



Pacific Fishery Management Council

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Marc Gorelnik, Chair | Merrick J. Burden, Executive Director

December 23, 2021

National Oceanic and Atmospheric Administration
via [Federal Register portal](#) submission

To Whom It May Concern:

Thank you for the opportunity to comment on National Oceanic and Atmospheric Administration (NOAA) actions related to the preliminary report *Conserving and Restoring America the Beautiful*. The Pacific Fishery Management Council (Council) manages fishing activities in the United States West Coast Exclusive Economic Zone, from 3 – 200 miles offshore. These fisheries include commercial, recreational, and Tribal fisheries for salmon, groundfish, coastal pelagic species, and highly migratory species. The Council operates in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (MSA) mandates and other applicable law to sustainably manage fishery resources, including conserving and protecting important fishery habitats that also provide vital ecosystem services.

On April 16, 2021, the Council submitted a comment letter on Executive Order 14008 (E.O.) *Tackling the Climate Crisis at Home and Abroad*. Section 216(a) of the E.O. calls for a report to the National Climate Task Force with recommendations for achieving the E.O. goals and stating a goal of conserving at least 30 percent of our lands and waters by 2030. In addition, the Council Coordination Committee, consisting of senior staff of all eight regional fishery management councils (RFMCs), sent a letter on the same topic on March 12, 2021. Both letters are attached here.

We believe the Pacific Council and the other RFMCs have made significant progress in achieving this goal and can be a valuable resource for advancing this and other goals of the E.O. for several reasons described in the two letters. In response to the NOAA Request for Information, we offer additional comments here.

Existing Authorities

The MSA provides a highly effective framework and tools to ensure protection of habitat, conservation of marine species, and for rebuilding overfished stocks. Essential fish habitat provisions in the MSA and in regulatory guidance (CFR 600.815) are highly effective at ensuring habitat protections that benefit both fisheries habitat and the broader ecosystem. As described in our prior letter, approximately 86 percent of the United States West Coast Exclusive Economic Zone is closed to bottom trawling and/or all bottom contact fishing gears. This provides both species and benthic habitat protections.

Criteria Related to Conserving and Restoring Areas

Based on the International Union for the Conservation of Nature and the NOAA Marine Protected Area Center definition of conservation areas, those conservation areas promulgated through fisheries management actions do not meet the definition of a “conservation area”. This effectively excludes the vast areas of benthic habitat protections under Council jurisdiction that provide a wide variety of ecosystem services. NOAA should consider adopting criteria that include conservation areas that provide habitat protections and ecosystem services, regardless of the regulatory mechanism.

The NOAA Request for Information includes other questions such as how to track actions and measure progress, what actions can be taken to support local governments, non-governmental organizations, and private entities to advance efforts to conserve and restore U.S. waters, and what action can facilitate broad participation in the America the Beautiful Initiative. While we are not able to offer specific suggestions at this time, the Pacific Council and other RFMCs are regularly engaged with NOAA to help support and inform future actions. We welcome this collaboration and look forward to continuing this work in 2022 and beyond.

Please refer to the two letters attached for more background and information related to E.O. 14008 and the America the Beautiful Initiative. We appreciate the opportunity to provide comments. Please contact Kerry Griffin of my staff if you have any questions or need further information (Kerry.griffin@noaa.gov; 503-820-2409).

Sincerely,



Merrick J. Burden
Executive Director

KFG:acl

Enclosures

Cc: Council Members
Mr. Mike Conroy
Ms. Susan Chambers



Pacific Fishery Management Council

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Marc Gorelnik, Chair | Charles A. Tracy, Executive Director

April 16, 2021

The Honorable Deb Haaland
Secretary of the Interior
U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240

The Honorable Gina Raimondo
Secretary of Commerce
U.S. Department of Commerce
1401 Constitution Ave. NW
Washington, DC 20230

Dear Ms. Haaland and Ms. Raimondo:

The Pacific Fishery Management Council (Pacific Council) appreciates the opportunity to provide our perspective on Section 216(a) of Executive Order (EO) 14008 on Tackling the Climate Crisis at Home and Abroad. The Pacific Council is one of eight regional fishery management councils (RFMCs) created under the Magnuson-Stevens Fishery Conservation and Management Act (MSA), which guides the sustainable use of U.S. marine and anadromous fishery resources and requires protection of important marine habitats.

You recently received a [letter](#) from the Council Coordination Committee, which represents all eight RFMCs. Building on that letter, we would like to highlight actions the Pacific Council has taken that reflect the goals of Section 216(a) of the EO. We also offer comments on the recently revised definition of marine protected areas adopted by the National Marine Protected Areas Center.

Protecting vital marine habitats

The MSA requires RFMCs to protect habitats on which the marine ecosystem depends. Many of the Pacific Council's conservation actions are designed specifically to protect such important habitats. On January 1, 2020, the Pacific Council's Groundfish Fishery Management Plan Amendment 28 was implemented after a nearly 10-year process to review and revise its essential fish habitat (EFH) provisions. This lengthy and complicated effort was achieved through a collaborative process involving the fishing industry and the environmental community and is viewed by all parties as a resounding success. As a result of Amendment 28, bottom trawl fishing is now prohibited in approximately 86 percent of the U.S. West Coast Exclusive Economic Zone (EEZ) and all bottom contact gear is prohibited in approximately 39 percent of the EEZ. This includes:

- 123,487 square miles at depths greater than 3,500 meters protected from all bottom contact fishing to protect deep-sea corals, sponges, and other important and vulnerable habitats;
- Over 30,000 square miles of habitat conservation areas closed to bottom trawling and/or all bottom contact fishing;
- 127,440 square miles closed to bottom trawling in waters deeper than 700 fathoms.

The Pacific Council and the National Marine Fisheries Service (NMFS) are required to use EFH provisions to avoid and minimize fishing and non-fishing activities that may adversely affect EFH. As part of that process, we also designated key habitat types as habitat areas of particular concern, including estuaries, eelgrass beds, kelp canopy, rocky reefs, submarine canyons, and complex channels, floodplains, and thermal refugia in freshwater salmon EFH, all of which provide a broad range of ecosystem services. While not the focus of this letter, we note that freshwater habitat loss and degradation are among the greatest challenges to Council management of ocean salmon fisheries, but because of water quality effects, it will take more than habitat restoration to recover anadromous fish species. Figure 1 (attached) provides a visual representation and metrics to help provide understanding of the scale of ecosystem and fisheries conservation measures implemented in marine areas by the Pacific Council.

Conserving fish resources

As noted in the Council Coordination Committee letter, the MSA requires each Council to prevent overfishing, rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of fisheries. The Pacific Council has implemented numerous actions to protect and conserve fish resources. For example, in the early 2000s, we implemented a catch share program to protect and rebuild groundfish stocks that were heavily fished during the 1980s and 1990s, resulting in several stocks being declared overfished. Eight of nine overfished groundfish stocks have since been rebuilt as a result of strict rebuilding plans and other management measures adopted by the Pacific Council such as annual catch (including bycatch) limits, monitoring requirements, and area closures.

The Pacific Council also actively engages with international fishery management organizations to work toward fishery and ecosystem conservation. This includes supporting the U.S. co-chair of the Joint Inter-American Tropical Tuna Commission & Western and Central Pacific Fish Commission Working Group in efforts to encourage adoption of sustainable fishery management strategies for Pacific bluefin tuna by Japan and other participating nations. Efforts like these help conserve stocks occurring not just in U.S. waters but across the Pacific.

Ecosystem protections

The Pacific Council has adopted several policies and taken actions to protect and sustain marine ecosystems. In 2013, the Pacific Council adopted a fishery ecosystem plan (FEP) to monitor ecosystem functions, incorporate ecosystem science into fishery management decisions, and identify research priorities to advance ecosystem management. As part of this FEP we created a system of “ecosystem initiatives” that focus specific attention on issues such as climate change and the science and trends of the California Current Large Marine Ecosystem. One of the initiatives under the FEP is a forage fish protection initiative, recognizing the critical role of forage fish in the marine ecosystem. Harvest is prohibited for several genera and species of forage fish that are not currently under Federal management and not harvested in any significant numbers.

Although implemented via MSA fishery management authorities, this forage fish prohibition is for the purpose and benefit of the greater marine ecosystem.

In a separate action, we adopted a prohibition against harvest of krill species in the West Coast EEZ. Krill are small ocean crustaceans that constitute a vital part of the marine food web, with many species of fish, mammals, and birds depending on them for food. This prohibition was enacted in 2009 via Amendment 12 to our Coastal Pelagic Species Fishery Management Plan.

Revised definition of marine protected areas

In 2020, the Marine Protected Areas (MPA) Center adopted a new definition of MPAs and is now using the International Union of Conservation of Nature definition. This resulted in a dramatic reduction in marine areas off the U.S. West Coast considered to be within MPAs. The new definition relies on the stated management objectives rather than the actual conservation value of an area under protection. As we describe above, many of our conservation actions are designed for ecosystem protection rather than fisheries management. We encourage you to carefully consider the criteria you recommend for meeting the EO 14008 objective of conserving 30 percent of land and waters. **Conservation includes wise use, not just preservation.**

Another issue for your consideration is the potential for multiple use areas to affect fishery resources. For example, development of offshore renewable energy areas, which is a priority of this administration, will have adverse impacts to marine habitat and likely result in displacement of fishing effort. Displacement of fishing effort will in turn result in less efficient harvest, including potential crowding, reduced catch per effort, and greater fuel consumption, which would be counter to the intent of the EO. In addition, there are potential transfer effects if markets must rely on foreign fish products, which are generally less sustainably managed than U.S. fisheries and use less clean energy sources. We would appreciate your consideration of how these areas, and the consequential effects on fishing opportunity, are reconciled with the objectives of the EO and other administration priorities, and how they will be evaluated relative to monitoring progress toward the 30 percent conservation objective of the EO. Further, should any additional needs for conservation of marine fishery resources be identified as part of the process of implementing this EO, they should be authorized only through the robust, open public process established by the MSA, which has been successfully used for over forty years to conserve and protect habitat, conserve fishery resources, and protect marine mammals and other listed species through sustainable, science-based management.

In summary, **the MSA and its implementation through the Pacific Council, as a measure of progress, already conserves all the marine and anadromous fishery resources under its authority and protects well over 30 percent of marine habitats in the west coast EEZ.** We also use a public, collaborative process to engage State and Federal agencies, Tribal representatives, fishermen, and other key stakeholders in the conservation and management of living marine resources using the best scientific information available. The MSA not only works well but is the gold standard worldwide for sustainable fishery conservation programs.

Thank you again for considering our comments. We hope they will be helpful in developing your report to the National Climate Task Force described in Section 216(a) of EO 14008. Please feel free to contact Mr. Chuck Tracy, Pacific Fishery Management Council Executive Director, for

questions or clarifications. We welcome further engagement on this or other issues related to implementing the Executive Order.

Sincerely,

A handwritten signature in black ink that reads "Marc Gorelnik". The signature is written in a cursive, flowing style.

Marc Gorelnik
Pacific Council Chair

KFG:kma

Enclosure: *Figure 1: Depiction of Selected Ecosystem and Fisheries Protection Measures*

Cc:

Dr. Paul Doremus, Acting Administrator, NOAA Fisheries
Mr. John Armor, Director, Office of National Marine Sanctuaries
Ms. Lauren Wenzel, NOAA MPA Center
Ms. Carrie Selberg Robinson, Director, Office of Habitat Conservation, NOAA Fisheries
Pacific Council Members

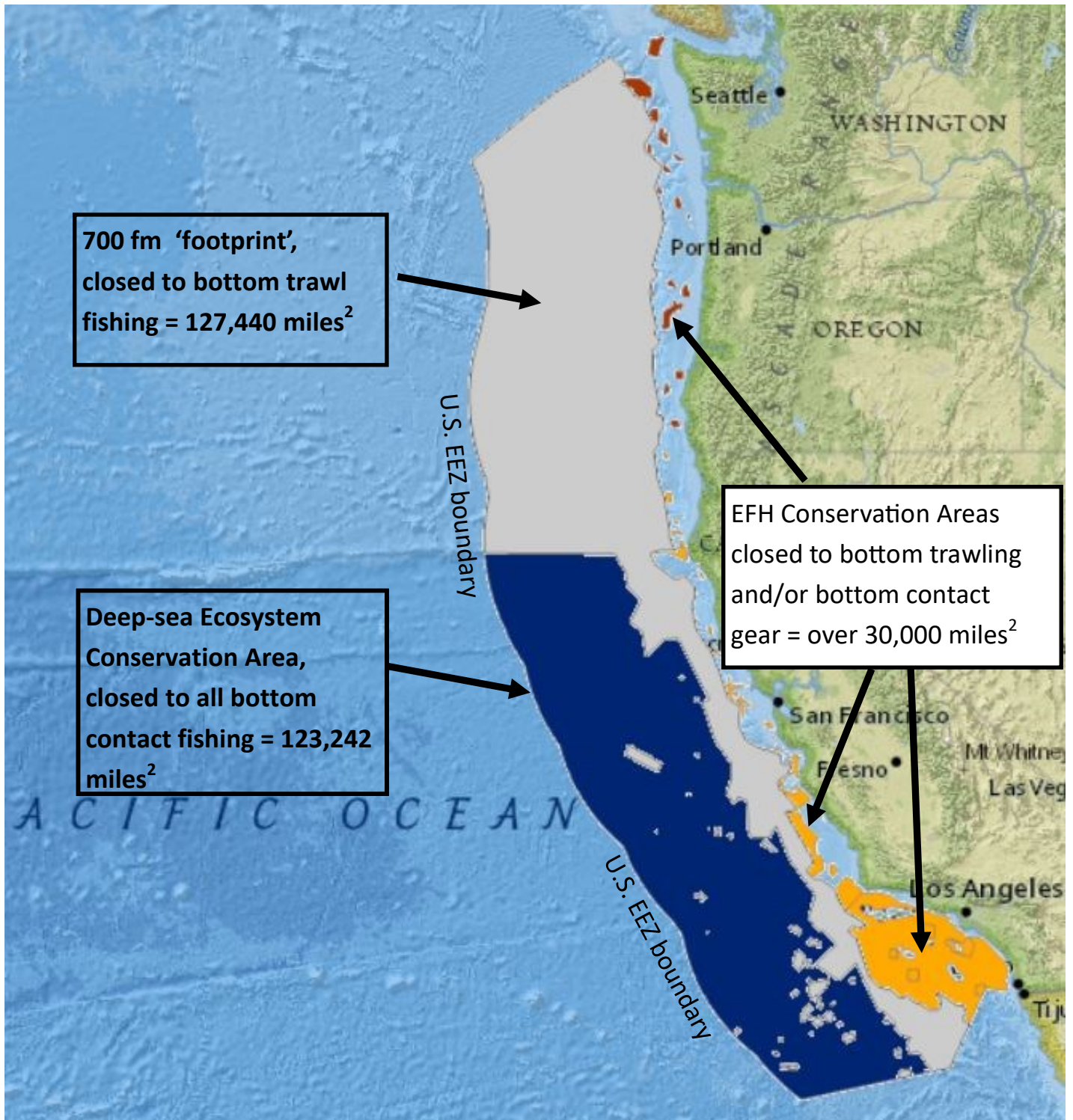


Figure 1: Pacific Fishery Management Council habitat protection closed areas.



Caribbean
Miguel Rolon

Executive Director
Marcos Hanke



Gulf of Mexico

Dr. Carrie Simmons
Executive Director
Dr. Thomas Frazer
Chair



MID-ATLANTIC

Mid Atlantic
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New England

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March 12, 2021

The Honorable Deborah Haaland
Presumptive Secretary of the Interior
Department of the Interior
1849 C Street NW
Washington, DC 20240

The Honorable Gina Raimondo
Secretary of Commerce
Department of Commerce
1401 Constitution Ave NW
Washington, DC 20230

Dear Ms. Haaland and Ms. Raimondo:

The Council Coordination Committee (CCC) appreciates the opportunity to provide our perspective on Section 216(a) of Executive Order (EO) 14008 on Tackling the Climate Crisis at Home and Abroad. The CCC consists of the senior leaders of all eight Regional Fishery Management Councils (RFMCs; Councils), and, as such, represents the RFMCs.

The Magnuson-Stevens Fishery Conservation and Management Act (MSA) is the foundation that guides the use of U.S. marine and anadromous fishery resources. The MSA gives the U.S. the strongest statutory framework in the world for the management of sustainable fisheries and associated ecosystems and the U.S. is recognized as a world leader in marine conservation and sustainable fishery management. The MSA charges the nation's eight RFMCs with the responsibility of achieving its goals and objectives, which are closely aligned with those of the Executive Order.

Section 216(a) of the EO directs you to submit a report to the National Climate Task Force by April 20 recommending steps to work with State, Tribal, and Territorial governments, fishermen, and other key stakeholders to achieve the goal of conserving at least 30 percent of our lands and waters by 2030. We believe the RFMCs have already made significant progress in achieving this goal and can be a valuable resource for advancing this and other goals of the EO for the following reasons:

- The RFMCs have been managing and conserving marine resources, including fish stocks and benthic habitats, as directed by the MSA, for over 40 years. As a result, the U.S. is widely recognized as a leader in sustainable fishing practices.
- RFMCs use a public, collaborative process to engage State and Federal agencies, Tribal representatives, fishermen, and other key stakeholders in the conservation and management of living marine resources using the best scientific information available.
- RFMCs are at the forefront of coping with climate change, adapting management to conserve resources while continuing to provide significant economic benefits and domestic food security to the nation.

- Ecosystem considerations are routinely used to inform management decisions, acknowledging the complex interactions between habitat, fishery resources, and human communities.

Section 216(a)(ii) requires the report to the Task Force to propose guidelines for determining whether lands and waters qualify for conservation, and to establish mechanisms to measure progress toward the 30 percent goal. As explicitly stated by the title of our authorizing legislation, the function of the RFMCs is to conserve fishery resources. Specifically, the MSA requires each Council:

- To have conservation and management measures to prevent overfishing, rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of fisheries.
- To describe and identify Essential Fish Habitat (EFH), minimize fishing impacts to EFH, and identify actions to encourage conservation and enhancement of EFH.

To achieve these conservation and management objectives, the Councils use a wide range of management tools, including ecosystem-based fishery management, management strategy evaluation, and climate change scenario planning, in addition to more traditional spatial management approaches. For example:

- More than 1,000 individual spatial habitat and fisheries conservation measures have been implemented, protecting more than 72 percent of the nation's ocean waters from fishing impacts, which helps to ensure preservation of ecosystem functions.
- All Councils use annual catch limits to prevent overfishing and achieve optimum yield from managed fisheries to achieve the greatest overall benefit to the nation.
- Every Council has or is developing a fishery ecosystem plan(s) to monitor ecosystem functions, incorporate ecosystem science into fishery management decisions, and identify research priorities to advance ecosystem management.

These provisions and examples of implementation of the MSA are entirely consistent with the following dictionary definition of conservation: controlled use and systematic protection of natural resources (Webster). Council management meets this definition¹ by managing for optimum yield and protecting habitats from fishing impacts. Therefore, the entire Exclusive Economic Zone (EEZ) under authority of the MSA should be classified as a conservation area for marine fishery resources, and at least 72 percent of that area should be classified as protected.

In summary, we submit that the MSA and its implementation through the RFMC process, as a measure of progress, already conserves and protects more than 30 percent of marine fishery resources and habitats. The MSA not only works well but is the gold standard worldwide for sustainable fishery conservation programs. Based on the success of the MSA, U.S. participation in Regional Fishing Management Organizations is helping other nations

¹ Other definitions relevant to conservation of marine resources include those in the [MSA Section 3\(5\)](#), the [IUCN category VI](#), and [UNCLOS Article 119](#).

recognize and make progress toward science-based conservation objectives consistent with the EO.

Further, should any additional needs for conservation of marine fishery resources be identified as part of the process of implementing this EO, they should be authorized only through the robust, open public process established by the MSA, which has been successfully used for over forty years to conserve and protect habitat, conserve fishery resources, and protect marine mammals and other listed species through sustainable, science-based management.

Thank you again for considering our comments; we hope they will be helpful in developing your report to the Task Force. Please feel free to contact Mr. Chuck Tracy, Pacific Fishery Management Council, Executive Director, and 2021 CCC coordinator, or any of the undersigned, for questions or clarifications. We welcome further engagement on this or other issues related to implementing the Executive Order.

Sincerely,



Marc Gorelnik, Chair
Pacific Fishery Management Council



Mike Luisi, Chair
Mid-Atlantic Fishery Management Council



Taotasi Archie Soliai, Chair
Western Pacific Fishery Management Council



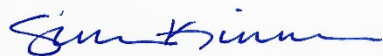
Marcos Hanke, Chair
Caribbean Fishery Management Council



Dr. John Quinn, Chairman
New England Fishery Management Council



Melvin Bell, Chair
South Atlantic Fishery Management Council



Simon Kinneen, Chair
North Pacific Fishery Management Council



Dr. Thomas Frazer, Chair
Gulf of Mexico Fishery Management Council

cc: Mr. Thomas J. Vilsack, Secretary of Agriculture
Ms. Brenda Mallory, Presumptive Chair of the Council on Environmental Quality
Mr. Scott De la Vega, Acting Secretary of the Interior
Dr. Paul Doremus, Acting NOAA Assistant Administrator for Fisheries

Enclosure

Enclosure:

The following sections provide additional details regarding RFMC responsibilities and achievements relevant to Section 216(a) and other topics addressed in the Executive Order.

RFMCs have been effectively conserving marine resources for over 40 years.

The MSA includes 10 National Standards to guide management of our nation's marine fishery resources that require the RFMCs, in addition to preventing overfishing and rebuilding overfished stocks, to minimize bycatch and provide for the sustained participation of fishing communities. The National Standard guidelines require Councils to manage for optimum yield, which is a precautionary approach to ensure harvest does not exceed maximum sustainable yield.

More specifically, the RFMCs develop and implement fishery management and ecosystem plans for marine waters of the U.S. EEZ that:

- Establish conservation objectives and associated management measures for managed fish stocks
- Identify and protect habitat for managed fish species, coral reef, and deep sea coral ecosystems
- Describe and monitor marine ecosystem functions, and apply them in management
- Support coastal economies and communities, including disadvantaged, minority cultures and communities
- Conserve, manage, and protect forage fish for the benefit of marine mammals, birds, and ecosystem functions
- Establish conservation objectives and associated management measures that minimize bycatch of non-target species, including fish, marine mammals, and marine species listed under the Endangered Species Act
- Support U.S. engagement in Regional (international) Fishery Management Organizations (RFMOs)
- Provide a sustainable supply of seafood and fishing opportunity for U.S. citizens and contribute to domestic food security.

Most stocks are managed on annual or biennial regulatory cycles supported by ongoing scientific surveys to support stock assessments. Councils are also required to periodically review and update their fishery management and ecosystem plans, habitat protection plans, stock assessment and fishery evaluation reports, and their research and data needs reports. Each Council has a Scientific and Statistical Committee to independently review scientific information and methodologies to ensure conservation and management measures are based on the best scientific information available.

Fishery management plans and implementing actions address not only the MSA requirements, but also other statutes and EOs², and multi-lateral RFMOs³. All actions taken by the Councils are reviewed by, and if approved, implemented by the Department of Commerce to ensure compliance with other applicable law. These actions are also required under the MSA to have mandatory public review comment periods noticed in the *Federal Register*.

Ecosystem considerations are routinely used to inform management decisions.

The Councils understand that conserving marine ecosystems is essential to achieving our mandate under the MSA. In working towards this goal, the Councils have become pioneers at implementing ecosystem-based management, tailored to the needs of the unique ecosystems that each Council manages. within the EEZ.

Ecosystem-based management also involves managing the human element of the ecosystem, not just the ‘natural’ elements. The Councils manage commercial and recreational fishermen, and even though we do not manage for subsistence users, we recognize their importance and that their usage has been an element of these ecosystems for millennia. This process also fulfills another objective of the EO: to spur economic growth by sustainable practices, as evidenced by nearly a million jobs and \$56 billion in value-added economic impact supported by the commercial, recreational, tribal and subsistence fisheries.

RFMCs are at the forefront of coping with climate change.

Our incorporation of ecosystem-based management places the Councils at the forefront of society’s response to climate change. Fishermen are well aware that warming ocean temperatures are changing the distribution of fish and affecting their productivity - they see it every day in their catches. The RFMCs are actively adapting to the rapidly changing conditions caused by global warming. This response is essential if the benefits of sustainable fisheries are to be realized by future generations. Because of our experience, we are uniquely positioned to evaluate what is needed to achieve the goals of the EO.

RFMCs use a public, collaborative process in the conservation of living marine resources.

The RFMCs accomplish these functions through a process that is open to the public, inclusive of all stakeholders, fair, and with balanced representation. Council members include representatives from state fishery management agencies, National Marine Fisheries Service, U.S. Fish and Wildlife Service, treaty Indian Tribes, territories, U.S. Coast Guard, Department of State, and Department of Commerce-appointed stakeholders representing commercial and recreational fishing interests, environmental organizations, and academics. All Council meetings are noticed in the *Federal Register*, open to the public, and provide extensive opportunity for public comment.

² Including the Administrative Procedure Act, Coastal Zone Management Act, Endangered Species Act, Information Quality Act, Marine Mammal Protection Act, National Environmental Policy Act, National Marine Sanctuaries Act, Paperwork Reduction Act, Regulatory Flexibility Act and Executive Orders 12630, 12866, 12898, 13089, 13132, 13158, 13175, 13272.

³ Including the Western and Central Pacific Fisheries Commission, Inter-American Tropical Tuna Commission, North Pacific Fisheries Commission, Pacific Salmon Commission, Northwest Atlantic Fisheries Organization, and others.