

Dated: April 28, 2023.

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Director, Office of Protected Resources,
National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XC589]

Atlantic Highly Migratory Species; Essential Fish Habitat 5-Year Review

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability; request for comments.

SUMMARY: NMFS announces the availability of the Draft Atlantic Highly Migratory Species (HMS) Essential Fish Habitat (EFH) 5-Year Review (Draft HMS EFH 5-Year Review). The purpose of the Draft HMS EFH 5-Year Review is to gather relevant new information and determine whether modifications to existing EFH descriptions and designations are warranted, in compliance with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and implementing regulations. If EFH modifications are warranted, an amendment to the 2006 Consolidated Atlantic HMS Fishery Management Plan (2006 Consolidated HMS FMP) may be initiated.

DATES: Written comments must be received by July 3, 2023.

ADDRESSES: Comments may be submitted electronically via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter "NOAA-NMFS-2022-0036" in the Search box. Click on the "Comment" icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (*e.g.*, name, address, *etc.*), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/

A" in the required fields if you wish to remain anonymous).

Electronic copies of information related to the Draft HMS EFH 5-Year Review, including the Draft HMS EFH 5-Year Review, may be obtained on the HMS Management Division website at: <https://www.fisheries.noaa.gov/action/essential-fish-habitat-5-year-review-0>.

FOR FURTHER INFORMATION CONTACT:

Jennifer Cudney, jennifer.cudney@noaa.gov, at 727-824-5399, or Ann Williamson, ann.williamson@noaa.gov, at 301-427-8503.

SUPPLEMENTARY INFORMATION: Atlantic HMS fisheries (tunas, billfish, swordfish, and sharks) are managed under the authority of the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*) and the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*). The 2006 Consolidated HMS FMP and its amendments are implemented by regulations at 50 CFR part 635.

The Magnuson-Stevens Act includes provisions concerning the identification and conservation of EFH (16 U.S.C. 1801 *et seq.*). EFH is defined in 50 CFR 600.10 as "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity." NMFS must identify and describe EFH, minimize to the extent practicable the adverse effects of fishing on EFH, and identify other actions to encourage the conservation and enhancement of EFH (§ 600.815(a)). EFH maps are presented online in the NMFS EFH Mapper (<https://www.habitat.noaa.gov/apps/efhmapper/>). The most recently available EFH shapefiles may be downloaded from the EFH Data Inventory (<https://www.habitat.noaa.gov/protection/efh/newinv/index.html>). Federal agencies that authorize, fund, or undertake actions that may adversely affect EFH must consult with NMFS, and NMFS must provide conservation recommendations to Federal and state agencies regarding any such actions (§ 600.815(a)(9)).

Under the current FMP, NMFS uses a two-phase process to update HMS EFH. Phase 1 includes the development of a draft 5-year review, the public comment process, and the publication of a final 5-year review. Phase 1 is initiated approximately 5 years after publication of the most recent EFH action. This draft document constitutes the first part of Phase 1. If there is no new information that warrants updating EFH, then we may choose to retain the previously designated HMS EFH. However, if new information warrants updates, we would initiate Phase 2 of this process, which may include a follow-up action

that implements the recommended updates to HMS EFH. The type of follow-up action depends on the outcomes of the 5-year review (*i.e.*, whether it is a simple update, or if it requires an FMP amendment or rulemaking).

EFH 5-year reviews evaluate published scientific literature, unpublished scientific reports, information solicited from interested parties, and previously unavailable or inaccessible data. NMFS announced the initiation of this review and solicited information for this review from the public in a **Federal Register** notice on April 5, 2022 (87 FR 19667). The initial public review/submission period ended on June 6, 2022.

The draft document, developed as part of Phase 1, considers fishing effects, non-fishing effects, environmental changes, and management changes for all HMS, which include tunas (bluefin, bigeye, albacore, yellowfin, and skipjack), sharks, swordfish, and billfishes (blue marlin, white marlin, sailfish, roundscale spearfish, and longbill spearfish). It analyzes new information and data that was not previously included in recent updates to Atlantic HMS EFH, or has become available since publication of our previous EFH action (Amendment 10 to the 2006 Consolidated HMS FMP (82 FR 42329, September 7, 2017)). Upon completion of the Draft HMS EFH 5-Year Review, NMFS will analyze the information gathered through the EFH review process and determine if subsequent revision or amendment of EFH is warranted.

Each section of the Draft HMS EFH 5-Year Review provides topic-specific guidance on feedback that would be helpful from the public to complete this 5-year review. In general, NMFS invites the public to submit comments, information, and data pertaining to the 10 components of EFH for HMS. In particular, NMFS is seeking:

- New data or information that should be incorporated into future analyses to redefine EFH boundaries for HMS;
- New information on methodologies appropriate for the delineation of HMS EFH;
- New data or information to support new or modifications to existing habitat areas of particular concern (HAPCs) for HMS (or whether existing HAPCs are still needed);
- Information pertaining to the role of prey in HMS EFH designations;
- Information on the adverse effects of fishing and non-fishing activities on EFH; and

• Information or feedback on the inclusion of new actions to promote the conservation and enhancement of HMS EFH that may be adversely affected by certain non-fishing activities.

Authority: 16 U.S.C. 971 *et seq.*, and 1801 *et seq.*

Dated: May 1, 2023.

Jennifer M. Wallace,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

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COUNCIL ON ENVIRONMENTAL QUALITY

[CEQ-2023-0002]

Columbia River Salmon and Other Native Fish Request for Information

AGENCY: Council on Environmental Quality.

ACTION: Request for information.

SUMMARY: The Council on Environmental Quality (CEQ) is issuing this request for information (RFI) to solicit feedback on Columbia River salmon and other native fish restoration and other relevant information to an ongoing mediation.

DATES: The agency requests comments by July 3, 2023, and must receive comments on or before August 31, 2023.

ADDRESSES: You may submit comments, identified by docket number CEQ-2023-0002, using the Federal eRulemaking Portal at <https://www.regulations.gov>. Follow the instructions for submitting comments.

All submissions received must include the agency name, "Council on Environmental Quality," and the docket number, CEQ-2023-0002, for this RFI. Comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided. Do not submit any information you consider to be private information, privileged or confidential commercial or financial information, or other information the disclosure of which is restricted by statute. CEQ encourages submissions of 1,000 words or fewer. For any submissions that are over 1,000 words, please consider including an executive summary of 1,000 words or fewer.

All submissions are voluntary. You may respond to some or all of the questions listed in the RFI. You may include references to academic literature or links to online material (such as datasets) but please ensure all links are publicly available. Each response should include:

• The name of the individual(s) or entity responding.

• A brief description of the responding individual(s) or entity's mission or areas of expertise.

• A contact for questions or other follow-up on your response.

FOR FURTHER INFORMATION CONTACT:

Issues regarding submission or questions on this RFI can be sent to De'Marcus Robinson, Ocean Policy Fellow, 202-395-5750 or De'Marcus.R.Robinson@ceq.eop.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Columbia River and its tributaries were once among the most productive salmon and steelhead ecosystems in the world with an estimated 7.5 to 16 million adult salmon and steelhead returning to Pacific Northwest tributaries each year and sustaining the cultures and economies of Tribal Nations since time immemorial. From the 1930s to the 1970s, the Federal government constructed a series of 14 multipurpose dams in the Columbia River Basin to address a myriad of economic challenges, and, additionally, more than 100 non-Federal dams were constructed.

Communities across the Northwest have come to rely on these dams for reliable and affordable electricity, flood risk management, water supply, irrigation, navigation, and recreation. The dams also altered free-flowing rivers, affected juvenile fish as they migrate out to sea, impeded adult fish returning to spawn, inundated Tribal fishing areas and sacred sites, and forever displaced people from their homes. The construction of the Grand Coulee and Chief Joseph dams without fish passage eradicated salmon and steelhead from the Upper Columbia River Basin. In the 1990s, 13 of the Columbia River Basin's remaining salmon populations required the protection of the Endangered Species Act to survive.

The Federal Government has spent tens of billions of dollars, in partnership with Tribes, states, and non-governmental organizations, on efforts that contribute to fish survival and recovery. States and Tribes have also funded and implemented fish recovery programs. Despite hard work, ingenuity, great expense, and commitment across all levels of Federal, state, Tribal and local governments and a wide range of stakeholders, many fish populations in the Columbia River Basin—salmon, steelhead, and others—have not recovered, some continue to decline, and many areas remain inaccessible to them.

Litigation over the impact of the operation of certain Federal dams in the Columbia River System on salmon and other native fish has been ongoing for decades and the courts have consistently ruled that the Federal Government has fallen short of its legal obligations. Currently, several ongoing cases are pending in the U.S. District Court for the District of Oregon and in the U.S. Court of Appeals for the Ninth Circuit.

In the Fall of 2021, the plaintiffs and petitioners in the litigation and the Federal Government agreed to a temporary stay in the litigation to create an opportunity for the Federal Government to develop a long-term plan to restore Columbia River salmon and other native fish. Shortly thereafter, the Council on Environmental Quality (CEQ) convened an interagency group with leaders from: the Department of the Interior, including the Bureau of Indian Affairs, Bureau of Reclamation, and Fish and Wildlife Service; the Department of Commerce, including the National Oceanic and Atmospheric Administration; the Department of the Army, including the Army Corps of Engineers; and the Department of Energy, including the Bonneville Power Administration. This interagency group is intended to build on existing analyses to identify a durable path forward that ensures a clean energy future, supports local and regional economies, and restores ecosystem function, while honoring longstanding commitments to Tribal Nations.

In March 2022, CEQ Chair Brenda Mallory, Secretary of the Interior Deb Haaland, Secretary of Energy Jennifer Granholm, Assistant Secretary of the Army for Civil Works Michael Connor, and Under Secretary of Commerce for Oceans and Atmosphere Dr. Richard Spinrad convened a consultation with Tribal Nations of the Columbia River Basin and published a blog post reflecting on what the Tribes shared at the consultation and the Administration's values that inform its effort to restore healthy and abundant salmon and steelhead to the Columbia River Basin.

In April 2022, the Federal Government engaged the Federal Mediation and Conciliation Service (FMCS) to mediate and facilitate between the parties in the litigation and the regional sovereigns, including Tribal Nations and states. In August 2022, the plaintiffs, petitioners, and the Federal government agreed to an additional stay in litigation through August 2023.

Through the stay agreement, the Federal Government committed to supporting development of a durable