North Pacific Fishery Management Council

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DRAFT

Dr. Richard W. Spinrad
Under Secretary of Commerce for Oceans and Atmosphere, and NOAA Administrator
115 East-West Highway, 14th Floor Silver Spring, MD 20910
Via Federal e-Rulemaking Portal at *https://www.regulations.gov/docket/NOAA-HQ-2021-0109*.

Dear Dr. Spinrad:

The North Pacific Fishery Management Council recently reviewed the request for comments issued by NOAA related to Executive Order 14008, Tackling the Climate Crisis at Home and Abroad[1]. NOAA has invited the public to provide input to help guide NOAA's conservation and restoration of ocean, coastal, and Great Lakes resources, NOAA's engagement on the development of the American Conservation and Stewardship Atlas; and NOAA's efforts to track its progress toward advancing the goals and recommendations. On behalf of the North Pacific Council, I am writing to provide you with comments on the eight topics as listed in the FR notice, and focused on actions that NOAA is authorized to take under its existing authorities and associated measures.

1. Which of NOAA's existing authorities and associated measures, are most appropriate for addressing the threats identified in the Report, which are the disappearance of nature, climate change, and inequitable access to the outdoors.

> Council comments: NOAA's existing authorities are mostly sufficient for addressing the threats identified in the report, and which could be applied appropriately through existing processes.
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> The Magnuson-Stevens Fishery Conservation and Management Act (MSA), which was first adopted in 1976, established a 200-mile Exclusive Economic Zone (EEZ) and created eight regional fishery management councils to develop fishery conservation and management plans and regulations to be implemented by NOAA Fisheries. The MSA further establishes ten National Standards that must be met for all conservation and management actions.
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> The fishery management council process has been proven successful in conserving, restoring, and managing marine resources and important ecosystem areas through open and transparent engagement with stakeholders. In the North Pacific, the Council has a long history of using an ecosystem-based approach to managing fisheries to provide for abundant fish stocks, while minimizing impacts of the fisheries on marine mammals, seabirds, and benthic marine habitats. Climate change is affecting marine resources in our region, however, and the Council is working closely with NOAA Fisheries to develop more climate resilient fishery management plans.
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> Although NOAA Fisheries, through its partnership with the fishery management councils, has the authority under the MSA to conserve essential fish habitats from the effects of fishing, it has very limited authority to conserve these habitats from impacts unrelated to fishing. For example, if salmon habitat is threatened by a proposal to dam the river for hydroelectric power, or mining,

[1] 86 FR 59996

dredging, or other potentially destructive activity, the Councils and NOAA fisheries can only highlight concerns in a letter to the US Army Corps of Engineers. The Corps can still proceed with approval of the project and may, or may not, take into account any mitigation measures suggested by NOAA Fisheries. Essential fish habitat could be better protected if NOAA Fisheries was granted expanded authorities to address non-fishing threats.

Equitable access to the outdoors includes equitable access to ecosystem services, such as providing healthy, affordable, and sustainable seafood to a diverse range of consumers, including those living in underserved, economically disadvantaged communities in the U.S. The regional fishery management councils, working with NOAA Fisheries, have achieved sustainable fisheries across the United States. In the North Pacific, vessels homeported in coastal communities in Alaska, Washington, and Oregon harvest over 2,200,000 metric tons of groundfish off Alaska, worth approximately $2.5 billion first wholesale. This is a fraction of the biomass that could be harvested sustainably in the North Pacific EEZ. Fish harvests off Alaska annually account for about 60% of the total U.S. catch, and are critical to ensuring food security for the nation that consists of a broad range of seafood products from an affordability perspective.

2. Whether NOAA should better apply its existing authorities and associated measures, as listed above, to advance the goals and recommendations in the Report.

Council comments: To address the threats of the disappearance of nature, climate change, and inequitable access to the outdoors, NOAA should fully apply its existing authorities. NOAA has the authority to conduct research to better understand climate change, plan ahead, build resilience to climate change, and react to unforeseen events. However, this will require expanded funding for NOAA for research and monitoring in addition to maintaining funding for our core fisheries and ecosystem surveys. NOAA should also consider the importance of food security, from a seafood perspective, for both fishery dependent communities, and other communities in the nation. Maintaining current levels of domestic seafood production, while we cope with climate change impacts and ecosystem changes, should be a goal of this program.

NOAA should continue to support the regional fishery management councils in advancing the goals and recommendations in the report. In the North Pacific, NOAA Fisheries is working closely with the North Pacific Council's Climate Change Task Force. The Task Force is preparing a Climate Readiness report that will summarize the state of our current management framework and actions with respect to climate resilience and adaptation response. This will then provide a snapshot of the 'status quo' management framework from which to develop a suite of specific recommendations to the Council to improve resilience moving forward in proposed management actions.

Increasingly, the Council recognizes that management of commercial fisheries in federal waters is linked at an ecosystem level with the subsistence fisheries of the coastal communities that border the large marine ecosystems in the North Pacific. In recognition of this overlap of interest and dependency on healthy ecosystems, another focus of the Bering Sea FEP is formation of a Traditional Knowledge/Local Knowledge Task Force with the objective of incorporating the long time series of observations of our marine ecosystems that is held by the indigenous peoples and the knowledge of experienced commercial fisher with the NOAA survey efforts to expand our understanding of the impacts of climate change. The Council also established the objective of establishing communication with subsistence dependent communities, so both the communities and the Council can share, in real time, concerns about the impacts of climate change on our respective stakeholders and seek to avoid creating problems for each other as we adapt to climate

change impacts. The Council is excited about this effort and believes that it merits support from NOAA.

We appreciate that NOAA and the Alaska Fisheries Science Center are collaborating with the Council on our effort to improve and provide climate resilient fisheries management. NOAA can best carry out the goals of the EO by continuing to participate in these Council efforts rather than focusing resources on development of additional regulatory and administrative requirements that have less meaningful impact. Continued scientific, financial, and management support from NOAA will be necessary to advance this work.

One of the most crucial aspects of continued climate resiliency that NOAA can directly provide is long-term, consistent funding and support for the multiple fisheries and ecosystem surveys that form the fundamental basis of fisheries management in the North Pacific. However, NOAA should also recognize that while climate is an important driver, it should not become the singular management consideration. In some cases, other biological, social, and economic factors that directly impact fish and protected species abundance may be more immediate than climate change impacts and should be addressed by resource managers as needed. This requires a flexible and adaptive approach by NOAA and the Council in addressing research and management priorities.

Recent changes in Bering Sea crab abundance illustrate the need for an adaptive research approach to provide for resilient fisheries in the face of climate change. Water temperature and ice cover in the Bering Sea have been highly variable in recent years, and appear to have affected crab abundance, recruitment, distribution, predation on crab, and may have impacted survey catchability of crabs. Cooperative crab research with industry being undertaken by the Bering Sea Fisheries Research Foundation (BSFRF) is seeking to understand these impacts of climate change through tagging studies and other important crab research. The Council notes that a winter survey conducted or supported by NOAA Fisheries could greatly enhance and inform the results of the BSFRF tagging work by helping to understand the center of abundance for each crab stock relative to tag returns, distribution of molting and mating crabs, and distribution of crabs in the winter, when several primary groundfish fisheries occur. The Council requests that NOAA support this collaborative research.

3. What criteria NOAA should consider in working with other agencies to identify existing or potential new “conserved” or “restored” areas for the purpose of advancing the goals and recommendations in the Report.

Council comments: The first step in determining whether new conservation areas are needed or can be identified is to define the term ‘conservation area’. From the perspective of the Council, a conservation area is an established, geographically defined area, with planned management or regulation of activities that provides for the maintenance of biological productivity and biodiversity, ecosystem function and services (including providing healthy, sustainable seafood to a diverse range of consumers).

Given this definition, the Council notes that the MSA already provides for the conservation of 100% of the marine area included in the Exclusive Economic Zone (EEZ). All fish resources and marine fish habitats are fully conserved under the MSA though the establishment of annual catch limits, and other marine ecosystem components, such as marine mammals and seabirds are conserved and restored under the MSA and other laws (e.g., ESA, MMPA).

In addition to EEZ-wide conservation measures (including catch limits and many other tools), the Council notes that there are over 540 special marine conservation areas off Alaska, including 238 fishery area closures in the EEZ and over 300 areas established in State waters. Of the areas in the EEZ off Alaska, 666,497 nm^2 are closed to bottom trawling year-round, representing about 65.1% of the EEZ (1,025,770 nm^2). A total of 153,832 nm^2 are closed year-round to all bottom tending gears (15.0% of EEZ). A list of North Pacific EEZ conservation areas can be found here: https://meetings.npfmc.org/CommentReview/DownloadFile?p=2a49030d-a058-40d2-b641-1b2722e18f41.pdf&fileName=E1%20OECM%20Update.pdf

4. What additional scientific information, Indigenous Knowledge, or other expertise NOAA should consider in order to advance the goals and recommendations in the Report.

Council comments: The Council is working to incorporate Indigenous Knowledge into its fishery management program, consistent with the goals and recommendations of the Report. In 2018, as action module to the Bering Sea Fishery Ecosystem Plan, the Council established a Local Knowledge, Traditional Knowledge, and Subsistence (LKTKS) Taskforce. The goal is to develop protocols for using LK and TK in management, and to understand the impacts of Council decisions on subsistence resources, users, and practices. More specifically, this module aims to provide a roadmap for operationalizing LK and TK (potentially through processes like Co-Production of Knowledge) in the short- to long-term, as well as to formulate methods for assessing the likelihood a given Council action may affect subsistence resources, the ability of users to access those resources, or impact subsistence practices. Outcomes are expected to inform where and how these types of knowledge and information should or could consistently enter Council processes. We recommend that NOAA continue to support this work.

Scientific information from all sources should be considered, but carefully evaluated for use in furthering the goals of the report. We note for example, that the push for conserving at least 30% of the ocean stems from research mainly conducted on areas outside of the U.S., and the research has been focused primarily on areas in nearshore tropical marine waters or in countries without environmental controls, sufficient monitoring, or adequate enforcement. The U.S. already has effective conservation and management of its marine environments, and effective enforcement of all environmental regulations.

NOAA should consider the scientific information on marine conservation areas in the U.S., including those that indicate only limited benefits of establishing marine protected areas in non-tropical marine areas. For example, the intensively reviewed no-take marine protected area network of the Channel Islands National Marine Sanctuary produces no benefits to fish populations outside of the area (Ovando et al. 2021). And yet this marine protected area network has been used as a model for protected areas around the world. In subarctic marine ecosystems, such the North Pacific, where biodiversity of fish species is relatively low but with high abundance of individual species, the benefits of marine conservation areas may be limited only to species that have low mobility such as corals or scallops (McDermott et al. 2017). This suggests that the 30% threshold established by the Executive Order, may be an overly excessive target for subarctic marine ecosystems such as off Alaska.

Recent papers have attempted to rank the value of MPAs based on categorizing the level of conservation based on the restrictions applied to fisheries (Sletten et al. 2021,

Grorud-Colvert et al. 2021). However, these studies are seriously flawed in that the relative scales of protection are highly skewed, i.e., they are not equal steps. For example, an area where all bottom tending fishing gear is prohibited would be considered least restrictive and lightly protective, and an area where a prohibition on all commercial fisheries and most recreational fisheries would be considered only moderately restrictive. Only those areas where all marine life removal is prohibited would be considered as protected. An analogy to this approach is that it would be similar to categorizing all mountains under 25,000 feet as small hills, and only areas taller than 27,000 feet should be classified as mountains. To claim that areas where bottom trawling and other fishing gears have been prohibited provides only minimal conservation benefits is not supported by the science or decades of management policy and experience.

McDermott, Susanne F., and 11 others. 2017. Lessons on Marine Protected Area Management in Northern Boreal Regions from the United States and Norway. Marine Fisheries Review 79(1): 38-51.

Ovando, Daniel, Jennifer E. Caselle, Christopher Costello, Olivier Deschenes, Steven D. Gaines, Ray Hilborn, and Owen Liu. 2021. Assessing the population-level conservation effects of marine protected areas. Conservation Biology 2021:1–10.

Grorud-Colvert and 40 others. 2021. The MPA Guide: A framework to achieve global goals for the ocean. Science 373, eabf0861 (2021). DOI: 10.1126/science.abf0861.

Sletten and 7 others. 2021. Beyond the boundaries: How regulation-centered marine protected area information improves ocean protection assessments. Marine Policy 124.

5. How NOAA should consider tracking its actions and measuring its progress, including with partners, toward advancing the goals and recommendations in the Report.

Council comments: There is more to conserving marine biodiversity that just quantifying the total amount of subareas that has been established to provide additional conservation, especially under a changing climate. The sustainable level of seafood production in the North Pacific provides another measure of how ecosystem function has maintained, even if it cannot be fully preserved under climate change. A healthy ecosystem produces seafood for domestic consumption. Limits on the harvest of fish species and the protection of fish habitat and marine mammals and endangered species in 100% of the EEZ provides for the conservation of marine biodiversity far beyond what can be achieved through the conservation of just a portion of the ocean.

Rather than just focus on how much area is set aside and designated as conservation area, a better measurement of progress is tracking changes in biodiversity, from the genetic to ecosystem level. Is the diversity of ecosystems in a given region changing? Are there changes in species richness or diversity? Are unique ecosystems still intact and are endemic species present in the region? Is the genetic diversity of a species declining, and if so, what is the rate?

The Council receives and annual ecosystem status report for each of the large marine ecosystems under its jurisdiction (Bering Sea, Aleutian Islands, Gulf of Alaska). The report is prepared by NOAA Fisheries scientists and other contributors. The purpose of the status reports is to summarize and synthesize climate and fishing effects (historical and future) from an ecosystem perspective, based of status and trends of ecosystem components and ecosystem-level attributes using an indicator approach. This provides a coherent view of the ecosystem effects to clearly recommend precautionary thresholds, if any, for establishing annual catch limits for groundfish, which may be required to protect ecosystem integrity. The ecosystem status reports provide an excellent tool for tracking progress towards the goals outlined in the America the Beautiful Report.

6. What actions NOAA should consider taking to support non-Federal entities, including tribal, state, territorial, and local governments and non-governmental organizations and other private entities, to advance their efforts to conserve and restore U.S. lands and waters.

Council comments: The government can authorize, encourage, and provide funding for States, Tribes, and local governments to conserve and restore marine ecosystems within their jurisdiction or boundaries. Non-Federal entities can also assist in providing access to the outdoors through the construction of boat ramps, other recreational facilities, and educational and outreach materials.

7. What actions NOAA should consider taking to facilitate broad participation in the America the Beautiful initiative.

Council comments: The Council system provides an excellent public participatory process for providing input into the initiative and enhancing the conservation areas that have been established and implemented in the EEZ.

8. What additional information NOAA should consider as relevant to its role in implementing the America the Beautiful initiative.

Council comments: NOAA should be promoting the conservation of marine resources and ecosystems under existing laws and procedures, regardless of the amount of total coverage by special conservation areas. As previously noted, conservation is achieved in 100% of the EEZ through the requirements to provide optimum yield, prevent overfishing, minimize bycatch, and protect fish habitats using the best available science.

Area based management is just one tool of many that fishery managers can employ to conserve and restore marine and coastal ecosystems. Area-based management can be a valuable conservation tool, but it is not the right tool in every case and requires a flexible and adaptable application in response to climate change. Efforts should be taken to catalogue and quantify other beneficial conservation measures NOAA implements under its existing authorities.

The 30% conservation area threshold established by the America the Beautiful initiative has already been met. A preliminary report to the Council Coordination Committee in October 2021 showed that there are at least 663 conservation areas in the U.S. EEZ, and all bottom tending fishing gears have been prohibited in more than 54% of the EEZ. These areas essentially prohibit the harvesting of demersal fish and entirely protect benthic habitats and ecosystems from any impacts due to fishing. In other words, conservation areas that protect biodiversity already exceed the 30% threshold by a large margin. The preliminary report can be found here: https://static1.squarespace.com/static/56c65ea3f2b77e3a78d3441e/t/6168bf42a502285352c8a245/1634254670431/Tab+10aii_ABM+SubComPPT_Oct2021CCC.pdf

Thank you for the opportunity to provide comments on the eight topics as listed in the FR notice, which are focused on actions that NOAA is authorized to take under its existing authorities and associated measures. We are already working hard to meet these shared goals and have committed significant time and resources to a comprehensive approach. We look forward to continuing this dialog as you receive additional input, and we welcome any opportunity to provide more detail on our approach.

Sincerely,

cc: Ms. Janet Coit, Assistant Administrator, NOAA Fisheries