

NATIONAL MARINE FISHERIES SERVICE (NMFS) REPORT ON THE CENTER FOR BIOLOGICAL DIVERSITY'S (CBD) PETITION FOR RULEMAKING REGARDING PACIFIC BLUEFIN TUNA (PBF)

On June 13, 2016, NMFS responded to the petitioner's requests to amend the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (HMS FMP), promulgate agency rulemaking under the Magnuson-Stevens Fishery Conservation Management Act (MSA), and develop international recommendations to end overfishing of PBF. Citing legal responsibilities outlined in section 304(i) of the MSA, CBD requested that NMFS undertake a rulemaking based on its assertion that the Pacific Fishery Management Council (Council) failed to meet its statutory duty to develop recommendations for domestic regulations in response to NMFS' determination that the PBF stock is overfished and subject to overfishing ([78 FR 41033](#), July 9, 2013). Specifically, CBD petitioned NMFS to amend the HMS FMP and regulations implementing the HMS FMP to establish specific reference points to guide science-based management of PBF and to designate PBF as a prohibited species until the stock is rebuilt. A prohibited species listing would place a moratorium on retention of PBF by U.S. West Coast vessels fishing for highly migratory species. As an alternative to prohibiting retention, CBD requested that NMFS establish annual catch limits and a permanent minimum size requirement to protect age classes 1 and 2. Lastly, CBD requested that NMFS develop specific recommendations to the Secretary of State and Congress under MSA section 304(i), including closing the high seas to all fishing, to end PBF overfishing at the international level. A notice summarizing NMFS' response will publish in the Federal Register on June 16, 2016 (<https://federalregister.gov/a/2016-14239>)¹.

When CBD sent its petition on April 8, 2014, it might not have realized that the Council had, on April 1, already formally responded to NMFS regarding its obligations to address the relative impact of the U.S. fleet as well as to recommend international measures that could be taken to end overfishing on the PBF stock as required by section 304(i) of the MSA. The Council acknowledged the petitioner's requests during its 2014 discussions of biennial management measures. However, the deliberations of both the Inter-American Tropical Tuna Commission and the Council on measures to reduce fishing mortality of the stock preceded the timeline for collecting public comment on, and responding to, the petition.

¹ CBD's full petition and NMFS' detailed response can be found under docket number NOAA-NMFS-2014-0076 on www.regulations.gov

As stated in its response to the petitioner, NMFS refers the petitioner's requests for domestic actions, including FMP amendments, to the Council for consideration given the Council's role under the MSA in developing and amending the HMS FMP. NMFS has drafted responses to each of the petitioner's requests, including characterizing input received during public comment on the petition, for the Council's consideration. Generally, NMFS questions the need for additional restrictions (i.e., the requests for a moratorium on retention, annual catch limits, and size limits), but encourages the Council to consider the adequacy of the HMS FMP reference points and/or proxies for PBF. The current reference points were originally adopted in 2004 and revised in 2011; however, improvements have been made to PBF stock assessments since then (including the [2016 assessment](#)).