

notification in the **Federal Register** that the amendment is available for public review and comment. NMFS will consider the public comments received during the comment period described above in determining whether to approve, disapprove, or partially approve Amendment 16.

In recent years the primary directed fishery for Pacific sardine has experienced extremely shortened fishing seasons or complete fishing year closures. However, the CPS FMP allows incidental catch of CPS and live bait fishing to continue when directed fisheries are closed, provided the Pacific sardine stock is not overfished or experiencing overfishing. These small allowances continue to be subject to ACLs and comport with the conservation goals of the CPS FMP. Management measures for incidental landing allowances are typically expressed as allowable percentages of that species in a landing of the dominant species catch. However, during the directed fishing closures some other very small-scale fisheries have been precluded from fishing and/or harvesting even *de minimis* amounts because they would exceed existing incidental allowances or they are not caught incidental to another CPS species (*i.e.*, within allowances) and the fish are not sold as live bait. In the case of Pacific sardine, these small-scale CPS fisheries typically sell their catch as specialty dead bait to recreational and commercial fisheries, or as fresh fish to restaurants and the public. For example, landings by a beach seine operation may often be over 50 percent sardine, which would exceed typically incidental landing allowances, yet total only a few hundred pounds. Pursuant to a request from the Council at their April 2016 meeting, the Coastal Pelagic Species Management Team (CPSMT) explored management options to account for these small-scale fisheries that have been negatively impacted by the closure of the directed sardine fishery.

At the April 2017 Council meeting, the Council adopted Amendment 16 to the CPS FMP to allow minor directed fishing to continue after a directed fishery is closed. Minor directed fishing would be allowed unless otherwise specified, or if an applicable ACL is anticipated to be exceeded. As a further restriction, to ensure the minor directed landing provision is not exploited to make large aggregate harvests, Amendment 16 limits this directed fishing exemption so that landings cannot exceed 1 metric ton (mt) per day per vessel or person, and which is limited to one fishing trip per day by any vessel. The intent of distinguishing

between a “vessel” and “person” is that some participants in this small sector of the CPS fishery fish from a platform other than a vessel (*e.g.* beach seine) and in a single fishing trip (*e.g.* a single haul of a beach seine) may only land a few hundred pounds. Therefore, the Council recommended allowing a person to make multiple fishing trips without using a vessel in a single day as long as their total landings do not exceed 1 mt in a day. The Council recommended that vessels be limited to a single trip as their typical landings are much greater per trip.

Public comments on Amendment 16 must be received by January 5, 2018. The Council has also submitted proposed regulations to implement Amendment 16 for Secretarial review and approval. NMFS expects to publish and request public comment on the proposed regulation to implement Amendment 16 in the near future. Public comments on Amendment 16 must be received by the end of the comment period to be considered in the approval/disapproval decision on Amendment 16. All comments received by the end of the comment period on Amendment 16, whether specifically directed to Amendment 16 or the proposed rule, will be considered in the approval/disapproval decision. Comments received after that date will not be considered in the approval/disapproval decision of Amendment 16. To be considered, comments must be received by close of business on the last day of the comment period; that does not mean postmarked or otherwise transmitted by that date.

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

Dated: November 1, 2017.

**Emily H. Menashes,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Chapter I

[Docket Nos. FWS–HQ–ES–2015–0126 and FWS–HQ–ES–2015–0165; FXES1114090000–178–FF09E33000]

#### Mitigation Policies of the U.S. Fish and Wildlife Service; Request for Comments

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Policy review; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), are requesting public comment on portions of our existing Mitigation Policy and Endangered Species Act Compensatory Mitigation Policy (ESA–CMP). We specifically request comment on the policies’ mitigation planning goals. Based on comments received, the Service will decide whether and how to revise the policies.

**DATES:** We will accept comments from all interested parties until January 5, 2018. Please note that if you are using the Federal eRulemaking Portal (see **ADDRESSES** below), the deadline for submitting an electronic comment is 11:59 p.m. Eastern Standard Time on this date.

**ADDRESSES:**

**Document availability:** The Service’s Mitigation Policy was published November 21, 2016, at 81 FR 83440 and is available at <https://www.regulations.gov> at Docket No. FWS–HQ–ES–2015–0126. The Service’s ESA–CMP was published December 27, 2106, at 81 FR 95316 and is available at <https://www.regulations.gov> at Docket No. FWS–HQ–ES–2015–0165.

**Comment submission:** You may submit comments by one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. In the Search box, enter the docket number for the policy, which is FWS–HQ–ES–2015–0126 for the mitigation policy and FWS–HQ–ES–2015–0165 for the ESA–CMP. You may enter a comment by clicking on the “Comment Now!” button. Please ensure that you have found the correct document before submitting your comment.

- **U.S. mail or hand delivery:** Public Comments Processing, Attn: Docket No. [FWS–HQ–ES–2015–0126 or FWS–HQ–ES–2015–0165]; Division of Policy, Performance, and Management Programs; U.S. Fish and Wildlife Service; MS: BPHC; 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We will post all comments on <https://www.regulations.gov>. This generally means that we will post any personal information you provide us (see Request for Information below for more information).

**FOR FURTHER INFORMATION CONTACT:** Craig Aubrey, U.S. Fish and Wildlife Service, Division of Environmental Review, 5275 Leesburg Pike, Falls Church, VA 22041–3803, telephone 703–358–2442.

**SUPPLEMENTARY INFORMATION:**

## Background

The Mitigation Policy (81 FR 83440, November 21, 2016) and the ESA–CMP (81 FR 95316, December 27, 2016) were developed to ensure consistency with existing directives in effect at the time of issuance, including former President Obama’s Memorandum on Mitigating Impacts on Natural Resources From Development and Encouraging Related Private Investment (November 3, 2015). The Presidential Memorandum directed all Federal agencies that manage natural resources to avoid and then minimize harmful effects to land, water, wildlife, and other ecological resources (natural resources) caused by land- or water-disturbing activities, and to ensure that any remaining harmful effects are effectively addressed, consistent with existing mission and legal authorities. Also, under the memorandum, all Federal mitigation policies were directed to clearly set a net-benefit goal or, at minimum, a no-net-loss goal for natural resources, wherever doing so is allowed by existing statutory authority and is consistent with agency mission and established natural resource objectives. The Presidential Memorandum was subsequently rescinded by Executive Order 13783, “Promoting Energy Independence and Economic Growth” (March 28, 2017).

The 2016 policies also described their consistency with the Secretary of the Interior’s Order 3330 on Improving Mitigation Policies and Practices of the Department of the Interior (October 31, 2013), which established a Department-wide mitigation strategy to ensure consistency and efficiency in the review and permitting of infrastructure-development projects and in conserving natural and cultural resources. The Secretary’s Order was subsequently revoked by Secretary of the Interior’s Order 3349 on American Energy Independence (March 29, 2017). It directed Department of the Interior bureaus to reexamine mitigation policies and practices to better balance

conservation strategies and policies with job creation for American families.

## Mitigation Planning Goal

The Mitigation Policy articulated general policy and principles intended to guide Service-recommended mitigation across Service programs. These principles were in turn adopted by the ESA–CMP. Included among the principles was an overall mitigation planning goal of net conservation gain:

The Service’s mitigation planning goal is to improve (*i.e.*, a net gain) or, at minimum, to maintain (*i.e.*, no net loss) the current status of affected resources, as allowed by applicable statutory authority and consistent with the responsibilities of action proponents under such authority. As informed by established conservation objectives and strategies, Service mitigation recommendations will focus primarily on important, scarce, or sensitive resources, and will specify the means and measures that achieve the planning goal.

When the Service published both the draft Mitigation Policy and draft ESA–CMP for public comment, many commenters addressed the policies’ mitigation planning goals. Comments on the proposed Mitigation Policy may be viewed here: <https://www.regulations.gov/docketBrowser?rpp=25&po=0&dct=PS&D=FWS-HQ-ES-2015-0126&refD=FWS-HQ-ES-2015-0126-0001>. Comments on the proposed ESA–CMP may be viewed here: <https://www.regulations.gov/docketBrowser?rpp=25&po=0&dct=PS&D=FWS-HQ-ES-2015-0165&refD=FWS-HQ-ES-2015-0165-0001>. The Service addressed these comments within the documents for the final policies.

This document announces the Service’s intent to solicit additional input regarding whether to retain or remove net conservation gain as a mitigation planning goal within our mitigation policies.

## Request for Information

We ask that comments specifically address the advisability of retaining or removing references to net conservation

gain from the Service’s overall mitigation planning goal within each policy. We further ask that commenters submit comments to one or the other docket based on the specific policy of concern (the Mitigation Policy or the ESA–CMP).

We will consider information and recommendations from all interested parties. We therefore invite comments, information, and recommendations from governmental agencies, Indian Tribes, the scientific community, industry groups, environmental interest groups, and any other interested parties. All comments and materials received by the date listed above in **DATES** will be considered prior to any proposed modification to the policies.

If you submit information via <https://www.regulations.gov>, your entire submission—including any personal identifying information—will be posted on the Web site. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on <https://www.regulations.gov>.

## Next Steps

After the comment period closes, we will determine whether and how to revise the policies in response to the public input regarding the requested information. We will also update the policies to remove specific references to the Presidential Memorandum that was rescinded by Executive Order 13783 and to Secretary of the Interior’s Order 3330 that was revoked by the subsequent Order 3349.

Dated: October 4, 2017.

**Gregory Sheehan,**

*Principal Deputy Director, U.S. Fish and Wildlife Service.*

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