shell with encrusting bryozoan, and gold were mussel shell with hydroids.

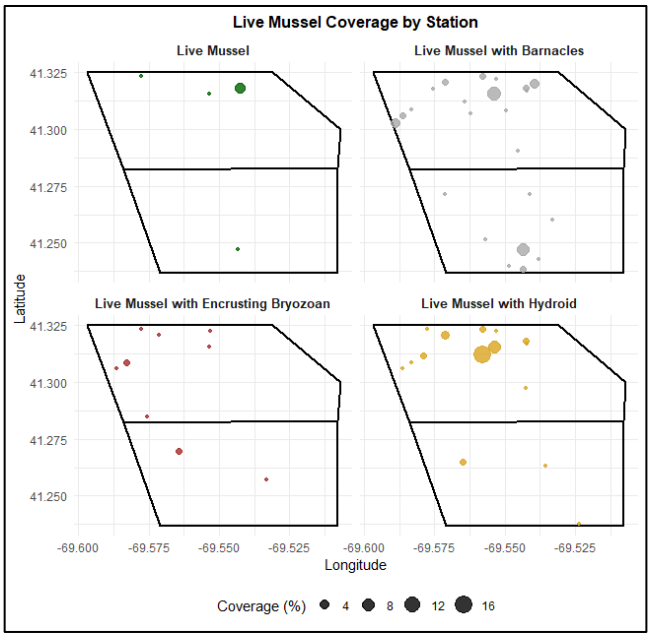

Figure 5A. Distribution of annotated live mussels by station. Coverage percentage refers to the percentage of the total points per station image (100) that were recorded as live mussels. Gray points represent live mussels with barnacles, brown were live mussels with encrusting bryozoan, and gold were live mussels with hydroids.

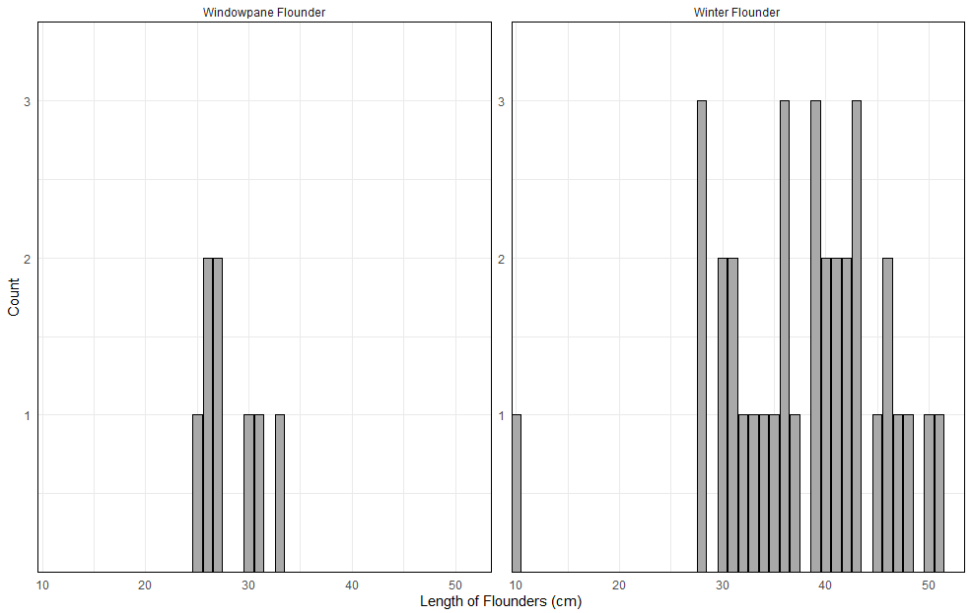

Figure 6A. Length frequency of all flounders caught (excluding one summer flounder) as bycatch in the dredge in 438 tows from 15 compensation fishing trips.

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Mr. Eugenio Piñeiro Soler
Assistant Administrator for NOAA Fisheries
U.S. Department of Commerce
1401 Constitution Ave NW
Washington, DC 20230

Dear Mr. Piñeiro Soler,

The Commercial Fisheries Research Foundation (CFRF) is a non-profit institution established by Rhode Island commercial fishermen to conduct cooperative research and educational projects aimed at improving fishery sustainability. Our Board of Directors consists of commercial fishermen and individuals from businesses that support the fishing industry. Since 2004, we have directly involved over 200 fishermen and fishing businesses in our research.

As cuts to the National Oceanic and Atmospheric Administration are considered, we want to draw attention to a successful and cost-effective cooperative research program between fishermen and scientists. The CFRF American Lobster and Jonah Crab Research Fleet was established in 2013 to collect critical biological data on lobsters, advance fishery management and science, and support the fishermen whose livelihoods depend on this valuable fishery. Jonah crab sampling was added in 2014. Fishermen receive training and technologies to integrate biological and environmental data collection into standard fishing operations, providing dependable data year-round and in targeted fishing areas. Participating fishermen are compensated for this work, with over half of the project's budget allocated for these payments. Some highlights of this program include:

- Collecting data on over 250,000 lobsters and 144,000 Jonah crabs.
- Employing over 40 commercial fishing vessels from Maine to New Jersey.
- Increasing trust and transparency between fishermen, scientists, and managers.
- Improving stock assessments for both species.
- Advancing oceanographic models that have economic and safety implications for fishermen.
- Providing a template for other industry-led data collection programs.

Since its inception, this research program has been funded through various NOAA grant opportunities and, most recently, through federal appropriation funding. We hope that NOAA can continue to support hardworking American fishing communities through cooperative research programs, such as the Lobster and Jonah crab Research Fleet, which exemplify the goals of Section 4c of Executive Order 16993: Restoring American Seafood Competitiveness and help strengthen our scientific capabilities.

On behalf of the Commercial Fisheries Research Foundation,

N. David Bethoney
Executive Director

Noelle Olsen
Lead Research Biologist for the Lobster-Crab Research Fleet

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May 16, 2025

Via Email

Howard Lutnick
Secretary of Commerce, U.S. Department of Commerce

Laura Grimm
NOAA Chief of Staff
Acting Under Secretary of Commerce for Oceans and Atmosphere and NOAA Administrator

Eugenio Piñeiro Soler
Assistant Administrator for NOAA Fisheries

Re: Executive Order on Restoring American Seafood Competitiveness

Dear Mr. Lutnick, Ms. Grimm and Mr. Piñeiro Soler:

I write on behalf of the Maine Lobstermen's Association, Inc. ("MLA") in response to President Trump's Executive Order on Restoring American Seafood Competitiveness, dated April 17, 2025 ("EO"). MLA appreciates this administration's expressed policy in support of U.S. fisheries and its plan to reduce the ever-growing regulatory burdens faced by U.S. fisheries.

The Maine lobster fishery has, unfortunately, been no stranger to federal regulatory abuse. As discussed below, were it not for an act of Congress and a judicial decision from the D.C. Circuit Court of Appeals, an overzealous National Marine Fisheries Service ("NMFS") would presently be carrying out a plan to regulate the Maine lobster fishery out of existence. Although that plan has been thwarted (at least temporarily), entrenched NMFS staff have given no indication of changing course in the future. High-level policy change is needed and necessary. The Maine lobster fishery is one of the "most heavily overregulated fisheries requiring action," and MLA welcomes the policy changes and associated implementation plans expressed in the EO.

THE MAINE LOBSTER FISHERY

The Maine lobster fishery has long been an integral part of the State of Maine's—and the New England region's—culture, heritage, and economy. Lobstering income serves as the foundation

of Maine's coastal economy and is the economic engine that keeps many small rural towns alive. Maine's lobster fleet directly supports more than 10,000 jobs: 4,340 captains, up to 5,750 crew, and 800 students.

The Maine lobster fishery generates more than $1.5 billion annually in sales and distribution supply chain revenue to the region's economy,[1] and is made up of a diverse collection of small businesses that are located in small, rural communities. Maine lobstermen live along more than 3,500 miles of coastline in 120 rural communities, including 15 year-round islands.[2] These coastal communities lack traditional economic opportunity and instead are highly dependent on self-employment: 23% overall, with a 38% level in year-round island localities (compared to 13% nationwide).[3] The median household income for Maine lobstermen is $39,395, compared to the national median of $44,389.[4]

By law, every Maine lobsterman is a self-employed business owner. Each runs his or her own boat and lives, works, and spends earnings locally. Maine's Department of Marine Resources assigns each commercial lobster license and a maximum 800-trap tag allocation to a vessel. The vessel is owned and operated by the captain. There is no corporate ownership in the Maine lobster fleet. Licenses and trap tags can be sold only by the State of Maine; no sale or transfer by private parties is permitted.

For more than a century, the Maine lobster fishery has been a stable presence along Maine's waterfronts. It is an icon of the region, and a vital part of its culture, traditions, and economy. The future of many of Maine's coastal communities, and economic opportunity for children growing up in these communities, depends on the continued success of the Maine lobster fishery.

MLA is Maine's oldest fishing industry organization. MLA advocates for a sustainable lobster resource and the fishermen and communities who depend on it. MLA engages in advocacy, education, stewardship and sustainable resource management, collaborative research, and cultural exchange. For over 70 years, MLA has ably represented the interests of the Maine lobster industry and educated the public, regulators, and elected officials about the importance of this industry and the impact of legal and regulatory changes on its viability.

FEDERAL REGULATORY OVERREACH

The federal regulatory overreach afflicting the Maine lobster fishery stems primarily from NMFS's administration of the Marine Mammal Protection Act ("MMPA") and the Endangered Species Act ("ESA") with respect to the perceived risks of the fishery to the endangered North

[1] Michael Donihue, *Lobsters to Dollars: The Economic Impact of the Lobster Distribution Supply Chain in Maine,* at 1, 3, 12 (June 2018), www.colby.edu/economics/lobsters/Lobsters2DollarsFinalReport.pdf.

[2] WAYPOINTS: LIVELIHOODS ON MAINE'S COAST AND ISLANDS, www.islandinstitute.org/waypoints-livelihoods (last visited Mar. 1, 2021).

[3] *Id*.

[4] GULF OF ME. RESEARCH INST., A SOCIOECONOMIC SURVEY OF NEW ENGLAND LOBSTER FISHERMEN, at 27 (2008), http://www.lobstermen.com/wp-content/uploads/2009/10/RES_DH_reports_Lobster-Socioec-Survey.pdf.

Atlantic right whale. These problems came to a head in 2021, when NMFS issued a new MMPA "take reduction rule" imposing more restrictions on the fishery and a new ESA biological opinion ("BiOp") containing a plan for the regulatory extinction of the fishery. As a result of litigation filed by MLA, both of these decisions were found unlawful by the D.C. Circuit Court of Appeals.

Background

In 1996, NMFS established the Atlantic Large Whale Take Reduction Team ("TRT") under the MMPA, primarily to address the risks posed by fisheries to North Atlantic right whales. The TRT includes representatives from regulatory agencies, academia, environmental organizations, and fisheries. MLA representatives have been involved, knowledgeable participants on the TRT since its inception. Over the course of the TRT, NMFS has completed six substantial rulemakings based on consensus or near-consensus recommendations of the TRT. Unfortunately, over time, NMFS began to lead and manage the TRT under an unofficial, unlawful agenda that regulations must err on the side of protecting right whales from alleged risk caused by the lobster fishery based on worst-case scenarios and assumptions rather than the best available data.

The regulatory measures imposed on fisheries through the TRT process (known as the "Take Reduction Plan") have evolved over 25 years to include various gear modification and marking requirements, time-area closures, and gear reduction mandates. Through implementation of the Take Reduction Plan, the right whale population growth trajectory was favorable for more than 15 years.[5] Collaborative work by lobster harvesters, researchers, fishery managers, agencies, environmental organizations, and other stakeholders led to the development of innovative fishing practices and gear deployment strategies to reduce risk to right whales. MLA has always supported, and continues to support, measures that are demonstrated to have a reasonable probability of preventing or minimizing *actual, likely harm to the species*.[6] But MLA's good faith efforts have been unavailing.

Lobstermen, who give up critical fishing days to attend week-long TRT meetings, are now generally dismissed when they disagree with NMFS's predetermined approach. For example, in 2019, when the lobster industry questioned NMFS's "risk reduction" target, the agency refused to meaningfully address the issue and summarily dismissed the valid concerns expressed by lobstermen. Instead, NMFS forced TRT members to discuss new, burdensome measures that are

[5] Linden D. 2024. Population size estimation of North Atlantic right whales from 1990-2023. NOAA Technical Memorandum NMFS-NE-324. https://repository.library.noaa.gov/view/noaa/66179.

[6] MLA and its members have also collaborated with scientists in developing and testing fishing gear to reduce entanglement risk. MLA partnered with NMFS's gear team in the 1990s to measure gear profiles, test weak links, and explore gear modifications; worked with researchers in the 2000s to establish methods and standards to deploy weak links, develop buoy line marking methods, and deploy remotely operated vehicles and sensors to measure groundline rope profiles; and tested a variety of vertical line modifications, such as weak rope, stiff rope, glow rope, and time tension line cutters. Since 2010, MLA and its members have worked with scientists to publish a resource describing lobster gear and configurations deployed in the lobster fishery, map lobster fishing effort, develop a gear/whale risk model, document wear issues associated with sinking groundlines and recommendations to improve wear of that line, describe options for best fishing practices, test colored vertical lines, measure the breaking strength of existing vertical lines, test new versions of weak rope, and update time tension line cutters.

intended to meet a false "risk reduction" target unilaterally decided by NMFS based on the attribution of worst-case, hypothetical impacts to the fishery. The TRT process stacks the deck against lobstermen and has become a sham exercise used by NMFS to provide regulatory cover for preordained agency outcomes.

2021 Take Reduction Plan and BiOp

By 2021, NMFS had fully aligned its internal guidance and processes to favor measures that presumed a lobster fishery impact based on worst-case modeling and pessimistic assumptions rather than an objective assessment of the best available data. Consequently, NMFS imposed a new seasonal closure covering a massive, nearly 1,000-square mile, area of federal waters off the coast of Maine, and additional measures to remove and weaken rope, through a rulemaking process amending the Take Reduction Plan. That closure was never discussed or approved by the stakeholders on the TRT. In the same year, NMFS issued the new BiOp, which attributed a high number of hypothetical, never-observed right whale mortalities to the lobster fishery. To offset those assumed mortalities, the BiOp included a "conservation framework" through which the lobster fishery would undergo a series of punishing, phased regulatory restrictions to the point where 98% of the supposed risk posed by the fishery would be removed. If carried out, this "framework" would have decimated the fishery.

What caused NMFS to take these actions? *First*, right whales experienced an "unusual mortality event" starting in 2017. The primary cause of that event—established in scientific papers—was a multi-year spike in lethal right whale entanglements in Canadian snow crab gear and vessel strikes in Canada's Gulf of St. Lawrence. Without any jurisdiction over activities in Canada, NMFS—prodded by environmental activists to do something in response to the mortality event—turned its attention to the easiest regulatory targets (U.S. fisheries). There was little or no factual basis for this. To be sure, in contrast to the numerous lethal entanglements observed in Canada, there has only been *one* observed lethal entanglement of a right whale in the Maine lobster fishery in recorded history.

Second, in the face of uncertainty regarding the right whale population and causes of mortality, NMFS employed quantitative models premised on overtly pessimistic assumptions about right whales and fishery risks. These worst-case assumptions compounded in NMFS's analyses to generate extreme fishery impact scenarios far beyond what could reasonably be expected or what was actually observed. In other words, NMFS applied a deliberate bias in which all uncertainties were resolved not through objective, reasoned analysis but by arbitrarily assuming the highest fishery impact. As NMFS itself admitted in the BiOp, it "utilized metrics representing the worst case scenario" and its "model outputs very likely overestimate" fishery impacts. To offset these assumed "worst-case" impacts of the fishery, NMFS imposed the "conservation framework" in the 2021 BiOp requiring an unprecedented 98% risk reduction.

Legal Challenges and Congressional Intervention

Faced with regulatory decisions that would be economically crushing for thousands of Maine lobstermen and could eliminate an iconic cultural heritage that has sustained Maine's coastal communities for centuries, MLA filed a lawsuit challenging NMFS's actions. The litigation

progressed to the D.C. Circuit Court of Appeals, which, in June 2023, issued a decision in MLA's favor that gave "the lobstermen all the relief they seek." *Maine Lobstermen's Ass'n v. NMFS*, 70 F.4th 582, 602 (D.C. Cir. 2023). In so deciding, the Court stated—in no uncertain terms—that NMFS "misconceived the law" and "was not just wrong; it was egregiously wrong." *Id*. at 597-98. It held that "when faced with uncertainty," NMFS may not "give the 'benefit of the doubt' to an endangered species by relying upon worst-case scenarios or pessimistic assumptions." *Id*. at 586. The Court further explained that "[w]hen the Service applies a substantive presumption to distort the analysis, the public can have no confidence that 'economic dislocation' is needed to protect a species and is not the result of 'speculation or surmise' by overly zealous agency officials." *Id*. at 600.

But before the D.C. Circuit Court issued its decision in *MLA v. NMFS*, the D.C. District Court issued an adverse decision in a separate lawsuit in favor of environmental activists, who had challenged the BiOp and take reduction rule as, in their view, not going far enough. *See Center for Biological Diversity v. Raimondo*, 610 F. Supp. 3d 252 (D.D.C. 2022). That court decision created a substantial risk that NMFS would produce an even more draconian new BiOp and take reduction rule in a short period of time. Accordingly, Congress stepped in and provided relief by passing legislation that retains the status quo until December 2028, at which time NMFS must produce a new take reduction rule and BiOp. That legislation also provided $50 million for research to better understand right whale dynamics and risks to the species.[7]

Although the *MLA v. NMFS* decision requires objective analyses that should result in a new BiOp and take reduction rule that *lessen* rather than increase the regulatory burden on the Maine lobster fishery, NMFS has given no indication that it will change course. NMFS continues to use models that make pessimistic and worst-case assumptions. It continues to ascribe hypothetical whale mortalities (labeled "cryptic mortalities" by NMFS) to the fishery that have never been observed, which it then uses to determine the "risk reduction" goal for the lobster fishery. It also continues to use its "decision support tool" for TRT deliberations, which arbitrarily and quantitatively measures fishery "risk" (assuming worst-case impacts) and prescribes the reductions needed to reduce that "risk." NMFS staff have stubbornly (and unlawfully) ignored and minimized the D.C. Circuit Court's precedential and binding decision in *MLA v. NMFS*. Worse still, NMFS recently indicated that it would double down on its railroading of the TRT process by preparing a new take reduction rule without including right whale data collected by the State of Maine through a program it began in 2023 with funding from Congress under the Act, specifically to improve the quality of data in the next round of take reduction rulemaking.

Burdensome Regulations Loom

All of this points to a new biological opinion and a new rule that will continue to evaluate hypothetical, worst-case fishery impacts and impose punishing restrictions to offset those phantom impacts. Further exacerbating risk to the fishery, NMFS's current policies—particularly its guidance on "negligible impact determinations"—create burdensome regulatory hurdles that are almost impossible to clear by even the most objective assessments.

[7] Consolidated Appropriations Act, Pub. L. No. 117-328, 136 Stat. 4459 (2022).

MLA recognizes that there are real and serious threats facing the right whale. Vessels outside of New England regularly strike and kill right whales. Climate-driven changes in the ocean environment are confounding their food supply. Changes in migration patterns pushed right whales into Canadian waters where they were killed by fishery entanglements and struck by vessels before protections were in place. But regulating the Maine lobster fishery out of existence will solve none of these problems. We respectfully encourage this administration to take action to eliminate the arbitrary analyses and decision-making that has plagued the Maine lobster fishery, ensure full agency compliance with *MLA v. NMFS*, and lessen or eliminate the unnecessary and unlawful regulatory burdens that NMFS has imposed (and is still attempting to impose) on the fishery.

If you have any questions or would like additional information, please do not hesitate to contact me at 207.967.4555 or patrice@mainelobstermen.org.

Sincerely,

Patrice McCarron

Patrice McCarron
President

cc: Sam Rauch, Deputy Assistant Administrator for Regulatory Programs
Michael Pentony, Regional Administrator, GARFO
Jennifer Anderson, Assistant Regional Administrator for Protected Resources, GARFO
Senator Susan Collins (via Katie Brown)
Senator Angus King (via Olin Hartkopf)
Representative Chellie Pingree (via Lisa Pahel)
Representative Jared Golden (via Eric Kanter)
Honorable Janet Mills, Governor of Maine (via Tom Abello)
Carl Wilson, Commissioner, Maine Dept of Marine Resources
Dr. Cate O'Keefe, Executive Director, New England Fishery Management Council
Robert Beal, Executive Director, Atlantic States Marine Fisheries Commission

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May 28th, 2025

Mr. Andrew Lawler
Principal Deputy Assistant Secretary
National Oceanic And Atmospheric Administration
U.S. Department of Commerce
1401 Constitution Ave. NW,
Washington, DC 20230.

Re: ICCAT U.S. Bluefin Tuna Quota

Dear Mr. Lawler:

The Rhode Island Party and Charter Boat Association (RIPCBA), which includes HMS Permitted vessels, suggests increasing the U.S. Bluefin tuna (BFT) quota for all user groups due to the significant biomass along the Atlantic coast and Gulf of America. Conservation measures have made BFT accessible closer to shore than previously observed. There are now great economic opportunities available, particularly when our fleet needs them. Conservation efforts across various species we target have affected our ability to operate as profitable businesses, yet BFT represents a successful conservation story that we cannot fully benefit from due to low quotas.

The BFT fishery in the northeast could operate for many months annually with an adequate quota. Similarly, an extended season in southern waters is possible. The for-hire fleet, general, and harpoon category BFT users in the northeast often exhaust their quota by mid to late August, leading to closures from early September through December, and similar early-year closures.

In 2024, the quotas for the general, harpoon, and recreational angler categories exceeded the established limits. This increased annual catch for commercial and recreational users indicates successful fishery management and higher availability of the BFT resource. The economic impact of these fishing overages, in place for FY 2025, highlights the need to follow the Magnuson-Stevens Act National Standard 8, which balances conservation with economic and social benefits for coastal communities. According to President Trump's Restoring American Seafood Competitiveness Executive Order (EO), access to this abundant fishery is essential. It is our position that raising the U.S. quota at ICCAT will assist American fishermen in meeting the objectives set forth in the EO.

The biomass of commercial and recreational Bluefin Tuna (BFT) from Maine to North Carolina is substantial, as verified through BFT close kin DNA sampling. Therefore, an increase in the International Commission for the Conservation of Atlantic Tunas (ICCAT) quotas is both overdue and necessary to benefit U.S. fishermen. We recommend that the U.S. pursue an increase in both commercial and recreational BFT quotas, and that this proposal be agreed upon and implemented at the ICCAT annual meeting in November 2025.

We recommend reviewing the recreational angler catch data for 2024 to identify outliers and avoid unnecessary regulatory restrictions. NOAA Fisheries must submit the 2024 BFT catch estimates to ICCAT by early June. Due to uncertainty in angling category catch, NOAA should decertify and review the 2024 recreational BFT harvest estimates to provide accurate updates responsibly.

Thank you for the chance to comment. For questions or comments, please feel free to reach out.

Sincerely,

Capt. Rick Bellavance, President
Rhode Island Party and Charter Boat Association

cc: Eugenio Pineiro Soler, NOAA
Walter Golet, ICCAT Chair
Randy Blankenship, NOAA, HMS
Russ Dunn, NMFS

25-0095315

Southern Maryland Recreational Fishing Organization, Inc.
P.O. Box 132
Valley Lee, Maryland 20692-0132

April 18, 2025

Mr. Howard Lutnick
Secretary of Commerce
1401 Constitution Avenue
Washington, D.C. 20230

Re: Restoring American Seafood Competitiveness

Mr. Secretary,

You can re-establish a $10 billion dollar recreational fishing industry in the United States.

We respectfully request that you facilitate a Presidential Executive Order ending the overharvesting of a critically important forage fish, Atlantic menhaden, by a Canadian company, in US waters. Striped Bass, as well as Bluefish, Weakfish and other economically important predators of Atlantic menhaden, are dependent on menhaden for their survival. The last remaining industrial harvester of Atlantic menhaden is Omega Protein, a Canadian owned company that processes Atlantic menhaden for its foreign aquaculture operations and pet food operations.

Unfortunately, the US Government has been ignoring the law which is resulting in a devastating decline in the recreational harvest of Striped Bass and other sportfish. The GDP associated with the recreational harvest of striped bass along the Atlantic Coast alone was $7.7 billion dollars in 2016 ($10.2 billion in 2025 dollars). There were also over 100,000 jobs associated with this industry. Since 2016, the striped bass and other recreational harvest has declined by 50%, resulting in billions of dollars of lost revenue and thousands of jobs. This has represented a "Canada-First" policy.

The solution to this problem is to end all industrial reduction purse seine harvesting of Atlantic menhaden in US waters.

I respectfully request that you facilitate a Presidential Executive Order ending all industrial reduction purse seine harvesting of Atlantic menhaden in US waters.

With Respect and Gratitude,

Very Respectfully,

Phil Zalesak

President
Southern Maryland Recreational Fishing Organization
Corporate Facebook: https://www.facebook.com/profile.php?id=61552422541232
Membership Facebook: https://www.facebook.com/groups/598428253621775
Email: smrfo2021@gmail.com

Cc:
Mr. Robert F. Kennedy, Secretary of Health and Human Services
Mr. Russell Vought, Director of the Office of Management and Budget
Dr. Heidi Overton, Assistant to the President for Domestic Policy
Mr. Kevin Hassett, Assistant to the President for Economic Policy
Dr. Neil Jacobs, National Marine Fisheries Service
Ms. Brooke L. Rollins, Secretary of Agriculture
Mr. Jamieson Greer, US Trade Representative

Western
Pacific
Regional
Fishery
Management
Council

April 30, 2025

The Honorable Howard Lutnick
Secretary of Commerce
U.S. Department of Commerce
1401 Constitution Ave NW
Washington, DC 20230

Dear Secretary Lutnick,

The Western Pacific Regional Fishery Management Council (Council) met on March 25-27, 2025 at its 202nd Meeting and discussed issues regarding the Papahānaumokuākea National Marine Sanctuary. In the final days of the Biden-Harris Administration, NOAA's Office of National Marine Sanctuaries issued a final rule designating the Papahānaumokuākea National Marine Sanctuary (90 FR 4856, January 16, 2025). Per the National Marine Sanctuaries Act, after the final rule for sanctuary designation is published, sanctuary designation will take effect following 45 days of continuous session of the U.S. Congress. In this case, March 3, 2025. The Council was concerned that its fishing regulations that were recommended for the sanctuary were not reviewed for consistency with recent Executive Orders. The Council therefore is seeking clarification on the Council's proposed fishing regulations and consistency with the Administration's policies and executive orders in order to inform the Council's decision to reconsider those recommendations.

The Western Pacific Regional Fishery Management Council is one of eight regional fishery management councils established in 1976 by the Magnuson-Stevens Fishery Conservation and Management Act (MSA) to provide U.S. fishermen a voice in the decision-making process for fishery resources in the U.S. exclusive economic zone or EEZ (generally 3-200 nautical miles). The Western Pacific Council's area of jurisdiction includes U.S. EEZ waters surrounding American Samoa, Hawaii, Guam, the Northern Mariana Islands and several U.S. unincorporated island possessions, including Howland, Baker and Jarvis Islands, Palmyra and Johnston Atolls, Kingman Reef and Wake Island located in the Central Pacific. Approximately one-half of EEZ waters of the United States are in our area of jurisdiction.

The Papahānaumokuākea sanctuary encompasses 582,578 square miles of the Pacific Ocean, an area nearly the size of the Gulf of America and larger than all of America's National Parks combined. Within the sanctuary, all commercial fishing is prohibited despite numerous scientific studies demonstrating that the U.S. fisheries operating in the area were small in number, yet economically important and did not negatively impact marine resources. In addition, the final rule also prohibits all opportunities to explore, develop, or produce oil, gas, or minerals, or any energy development activities. These and other sanctuary regulations are currently under review by NOAA for consistency with the Administration's policies and Executive Orders (EO) as noticed in the Federal Register (90 FR 13410, March 24, 2025). The fishing regulations are

being developed by the Council and NMFS under the Magnuson Stevens Fishery Conservation and Management Act (MSA) and are separate from this action. The Council seeks to provide the fishing regulations in order for the Department of Commerce for a similar consistency determination (enclosed).

It is important to note, however, that the Council does not believe that a sanctuary is necessary in the Northwestern Hawaiian Islands due to the redundancy with existing regulations. A sanctuary would overlay a marine national monument (which overlays the Council's existing fishing regulations) and only serves to create a greater government bureaucracy with little added conservation benefit. The Council is on record preferring that fishing be managed exclusively under the MSA and providing fishing opportunities for US fishermen. However, due to the goals and objectives proposed by the sanctuary, there is little room to allow for commercial fishing, including the Council's proposal for limited fish sales by native fishing practitioners to cover costs incurred on that fishing trip.

The fishing regulations proposed by the Council were found to be inconsistent with the goals and objectives of the sanctuary. Recent policies and EOs seem to disagree with that finding and that the Council would like to provide rationale for that position. The attachment provides where the Council's fishing regulations may be consistent with current EOs.

In closing, we ask that the Council's fishing regulations be provided with a consistency review in order for NOAA to restore the Magnuson-Stevens Act as the proper authority by which the Secretary will promulgate regulations to sustainably manage marine resources of the area. We look forward to working with you to foster capitalism and economic growth, and Make America's Fisheries Great Again!

Sincerely,

Kitty M. Simonds
Executive Director

Attachment:
(1) Analysis of Proposed WPRFMC Fishing Regulations Against Current Executive Orders
(2) WPRFMC Proposed Fishing Regulations for Papahānaumokuākea National Marine Sanctuary

cc: Vice Admiral Nancy Hann, acting NOAA Administrator
Eugenio Piñeiro Soler, Assistant Administrator, NOAA Fisheries

Attachment (1)

Analysis of Proposed WPRFMC Regulations Against Recent Executive Orders

EO 14192: Unleashing Prosperity Through Deregulation (90 FR 9065, February 6, 2025)

- The purpose of EO 14192 is to significantly reduce the private expenditures required to comply with Federal regulations to secure America's economic prosperity and national security and the highest possible quality of life for each citizen.
- The sanctuary regulations are inconsistent with EO 14192 because they would duplicate existing regulations that have already been established by state and federal agencies to protect nationally significant biological, cultural, and historical resources and would place unnecessary regulatory burdens on the American people.
- As noted in environmental impact statement for the sanctuary, there already exist numerous state and federal management laws and authorities that protect the biological, cultural, and historical resources within the sanctuary. These include Hawaiian Islands National Wildlife Refuge, the Midway Atoll National Wildlife Refuge, the Kure Atoll Wildlife Sanctuary, the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve, the Papahānaumokuākea Marine National Monument, the Papahānaumokuākea Monument Expansion Area and Fishery Conservation Zone and U.S. exclusive economic zone (EEZ) established under the Magnuson-Stevens Fishery Conservation and Management Act.
- The sanctuary final rule only serves to establish additional and duplicative regulations and creates another layer of unnecessary and wasteful federal bureaucracy with little to no conservation benefit at the expense of U.S. fishermen and the American taxpayer.

EO 14154: Unleashing American Energy (90 FR 8353, January 20, 2025)

- The purpose of EO 14154 is to unleash America's affordable and reliable energy and natural resources.
- The sanctuary regulations are inconsistent with EO 14192 because they would establish a complete prohibition on exploring for, developing, or producing oil, gas, or minerals, or any energy development activities within virtually the entire U.S. EEZ around the NWHI, area encompassing 582,578 square miles of the Pacific Ocean.
- The U.S. EEZ around Hawaii could potentially hold non-living resources that may benefit the National. Consistent with the purposes and policies of the National Marine Sanctuaries Act (16 U.S.C. 1431), the Papahānaumokuākea sanctuary should *"enhance public awareness, understanding, appreciation and wise and sustainable use of the marine environment, and the natural, historical, cultural, and archeological resources of the National Marine Sanctuary System."* Here, the sanctuary regulations ignore this purpose and policy.
- The sanctuary regulations are also inconsistent with Presidential Proclamation 5030 of March 10, 1983 establishing the U.S. EEZ. Presidential Proclamation 5030 provides the United States sovereign rights for the purpose of exploring, exploiting, conserving and managing natural resources, both living and non-living, of the seabed and subsoil and the superjacent waters and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds; and (b) jurisdiction with regard to the establishment and use of artificial islands,

Attachment (2)

WESTERN PACIFIC REGIONAL FISHERY MANAGEMENT COUNCIL

WPRFMC Recommendations for Fishing Regulations in the Monument Expansion Area

Recovering costs for fishing in the MEA for community to participate is *pono*. Native Hawaiians are at the top of several socio-economic indicators including the highest rates of poverty, unemployment, negative health conditions, lowest home ownership, etc. A decision to disallow cost recovery, including sales will continue to disenfranchise the Native Hawaiian community. The Council believes that limited cost recovery may be conducted on a small scale within the community consistent with Proclamation 9478's prohibition on commercial fishing. The Council's amendment also prohibits commercial gear and allows a comprehensive process for applying and approving requests for Native Hawaiian Subsistence Practice Permits. The distance from the Main Hawaiian Islands to the MEA requires a large cost for fuel, bait, ice, food and other fishing needs may prohibit fishers from participating in Native Hawaiian cultural and traditional fishing practices in the MEA. Cost recovery allows for the disadvantaged communities to participate in cultural and traditional fishing practices by promoting equity amongst fishers as directed by Executive Order 13985 in particular for Asian American, Native Hawaiian and Pacific Island (AANHPI) communities as directed in Executive Order 14031.

Regarding NWHI fishing regulations for the Monument Expansion Area, the Council recommended amending the Hawaii and Pelagic Fishery Ecosystem Plan (FEP) to prohibit commercial fishing and allow for sustainable non-commercial fishing and Native Hawaiian subsistence fishing practices in the Monument Expansion Area (MEA), including bringing back resources to the Main Hawaiian Islands (MHI). Fishing regulations would include:

- Commercial Fishing Prohibition: Commercial fishing as defined in 50 CFR 665 – Western Pacific Fisheries would be prohibited in the MEA.
- Allowable Species: Only Hawaii bottomfish management unit species (MUS) as defined at 50 CFR 665.201 and western Pacific pelagic MUS as defined at 50 CFR 665.800 would be allowed to be caught in the MEA. Fishing for all other Hawaii FEP MUS and Hawaii FEP ecosystem component species, as defined in 50 CFR 665 - Subpart C, Hawaii Fisheries would be prohibited.
- Allowable Gear Types: Only handline, hook and line, rod and reel and spear as authorized at 50 CFR 600.725 – General Prohibitions would be allowed to be used to catch bottomfish MUS and pelagic MUS in the MEA. All other gear types, including longline, bottom set longline, trawl and poisons would be prohibited from use in the MEA.
- Catch Limits: Establish a preliminary annual catch limit for bottomfish MUS at 350,000 lbs. and pelagic MUS at 180,000 lbs. for the MEA. NMFS and the Council would monitor catches from within the original monument authorized by NOAA, and in the MEA authorized by NMFS towards this limit. As an accountability measure (AM), if NMFS forecasts the limit would be reached NMFS would prohibit all fishing in the MEA for the remainder of the fishing year.
- NMFS and the Council will annually report fishery performance (e.g., number of permits issued, catch and effort information, etc.) in the annual Hawaii FEP and Pelagics FEP Stock

monument area for sustenance purposes are not commingled with fish caught in the MEA for non-commercial and Native Hawaiian practices and sharing in the MHI, NMFS and the Council would prohibit any person from engaging in both non-commercial fishing inside and outside the MEA as well as sustenance fishing in the original monument area on the same trip. However, sustenance fishing in the original monument and MEA on the same trip shall not be prohibited.

- Observer and VMS Requirements: All fishing vessels must carry an activated and functioning NOAA-provided VMS unit on board at all times whenever the vessel is in the Monument, and an observer if directed to do so by NMFS.
- Notification: Permit holders must notify NMFS prior to making any fishing trip to the MEA so NMFS may place a VMS unit and/or an observer on board as directed. Additionally, permit holders must contact NMFS at least 24 hours before landing any catch harvested under an MEA permit, and report the port and the approximate date and time at which the catch will be landed.
- Other Requirements: All fishing vessels must also comply with regulations codified at 50 CFR 665 – Western Pacific Fisheries applicable in the Exclusive Economic Zone (EEZ) comprising the MEA.

Regulatory Relief Requests for the Hawaii Longline Association

• The shallow-set fishery is subject to punitive "caps" on the amount of accidental hookings of certain sea turtle species. If reached, those caps result in the shutdown of the fishery as a whole or the prohibition of a vessel from fishing for swordfish. This punitive approach is both highly unusual under the Endangered Species Act and nonexistent for foreign vessels. To make matters worse, published scientific papers have demonstrated that closures of Hawaii's shallow-set fishery result in increased imports of foreign-caught swordfish, which results in more sea turtle deaths (because foreign fisheries have no sea turtle mitigation measures).

The deep-set fishery is subject to a "take reduction team" ("TRT") process under the Marine Mammal Protection Act that was never justified. The TRT was formed in 2009 as a result of NMFS's overestimation of fishery interactions with false killer whales and NMFS's underestimation of the size of the false killer whale population. Even though NMFS's severe underestimation of the false killer whale population at that time is now well known, NMFS continues to maintain the illusion of a high fishery impact on false killer whales through biased and arbitrary agency decisions. Not only has the TRT process resulted in burdensome regulatory measures (some of which are discussed below), but NMFS is presently developing a new set of TRT-based regulations that could be imposed as early as this year and may include such draconian measures as fishing effort reductions and costly gear requirements (all to the benefit of our foreign competitors).

• Through the TRT process, NMFS has already imposed a requirement that the deep-set fishery must use weaker hooks than its foreign counterparts because NMFS believes that weak hooks will more easily bend and free false killer whales that may be accidentally hooked while depredating catch. NMFS continues to impose this requirement despite the fact that it has become readily apparent that it would be far more effective, beneficial for whales, and safer for fishermen to simply require that the line be clipped as close the hook as possible when a false killer whale is accidentally hooked. Such a common sense requirement would alleviate the need to burden the fishery with compromised hooks. Foreign fisheries do not have to use weak hooks and may use any hooks they choose.

• Also, as a result of the TRT process, NMFS has imposed a punitive regulation on the deep-set fishery, which consists of a closure of a massive area of the U.S. EEZ around the Hawaii Archipelago called the Southern Exclusion Zone ("SEZ"). The SEZ can be triggered in any given year if the deep-set fishery accidentally hooks a certain (very small) number of false killer whales. Insofar as we are aware, not a single foreign fleet faces closure of its own country's jurisdictional waters for any reason, let alone for accidentally hooking a very small number of false killer whales.

• All Hawaii longline vessels are owned and captained by U.S. citizens, but they are mostly crewed by foreign nationals. Because the conventional crew visa is not available for these foreign fishermen working on U.S. fishing vessels, foreign crew are prohibited from flying to Hawaii and transiting from the airport to the fishing vessel under the usual C1/D visa that is used, for example, by foreign crew employed onboard cruise ships based in Hawaii. The practical result of this regulatory oversight is that crew changes for Hawaii longline vessels require a significant interruption in fishing operations in order for the boat to sail from its homeport in Honolulu some 2,500 miles to the nearest foreign port— a voyage that takes two weeks or more in each direction and results in significant additional fuel and related costs and lost fishing time. Again, foreign vessels are subject to no such constraints.

REGULATORY ISSUES FOR THE PACIFIC TUNA PURSE SEINE FLEET

1. Recognize the American Samoa Based Fleet as a SIDS Fleet

The number one issue for the purse seine sector is regulation of the American Samoa based U.S. purse seine fleet with respect to management measures established by the Western and Central Pacific Fisheries Commission (WCPFC). The WCPFC is an international body made up of both coastal states and fishing states in the region. The Convention establishing the WCPFC spells out the need to ensure that "small island developing states" (SIDS) do not shoulder a "disproportionate burden" in managing the fisheries of the region. "Participating Territories," such as American Samoa are *explicitly included* in the definition of "SIDS." The economy of American Samoa is overwhelmingly dependent on the tuna industry and American Samoa is entitled to the same treatment and considerations granted to other SIDS fleets by the WCPFC. The requirements for equal treatment for Participating Territories is clearly spelled out in the WCPFC Convention, in particular Article 10 and Article 30.

However, because American Samoa is not a flag state and does not have its own vessel registry, these purse seine vessels cannot fly an American Samoa flag. NOAA has maintained a policy of regulating these U.S. flag vessels without any consideration of the fact that they operate in support of a small island developing territory whose economy is overwhelmingly dependent on the tuna industry. This has an adverse effect both for the American Samoa economy and for the vessels themselves. Regulating the American Samoa fleet as a SIDS fleet is not only the right and just thing to, it would provide a number of benefits to ease the regulatory burden currently affecting the industry.

2. Access to the U.S. Exclusive Economic Zone

With the reopening of portions of the U.S. EEZ to commercial fishing, the issues of access to these waters by the U.S. fleet becomes even more important. Currently, only certain U.S. vessels have such access, based on one of two criteria. First, vessels with a U.S. Coast Guard "Fishery Endorsement," which attests that the vessel was constructed in a U.S. shipyard, have access to the U.S. EEZ. Five ATA vessels currently have a "Fishery Endorsement." Second, a provision of the implementing legislation for the South Pacific Tuna Treaty provides that vessels, "documented under the laws of the United States as of [November 3, 1995] for which a [Treaty] license has been issued …" may fish for tuna in waters subject to the jurisdiction of the United States. Three ATA vessels currently qualify under this "Grandfather Clause." Although these vessels were initially constructed in the United States, they no longer qualify for a Fishery Endorsement due to significant work undertaken in shipyards overseas.

Thus, of the twelve vessels currently affiliated with ATA, only eight are eligible to fish in the U.S. EEZ. Frankly, the requirement for a Fishery Endorsement is a relic from another age and is no longer relevant when no vessels are being built in U.S. shipyards. ATA seeks to ensure that all U.S. vessels with a home port in American Samoa have access to the U.S. EEZ on an equal basis. Moreover, we would seek to delink the requirement for a Treaty license as, in the future, vessels will have the

option to negotiate access agreements directly with individual Pacific Island States that may not require a Treaty license.

3. Final Passage of Implementing Legislation for the South Pacific Tuna Treaty

The South Pacific Tuna Treaty was amended in 2016 to provide the U.S. fleet with greater operational flexibility and certainty in implementing its provisions. However, without changes to the underlying implementing legislation, NOAA has been unwilling to make changes to the regulatory requirements that would allow the fleet to operate under certain of the revised Treaty terms. The House passed implementing legislation in 2024, the Senate passed the same version of the Treaty legislation as part of the 2025 Coast Guard bill. Thus, both chambers have passed the legislation, but in different vehicles. Reconciliation of a final bill and its signature by the President would ensure the needed operational flexibility for the fleet.

Alternatively, NOAA could proceed to amend its regulations in any event, recognizing that the Treaty itself is an application of U.S. law and provides NOAA with the necessary authority to do so. ATA has a legal opinion from an outside attorney that spells out the basis for this authority which is available upon request.

4. Relief from Provisions of the "Jones Act"

Certain provisions of the "Jones Act" are extremely detrimental to the U.S. maritime industry across the board and make it all but impossible for U.S. flag vessels to compete against foreign vessels on a level playing field. For the fisheries sector, nowhere is this more true than in how the Jones Act impacts the insurance claims that are brought against the industry, and that consequently impact the cost of insurance for US fishing vessels. Instead of straight workman's compensation for injuries suffered on the job, the Act creates a paternalistic system that makes the vessel responsible for all aspects of the crew's health and welfare, regardless of whether any injury or illness (including pre-exiting conditions) is related to the individual's work aboard the vessel. This can include injuries or illness suffered away from the vessel and off duty, even when the result of the crew person's negligence, carelessness, intoxication, etc. The liability to the vessel created by this system adds approximately $400 thousand USD per vessel annually to the cost of insurance coverage vs. that required for other fleets. It has also created a cottage industry for lawyers who pursue crew members upon returning to port, for the purposes of filing lucrative lawsuits against the vessels.

The Jones Act needs an in-depth review into the ways in which it significantly impairs U.S. competitiveness, including an overhaul of the insurance requirements to comport more closely with the standard workman's compensation requirements that apply to other industries. Alternatively, an exemption from these requirements for vessels operating in fisheries managed by a regional fisheries management organization such as the Western and Central Pacific Fisheries Commission or Inter-American Tropical Tuna Commission would provide valuable relief.

5. Revise the Fee Schedule for Violations to Remove Overly Onerous Penalties

The fee structure for fines and penalties established in NOAA's regulations often results in fines and penalties that are severely disproportionate to the nature of the infraction. Moreover, when the designated penalties fall with a determined range, NOAA routinely applies penalties at or near the

top end of the range. This should be addressed through a revision of the NOAA schedule for fines and penalties to ensure that such penalties are proportionate to the nature of the alleged infraction.

6. Statute of Limitations for Violations and Assessment of Penalties

Vessel owners are repeatedly hit with large fines for alleged violations that are reported to have occurred up to three or even four years prior. It is virtually impossible for a vessel owner to defend himself and his crew for an incident that took place so long ago, particularly when the owner, captain, or crew were not made aware of the incident being reported at the time. A statute of limitations of no more than two years between the reported incident and the notice of violation will serve to protect owners and captains from this kind of event. Captains should also be notified when a potential infraction has been identified on a particular trip and provided an opportunity to respond in writing.

7. Uniform Definition for Fish Aggregating Devices (FADs)

NOAA's own regulations governing FADs contain different definitions for FADs in the Eastern Pacific vs. the Western Pacific Ocean. In the Eastern Pacific, a FAD is defined as a raft that is placed in the water to attract fish and that can be tracked via remote electronic means. This is the right approach. In the Western Pacific, a FAD is defined as any floating object, natural or man-made, that attracts fish, with no definition of minimum size or dimensions. Vessels have received large and onerous fines for sets when some sort of floating debris was found in the net at the end of a set, even though the material was not visible at the time the set was made. This is patently unfair. NOAA regulations should be consistent in the definition of FADs across the Pacific Ocean, in line with the current definition for the Eastern Pacific.

8. Crew Manning Requirements (Under discussion w/in ATA)

As a general matter, U.S. law requires that officers aboard U.S. flag vessels be U.S. citizens. Because of the severe shortage of qualified U.S. citizens to work as officers aboard tuna purse seine vessels, the law provides that vessels operating with a license issued pursuant to the South Pacific Tuna Treaty may use foreign citizens as officers, except for the vessel Captain. With the final passage of the Tuna Treaty legislation cited in item 3, above, vessels will have additional flexibility to negotiate access with the Pacific Island State either under the Treaty or, alternatively, outside the Treaty framework on a direct bilateral or subregional basis. Negotiations outside the Treaty framework may allow for more favorable terms and conditions, both financially and operationally. However, vessels will not be able to exercise this option if the manning exemption continues to apply only to vessels operating under a Treaty license. Since there has been a significant decline in the US purse seine fleet over the last 20 years, the lack of qualified U.S. citizens for these positions is getting worse, not better. The allowance for non-U.S. citizens as officers should be broadened to ensure vessels can continue to operate without disruption.

9. Endangered Species Act/National Environmental Policy Act

The U.S. tuna purse seine fleet consists of thirteen vessels out of a total more than four-hundred large scale purse seine vessels operating in the fisheries for tropical tunas across the Pacific Ocean, along with other thousands of longline vessels from Asia and, to a lesser extent, the Pacific Islands. And yet, under the ESA and NEPA, these U.S. flag vessels are potentially subject to harsh penalties,

including a closure of the fishery, should the fleet's take of a listed species exceed limits established under these laws, regardless of the U.S. fleet's overall impact on the species across its entire range. In 2022, the U.S. fleet narrowly avoided a "jeopardy decision" under the ESA for giant manta rays that would have triggered a number of additional requirements, that could have included shutting down the fishery under certain circumstances. (An initial draft of the decision, which included a decision of "jeopardy," was reversed after an outside legal analysis made clear that such a decision would almost certainly not withstand a legal challenge.)

Managing international fisheries with hundreds of participating vessels from foreign countries (thousands if longline vessels are included) is not the same as managing terrestrial species that live entirely within the jurisdiction of the United States. And yet, these laws make no distinction to take this into account. At a minimum, these laws should reflect that, for such internationally managed fisheries, the U.S. government will work to ensure the adoption of appropriate measures to protect endangered and threatened species, and that no penalties be applied to U.S. vessels for requirements that do not apply to foreign fleets engaged in the same fishery, so that the burdens of conservation do not fall exclusively upon the U.S. fleet.

10. International Air Pollution Prevention (IAPP) Certificate

The IAPP Certificate is required by the U.S. Coast Guard to comply with DOE and EPA regulations issued pursuant the MARPOL Convention. As most of the U.S. fleet was built in the 60s and 70s, the boats are considered "Uninspected Fishing Vessels" and exempt from the requirement for an IAPP Certificate. However, the requirements have not be consistently applied. We have had cases where vessels have replaced equipment and received a clean approval from the Coast Guard authorities, only to be told years later by different officials that they must have an IAPP Certificate. This would have required replacing the previously approved power source at a cost of hundreds of thousands of dollars. This needs to be clarified in Coast Guard or other relevant regulations to ensure that U.S. vessels are not again caught in this situation.

11. USDA Support for the Fisheries Sector

The U.S. agriculture industry receives significant USG support, through the USDA, for sales, marketing, and export promotion. No such comparable support is available to the seafood sector. USDA should establish an Office of Seafood Policy and Programs to promote and support the U.S. seafood industry.

12. Support for the StarKist Plant in American Samoa

U.S. flag vessels are the only vessels eligible to provide product to StarKist for certain government purchase programs, such as the USDA School Lunch Program and for the Department of Defense to feed our military. Maintaining the ability of the U.S. fleet to support these and other initiatives is important.

PHONE (808) 594-1888 FAX (808) 594-1938

STATE OF HAWAIʻI
OFFICE OF HAWAIIAN AFFAIRS
560 N. NIMITZ HWY., SUITE 200
HONOLULU, HAWAIʻI 96817

July 18, 2025

Via Email and Mail
Secretary Howard Lutnick
U.S. Department of Commerce
1401 Constitution Ave NW
Washington, DC 20230
thesec@doc.gov

Via Mail
Secretary Doug Burgum
Department of the Interior
1849 C Street, N.W.
Washington DC 20240

Re: Executive Order 14726 (Apr. 17, 2025): Restoring American Seafood Competitiveness

Aloha e Secretary Lutnick and Secretary Burgum:

The Office of Hawaiian Affairs (OHA) and the Native Hawaiian Cultural Working Group (CWG) send this letter in response to a request made by an administration representative at the June 10th meeting of the Western Pacific Fishery Council (WESPAC) to hear from the Native Hawaiian community concerning Executive Order 14726, specifically with respect to the question of whether the nation's marine national monuments should be opened to commercial fishing. Mahalo (thank you) to the administration for extending this request for input directly to the Native Hawaiian community—an important step in honoring the federal government's longstanding trust responsibilities to Native Hawaiians and other Indigenous peoples, and in respecting local voices in federal decision-making.

Established pursuant to the terms of Section 5 of the Admissions Act, Pub. L. No. 86–3, § 5 (1959), and the Hawai'i State Constitution, Article XII, sections 4, 5, and 6, OHA serves as a semiautonomous agency and trust vehicle for the betterment of the conditions of Native Hawaiians. Pursuant to a Memorandum of Agreement with the Department of Commerce (DOC), Department of Interior (DOI), and the State of Hawai'i, OHA is also one of the Co-Trustees of Papahānaumokuākea Marine National Monument (PMNM). In executing its management duties with respect to PNMN, OHA consults with the CWG as a recognized group of cultural practitioners, including lawai'a (fishers), whose advocacy for protection of marine resources in the Northwest Hawaiian Islands (NWHI) predates creation of the monument. CWG members regularly access PMNM under existing permit regulations to exercise traditional practices within Papahānaumokuākea, and have deep cultural knowledge with respect to this place.

OHA and CWG oppose opening PMNM to commercial fishing for the reasons outlined below, not least of which is that the fishing community also benefits from Papahānaumokuākea's protected status. The benefits marine protected areas generate for fishers were recently verified through a scientific study describing the "spillover" effects of protections in Papahānaumokuākea for ahi (bigeye tuna) catch and yellowfin tuna catch.[1] Moreover, as recommended by OHA, the PMNM boundary was explicitly established to ensure continued access by fishers to the most well-used fishing ground in the areas during the boundary expansion negotiations. PMNM represents a proud part of our national and cultural heritage and should remain protected, while common sense, state-led solutions—like enhancing "country of origin" labeling—are advanced to strengthen support for U.S. commercial fishers.

Native Hawaiian Support for Protecting Papahānaumokuākea

PMNM, established by President George Bush in 2006, encompasses the NWHI that were ceded to the United States after the overthrow of the Hawaiian Kingdom in 1893, and returned to the State of Hawai'i in 1959, except for Midway Atoll (Kuaihelani) which is federal property.[2] *See* Presidential Proclamation 8031, 71 Fed. Reg. 36,443 (Jun. 26 2006), as amended by Presidential Proclamation 8112 of February 28, 2007. 72 Fed. Reg. 10,031 (Mar. 6, 2007) (renaming the monument). On August 26, 2016, President Barack Obama expanded PMNM's boundaries to the limits of the United States Exclusive Economic Zone (EEZ), or 200 miles, through Presidential Proclamation 9478, further protecting this unique open ocean ecosystem, which constitutes an important cultural, physical, and spiritual landscape for Native Hawaiians. *See* Presidential Proclamation 9478 of August 26, 2016. 81 Fed. Reg. 60,227 (Aug. 31, 2016).

Early efforts to limit commercial fishing in Papahānaumokuākea were led by Native Hawaiian fishers who had fished in the NWHI as early as the 1940s, and personally observed the negative impacts even a small number of commercial fishers can cause in this highly nutrient constricted environment. In an oral history compiled in 2003, Uncle Louis "Buzzy" Agard (one of the original members of WESPAC who observed the collapse of multiple fisheries and fish populations in the NWHI) explained his support for establishing a refuge and later the monument stating:

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[1] Sarah Medoff et al., *Spillover benefits from the world's largest fully protected MPA*, 378 SCIENCE 313, (2022); *see also* John Lynham et al., *Impact of two of the world's largest protected areas on longline fishery catch rates,* 11 NATURE COMMUNICATIONS 979 (2020).

[2] OFFICE OF HAWAIIAN AFFAIRS, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, U.S. FISH AND WILDLIFE SERVICE, AND STATE OF HAWAI'I. MAI KA PŌ MAI: A NATIVE HAWAIIAN GUIDANCE DOCUMENT FOR PAPAHĀNAUMOKUĀKEA MARINE NATIONAL MONUMENt 17 (2021) (hereinafter "Monument Management Plan").

> So, I guess I'm one of the guys who thought I was going to be smart and go out there where it was pristine, and found out otherwise. And actually, I fished myself out of a job. So I can bring that back and tell people, "This is what happened." ... Maly (Oral Interview).[3]

Uncle Buzzy lived long enough to see Papahānaumokuākea protected first as refuge and reserve by President Bill Clinton, and later as a monument established by President George Bush.

On January 29, 2015, a group of seven prominent Native Hawaiian community leaders, including former OHA Chief Executive Officer Kamana'o Crabbe and CWG member Kekuewa Kikiloi, sent a letter to President Barack Obama asking him to expand the monument, helping to galvanize momentum in support of expansion to the full extent of the EEZ. As highlighted in the letter, "[w]hile the current boundary of Papahānaumokuākea includes vital habitat for a number of species, it does not fully protect habitat and travel routes for several species including Hawaiian Monk Seals, green sea turtles, sharks, whales, Black-footed and Laysan Albatrosses as well as other species."[4] These species are not only central to traditional Native Hawaiian navigation and cultural practices, but also play a vital role in supporting Hawai'i's nature-based tourism economy and broader maritime heritage.

On May 26, 2016, the OHA Board of Trustees voted to conditionally support the proposed expansion of Papahānaumokuākea provided that: (1) OHA was elevated to a Co-Trustee position; (2) the cultural significance of the expansion area to Native Hawaiians was recognized; and, (3) there was no boundary expansion southeast towards the islands of Ni'ihau and Kaua'i. OHA imposed the final condition explicitly to protect fishers from these islands who have the most direct lineal and historical connections to fishing in the NWHI, and who wanted to ensure continued access to the most well-used fishing grounds in the area. The current boundaries and management structure for PMNM are compliant with the conditions OHA expressed in 2016 and meet the express demands of the small-scale fishers most directly affected by the monument expansion.

The Monument Management Plan, *Mai Ka Po Mai*, memorializes the foundational role of Native Hawaiian knowledge in modern management activities while recognizing the unique significance that Papahānaumokuākea holds for Native Hawaiians:

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[3] MALY, KEPA & MALY, ONAONA, VOLUME II–ORAL HISTORY INTERVIEWS: KA HANA LAWAI'A A ME NĀ KO'A O NA KAI 'EWALU: A HISTORY OF FISHING PRACTICES AND MARINE FISHERIES OF THE HAWAIIAN ISLANDS 1127-1207 (The Nature Conservancy of Hawai'i & Kumu Pono Associates, LLC 2003).

[4] The full text of the letter is publicly available in an online news article (https://www.civilbeat.org/2016/02/should-obama-expand-papahanaumokuakea/).

> Papahānaumokuākea is a sacred place that supports a diversity of life, including hundreds of native species and the largest extent of coral reefs in the archipelago. The ancient belief system of Hawai'i still exists and acknowledges the island of Mokumanamana [Necker Island] as the potent portal that presides at the boundary between pō and ao. This boundary is the northern limit of the sun's journey on the horizon, the Tropic of Cancer, reverently referred to as Ke Alanui Polohiwa a Kāne, the dark glistening path of Kāne . . . Kānaka Maoli believe that when people pass away, their spirits travel to portals, called leina, located on each inhabited island of Hawai'i. From these portals spirits embark on a journey out of ao and west to pō.

Monument Management Plan, *supra* note 2, at 8. All permittees granted access to PMNM receive a brief training on the cultural and historical significance of the area to the Native Hawaiian community prior to entering the monument.

Limited Historical Fishing in the NWHI

Traditionally, Native Hawaiians traveled to the NWHI for sustenance fishing on rare occasions.[5] Pelika Andrade, member of the CWG, explains "Native Hawaiian relationships with the world around us are familial and based on reciprocity. Fishing outside of the ahupua'a (land division) and the localized areas we call home is not Hawaiian."

In more modern times, before the establishment of PMNM, fishing in the NHWI was extremely limited, yet highly destructive. The lobster population of the NHWI faced a massive decline during 1983 and 1987 due to the lobster fishery, forcing an emergency closure in 1991 and permanent closure in 2000.[6] In that same year, shark populations also took a massive hit by a single commercial fishing vessel that pursued a short-lived operation in the NWHI. Within just 21-days, the vessel killed 990 sharks.[7]

As of 2014, only 5% of longline fishing was taking place in the NWHI.[8] Not surprisingly, the Hawaiian longline tuna fishery experienced no measurable negative economic impact from expansion of PMNM. On the contrary, studies show that key performance metrics—such as Catch Per Unit Effort and total revenue—increased by approximately 13.7% in the period from 2014 to 2017 compared to the years 2010 through

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[5] MALY, KEPA & MALY, ONAONA, *supra* note 3, at 1148–78.

[6] OFFICE OF NATIONAL MARINE SANCTUARIES, PAPAHĀNAUMOKUĀKEA MARINE NATIONAL MONUMENT CONDITION REPORT 2009 at 17 (2009) .

[7] *Id.* at 18.

[8] PACIFIC ISLAND FISHERIES SCIENCE CENTER, THE HAWAII-BASED LONGLINE LOGBOOK SUMMARY REPORT FOR JANUARY THROUGH DECEMBER 2014, at 1 (2015), *available at* https://www.fisheries.noaa.gov/resource/data/hawaii-longline-logbook-reports-2014 (hereinafter 2014 Logbook).

2013.[9] These findings directly contradict earlier predictions from longline advocates of significant economic harm and instead highlight the benefits of responsible marine stewardship.

Opposition to Reopening the Monument to Commercial Fishing

As a matter of first principles, OHA and the CWG oppose reopening PMNM for commercial fishing but are not opposed to fishing as a practice. Importantly, Native Hawaiian stewardship models recognize that human activity, when conducted in a pono (proper and responsible) manner, can strengthen ecosystems—offering a practical, values-based alternative to conventional conservation models that often view human activity as inherently harmful and dangerous to nature. Nonetheless, in this instance, Papahānaumokuākea more appropriately serves the Native Hawaiian community and the State of Hawai‘i as a pu‘uhonua (a place of refuge) rather than a commercial fishing ground for the following primary reasons:

1. The NWHI is a unique ecosystem, which untouched may help serve as a seed population to restore depleted fish populations in the MHI (which is also uniquely vulnerable to collapse);
2. Threatened and endangered species with significance to Native Hawaiian culture depend upon the NWHI as a breeding ground and have separate economic value in Hawai‘i’s nature-based tourism economy; and,
3. There are other less harmful ways to support Hawai‘i’s struggling longline fleets than allowing access to fishing grounds that were historically not highly utilized by the longline fishing industry.

A Pu‘uhonua for Overfished Species

As noted above, recent scientific papers have documented the benefits of marine protected areas for population replenishment of migratory fish like tuna, which benefits the commercial fishing industry through the spillover effects of fish moving outside the protected area. However, while the NWHI can serve as a seeding ground for large migratory fish under the right conditions, this ecosystem is also uniquely vulnerable to collapse. Early fisheries in lobster and bottomfish resulted in severely depleted populations and were not viable for long term sustainable yield.[10]

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[9] John Lynham et al., *Impact of two of the world’s largest protected areas on longline fishery catch rates,* 11 NATURE COMMUNICATIONS 979 (2020).

[10] *See, e.g.*, Fisheries off West Coast States and in the Western Pacific; Western Pacific Crustacean Fisheries; 2001 Bank-specific Harvest Guidelines, 66 Fed. Reg. 11,156 (Feb. 22, 2001) (noting closure of lobster fishery in 2000); Fisheries Off West Coast States and in the Western Pacific; Western Pacific Bottomfish and Seamount Groundfish Fishery; Fishing Moratorium**,** 69 Fed. Reg. 51400 (Aug. 19, 2004) (extending moratorium on fishing in NWHI Bottomfish and Seamount Groundfish Fishery).

Commercial fishing—particularly longlining and the significant amounts of bycatch caused thereby—poses measurable risks to the unique ecosystem of Papahānaumokuākea. The Hawaii-based Longline Logbook Summary Report for January through December 2014, a few years before the monument expansion was implemented, shows that for every three tuna caught in the NWHI fishery, one shark was hooked as bycatch.[11] For bigeye tuna, the bycatch rate increases to 2:1, showing the immense harm caused by longlining in this environment.[12] Papahānaumokuākea's fish biomass is 54% apex predator, compared to only 3% in the MHI, where commercial fishing has occurred more intensely and for a longer period of time. Papahānaumokuākea is an important biological and cultural reservoir which we are only beginning to understand, as historically recognized by WESPAC in recommending a no fishing zone within 50 nautical miles of the shoreline.[13] Preserving this balance is not only vital for long-term ecosystem health, but also for future economic opportunities tied to science, education, and tourism.

Threatened Species Benefit Hawai'i's Tourism Economy

Many other species that depend on the NWHI for breeding grounds (monk seals, turtles) are keystone species in Hawai'i's tourism-based economy which is driven by both Hawai'i's renowned natural beauty and unique host culture. Ninety percent of green sea turtles nest in the NWHI[14] and the overwhelming majority of the monk seal population still lives and reproduces there as well.[15] Both of these "charismatic" species are well-known and highly visible tourist attractions. Tourism comprises approximately **roughly 23%** of Hawai'i's economy—generating around **$20.87 billion** in visitor spending annually (based on 2023 data with continued growth in 2025).[16] In contrast, the entire Hawai'i-based

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[11] 2014 Logbook, *supra* note 8, at 5.

[12] *Id.* at 5.

[13] WESTERN PACIFIC REGIONAL FISHERY MANAGEMENT COUNCIL, HISTORY OF THE FISHERIES IN THE NWHI, https://www.coris.noaa.gov/activities/resourceCD/resources/nwhi_fisheries_b.pdf.

[14] George H. Balazsa et al., *Thirty-year recovery trend in the once depleted Hawaiian green sea turtle stock,* 117 BIOLOGICAL CONSERVATION 491 (2004).

[15] NOAA Fisheries, Hawaiian Monk Seal, https://www.fisheries.noaa.gov/species/hawaiian-monk-seal (last visited Jul. 18, 2025).

[16] STATE OF HAWAI'I DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM, 2023 ANNUAL VISITOR RESEARCH REPORT 2 (2024), *available at* https://www.hawaiitourismauthority.org/media/13190/2023-annual-report-final.pdf; STATE OF HAWAI'I DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM, Tourism and Hawaii Economy 1 (2024), *available at* https://files.hawaii.gov/dbedt/economic/data_reports/download/Tourism%20and%20Hawaii%20Economy_Dec2024.pdf.

longline fishery brings in about **$120 million** annually[17]—supporting only a small share of jobs and economic output compared to tourism (149 boats currently registered with permits). [18]

Other Approaches to Support Commercial Fishing

OHA and the CWG support approaches to assisting Hawai‘i’s commercial fishers consistent with time and area restrictions that protect vulnerable species and ecosystems, including the ban on commercial fishing in Papahānaumokuākea. One of the most promising policy approaches is to ensure country of origin labeling so that American flagged fishing vessels (operating in both state and federal waters) are not forced to compete with foreign fleets that are not subject to the same health, safety, and environmental regulations as American fleets.

The Hawai‘i State legislature passed one such bill this past session to ensure country of origin labeling for processed raw ahi (namely poke) so that residents and visitors to Hawai‘i can choose to spend their money on fish landed in Hawai‘i by local fishers, rather than foreign fleets.[19] Additional federal efforts to support country of origin labeling could help Hawai‘i’s fishing fleets capture the significant value-add of American caught fish in markets outside the State where Hawai‘i-landed fish is also sold. Significantly, revenue dropped for the deep-set (tuna) longline fleet in 2023 despite catching more fish due to a drop in prices widely attributed to competition with foreign fleets.[20]

In conclusion, OHA and the CWG support the development of economic policies grounded in local knowledge and representative of the unique set of concerns that arise with respect to natural resource management in the Hawaiian Islands. Given the significant concerns that OHA and the CWG have with the position taken by WESPAC as outlined above we ask that the Secretaries undertake formal consultation with the Native Hawaiian community as part of the review process for Executive Order 14726. We believe that formal public consultation is important and appropriate given the gravity of our concerns

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[17] WESTERN PACIFIC REGIONAL FISHERY MANAGEMENT COUNCIL, STATUS OF THE FISHERIES 2023, https://www.wpcouncil.org/wp-content/uploads/2024/08/WPRFMC_StatusoftheFisheries_2023_WEB.pdf.

[18] *See* NOAA Fisheries, Pacific Islands Current Fishing Permit Holders, https://www.fisheries.noaa.gov/pacific-islands/resources-fishing/pacific-islands-permit-holders#hawaii-longline-limited-entry.

[19] Act 238 will prohibit the sale of “raw processed” tuna (yellow tail or bigeye) without a label stating where it was landed. *See* HB 534 HD1 SD1 CD 1, 33rd Leg, Reg. Sess. (2025).

[20] Press Release, Western Pacific Regional Fishery Council, Hawai‘i Longline Fishery Sees Revenue Decline in 2023 Due to Drop in Fish Prices at Honolulu Fish Auction (Jun. 7 2024), https://www.wpcouncil.org/press-release-hi-longline-fishery-sees-revenue-decline-in-2023-due-to-drop-in-fish-prices-7-june-2024/.

and the breadth and depth of community interests that the decision to open Papahānaumokuākea to commercial fishing would affect. We also welcome further direct consultation with OHA and the CWG.

Very Sincerely,

Kaialiʻi Kahele
Chairperson, Board of Trustees
Office of Hawaiian Affairs
Co-Trustee, Papahānaumokuākea
Marine National Monument

/s/Kekuewa Kikiloi
/s/Pelika Andrade
Co-Chairs, Native Hawaiian Cultural
Working Group

CC: Eugenio Piñeiro Soler, Director, NOAA, National Marine Fisheries Services,
Vice Admiral Nancy Haan, Deputy Undersecretary for Operations, NOAA
Paul Souza, Acting Director, U.S. Fish and Wildlife Service
Eric Roberts, Superintendent, Papahānaumokuākea Marine National Sanctuary
Jared Underwood, Superintendent, Papahānaumokuākea Marine National Monument
Dawn Chang, Chair, Hawaiʻi Board of Land and Natural Resources

Regulatory Relief Requests for Southern Shrimp Alliance

5 requests from the Southern Shrimp Alliance (SSA) for regulatory relief for the American shrimp fishing industry pursuant to President Trump's Executive Order "*Restoring American Seafood Competitiveness*".

The shrimp fishery remains the most valuable commercial fishery in the Gulf of America and is at the core of the economies of many coastal communities throughout the Gulf and South Atlantic regions. SSA's membership is comprised of many small, family-owned businesses in the shrimp fisheries and associated shoreside enterprises operating in numerous coastal communities in all eight warm-water shrimp-producing states from Texas to North Carolina.

As explained in further detail in the attached document, SSA's 5 requests are as follows:

1) Suspend the ongoing NOAA Endangered Species Act (ESA) Section 7 Consultations and any ensuing regulations regarding fisheries interacting with Smalltooth Sawfish and Giant Manta Rays in the Gulf of America for a period of no less than 10 years.

2) Consistent with the Purposes and Policies set forth in the Executive Order, work with the U.S. Coast Guard and the U.S. fishing industry to modernize the U.S. fishing fleet by removing current regulatory impediments to the construction of new U.S. flag fishing vessels including but not limited to those regulations requiring newly constructed U.S. fishing vessels to meet certain vessel classification requirements.

3) Fully transition all fishery regulatory activities of the National Ocean Service associated with National Marine Sanctuaries to the National Marine Fisheries Service (NOAA Fisheries) pursuant to the Magnuson-Stevens Act (MSA). Rescind regulatory restrictions of shrimp fishery access to the Florida Keys National Marine Sanctuary.

4) Request: Restore access by the American commercial rock shrimp fishery to a small section of historic and valuable fishing grounds that are subject to an erroneous, unnecessary and overburdensome regulatory closure by approving and implementing the South Atlantic Council's joint Coral Amendment 11/Shrimp Amendment 12.

5) Work with the USDA to establish a position in the Office of the Secretary solely responsible for the effective coordination of seafood policies and activities within the Department that will provide support for domestically harvested and processed seafood and domestic seafood producers.

SOUTHEASTERN FISHERIES ASSOCIATION
653 w 23RD Street #235
Panama City, FL 32405

Executive Director: Capt. Bob Zales, II
Email: bobzales@sfaonline.org ph/text: 850-532-7977
www.sfaonline.org

June 2, 2025

Southeastern Fisheries Association (SFA) Recommendations and Comments in Support of Executive Order 14276
Restoring American Seafood Competitiveness

The Southeastern Fisheries Association (SFA), established in 1952, is the oldest commercial seafood association in Florida. We proudly represent numerous historical small, family-owned businesses that have long served the American public by harvesting, processing, and distributing fresh, local seafood. We respectfully submit the following recommendations and comments in strong support of Executive Order 14276. The issues outlined below are of critical concern to our membership and the survival of the domestic commercial fishing industry.

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1. Balanced Representation on Regional Fishery Management Councils

The 2007 reauthorization of the Magnuson-Stevens Fishery Conservation and Management Act included a requirement for balanced representation among voting members of regional fishery management councils. This provision—requiring equitable representation from the commercial, recreational, charter, and academic sectors—expired in September 2012. While it was in place, the councils reflected a fair and diverse range of perspectives, resulting in more equitable decision-making.

Since its expiration, the councils—particularly the Gulf and South Atlantic—have become skewed toward recreational interests. Currently, the Gulf Council has only **one commercial representative among 11 appointed members**, a clear imbalance that undermines fair deliberation. The commercial sector's voice has been minimized, leaving it at a disadvantage when regulations are proposed.

Recommendation: Reinstate the requirement for balanced representation on fishery councils to ensure fair, science-based regulation and equity among all user groups.

2. Shark Fin Sales Elimination Act of 2023

The passage of this act in December 2022 banned the sale, possession, and transport of shark fins—even when those fins are harvested legally under highly regulated U.S. standards. This measure has devastated the domestic shark fishery and driven responsible operators out of business, while doing little to curb unethical international practices.

Domestic landings data reveal the impact:

- 2025 YTD (through April 11): landings range from **2% to 15%** of allowable quotas.
- 2022–2024: steadily declining landings across all shark categories.

This law inadvertently rewards **unregulated foreign fleets** while punishing **compliant American fishers**, leading to ecological imbalance (due to surging domestic shark populations), harm to other fisheries, and increased public safety concerns.

Recommendation: Conduct an immediate review of the Shark Fin Sales Elimination Act to assess domestic economic impacts and unintended consequences, and consider exemptions for legally harvested fins.

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3. Inflexible Fishery Science Mandates (Magnuson-Stevens Act SSC Authority)

The 2007 Act transferred excessive authority to Science and Statistical Committees (SSCs), prohibiting councils from adopting policies more liberal than SSC recommendations—even when credible new data is available. This rigidity undermines adaptive, real-time management and often ignores the vast, practical knowledge of seasoned fishers.

For example:

- **Gag Grouper (Gulf):** A stakeholder-supported six-month closure to aid recovery was rejected by NMFS scientists. Now, the fishery faces record-low quotas and a **seven-day recreational season in 2025**.
- **South Atlantic Red Snapper:** Despite high observed abundance and state-collected data suggesting stock recovery, **commercial and recreational access is highly restricted**, with only two recreational weekends permitted and a single-fish bag limit.

Recommendation: Amend the SSC authority to allow councils greater flexibility and incorporate stakeholder expertise and cooperative research findings in decision-making.

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4. Closed Areas and Low Quotas in HMS Fisheries

Highly Migratory Species (HMS) such as tuna and swordfish are managed with outdated closures and underutilized quotas. Modern fishing gear and electronic monitoring systems have drastically reduced bycatch, yet regulations have not adapted to these advancements.

Key issues include:

- Unused quotas due to restrictive regulations and unfair international allocations.
- Recreational quota overages due to lack of timely reporting, which penalize commercial sectors in subsequent seasons.
- **Swordfish harvests fell from 8,000 in 1996 to 1,800 in 2023**, the result of 14 overly burdensome regulations.

Recommendation: Reassess and reopen appropriate closed areas using modern data and technologies. Advocate for increased U.S. quota shares in international agreements (e.g., ICCAT) and improve recreational harvest tracking.

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5. Impact of Imports on the Domestic Seafood Industry

More than **90% of seafood consumed in the U.S. is imported**, often from countries with:

- Poor labor practices
- Severe environmental violations
- Use of banned antibiotics
- Lack of regulatory requirements similar to U.S. requirements creating unfair playing fields
- Forced child labor practices

In many cases, U.S. funds have even supported the development of foreign aquaculture systems that now undercut American producers. Mislabeling is widespread, as restaurants and retailers sell imported shrimp as “fresh local” to unsuspecting consumers.

Recommendation: Enforce country-of-origin labeling, enhance inspection standards, and provide support for domestic seafood industries competing against foreign subsidies and unfair practices.

6. U.S. Fish and Wildlife National Wildlife Refuges and National Parks restrictions and elimination of commercial fishing operations.

In Florida, National Parks and Wildlife Refuges such as the Merritt Island National Wildlife Refuge, Biscayne National Park, and others where historic commercial fishing operations, charter operations, and sight seeing operations have seen recent efforts to eliminate commercial fishing operations while continuing to allow charter and sight seeing operations. The commercial fishing activity does not harm any of the

areas where traditional fishing has occurred but the park superintendents have taken upon themselves to not renew commercial fishing permits for the areas thus eliminating commercial fishing. These actions are clearly contrary to the intent of EO 14276 and must be addressed. While the commercial fishing activity is small, it is historic and traditional and provides harvest of important commercial species such as blue crabs, mangrove snappers, lobsters, and other important species.

7. Decreasing Commercial Seafood Industry Activity and Continued Issues with Lack of Recreational Data, which adversely affects all fishers by negatively impacting stock assessments.

The recent Council Coordinating Committee meeting provided comments by all 8 regional councils about the continued decline of American Seafood small family businesses. This was discussed among the committee members and reflects what we see in the industry. It is clear that a problem exists which is caused by excessive regulations, arbitrarily setting low quotas based on overly conservative management measures. This is a national issue that must be addressed in order to achieve the goals of the President's EO.

In addition, all 8 council representatives discussed the ongoing issue of the lack of reliable recreational data programs. The recreational sector remains unaccountable for any reliable data collection program which results in best guesses of recreational harvest and discards with resulting discard mortality. The excessive discard mortality assumed to be from the recreational sector adversely impacts stock assessments which results in lower quotas to be harvested by every fishing sector, commercial, for hire charter, and recreational. A simple design for easy reporting is available for use on any cell phone where pictures can be taken of catch and submitted to managers that, with AI technology, can identify species harvested, estimate length, and weight of the species. This type of reporting can provide close to real time monitoring of recreational harvest, but must be required. The NOAA/NMFS with actions by the councils can implement such plans.

Broader Impacts

The cumulative effect of these regulatory and economic pressures is the **steady erosion of America's working waterfronts**:

- Small, family-owned fishing businesses are disappearing.
- Coastal communities suffer job losses and economic stagnation.
- Consumers face rising seafood prices and declining access to fresh, local products.
- Supporting industries—processors, marine suppliers, fuel providers, and restaurants—are all negatively affected.

Requested Federal Actions

1. **Review and assess the economic impact** of the Shark Fin Sales Elimination Act.
2. **Amend the Magnuson-Stevens Act** to provide councils with flexibility to consider real-time data and stakeholder input.
3. **Pursue increased U.S. quotas** and modernized management approaches in HMS fisheries.
4. **Strengthen inter-agency collaboration** and require stakeholder engagement during rulemakings.
5. **Provide clear guidance from U.S. Fish and Wildlife Department Managers to** instruct Park Superintendents to allow continued commercial fishing unless the fishing activity is proven to be harmful to the environment.
6. **Identify excessive regulations and overly conservative management measures** that restrict commercial fisheries and remove such regulations and measures to allow more harvest od species.
7. **Establish and implement simple recreational data programs** that can be easily operated using cell phone and AI technology. Such programs will enhance recreational data collection and provide a means for more effective data collection and improved stock assessments.

Conclusion

Overregulation rooted in inflexible or outdated frameworks is not merely inefficient—it is actively destructive. It jeopardizes American livelihoods, undermines sustainable fisheries, and increases our reliance on foreign seafood sources that do not share our values for transparency, labor protections, and environmental stewardship.

SFA urges the Administration to prioritize reform in these areas and to support balanced, science-based, and stakeholder-driven management going forward. Restoring fairness and functionality to our fishery governance systems is essential to the survival of the American commercial seafood industry.

Respectfully,
Southeastern Fisheries Association
Established 1952

Center for Sportfishing Policy

May 8, 2025

Ms. Kelsi Feltz
White House Office of Information and Regulatory Affairs
725 17th Street NW
Washington, DC 20503

Re: Submitted in response to OMB's request for public input on regulations that should be rescinded under Executive Order 14219

Dear Ms. Feltz:

The Center for Sportfishing Policy represents America's marine recreational fishing industry. On behalf of America's 15 million marine recreational anglers and the businesses on which we rely, thank you for the opportunity to comment on a federal bureaucracy run amok, rushing through a backdoor rule in the final days of the Biden Administration: Amendment 59 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic, a pending regulation published by NOAA on January 13, 2025 – seven days before the Biden Administration concluded.

Amendment 59 would impose sweeping new restrictions on recreational fishing in the South Atlantic, including seasonal area closures impacting 55 species from the Florida/Georgia line down to below Cape Canaveral. Biden's NOAA bypassed the normal management process and insisted on punitive measures coached by radical environmentalist lawyers to achieve their goal: diminishing public access to America's plentiful fishery resources.

We share the frustrations expressed by the South Atlantic Fishery Management Council over the management trajectory of the red snapper fishery and NOAA's intransigence promoting drastic management action for a fishery at its highest level of abundance in recorded history. But no reasonable person expected NOAA bureaucrats to clamp down access to America's public waters based on specious arguments and demonstrably false research.

Throughout the entire debate over South Atlantic red snapper over the past several years, the South Atlantic Fishery Management Council has been tasked with making drastic cuts against their better judgement and their knowledge from those on the water, which indicated the fishery was thriving.

With opaque models and questionable data creating a paper overfishing crisis, it is no surprise that NOAA was sued to end the alleged overfishing by the recreational sector. Despite the high levels of uncertainty in just about every aspect of the fishery, NOAA elected to settle the lawsuit (with environmentalist lawyers behind closed doors). To their credit, the South Atlantic Council remained firm in its conviction that based on the scant information NOAA had provided, it could not justify draconian management measures that would be needed to satisfy that settlement. NOAA elected to circumvent the Council process and unilaterally generated Amendment 59 to address a crisis it created. Then NOAA published this Secretarial action a week before President Trump was inaugurated.

To the average angler, management of the South Atlantic red snapper fishery is now completely nonsensical. Anglers have been restricted to fishing for red snapper for just a handful of days a year for more than a decade, and it is now difficult to catch anything other than a red snapper offshore. Yet anglers are being told the red snapper situation is still so dire that hook-and-line fishing for 55 species off a sizable portion of Florida's east coast (out 200 miles!) must be closed entirely for three months of the year and that doing so will, perhaps, extend the red snapper season to four days (from two days). And the way Amendment 59 is contorted, the red snapper season will never get any longer.

Ironically in the course of producing Amendment 59, NOAA somehow managed to generate an update assessment that the Council had requested. That assessment update confirmed the South Atlantic Council's suspicions about the status of the stock and the need to revise management targets for red snapper. Based on the update assessment, Action 1, Alternative 2 (preferred) in A59 establishes that the stock is no longer undergoing overfishing by revising the FMSY proxy for snapper based on the banner recruitment, which satisfies the second component of the lawsuit. Action 2 sets an Annual Biological Catch (ABC) of 509,000 fish, which represents a substantial increase. That is where this amendment should ultimately stop. Instead, NOAA elected to pursue a series of additional actions that can only be described as punitive overreach in pursuit of its agenda for constricting recreational angling and denying access to America's public waters. Nothing in the remaining actions is required by the Magnuson Stevens Act and none of them are required by the lawsuit settlement.

Amendment 59 is a convoluted response to a paper crisis, manufactured by highly suspect NOAA models and personnel – and done without normal public process and outside the SSC review process. Past Actions 1 and 2, the amendment devolves into a thinly veiled attempt to go beyond both the lawsuit and the Magnuson Stevens Act to pursue NOAA's own vision for recreational angling management, a vision that is limited by an inadequate data system, infrequent stock assessments and a lack of understanding of the recreational angling sector.

As the administration observes an important regulatory pause, we encourage the White House to ask the Secretary to withdraw this ill-conceived January 13, 2025, Proposed Rule that unnecessarily restricts public access in the South Atlantic Ocean. The rule was not based on the best scientific information available, and it needs to be fully recast.

States are capable of managing the South Atlantic fishery, and three of the four governors in the region are asking the Trump Administration for authority to manage these federal fisheries. An Exempted Fishing Permit can foster such a transfer of management to the States.

Federalism works, and it's time to allow State Management of these fisheries.

Sincerely,

Jeff Angers
President

cc: Commerce Chief of Staff Yvette DePinto
NOAA Acting Administrator Laura Grimm
NOAA General Counsel Anne Hawkins

Texas Shrimp Association
1000 Everglades Road
Brownsville, TX 78521

April 15, 2025

Mr. Eugenio Pineiro Soler
Assistant Administrator of NOAA Fisheries
1315 East West Highway
14th Floor
Silver Spring, MD 20910

Dear Mr. Pineiro Soler:

I would like to take this opportunity to congratulate you on your new appointment as Assistant Administrator of NOAA Fisheries.

On behalf of the many shrimpers in the State of Texas, we appreciate that you have a background as a commercial fisherman and can well-appreciate the importance of implementing policies which will take into account the many challenges that face the many fishermen in the commercial fishing industry.

As you may be aware, the Texas, and entire U.S. shrimping industry, has been facing severe financial difficulties due in large part to the excess of farm-raised imported shrimp into the United States. The price of shrimp has gotten so low and production costs have increased to the point that profit margins are practically non-existent. We need the assistance of NOAA to direct their efforts to support the shrimp industry, instead of finding more ways to tax and burden fishermen with additional and unnecessary regulations. We need a champion to help lead the way for domestic shrimpers to once again fairly compete in the U.S. market. Our survival depends on it.

Once again congratulations as you take on the tasks of your new position. Please feel free to reach out if you have any questions regarding this matter.

Sincerely,
Maria Barrera-Jaross
Executive Director
Texas Shrimp Association
(956) 479-8976
Email: mjaross.txshrimp@gmail.com

May 02, 2025

Eugenio Piñeiro Soler, Assistant Administrator
Silver Spring Metro Center I
1335 East-West Hwy
Silver Spring, MD 20910

RE: Supporting NOAA Fisheries Data

Dear Mr. Piñeiro Soler,

First, congratulations on your appointment as Assistant Administrator for NOAA Fisheries. Your experience as a commercial fisherman, Council member, and policymaker gives us confidence in your ability to lead with practical knowledge and common sense—qualities that matter deeply to those of us who make our living on the water.

We are a group of associations advocating for the for-hire captains, owner/operators, and crew members from across the Gulf of America, working hard every day to provide fishing opportunities to the public, support our coastal economies, and uphold our shared values of stewardship and accountability. As business owners, we believe in strong partnerships, efficient government, and smart investments that ensure the long-term sustainability and the economic prosperity of the fisheries we depend on.

Central to that sustainability and economic prosperity is the need for timely and accurate data collection; it is the backbone of our fisheries management. Reliable data forms the foundation of our stock assessments, are critical in catch setting and ensuring maximum access to fisheries while safeguarding that we don't overharvest and impact the stock in following years. Reliable data means smarter seasons, fewer surprises and more stability to plan our businesses. Which is why we were concerned to hear of recent impacts to the reliability of data collection programs in the Gulf of America. Proposed cuts and lapses in contract renewals, have devastating impacts to data collection. We recently learned of the loss in funding for validation of the Southeast Headboat Survey which is a huge blow to recreational management in the Gulf for our industry and the entire recreational sector. We are also hearing about additional threats to existing programs in the Gulf that could begin disrupting current data collection as soon as May 1st.

The longer we don't have dockside sampling, biological sampling and our Fisheries Information Network (FIN), the more uncertain our fisheries management will become, which is especially true of species that are already overfished or overfishing looking to the future, lost capacity threatens to jeopardize upcoming data collection programs (such as the proposed Southeast For-Hire Integrated Electronic Reporting program) that we have supported for over a decade, but without dockside validation, our program can't become certified and the data won't be useful for management. The SEFHIER program in the Gulf is exactly what this administration is looking for in the future of data collection. The untaped resource of stewardship, utilization of new technologies, and a developing partnership with stakeholder and agency. Providing data instead of using deeply uncertain past systems such as survey and extrapolated data sets. The cascade of impacts from losing data collection programs is going to affect us for years to come and threatens our livelihoods by wreaking havoc on the stability we have been driving toward.

In addition to that, we are worried that the long overdue revitalization of the Marine Recreational Information Program (MRIP) through the Recreational Re-Envisioning Process will be similarly impacted by the cuts. The current partnership is fractured and needs to be cohesively re-envisioned, and we support this effort. Especially when budget cuts are being considered, Federal, State, Commission, and Council partners need to unite around efficiencies that improve our understanding of fisheries rather than allowing backslides to data collection. We see firsthand how delayed or imprecise data can lead to frustration, inefficient management, and lost fishing opportunities. We're encouraged by this initiative and believe it can help strengthen the connection between science, managers, and the people on the front lines—like us.

These improvements don't just benefit fishermen—they directly support the stability and growth of the coastal economies we help power. For-hire fishing supports thousands of small businesses, marinas, suppliers, and tourism-based jobs across the Gulf. Reliable data and responsive management allow us to plan our seasons, serve our customers, and invest in our communities with confidence. The fishing industry in whole is over a half a trillion-dollar economic driver for the nation that has implications not just in food chain and national security but as well as recreational enjoyment for all Americans. This is not investment without return. The investment in data collection, and its modernization, is a long-term huge benefit to the nation as well as all the coastal communities that rely on sustainable and accountable fisheries for their local economies to thrive. If this current administration wants to maximize our commercial and recreational fishery, adequately funding existing and investing in more modern data collection programs, such as the SEFHIER program in the Gulf, is essential.

To that end, we are concerned about any cuts to staffing or funding that could jeopardize this process. For-hire fishermen are ready and willing to be part of the solution. We support data systems that include state-collected data, new technologies, and consistent communication between the federal government and local partners. We believe this administration can lead the way in building a more responsive and reliable data framework that works for everyone.

We're proud of the work we do and want to ensure healthy fisheries and fair access for the next generation of charter operators, private anglers, and coastal communities. We ask that you continue to support and prioritize this re-envisioning process, work to fund and improve our fisheries data collection and maintain the partnerships that make it possible.

Thank you for your attention to this issue and for your continued service,

Sincerely,

Capt. Jim Green
President – Charter Fisherman's Association
President – Destin Charter Boat Association

Capt. Dylan Hubbard
President – Florida Guides Association

Capt. Gary Jarvis
Vice President – Destin Charter Boat Association

Capt. Dale Woodruff
President – Alabama Charter Fishing Association

Mrs. Kelia Paul
President – Panama City Boatmens Association

Capt. Scott Hickman
Director – Galveston Professional Boatmens Association

Capt. Clarence "C-bo" Seymour
President – Mississippi Reef Fish Alliance

Capt. Michael Colby
President – Clearwater Marine Association

25-0095720

JEFF LANDRY
GOVERNOR

TYLER M. BOSWORTH
SECRETARY

PO BOX 98000 | BATON ROUGE LA | 70898

May 16, 2025

The Honorable Howard Lutnick
Secretary of Commerce
1401 Constitution Avenue NW
Washington, D.C. 20230

Re: Executive Order 14276, Restoring American Seafood Competitiveness

Dear Secretary Lutnick,

The Louisiana Department of Wildlife and Fisheries (LDWF) is encouraged by this Executive Order 14276, Restoring American Seafood Competitiveness (EO 14276), and we look forward to working with Louisiana's seafood industry task forces to ensure industry comments are provided. Louisiana's seafood industry has faced tremendous challenges from unfair competition from foreign nations, as well as hurdles from federal regulations. As you implement this Executive Order, please take bold action to improve the viability of this iconic American industry.

As you identify the most heavily overregulated fisheries per Section 4(a) of EO 14276, please consider the following regarding overly burdensome regulations impacting Louisiana's seafood industry, based on LDWF's involvement and awareness of issues and concerns discussed by the industry task forces.

Shrimp Industry - Louisiana's Shrimp Task Force has shared with LDWF for years the burden of federal regulations requiring the widespread use of Turtle Excluder Devices, known as TEDs. While there is a willingness to use TEDs voluntarily for purposes of improving the marketability of the catch, the federal regulations warrant revision of the 2019 Final Rule (84 Fed. Reg. 70,048) requiring TEDs in skimmer vessels greater than 40 feet in length.

When implementing Section 4(c), consider expanding the exempted fishing permit program to allow greater access into the federal shrimp fishery. In 2006, the National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce enacted a final rule establishing a 10-year moratorium on the issuance of Federal Gulf shrimp vessel permits (50 CFR Part 622); the moratorium was extended an additional 10 years in 2016, and further discussions have begun to extend the rule another 10 years in 2026. Since the moratorium, the number of participants in the federal shrimp fishery has declined from 2,951 to less than 1,500. In order to revitalize this industry, policies must be put in place to provide more opportunity.

Finfish Industry - Louisiana's Finfish Task Force has shared with LDWF the burden placed on commercial shark fishers since all Carcharhinid (requiem) sharks were placed on the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) Appendix II list in 2022. This listing requires burdensome and time-consuming exportation and importation permits for sustainable shark species, not just species that are endangered, as was the original intention of CITES. These permit requirements for sustainably harvested sharks, whose populations are healthy, have virtually stopped commercial shark fishing in Louisiana. Further burdens have been placed on the commercial shark fishery through the passage of the Shark Fin Elimination Act (2023), which requires some of the most valuable parts of a sustainably harvested shark be disposed of and wasted. The listing of sustainably harvestable sharks on CITES Appendix II and the passage of the Shark Fin Elimination Act have placed unfair regulatory burdens on Louisiana's shark fishers, causing substantially decreased landings and nearly eliminating the exportation of sharks from Louisiana (2025 landings are down 1,100% compared to 2023, and down 851% compared to 2024, over the same time periods).

The pelagic longline fishery, of which a significant portion of the Gulf of America fleet is based out of Dulac, Louisiana, has been overregulated to the point where the number of active long line vessels supplying domestic seafood to the nation has decreased by more than half since the implementation of Amendment 7 to the Highly Migratory Species Fishery Management Plan in 2015 (136 pre-Amendment 7 compared to 59 in 2024). Amendment 7 and subsequent rulemaking by NOAA's Highly Migratory Species Division has established substantial time and area closures associated with Bluefin Tuna in the Gulf of America, video monitoring at the cost burden of the vessel, and requirements for vessels to have Individual Bluefin Quota (IBQ). These IBQs are not only required by vessels to account for harvested Bluefin Tuna, but also for released incidental catch of Bluefin Tuna, or to simply leave the dock. A pelagic longline vessel may not leave a dock to fish without a minimum amount of IBQ, even if that vessel does not intend to harvest Bluefin Tuna, or even encounter any Bluefin Tuna. If vessels are not allocated sufficient IBQ, it must be purchased on the open market.

Oyster Industry - Louisiana's Oyster Task Force has shared with LDWF over the years the burdensome amount of paperwork and documentation required by fishermen and dealers for the harvest of oysters. While some documentation is necessary to reduce the risk of illness in consumers, other requirements, such as time/temperature logs to continually check refrigeration equipment, may now be outdated and unnecessary with today's modern technology. Please consider, in consultation with the Secretary of Health and Human Services, requesting the U.S. Food and Drug Administration (FDA) streamline and reduce the documentation required in the federal standards set by the Interstate Shellfish Sanitation Conference (ISSC) through the National Shellfish Sanitation Program (NSSP).

In closing, LDWF expects Louisiana's seafood industry to identify addressing these regulations as priorities to the Gulf of America Regional Fishery Management Council to reduce burdens on domestic fishing per Section 4(a)(i), and through the public comment solicitation per Section 4(a)(ii). Additionally, in the coming weeks and months, we will coordinate with Louisiana's commercial fishing industry task forces to ensure applicable comments for the entirety of EO 14276 are compiled and submitted through the public comment solicitation.

LDWF acknowledges that the history and tradition of Louisiana's seafood industry must remain strong and resilient. We believe EO 14276 provides a path forward for our economically and culturally significant seafood industry, and LDWF is committed to assist with the implementation.

Sincerely,

Tyler Bosworth
Secretary

c: Louisiana Congressional Delegation
Jamieson Greer, United States Trade Representative
Laura Grimm, Chief of Staff performing the duties of Under Secretary of Commerce for Oceans and Atmosphere and NOAA Administrator

25-0095794

CHRIS IVERSEN
SALMON TROLLERS MARKETING ASSOCIATION INC
PO BOX 839
OCCIDENTAL, CA 95465
May 11, 2025

President Donald Trump
Secretary of Commerce Howard Lutnick
RESTORING AMERICAN SEAFOOD COMPETITIVENESS
EXECUTIVE ORDER SIGNED APRIL 17, 2025

I have been commercially fishing for 50 years and as Vice-President, I represent the FORT BRAGG SALMON MARKETING ASSOCIATION of California. We are a group of Commercial Salmon Trollers on the west coast. Our association is trying to exist through all the Federal and State roadblocks that are proving to limit and destroy our ability to provide Americans with one of the finest fish they can eat.

We haven't been allowed to fish the last two years and it has just been decided that we won't be able to fish in 2025. I, and my fellow fishermen believe this is because from the top down the fishery has been poorly managed for decades. Hundreds of millions of dollars spent in the name of providing salmon for the American marketplace. When the organizations in charge fail, they blame "over fishing" never management failures. Evaluating the projects and programs that have failed they decide the fish should be listed under the ESA (Endangered Species Act) where nothing ever gets better for our fishing communities. They won't let our fishing communities have hatcheries on our local streams and that is what we need and they should be run by volunteers and schools. In the past there was great success with hatch boxes for Coho salmon. But for some reason that program was shut down. It was inexpensive and it worked!

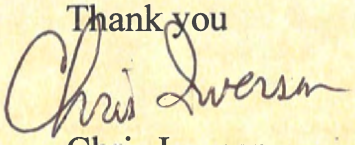
The scientists in charge spending hundreds of millions dollars and failing don't want us involved because we can do the job of getting fish into our streams way cheaper. We can get fish to the ocean with low flows, we don't have to shut any farms down! But it's not going to and hasn't been a natural thing; it's going to be

with help and less restrictions. They hold us back because they can't get fish to return to one hatchery (the Coleman) in California and it's federal it's been a failure for so long and cost so much in funding and lost fishing that it should be shut down. Coleman hatchery is just in the way of progress! There are no salmon on the west coast that deserve an ESA listing. The salmon have been mixing with the hatchery fish for a hundred years or more. One of the biggest missed uses of the ESA is when all the Coho from a creek died and were listed and died anyway, So they bring fish from another water shed and plant the stream again. And the fish they brought listed under the ESA even though they are not from that river! On the Sacramento River they know the fish are dying on their way down the river and not making it to the ocean. They say if they are trucked there they don't find their way back to the Coleman Hatchery. Who cares? They go somewhere and where they go is a good thing, for the environment. Stupid things like they won't let us raise fish in Bodega Bay because when they come back they might stray up the Russian river. Only 67 kings were counted on that river this year and they were probably strays. Just more proof that the people in charge don't want the fishery fixed. They are appointed to the management positions by politicians and they pick people with no skin in the game. They want them to listen to what we need and what groups like the Center for Biologic Diversity want. We are trying to feed America and keep our fishing heritage alive. They want to go back to the stone age. I can't think of one successful business in America that is run by people that don't care who wins. We know how to get fish to the ocean and have before; late 90's and early 2000's we had great fishing.

They released millions of smolts (baby salmon) into a pen and released them into the ocean avoiding the "down river gauntlet". Problem is they all did not return where they wanted and were labeled strays. Not celebrated as returning fish. But they like their cake and to eat it too. Big news about Puta creek where there were no salmon. They cleaned it up and salmon strayed into it and spawned, they think that's great and it is "Mother Nature is amazing". One of the most important thing we need is to be a part of the decision making process. The way it works now is we only get one guy> We know what oceans and rivers need from generations of being on the water and rivers where the fish live. They think their view is the only one. It's sad that a group of fisherman that supply America with the best protein you can put on your family's plate is managed so poorly! And our fishing "management" lately err on the side of caution. They need to change it to what need to be done to make a healthly salmon fishery. AND IT'S CRIMINAL HOW

MUCH MONEY THEY SPEND DOING IT! Give us some power to police how we are managed would be huge and save lots of money.

Thank you



Chris Iversen
FV Ace Hi

PS: More information about the salmon disasters are on the 2024 Documentary "SALMON RUN" produced by Pieter Kruit, San Francisco, CA

CC: REP. JARED HUFFMAN
REP NANCY PELOSI

info@cacoastcrabassociation.org
California Coast Crab Association • 900 Northcrest Drive, #130• Crescent City, CA 95531

May 16, 2025

Via Email

Laura Grimm
NOAA Chief of Staff
Acting Under Secretary of Commerce for Oceans and Atmosphere and NOAA Administrator

Eugenio Piñeiro Soler
Assistant Administrator for National Marine Fisheries Service

Re: Executive Order on Restoring American Seafood Competitiveness

Dear Ms. Grimm and Mr. Piñeiro Soler:

The California Coast Crab Association ("CCCA") respectfully provides this response to President Trump's Executive Order on Restoring American Seafood Competitiveness, dated April 17, 2025. This administration's expressed support for U.S. fisheries is a welcome breath of fresh air. The ever-increasing regulatory burdens on U.S. fisheries—particularly restrictions deriving from the Endangered Species Act ("ESA") and Marine Mammal Protection Act ("MMPA")—threaten livelihoods and erode the ability of U.S. fisheries to compete with imported fish products. As described below, the California Dungeness crab fishery is one of the "most heavily overregulated fisheries requiring action" and we very much appreciate any actions this administration can take to address the existential problems our fleet currently faces.

The California Coast Crab Association ("CCCA") is a Section 501(c)(6) non-profit trade organization representing the individuals and companies that participate in and rely upon the California commercial Dungeness crab fishery—California's most economically important fishery. Since 2010, annual ex-vessel landings in the fishery have averaged $50 million and 15 million pounds. CCCA comprehensively represents all sectors of the fishery. CCCA has members in each of the ten California ports and consists of permit holders, fishing vessel captains, off-loaders, buyers, and seafood processors. CCCA is the only trade association that

solely represents the interests of the participants in the fishery, and its members have a substantial interest in the ongoing viability of the fishery.

The regulatory problems that threaten the existence of the California commercial Dungeness crab fishery are ultimately rooted in the continued—but no longer warranted—ESA-listing of West Coast humpback whale populations. Environmental activist groups, such as the Center for Biological Diversity ("CBD"), have weaponized the humpback whale ESA listing to goad the State of California into enacting punishing restrictions on, and closures of, our fishery. And because the State of California is politically aligned with those activist groups, it has been a willing participant in the push to regulate our fishery out of existence.

Specifically, in 2017, CBD filed a lawsuit against the state of California alleging that the state's authorization of the commercial Dungeness crab fishery violated the ESA because the fishery entangles ESA-listed humpback whales and the state has no ESA permit authorizing that "take." In 2019, the state settled with CBD, and, as part of that settlement, agreed to enact state-based regulatory measures and to obtain a federal incidental take permit under the ESA. That led to the state's promulgation of new regulations in 2020 (known as "RAMP"), which have governed the fishery for the last five years.

The RAMP regulations impose many severe restrictions on the fleet that, among other things, have eliminated four out of the traditional seven months of the fishing season for most of the fleet and have increased compliance costs, eroding already thin profit margins. For the last three seasons, the fishery has only been allowed to deploy half its trap allotments. The value of the average upper tier permit (500 traps for a 50-60' boat) has dropped from approximately $700,000 in 2018 to $350,000 in 2025. Since 2016, the number of permitted vessels participating in the fishery has dropped from 471 to 353. The market value of the average used 50-foot steel boat has dropped from approximately $750,000 to approximately $400,000, and for larger steel boats, the market value has dropped from over $1 million to $600,000.[1] In short, California is single-handedly decimating our once-thriving fishery as a result of the humpback whale ESA listing and the associated abuse of that listing by environmental activist groups.

This dire situation is only going to further deteriorate as new, burdensome federal requirements will stack on top of the state's regulatory morass. First, NMFS will soon issue the ESA incidental take permit that the state has requested as a result of its settlement with CBD, which will impose more restrictions and conditions on the fleet. Second, NMFS—in response to yet another CBD lawsuit—plans to form a take reduction team ("TRT") under the MMPA and include the commercial Dungeness crab fishery in the scope of that TRT. And before that process begins, NMFS has stated its intent to develop a model to assign hypothetical whale deaths (which it calls "cryptic mortality") to the fishery based on the unproven assumption that many entanglements are occurring with the crab fishery that are never observed. This type of worst-case modeling of hypothetical impacts is what almost led to the demise of the Maine lobster fishery were it not for a decision by the D.C. Circuit Court of Appeals holding that NMFS violated the ESA when it used models based on "pessimistic assumptions" to generate hypothetical whale entanglements. *Maine Lobstermen's Ass'n v. NMFS*, 70 F.4th 582, 586 (D.C. Cir. 2023). As the Court said, NMFS "was not just wrong; it was egregiously wrong." *Id*. at 597-98.

[1] Permit and vessel data obtained from Dock Street Brokers.

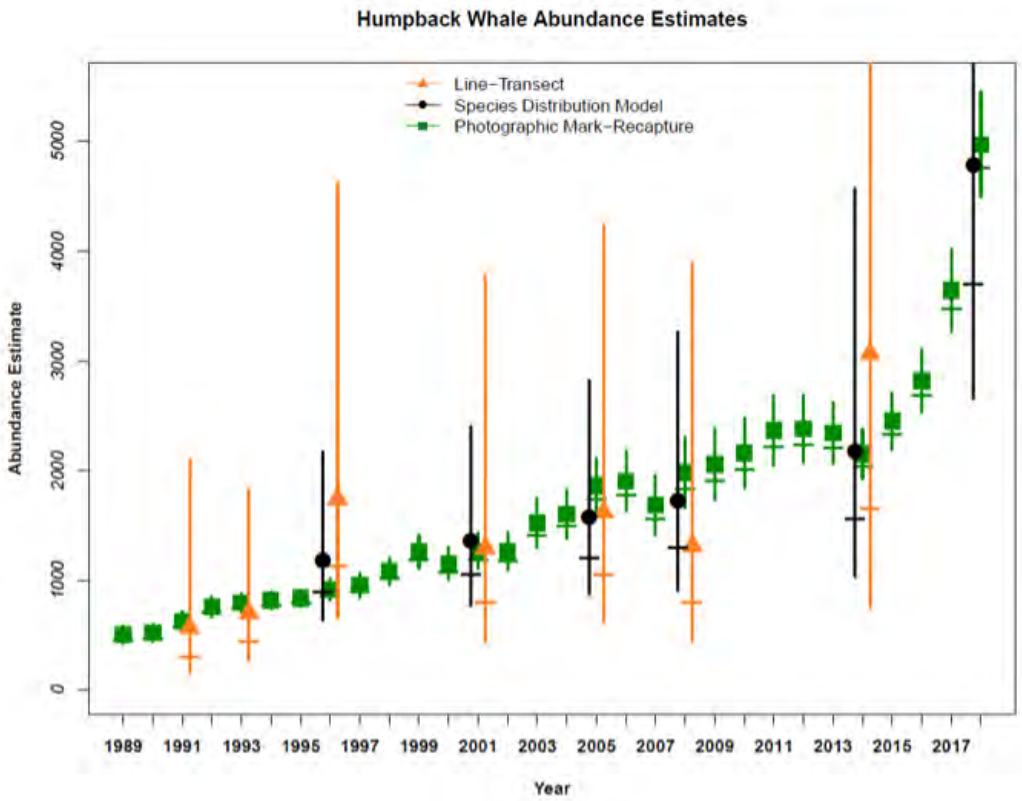
This regulatory overreach stems from an unusual and unprecedented spike in humpback whale interactions with the fishery in 2016 that were caused by extremely anomalous ocean conditions that significantly altered normal humpback whale migratory paths. Scientists now agree the spike was caused by a perfect storm of ocean conditions caused by an atypical marine heatwave. And there is zero evidence that this spike had any noticeable effect on humpback populations. Since then, the annual number of documented fishery-humpback interactions has hovered between zero and six. By comparison, large container and cruise ship strikes off the coast of California account for at least 50-150 humpback whale mortalities a year.

Despite these effects, there has been a very substantial and steady *increase* in the humpback whale population on the U.S. West Coast. As summarized by NMFS in the 2021 Stock Assessment Report for California/Oregon/Washington humpback whales:

> Calambokidis and Barlow (2020) report that humpback whale abundance appears to have increased within the California Current at approximately 8.2% annually since the late 1980s (Figure 2). This is consistent with observed increases for the entire North Pacific from ~1,200 whales in 1966 to 18,000 - 20,000 whales during 2004 to 2006 (Calambokidis et al. 2008). Calambokidis and Barlow (2020) note that the apparent increase in abundance from 2014 to 2018 is too great to represent real population growth and may reflect negatively-biased estimates during 2009 to 2014 due to less representative sampling compared with 2018.[2]

This trend is also depicted in the following graph, presented in the 2021 Stock Assessment Report for the California/Oregon/Washington humpback whales:

[2] https://media.fisheries.noaa.gov/2022-08/2021-HumpbackWhale-CaliforniaOregonWashington%20Stock.pdf. In 2022, NMFS further delineated humpback whale stocks for MMPA purposes, such that the humpback whale "distinct population segments" ("DPSs") designated under the ESA are made up of parts of various MMPA stocks. The point here is that the Calambokidis and Barlow (2020) paper (and other relevant evidence) demonstrates that humpback whales along the West Coast—including the relevant DPSs—are increasing dramatically.



As this information indicates, either the West Coast humpback whale population has experienced extraordinary and unprecedented growth over the past decade or, alternatively, it has experienced steady growth over a longer period of time during which earlier population estimates were low ("negatively-biased"). Either way, the continued ESA-listing is unwarranted. And, as the humpback population booms, the regulatory restrictions on our fishery have only increased and continue to increase. This makes little sense.

Regulating our fishery out of existence will do nothing to benefit the already thriving humpback whale population, but it will destroy the livelihoods of hardworking men and women in small communities along the California coast who participate in the fishery. It will also deplete the lifeblood of fishing communities that support not only fishermen but also gear suppliers, food distributors, restaurants, and countless other small businesses that depend upon the fishery. We hope this administration can help bring some common sense to the state of California, relieve federal regulatory burdens (such as by delisting West Coast humpback whales), and restore hope that is all but lost in many small fishing communities along the California coast. We appreciate your consideration of this letter.

Sincerely,

Ben Platt
President, CCCA

June 3, 2025

Acting Administrator Laura Grimm
NOAA/National Oceanic and Atmospheric Administration
1401 Constitution Avenue NW, Room 5128
Washington, DC, 20230

PCSGA
PACIFIC COAST SHELLFISH GROWERS ASSOCIATION

Re: Comments on the Executive Order 14276: *Restoring American Seafood Competitiveness*

Dear Ms. Grimm,

On behalf of the Pacific Coast Shellfish Growers Association (PCSGA), I am writing to provide comments on Executive Order 14276, *Restoring American Seafood Competitiveness*, and to underscore the importance of continued partnership between the shellfish farming community and our federal agency partners.

For nearly a century, PCSGA has worked to preserve and promote the time-honored tradition of cultivating and harvesting mussels, oysters, clams, and geoduck along the shores of the Western United States. Our shellfish are recognized globally for their quality, and the industry contributes more than $300 million annually to the coastal economies of Washington, Oregon, California, Alaska, and Hawaii. Many of our members are third- and fourth-generation farmers, whose success depends on healthy marine ecosystems, sound science, and strong collaboration.

The Executive Order to restore American seafood competitiveness rightly acknowledges the strategic importance of domestic seafood production to our national food security, coastal economies, and global trade position. For too long, the U.S. seafood industry has been undermined by unfair trade practices and exploitative labor and environmental standards in key Asian competitor countries. These countries export massive volumes of low-cost clams and oysters produced under conditions that would not be legal or acceptable in the United States. This practice undercuts American harvesters, processors, and working waterfronts.

American shellfish is among the most responsibly harvested and sustainably managed in the world. To achieve the EO's objectives, the U.S. cannot continue allowing foreign producers with weaker standards and opaque supply chains to dictate the dynamics of global seafood markets. An America First approach requires bold federal leadership, strong trade enforcement, and renewed investment in the resilience and competitiveness of our own seafood system.

PCSGA supports the EO's call for a whole-of-government approach. Success will depend on strong interagency coordination and capacity. NOAA, USDA, and FDA must be given not only mandates but also sufficient capacity and authority to carry out their roles in supporting domestic seafood and keeping inferior, and potentially harmful, product from U.S. consumers.

NOAA's National Aquaculture Development Plan was the result of 2020 EO #13921. This plan included research, efficiency, and economic development and identified Aquaculture Opportunity Areas (AOAs). These plans require renewed investment in data and implementation to succeed. The roles outlined for NOAA and USDA in those previous efforts should be strengthened.

As we turn to a new era of seafood policy, we see elements of the EO being carried out to support trade.

- We support the Executive Order's emphasis on economic fairness. Additional measures are needed to ensure that the premium-grade shellfish exported from the U.S. is not matched with foreign product, such as manila clams from Asia, that fails to meet our stringent water-quality and public health standards.
- Retaliatory tariffs on geoduck exports to China could harm a valuable and iconic export industry. Tariff relief and bilateral market engagement are critical to restoring competitiveness in international markets, thereby reducing the seafood trade deficit, as called for in the EO.
- European Union market access remains a challenge due to unresolved regulatory barriers. The EO should support diplomatic and regulatory efforts to further open these channels for U.S. shellfish producers.

In the spirit of responsible regulatory streamlining, consideration should be given to how laws are applied to the U.S. shellfish production, which is well documented as being the most sustainable form of food production.

- Endangered Species Act (ESA) consultations continue to be a barrier to shellfish permitting. Shellfish growers have made significant strides toward streamlining ESA processes and deserve recognition and support. Specifically:
    - Maintain the current Programmatic Consultation throughout its full lifespan.
    - Avoid duplicative reviews for similar, previously evaluated activities.
    - Support development of shellfish-specific Habitat Conservation Plans (HCP), such as the one being pursued by Taylor Shellfish.
- Clean Water Act (CWA): PCSGA supports the Corps of Engineers' determination that most shellfish activities are not regulated under the CWA. For ongoing activities that may fall outside of that determination, (e.g., shell placement for natural set, gravelling, sediment used to anchor nets), the Clean Water Act farming exemption should apply. This should be formalized in regulation or guidance.
- Interstate Shellfish Sanitation Conference (ISSC): The ISSC plays a critical role in ensuring public health and facilitating market access. The EO should reaffirm its importance. If structural reforms are considered, they should empower states while maintaining uniform national standards.

The America First Seafood Strategy should also balance continued support for international market access with promotion of domestic production, which is vital to many U.S. producers. Investments the federal government makes in protecting and enhancing the domestic shellfish industry are paid

back many fold in job creation and other economic activity in rural communities across the Country.

- PCSGA supports Department of Agriculture's increased role in the America First Seafood Strategy for the following elements of aquaculture:
    - Genetic research, through the Pacific Shellfish Research Unit, supports healthy and resilient shellfish populations.
    - Disaster relief assistance.
    - Marketing and promotion of aquaculture products.
- FDA Testing and Lab Capacity: Regulatory agencies require frequent safety testing of shellfish and waters in shellfish growing areas. Lab verification delays affect product safety certifications and timely reopening following regulatory closures. PCSGA recommends:
    - Increased FDA investment in lab capacity and staffing.
    - Additional state accreditation of labs by FDA.
    - Support for faster and more reliable FDA testing processes.
- The EO's provision to modernize data collection and analytics is a positive step. Real-time ocean condition monitoring, which shellfish growers have come to rely upon to ensure a steady supply of shellfish seed, requires funding for NOAA's IOOS program.

We appreciate the opportunity to share these thoughts with you and to provide input on this important Executive Order. PCSGA and our members are committed to supporting a competitive, sustainable, and resilient domestic aquaculture sector. We look forward to continued partnership with NOAA and other federal agencies to advance shared goals for ocean health, coastal economies, and food security.

Sincerely,

Margaret Pilaro
Executive Director

Pacific States Marine Fisheries Commission
ALASKA · CALIFORNIA · HAWAII
IDAHO · OREGON · WASHINGTON

6720 S. MACADAM AVE, SUITE 200, PORTLAND, OREGON 97219 | OFFICE 503-595-3100

June 16, 2025

Eugenio Piñeiro Soler
Assistant Administrator for Fisheries
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, MD 20910

Assistant Administrator Piñeiro Soler,

Congratulations on your appointment. We look forward to working with you as you work to improve our already world-class U.S. Fisheries management system. The Inter-State Marine Fisheries Commissions have long partnered with NOAA Fisheries and the Fishery Management Councils to make sure U.S. Fisheries are working productively for coastal communities, bringing seafood and food security to the nation all the while sustaining those fisheries for future generations. At the Pacific States Marine Fisheries Commission our mission since 1947 has been to support fisheries and prevent waste (bycatch) in said fisheries.

As you come into your role, there are three areas we would like to make you aware of: where we operate as a Commission, where we can help NOAA Fisheries and what our near-term priorities are.

As of late 2024, with the addition of Hawaii, PSMFC now represents a six-state area including Alaska, California, Hawaii, Idaho, Oregon, and Washington. Working with the states and NOAA Fisheries, we administer most U.S. fishery dependent data for use by the Councils in the Pacific including AKFIN (AK), PacFIN (OR, WA, CA), WestPacFIN (HI and territories) and RecFIN (West Coast and Alaska Recreational data). We also operate or administer most of the Electronic Monitoring (EM) video review programs for the West Coast, AK, and HI. In addition to collecting and managing fisheries data, we provide fishing community support through disaster assistance and ecosystem support through our work on bycatch reduction, reducing whale entanglements, aquatic invasive species prevention, and habitat restoration.

The President's recent Executive Order to restore American Seafood Competitiveness highlights the need to modernize data collection and analytical practices. At the Commission, we have been

a leader in developing electronic technologies for logbooks, fish tickets, electronic monitoring and other processes to improve data flow and allow easier integration of data into stock assessments. We stand ready to do whatever is needed to help the Administration with this effort.

Our near-term priorities at the Commission are focused on efficiency and effectiveness of fisheries management information and processes. NOAA Fisheries surveys and stock assessments are what keep our fisheries open and sustainable, and the PSMFC supports these efforts in many ways including primary data collection, fish age reading, genetic analysis, and fisheries monitoring (sampling, observing and EM). The funding for fishery dependent data collection and management (the FINs) in partnerships with the states is critical for real time management of stocks and the support of Interjurisdictional Fisheries Act grants is critical for managing regional fish species that cross state and state-federal jurisdictional lines. Lastly, the funding for the Councils and Commissions to keep everything moving through the regulatory process remains critical to keeping our fisheries open and fishing. All this work takes funding and resources, and we urge you to prioritize approvals for these programs so that work is not delayed.

By working in partnership between NOAA Fisheries, the Commissions and the Fishery Management Councils we can make our great American fisheries management system even better.

We would like to invite you to our annual meeting this year in Boise, Idaho on September 7 and 8. In the intervening time, we would be happy to meet with you and a small group of our States' Commissioners and Advisors to further discuss our programs, priorities and how we can help. If you would like to schedule a meeting contact Barry Thom, Executive Director, Pacific States Marine Fisheries Commission at bthom@psmfc.org.

Sincerely,

Jim Fredericks
Chair
Idaho Department of Fish and Game

25-0096342

California Pelagic Fisheries Association

Grantville Station
P.O. Box 601124
San Diego, CA 92160

July 7, 2025

Howard W. Lutnick
Secretary of Commerce
U.S. Department of Commerce
1401 Constitution Ave NW
Washington, DC 20230
Via Email: thesec@doc.gov, laura.grimm@noaa.gov, eugenio.e.pineirosoler@noaa.gov

Dear Secretary Lutnick,

The California Pelagic Fisheries Association (CPFA) is a San Diego-based organization representing U.S. fishermen targeting wild, highly migratory fish species (HMS) in the offshore waters of California. We are one of many California-based organizations supporting harvesters of wild-caught fish dedicated to providing locally caught seafood to U.S. consumers. Our members fish sustainably, leaving enough fish in the ocean without affecting the future health of the stock while at the same time minimizing impacts on habitats and non-targeted organisms to maintain healthy marine ecosystems.

We were pleased to see President Trump's Executive Order 14276 of April 17, 2025 on *Restoring American Seafood Competitiveness* that builds upon the earlier Executive Order 13921 of May 7, 2020 for *Promoting American Seafood Competitiveness and Economic Growth*. Both executive orders shine a spotlight on the important service that the U.S. fishing industry provides by bringing U.S.-caught seafood to American tables. U.S. harvesters help support the Nation's food security while providing a nutritious protein, rich in vital vitamins and minerals essential for many of the body's processes. What a way to make Americans healthier!

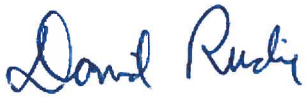
We are working to improve the nation's food security, but we can do more to reduce the incessant reliance on imported seafood. We are pleased that the E.O. 14276 refers specifically to 'leveling the playing field' such that the U.S. fleets can compete in these shared markets, and such that consumers are not purchasing product from poorly managed fisheries and thereby contributing to damaging the marine environment. However, advocacy groups, intent on hampering or closing our fisheries, consistently challenge our members and ignore the environmental damage on target stocks, other non-targeted finfish stocks, and protected species caused by foreign fisheries. Foreign-sourced seafood frequently originates from fisheries that are poorer, less regulated, and lack the management and sustainability standards of U.S. harvesters. We would like to see that reliance on foreign fisheries reversed with your assistance.

The Nation's commitment to the highest fishing standards drives the continual improvement of our fishing methods and gears for protecting the ecosystem and minimizing impacts. One feature of the Magnuson-Stevens Conservation and Management Act is that it allows NOAA's National Marine Fisheries Service (NMFS) to issue exempted fishing permits (EFPs) for testing alternative fishing practices to target and increase access to healthy stocks. Our members just received an EFP from NMFS' West Coast Region for targeting robust stocks of swordfish and other marketable, highly migratory species in Federal waters off the U.S. West Coast. This will allow our members to conduct fishing trials and gather data to inform fishery managers whether our proposed alternative fishing practices can achieve optimum yield on these HMS stocks while continuing to minimize bycatch, and provide for an economically viable fishery. We will keep you apprised.

On the topic of testing alternative gears to reduce bycatch, it is important to our members that catch rates remain close if not equal to the gear they are intending to replace while achieving less fuel-intensive practices. There have been situations where the performance of replacement gears does not provide the same volume of catch, resulting in continued reliance on foreign-sourced product to meet demand (i.e., swordfish from Mexico and Ecuador). We caution interpreting advocacy efforts that highlight gears for reducing bycatch but neglect to acknowledge the potential drop in production. Our members need sufficient catch to offset their trip costs while receiving reasonable prices to support their continued efforts.

In closing, we thank you for the opportunity to share our thoughts. We look forward to hearing the results of the actions laid out in *Restoring American Seafood Competitiveness* Executive Order. Once implemented, they undoubtedly will further help distinguish our industry's efforts alongside those of the Nation's top food producers.

Sincerely,



Dave Rudie
President, California Pelagic Fisheries Association

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