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HEARING ON

LEGISLATION REGARDING OCEANS ISSUES

BEFORE THE

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U.S. HOUSE OF REPRESENTATIVES

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Chairman Huffman, Ranking Member McClintock, and Members of the Committee, thank you for the opportunity to testify today regarding several ocean-related bills. The National Oceanic and Atmospheric Administration (NOAA) celebrates its 50th anniversary this year, and we are proud of our rich history in ocean and coastal monitoring, mapping, prediction, and resource management and conservation. These elements of NOAA's mission support a growing American Blue Economy. Additionally, they were significantly promoted during the White House Summit on Partnerships in Ocean Science and Technology in November, and in the subsequent Presidential Memorandum on Ocean Mapping of the United States Exclusive Economic Zone and the Shoreline and Nearshore of Alaska.

NOAA appreciates the Committee's attention to ocean and coastal issues and your interest in protecting and sustaining these areas. I look forward to discussing these bills with you today.

[H.R.1834 Defending Our National Marine Sanctuaries from Damaging Chemicals Act of 2019](#)

Under the Trump Administration, NOAA has been a proactive champion for America's National Marine Sanctuary System. We designated our newest National Marine Sanctuary in two decades at Mollus Bay on the Potomac River last year, and have prioritized expanding three existing Sanctuaries and designating two new ones over the next year. NOAA agrees that coral reef conservation is an important aspect of several of the national marine sanctuaries, and has comprehensive management plans in place to minimize the risk posed from various threats. In general, these management plans are reviewed every five years and updated when appropriate, such as the case with the proposed Restoration Blueprint for the Florida Keys National Marine Sanctuary. Changes to management plans are made through the well-established process for revising management plans for individual sanctuaries in close collaboration with each

sanctuary's advisory council and local community stakeholders to ensure they have broad support. For this reason, NOAA opposes the prescriptive approach taken in this bill.

[H.R. 2236 The Forage Fish Conservation Act](#), amends the Magnuson-Stevens Fishery Conservation and Management Act (MSA) to implement new standards for the management of forage fish. The National Marine Fisheries Service (NMFS) recognizes the importance of forage fish to maintaining healthy marine ecosystems and agrees in principle with the concept that ecosystem impacts should be a consideration in the management of forage fish. Under the MSA, NMFS and the Regional Fishery Management Councils (Councils) currently have sufficient authority to manage forage fish and to take into account ecosystem impacts through the management of annual catch limits, the establishment of ecosystem component species, and implementation of ecosystem-based fishery management plans. For example, the Mid-Atlantic Fishery Management Council currently conserves and manages 56 forage species or species groups, including five stocks of forage fish under one fishery management plan using the principles established in their *Ecosystem Approaches to Management* guidance document. The Pacific Fishery Management Council also defines forage fish under its Fishery Ecosystem Plan and manages them through their respective fishery management plans. The North Pacific Fishery Management Council takes a precautionary approach to management using existing authority under the MSA. That Council prohibits directed fishing for key forage fish species like eulachon and sets strict limits on the amount of incidental catch of these species to reduce harvest. NMFS and the State of Alaska monitor the catch of these species and can modify management measures using existing authority provided by the MSA, if needed.

The MSA establishes a stakeholder-driven, scientifically based fishery management council process that allows for regionally specific solutions to any particular forage fish issue. NOAA strongly supports this process. Overly broad statutory definitions of forage fish with mandatory conservation and management provisions could undermine that process. By introducing new statutory requirements for specific forage fish, such as for river herring and shad, H.R. 2236 would mandate more detailed guidance for certain forage fish than other fish stocks, which could further circumvent and undermine the long-standing Council process. Provisions in H.R. 2236 that are redundant to existing provisions in MSA, such as for annual catch limits, could become costly and slow down existing processes. Given that NOAA already has authorities to protect forage fish under MSA, we oppose additional legislation.

[H.R. 4679 the Climate-Ready Fisheries Act of 2019](#) requires the Comptroller General to examine efforts by the Councils, the Atlantic States Marine Fisheries Commission, and NOAA to prepare and adapt fishery management plans for the impacts of environmental change. In many circumstances, we are already undertaking the provisions of this Act. In 2015, the Comptroller General was asked to review federal efforts to address the effects of changing climate conditions on federal fisheries management. This resulting report, published in September of 2016 (GAO 16-827) outlined the efforts NMFS and the Councils had taken to date to address climate-related impacts. The U.S. Government Accountability Office (GAO) included two recommendations in the report, which NMFS agreed with and implemented: (1) NMFS should develop guidance on incorporating climate information into the fisheries management process and (2) NMFS should

incorporate key attributes of successful performance measures in the regional action plans and assess whether agency-wide measures for the climate science strategy may be needed.

NOAA continues to work with partners to understand and respond to changing climate and ocean conditions to help minimize impacts, adapt to change, and ensure that future generations can enjoy benefits of healthy marine ecosystems. For example, four climate vulnerability assessments of fish and invertebrate stocks have been completed, with three additional assessments ongoing. Similarly, ecosystem status reports (that include climate information) have been completed for most areas (California current, Bering Sea, Gulf of Alaska, Northeast Atlantic, Mid-Atlantic, Gulf of Mexico, Western Hawaii, and Arctic ecosystems), with hopes to add two more regions in the near future. NOAA is also advancing science and technology to adapt fisheries management to changing climatic conditions. For example, NOAA is beginning to evaluate the performance of fishery management strategies under projected future ocean conditions in the Bering Sea. As part of the White House Summit on Partnerships in Ocean Science and Technology referred to earlier, NOAA announced the release for public comment of four strategy documents on unmanned systems, artificial intelligence, ‘Omics, and cloud computing. The purpose of these documents is to focus agency coordination and improve performance in every NOAA mission area, including stock assessments for fisheries management. NOAA agrees that changing environmental conditions have the potential to impact fish stocks, fisheries, and communities across the United States, and supports all efforts to prepare and adapt United States fishery management for these potential impacts.

[H.R. 4723 the Fish Act of 2019](#)

Salmon species throughout the Nation face daunting challenges -- habitat degradation and loss and competing land and water use demands threaten these iconic and important species. Currently, twenty-nine species of salmon and steelhead are at risk and listed under the Endangered Species Act of 1973 (ESA). NOAA and the Department of the Interior recently worked collaboratively with the State of California to enable strong measures that should assist salmon protection efforts while providing improved water availability for California communities.

H.R. 4723, the Salmon Focused Investments in Sustainable Habitats Act of 2019, aims to identify salmon stronghold areas and protect them by funding conservation actions. The bill would authorize NOAA and the Fish and Wildlife Service (FWS) to jointly determine and issue guidance of criteria necessary to identify salmon conservation areas. After publication of criteria, NOAA and the FWS, in consultation with relevant Federal and non-Federal partners, are authorized to publish a list of salmon conservation areas. NOAA welcomes interest from Congress on how to improve support for salmon conservation to help sustain healthy salmon populations and the communities that depend on them.

[H.R. 5126 the Direct Enhancement of Snapper Conservation and the Economy through Novel Devices Act of 2019](#)

NOAA understands H.R. 5126, the Direct Enhancement of Snapper Conservation and the Economy through Novel Devices Act of 2019, intends to require fishermen to use descending devices and venting tools when targeting reef fish species in the Gulf of Mexico for conservation

purposes. The Gulf of Mexico Fishery Management Council strongly encourages the use of these tools when appropriate. NOAA agrees such tools, when appropriately used, could increase the survivability of released fish. However, we are concerned there is not sufficient science to support the broad application of descending devices or venting requirements to all species. While descending devices are effective for some species in some situations, research indicates they may not be necessary or appropriate in every situation and that they can actually reduce the survivability of select species, like gray triggerfish. In 2013, the Council repealed a rule requiring reef fish fishermen to use venting tools after determining that regulation was more harmful than anticipated for some species.

NOAA does not support the bill as currently written. NOAA is concerned about defining the term “descending device” in legislation. The vague definition in this bill could be challenging to interpret, leading to arbitrary and inconsistent enforcement actions. Alternatively, a more precise definition could needlessly restrict fishermen to using certain devices that may or may not be appropriate in different situations and prevent innovation through experimentation. The Council is currently working with scientists and fishermen to explore and evaluate new information on the appropriate use of descending devices and venting tools. NOAA recommends the Council be afforded the opportunity to implement any new policies or requirements through that stakeholder-driven process to ensure they are informed by the latest science and to effectively achieve the bill’s objective.

NOAA appreciates the inclusion of the ‘savings’ clause in the legislation which now allows NOAA to implement a fish descender device project recently approved by the Deepwater Horizon Natural Resource Damage Assessment (NRDA) trustees. We will be closely monitoring the NRDA project to ensure it has an additive restoration benefit

[H.R. 5548, Fishery Failures: Urgently Needed Disaster Declarations Act](#)

Under its Fishery Disaster Policy, NOAA has worked to ensure fishery disaster determinations are evaluated under the current provisions of the Magnuson-Stevens and Interjurisdictional Fisheries Act in a consistent and timely manner. Additionally, NOAA strives to ensure disaster assistance is allocated in as effective and timely a manner as possible. However, we see the potential for improvements in both processes. Most importantly, the current processes for determining whether a disaster has occurred and providing funding to the affected entities simply take too long. It can take up to two years for disaster determinations to be made and as much as an additional year until funding, if appropriated, is disbursed to the affected fishing communities. Therefore, one of NOAA’s priorities is developing regulations on our fishery disaster process to provide assistance in a more timely, transparent, and effective manner. We will be seeking input from stakeholders as well as the wider public on ways we can streamline and improve our work. Such a rulemaking could address topics that have the potential to improve current processes. For example, setting target deadlines for the review and analysis of disaster related information would help set stakeholder expectations as well as drive the process. Clearly articulating specific information requirements that must be submitted before NOAA can initiate consideration of a disaster determination request would ensure NOAA has the information required to make a decision and avoid potential lengthy delays in requesting and receiving additional needed information. Providing additional guidance, priorities, and incentives regarding the potential

uses for disaster funding would aid in grant applications being approved quicker and improved environmental and economic outcomes.

Similarly, Congress has recognized that statutory improvements or clarifications to the determination process associated with fishery disasters and providing assistance may be needed. Legislation, such as the draft bill proposed by Representative Huffman, is important and will help continue our conversation on how to address issues in this critical area. Representative Huffman's draft bill provides an overarching framework, with specific deadlines and requirements. Many of its provisions are consistent with or expand upon the elements included in our current Fishery Disaster Policy. NOAA has serious concerns about some provisions in the bill that increase the scope of our current authority to declare commercial fishery failures by requiring the Secretary of Commerce to consider impacts to processors, charter fishing operations, and even lost tax revenue in making a fishery disaster determination. This will likely expand the program significantly, could increase potential duplication or overlap with other disaster assistance programs, and take into account factors that may be inappropriate for consideration. It also will require requesters to provide more information and the agency to conduct additional analyses to evaluate whether or not a fishery resource disaster has occurred. This expansion of scope and analytical requirement, while also constricting the timeframes, may pose difficulties for the implementation. However, NOAA supports the approach taken in this draft bill regarding many of the concerns identified. In particular, establishing deadlines for key steps in the process and providing clarity on what is needed for a disaster request package to be considered complete are helpful. How fisheries disaster assistance funds can be used to incentivize fishery resiliency and cost effectiveness to ensure the long-term economic and environmental stability of the respective fishery are aspects of the bill we would like to discuss further. NOAA looks forward to working closely with Congress to ensure any enacted legislation provides timely and efficient improvements, accurately identifies instances where disaster determinations are warranted, and guides the allocation process to ensure funds are spent in a cost-effective manner that will aid in the environmental and economic recovery of our affected fisheries.

Conclusion

In conclusion, NOAA values the opportunity to continue working with this Committee so we can continue to lead the world in fisheries management and ocean science, serve the Nation's fishery-dependent communities, and ensure responsible stewardship of our Nations' ocean resources. Thank you and your staff for your work to support NOAA. I look forward to your questions.