



D2 Priority Actions to Meet Executive Order

October 2020

Action Memo

Council Staff: David Witherell
Action Required: Develop a prioritized list of recommended actions to reduce burdens on domestic fishing and to increase production within sustainable fisheries.

BACKGROUND

EO 13921 - Promoting American Seafood Competitiveness Economic Growth

On May 7, the President issued a new Executive Order to strengthen the American economy; improve the competitiveness of American industry; ensure food security; provide environmentally safe and sustainable seafood; support American workers; ensure coordinated, predictable, and transparent Federal actions; and remove unnecessary regulatory burdens. The four major components of this EO include 1) reducing regulatory burdens and increasing wild capture output, 2) combating Illegal, Unreported, and Unregulated (IUU) fishing 3) outlining a collaborative processes in mapping out areas for potential aquaculture operations, and to reduce barriers for those seeking permits, and 4) establishment of a multi-agency seafood trade task force to focus on trade-related interests of the sector as a whole.

The EO can be found here: <https://www.govinfo.gov/content/pkg/FR-2020-05-12/pdf/2020-10315.pdf>

The EO requires each Regional Fishery Management Council to submit, within 180 days of the date of the order (by November 2, 2020), a prioritized list of recommended actions to reduce burdens on domestic fishing and to increase production within sustainable fisheries. The Council will also need to develop a proposal for initiating each recommended action within 1 year of the date of the order (i.e., by May 6, 2021). Recommended actions may include changes to regulations, orders, guidance documents, or other similar agency actions. Attached is a letter from Chris Oliver, NOAA Fisheries Administrator, requesting the Council to provide recommendations by November 2.

At the May 2020 CCC meeting, NOAA Fisheries leadership provided additional guidance on the Executive Order. Mr. Oliver expressed that the EO provides a great opportunity to expand the vigor and value of fisheries through aquaculture, streamlining regulations, and international seafood trade issues. Deputy Administrator Mr. Sam Rauch noted that most everything the Councils already address in normal operations reduces burdens on fishermen and/or increases production as well as efficiency and value of the fisheries. He stated that the intent of the EO is not much different than the previous request for deregulation, but the EO prioritizes these efforts. Mr. Oliver encouraged the Councils to cast a broad net for any recommended ideas and actions for consideration. He stated that these recommendations can also include actions outside of the authority of NOAA Fisheries, including legislation (NOAA GC clarified that Councils are allowed to lobby an executive agency, but not Congress directly).

At this meeting, the Council will need to develop a prioritized list of recommended actions that reduce burdens on fishing and/or increase production, efficiency, and value of North Pacific fisheries. For

example, some of the items listed on the 3-meeting outlook could be considered for the priority list. At the last meeting Council members mentioned other actions that could be prioritized (e.g., investment in research surveys, stock assessments, EM and observers, increasing seafood consumption through marketing investments, etc.) to achieve the goals of the EO. Additionally, NOAA guidance documents and agency policy/procedural directives could be considered for inclusion in the priority list. Previous discussions by the Council have indicated concerns with several of these directives, as summarized below. In both cases, eliminating these requirements could allow additional time for staff and the Council to work on regulations or revisions that reduce burdens on fisheries or increase production from wild catch fisheries.

- Allocation Reviews: Policy Directive 01-119 mandates that the Councils prepare periodic reviews of fishery allocations (at least once every 10 years). In discussing this policy, the Council noted that many of the allocations are reviewed as part of the MSAs LAPP review mandate, fishery allocations are reviewed as part of the standard council process, and open for public requests for reviews at every meeting during staff tasking. While we have completed a few of these allocation reviews to date, they require considerable staff time and have not resulted in any changes or analysis to the allocations to date. Without this policy, the Council could opt to prepare these reviews at any time, rather than on a ridged schedule when the review may be unneeded.
- Approval of Council SOPPs: Procedural Directive 01-115-01 sets forth a multi-tier process for NMFS to formally approve the Council SOPP every time it is amended, and publish it in the Federal Register. To date, no Council has had their SOPP approved through this process, even though all councils submitted revised SOPPs in 2012. Interestingly, Policy Directive 01-115 notes that the regulations at 50 CFR 600 subparts B and C remain in effect and constitute the Secretary's basic standards for Council operations, practices, and procedures. So, if the SOPP meets the regulations (which clearly the Councils must meet at all times), why is a complicated approval process needed? In 2019, Assistant Administrator Oliver indicated he was satisfied with the current process whereby the Council (including the Regional Administrator) approves changes to the SOPP and it gets posted on the Council website.

The Council has encouraged the public to come forward with their priorities for the Council to consider at this meeting. Written comments to the Council are due September 30. Oral public comments on this agenda item may provide the Council with additional actions to consider as it develops its list or priorities to meet the Executive Order.

NMFS has provided guidance on how to submit these priorities using a spreadsheet template, with a description as follows:

Guidance for Councils Response to E.O. 13921 Section 4

In response to [Executive Order 13921](#), a formal request was sent to the Regional Fishery Management Councils for a prioritized list of recommended actions “to reduce burdens on domestic fishing and to increase production within sustainable fisheries” by November 2, 2020, as required under Section 4 of the order. To provide further details and instructions for submissions, this document spells out guidance for Councils in formatting their responses.

Examples have been provided in the attached template table *EO13921 Recommended Actions Template* to provide a framework for responding to the request. Please develop your prioritized list and send a copy of the completed table (one response per Council) by email to [Kelly Denit](#) and copy [Morgan Corey](#), Office of Sustainable Fisheries. To facilitate tracking recommended actions, please provide the following information in your response:

Indicate the **priority number** relative to other proposed actions in order of preference, with 1 being the highest priority, and assign a unique priority number to each proposed action (i.e., only one action assigned to priority 1, 2, 3, etc.). If possible, consider bundling actions by FMP or by fishery before prioritizing.

Classify the recommended action(s) type as a Regulation, Order, Guidance, or Other Similar Agency Action using the dropdown list.

Identify the relevant Code of Federal Regulations (CFR) Citation under Title 50, if applicable (CFR information [here](#)).

Describe the recommended action, including current regulation implications and issues that could be addressed by taking the action(s).

Explain **how** the recommended action(s) reduces burdens on domestic fishing and/or increases production within sustainable fisheries. Be as specific as possible (qualitative information is enough) to detail the anticipated effects (social, economic, biological) of taking the action(s).

Outline a proposal for initiating each recommended action, including the current status of discussions, steps to be taken, expected timeline for Council discussion and decisions.

Council(s)	Priority Number	Action type (e.g. Changes to Regulations, Orders, Guidance Documents, Other Similar Agency Actions)	Relevant CFR Citation under Title 50 (if applicable)	Description of recommended action(s)	Rationale of how the recommended action(s) reduces burdens on domestic fishing and increases production within sustainable fisheries	Proposal for initiating each recommended action(s) within 1 year of the date of this order (i.e., by May 7, 2021)
Example - XFMC	1	Regulation	50 CFR 622	This regulation would modify provisions for Fish A vessels transiting through cold weather closed areas with Fish A on board in federal waters. The proposed action would allow trawl doors in the rack (cradle), nets in the rigging and tied down, and trawl net on the deck during transit. Currently, Fish A vessels transiting cold weather closed areas with Fish A on board are required to stow a trawl net with a mesh size of less than 4 inches below deck. Fishermen have requested a change to these transit provisions as vessel design changes have limited access to below deck storage, the need to disassemble the trawl gear prior to stowing nets below deck in rough conditions is a safety at sea concern, and some fishermen have avoided transiting the closed areas entirely.	Because of safety at sea concerns caused by shoals in state waters off State B, federally permitted Fish A vessels from states north of State B that operate off of State B during cold weather closures, but have been unable to store fishing gear according to the current transit regulations, have been forced to land their catch in State B rather than at their homeport. The proposed changes would make it easier for these vessels to comply with the gear stowage requirements and, as a result, more easily return to their homeport with Fish A on board. Also, the proposed changes were recommended by the Council's Law Enforcement Advisory Panel, who indicated these changes would make it easier for enforcement officers to see if Fish A fishermen are complying with the transit provisions. As such, the burden on law enforcement officers would also be effectively reduced.	Rulemaking requested by Gulf Council at their June meeting. Proposed rule anticipated to publish by October 2020.
Example - XFMC	2	Guidance Document	n/a	Revise guidance document to increase process efficiencies.	Removing unnecessary time lags in the process may reduce start up cost for the producers as well as may allow facilities to more easily start production.	Plan to engage in discussion with NMFS on possible revision to timing and text at January 2021 Council meeting.