Tab E, No. 8(a)

EXECUTIVE ORDERS

Executive Order on Promoting American Seafood Competitiveness and Economic Growth

ECONOMY & JOBS

Issued on: **May 7, 2020**

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By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to strengthen the American economy; improve the competitiveness of American industry; ensure food security; provide environmentally safe and sustainable seafood; support American workers; ensure coordinated, predictable, and transparent Federal actions; and remove unnecessary regulatory burdens, it is hereby ordered as follows:

Section 1. Purpose. America needs a vibrant and competitive seafood industry to create and sustain American jobs, put safe and healthy food on American tables, and contribute to the American economy. Despite America's bountiful aquatic resources, by weight our Nation imports over 85 percent of the seafood consumed in the United States. At the same time, illegal, unreported, and unregulated fishing undermines the sustainability of American and global seafood stocks, negatively affects general ecosystem health, and unfairly competes with the products of law-abiding fishermen and seafood industries around the world. More effective permitting related to offshore aquaculture and additional streamlining of fishery regulations have the potential to revolutionize American seafood production, enhance rural prosperity, and improve the quality of American lives. By removing outdated and unnecessarily burdensome regulations; strengthening efforts to combat illegal, unreported, and unregulated fishing; improving the transparency and efficiency of environmental reviews; and renewing our focus on long-term strategic planning to facilitate aquaculture projects, we can protect our aquatic environments; revitalize our Nation's seafood industry; get more Americans back to work; and put healthy, safe food on our families' tables.

Sec. 2. Policy. It is the policy of the Federal Government to:

(a) identify and remove unnecessary regulatory barriers restricting American fishermen and aquaculture producers;

(b) combat illegal, unreported, and unregulated fishing;

(c) provide good stewardship of public funds and stakeholder time and resources, and avoid duplicative, wasteful, or inconclusive permitting processes;

(d) facilitate aquaculture projects through regulatory transparency and long-term strategic planning;

(e) safeguard our communities and maintain a healthy aquatic environment;

(f) further fair and reciprocal trade in seafood products; and

(g) continue to hold imported seafood to the same food-safety requirements as domestically produced products.

Sec. 3. Definitions. For purposes of this order:

(a) "Aquaculture" means the propagation, rearing, and harvesting of aquatic species in controlled or selected environments;

(b) "Aquaculture facility" means any land, structure, or other appurtenance that is used for aquaculture;

(c) "Aquaculture project" means a project to develop the physical assets designed to provide or support services to activities in the aquaculture sector, including projects for the development or construction of an aquaculture facility;

(d) "Exclusive economic zone of the United States" means the zone established in Proclamation 5030 of March 10, 1983 (Exclusive Economic Zone of the United States of America);

(e) "Lead agency" has the meaning given that term in the regulations of the Council on Environmental Quality, contained in title 40, Code of Federal Regulations, that implement the procedural provisions of the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.);

(f) "Maritime domain" means all areas and things of, on, under, relating to, adjacent to, or bordering on a sea, ocean, or other navigable waterway, including all maritime-related activities, infrastructure, people, cargo, and vessels and other conveyances;

(g) "Maritime domain awareness" means the effective understanding of anything associated with the global maritime domain that could affect the security, safety, economy, or environment of the United States; and

(h) "Project sponsor" means an entity, including any private, public, or public-private entity, that seeks an authorization for an aquaculture project.

Sec. 4. Removing Barriers to American Fishing. (a) The Secretary of Commerce shall request each Regional Fishery Management Council to submit, within 180 days of the date of this order, a prioritized list of recommended actions to reduce burdens on domestic fishing and to increase production within sustainable fisheries, including a proposal for initiating each recommended action within 1 year of the date of this order.

(i) Recommended actions may include changes to regulations, orders, guidance documents, or other similar agency actions.

(ii) Recommended actions shall be consistent with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.); the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); the Marine Mammal Protection Act (16 U.S.C. 1361 et seq.); and other applicable laws.

(iii) Consistent with section 302(f) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(f)), and within existing appropriations, the Secretary of Commerce shall provide administrative and technical support to the Regional Fishery Management Councils to carry out this subsection.

(b) The Secretary of Commerce shall review and, as appropriate and to the extent permitted by law, update the Department of Commerce's contribution to the Unified Regulatory Agenda based on an evaluation of the lists received pursuant to subsection (a) of this section.

(c) the Assistant to the President for Economic Policy, the Assistant to the President for Domestic Policy, and the Chair of the Council on Environmental Quality a report evaluating the recommendations described in subsection (a) of this section and describing any actions taken to implement those recommendations. This report shall be updated annually for the following 2 years.

Sec. 5. Combating Illegal, Unreported, and Unregulated Fishing. (a) Within 90 days of the date of this order, the Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration (NOAA), shall issue, as appropriate and consistent with applicable law, a notice of proposed rulemaking further implementing the United Nations Food and Agriculture Organization Agreement on Port State Measures to Prevent, Deter, and Eliminate Illegal, Unreported, and Unregulated Fishing, which entered into force on June 5, 2016 (the Port State Measures Agreement).

(b) The Secretary of State, the Secretary of Commerce, the Secretary of Homeland Security, and the heads of other appropriate executive departments and agencies (agencies) shall, to the extent permitted by law, encourage public-private partnerships and promote interagency, intergovernmental, and international cooperation in order to improve global maritime domain awareness, cooperation concerning at-sea transshipment activities, and the effectiveness of fisheries law enforcement.

(c) The Secretary of State, the Secretary of Commerce, the Secretary of Health and Human Services, and the Secretary of Homeland Security shall, consistent with applicable law and available appropriations, prioritize training and technical assistance in key geographic areas to promote sustainable fisheries management; to strengthen and enhance existing enforcement capabilities to combat illegal, unreported, and unregulated fishing; and to promote implementation of the Port State Measures Agreement.

Sec. 6. Removing Barriers to Aquaculture Permitting. (a) For aquaculture projects that require environmental review or authorization by two or more agencies in order to proceed with the permitting of an aquaculture facility, when the lead agency has determined that it will prepare an

environmental impact statement (EIS) under NEPA, the agencies shall undertake to complete all environmental reviews and authorization decisions within 2 years, measured from the date of the publication of a notice of intent to prepare an EIS to the date of issuance of the Record of Decision (ROD), and shall use the "One Federal Decision" process enhancements described in section 5(b) of Executive Order 13807 of August 15, 2017 (Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure Projects), and in subsections (a)(ii) and (iii) of this section. For such projects:

(i) NOAA is designated as the lead agency for aquaculture projects located outside of the waters of any State or Territory and within the exclusive economic zone of the United States and shall be responsible for navigating the project through the Federal environmental review and authorization process, including the identification of a primary point of contact at each cooperating and participating agency;

(ii) Consistent with the "One Federal Decision" process enhancements, all cooperating and participating agencies shall cooperate with the lead agency and shall respond to requests for information from the lead agency in a timely manner;

(iii) Consistent with the "One Federal Decision" process enhancements, the lead agency and all cooperating and participating agencies shall record all individual agency decisions in one ROD, unless the project sponsor requests that agencies issue separate NEPA documents, the NEPA obligations of a cooperating or participating agency have already been satisfied, or the lead agency determines that a single ROD would not best promote completion of the project's environmental review and authorization process; and

(iv) The lead agency, in consultation with the project sponsor and all cooperating and participating agencies, shall prepare a permitting timetable for the project that includes the completion dates for all federally required environmental reviews and authorizations and for issuance of a ROD, and shall make the permitting timetable publicly available on its website.

(b) Within 90 days of the date of this order, the Secretary of the Army, acting through the Assistant Secretary of the Army for Civil Works, in consultation with the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Homeland Security, the Administrator of the Environmental Protection Agency, other appropriate Federal officials, and appropriate State officials, shall:

(i) develop and propose for public comment, as appropriate and consistent with applicable law, a proposed United States Army Corps of Engineers nationwide permit authorizing finfish aquaculture activities in marine and coastal waters out to the limit of the territorial sea and in ocean waters beyond the territorial sea within the exclusive economic zone of the United States;

(ii) assess whether to develop a United States Army Corps of Engineers nationwide permit authorizing finfish aquaculture activities in other waters of the United States;

(iii) develop and propose for public comment, as appropriate and consistent with applicable law, a proposed United States Army Corps of Engineers nationwide permit authorizing seaweed aquaculture activities in marine and coastal waters out to the limit of the territorial sea and in ocean waters beyond the territorial sea within the exclusive economic zone of the United States;

(iv) assess whether to develop a United States Army Corps of Engineers nationwide permit authorizing seaweed aquaculture activities for other waters of the United States;

(v) develop and propose for public comment, as appropriate and consistent with applicable law, a proposed United States Army Corps of Engineers nationwide permit authorizing multi-species aquaculture activities in marine and coastal waters out to the limit of the territorial sea and in ocean waters beyond the territorial sea within the exclusive economic zone of the United States; and

Sec. 7. Aquaculture Opportunity Areas. (a) The Secretary of Commerce, in consultation with the Secretary of Defense, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Homeland Security, the Administrator of the Environmental Protection Agency, other appropriate Federal officials, and appropriate Regional Fishery Management Councils, and in coordination with appropriate State and tribal governments, shall:

(i) within 1 year of the date of this order, identify at least two geographic areas containing locations suitable for commercial aquaculture and, within 2 years of identifying each area, complete a programmatic EIS for each area to assess the impact of siting aquaculture facilities there; and

(ii) for each of the following 4 years, identify two additional geographic areas containing locations suitable for commercial aquaculture and, within 2 years of identifying each area, complete a

programmatic EIS for each area to assess the impact of siting aquaculture facilities there.

(b) A programmatic EIS completed pursuant to subsection (a) of this section may include the identification of suitable species for aquaculture in those particular locations, suitable gear for aquaculture in such locations, and suitable reporting requirements for owners and operators of aquaculture facilities in such locations.

(c) In identifying specific geographic areas under subsection (a) of this section, the Secretary of Commerce shall solicit and consider public comment and seek to minimize unnecessary resource use conflicts as appropriate, including conflicts with military readiness activities or operations; navigation; shipping lanes; commercial and recreational fishing; oil, gas, renewable energy, or other marine mineral exploration and development; essential fish habitats, under the Magnuson-Stevens Fishery Conservation and Management Act; and species protected under the Endangered Species Act of 1973 or the Marine Mammal Protection Act.

Sec. 8. Improving Regulatory Transparency for Aquaculture. (a) Within 240 days of the date of this order, the Secretary of Commerce, in consultation with other appropriate Federal and State officials, shall prepare and place prominently on the appropriate NOAA webpage a single guidance document that:

(i) describes the Federal regulatory requirements and relevant Federal and State agencies involved in aquaculture permitting and operations; and

(ii) identifies Federal grant programs applicable to aquaculture siting, research, development, and operations.

(b) The Secretary of Commerce, acting through the Administrator of NOAA, shall update this guidance as appropriate, but not less than once every 18 months.

Sec. 9. Updating National Aquaculture Development Plan. (a) Within 180 days of the date of this order, the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Commerce, in consultation with the Joint Subcommittee on Aquaculture, established pursuant to the National Aquaculture Act of 1980 (16 U.S.C. 2801 *et seq*.), shall assess whether to revise the National Aquaculture Development Plan, consistent with 16 U.S.C. 2803(a)(2) and (d), in order to strengthen our Nation's domestic aquaculture production and improve the efficiency and predictability of

aquaculture permitting, including permitting for aquaculture projects located outside of the waters of any State or Territory and within the exclusive economic zone of the United States.

(b) In making any revisions to the National Aquaculture Development Plan as a result of this assessment, the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Commerce shall, as appropriate:

(i) include the elements described at 16 U.S.C. 2803(b) and (c) and the appropriate determinations described at 16 U.S.C. 2803(d);

(ii) include programs to analyze, and formulate proposed resolutions of, the legal or regulatory constraints that may affect aquaculture, including any impediments to establishing security of tenure — that is, use rights with a specified duration tied to a particular location — for aquaculture operators, owners, and investors; and

(iii) consider whether to include a permitting framework, including a delineation of agency responsibilities for permitting and associated agency operations, consistent with section 6 of this order and with the "One Federal Decision" Framework Memorandum issued on March 20, 2018, by the Office of Management and Budget and the Council on Environmental Quality, pursuant to Executive Order 13807.

(c) The Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Commerce, in consultation with the Subcommittee on Aquaculture, shall subsequently assess, not less than once every 3 years, whether to revise the National Aquaculture Development Plan, as appropriate and consistent with 16 U.S.C. 2803(d) and (e). If the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Commerce decide not to revise the National Aquaculture Development Plan, they shall within 15 days of such decision submit to the Assistant to the President for Economic Policy and the Assistant to the President for Domestic Policy a report explaining their reasoning.

Sec. 10. Promoting Aquatic Animal Health. (a) Within 30 days of the date of this order, the Secretary of Agriculture, in consultation with the Secretary of the Interior, the Secretary of Commerce, other appropriate Federal officials, and States, as appropriate, shall consider whether to terminate the 2008 National Aquatic Animal Health Plan and to replace it with a new National Aquatic Animal Health Plan.

(b) Any new National Aquatic Animal Health Plan shall be completed, consistent with applicable law, within 180 days of the date of this order.

(c) Any new National Aquatic Animal Health Plan shall include additional information about aquaculture, including aquaculture projects located outside of the waters of any State or Territory and within the exclusive economic zone of the United States, and shall incorporate risk-based management strategies as appropriate.

(d) If adopted, the Plan described in subsections (b) and (c) of this section shall subsequently be updated, as appropriate, but not less than once every 2 years, by the Secretary of Agriculture, in consultation with the Secretary of the Interior, the Secretary of Commerce, other appropriate Federal officials, and States, as appropriate.

Sec. 11. International Seafood Trade. (a) In furtherance of fair and reciprocal trade in seafood products, within 30 days of the date of this order, the Secretary of Commerce shall establish an Interagency Seafood Trade Task Force (Seafood Trade Task Force) to be co-chaired by the Secretary of Commerce and the United States Trade Representative (Co-Chairs), or their designees. The Secretary of Commerce shall, to the extent permitted by law and within existing appropriations, provide administrative support and funding for the Seafood Trade Task Force.

(b) In addition to the Co-Chairs, the Seafood Trade Task Force shall include the following members, or their designees:

(i) the Secretary of State;

(ii) the Secretary of the Interior;

(iii) the Secretary of Agriculture;

(iv) the Secretary of Homeland Security;

(v) the Director of the Office of Management and Budget;

(vi) the Assistant to the President for Economic Policy;

(vii) the Assistant to the President for Domestic Policy;

(viii) the Chairman of the Council of Economic Advisers;

(ix) the Under Secretary of Commerce for International Trade;

(x) the Commissioner of Food and Drugs;

(xi) the Administrator of NOAA; and

(xii) the heads of such other agencies and offices as the Co-Chairs may designate.

(c) Within 90 days of the date of this order, the Seafood Trade Task Force shall provide recommendations to the Office of the United States Trade Representative in the preparation of a comprehensive interagency seafood trade strategy that identifies opportunities to improve access to foreign markets through trade policy and negotiations, resolves technical barriers to United States seafood exports, and otherwise supports fair market access for United States seafood products.

(d) Within 90 days of the date on which the Seafood Trade Task Force provides the recommendations described in subsection (c) of this section, the Office of the United States Trade Representative, in consultation with the Trade Policy Staff Committee and the Seafood Trade Task Force, shall submit to the President, through the Assistant to the President for Economic Policy and the Assistant to the President for Domestic Policy, the comprehensive interagency seafood trade strategy described in subsection (c) of this section.

Sec. 12. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

THE WHITE HOUSE,
May 7, 2020.