An Open Letter to the 116th Congress from U.S. Marine Scientists

Concerning:

Marine Protected Areas - Title II of the Ocean-Based Climate Solutions Act (H.R.8632)

December 10, 2020
Dear Senators and Representatives:

As scientists engaged in the provision of information to support federally managed fisheries, we are concerned that Title II of the proposed Ocean-Based Climate Solutions Act (H.R.8632), which would require the establishment of marine protected areas that ban all commercial fishing activity in 30% of U.S. ocean waters by 2030, is not based on the best scientific information available and would not be the most effective way to protect marine biodiversity. Conservation of marine ecosystems in the U.S. waters is challenged by a rapidly changing climate, but the proposed marine protected areas will not solve climate-related impacts on biodiversity, instead they will decrease flexibility of the fishery management system to adapt to climate change. The most significant impact of marine protected areas is a spatial shift in fishing, which is effectively a fisheries management action. Marine biodiversity is protected by the mandates of the Magnuson-Stevens Fishery Conservation and Management Act, the Endangered Species Act, the Marine Mammal Protection Act, and other legislation. The implementation of those requirements with respect to fisheries impacts is through the regional Fisheries Management Council system to protect target species, bycatch species, protected species, ecosystem components, essential fish habitat and other sensitive habitats.

Although several U.S. fish stocks have been overfished, the fisheries are highly regulated to avoid overfishing and rebuild stocks with a precautionary approach. A large portion of U.S. waters are currently closed to fishing, either seasonally or year-round. A prevalent impact of climate change in the U.S. has been shifting spatial distributions, generally northerly and to deeper habitats. Many fisheries are flexible enough to adapt to such shifts, but the proposed extension of permanent marine protected areas would prohibit many adaptive responses to climate change. Based on our experiences and case studies, marine protected areas that are not based on the best scientific information available, such as the uninformed target of restricting commercial fishing in 30% of U.S. waters, will have unanticipated consequences such as increased bycatch and habitat destruction by shifting the location of fishing effort.

As an example, after over a decade of scientific analysis, the New England Fishery Management Council recently re-designated essential fish habitat for all 28 Council managed species, designated new habitat areas of particular concern, revised habitat and groundfish management areas, and designated deep-sea coral management zones and fishing gear restrictions. We affirm that these management areas are based on the best scientific information available, as required in the Magnuson-Stevens Fishery Conservation and Management Act. By contrast, we are concerned that establishing new marine protected areas to meet the arbitrary 30% objective stated in Title II of the Ocean-Based Climate Solutions Act will not be based on the best scientific information available, will have negative

unanticipated consequences, and will decrease the ability of U.S. fisheries to adapt to a changing climate.

Title II of the Ocean-Based Climate Solutions Act is predicated on a view that marine biodiversity in the U.S. EEZ is decreasing but provides no evidence that this is true. It is well established that targeted U.S. fish stocks are rebuilding and on average above target levels. A high proportion of benthic habitat and benthic ecosystems are already protected throughout the U.S. EEZ, and the non-target species of conservation concern are governed by other legislation, including the Endangered Species Act. Title II provides no evidence that biodiversity will be increased by more MPAs and provides no metrics for how the impact of additional MPAs would be evaluated.

Yours sincerely,

The undersigned are all marine scientists who have been involved in providing advice to the Federal or State governments on management of marine biodiversity. These scientists include former NOAA employees, former members of Science and Statistics Committees of Fisheries Management Councils including two chairs of those committees, a director of a NMFS regional center, the Editor in Chief of a major marine science journal and members of government advisory panels including the Ocean Studies Board of the National Research Council.

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