



North Pacific Fishery Management Council

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March 19, 2021

Mr. Benjamin Friedman
Deputy Under Secretary for Operations and
Acting Administrator
National Oceanic and Atmospheric Administration
Via Email: benjamin.friedman@noaa.gov and OceanResources.Climate@noaa.gov

Dear Acting Administrator Friedman:

On behalf of the North Pacific Fishery Management Council (Council), I am writing to alert you to our concerns with the definition and application of guidelines for marine protected areas (MPAs) by the NOAA Office of National Marine Sanctuaries, Marine Protected Areas Center. MPAs are an important tool for managing fisheries and other human activities in the ocean. As defined by Executive Order 13158 (Clinton, 2000), a marine protected area is “*any area of the marine environment that has been reserved by Federal, State, tribal, territorial, or local laws or regulations to provide lasting protection for part or all of the natural and cultural resources therein.*” The E.O also established an MPA Center with the goal to develop a framework for a national system of MPAs, and to provide Federal, State, territorial, tribal, and local governments with the information, technologies, and strategies to support the system.¹

The concerns we highlight in this letter are:

- The new definition of MPA used by NOAA for its MPA Inventory is overly restrictive in that it relies on the stated management objective for an area, rather than the relative conservation the area provides to the marine ecosystem.
- E.O. 14008 calls for conserving 30% of our land and waters by 2030, and some groups (and the MPA Center) are pushing to use the MPA Inventory to measure progress towards this goal. Conservation means wise use, and not areas set aside as reserves with no use allowed.
- The MPA Inventory database is far from comprehensive and accurate, and thus not useful to evaluate ocean conservation. Nevertheless, the MPA Inventory is already being misused to evaluate the level of conservation provided by the areas listed in the inventory.

In 2020, the Marine Protected Areas Center switched from the U.S. definition of MPAs to a new definition of MPAs and guidelines established by the International Union of Conservation of Nature (IUCN). These guidelines were applied to the MPA Center’s MPA Inventory, resulting in a drastic reduction in areas considered to be MPAs in the U.S.² The IUCN definition of an MPA is: “A protected area is a clearly defined geographical space, recognized, dedicated and managed, through legal or other effective means, to achieve the long-term *conservation of nature* with associated ecosystem services and cultural values”. The IUCN prepared guidelines for applying the IUCN protected area management categories to MPAs in 2008 and then further expanded these guidelines in 2019.³ The guidelines indicate that under the IUCN MPA definition, only those sites where the stated main goal or outcome is conserving nature should be considered MPAs. Further, that guidelines assert that unsustainable

¹ https://www.energy.gov/sites/prod/files/nepapub/nepa_documents/RedDont/Req-EO13158marineprot.pdf

² <https://nmsmarineprotectedareas.blob.core.windows.net/marineprotectedareas-prod/media/docs/2020-mpa-building-effective-conservation-networks.pdf>

³ https://www.europarc.org/wp-content/uploads/2019/12/IUCN_Guidelines_MPA.pdf

extractive activities, particularly those on the industrial scale, temporary management measures, single species protections, or bans on damaging gear will not lead to the long-term conservation of the *whole ecosystem* and therefore do not qualify as MPAs. The IUCN guidelines go on to note that the key difference between MPAs and other area-based measures is that the primary focus of an MPA is the conservation of *biodiversity*. And an area cannot be defined as an MPA based on activities prohibited, but instead based on *the stated management objectives*; i.e., whether nature (biodiversity) conservation is stated as the primary objective of the area. Even if the prohibitions on activities within an area were implemented for specific conservation objectives.

We do not think the IUCN definition of marine protected areas is appropriate. We also disagree with the MPA Center’s application of the IUCN definition and its decisions about what is included in its database. Nearly all of the areas considered to be MPAs by the Council were implemented through a scientific and public process to meet specific habitat protection or conservation objectives. These areas also provide conservation of nature generally, including conservation of biodiversity and ecosystems. Because most of these areas were developed before fisheries managers explicitly mentioned conserving biodiversity, the Council may not have used the exact words “conservation of nature” or biodiversity in stating its management objectives. Rather, the objective of protecting biodiversity was folded into the Council’s ecosystem-based approach for fishery management.⁴ Yet the conservation benefits are exactly the same, regardless of the stated objectives. Requiring that the stated management objectives for the area must be “conservation of nature” to be considered an MPA is unnecessary and shortsighted, and results in an incomplete evaluation of area-based protection measures. While we could amend all of our fishery management plans (FMPs) to revise the stated objectives for these areas simply to meet the IUCN definition, this step seems entirely unnecessary and a waste of limited staff resources.

To illustrate the problem of requiring that “conservation of nature” be a stated management objective for an area to be considered an MPA, one simply needs to compare protected areas in the MPA inventory versus those that are not. The objectives, regulated activities, and relative conservation benefits can be identical, but apparently if biodiversity is not mentioned in the regulatory documentation of the area, it is excluded from the MPA Inventory. A sample comparison for a few areas off Alaska is provided in the table below. Note that having the same objective and regulated activities for each area can result in a different determination as to whether or not the area is included in the MPA. The MPA Center does not provide rationale as to why an area is designated as an MPA in the Inventory. We can only assume that the word

‘biodiversity’ or ‘conservation of nature’ was mentioned somewhere in the Environmental Assessment analysis or in the proposed rule implementing an area included in the Inventory.

MPA Inventory Status	Name of Area	Fishery Management Objective	Regulated Activities 50 CFR 679.22
Yes	Nearshore Bristol Bay Trawl Closure	Protect sensitive habitat (ascidians) and depleted red king crab stocks, and associated ecosystem components	All trawling is prohibited
No	Pribilof Islands Habitat Conservation Zone	Protect sensitive habitat (shell hash) and depleted blue king crab stocks, and associated ecosystem components	All trawling is prohibited. Fishing for groundfish & halibut with pots is also prohibited.
Yes	Northern Bering Sea Research Area	Protect relatively pristine habitat and associated ecosystem components from fishing impacts	Bottom trawling is prohibited
No	Aleutian Islands Habitat Conservation Area	Protect relatively pristine habitat and associated ecosystem components from fishing impacts	Bottom trawling is prohibited

⁴ The Council’s ecosystem policy can be found here: <https://www.npfmc.org/management-policies/>

It is also interesting to review the MPAs listed in the inventory, and the management measures enacted to achieve the long-term “*conservation of nature*”. For example, the Arctic National Wildlife Refuge is listed in the MPA inventory because there are coastal lagoons in the area and the refuge was designated “to preserve the area's unique wildlife, wilderness and recreational values.” Nevertheless, subsistence and sport fishing are allowed and encouraged (there has never been a commercial fishery), and there are no additional conservation measures directly associated with these lagoons. Another example from Alaska is the Kachemak Bay National Estuarine Research Reserve, which like other estuarine research reserves, is listed in the MPA Inventory because these areas were “designated to protect and study estuarine systems.”⁵ There are no specific or additional marine conservation measures associated with the Kachemak Bay National Estuarine Research Reserve, and major commercial and recreational fisheries occur within its boundaries. There are no specific protections for biodiversity in the area. It is absurd that the MPA Inventory relies entirely on the stated management objective, rather than on any “conservation of nature” benefit that the area provides through regulating human activities.

Our concern with the MPA definition and application of the MPA criteria is heightened by the issuance of President Biden’s Executive Order 14008 Tackling the Climate Crisis at Home and Abroad, which was signed on January 27. Section 216 of the E.O. (Conserving Our Nation’s Lands and Waters) requires consultation with key stakeholders in developing recommended steps that should be taken, and in identifying strategies that will encourage broad participation in achieving the goal of conserving 30 percent of our lands and waters by 2030. Environmental NGOs have been pushing for using the MPA Inventory as the threshold to measure progress towards this goal.⁶ Apparently, this appears to be the direction of the MPA Center, as they are “working closely with NOAA Fisheries on 30 x 30” (L. Wenzel, pers. comm. 1/28/2021). Although fisheries managers in Alaska consider MPAs to be an important tool for managing fisheries, protecting habitat, protecting marine mammals, and protecting vulnerable species, MPAs are just one tool that can be used for conserving our marine ecosystems.^{7 8} There are a host of regulatory, area-based protections that utilize a clearly defined geographical space, to achieve long-term conservation goals that were not defined as MPAs by the MPA Center based on the IUCN definition. The North Pacific Council has used its process to implement such area-based protections for decades, resulting in closures or protections for about 65% of the Exclusive Economic Zone off Alaska.

The MPA Inventory database is also being misused in evaluating the level of conservation provided by fisheries managers. For example, a recent scientific journal article used the MPA Inventory database to evaluate the level of protection that MPAs provide to marine life, and to illustrate the amount of marine waters where bottom trawling is prohibited in the U.S.⁹ The figure in the paper indicates that bottom trawling is prohibited in a relatively small amount of the of the U.S. Exclusive Economic Zone. This is completely false. The database does not include numerous year-round, permanent closures to bottom trawling and other gear types in the North Pacific (all explicitly designed to protect vulnerable habitat and ecosystems), because the MPA Center incorrectly asserts that these types of closures were not set aside to provide “conservation of nature” (L. Wenzel, pers. comm., 1/28/21). The authors of this paper concluded that “comprehensive, spatially explicit data that include regulatory information are essential for

⁵ <https://coast.noaa.gov/nerrs/about/>

⁶ https://marine-conservation.org/wp-content/uploads/2021/01/SeaStates_US_2021_final_sm.pdf

⁷ Witherell, D. and D. Woodby. 2005. [Application of Marine protected Areas for Sustainable Production and Marine Biodiversity off Alaska](#), *Marine Fisheries Review*, Vol 67(1); 1-27.

⁸ Heltzel, J. M., D. Witherell, and W.J. Wilson. 2011. [Ecosystem-based Management for Protected Species in the North Pacific Fisheries](#). *Marine Fisheries Review* 73(3)20-35

⁹ Sletten, J., M. D’lorio, M.G. Gleason, A. Driedger, T. Vincent, C. Colegrove, D. Wright, and V. Zetterlind. 2021. Beyond the boundaries: How regulation-centered marine protected area information improves ocean protection assessments. *Marine Policy* 124(2021) 104340.

evaluating the level of protection that MPAs and MMAs provide to marine life, and to inform progress towards ocean protection targets.” We remain concerned that the MPA Inventory database used in the paper, and the evaluation of the data, is far from comprehensive and accurate, and thus not useful to evaluate ocean conservation. All of this misinformation can be traced to the adoption and interpretation of the IUCN definition and guidelines by the MPA Center.

We request that NOAA direct the MPA Center to reconsider use of the extremely narrow IUCN MPA definition and guidelines, particularly with respect to requiring that a marine conservation area must have a stated management objective of “conservation of nature” or “biodiversity” to be considered an MPA. Many of the protected areas off Alaska were carefully developed to meet specific conservation objectives supported by science and a public process without an explicit statement crafted in the way acceptable by the MPA Center to qualify. To that end, the current MPA Inventory database is far from comprehensive and accurate and should not be used to measure progress against the conservation goal set out in Executive Order 14008.

Lastly, we wish to note that conservation (wise use), rather than preservation focused on elimination of all use through “no-take MPAs”, should and appears to be the primary goal of Executive Order 14008. Our experience has shown that wise use, rather than exclusion, is a better way to achieve long term conservation of Alaska marine ecosystems. MacDermott et al. (2017) evaluated the effects of implementing MPAs in boreal marine ecosystems and found that these ecosystems have different responses to MPA implementation than has been found for tropical coral reef ecosystem MPAs.¹⁰ In the northern waters studied (Northwest Atlantic, Northeast Atlantic, and the North Pacific), overall species diversity is lower, abundance of individual species is often higher, and many fish species exhibit large amounts of movement as compared to tropical coral reef marine ecosystems where most MPA networks have been evaluated. The authors concluded that “In light of the increasing attention MPAs have received in recent years with respect to both conservation and fishery management, MPAs should not be regarded as the solution to all problems but merely as one of several tools used for successful fisheries management.” We agree. There are many other more appropriate and useful ways to measure progress toward this important conservation goal than relying solely on how much area is covered by MPAs listed in the MPA Center’s incomplete MPA Inventory.

Sincerely,



David Witherell
Executive Director

cc:

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

¹⁰ McDermott, S.F., and 10 others. 2017. Lessons on Marine Protected Areas in Northern Boreal Regions from the United States and Norway. *Marine Fisheries Review* 79(1):28-51.
<https://spo.nmfs.noaa.gov/sites/default/files/pdf-content/mfr7912.pdf>