



October 14, 2025

VIA ELECTRONIC SUBMISSION

The Honorable Howard Lutnick
Secretary
U.S. Department of Commerce
National Oceanic and Atmospheric Administration
1401 Constitution Ave., NW
Washington, D.C. 20230

Re: Recommendations for Restoring American Seafood Competitiveness

Dear Secretary Lutnick:

On August 27, 2025, the U.S. National Oceanic and Atmospheric Administration (NOAA) published a request for Recommendations for *Restoring American Seafood Competitiveness*.¹ This letter constitutes the Office of Advocacy's (Advocacy) public comments on NOAA's request. It is based on responses to Advocacy from small businesses in the fishing and seafood industries in Washington, DC; New Bedford, MA; and through a September 2025 virtual roundtable.

A key theme of the small businesses' comments closely overlaps one of President Trump's executive orders observing that "The United States is blessed with ... abundant natural resources" but have been subject to "years of mismanagement [and] regulatory overreach."² America's fisheries have been poorly and unlawfully managed. Fishing yields, and the economic returns on fishing-business assets, should be greater. Under President Donald J. Trump's and your leadership, downstream manufacturing could also be invigorated.

Representatives of the fishing and seafood industry expressed to Advocacy a strong desire for better dialogue with NOAA and felt their interests were not fairly represented in current regulations. They also noted that many of NOAA's regulations needed to be reviewed, as they are out of date with current fishery conditions. Specifically, the small businesses cited at least twelve targeted regulatory reforms to reduce burdens on small fishing and seafood businesses,

¹ 90 Fed. Reg. 41818 (Aug. 27, 2025).

² Exec. Order No. 14,313, Establishing the President's Make America Beautiful Again Commission, 90 Fed. Reg. 30917 (Jul. 9, 2025).

including marine sanctuary designations, species classifications, observer funding, permit and speed rules, quota leasing, gear/area flexibility, research set-asides, highly migratory species management, and vessel construction oversight.

I. Background

A. The Office of Advocacy

Congress established the Office of Advocacy in 1976 under Pub. L. 94-305 to represent the views of small entities before federal agencies and Congress. Advocacy is an independent office within the U.S. Small Business Administration (SBA) that seeks to ensure small business concerns are heard in the federal regulatory process. Advocacy also works to ensure that regulations do not unduly inhibit the ability of small entities to compete, innovate, or comply with federal laws. The views expressed by Advocacy do not necessarily reflect the views of the SBA or the Administration.

The RFA, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA),³ gives small entities a voice in the rulemaking process. For all rules that are expected to have a significant economic impact on a substantial number of small entities, the RFA requires federal agencies to assess the impact of the proposed rule on small entities and to consider less burdensome alternatives.⁴ If a rule is not expected to have a significant economic impact on a substantial number of small entities, agencies may certify it as such and submit a statement of the factual basis for such a determination that adequately supports its certification.⁵

The Small Business Jobs Act of 2010 requires agencies to give every appropriate consideration to comments provided by Advocacy.⁶ The agency must include a response to these written comments in any explanation or discussion accompanying the final rule's publication in the Federal Register, unless the agency certifies that the public interest is not served by doing so.⁷

Advocacy's comments are consistent with Congressional intent underlying the RFA, that "[w]hen adopting regulations to protect the health, safety, and economic welfare of the nation, federal agencies should seek to achieve statutory goals as effectively and efficiently as possible without imposing unnecessary burdens on the public."⁸

³ Pub. L. No. 104-121, tit. II, 110 Stat. 857 (1996) (codified in scattered sections of 5 U.S.C. §§601-612).

⁴ 5 U.S.C. § 603.

⁵ *Id.* § 605(b).

⁶ Small Business Jobs Act of 2010, Pub. L. No. 111-240, §1601, 214 Stat. 2551 (codified at 5 U.S.C. § 604).

⁷ *Id.*

⁸ Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164 (1980) (codified at 5 U.S.C. §§ 601-612).

B. NOAA's Request for Comment on Recommendations for Restoring American Seafood Competitiveness.

Executive Order (EO) 14276, issued by President Trump on April 17, 2025, calls for the government to “immediately consider suspending, revising, or rescinding regulations that overly burden America’s commercial fishing, aquaculture, and fish processing industries.”⁹ NOAA and the National Marine Fisheries Service (NMFS) subsequently issued a request for comment on August 27, 2025, to obtain information on “fishery-related regulatory barriers, fisheries management, science, and other priority needs” to accomplish the EO’s goals.¹⁰

The agencies have specifically requested input on the following areas:

- Regulations that govern fishing activities that may be suspended, revised, or rescinded.
- Ways to improve fisheries management and science.
- Less expensive and more reliable technologies and cooperative research which can be used to support fisheries assessments.
- Ways to modernize data collection and analytical practices to improve the responsiveness of fisheries management to real-time ocean conditions.
- Types of data, forecasting tools, or information products that are most needed by U.S. fishing businesses to adapt their operations effectively to changing economic and/or environmental conditions and maintain access to fishery resources.
- Ways to expand exempted fishing permit programs to promote fishing opportunities nationwide.¹¹

Small businesses account for 99.9% of commercial fishing businesses and generate almost \$5 billion in annual receipts while also making up a significant portion of the recreational fishing industry.¹²

Advocacy held a roundtable with small entities and their representatives on September 24, 2025 to discuss NOAA’s request for comments. NOAA staff gave an overview of their request and listened to the input given. Advocacy also held meetings on NOAA’s request for comments with fishing industry representatives in both Washington, DC and New Bedford, MA.

⁹ 90 Fed. Reg. 16993 (Apr. 22, 2025).

¹⁰ 90 Fed. Reg. 41818 (Aug. 27, 2025).

¹¹ *Id.* at 41,819.

¹² U.S. Census Bureau, *Statistics of U.S. Businesses*, <https://www.census.gov/programs-surveys/susb.html> (last revised Mar. 11, 2025); U.S. Census Bureau, *Nonemployer Statistics*, <https://www.census.gov/programs-surveys/nonemployer-statistics.html> (last revised Apr. 29, 2025).

II. Current NOAA Policy is Not Achieving the Goals of the Magnuson-Stevens Act

The Magnuson-Stevens Act (M-S Act) is the primary law that governs fishing in the United States. The M-S act states that “[c]ommercial and recreational fishing constitutes a major source of employment and contributes significantly to the economy of the Nation.”¹³ The main purposes of the M-S- Act are “to promote domestic commercial and recreational fishing”¹⁴ and achieve “on a continuing basis, the optimum yield from each fishery for the U.S. fishing industry.”¹⁵ In EO 14276, President Trump states “[t]he United States controls one of the largest and most abundant ocean resources in the world, with over 4 million square miles of prime fishing grounds.”¹⁶

Unfortunately, the fishermen and other small businesses that Advocacy spoke to about NOAA’s request for comments told us that America’s fishing resources are being vastly underutilized to the detriment of our coastal communities and seafood supply chains. According to NOAA’s own data, over the last fifteen years in New England the number of groundfish fishing trips completed by the industry has declined 86%, the number of vessels is down 72%, and revenues are down 67%.¹⁷

Fishermen have warned Advocacy that they are part of an aging fleet led by aging captains and that vessels are inefficient. This, according to many fishermen Advocacy spoke with, is leading to lower quality seafood compared to foreign products landed on modern vessels. Additionally, fishermen have told Advocacy that with aging infrastructure and a regulatory inability to modernize critical equipment, the United States is at a massive disadvantage with international competitors.

EO 14276 is a positive indication that the Administration is aware of this systematic underperformance and interested in reversing the decades of decline. What follows are several immediate actions, obtained with the input of America’s small business fishermen that could be taken as a first step towards accomplishing President Trump’s goal of “Restoring American Seafood Competitiveness.”

III. NOAA Should Increase the Involvement of the Fishing and Seafood Industry in Fisheries Management Decisions.

One recurring theme Advocacy heard both during our roundtable and individual meetings was that the fishing industry does not feel that NOAA fairly represents its interests. Additionally, multiple fishermen told Advocacy they do not feel adequately involved in NOAA decisions which directly impact their small businesses. By not involving members of the fishing industry

¹³ 16 U.S.C. § 1801 (a)(3).

¹⁴ *Id.* § 1801 (b)(3).

¹⁵ 50 C.F.R. § 600.310.

¹⁶ 90 Fed. Reg. 16993 (Apr. 22, 2025).

¹⁷ NOAA, *Commercial Fishing Performance Measures: NE Multispecies – Large Mesh*, <https://apps-nefsc.fisheries.noaa.gov/pm/index.php/programs/6> (last visited Oct. 14, 2025).

in regulatory decisions, NOAA is depriving itself of their on-the-ground knowledge which would lead to better overall fishing policies. Improved communication with small businesses in the fishing industry will help NOAA create better policies that balance regulations with President Trump's goal of restoring competitiveness to the fishing industry.

Improving dialogue with the fishing industry will also help NOAA obtain the information it seeks through this request for information. For example, Advocacy has spoken extensively with a small business that has designed an AI-based tool which integrates local ecological knowledge from fishermen into stock assessments, deploys cameras on fishing vessels for continuous monitoring, and provides economic forecasting tools that show exactly how management decisions impact coastal communities. Advocacy recommends NOAA incorporate solutions like this which can help use the wide base of knowledge possessed by the fishing industry to craft better regulatory policies.

A. NOAA Should Reevaluate the Location of Existing Facilities with an Eye Towards Promoting Greater Involvement of the Fishing Industry.

During Advocacy's meeting with fishermen in New Bedford, MA, Advocacy was told that the Port of New Bedford directly employs 6,800 people, generates direct and indirect economic activity in excess of \$11.1 billion, and indirectly supports more than 40,000 jobs.¹⁸ The New Bedford fishing fleet has 500 boats and lands over 122 million pounds of product, resulting in \$322 million in direct sales.¹⁹ In short, New Bedford is where many of the small businesses in the fishing industry are located.

In conversations with the Port of New Bedford, Advocacy learned that in 2019, NMFS hired Deloitte LLP to assess its future facilities needs in the Northeast, Southeast, and Northwest. Deloitte concluded that NOAA's mission would be best served by consolidating its facilities in New Bedford for reasons including easy accessibility, reasonable housing costs, and protections against sea level rise. Deloitte also noted that New Bedford was unique among east coast ports in that it foreseeably would remain the center of commercial fishing as other ports contract.

Deloitte's assessment, according to the Port of New Bedford, led to "NOAA's 2030 Footprint Initiative," a set of recommendations by NOAA's career staff for new NOAA facilities in the Northeast. The recommendations recognized that NOAA's current footprint is "unsustainable." The analysis proposed that a total of 184 NOAA positions should be moved from its current Gloucester facility to New Bedford, and that 74 positions should be moved from its Cape Cod facilities to New Bedford.

¹⁸ See Port of New Bedford, *Economic Impact Port of New Bedford*, <https://portofnewbedford.org/economic-impact/> (last visited Oct. 9, 2025).

¹⁹ *Id.*

Advocacy recommends NOAA follow the recommendations of the Deloitte assessment and its own 2030 Footprint Initiative and consider bringing its operations closer to the small business fishing community that it serves. In EO 14274, President Trump stated “[t]o provide the highest quality services in an efficient and cost-effective manner, executive departments and agencies must be where the people are.”²⁰ Establishing a greater NOAA presence in New Bedford, MA, would accomplish this goal and make NOAA more accessible to the small businesses they serve.

B. NOAA Should Prioritize the Use of Saltonstall-Kennedy Act Funds on Strengthening the U.S. Fishing Industry.

A major issue of concern to the fishing industry is NOAA’s mismanagement of Saltonstall-Kennedy Act (S-K Act)²¹ funds. The S-K Act established a fund financed through import duties on marine products to “address the needs of the U.S. fishing industry, including, but not limited to harvesting, processing, marketing, and associated infrastructure.”²² However, most of the funding from the S-K Act has gone to NOAA’s “operations, research, and facilities” account, which funds activities related to “stock assessments, fishing information networks, survey and monitoring projects, cooperative research, and interjurisdictional fisheries.”²³ This, according to the Congressional Research Service, leaves “little or no funding for the specified purposes of the S-K Act.”²⁴

Applying S-K funds to efforts which directly strengthen the United States fishing industry would help accomplish the EO 14276 goal of promoting “the productive harvest of our seafood resources.”²⁵ Some fishing industry representatives suggested the S-K funds be used to set up nationwide seafood marketing efforts patterned after similar programs run by the U.S. Department of Agriculture’s Agricultural Marketing Service.²⁶ Advocacy recommends that NOAA examine its current use of S-K funds and redirect any funds going to the “operations, research and facilities” account into efforts that directly accomplish the goals of EO 14276. Additionally, NOAA should mandate that input from the fishing industry be considered when allocating S-K funds.

²⁰ 90 Fed. Reg. 16445 (Apr. 18, 2025).

²¹ 15 U.S.C. §713c-3.

²² ANTHONY MARSHAK, CONG. RSCH. SERV., R46335, SALTONSTALL-KENNEDY ACT: BACKGROUND AND ISSUES 2 (July 14, 2020), <https://www.congress.gov/crs-product/R46335>.

²³ *Id.*

²⁴ *Id.*

²⁵ 90 Fed. Reg. 16993 (Apr. 22, 2025).

²⁶ Examples of these programs can be found at U.S. Dep’t of Agric., Agric. Mktg. Serv., *Research & Promotion Programs*, <https://www.ams.usda.gov/rules-regulations/research-promotion> (last visited Oct. 10, 2025).

IV. NOAA Should Review the Paperwork Burdens it Currently Imposes on Small Entities.

Small entities often face a deluge of forms from federal agencies that they must file. The Paperwork Reduction Act (PRA) is meant to minimize the paperwork burden on the public and state, local, and tribal governments.²⁷ It requires the OMB to review and approve agency collections of information.²⁸ Even with the PRA, NOAA currently has 200 outstanding information collections requiring more than 203 million hours to complete at an annual cost of almost \$26.4 million.²⁹

Small entities impacted by multiple federal regulations have expressed concerns that they must build significant resources and time into their business plans to ensure forms are completed in a proper and timely manner. Streamlining forms and clarifying the steps small businesses need to take to comply with federal regulations will reduce one of the most common regulatory burdens faced by small entities. Additionally, all agencies should strive to ensure their information collections are not duplicative of other federal agencies. Advocacy encourages all agencies, including NOAA, to thoroughly review and streamline existing forms for ease of use for small entities and reduce duplicative paperwork burdens.

V. Increased Use of Section 610 of the Regulatory Flexibility Act Will Help NOAA Reduce Regulatory Burdens on Small Businesses.

As NOAA examines its existing regulations for impacts on the seafood and fishing industries, the agency should keep in mind that Section 610 of the RFA offers the opportunity to retrospectively review a rule at any time. Specifically, Section 610 of the RFA examines:

- The continued need for the rule,
- The nature of complaints or comments received concerning the rule from the public,
- The complexity of the rule,
- The extent to which the rule overlaps, duplicates, or conflicts with other federal rules, and, to the extent feasible, with state and local governmental rules, and
- The length of time since the rule has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.³⁰

²⁷ See Paperwork Reduction Act of 1995, 44 U.S.C. § 3501(1).

²⁸ See 44 U.S.C. § 3504(c).

²⁹ See Off. of Info. & Regul. Aff., Inventory of Currently Approved Information Collections Sept. 30, 2025, <https://www.reginfo.gov/public/do/PRAMain> (last accessed Sept. 30, 2025).

³⁰ 5 U.S.C. § 610.

Fisherman have cited regulations on the use of both flatfish trawl gear³¹ and small footrope trawl gear³² as potential candidates for RFA Section 610 review. Both regulations were promulgated prior to 2011 and have been identified as unnecessary in light of developments to fishing gear and techniques.

Increased and regular use of RFA Section 610 reviews will reduce the need for additional deregulatory initiatives in the future. Unfortunately, the Section 610 review process is often seen as a “box checking” exercise with agencies employing minimal explanation or analysis. As with any exercise, the utility of a Section 610 review will be matched by the effort NOAA puts into its analysis. NOAA should focus its efforts on ensuring Section 610 reviews clearly and concisely explain the rules at issue in a manner that is easy for small entities to understand and respond to. Increased small entity participation in Section 610 reviews will, in turn, lead to NOAA receiving better information about the continued impact of existing regulations.

Lastly, regular RFA Section 610 reviews are simply “good government” practices. They will allow NOAA to identify and remove regulations that are no longer necessary. Advocacy recommends NOAA increase its use of RFA Section 610 reviews. While the reviews must be done within ten years of a rule’s publication, there is nothing preventing NOAA from initiating RFA Section 610 reviews on a more frequent basis.³³ When conducting RFA Section 610 reviews, NOAA should provide a timely and effective response in which it demonstrates that it has considered alternative means of achieving the regulatory objective while reducing the regulatory impact on small businesses.

VI. In Addition to Using RFA Section 610 to Review Existing Regulations, NOAA should also Review All Existing “Closed Areas.”

NOAA regulations employ “closed areas” as a tool to protect fishing stocks and habitat.³⁴ These “closure areas” have been justified as temporary or precautionary conservation areas and as a means of replenishing fish stock. Closed areas also present economic barriers for small businesses that operate in those waters by placing large areas off limits to fishing. This not only impacts the fishing industry, but small businesses who depend on the fishing industry, such as charter operators, seafood processors, and the broader marine industry supply chain.

Areas can often remain “closed” for decades with no opportunity for review or reconsideration. However, environmental conditions, habitat quality, and species/fish

³¹ 50 C.F.R. § 660.130(c)(2)(i).

³² 50 C.F.R. § 660.130(c)(2)(ii).

³³ *Id.*

³⁴ *See e.g.*, 50 C.F.R. § 622.183 (South Atlantic Snapper-Grouper Fishery); 50 C.F.R. § 622.274 (Pelagic Longline Closure Areas).

distribution in any closed area do not remain constant. Oceanographic conditions including temperature regimes, current patterns, prey distribution, and habitat dynamics are highly variable and can change over time. This means that closed areas established by regulations a decade or more ago are unlikely to retain the same biological or conservation value today.

Advocacy recommends that NOAA use RFA Section 610 to review all closed areas, with a focus on those that have been closed for 10 years and consider less burdensome alternatives where appropriate. Below are three specific closed areas that small businesses discussed with Advocacy.

A. Scallop Fishing Prohibition in the Georges Bank Closed Area

NMFS currently prevents scallop fishing in designated areas of Georges Bank, off the coast of Massachusetts, through the use of a closed area.³⁵ Advocacy has been contacted by a coalition of fishing interests, including 156 small businesses, about the regulatory burdens facing the scallop fishing industry. The closed area is meant to protect groundfish populations, but it has an adverse impact on scallop fishing. Advocacy has been told the closed area in question covers \$52 million worth of scallops, which will simply die off if not harvested. Advocacy recommends NMFS reexamine these regulations to determine whether the goal of groundfish protection can be achieved without restricting scallop fishing in the area.

B. Surf Clam Dredging in the Great South Channel Habitat Management Area

NMFS currently prohibits the dredging of surf clams and mussels in an area off Cape Cod referred to as the “Great South Channel Habitat Management Area.”³⁶ The area was closed by NMFS to protect the habitat of spawning cod. However, Advocacy has been told by small businesses who fish the area that it is no longer utilized by cod, even if it had once been important for the species. Cooperative research by industry and science partners also shows that impacts of clam dredging are inconsequential compared to natural storm forces and high currents. Thus, the fishery’s impacts are unlikely to be “adverse” within the meaning of the law.³⁷

This closed area imposes significant economic costs on small fishing businesses and the communities they support while providing no tangible conservation benefits. Small businesses have informed Advocacy that the fishing grounds impacted by this closed area account for as much as \$7.8 million in annual revenues. Advocacy recommends NMFS

³⁵ 50 C.F.R. § 648.370(g).

³⁶ 50 C.F.R. § 648.370.

³⁷ Eric 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*, 249 ESTUARINE, COASTAL & SHELF SCI. 107089 (2021).

reexamine this closed area to determine whether the prohibition on surf clam dredging is still warranted based upon current conditions.

C. Closed Areas on the West Coast

Small fishing businesses on the west coast have also cited both the Eureka Management Area³⁸ and time closure regulations prohibiting the use of midwater groundfish trawl gear outside of Pacific whiting primary season dates³⁹ as outdated and in need of review. Advocacy recommends NMFS reexamine these closed areas to determine whether regulation is still warranted based upon current conditions.

VII. Specific Regulatory Barriers to the Seafood and Fishing Industries

The following are specific regulations identified by small businesses both during Advocacy's roundtable on this request for information and our meeting with small businesses in New Bedford, MA. Additionally, Advocacy was contacted by multiple small businesses outside of these two events to discuss regulatory issues. They cited at least twelve targeted regulatory reforms to reduce burdens on small fishing and seafood businesses, including marine sanctuary designations, species classifications, observer funding, permit and speed rules, quota leasing, gear/area flexibility, research set-asides, highly migratory species management, and vessel construction oversight.

A. Marine Sanctuary and National Monument Regulations

Marine sanctuaries and marine national monuments are being designated in a manner that does not properly consider fishing industry interests or the proper management of federal resources. In 2016, the Obama Administration issued Presidential Proclamation 9496 designating the Northeast Canyons and Seamounts National Monument.⁴⁰ The designation, made under the Antiquities Act,⁴¹ prohibited fishing over a 5,000 square mile area in the northwest Atlantic Ocean. In 2017, President Trump recognized that national monument designations made under the Antiquities Act "may also create barriers to achieving energy independence, restrict public access to and use of Federal lands, burden State, tribal, and local governments, and otherwise

³⁸ 50 C.F.R. § 660.11; 50 C.F.R. § 660.

³⁹ 50 C.F.R. § 660.112(b)(1)(x); 50 C.F.R. § 660.130(c)(3)(i).

⁴⁰ 81 Fed. Reg. 65161 (Sept. 15, 2016).

⁴¹ 54 U.S.C. § 32031.

curtail economic growth”⁴² and reopened the monument to commercial fishing.⁴³ President Biden then reversed this decision, closing the area to commercial fishing once again.⁴⁴

In 2014, President Obama re-established the public nomination process for national marine sanctuaries.⁴⁵ This process, which had been deactivated in 1995 so that NOAA could focus on managing existing marine sanctuaries,⁴⁶ was used by environmental interest groups to nominate the Hudson Canyon National Marine Sanctuary in 2022.⁴⁷ Beginning approximately 100 miles southeast of New York City, the Hudson Canyon extends about 350 miles seaward, reaches depths of 2 to 2.5 miles, and is up to 7.5 miles wide. As part of the Hudson Canyon nomination, fishing was described as “the most immediate and direct threat to the living resources and habitats” in the area with trawling being deemed “particularly damaging.”⁴⁸

The Mid-Atlantic Fishery Management Council (MAFMC) noted in comments to NOAA that the Hudson Canyon area “had an associated \$22 million in average commercial ex-vessel revenue annually from 2008-2020 (in 2020 adjusted dollars).”⁴⁹ The MAFMC further noted that when the economic activity, jobs, and community activity supported by these fishing revenues are taken into account, the impact of restricting fishing in Hudson Canyon would be “several times larger.”⁵⁰ The MAFMC concluded that “loss of access to the Hudson Canyon area would substantially impact commercial and recreational fishermen and ports throughout the Mid-Atlantic and New England.”⁵¹

The designation process for marine sanctuaries must be reformed to properly consider small businesses in the fishing industry. When wide swaths of the nation’s waters are declared off-limits to fishing, it has significant impacts on small businesses not only in the fishing industry, but also those that are supported by the fishing industry. The purpose of the Magnuson-Stevens Act is to “manage the fishery resources found off the coasts of the United States”⁵² while the

⁴² Exec. Order No. 13,792, Review of Designations Under the Antiquities Act, 82 Fed. Reg. 20429 (Apr. 26, 2017).

⁴³ Proclamation No. 10,049, Modifying the Northeast Canyons and Seamounts Marine National Monument, 85 Fed. Reg. 35793 (June 11, 2020).

⁴⁴ Proclamation No. 10,287, Magnuson-Stevens Act Provisions; Prohibition of Commercial Fishing in the Northeast Canyons and Seamounts Marine National Monument, 89 Fed. Reg. 12282 (Feb. 16, 2024).

⁴⁵ Re-Establishing the National Sanctuary Process, 79 Fed. Reg. 33851 (June 13, 2014).

⁴⁶ *Id.*

⁴⁷ Notice of Intent to Conduct Scoping and to Prepare a Draft Environmental Impact Statement for the Proposed Hudson Canyon National Marine Sanctuary, 87 Fed. Reg. 34853 (June 8, 2022).

⁴⁸ N.Y. Aquarium, *Hudson Canyon National Marine Sanctuary Nomination*, 19 (Nov. 2016), <https://nmsnominate.blob.core.windows.net/nominate-prod/media/documents/hudson-canyon.pdf>.

⁴⁹ Mid-Atlantic Fishery Mgmt. Council, Comments on the Proposed Designation of the Hudson Canyon National Marine Sanctuary, 2 (Aug. 8, 2022), <https://static1.squarespace.com/static/511cdc7fe4b00307a2628ac6/t/62f162ef818352167c10f4dc/1659986672035/MAFMC+Hudson+Canyon+Scoping+2022-08-08.pdf>.

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² 16 U.S.C. § 1801 (b).

Antiquities Act does not contain any requirement to consider fishery resources.⁵³ While there may be times when the nation does need to create additional marine sanctuaries, Advocacy recommends that the process for doing so be conducted under the Magnuson-Stevens Act, and not the Antiquities Act in order to properly consider fishing industry impacts.

Further, Advocacy recommends that NOAA discontinue public nominations for marine sanctuary designations. The creation of a marine sanctuary can have significant impacts and should be left to NOAA staff with proper input from segments of the public who will be directly impacted. Allowing the public nomination of marine sanctuaries places small businesses at the mercy of public sentiment that may not be based on proper science or consider the real economic impacts of prohibiting fishing over large areas of the ocean. Finally, Advocacy recommends NOAA rescind the Northeast Canyons and Seamounts National Monument designation and reject the Hudson Canyon National Marine Sanctuary nomination.

B. Classification of Squid as “Shellfish or Fishery Products”

The U.S. Fish and Wildlife Service (FWS) regulates wildlife imports and exports.⁵⁴ There are exemptions to these regulations for “shellfish and fishery products.”⁵⁵ However, because the FWS has established a narrow definition of “shellfish,” this exemption does not include invertebrates without external shells, such as squid, octopus, and cuttlefish, even though they are regulated by NOAA.⁵⁶ As a result, small businesses that harvest squid are subject to unnecessary regulatory and financial burdens. Specific fees include:

- Every U.S. company exporting or importing squid must secure a FWS license at a cost of \$100.
- A \$93 base inspection rate for each squid shipment leaving or entering the U.S.
- A \$53 per hour overtime fee that companies may be required to pay the FWS. This is particularly impactful on some West coast companies where approximately 90% of shipments are loaded on Thursday or Friday and sail on the following Sunday or Monday.
- Any shipments going through U.S. port not designated by the FWS is subject to an added “non-designated port inspection fee” of \$146 per shipment.
- Pay for staff time and freight firms to manage the FWS paperwork requirements.⁵⁷

⁵³ 54 U.S.C. § 32031.

⁵⁴ 50 C.F.R. § 14.

⁵⁵ 50 C.F.R. § 14.21.

⁵⁶ See NOAA Fisheries, Longfin Squid, <https://www.fisheries.noaa.gov/species/longfin-squid> (last updated Aug. 15, 2025); NOAA Fisheries, Shortfin Squid, <https://www.fisheries.noaa.gov/species/shortfin-squid> (last updated Sept. 17, 2025).

⁵⁷ Lund’s Fisheries, Seafreeze Ltd. & The Town Dock, Request for Inclusion of a Squid Species Exemption from Duplicative and Burdensome USFWS Regulations, in the Council’s Identification of Important Regulatory Reforms

Small businesses are much less able to shoulder these unnecessary costs than their larger counterparts.

The NMFS has acknowledged the misclassification of squid, stating “[s]erious questions have arisen from seafood importers in the northeast as to whether this definition of shellfish should also include wildlife species in the class Cephalopoda (squids, octopods, and cuttlefish). **NMFS understanding is that organisms in this class are shellfish.**”⁵⁸ The Mid-Atlantic Seafood Council states that these extra fees “add a layer of costs that make U.S. products more expensive to produce and less competitive in the international market, thus exacerbating the annual \$16B seafood trade deficit.”⁵⁹

Advocacy recommends NOAA work with FWS to classify squid as either “shellfish” or “fishery products” to eliminate unnecessary, duplicative regulation by FWS.

C. Onboard Fishing Observers/Monitors

While the Supreme Court decision in *Loper Bright Enterprises v. Raimondo*⁶⁰ is best known for overturning the holding in *Chevron v. Natural Resources Defense Council*,⁶¹ the case also involved a request for regulatory relief from small fishing businesses. In the case, two small, family-owned fishing businesses were requesting relief from a NOAA regulation requiring Atlantic herring fishermen to pay for independent “observers” on their fishing boats.⁶² The purpose of these observers is to gather “data necessary for the conservation and management” of relevant fisheries.⁶³ The observers cost \$710 per day.⁶⁴

NOAA regulations specify that three different groups must pay the cost of these observers:

- Foreign fishing vessels.⁶⁵

Pursuant to Executive Order (EO) 13921 Promoting American Seafood Competitiveness and Economic Growth, 7 (July 28, 2020), <https://static1.squarespace.com/static/511cdc7fe4b00307a2628ac6/t/5fc913a3eda81c62039346bb/1607013283581/Lunds-Seafreeze-TownDock-USFWS-Comments.pdf>.

⁵⁸ Nat’l Marine Fisheries Serv., Comments on Import/Export License and Fee Proposals (April 25, 2008), https://static1.squarespace.com/static/511cdc7fe4b00307a2628ac6/t/5fc920b39a2acd2811eb140e/1607016631319/2_NMFS+comments+to+FWS+2008.pdf.

⁵⁹ Letter from Mid-Atlantic Fishery Mgmt. Council to David Bernhardt, Secretary of the Interior, 7 (Dec. 21, 2020), https://static1.squarespace.com/static/511cdc7fe4b00307a2628ac6/t/661fe4aaa9a52556373e5c4a/1713366186992/020-12_MAFMC-Letter-DOI-USFWS-Squid-Export-Regs.pdf.

⁶⁰ 603 U.S. 369 (2024).

⁶¹ 467 U.S. 837 (1984).

⁶² 16 U.S.C. § 1853(b)(8).

⁶³ *Id.*

⁶⁴ *Relentless Inc. v. U.S. Dept. of Commerce*, C.A. No. 20-108 WES, 2025 U.S. Dist. LEXIS 134285 *, *6 (D. R.I. July 15, 2025).

⁶⁵ 16 U.S.C. § 1821(h)(1)(A), (h)(4), (h)(6).

- Vessels participating in certain limited access privilege programs, which impose quotas permitting fishermen to harvest only specific quantities of a fishery’s total allowable catch.⁶⁶
- Vessels within the jurisdiction of the North Pacific Council, where many of the largest and most successful commercial fishing enterprises in the nation operate.⁶⁷

There is no provision in the Magnuson-Stevens Act requiring Atlantic herring fishermen to pay for the cost of the observers. Despite this, NOAA created a rule in 2020 passing the cost on to all fishermen.⁶⁸ The *Loper Bright* Court remanded the issue of fishing monitor costs to the lower courts, where it is still being litigated.

Additionally, small fishing businesses on the west coast have told Advocacy that NOAA regulations require them to have both on-board and shoreside monitors performing essentially the same functions.⁶⁹ The costs of these monitors are \$700 per day for vessels and \$150,000 annually for shoreside processors, according to fishermen who spoke at Advocacy’s roundtable. The duplicative nature of these monitoring requirements places an unnecessary burden on small businesses.

On April 9, 2025, President Trump issued a memorandum to all agency heads directing the identification, review, and possible repeal of all regulations in light of 10 different Supreme Court cases, including *Loper Bright*.⁷⁰ The observer costs were at the heart of the *Loper Bright* case, and considering the Court’s holding should be repealed. The observer costs disproportionately harm smaller fishing vessels that do not have the extra revenue to absorb additional financial obligations. Advocacy recommends NOAA either fund the costs of the observers or discontinue the program. NOAA should also examine whether there are technologies which can reduce or eliminate the need for observers. Additionally, Advocacy also recommends NOAA not require both onboard and shoreside monitors who perform the same functions.

D. Shark Fishing

The NMFS currently regulates non-endangered species, including multiple types of sharks. Fishermen cannot “possess, retain, transship, land, sell, or store silky sharks, oceanic whitetip sharks, or scalloped, smooth, or great hammerhead shark” and “are required to promptly release in a manner that causes the least harm to any shortfin mako shark that is alive at the time of haul

⁶⁶ 16 U.S.C. § 1802(26), 1853a(c)(1)(H), (e)(2), 1854(d)(2).

⁶⁷ 16 U.S.C. § 1862(a).

⁶⁸ 85 Fed. Reg. 7414 (Feb. 7, 2020).

⁶⁹ 50 C.F.R. § 660.140(i).

⁷⁰ Presidential Memorandum for the Heads of Executive Departments and Agencies Directing the Repeal of Unlawful Regulations (Apr. 9, 2025), <https://www.whitehouse.gov/presidential-actions/2025/04/directing-the-repeal-of-unlawful-regulations/>.

back.”⁷¹ If a species is not listed as endangered or threatened under the Endangered Species Act,⁷² NMFS should not place restrictions on fishing that species.

When NMFS restricts the fishing of any species, it is cutting off possible revenue streams for small fishing businesses. Additionally, such restrictions are duplicative of Endangered Species Act requirements without the prerequisite of the species in question being threatened or endangered. Advocacy recommends that NMFS identify all regulations pertaining to non-endangered species be reviewed under RFA Section 610 and repealed or revised as necessary.

E. Angling Permits

Current NMFS regulations require an onerous amount of documentation before new vessels may obtain angling permits. Currently, to obtain a permit, a vessel owner must submit the vessel’s name, official number, and state registration number or U.S. Coast Guard documentation number.⁷³ Small business representatives have told Advocacy that this information can often take weeks or months to process, preventing new boat owners from legally participating in fishing activities. This can result in lost revenue opportunities for small businesses who have just undertaken the significant expense of purchasing a new boat. Advocacy recommends NMFS modernize its permit regulations by allowing new vessel owners to submit an immediate identifier, such as the boat’s Hull Identification Number. This will allow NMFS to obtain the information it needs without unnecessarily delaying small businesses from generating revenue.

F. Vessel Speed Restrictions

NMFS currently sets a 10-knot seasonal speed limit for boats 65 feet and over in seasonal zones on the Atlantic Coast to minimize whale strikes.⁷⁴ NMFS estimates that this limit imposes costs between \$30 and \$40 million per year.⁷⁵ NMFS notes that in the 10 years prior to the rule’s enactment, there were 12 whale strikes.⁷⁶ Ten years after the rule’s enactment, that number decreased to 8 whale strikes.⁷⁷ This works out to between \$300 and \$400 million to prevent 4 whale strikes, meaning each prevented whale strike came at a cost between \$75 million and \$100 million.

Advocacy has spoken with multiple small businesses in the boating and fishing industries about the significant costs imposed by this rule. Specifically, small recreational fishing

⁷¹ 50 C.F.R. § 635.21(c)(ii), (c)(iv).

⁷² 16 U.S.C. § 1531 et. seq.

⁷³ 50 C.F.R. § 635.4

⁷⁴ 50 C.F.R. § 224.105.

⁷⁵ NOAA FISHERIES, OFF. OF PROTECTED RES., NORTH ATLANTIC RIGHT WHALE (EUBALAENA GLACIALIS) VESSEL SPEED RULE ASSESSMENT, i (June 2020), <https://perma.cc/G8NK-9ZHB>.

⁷⁶ *Id.*

⁷⁷ *Id.*

businesses cannot fish in areas subject to speed restrictions because it takes them too long to get to the areas where they fish. Further, the rule serves as a barrier for small island communities in areas such as Martha's Vineyard and Nantucket in New England, many of which are small governments under the RFA, that rely on commuting by boat to and from the U.S. mainland. Since the rule was enacted, there have been significant gains in technology which minimize, if not eliminate, the need for vessel speed restrictions. Advocacy recommends this rule be repealed, or at the very least reviewed under Section 610 of the RFA to determine whether it is still needed.

G. Fishing Permit Transfer Regulations

NOAA regulations restrict fishing permits from being transferred to vessels exceeding the baseline specifications of the original qualifying vessel,⁷⁸ forcing operators to use outdated, undersized, and underpowered vessels. These restrictions, established in the 1990s, prevent modernization and create severe safety hazards, especially for fishermen who operate further offshore in severe weather conditions.

As a result of these regulations, small fishing businesses cannot upgrade to safer, more efficient vessels without losing valuable permits that represent their primary business assets, often worth more than the vessels themselves. Operators must choose between safety and staying in business, as purchasing additional permits to match modern vessel specifications is financially impossible. Small businesses have cited the following costs to Advocacy from these regulations:

- Vessel loss rates are 40% higher for vessels under 50 feet operating beyond 50 miles offshore.
- Fuel inefficiency costs of \$30,000-\$50,000 annually for older, smaller vessels versus modern alternatives.
- Insurance premium differentials that are 25-35% higher for older vessels due to safety concerns.

Advocacy recommends that NOAA eliminate baseline restrictions for owner-operated vessels with clean safety records, allowing permits to transfer to any vessel meeting current Coast Guard safety standards. NOAA should also establish a modernization window allowing all permit holders to upgrade to newer vessels without losing grandfathered rights.

H. Non-Active Lease Quotas

Current NOAA individual fishing quota (IFQ) catch share systems regulations allow non-active participants to own and lease quota.⁷⁹ As a result, active fishing businesses pay hundreds of

⁷⁸ 50 CFR § 648.4(a)(1)(i)(F) & (K); 50 CFR § 648.90(a)(5).

⁷⁹ 50 CFR § 648 (Northeast); 50 CFR § 660 (West Coast).

thousands of dollars annually in lease fees to inactive quota holders, on top of 20% regulatory compliance costs. Small businesses have told Advocacy that lease fees can average as much as \$200,000 per year.

Small fishing operations have also told Advocacy that these arrangements result in spending 30-50% of their gross revenues on lease fees and regulatory costs before accounting for vessel operations. The system concentrates regulatory power among non-fishing entities, including environmental groups that warehouse quota to reduce fishing efforts. This leads to systematic under harvesting and underperforming working waterfront communities.

Advocacy recommends the NOAA implement "use it or lose it" provisions requiring quota holders to land meaningful volumes annually or forfeit ownership. Other alternatives suggested by small businesses which the NOAA could consider include implementing owner-operator provisions requiring quota holders to be aboard vessels, creating graduated lease rate caps based on vessel size, and establishing community fishing associations with right of first refusal on quota sales.

I. Redfish Catch Rules

NOAA regulations for redfish require vessels fishing in the redfish exemption area to maintain over 50% redfish in their catch when using smaller mesh sizes designed for redfish harvesting.⁸⁰ Once a vessel commits to "flexing in" to the redfish exemption during a trip, they cannot change fishing strategies even when weather conditions make redfish difficult to catch.⁸¹ These regulations force vessels to steam back to port with poor catches rather than allowing them to target other available stocks, creating unnecessary economic hardship and safety risks.

Small fishing vessels face significant economic losses when trapped in the redfish exemption during poor fishing conditions or weather changes. These operators cannot afford multi-day trips back to port with minimal catches, yet current regulations prevent them from adapting their fishing strategy mid-trip. The inflexibility particularly burdens smaller operators who lack the financial cushion to absorb losses from failed redfish trips. Small vessels also face higher proportional fuel costs and safety risks when forced to make long trips in deteriorating weather rather than continuing to fish productively.

Small businesses have reported fuel costs of \$2,000-\$5,000 per day, with typical transit times of 2-4 days when forced to abandon redfish areas. Additionally, lost fishing opportunity costs range from \$5,000-\$15,000 per day depending on vessel size and target species availability. Operators also face crew wages and vessel operating costs during non-productive transit periods. One

⁸⁰ 86 Fed. Reg. 40353, 40363 (July 28, 2021).

⁸¹ *Id.*

operator reported to Advocacy losing \$25,000 on a single trip when weather prevented effective redfish fishing, but regulations prohibited targeting other species.

Advocacy recommends that NOAA modify current regulations to allow vessels to "flex out" of the redfish exemption area during a trip, enabling them to continue fishing for other stocks with appropriate mesh sizes rather than returning to port. This change would maintain the conservation intent of the redfish program while providing operators flexibility to respond to changing fishing and weather conditions.

J. Scallop Research Set-Aside Program.

For the past approximately 25 years, Atlantic sea scallop fishermen have participated in a research set-aside (RSA) program.⁸² Under the RSA program, a certain percentage of the scallop resource is set aside each year to fund cooperative scallop fishery research conducted aboard scallop fishing vessels. The program has been operated as a grant program for the entire period.

Small businesses have told Advocacy that legal counsel in the NMFS Northeast Region will not allow a Notice of Funding Opportunity to be issued for the scallop RSA program for 2026. They are contending that the federal government must contract for all cooperative research vessels under 16 U.S.C. §1881a(e), governing NMFS-conducted cooperative surveys, as opposed to implementing the RSA program through the federal grants process and regulations.

Fishermen are concerned that operating the RSA program as a contract rather than a grant will limit its usefulness and turn it into a "survey" program. Allowing the RSA program to be administered as a grant allows scallop vessels to participate in research and helps the fleet to "own" conservation and management of their fishery. Operating the RSA program as a grant program has also allowed it to fund multiple issues important to the scallop fishing community, including finding solutions to Endangered Species Act issues relating to potential interactions between scallop dredges and threatened loggerhead sea turtles, bycatch issues, and a range of issues relating to scallop biology and health.

Advocacy recommends that NMFS issue the customary Notice of Funding Opportunity for 2026 so the RSA program can continue to operate as a grant program.

K. Atlantic Bluefin Tuna

Small businesses have expressed concern to Advocacy about the overregulation of Atlantic Bluefin Tuna (ABT). Due to their highly migratory nature, ABT are managed both internationally and domestically. International management is overseen by the International

⁸² See NOAA Fisheries, *2025 Sea Scallop Research Set Aside*, <https://www.fisheries.noaa.gov/grant/2025-sea-scallop-research-set-aside> (last updated Oct. 30, 2024).

Commission for the Conservation of Atlantic Tunas (ICCAT). ICCAT is formalized within U.S. law by the Atlantic Tunas Convention Act (ATCA).

As a result, ABT are regulated both nationally and internationally. Small businesses have told Advocacy that over time, lower U.S. quotas and stricter domestic regulations were met with significant increases in landings on the other side of the ocean. As a result of all the management efforts put forth by U.S. fishermen, today, there are more ABT than at any time in recent generations. Unfortunately, current regulations⁸³ prevent small businesses from taking advantage of this healthy resource.

Fisherman who catch ABT have told Advocacy that commercial landings generate at least \$20 million directly in ex-vessel value.⁸⁴ There are also many layers of small business activity to support commercial vessels, such as boat builders, marinas, tackle shops, fuel distributors, charter and recreational fishing, etc., which add additional value. Conservatively, small businesses estimate the entire ABT fishery has an economic impact of \$500 million.

To level the regulatory playing field between U.S. fishermen and the rest of the nations in the ICCAT, Advocacy recommends NOAA both increase the U.S. catch limit for ABT and increase the U.S. ABT allocation within the ICCAT. Additionally, NOAA should conduct an economic impact study to determine the current value of the ABT fishery and provide evidence supporting future regulatory relief.

L. Coast Guard Rules on New Vessel Construction

On August 19, 2024, the U.S. Coast Guard (USCG) issued Policy Letter 24-02.⁸⁵ The policy letter removed the ability of small businesses to have organizations such as the Society of Accredited Marine Surveyors (SAMS) and the National Association of Marine Surveyors (NAMS) oversee the construction of new fishing boats. Small businesses explained to Advocacy that these organizations have decades of experience in fishing vessel inspection and safety compliance and have overseen the building of hundreds of boats under USCG review.

By not allowing SAMS and NAMS to oversee the construction of new fishing boats, USCG has forced small businesses to seek out options that are more expensive and have less availability. This, fishermen have told Advocacy, is leading to delays in the construction of newer, safer

⁸³ See e.g., 50 C.F.R. § 635.23.

⁸⁴ NOAA defines “ex-vessel value” as “[a] measure of the dollar value of commercial landings, usually calculated as the price per pound at first purchase of the commercial landings multiplied by the total pounds landed.” See NOAA Fisheries, *Glossary: Catch Shares*, <https://www.fisheries.noaa.gov/national/sustainable-fisheries/glossary-catch-shares#ex-vessel-value> (last updated July 18, 2019).

⁸⁵ U.S. COAST GUARD, CVC POLICY NO. 24-02: APPLICATION OF FISHING VESSEL CONSTRUCTION REQUIREMENTS (Aug. 19, 2024), <https://www.dco.uscg.mil/Portals/9/DCO%20Documents/5p/CG-5PC/CG-CVC/Policy%20Letters/2024/Policy%20Letter%202024-02%20no.%202250.pdf>.

vessels and forcing older, less-safe vessels to continue operating longer than they should. Additionally, Policy Letter 24-04 was issued by the agency as a “clarification” and was not subject to notice and comment. Had USCG allowed notice and comment, fishermen would have been able to provide input directly into the regulatory process.

Advocacy recommends that USCG withdraw Policy Letter 24-02. If the agency feels there is still a need for a change in the boat construction process, it should do so through traditional notice and comment rulemaking and use public hearings to gather the input of the fishing community.

VIII. Conclusion

Advocacy appreciates the chance to raise these regulatory issues on behalf of small businesses in the seafood and fishing industries. We encourage NOAA to examine all the issues raised in this letter and revise or repeal the appropriate regulations. Advocacy also looks forward to continuing to work with NOAA to advance the interests of small businesses and accomplish President Trump’s goal of restoring competitiveness to the American seafood industry.

If you have any questions or require additional information, please contact me or Assistant Chief Counsel Nick Goldstein at (202) 772-6948 or nick.goldstein@sba.gov.

Sincerely,

/s/

Dr. Casey B. Mulligan
Chief Counsel
Office of Advocacy
U.S. Small Business Administration

/s/

Nick Goldstein
Assistant Chief Counsel
Office of Advocacy
U.S. Small Business Administration

Copy to: Mr. Jeffrey B. Clark, Sr. Acting Administrator
Office of Information and Regulatory Affairs
Office of Management and Budget