

Potassium citrate and crude calcium citrate are classifiable under 2918.15.5000 and 3824.90.9290 of the HTSUS, respectively. Blends that include citric acid, sodium citrate, and potassium citrate are classifiable under 3824.90.9290 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Countervailing Duty Order

On May 22, 2009, in accordance with section 705(d) of the Act, the ITC notified the Department of its final determination that the industry in the United States producing citric acid is materially injured within the meaning of section 705(b)(1)(A)(i) of the Act by reason of subsidized imports of citric acid from the PRC.

Therefore, countervailing duties will be assessed on all unliquidated entries of citric acid from the PRC entered, or withdrawn from warehouse, for consumption on or after September 19, 2008, the date on which the Department published its preliminary affirmative countervailing duty determination in the **Federal Register**,¹ and before January 17, 2009, the date the Department instructed U.S. Customs and Border Protection ("CBP") to discontinue the suspension of liquidation in accordance with section 703(d) of the Act. Section 703(d) of the Act states that the suspension of liquidation pursuant to a preliminary determination may not remain in effect for more than four months. Therefore, entries of citric acid made on or after January 17, 2009, and prior to the date of publication of the ITC's final determination in the **Federal Register** are not liable for the assessment of countervailing duties due to the Department's discontinuation, effective January 17, 2009, of the suspension of liquidation.

In accordance with section 706 of the Act, the Department will direct CBP to reinstitute the suspension of liquidation for citric acid from the PRC, effective the date of publication of the ITC's notice of final determination in the **Federal Register** and to assess, upon further advice by the Department pursuant to section 706(a)(1) of the Act, countervailing duties for each entry of the subject merchandise in an amount based on the net countervailable

subsidy rates for the subject merchandise as noted below.

Exporter/Manufacturer	Net subsidy rate (percent)
TTCA Co., Ltd. (a.k.a. Shandong TTCA Biochemistry Co., Ltd.)	12.68
Yixing Union Biochemical Co., Ltd.; and Yixing Union Co-generation Co., Ltd.	3.60
Anhui BBKA Biochemical Co., Ltd.	118.95
All-Others	8.14

This notice constitutes the countervailing duty order with respect to citric acid from the PRC, pursuant to section 706(a) of the Act. Interested parties may contact the Department's Central Records Unit, Room 1117 of the main Commerce Building, for copies of an updated list of countervailing duty orders currently in effect.

This order is issued and published in accordance with section 706(a) of the Act and 19 CFR 351.211(b).

Dated: May 26, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

[FR Doc. E9-12642 Filed 5-28-09; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XP36

Endangered and Threatened Species; Recovery Plans

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

ACTION: Notice of Availability.

SUMMARY: The National Marine Fisheries Service (NMFS) announces the adoption of its Endangered Species Act (ESA) Recovery Plan (Recovery Plan) for the Lake Ozette Sockeye Salmon (*Oncorhynchus nerka*) Evolutionarily Significant Unit (ESU). This Recovery Plan was prepared by NMFS' Northwest Region and underwent public review. The final Recovery Plan for Lake Ozette Sockeye contains revisions and additions in consideration of public comments received on the draft Recovery Plan.

ADDRESSES: Additional information about the Recovery Plan may be obtained by writing to Rosemary Furfey, National Marine Fisheries Service, 1201

N.E. Lloyd Blvd., Suite 1100, Portland, OR 97232, or calling (503) 231-2149.

Persons wishing to read the Recovery Plan can obtain an electronic copy (i.e., CD-ROM) from Sharon Houghton by calling (503) 230-5418, or by emailing a request to Sharon.Houghton@noaa.gov, with the subject line "CD-ROM Request for Final ESA Recovery Plan for Lake Ozette Sockeye Salmon." NMFS' summary of and response to public comments on the draft Recovery Plan for Lake Ozette Sockeye Salmon will be included on the CD-ROM. Electronic copies of these documents are also available on-line via the NMFS' website, www.nwr.noaa.gov/Salmon-Recovery-Planning/Recovery-Domains/Puget-Sound/Lake-Ozette-Plan.cfm.

FOR FURTHER INFORMATION CONTACT:

Rosemary Furfey, NMFS Lake Ozette Salmon Recovery Coordinator at (503) 231-2149, or Elizabeth Gaar, NMFS Salmon Recovery Division at (503) 230-5434.

SUPPLEMENTARY INFORMATION:

Background

Recovery plans describe actions beneficial to the conservation and recovery of species listed under the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 *et seq.*). The ESA requires that recovery plans, to the extent practicable, incorporate (1) objective, measurable criteria, which, when met, would result in a determination that the species is no longer threatened or endangered; (2) site-specific management actions that may be necessary to achieve the plan's goals; and (3) estimates of the time required and costs to implement recovery actions. The ESA requires the development of recovery plans for listed species unless such a plan would not promote recovery of a particular species.

NMFS' goal is to restore endangered and threatened Pacific salmon ESUs and steelhead distinct population segments (DPSs) to the point that they are again self-sustaining members of their ecosystems and no longer need the protections of the ESA. NMFS believes it is critically important to base its recovery plans on the many state, regional, tribal, local, and private conservation efforts already underway throughout the region. Therefore, the agency supports and participates in locally led collaborative efforts to develop recovery plans, involving local communities, state, tribal, and Federal entities, and other stakeholders. As the lead ESA agency for listed salmon, NMFS is responsible for reviewing these locally produced recovery plans and

¹ See *Citric Acid and Certain Citrate Salts From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination*, 73 FR 54367 (September 19, 2008).

deciding whether they meet ESA statutory requirements and merit adoption as ESA recovery plans.

In 2005, NMFS and the Lake Ozette Steering Committee (Steering Committee), an existing, locally based citizen group, began working together to write a plan for the recovery of Lake Ozette sockeye salmon (originally listed as threatened on March 25, 1999 (64 FR 14528)). The goal was to produce a plan that meets ESA requirements for recovery plans as well as the State of Washington's recovery planning outline and guidance (WDFW 2003). The Makah and Quileute Tribes, Olympic National Park, Clallam County, local land owners, Washington Governor's Salmon Recovery Office, Washington Department of Fish and Wildlife, Washington Department of Natural Resources, NMFS, U.S. Environmental Protection Agency, North Olympic Peninsula Lead Entity, private timber companies, and local citizens comprised the Steering Committee and have met periodically since 1981 to discuss natural resource issues related to sockeye salmon. The diverse representation on the Steering Committee has provided a broad and unique perspective that has lent great value to the recovery planning process.

To ensure that recovery plans are scientifically sound, NMFS has appointed teams of scientists with expertise in salmon species to provide scientific support for recovery planning in the Northwest. These technical recovery teams (TRTs) include biologists from NMFS, state, tribal, and local agencies, academic institutions, and private consulting groups. The Puget Sound TRT provided two reports for the Lake Ozette sockeye salmon recovery planning process: (1) a description of the Lake Ozette sockeye salmon population (Currens *et al.* 2006) and (2) viability criteria for the sockeye (Rawson *et al.* 2007). The TRT also reviewed the Lake Ozette Sockeye Limiting Factors Analysis (Haggerty *et al.* 2007), the proposed recovery plan, and coordinated an independent peer review process. Frequent Steering Committee meetings enabled NMFS and the Puget Sound TRT to share draft recovery plan products and seek review and comment as the draft plan was developed. Based on this iterative process, the availability of the Proposed Recovery Plan for Lake Ozette Sockeye Salmon was published in the **Federal Register** on April 23, 2008, and public comments were solicited (73 FR 21913). Other supporting documents were also made available for public review and comment, including the Draft Limiting

Factors Analysis and draft Puget Sound TRT reports.

NMFS received 20 comment letters, by mail, facsimile, or e-mail, on the Proposed Recovery Plan. Public hearings were held between April 23, 2008, and June 23, 2008, in Port Angeles, WA, and Sekiu, WA. NMFS summarized the public comments and oral testimony and prepared responses, now available on the NMFS website at: www.nwr.noaa.gov/Salmon-Recovery-Planning/Recovery-Domains/Puget-Sound/Lake-Ozette-Plan.cfm. NMFS revised its Proposed Recovery Plan based on comments received.

Consistent with adoption of this final Recovery Plan, NMFS will seek to implement the actions for which it has authority, to work cooperatively on implementation of other actions, and to encourage other Federal agencies to implement Recovery Plan actions for which they have responsibility and authority. NMFS will also encourage the State of Washington to seek similar implementation commitments from state agencies and local governments. NMFS expects the Recovery Plan to help NMFS and other Federal agencies take a more consistent approach to future ESA section 7 consultations under the ESA and other ESA decisions. For example, the Recovery Plan will provide greater biological context for the effects that a proposed action may have on the listed ESU. This context will be enhanced by adding Recovery Plan science to the "best available information" for section 7 consultation opinions, section 10 habitat conservation plans, and other ESA decisions. Such information includes viability criteria for the ESU and its independent populations; better understanding of and information on limiting factors and threats impacting the ESU; better information on priority areas for addressing specific limiting factors; and better geographic context for where the ESU can tolerate varying levels of risk.

The Recovery Plan

Lake Ozette, its perimeter shore, and most of the Ozette River, which forms the outlet of the lake to the estuary and Pacific Ocean, are included in the 922,000-acre Olympic National Park. This Recovery Plan complements, recognizes, and works within the authorities of the Olympic National Park, Clallam County, the Forest Practices Habitat Conservation Plan, and tribal trust and treaty rights, and does not augment or supersede these or other authorities.

The Recovery Plan is based on a series of hypotheses about what is limiting the

survival of Lake Ozette sockeye salmon. These hypotheses are based on the best available current knowledge about Lake Ozette sockeye salmon. These hypotheses are designed to be tested in the course of time through monitoring the fish, their environment, and the effects of the actions that may be taken to protect and improve the Lake Ozette sockeye's ecosystem and survival chances. The process of designing actions based on best available information, then monitoring the results to find out what works best and changing the actions as appropriate, is called adaptive management. This Recovery Plan is intended as a tool for adaptive management for Lake Ozette sockeye salmon recovery and is to be implemented within the range of the Lake Ozette Sockeye Salmon ESU.

ESU Addressed and Planning Area

Lake Ozette sockeye salmon were listed under the ESA on March 25, 1999 (64 FR 14528), as a species threatened with becoming endangered throughout all or a significant portion of its range. The Lake Ozette Sockeye Salmon ESU is unique among other ESA-listed salmon in being made up of only one population (Currens *et al.* 2006), with an inland range that is limited to a single freshwater watershed a short distance from the ocean. The Lake Ozette watershed has an unusual potential for protection and restoration of landscape processes to support long-term salmon survival, because it is relatively undeveloped, has a relatively low human population density, and the lake itself is located within the Olympic National Park.

The single population of Lake Ozette sockeye salmon currently contains five distinct spawning aggregations that are described in the Recovery Plan as subpopulations. The subpopulations can be grouped according to whether they spawn in tributaries or near lake beaches. Lake Ozette sockeye salmon are distinguished from other Washington sockeye salmon ESUs based on unique genetic characteristics, early river entry, the relatively large adult body size, and larger average smolt size relative to other coastal Washington sockeye salmon populations.

Lake Ozette is situated on the coastal plain between the Pacific Ocean and the Olympic Mountains. The lake is approximately 8 miles (12.9 km) long from north to south and 2 miles (3.2 km) wide, irregularly shaped, and containing several bays, distinct points, and three islands. With a surface area of 11.8 mi² (30.6 km², 7,550 acres; 3,056 ha), Lake Ozette is the third largest natural lake in Washington State. The Ozette River

drains the lake from its north end and travels approximately 5.3 miles (8.5 km) along a sinuous course to the Pacific Ocean. The total drainage area of the Ozette watershed at the confluence with the Pacific Ocean is 88.4 mi² (229 km²).

Historically, the Ozette watershed supported thriving populations of sockeye salmon, which were an important element of the fisheries of the Makah and Quileute Tribes, as well as an important subsistence species for early European-American settlers in the watershed. The peak harvest of 17,500 fish was recorded in 1949, but abundance decreased rapidly in the following decades. Because of declining numbers, tribal commercial harvest ceased in 1974 and all tribal ceremonial and subsistence harvest ceased in 1982.

The Plan's Recovery Goals and Recovery Criteria

The Recovery Plan's goal is for the Lake Ozette sockeye salmon population to reach the point that it is naturally self-sustaining, no longer needs the protection of the ESA, and can be delisted. In addition, a recovery plan can have "broad-sense" goals that may go beyond the requirements for delisting to acknowledge social, cultural, or economic values regarding the listed species. NMFS and the Lake Ozette Steering Committee crafted the following vision statement describing desirable future conditions for the Lake Ozette sockeye salmon and its human and biological setting:

"The naturally spawning Lake Ozette sockeye salmon population is sufficiently abundant, productive, and diverse (in terms of life histories and geographic distribution) to provide significant ecological, cultural, social, and economic benefits. Protection and restoration of ecosystems have sustained processes necessary to maintain sockeye as well as other salmon, steelhead, and wildlife species. Community livability, economic well-being, and treaty-reserved fishing rights have benefited by balancing salmon recovery with management of local land use and fishery economies."

To meet the ESA requirements for objective, measurable criteria for delisting, the Recovery Plan provides biological recovery criteria based on the Puget Sound TRT viability criteria for Lake Ozette sockeye salmon, as well as "threats" criteria based on the listing factors defined in ESA section 4(a)(1).

Biological Recovery Criteria

The Puget Sound TRT provided viability criteria for Lake Ozette sockeye salmon in terms of the four "viable salmonid populations" (VSP) parameters defined in NMFS technical memorandum, *Viable salmonid populations and the recovery of evolutionarily significant units*

(McElhany *et al.* 2000). The Puget Sound TRT's viability criteria for Lake Ozette sockeye salmon are as follows:

Abundance: Approximately 31,250–121,000 adult spawners, over a number of years; this planning range is associated with a productivity of 1:1 recruits-per-spawner. NMFS is working with the Puget Sound TRT to develop more specific abundance and productivity targets and a specific number of years that would represent a level upon which to make a delisting decision.

Productivity (Growth Rate): Stable or increasing.

Spatial Structure: Multiple, persistent, and spatially distinct beach-spawning aggregations, augmented by tributary spawning aggregations.

Diversity: One or more persistent spawning aggregations from each major genetic and life history group historically present within that population. Maintain the distinctness between Lake Ozette sockeye salmon and kokanee.

NMFS, in coordination with the Steering Committee, concluded that the Puget Sound TRT's viability criteria should be the biological recovery criteria of this Recovery Plan.

Threats Criteria

"Threats" are the human activities or natural events that cause the factors limiting a species' survival. For example, where high water temperatures are identified as a limiting factor, removal of riparian vegetation, which causes loss of shade and results in higher water temperatures, is categorized as the threat. The threats criteria define the conditions under which the listing factors, or threats, can be considered to be addressed or mitigated. Threats criteria are provided in Section 3.3.3 of the Recovery Plan.

Causes for Decline and Current Threats

The 1999 listing of the Lake Ozette sockeye salmon ESU as threatened under the ESA was primarily attributed to concerns about low abundance and effects of small population genetic and demographic variability. A more thorough identification of limiting factors is provided in the Lake Ozette Sockeye Limiting Factors Analysis (Haggerty *et al.* 2009). Based on the best available information and analysis, the Lake Ozette Steering Committee's Technical Workgroup evaluated and rated each of the limiting factors hypotheses for its contribution to sockeye population or subpopulation mortality by life stage.

Some limiting factors, habitat conditions, and life histories were

shared among all subpopulations, while others vary. In the Limiting Factors Analysis, the subpopulations were grouped based on spawning environment, i.e., tributary vs. beach, and limiting factors were described in three categories: those affecting the entire population; those specific to beach spawners; and those specific to tributary spawners.

Two limiting factors are hypothesized as having a high impact on all Lake Ozette sockeye salmon population segments: piscivorous fish predation on juveniles rearing in the lake, and general marine survival. Limiting factors with moderate impact on all population segments are marine mammal predation on adults re-entering the Ozette River and water quality in the Ozette River.

Limiting factors hypothesized as having a high impact specifically on beach spawners are poor-quality spawning habitat, which decreases survival in the incubation-to-emergence life stage, and predation on adults, eggs, and newly emerged fry. Limiting factors with moderate impact on beach spawners are: seasonal lake level changes; water quality issues, including turbidity and fine sediment; and competition for good quality spawning habitat, which can result in redd superimposition and decreased egg-to-fry survival.

Limiting factors hypothesized as having high impact specifically on tributary spawners are fine sediments, unstable channel, and other water quality issues that reduce spawning habitat quality and result in decreased egg-to-fry survival. High predation on fry during their emigration to the lake was identified as a limiting factor with moderate impact on tributary spawners.

Recovery Strategies and Actions

The Recovery Plan recommends an overall recovery strategy based on current research about the relationships between watershed processes, land use, and freshwater habitat. This information is then related to what is known about sockeye salmon mortality by life stage, and to the hypothesized limiting factors. The result is a hierarchy of types of recovery strategies that can form the basis for setting priorities among potential actions.

The first priority, and likely the most effective type of action, is to assess, protect, and maintain good quality habitat and the processes that create and maintain it. One example would be to protect currently used spawning areas. Another would be for willing landowners to protect forest or streamside areas with conservation easements, where trees could be

allowed to grow large, mature, and eventually fall by natural forces, creating habitat conditions needed by sockeye salmon.

Next in importance and certainty of effectiveness is reconnecting isolated habitat – for example, removing a blockage in the stream, thus allowing salmon more room to spawn and rear.

Third is restoring biological processes of various kinds; this includes a wide range of potential actions. For example: restoring natural predator-prey balance by improving egg-to-fry survival and/or reducing non-native fish species by means of selective fishing; ceasing to remove large woody debris from sections of the lower Ozette River; and assessing sources of sediment and reducing sediment production and delivery to streams.

Directly restoring degraded habitat is of lower priority because it is more difficult, often more costly, and often effective only in the short-term, compared to restoring the processes that create habitat and will continue creating properly functioning habitat over time. However, some direct actions, such as placing large woody debris in carefully chosen areas, will initiate biological processes that are likely to continue naturally if accompanied by appropriate long-term riparian management. Creating new habitat is significantly more difficult than working to protect and restore existing habitat; creating new habitat is therefore of lowest priority, although in some circumstances it may be the only alternative.

NMFS, with input from the Steering Committee, evaluated the sub-basins in the Lake Ozette watershed for their importance as sockeye habitat. The Recovery Plan accordingly provides geographic priorities for recovery actions.

Habitat, harvest, and hatchery factors affecting Lake Ozette sockeye salmon are included in the recovery strategies. Hatchery and harvest management issues are presented and addressed within the context of biological processes.

NMFS and the Lake Ozette Steering Committee developed an extensive list of 121 potential projects/actions. The proposed actions are designed to address the full range of limiting factors for all life cycle stages of Lake Ozette sockeye salmon and are intended to improve the health and ecosystems of these fish.

The proposed actions are in six categories:

- Fisheries management
- Habitat-related actions
- Hatchery supplementation

- Predation-related actions
- Research, monitoring, and adaptive management
- Public education and outreach, which need to be implemented in cooperation with all appropriate permitting authorities (including Olympic National Park), and in the context of existing permits, regulations, agreements, and public processes.

Site-specific Actions

The Recovery Plan recognizes that recovery actions must be implemented at both the regional, or ESU, and watershed, or population, levels. In the case of Lake Ozette sockeye, the ESU contains only one population, so actions taken to benefit the ESU will undoubtedly benefit the sole population. Site-specific actions articulated in this Recovery Plan are intended to link directly to recovery models, watershed processes, locations (including Ozette River, tributaries, estuarine, and nearshore environments), and address primary and secondary limiting factor hypotheses. Details of the site-specific actions can be found in Appendix D of the Plan.

Research, Monitoring, and Adaptive Management

The Recovery Plan identifies the many knowledge gaps and uncertainties involved in designing recovery actions for the Lake Ozette sockeye salmon. Because the proposed recovery actions are based on hypotheses about the relationships between fish, limiting factors, human activities, and the environment, the Recovery Plan recommends research and monitoring to determine recovery progress. Monitoring is the basis for adaptive management the process of adjusting management actions and/or directions based on new information. Research, monitoring, and adaptive management are built into the Recovery Plan.

Time and Cost Estimates

Section 4(f)(1) of the ESA requires that the Recovery Plan include “estimates of the time required and the cost to carry out those measures needed to achieve the Plan’s goal and to achieve intermediate steps toward that goal” (16 U.S.C. 1533[f](1)). Chapter 9 of the Recovery Plan provides cost estimates for actions where costs are available. Costs for actions that are being implemented as part of ongoing, existing programs are considered “baseline” and are not included in Chapter 9 as costs to recover Lake Ozette sockeye salmon. The overall total cost to implement recovery actions for the first 10 years of this plan is

estimated to be approximately \$46 million. Many of these are one-time costs.

Approximately \$100,000 of the estimated implementation cost represents ongoing, annual administrative or infrastructure costs that will likely continue for the duration of implementation of the plan. Thus, it can be inferred that if recovery takes 50 years, another \$4 million may be incurred over the long term to continue and maintain habitat improvements.

NMFS estimates that recovery of the Lake Ozette Sockeye Salmon ESU, like recovery for most of the ESA-listed salmon, could take 50 to 100 years. Because many uncertainties exist about how sockeye salmon and their habitat will respond to recovery actions, the costs and recovery actions in this plan focus on the first 10 years of implementation. Actions and costs will be revised over time as part of adaptive management.

Unlike other ESA-listed salmon species in Washington State, the Lake Ozette Sockeye Salmon ESU has not had a state-designated recovery board responsible for developing the recovery plan. Therefore, NMFS is working with the Lake Ozette Steering Committee and other entities, such as the newly formed North Pacific Coast Lead Entity and the Washington Coast Sustainable Salmon Partnership, to make an Implementation Plan. NMFS anticipates that the organizations potentially involved will choose to participate in recognition of the shared benefits of habitat protection and restoration. A detailed Implementation Schedule and further details of an organizational approach to implementation will be produced in 2009.

Conclusions

NMFS concludes that the Recovery Plan meets the requirements of ESA section 4(f) and thus is adopting it as the Recovery Plan for Lake Ozette Sockeye Salmon.

Literature Cited

Currens, K.P., R. Fuerstenberg, W. Graeber, K. Rawson, M. Ruckelshaus, N.J. Sands, and J. Scott. 2006. Independent populations of sockeye salmon in Lake Ozette. Puget Sound Technical Recovery Team document. March 21, 2006. Northwest Fisheries Science Center. NOAA Fisheries Service. Seattle, WA. 20p. www.nwfsc.noaa.gov/trt/puget_docs.
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Authority: 16 U.S.C. 1531 *et seq.*

Dated: May 22, 2009.

Therese Conant,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E9-12558 Filed 5-28-09; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XP34

Fisheries in the Western Pacific; Amended Marine Conservation Plan for Pacific Insular Areas; Northern Mariana Islands

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

ACTION: Notice of agency decision.

SUMMARY: NMFS announces the approval of an amended marine conservation plan (MCP) for the Northern Mariana Islands.

DATES: This agency decision is effective October 6, 2008, through October 6, 2011.

ADDRESSES: Copies of the MCP are available from the Western Pacific Fishery Management Council (Council), 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808-522-8220, fax 808-522-8226.

FOR FURTHER INFORMATION CONTACT: Jarad Makaiau, Sustainable Fisheries, NMFS Pacific Islands Regional Office, at 808-944-2108.

SUPPLEMENTARY INFORMATION: Under Section 204(e)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Secretary of State, with the concurrence of the Secretary of Commerce (Secretary) and in consultation with the Council, may negotiate and enter into a Pacific Insular Area fishery agreement (PIAFA) to allow foreign fishing within waters of the U.S. Exclusive Economic Zone (EEZ) adjacent to American Samoa, Guam, or the Northern Mariana Islands, and at the request and with the concurrence of, and in consultation with, the Governor of the Pacific Insular Area to which the PIAFA applies. Section 204(e)(4) of the Magnuson-Stevens Act requires that prior to entering into a PIAFA, the appropriate Governor and the Council shall develop a three-year MCP containing detailing the uses for funds to be collected by the Secretary under the PIAFA.

Any payments received under a PIAFA shall be deposited into the United States Treasury and then covered over to the Treasury of the Pacific Insular Area for which funds were collected. In the case of violations by foreign fishing vessels occurring within the EEZ off any Pacific Insular Area, any amount received by the Secretary which is attributable to fines and penalties imposed under the Magnuson-Stevens Act, including such sums collected from the forfeiture and disposition or sale of property seized subject to its authority, after payment of direct costs of the enforcement action to all entities involved in such action, shall be deposited into the Treasury of the Pacific Insular Area adjacent to the EEZ in which the violation occurred, to be used for fisheries enforcement and for implementation of a MCP. The MCP to be approved by the Secretary must be consistent with the Council's fishery management plans, identify conservation and management objectives (including criteria for determining when such objectives have been met), and prioritize planned marine conservation projects.

In June 2007, the Council approved an MCP for the Commonwealth of the Northern Mariana Islands (CNMI) and recommended its submission to the Secretary for approval. NMFS, designee of the Secretary, received the MCP on March 10, 2008. Following review and revision of the MCP, the Department of Lands and Natural Resources, CNMI, submitted the completed MCP on behalf of the Governor to NMFS on September 23, 2008. That MCP, dated June 2007, satisfied the requirements of MSA Section 204(e), and was approved for

the three-year period October 6, 2008, through October 6, 2011 (73 FR 61020, October 15, 2008).

At its 144th meeting in March 2009, the Council approved an amended MCP for the CNMI. On April 9, 2009, the Governor of the CNMI submitted the amended MCP, dated March 2009. The March 2009 document revises the objective related to domestic fisheries development, and the prioritization of projects. The amendments are aimed at further promoting the development and enhancing the economic viability of CNMI fisheries.

The amended MCP contains 12 objectives, listed below, which are consistent with the Council's five existing fishery management plans:

1. Data collection and reporting;
2. Resource assessment and monitoring;
3. Incidental catch, bycatch, and protected species interaction;
4. Habitat assessment and monitoring;
5. Management procedures;
6. Surveillance and enforcement;
7. Promote responsible domestic fisheries development to provide long term economic growth and stability and local food production;
8. Marine conservation education;
9. Public participation;
10. Regional cooperation;
11. Western Pacific demonstration projects; and
12. Performance evaluation.

The MCP identifies 22 programs or projects associated with the MCP objectives for potential funding under a PIAFA, as listed below in order of priority:

1. EEZ enforcement program;
2. Analysis of data on pelagic fishery resources;
3. Commercial harvest monitoring system;
4. Fisheries technology and education program;
5. Longline permit, reporting and quota utilization program;
6. Development of fish marketing plan that includes topics on market identification, transportation, fish products, branding and eco-labeling, and other marketing issues;
7. CNMI commercial fisheries baseline assessment;
8. Regional fisheries meeting and conferences funding assistance;
9. Enhance fishing opportunities by deploying community fish aggregation devices;
10. Vessel monitoring program;
11. Construction of cold storage, fish processing, and fish market facilities;
12. Foreign fishery observer program;
13. Establish fishery management units for the EEZ;