This document is scheduled to be published in the Federal Register on 2026-11-09 and available online at **https://www.federalregister.gov/d/2026-22815**, and on **https://govinfo.gov**

3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 261104-0005]

RIN 0648-BN99

Pacific Island Fisheries; Commercial Fishing in the Pacific Remote Islands Marine National Monument Expansion

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule, request for comments.

SUMMARY: NMFS proposes to amend regulations that prohibit commercial fishing in the Pacific Remote Islands Marine National Monument Expansion (PRIMNM Expansion), which comprises waters of the U.S. exclusive economic zone (EEZ) between 50 to 200 nautical miles (nmi; 93 to 370 kilometers (km)) around Johnston Atoll and Wake and Jarvis Islands. This action is necessary to conform fishing regulations with Presidential Proclamation 10918 of April 17, 2025 - Unleashing American Commercial Fishing in the Pacific, as amended by Presidential Proclamation 11035 of June 11, 2026 - Restoring American Commercial Fishing in the Pacific, and in light of a court order. Fisheries in the PRIMNM Expansion would be regulated pursuant to existing fishing regulations under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Western and

Central Pacific Fisheries Convention Implementation Act (WCPFCIA), the South Pacific Tuna Act (SPTA), and other applicable laws, that apply to all U.S. commercial fishing vessels but were superseded and made inapplicable when the commercial fishing prohibition for the PRIMNM Expansion was established. The proposed rule supports the long-term sustainability of U.S. fisheries and provides for the proper care and management of the PRIMNM and PRIMNM Expansion and the objects of historic or scientific interest therein, as directed by Proclamation 10918, as amended by Proclamation 11035.

DATES: NMFS must receive comments by [**INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**].

ADDRESSES: A plain language summary of this proposed rule is available at *https://www.regulations.gov/docket/NOAA-NMFS-2026-2410*. You may submit comments on this document, identified by NOAA-NMFS-2026-2410, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Visit *https://www.regulations.gov* and type NOAA-NMFS-2026-2410 in the Search box, Click the "Comment" icon, complete the required fields, and enter or attach your comments.
- *Mail*: Submit written comments to Sarah Malloy, Regional Administrator, NMFS Pacific Islands Regional

Office (PIRO), 1845 Wasp Blvd. Bldg. 176, Honolulu, HI 96818.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *https://www.regulations.gov* without change. All personal identifying information (*e.g.*, name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). NMFS has voluntarily prepared an environmental assessment (EA) that discusses the impact on the quality of the human environment as a result of this proposed rule and the resumption of commercial fishing under applicable regulations in PRIMNM Expansion. The EA, and other supporting documents referenced in this rule are available at *https://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Jarad Makaiau, NMFS PIRO Sustainable Fisheries, 808-725-5000.

SUPPLEMENTARY INFORMATION:

Since the 1980s, NMFS and the Western Pacific Fishery Management Council (Council) have managed fisheries in the U.S. EEZ in the Western Pacific through five species-based

fishery management plans (FMP) consistent with the provisions of the Magnuson-Stevens Act – the Bottomfish and Seamount Groundfish FMP, the Crustaceans FMP, the Precious Corals FMP, the Coral Reef Ecosystems FMP, and the Pelagic FMP. Pursuant to section 303(a) of the Magnuson-Stevens Act, an FMP, FMP amendment and the issuance of implementing regulations, or modification to regulations under section 303(c) are undertaken when necessary and appropriate for the conservation and management of the fishery to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery, consistent with the Magnuson-Stevens Act's National Standards. NMFS, in cooperation with the Council, implements or amends FMP regulations that prevent overfishing while achieving on a continuing basis the optimum yield from each fishery for the U.S. fishing industry when the best scientific information available indicate it is necessary or appropriate.

In 2009, the Council recommended, and NMFS approved the restructuring of the five species-based FMPs by incorporating the conservation and management measures of the species-based FMPs into five place-based fishery ecosystem plans (FEP)– the American Samoa FEP, the Hawaii FEP, the Marianas FEP, the Pacific Remote Islands Area FEP (PRIA FEP) and the Pelagics FEP (75 FR 2198, January 14, 2010). In developing these FEPs, NMFS also prepared an

environmental impact statement that evaluated the potential environmental effects of fishing under the five place-based FEPs.

The PRIA FEP governs fishing in the U.S. EEZ (0 to 200 nmi; 0 to 370 km) around the Pacific Remote Island Areas (PRIA) of Baker, Jarvis, Wake and Howland Islands, Kingman Reef, and Johnston and Palmyra Atolls and establishes conservation and management measures for coral reef fish, bottomfish, crustacean, and precious coral fisheries, including permit and reporting requirements, marine protected areas, gear restrictions, at-sea observer requirements and other measures to ensure sustainable fishing. Since 2010, the PRIA FEP has been amended three times and NMFS has evaluated the potential environmental effects of fishing under the amended FEP consistent with the Magnuson-Stevens Act, the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA) and other applicable laws.

Similarly, the Pelagics FEP establishes conservation and management measures for pelagic fisheries and includes limited access programs, gear restrictions, protected species mitigation measures, prohibited area management and other measures to ensure sustainable fishing. Since 2010, the Pelagics FEP has been amended 12 times and NMFS has evaluated the potential environmental effects of fishing under the amended FEP consistent with the Magnuson-Stevens

Act, NEPA, ESA and other applicable laws. Regulations implementing the PRIA FEP and Pelagics FEP are found at 50 CFR part 665 subparts E and F, respectively. General Magnuson-Steven Act regulations prohibiting the use of any gear or participation in a fishery not on the list of authorized fisheries and gear under a fishery management plan are also found at 50 CFR 600.725.

In addition, U.S. fisheries for highly migratory species (HMS), including tunas and billfish in the U.S. EEZ around the PRIA, and on the adjacent high seas are also subject to regulations implementing the WCPFCIA, the SPTA and other applicable laws. Regulations implementing conservation and management measures pursuant to these Acts are found in 50 CFR 300 subparts D and O, respectively. When these regulations were codified, NMFS likewise evaluated the potential environmental effects of fishing for HMS consistent with the WCPFCIA, the SPTA, NEPA, ESA and other applicable laws.

On January 6, 2009, Presidential Proclamation 8336 established the PRIMNM for the purpose of protecting objects of historic or scientific interest identified in the proclamation, including corals, fish, shellfish, marine mammals, seabirds, water birds, land birds, insects, and vegetation not found elsewhere (74 FR 1565, January 12, 2009). At that time, the PRIMNM comprised the waters and submerged and emergent lands of Wake Island, Baker Island,

Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, and Palmyra Atoll seaward to a distance approximately 50 nmi (93 km) from the mean low water line around each island, reef, and atoll. Proclamation 8336 directed the Secretaries of Commerce and the Interior to prohibit commercial fishing within the boundaries of the PRIMNM and authorized the Secretaries to permit non-commercial fishing, including recreational fishing in the PRIMNM. The proclamation also directed the Secretaries to take appropriate action pursuant to their respective authorities under the Antiquities Act and the Magnuson-Stevens Act, and such other authorities as may be available to implement this proclamation, to regulate fisheries, and to provide for the proper care and management of the monument. Proclamation 8336 had the effect of making the existing regulations authorizing and regulating sustainable commercial fishing in the U.S. EEZ in the PRIMNM inapplicable (50 CFR 665 subparts E and F). The Council did not, however, recommend nor did NMFS take action to amend those regulations, and they remain codified in the Code of Federal Regulations.

On June 3, 2013, NMFS published a final rule establishing requirements for fishing in the PRIMNM (78 FR 32996). Specifically, the final rule added regulatory provisions to codify the non-discretionary prohibition on commercial fishing and established new management measures

for non-commercial fishing, including recreational fishing, including permit and reporting requirements and other discretionary measures NMFS, with input from the Council, deemed necessary and appropriate to regulate non-commercial fishing in the PRIMNM (78 FR 32996, June 3, 2013; 78 FR 39583, July 2, 2013).

On September 25, 2014, Presidential Proclamation 9173 expanded the boundaries of the PRIMNM around Wake Island, Johnston Atoll, and Jarvis Island to the seaward limit of the U.S. EEZ to establish the PRIMNM Expansion (79 FR 58645, September 29, 2014). The purpose of the PRIMNM Expansion was to provide an expanded area for the protection of objects of scientific interest identified in the proclamation, including seamounts, deep sea corals, sea turtles, seabirds, and other migratory species. Proclamation 9173 directed the Secretaries of Commerce and the Interior to prohibit commercial fishing within the boundaries of the PRIMNM Expansion and authorized the Secretaries to permit non-commercial fishing and provide a process to ensure recreational fishing continues to be managed as a sustainable activity in the PRIMNM and PRIMNM Expansion. The proclamation also directed the Secretaries to take appropriate action pursuant to their respective authorities under the Antiquities Act and the Magnuson-Stevens Act, and such other authorities as may be available to implement the proclamation, to regulate fisheries, and

to provide for the proper care and management of the monument. Proclamation 9173 had the effect of making the existing regulations authorizing and regulating sustainable commercial fishing in the U.S. EEZ in the PRIMNM Expansion inapplicable (50 CFR 665 subparts E and F). The Council did not, however, recommend nor did NMFS take action to amend those regulations, and they also remain codified in the Code of Federal Regulations.

On March 25, 2015, NMFS published a final rule establishing requirements for fishing in the PRIMNM Expansion (80 FR 15694). Specifically, the final rule added regulatory provisions to codify the non-discretionary prohibition on commercial fishing in the PRIMNM Expansion and established new management measures for non-commercial fishing, including recreational fishing in the PRIMNM Expansion, including permit and reporting requirements among other discretionary measures NMFS, with input from the Council, deemed necessary and appropriate to regulate non-commercial fishing in the PRIMNM Expansion.

On April 17, 2025, Presidential Proclamation 10918 - Unleashing American Commercial Fishing in the Pacific (90 FR 16987, April 22, 2025) provided that a prohibition on commercial fishing in the PRIMNM Expansion "is not, at this time, necessary for the proper care and management of the Monument or the objects of historic or scientific interest therein" and declared the "section entitled 'Management of

the Marine National Monument' in Proclamation 9173 is deleted and replaced" with a provision that includes direction that the Secretary of Commerce not prohibit commercial fishing. Specifically, Proclamation 10918 provides: "Between 50 to 200 nautical miles from the landward boundaries of the Monument, the Secretary of Commerce shall not prohibit commercial fishing within the boundaries of the Monument and the Monument Expansion in those areas where the Monument and Monument Expansion is coterminous with the Exclusive Economic Zone of the United States." Proclamation 10918 also directed the Secretaries of Commerce and the Interior to take appropriate action pursuant to their respective authorities under the Antiquities Act, the Magnuson-Stevens Act, and such other authorities as may be available to implement the proclamation, to regulate fisheries, and to provide for the proper care and management of the PRIMNM Expansion.

On April 25, 2025, due to inquiries from the regulated fishing industry on whether fishermen could fish in the PRIMNM Expansion given Proclamation 10918, NMFS issued a letter to the regulated community notifying fishermen that regulations implementing the prohibition on commercial fishing in Proclamation 9173 are no longer effective. NMFS further indicated it planned to expeditiously initiate rulemaking to bring fishing regulations into compliance with Proclamation 9173 as amended by Proclamation 10918.

NMFS's letter was subsequently challenged in court by various individuals and environmental groups in *Kapa'a* v. *Trump*, 794 F. Supp. 3d 793 (D. Haw. 2025). The U.S. District Court for the District of Hawaii found the plaintiffs were "entitled to participate in a notice and comment" process on whether commercial fishing in the PRIMNM Expansion would be appropriately managed to provide for the proper care and management of monument resources (*Kapa'a*, 794 F. Supp. 3d at 823).

At its 206th meeting held March 24-26, 2026, in Honolulu, the Council considered management alternatives to amend fisheries regulations at 50 CFR part 665 to restore commercial fishing in the PRIMNM Expansion consistent with Presidential Proclamation 10918. Before making final recommendations, the Council provided opportunity for public testimony and comment (91 FR 11046, March 6, 2026). The public comments received reflected both support and opposition to the resumption of commercial fishing in the PRIMNM Expansion.

After considering public comments, the Council recommended revising commercial fishing prohibitions to authorize commercial fishing in the PRIMNM Expansion subject to the regulatory requirements that had been superseded and made inapplicable by commercial fishing prohibitions established in Presidential Proclamation 9173.

Before the Council transmitted its proposed regulations for Secretarial review pursuant to Section 303(c) of the Magnuson-Stevens Act, on June 11, 2026, the President issued Proclamation 11035, "Restoring American Commercial Fishing in the Pacific," (91 FR 36741, June 17, 2026). Proclamation 11035 amended Proclamation 10918 "to clarify that the proclamation itself removes monument-based prohibitions on commercial fishing and agency rulemaking is intended to amend or repeal inconsistent regulations." Accordingly, NMFS has no discretion and must "amend or repeal existing regulations that are inconsistent with this proclamation's removal of monument-based prohibitions on commercial fishing" (91 FR 36742, June 17, 2026). Thus, notice and comment rulemaking to amend monument-based prohibitions on commercial fishing would not be necessary. However, out of an abundance of caution and in light of an Order by the U.S. District Court for the District of Hawaii in *Kapa'a* v. *Trump*, NMFS is providing the public with prior notice and an opportunity to comment on this proposed rule. NMFS is also requesting public comment on whether the resumption of commercial fishing under the Council and NMFS's existing regulations and restrictions provide for the proper care and management of the PRIMNM and monument resources, consistent with Proclamation 10918.

Consistent with the directives in Proclamations 10918, as amended by Proclamation 11035, this proposed rule would

amend Magnuson-Stevens Act regulations at 50 CFR 665 subpart H (§§ 665.930-665.936) that prohibit commercial fishing in the PRIMNM Expansion. When finalized, commercial fisheries operating in the PRIMNM Expansion will be subject to existing fishing regulations and restrictions at 50 CFR 665 subpart A (§§ 665.1-665.20), implementing general requirements for fisheries in the Western Pacific; 50 CFR 665 subpart E (§§ 665.598-665.669) and 50 CFR subpart F (§§ 665.798-665.819), implementing the PRIA FEP and Pelagics FEP, respectively; 50 CFR 600.725, implementing Magnuson-Stevens Act general prohibitions; 50 CFR 300 subpart D (§§ 300.30-300.46), implementing the SPTA and subpart O (§§ 300.210-300.230), implementing WCPFCIA.

Under the proposed action, commercial fishing shoreward of 50 nmi (93 km) around Wake Island, Johnston Atoll and Jarvis Island in the PRIMNM will continue to be prohibited by regulations at 50 CFR 665 subpart H (§§ 665.933-665.934) implementing the PRIMNM, consistent with Presidential Proclamation 10918, as amended by Presidential Proclamation 11035. For this reason, NMFS anticipates only longline and purse seine fishing for highly migratory species such as tunas and billfish would resume in the PRIMNM Expansion because the habitat to support non-pelagic species managed under the PRIA FEP, including bottomfish, crustacean, coral reef and precious

corals are found entirely within 50 nmi (93 km) from shore, which will remain closed to commercial fishing.

NMFS anticipates the resumption of commercial fishing by pelagic longline and purse seine vessels in the PRIMNM Expansion under the proposed action would have no effect on terrestrial resources, coral reefs, shallow water coral reef ecosystem resources, reef fish, shellfish, and outer reef slope communities because these monument resources are found entirely within 12 nmi (22 km) from the shoreline, well within the 50 nmi (93 km) boundary where commercial fishing will remain prohibited and are spatially separated from commercial fishing activities. Similarly, NMFS does not anticipate the resumption of commercial fishing in the PRIMNM Expansion would result in adverse impacts to seamounts, deep sea coral communities and demersal habitats because pelagic fishing gear is deployed in the water column within 985 ft (300 m) of the surface and does not come into contact with the ocean floor. As such, commercial fishing activities are spatially separated from these resources and unlikely to affect them.

In addition, reverting to existing management measures for resuming commercial fishing in the PRIMNM Expansion is in accordance with the Magnuson-Stevens Act, ESA of 1973, and Marine Mammal Protection Act of 1972 (MMPA). NMFS evaluates the impacts of fishing activity on the population of target stocks and protected species throughout the

entirety of their range. Under the proposed action, NMFS expects the combined amount of catch of target stocks and other marketable fishery resources by longline and purse seine fisheries within the PRIMNM Expansion would remain within historical levels and would not cause a change in the sustainability of fish populations throughout their range as currently assessed in accordance with the Magnuson-Stevens Act and other domestic and international requirements.

Similarly, NMFS expects the shift of fishing effort by longline and purse seine fishing vessels from the high seas into the PRIMNM Expansion would result in a negligible change in the amount of fishery interactions over the range of ESA-listed species, including sea turtles, sharks and rays, marine mammals, and seabirds. And we anticipate interactions would remain within the levels that do not exceed thresholds established under ESA consultations. Based on ESA consultations and analyses, the overall effects on protected species are expected to be negligible.

NMFS expects a likely minor, beneficial impact to fisheries operations and management. For longline and purse seine vessels, the proposed action would restore 2.04 percent and 1.55 percent of historical fishing areas, respectively. The longline and purse seine fisheries will also experience minor beneficial impacts due to reduced competition with foreign fleets, which are prohibited from

fishing in U.S. waters of the PRIMNM Expansion and access to fishing areas closer to home ports, reducing transit times and overall fuel and operational costs.

NMFS estimates up to a maximum of 6 percent of the total effort of the purse seine fishery to shift to the Jarvis Island EEZ and up to a maximum of 6 percent of the total effort of longline fisheries to shift to the Johnston Atoll from areas currently accessible to the fisheries. Because the functional restraints, including catch and effort limits and limited entry permits on the fisheries will not change as a result of this action, NMFS expects negligible impacts on fisheries catch and effort and target fish populations.

Thus, NMFS expects the resumption of commercial fishing in the PRIMNM Expansion would not result in a substantial increase in vessel traffic or fishing gear entering the PRIMNM Expansion and is expected to have negligible effects on monument resources, given the limited increase in fishing activity expected, and spatial protective boundary within 50 nmi (93 km). Additionally, Federal protections under current laws governing vessel operations, marine pollution, refuge management, and gear management and disposal would limit impacts by vessels operating in the PRIMNM Expansion.

NMFS also expects resumption of commercial fishing in the PRIMNM Expansion would have negligible effects on

activities managed under authorities other than the Magnuson-Stevens Act, as directed by Proclamation 10918. This is because within the PRIMNM Expansion, transiting of maritime vessels, including innocent passage is the primary non-fishing activity that occurs in this area, and NMFS anticipates transiting vessels would avoid vessels actively engaged in fishing so as to avoid collisions.

To the extent that other non-fishing activities may occur, they would be subject to management by the U.S. Fish and Wildlife Service. NMFS believes that the commercial fishing that would resume under the proposed action would not interfere with other non-fishing activities managed by the U.S. Fish and Wildlife Service.

NMFS further expects impacts on cultural resources would be negligible due to the geographic separation from fishing activities and land-based practices and the low likelihood of encounters between cultural practitioners and voyagers and fishing vessels in the PRIMNM Expansion. Since the establishment of the PRIMNM Expansion, zero cultural practitioners have sought Special Use Permits for cultural activities.

Finally, NMFS expects the resumption of commercial fishing in the PRIMNM Expansion under the proposed action would result in minor beneficial impacts on fishery economics, as vessels could save cost on fuel by fishing closer to home ports instead of on the high seas and purse

seine vessels may avoid daily access fees required for fishing in foreign EEZs adjacent to the PRIMNM Expansion.

As discussed above, regulations at 50 CFR 665 subpart A (§§ 665.1-665.20), 50 CFR 665 subpart E (§§ 665.598-665.669); 50 CFR subpart F (§§ 665.798-665.819); 50 CFR 600.725; 50 CFR 300 subpart D (§§ 300.30-300.46); and 50 CFR 300 subpart O (§§ 300.210-300.230) provide the conservation and management measures developed and evaluated under the Magnuson-Stevens Act and other applicable law, including NEPA, the ESA, and MMPA. Under these existing regulations and restrictions, NMFS believes that commercial fisheries operating in the PRIMNM and PRIMNM Expansion would be appropriately managed and that monument resources would receive proper care and management, consistent with the direction in Proclamation 10918.

NMFS invites public comment on whether these existing regulations and restrictions appropriately manage commercial fishing and would provide for the proper care and management of monument resources in the PRIMNM and PRIMNM Expansion, consistent with the proclamation.

NMFS will consider public comments on this proposed rule and will announce the final rule in the **Federal Register**. NMFS must receive any comments by the date provided in the **DATES**.

Classification

Magnuson-Stevens Act

NMFS is proposing this rule pursuant to 305(d) of the Magnuson-Stevens Act to carry out section 303(a)(1)(C). This action is necessary to ensure that MSA regulations implementing the PRIA FEP and Pelagics FEP are carried out consistent with Presidential Proclamation 10918, as amended by Proclamation 11035, directing the removal of monument-based prohibitions on commercial fishing in the PRIMNM Expansion. Accordingly, this proposed rule would amend those regulations that are inconsistent with Proclamation 10918, as amended by Proclamation 11035. The Assistant Administrator for Fisheries, NOAA has determined that this rule is consistent with, and conforms to Presidential Proclamation 10918, as amended by Proclamation 11035, the Antiquities Act, the PRIA and Pelagics FEPs, other provisions of the Magnuson-Stevens Act, and other applicable laws.

NEPA

This proposed action is to bring Magnuson-Stevens Act implementing regulations in conformity with applicable law — specifically Presidential Proclamation 10918 — as amended by Proclamation 11035, which removed prohibitions on commercial fishing described in Presidential Proclamation 9173, and specified that agency rulemaking is intended to amend inconsistent regulations. NMFS has voluntarily prepared an EA that discusses the impact on the quality of

the human environment as a result of this rule and the resumption of commercial fishing under applicable regulations in the PRIMNM Expansion. NMFS considered two alternatives: the proposed action to amend regulations that restrict commercial fishing in the PRIMNM Expansion, which would restore commercial fishing under existing regulations and taking no action which would maintain existing commercial fishing prohibitions in the PRIMNM Expansion.

A copy of the EA is available from NMFS (See ADDRESSES).

Executive Order 12866

This proposed rule has been determined to be significant for purposes of Executive Order 12866 section 3(f). However, it has not been found to be economically significant under section 3(f)(1) because it would not likely result in an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

Executive Order 14192

This proposed rule is considered an Executive Order 14192 deregulatory action because it would amend regulations that prohibit commercial fishing between 50 to 200 nautical miles (nmi; 93 to 370 kilometers (km)) around

Johnston Atoll and Wake and Jarvis Islands and restore access to these areas for U.S. commercial fishermen.

Regulatory Flexibility Act

The Senior Lead Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

The proposed rule would amend regulations under the Magnuson-Stevens Act that prohibit commercial fishing between 50 to 200 nmi (93 to 370 km) around Wake Island, Johnston Atoll and Jarvis Island in the PRIMNM Expansion. This action, which would expand areas open to commercial fishing by over 300,000 square nmi (1,030,000 square km), is necessary to conform U.S. fishing regulations with Presidential Proclamation 10918 of April 17, 2025 - Unleashing American Commercial Fishing in the Pacific, and Presidential Proclamation 11035 of June 11, 2026 - Restoring American Commercial Fishing in the Pacific, and in light of the U.S. District Court of Hawaii's Order in *Kapa'a* v. *Trump*, 794 F. Supp. 3d 793 (D. Haw. 2025), which found the plaintiffs were entitled to participate in a notice and comment process on whether commercial fishing in the PRIMNM Expansion would be appropriately managed to provide for the proper care and management of monument resources.

The proposed action would apply to all fisheries managed under the PRIA FEP and Pelagics FEP, as well as the U.S. purse seine and longline vessels operating under the SPTA and the WCPFCIA. However, given the remote location of the monument and considerable distance from U.S. ports, the fisheries affected are essentially limited to longline and purse seine fisheries; the areas between 50 to 200 nmi (93 to 370 km) around Wake Island, Johnston Atoll and Jarvis Island that would be reopened by this action (hereafter the PRIMNM Expansion) are generally inaccessible to small boat fisheries managed under the Pelagics FEP. While the proposed action would apply to as many as 224 longline vessels and 40 purse seine vessels, given recent fishing activities, it would likely affect only the 163 permitted and active longline vessels and 13 licensed and active purse seine vessels. The Hawaii and American Samoa longline fisheries are limited entry fisheries. The Hawaii longline fishery is capped at 164 vessels with 149 currently permitted. The American Samoa longline fishery is capped at 60 vessels with 20 currently permitted. Six of those 20 current permit holders are dual permitted so they also possess current Hawaii longline vessel permits. The purse seine fleet is limited to a total of 40 licenses under the SPTA, with 13 active licensed vessels. There has historically been only very limited fishing by the Pelagics FEP small boat fisheries and none by the PRIA FEP fisheries

within the PRIMNM Expansion. This is because habitat to support species managed under the PRIA FEP, including bottomfish, crustacean, coral reef fish and precious corals are found entirely within 50 nmi (93 km) from shore, which will remain closed to commercial fishing.

NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (North American Industry Classification System code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $11 million for all its affiliated operations worldwide. Based on available information, NMFS believes that most of the affected fish harvesting businesses are small entities under the NMFS standard, as they are engaged in the business of fish harvesting, independently owned or operated, are not dominant in their field of operation, and have annual gross receipts not in excess of $11 million. In 2025, the Hawaii longline fishery earned $109 million fleetwide ($731,543 per vessel on average) while the American Samoa longline fishery earned approximately $3 million ($150,000 per vessel on average). With regard to the purse seine fleet, the majority, but not all vessels, could be considered

small entities. For the 11 vessels that operated between 2022 and 2024 and were still active in 2025, the average per vessel revenue was almost $10 million. Seven of those 11 vessels could be considered small entities with estimated revenues of less than $11 million. Even though this proposed action may apply to a substantial number of entities, based on our analysis the implementation of this action would not result in significant adverse economic impacts on individual entities.

The primary benefit for fishermen under the proposed action is a modest increase in the available U.S. EEZ waters where U.S. fishing vessels do not have to compete with foreign fleets for access to fish. This benefit primarily applies to longline fleets based in Hawaii, where the majority of U.S. EEZ waters are closed due to the longline exclusion zone around the main Hawaiian Islands (50 CFR 665.806(a)(2)) and prohibitions on commercial fishing in the PRIMNM (50 CFR 665.933), Papahānaumokuākea Marine National Monument (50 CFR 404) and Papahānaumokuākea National Marine Sanctuary (15 CFR 922 subpart W - Papahānaumokuākea National Marine Sanctuary). From the purse seine fishery perspective, the major benefit is related to avoiding costs associated with fishing in the EEZs of foreign nations that, under the SPTA, charge daily access fees for fishing activity. These access fees range from $10,000 to $13,000 per day, depending on the EEZ or

groups of EEZs that are fished. Considered relative to daily average revenue for purse seine vessels ($68,000), these fees are about 14 to 19 percent of daily revenue, on days that these vessels fish in the EEZs of foreign nations that charge daily access fees.

The amount of annual effort shifted to the action area from current fishing locations under the proposed action is expected to range from 0 to about 6 percent of overall fleetwide effort in both the longline and purse seine fisheries given past fishing in the action area prior to the initial commercial fishery prohibitions in 2009 and further expansion of fishing restrictions in 2014. In longline fisheries, deep- and shallow-set fisheries combined averaged 22,020 sets over the last 5 years (2020–2024). This suggests that the number of sets that could shift to areas that open as a result of implementing the proposed action could range from 0 to 1,321 longline sets fleetwide. For purse seine fisheries, the number of sets has averaged 1,753 in the last 5 years (2020–2024). Implementing the proposed action could shift the number of purse seine sets in these waters ranging from 0 to 105 sets fleetwide.

With regard to longline vessels, there could potentially be some savings in fuel costs associated with this anticipated switched effort; however, both Johnston Atoll and Jarvis Island are far from Honolulu relative to

where the majority of longline effort is concentrated. The anticipated fuel cost differences for shifted effort under the proposed action are difficult to estimate, but fuel represents about 50 percent of the total costs of a fishing trip and therefore does represent a substantial portion of operating costs.

For purse seine vessels, a similar magnitude minor shift in effort under the proposed action may affect fuel costs. In general, purse seine fishing is concentrated in the productive skipjack tuna fishing waters to the west and south of the PRIMNM Expansion; inside the EEZs of countries party to the South Pacific Tuna Treaty. Transit distances to Jarvis Island from the center of purse seine effort would be significant, but the lack of daily access fees in the PRIMNM Expansion may increase the economic value of reopened areas around Jarvis Island. If we assume that all effort shifted to the PRIMNM Expansion under the proposed action moved from areas where a daily access fee was required, the total savings fleetwide could be as high as $1,367,340. Based on 13 currently licensed and active purse seine vessels, each vessel could save up to $105,180 per year in access fees, or roughly 1 percent of a vessel's average annual revenue of $10 million. Revenue gains would be on the higher end of the potential range if purse seine vessels decide to fully transition away from foreign EEZs upon reopening commercial fishing in the PRIMNM Expansion,

and closer to zero if they do not. Because fishing location choice is based on many factors, and fishermen are unlikely to fully transition away from foreign EEZs, the fleet-wide revenue gain as a result of the expanded locations available for commercial fishing as a result of this proposed action, would likely be less than $1,367,340, and individual vessel revenue gains would be lower than $105,180 (*i.e.*, lower than 1 percent).

The proposed action does not duplicate, overlap, or conflict with other Federal rules and is not expected to have a significant impact on small entities, organizations or government jurisdictions. The proposed action also will not place a substantial number of small entities at a significant competitive disadvantage nor disproportionately flow to large entities because the expansion of fishing areas would provide minor benefits to all entities without regard to the size of each individual entity.

For the reasons above, NMFS does not expect the proposed action to have a significant economic impact on a substantial number of small entities.

As a result, an initial regulatory flexibility analysis is not required, and none has been prepared.

Paperwork Reduction Act

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

Coastal Zone Management Act

Because this proposed rule affects fisheries that occur outside the coastal zone of any State and will not have reasonably foreseeable effects on any coastal use or resource, NMFS is not required to coordinate with State agencies under section 307 of the Coastal Zone Management Act.

ESA

Fishing activities conducted pursuant to this rule will not affect endangered and/or threatened species or critical habitat under the ESA in a manner that would result in effects that have not previously been considered in current ESA section 7 consultations.

Under the proposed rule, NMFS anticipates only longline and purse seine fishing for HMS such as tunas and billfish would be resumed in the PRIMNM Expansion because the habitat to support non-pelagic species such as bottomfish, crustacean, coral reef and precious corals are found entirely within 50 nmi (93 km) from shore, which will remain closed to commercial fishing.

NMFS previously evaluated the potential impact of longline and purse seine fisheries on ESA-listed species and designated critical habitat in areas of the Pacific Ocean where fishing vessels fish and transit on their way to fishing grounds. NMFS determined these fisheries are not likely to jeopardize the continued existence of ESA-listed species or result in adverse modification of designated

critical habitat.

NMFS does not expect that resuming commercial longline and purse seine fishing under existing fishing regulations in the PRIMNM Expansion would cause an effect on endangered and/or threatened species or critical habitat beyond that considered in applicable consultations for these fisheries. This conclusion is reached in part because there is no designated critical habitat for ESA-listed species in the PRIMNM Expansion for pelagic longline and purse seine fisheries to affect. Additionally, some ESA-listed species such as corals are only found in shallow nearshore waters around the islands and well within 50 nmi (93 km) of shore where commercial fishing remains prohibited. This buffer provides spatial separation that prevents their exposure to fishing activities occurring 50 to 200 nmi (93 to 370 km) offshore.

Many of the ESA-listed species, such as sea turtles, sharks and manta rays are highly migratory, and the PRIMNM Expansion represents just a small fraction of their range. For this reason, existing ESA consultations account for the potential population level impacts of fishing activities on ESA-listed species that may visit the PRIMNM Expansion but are exposed to fishing activities throughout their range.

Historically, annual fishing effort in the PRIMNM waters prior to monument designation represented up to a maximum of 6 percent of total fishing effort for longline

and purse seine fisheries. As both longline and purse seine fisheries are limited entry fisheries with maximum caps on the number of vessels that can fish, we expect that fishing in the restored areas of the PRIMNM Expansion will reflect effort by existing vessels shifting from currently open fishing areas into the PRIMNM, as opposed to additional increased fishing effort.

Therefore, the shift in some fishing effort from outside the PRIMNM Expansion into the PRIMNM Expansion is expected to result in a negligible change in the amount of fishery interactions over the range of ESA-listed species and would remain within the levels considered and analyzed in the current ESA section 7 consultations for these fisheries. The results of the ESA consultations for Pacific Island longline and purse seine fisheries are detailed in the EA developed for this action (see **ADDRESSES**).

Executive Order 13175

NMFS has determined that this action would not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes; therefore, consultation with Tribal officials under E.O. 13175 is not required, and the requirements of sections (5)(b) and (5)(c) of E.O. 13175 also do not apply. A Tribal summary impact statement under section

(5)(b)(2)(B) and section (5)(c)(2) of E.O. 13175 is not required and has not been prepared.

List of Subjects in 50 CFR Part 665

Administrative practice and procedure, Commercial fishing, Fisheries, Monuments and memorials, Pacific Remote Islands.

Dated: November 5, 2026.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 665 as follows:

PART 665 -- FISHERIES IN THE WESTERN PACIFIC

1. The authority citation for 50 CFR part 665 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq*.

2. Amend § 665.932 by revising the definition of "Proclamations" to read as follows:

§ 665.932 Definitions.

* * * * *

Proclamations means Presidential Proclamation 8336 of January 6, 2009, "Establishment of the Pacific Remote Islands Marine National Monument," Presidential Proclamation 9173 of September 29, 2014, "Pacific Remote

Islands Marine National Monument Expansion," Presidential Proclamation 10918 of April 17, 2025 "Unleashing American Commercial Fishing in the Pacific," and Presidential Proclamation 11035 of June 11, 2026, "Restoring American Commercial Fishing in the Pacific."

3. Amend § 665.933 by revising paragraph (a) to read as follows:

§ 665.933 Prohibitions.

* * * * *

(a) Commercial fishing in prohibited areas. Commercial fishing is prohibited in the areas of the Monument as defined in paragraphs (a)(1) through (a)(5) of this paragraph.

(1) *Wake Island.* Commercial fishing is prohibited in the Wake Island unit of the Monument within an area defined by straight lines connecting the following coordinates in the order listed:

ID	Longitude - East	Latitude - North
1	165°42'56"	20° 9' 27"
2	167°32'23"	20° 9' 27"
3	167°32'23"	18° 25' 51"
4	165°42'56"	18° 25' 51"
1	165°42'56"	20° 9' 27"

(2) *Howland and Baker Islands*. Commercial fishing is prohibited in the Howland and Baker units of the Monument as defined in 50 CFR 931(b).

(3) *Jarvis Island*. Commercial fishing is prohibited in the Jarvis Island unit of the Monument within an area

defined by straight lines connecting the following coordinates in the order listed:

ID	Longitude - West	Latitude
1	160°50'52"	0° 28' 39" N.
2	159°8'53"	0° 28' 39" N.
3	159°8'53"	1° 13' 15" S.
4	160°50'52"	1° 13' 15" S.
1	160°50'52"	0° 28' 39" N.

(4) *Johnston Atoll*. Commercial fishing is prohibited in the Johnston Atoll unit of the Monument within an area defined by straight lines connecting the following coordinates in the order listed:

ID	Longitude - West	Latitude - North
1	170°24'37"	17° 35' 39"
2	168°37'32"	17° 35' 39"
3	168°37'32"	15° 53' 26"
4	170°24'37"	15° 53' 26"
1	170°24'37"	17° 35' 39"

(5) *Kingman and Palmyra Atoll*. Commercial fishing is prohibited in the Kingman Reef and Palmyra Atoll unit of the Monument as defined in 50 CFR 931(e).

* * * * *

4. Amend § 665.934 by revising paragraph (a) to read as follows:

§ 665.934 Regulated activities.

(a) Commercial fishing in the Monument is prohibited in certain areas, as defined in § 665.933.

* * * * *

5. Amend § 665.935 by revising introductory paragraph (a) and paragraph (a)(1) to read as follows:

§ 665.935 Fishing permit procedures and criteria.

(a) *Non-commercial and commercial fishing* —

(1) *Applicability*. Except as provided in section 665.934(d), a vessel that is used to non-commercially or commercially fish for, take, retain, or possess MUS in the Monument must be registered for use with a permit issued pursuant to §§ 665.603, 665.624, 665.642, 665.662, and 665.801.

* * * * *

[FR Doc. 2026-22815 Filed: 11/6/2026 8:45 am; Publication Date: 11/9/2026]