



*Submitted via online portal*

September 12, 2023

Samuel D. Rauch, III  
Deputy Assistant Administrator for Regulatory Programs  
National Marine Fisheries Service  
National Oceanic and Atmospheric Administration  
1315 East-West Highway, 14th Floor  
Silver Spring, Maryland 20910

**Re: Comments regarding updates by National Marine Fisheries Service to the Magnuson-Stevens Fishery Conservation and Management Act National Standards 4, 8, and 9 guidelines, Docket No. NOAA-HQ-2023-0060**

Dear Administrator Rauch,

We at SalmonState thank you for recognizing the need for clear policy and guidance to address challenges facing federal fisheries management, including inequity and unjust decisions and practices, and the climate crisis in the ocean and coastal United States. We appreciate the opportunity to offer comments and recommendations to the National Marine Fisheries Service (“NMFS”) regarding updates to guidelines for Magnuson-Stevens Fishery Conservation and Management Act (“MSA”) National Standards 4, 8, and 9, Docket Number NOAA-HQ-2023-0060.

SalmonState is an Alaska based conservation effort, works to protect salmon habitat, and promote policies that will guarantee Alaska remains the SalmonState; the home of the world's largest, healthiest and most abundant wild salmon resource, which provides culture, food, income, employment and recreation to Alaskans, Americans and the rest of the world.

“Alaska's tidal shoreline measures over 46,600 miles (75,000 km), longer than the shorelines of all the lower 48 states combined.”<sup>1</sup> Communities dotted along this coastline support subsistence fishers, recreational and charter fishers and industry, commercial fishing operations, and supporting businesses such as seafood processors, boat yards, gas stations, boat repair shops, and more. Many of these communities’ identities are centered around living and working on the ocean, and in some cases, have done so for thousands of years.

However, these Alaska coastal communities and fisheries are being threatened in many ways including climate change, habitat loss, and federal fisheries management practices that allow

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<sup>1</sup> Alaska ShoreZone: Mapping over 46,000 Miles of Coastal Habitat, Office of Response and Restoration, NOAA, <https://response.restoration.noaa.gov/about/media/alaska-shorezone-mapping-over-46000-miles-coastal-habitat.html>

waste and excessive harvest. There is grave concern from Alaska’s small boat, direct target commercial fishery participants, sport and recreational fishermen and guides, and local community subsistence users regarding the management of Alaska federal fisheries and bycatch in the Bering Sea and Gulf of Alaska trawl fisheries, specifically Alaska salmon, halibut, and crab populations showing the stress of climate change. The issue of bycatch in federal fisheries in the Bering Sea and Gulf of Alaska are indicative of the environmental injustice Alaskans and Alaska Natives are suffering. Alaska subsistence fishers, small boat direct fishery participants, and sport fishers have all foregone multiple fishing seasons due to the declining runs of Chinook and chum salmon to their natal waters. These fishery participants depend on Chinook and chum salmon for their livelihoods and food security. Meanwhile, the trawl fleet continues to harvest significant amounts of these species as bycatch. Updating the guidelines for MSA National Standards 4, 8, and 9, will dramatically improve NMFS’ ability to respond to the ecosystem changes wrought by climate change, the deep inequities plaguing federal fisheries management and allow for a more thorough analysis and subsequent action on harmful bycatch.

**I. Updates to NMFS guidelines for MSA National Standards 4, 8, and 9 are necessary to address challenges in federal fisheries management in the face of climate crisis and to address inequity in fisheries management.**

National Standard guidelines need to be updated to address inequity in application of MSA in federal fisheries management and to clarify guidance for climate adaptive measures. Alaska’s coastal ecosystems are in crisis.<sup>2</sup> The Bering Sea and Gulf of Alaska are experiencing real-time measurable changes from the impacts of climate change.<sup>3</sup> Rising ocean temperatures are altering the marine ecosystem and changing fish species distribution and productivity, leading to a series of cascading impacts to the marine ecosystem and the people who depend on its resources. Western Alaska Chinook and chum salmon runs have significantly declined in the last few years. Several King crab and snow crab populations have also plummeted. While climate change is driving unprecedented changes in our fisheries, our current management system is inadequate to respond to these dynamic changes, which amplifies the negative impacts to Alaska’s community-based fisheries. Updating guidelines for MSA National Standards can guide the North Pacific Fishery Management Council (“NPFMC”) and NMFS to better address inequities and adapt to climate driven changes in the Exclusive Economic Zone (“EEZ”) off Alaska.

Over the past several years, individuals, organizations, Tribal entities, and communities have gone to the NPFMC expressing deep concern over declining Chinook and chum salmon runs, the crash of some Bering Sea crab stocks, and a decrease in halibut abundance throughout the North Pacific Ocean. Western Alaska subsistence fishers, small boat direct fishery participants, and sport fishermen have all foregone multiple fishing seasons in response to this situation and repeated requests to the NPFMC for action have been rejected. This outpouring of written and in-

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<sup>2</sup> Rust, Susanne, *Unprecedented die-offs, melting ice: Climate change is wreaking havoc in the Arctic and beyond*, December 17, 2021. <https://www.latimes.com/environment/story/2021-12-17/north-pacific-arctic-ecosystem-collapse-climate-change>

<sup>3</sup> Jones, Leslie, et. al, *Watershed-scale climate influences productivity of Chinook salmon populations across Southcentral Alaska*. *Glob. Change Biol.* 2020; 26: 4919-4936; and Von Biela, Vanessa R., et. al., *Evidence of prevalent heat stress in Yukon River Chinook salmon*, *Can. J. Fish Aquat. Sci.* 77: 1878-1892 (2020). <https://cdnsiencepub.com/doi/pdf/10.1139/cjfas-2020-0209>

person testimony of the management failures of the pollock trawl fishery included the following:

“Trawl bycatch directly impacts the health of my business as a small fisherman as well as the subsistence and personal use opportunities for all Alaskans. Alaska salmon, halibut, and crab populations are showing the stress of climate change and industrial fishing pressures. In the past few years, communities along the Yukon and Kuskokwim Rivers have stopped fishing entirely for subsistence harvest. These communities bear the brunt of conservation measures and depend upon fish for income, food, and the foundation of their culture. Alaska subsistence fishers and small boat direct fishers have foregone multiple fishing seasons due to the declining runs of Chinook and chum salmon. Meanwhile, only the trawl fleet has not faced caps or fishing restrictions. Currently, the pollock trawl fishery harvests a significant number of Chinook and chum salmon originating from these same Western Alaska waters where subsistence harvest has been curtailed. In 2020, the Bering Sea Aleutian Island pollock trawl season resulted in 32,294 Chinook salmon and 320,478 chum salmon taken as bycatch. Of those bycaught salmon, 16,796 Chinook originated from Western Alaska waterbodies. This disproportionate burden of conservation measures on Alaska communities and fishers, who are the most dependent upon salmon, halibut, and crab stocks, contradicts the purpose of the Magnuson-Stevens Act.”<sup>4</sup> -Thomas Emmerson, Commercial Salmon Troller

“Alaska’s fisheries are being threatened by climate change, habitat loss, and management practices that allow waste and excessive harvest. Conservative management actions are necessary immediately in order to mitigate harm. Climate change is driving unprecedented changes and our current management system is too slow to respond to these dynamic changes, amplifying the negative impacts to our community-based fisheries.”<sup>5</sup> - Fernando Divina, Slow Fish

The above comments are but a small sample of the high volume of testimony received by NPFMC. The disproportionate burden of conservation measures on those communities and fishermen most dependent upon Chinook and chum salmon runs exemplifies the need for meaningful change in federal fisheries management and bold steps in providing equitable and just representation and protection for individuals and communities such as those in Western Alaska. The lack of meaningful response from the NPFMC demonstrates it is imperative that NMFS update MSA National Standards guidelines to better direct NPFMC to address the concerns and needs of Alaskans impacted by the NPFMC management decisions in a meaningful and timely manner.

## **II. NMFS should integrate concepts and definitions developed in NOAA’s Equity and Environmental Justice strategy and Ecosystem-Base Fisheries Management policy to guide Councils and NMFS in more equitable and balanced federal fisheries management.**

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<sup>4</sup> <https://meetings.npfmc.org/Meeting/Details/2964?agendaID=14743>

<sup>5</sup> <https://meetings.npfmc.org/Meeting/Details/2964?agendaID=14743>

Presently, the implementation of the National Standards is imbalanced and provides a heavier deference to the economic benefits from harvest of the target fish, with little to no consideration of the burdens placed on other fisheries, communities, and the ecosystem. Indigenous Alaskans and communities do not have the equal access to NPFMC process, nor do they have adequate representation on the NPFMC. Council seats are disproportionately held by representatives with ties to the pollock trawl fishery and a situation has evolved where those with financial interest in the pollock trawl fishery have the means and resources to hire scientists, lobbyists, and other experts to engage in the Council process to a degree where their perspective dominates. Alaska Native entities and communities, small-boat fishermen, and sport and charter fishers do not have the resources or expertise to participate in the NPFMC meetings in the same manner. However, the NPFMC decisions directly affect subsistence, sport, and small boat direct target fish species. By undertaking and updating the guidelines for National Standards 4, 8, and 9, NMFS can better fulfill the agency's and the Councils' roles under MSA by addressing the environmental injustice affecting dependent communities and balancing the equity and sustainability of the U.S. fisheries.

Through guideline updates, NMFS can foster a correction of the inequalities found in present management decisions that burden the small boat commercial, sport, and subsistence fishers in coastal and interior communities throughout Alaska and United States. Updating National Standard guidelines can align the agency and Councils in management of fisheries that reflects the Administration's policy directives for Equity and Environmental Justice and further guide the application of Ecosystem Based Fisheries Management. As NOAA recognizes, "EEJ is a cross-cutting issue that impacts everything we do and intersects with other NOAA Fisheries priorities such as diversity and inclusion within our workforce. While EEJ is primarily focused on delivering equitable services to the communities we serve, successful implementation of this strategy will depend, in part, on continued progress toward creating a diverse and inclusive NOAA Fisheries workforce. NOAA identifies climate change as an EEJ issue because its impacts are unevenly experienced across the nation. Longstanding socioeconomic inequities can make underserved communities, who often have the highest exposure to hazards and the fewest resources to respond, more vulnerable. Fishing communities may be especially vulnerable to sea level rise, increased storm events, displacement, accumulated effects from multiple disasters, loss of catch abundance and diversity, and the resulting impacts to their local economy."<sup>6</sup> NMFS should update National Standard guidelines to:

- Include measures to heighten the consideration of impacts to and implement measures to protect underserved communities by regional fishery management councils, including Alaska Native communities affected by NPFMC decisions.
- Better incorporate and minimize impacts to subsistence fisheries.
- Include definitions developed by NOAA in the agency's Equity and Environmental Justice strategy, including those for "underserved communities," "equity," "environmental justice," "meaningful involvement," and "climate change."<sup>7</sup>
- Include measures to incorporate Traditional Ecological Knowledge in FMP development and federal fisheries management decisions through an inclusive and collaborative process with Native Tribes.

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<sup>6</sup> National Oceanic and Atmospheric Administration, *Equity and Environmental Justice Strategy*, NOAA Fisheries, May 2023, p. 7, <https://media.fisheries.noaa.gov/2023-05/NOAA-Fisheries-EEJ-Strategy-Final.pdf>

<sup>7</sup> Definitions can be found at: *Id.* at 5-6.

Ecosystem-based fisheries management of federal managed fisheries can advance more equitable fisheries management in the ocean. Through ecosystem-based fisheries management, considerations of the cumulative impacts on the ecosystem, including the natural environment, non-target species, habitat, other fisheries, cultural, social, and economic factors. These impacts should include, but are not limited to, impacts of said fishery on coastal communities, small boat direct target fisheries, climate change, and other stressors on populations of non-target species. NOAA recognized the importance of ecosystem-based fisheries management in the agency's EBFM policy in 2016, "Management advice from EBFM will be more comprehensive and accurate and will likely help reduce uncertainty by taking into consideration interacting elements in the ecosystem. EBFM can maintain ecosystem function and fishery sustainability, which support economic and social stability and fishing community well-being. EBFM applies the best available scientific information to improve decision-making via consideration of the holistic impact of management decisions. EBFM can also use forecasts of future ecosystem conditions and services, incorporating natural variability, anthropogenic forcing, and change in climate and ocean conditions to predict and evaluate outcomes from a range of alternative management strategies."<sup>8</sup> Consideration for these impacts could better inform decision-making and make for more equitable management with less adverse impacts on underserved and underrepresented coastal communities.

SalmonState urges NOAA fisheries undertake necessary updates to the guidelines for MSA National Standards to include principles of ecosystem-based fisheries management that advance climate adaptive fishery management, equitable conservation measures for fish population, and scientific information that includes Traditional Ecological Knowledge. Alaska Native entities and Alaska coastal communities hold thousands of years of knowledge. We urge NMFS to include guidance for incorporating Traditional Ecological Knowledge and local knowledge in federal fisheries management and ocean spatial planning through an inclusive and collaborative process with Native Tribes, locally based sport fishers, and small boat direct target fishers. Alaska Native representation in the federal fisheries management in the North Pacific has been severely lacking and has resulted in coastal communities and small boat direct target fishers disproportionately burdened and adversely impacted by those federal fisheries management decisions. Incorporating traditional and local knowledge through respecting, identifying, and including Alaska Native and community members who hold knowledge is key to guiding the Council and NMFS in more equitable and informed decision-making.

NMFS should update guidelines to reflect NOAA's policy to modernize management of federal fisheries through ecosystem-based fishery management by including EBFM in the guidelines to:

- Clarify that Total Allowable Catch limits and Prohibited Species Catch caps for bycatch should be set with a comprehensive look at the target fishery's impacts to the whole ecosystem, including other living marine resources, communities, and habitat.
- Management measures should balance the economic benefits of the target fishery with the negative economic, cultural, and ecological impacts it causes and exacerbates, rather than giving the target fishery's economic benefits an unbalanced weight

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<sup>8</sup> National Oceanic and Atmospheric Administration, *Ecosystem-Based Fisheries Management Policy*, National Marine Fisheries Service Policy 01-120, May 23, 2016, p. 3, <https://media.fisheries.noaa.gov/dam-migration/01-120.pdf>



- Clarify that objectives for FMPs should include climate adaptive fisheries, and climate resilience for fishery dependent communities.
- Clarify that FMP objectives and fishery management measures should be based on Ecosystem-Based Fisheries Management.

**III. National Standard 4 guidelines should be updated to reflect NOAA’s Equity and Environmental Justice Strategy and provide equitable access and representation in the federal fisheries management process.**

National Standard 4 requires fishery management to reflect equity and cannot discriminate between residents of different states. A revision to guidelines for this National Standard should include guidelines that reflect equity within a single fishery, and equity, as participation in one fishery can impact the allocation and distribution of other fisheries. In updating guidelines for National Standard 4, NMFS can further adopt and integrate NOAA’s Equity and Environmental Justice Strategy.<sup>9</sup>

Alaska Native communities and many Alaska coastal communities are currently and historically underserved communities. These communities have been excluded from access to federal fisheries management decisionmakers in the Council and NMFS while shouldering the burden of conservation measures. Many members of these communities have lost income and access to their salmon, halibut, and crab fisheries while the Alaska pollock trawl fishery continues to catch large portions of salmon, halibut, and crab as bycatch. To reflect NOAA’s EEJ strategy and EBFM policy and address the climate crisis, in updating guidelines for National Standard 4, NMFS should:

- Clarify that in decisions regarding allocation of a target fishery, such as Alaska pollock, that the status of non-target species, the non-target species fisheries, and conservation measures undertaken by those non-target species fisheries should be considered when determining allocation of fishing privileges and Total Allowable Catch (“TAC”).
- Clarify that allocation of fishing privileges and TAC should be based on Ecosystem-based Fishery Management principles and analysis.
- Further define “fairness and equity” (50 CFR 600.325(c)(3)(i)) to reflect the importance of Indigenous cultural and traditional practices, food security, historical dependence, and ecosystem health of the target and non-target species impacted by allocation of fishing privileges of the target fishery and associated fisheries management decisions.
- Clarify that conservation is the priority in allocation and should not be set aside for economic gains of the target fishery.
- Direct that subsistence fishers, underserved communities, and fishery dependent communities should be prioritized in allocation of fishing privileges.

**IV. National Standard 8 guidelines should be updated to protect place-based fishing communities, including upriver and subsistence dependent communities in Alaska**

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<sup>9</sup> National Oceanic and Atmospheric Administration, *Equity and Environmental Justice Strategy*, NOAA Fisheries, May 2023, p. 38, <https://media.fisheries.noaa.gov/2023-05/NOAA-Fisheries-EEJ-Strategy-Final.pdf>

National Standard 8 requires fishery management to consider the importance of fishery resources to fishing communities. A revision to guidelines for National Standard 8 should recognize the importance of place-based fishing dependent communities and include the consideration of fishing communities impacted by bycatch in one fishery to another, furthering the Administration's policy and goals to advance equity for underserved communities. It is imperative updated guidelines for National Standard 8 recognize the importance of place-based fishing communities, as fishing and fishery participation in Alaska coastal and upriver communities supports not only fishers, but the locally owned and operated boat yards, maintenance shops, stores, schools, and community centers that connect the people to each other and their families and neighbors, and their region. Furthermore, the coastal and upriver communities in Western Alaska, such as those on the Yukon and Kuskokwim Rivers are dependent upon subsistence fisheries for cultural and traditional practices, food security, and sustaining and connecting their communities and families.

NMFS should update guidelines for National Standard 8 to:

- Clarify the definition for "fishing community" to include underserved communities, especially those communities with cultural and geographic ties to fishing areas for generations, that include upriver fish camps and subsistence fishing users.
- Clarify definition of "fishery resource" under MSA important to a fishing community includes non-commercial fish and other living marine species, stocks, and the ecosystem the target fishery participates in.
- Clarify that a Fishery Management Plan ("FMP") analysis should include consideration of impacts of management decisions on other fishing communities, non-target species, and the ecosystem.
- Clarify that conservation measures for the recovery or sustainability of a living marine resource (including the target fish and non-target species) should be shared across federal, state, local, and Tribally managed fisheries that may impact that species.
- Clarify that conservation measures should be based on Ecosystem-based Fishery Management principles and analysis.

**V. National Standard 9 guidelines should be updated to further minimize bycatch and impacts to non-target species**

National Standard 9 requires that all conservation and management measures minimize bycatch and the mortality of bycatch to the extent practicable. A revision of National Standard 9 guidelines should direct an ecosystem approach to bycatch reduction, guiding Councils to set bycatch limits based on ecosystem impacts including other species and habitat, furthering the NOAA implementation of Ecosystem Based Fisheries Management policy, and in consideration of underserved communities impacted by bycatch as directed by NOAA's Equity and Environmental Justice strategy.

NMFS should update guidelines for National Standard 9 to:

- Further clarify that bycatch of a single species or stock should not trigger additional stressors or burdens on other bycatch species, but rather the target fishery operations should be altered to different times and locations to avoid adverse impacts to all bycatch species and habitat within an ecosystem.

- Define “practicability” in a manner that clarifies target fisheries participants cannot claim economic hardship to avoid bycatch reduction measures that minimize Prohibited Species Catch caps and reduce strain and impacts on non-target species and non-target fishing communities.
- Further clarify that FMPs should prioritize conservation measures.
- Bycatch limits and PSC caps should not be set at a level or number that exceeds the allocations or limits for subsistence and direct fisheries of those bycatch species.
- Clarify that unused portions of bycatch limits or PSC cap are non-transferable between seasons, fisheries, permit holders or boats within or outside of a fishery.
- Clarify that stricter bycatch measures should be implemented for those non-target species that are highly impacted by changing conditions due to climate change, and have seen or are experiencing declines in populations, habitat destruction or disruption, especially those that subsistence and traditional fishers are highly dependent upon. These measures are imperative to implement climate adaptative fisheries management and sustain fisheries for the future.

## VI. Conclusion

There is a deep and urgent need for NMFS to clarify guideline language for National Standards 4, 8, and 9 that, through implementation by Councils and NMFS, will result in increased equity and decrease allowable bycatch and habitat impacts of federal fisheries in the EEZ off Alaska. We are encouraged by NMFS’ recognition of inequities in federal fisheries management decisions as well as its realization of the impacts of climate change on ocean ecosystems and the monumental impacts of those changes on the public. We urge NMFS to take the opportunity to address the environmental injustice affecting fisheries dependent communities and balance the equity and sustainability of the U.S. fisheries. Alaska fisheries are at the forefront of climate change. The disproportionate management decisions that burden the conservation of Alaska’s salmon, halibut, and crab stocks landing on Alaska’s Indigenous subsistence users, sport fishermen, and small boat, direct target commercial fishery participants must be addressed. We thank you for the opportunity to comment. Please contact Loretta Brown at [loretta@salmonstate.org](mailto:loretta@salmonstate.org) with any questions or concerns regarding these comments.

Sincerely,



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Executive Director  
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