

ECOSYSTEM WORKGROUP REPORT ON THE COUNCIL GUIDANCE DOCUMENT ON OFFSHORE NON-FISHING ACTIVITIES

At the Pacific Fishery Management Council's (Council's or PMFC) September 2020 meeting, the Council asked that the Ecosystem Workgroup (EWG) draft a stand-alone guidance document discussing the Council's priorities for federal and state agencies analyzing or permitting non-fishing activities in the California Current Ecosystem. The Council directed that the EWG excerpt Chapter 5 of the existing Fishery Ecosystem Plan (FEP,) *PFMC Policy Priorities for Ocean Resource Management*, to serve as the baseline for the stand-alone guidance document.

For this March 2021 meeting, the EWG updated the outline for this new stand-alone document from the outline we had provided as Chapter 5 in [Agenda Item F.2., Attachment 1](#), based on comments received at the September 2020 meeting and initial ideas discussed in the winter workshops for the Climate and Communities Initiative. This report is being submitted to the Council's advance briefing book in early February. Once we have had more opportunities to review the results of those workshops, we may have further recommendations for revising the outline and contents of this document.

The EWG would appreciate Council guidance on:

- Whether the Council prefers this document continue as a stand-alone document outside the FEP; and,
- Whether the Council has suggestions for modifying the outline before the EWG drafts the full document.

Finally, the EWG notes that this draft guidance document may be useful to the Council's discussions under Agenda Item C.2., Marine Planning Update.

Pacific Fishery Management Council Guidance on Agency Activities in the California Current Ecosystem

The Council's policies for CCE resources address species, habitat types, fisheries, and ecological functions of particular concern to, or that may strongly drive, the Council's work. Unlike the FEP, this document is not intended to guide future Council work, but to provide external entities with guidance on Council priorities for the CCE's status and functions. External entities that may be interested in the Council's ecosystem-based management planning process and in the Council's cumulative management priorities may include Federal or state agencies conducting activities within the CCE, regional and national marine use planning bodies, and international fishery and ocean resource management bodies.

The Pacific Council is one of eight regional fishery management councils authorized by the MSA and is responsible for the management of fisheries of the living marine resources of the U.S. EEZ (3-200 nm) off the coasts of Washington, Oregon, and California. In addition to having management responsibility for 100+ species of fish and their associated fisheries of the U.S. West Coast EEZ, the Pacific Council is responsible for reviewing non-fishing activities that may affect EFH for Council-managed species. Cumulatively, EFH for Council-managed species extends throughout the U.S. West Coast EEZ, and inshore of the EEZ to encompass salmon rivers as far east as Idaho. Council priorities for its managed species may be found within its four FMPs. In general, the Council is interested in and may have concerns with any projects that have potential adverse effects on living marine resources, the biological diversity of marine life, the functional integrity of the marine ecosystem, or to important marine habitat or associated biological communities.

1 Non-Fishing Activities of Particular Interest for their Potential Effects on the Marine Environment

The Council is concerned with the potential effects of non-fishing activities that could directly or indirectly harm or kill any of its managed species at any of their life stages, which are identified and discussed in detail in the FMPs. Included in this section will be descriptions of non-fishing human activities (current and future) that may negatively affect Council managed species (similar to Table 4.2 in draft Chapter 4, EWG Report 1).

2 Species of Particular Interest for Protection from the Effects of Non-Fishing Activities

The Council has jurisdiction over fish, which the MSA defines as "finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds." NOAA and the USFWS administer recovery programs for all marine and anadromous species listed as threatened or endangered under the ESA, and administer protection programs for marine mammals under the MMPA. The USFWS manages protection programs for bird species, including seabirds, under the MBTA. The Council is concerned with the potential effects of non-fishing activities that could directly or indirectly harm or kill any of its managed species at any of their life stages, which are identified and discussed in detail in the FMPs. There are, however, some species and species groups that are likely to be more vulnerable to the effects of non-fishing activities on their life cycles and habitats.

2.1 *Anadromous Species*

2.2 *Species Protected through an Overfished Species Rebuilding Program*

2.3 *Species Dependent upon a Fixed Habitat Type*

2.4 *Species with Distributions Affected by Climate Variability and Change*

2.5 *Species and Locations with Tribal Treaty Rights to Fishing*

2.6 *Internationally-Managed Species*

3 Habitats of Particular Interest for Protection from the Effects of Non-Fishing Activities

Under the MSA, fishery management councils must describe, identify, conserve and enhance EFH for managed species that are under a Federal fishery management plan. The MSA defines EFH as “those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity”, which includes physical and chemical water column properties and biological communities of both water and substrate 16 U.S.C.§1802. That definition, in combination with the diverse life histories of the 100+ species under Council management, has necessarily resulted in a large geographic area defined as EFH for the cumulative group of Council-managed species. With regard to non-fishing activities, the Council is authorized to comment on activities that may affect EFH for managed species under its authority, and is required to comment on activities that are likely to substantially affect the habitat of an anadromous species under its authority (i.e., salmon).

4 Sustaining Community Participation in Fisheries

The Council manages West Coast fisheries for species within its four FMPs: CPS, groundfish, HMS, and salmon. However, participants in the Council process also participate in state, tribal, and international management processes for West Coast species outside of the FMPs. Therefore, while the Council is particularly interested in non-fishing activities that may disturb or prevent fishing activities of Council-managed fisheries, Council process participants are also concerned with non-fishing activities that may affect all fishing opportunities for West Coast fishing communities. Communities need viable ports and infrastructure to participate in fisheries. These needs extend beyond just those communities that are significantly dependent upon fishing, although some fishing communities and fishing types may be more vulnerable to disturbance by non-fishing activities than others, as detailed below.

4.1 Communities with a Dependency on Fishery Resources

4.2 Tribal Fishing Communities

4.3 Brief Duration Fisheries

4.4 Location-Constrained Fisheries

5 Ecosystem Structure and Function

Ecosystems are in a constant state of change, and an ecosystem's structure and function will change over time regardless of the level of human intervention with that ecosystem. However, there will be some human activities that have immediate and obvious effects on an ecosystem's structure and function, such as a large-scale oil spill. And, there will be some human activities that have had, and may continue to have, increasing effects on an ecosystem's structure and function over time, such as atmospheric carbon pollution and anthropogenic sound in the oceans.

Fishing, by its nature, alters the structure and function of the ecosystem. In the U.S., however, the MSA requires fishing to be managed so that "a supply of food and other products may be taken and that recreational benefits may be obtained, on a continuing basis; irreversible or long-term adverse effects on fishery resources and the marine environment are avoided; and there will be a multiplicity of options available with respect to future uses of these resources." (16 U.S.C. §1802). The MSA's forward-looking requirement that we manage fisheries so as to ensure their continuing use by future generations is in keeping with worldwide efforts to characterize sustainable human use of the environment.

The U.N.'s Convention on Biological Diversity specifies that a target of an ecosystem approach to managing human interactions with natural resources is "conservation of ecosystem structure and function should be conserved to maintain ecosystem services" (COP 5 2000). The ecosystem service that most concerns the Council is fishing – in other words, the ability of the CCE to support, on an ongoing basis, sustainable fisheries that provide food and recreation to the nation's human population. While the Council is charged with ensuring that fishing itself is sustainable, it is also concerned with non-fishing activities that may jeopardize the roles of fish, animals, and plants within the CCE, and their dynamic relationships to each other and to humans.

While the Council recognizes that not all human activities within the marine environment are governed by laws that require management to ensure use of the environment by future generations, this is the standard that the Council holds for non-fishing activities that may affect Council-managed species. Therefore, the Council would be concerned with any non-fishing activities that have the potential to jeopardize the Council's short- or long-term ability to manage West Coast fisheries so as to provide food and recreation to this and future generations of Americans.