

HIGHLY MIGRATORY SPECIES ADVISORY SUBPANEL REPORT ON EXECUTIVE
ORDER 13921: PROMOTING AMERICAN SEAFOOD COMPETITIVENESS AND
ECONOMIC GROWTH – FINAL RECOMMENDATIONS

The Highly Migratory Species Advisory Subpanel (HMSAS) reviewed Section 4 of Executive Order ([EO 13921](#)); and reviewed the Pacific Fishery Management Council's (Council's) previous efforts in 2018 and we have no additional regulatory suggestions at this time. The HMSAS would like to call to the Council's attention to the [CPSAS Statement](#) on this Agenda Item and inform the Council that sea urchin is similarly situated to squid. As such, we would recommend adding "and Sea Urchin" after "squid" in their statement. However, we wish to comment on other Sections of the EO.

Section 5 - Combating Illegal, Unreported, and Unregulated (IUU) Fishing

The HMSAS supports any and all activities which reduce the amount of, and impacts of, IUU fishing.

Sections 6 - Removing Barriers to Aquaculture Permitting and Section 7 - Aquaculture Opportunity Areas

The HMSAS offers the following comments on the Aquaculture component of [EO 13921](#). In particular, the [August 20, 2020 announcement by NMFS](#) designating Southern California as an Aquaculture Opportunity Area ("AOA") which is a "geographic area containing locations suitable for commercial aquaculture" per Section 7 of the EO.

While we acknowledge the President's ability to use EOs, we are concerned that a fast-tracked aquaculture policy initiative may not provide for an open and transparent process necessary to ensure adequate consideration. Offshore aquaculture has potential benefits to the nation, but without thoughtful and inclusive planning with coastal stakeholders and a well-crafted public process, carries a significant risk to the environment as well as our coastal economies. There are challenges associated with offshore aquaculture that need to be properly studied, analyzed, and addressed before taking formal action. Fisheries covered by this Council are well-managed under the Magnuson-Stevens Fishery Conservation and Management Act (MSA), because of the precautionary approach and the careful deliberative process surrounding the actions before you. It is unfortunate that aquaculture policy may not benefit from similar approaches and processes.

Section 7(c) of the EO requires the Secretary to "solicit and consider public comment and seek to minimize unnecessary resource use conflicts as appropriate" in identifying AOAs. [Supplemental Habitat Committee Report 1](#) for Agenda Item C.2. reports that a NOAA official indicated "selection of these regions occurred without public involvement." While this may prove sufficient to challenge the designation, our statement continues as if that were not the case.

We understand the designation is not a permitting decision and that future proposed aquaculture operations will have to go through permitting; and, hopefully, Council engagement. It will be imperative that the Council and its advisory bodies are informed early in those process so that siting and other decisions will be based on a full public engagement.

We offer this statement to: (1) ensure the Council, and by extension NMFS, hears our concerns and notes specific considerations as specific areas within the AOA are identified for potential aquaculture operations; and (2) our expectation that we (and other advisory bodies) will be able to advise you on, and during, the siting process and on any and all environmental reviews (NEPA) and take authorization decisions (Endangered Species Act [ESA], Marine Mammal Protection Act [MMPA], Migratory Bird Treaty Act [MBTA], etc.).

Our primary concerns are as follows:

1. We do note there are distinct differences between offshore finfish aquaculture facilities and operations producing shellfish or marine algae. As such, some of our concerns may be more applicable to one form of aquaculture over another.
2. Potential significant conflicts with commercial and recreational fisheries, including maritime safety concerns.
3. Introduction of disease to native fish populations.
4. The very real threat of introducing non-native species to a vibrant, productive and relatively stable ecosystem. This includes genetically engineered species, for example AquaBounty salmon.
5. The quantity, value, and reliability of the data upon which decisions will be made.
6. Pollution, both in terms of facility operations (fish waste in the form of nitrogen and phosphorus which could lead to algae blooms) and decommissioning when a facility's useful life is over.
7. Impacts to wild-capture fisheries and the fishermen and fishing communities which are dependent upon them. Impacts within ports and harbors as more water-dependent users vie for limited dock space and unloading facilities.
8. Interactions with protected species and other species of concern.
9. Avoid industrialization of a public resource, the ocean, via rapid and unsustainable expansion. We note that land-based recirculating aquaculture systems are in the process of obtaining permits in both Maine and Northern California; and another facility in Florida is nearing completion; and
 - a. While the EO contemplates use of the entire Exclusive Economic Zone, an awareness that these facilities will likely have to be located (a) within a reasonable distance of a port or harbor with suitable infrastructure for offloading, processing, sale or distribution; (b) in waters that do not exceed a specific depth. We note the September 9 [Notice of Intent \(NOI\) to prepare an Environmental Impact Statement for the proposed development of a commercial-scale finfish aquaculture facility to be located in Federal waters off the coast of southern California](#) included a Minimum and

Maximum Depth to Seafloor as “≥ 100 feet (30 meters) and < 495 feet (150 meters)”;
and (c) in areas that are not in conflict with National Security nor other Outer
Continental Shelf uses.

10. See Slide 14 of [C.1, Supplemental NMFS PPT 1: EO 13921 and Aquaculture Opportunity Area](#). For those areas which fall within Essential Fish Habitat or Habitat Areas of Particular Concern, any and all required consultations should be undertaken and on a project basis.

We do wish to call to your attention benefits that may inure from establishment of aquaculture operations:

1. Higher confidence in product health and safety with FDA oversight as compared to aquaculture products from non-U.S. sources;
2. Would increase domestic production of seafood and potentially improve supply chain infrastructure;
3. Increases national food security (i.e. local food systems); and
4. For those operations which are 100% owned and operated by domestic businesses, it would support a U.S. industry and our local economy.

We recommend the Council take whatever steps are necessary to ensure that when a project is proposed, the proposing entity is asked to present before the Council before any final siting decisions are made and again before any final permits are issued. We further recommend that consultations required under applicable law incorporate Council input and guidance.

Section 11 - International Seafood Trade

We note, with approval, the recent U.S.-EU trade deal which ensured U.S. harvested lobster “are now tariff-free when exported to the European Union from the United States”. We also wish to offer appreciation for the Seafood Trade Relief Program which was announced last week and offers funding for U.S. fishermen impacted by retaliatory tariffs, particularly U.S. harvesters of tuna.

Carbon Monoxide Treated, which is a process by which tuna loins are treated with the gas to prevent oxidation is banned in Canada, Japan, Singapore, and the European Union. The HMSAS requests the Council recommend to the Seafood Task Force that Carbon Monoxide Treated tuna be banned in the U.S. as well.

PFMC
09/16/20