

# North Pacific Fishery Management Council

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Matt Brookhart, Chief  
Policy and Planning Division  
Office of National Marine Sanctuaries  
1305 East-West Highway, 11<sup>th</sup> Floor  
Silver Spring, MD 20910

RE: Comments on RIN 0648-BD20 – Process for designation of national marine sanctuaries

Dear Mr. Brookhart:

On behalf of the North Pacific Fishery Management Council (Council), I am writing to comment on the proposed rule to revise the process for nominating and evaluating sites for eligibility as a national marine sanctuary.

This action would replace the current top-down process with a new bottom-up process whereby local communities and other interested parties would provide NOAA with proposals for new national marine sanctuaries. There is mention of participation of "local governments/tribal governments" in the proposed process, but no mention of any role for either the Regional Fishery Management Councils or State governments in development or evaluation of sanctuary proposals. It does not appear that the Councils will have any say in the proposal evaluation process or in the establishment of new marine sanctuaries, which may intersect with existing fishery management measures, habitat closures, overarching management policies, or longer-term strategic planning. This is the opposite of the National Marine Protected Areas program policy where new fishery related MPAs would be established only if proposed by the regional fishery management council.

Criteria are standards on which judgments are based. The term "criteria" implies a quantitative threshold that is passed or not. What is being proposed is a list of 12 considerations. There is no mention of how these considerations will be evaluated, or judged to determine "*those nominations that have successfully demonstrated eligibility for national marine sanctuary designation.*" It appears that as long as a proposer provides information on all of these considerations, then that site would be deemed eligible. This presents a very low bar for demonstrating eligibility.

For those proposed sanctuaries that are deemed eligible, it is not clear who decides, when, or how, the Office of National Marine Sanctuaries moves onto a designation process with the necessary NEPA analysis, proposed rulemaking, etc. The Proposed Rule states that "*If NOAA determines that a nominated site meets the final criteria, the agency may then choose to begin the public process for national marine sanctuary designation.*". This is quite vague for a proposed rulemaking, and makes it extremely difficult to understand how this process will actually unfold, and in turn makes it difficult to provide specific

comments on the proposed rule. It does raise a number of significant questions about the process for actual designation.

For example: "How will the agency choose which eligible sanctuaries to move ahead with designation? What does widespread support or "broad community support" mean? Consensus, majority, or more than one group? Is a community a physical location in proximity to the proposed sanctuary site? Or is a community a group of people with similar ideology? In either case, does this 'community's support' weigh more heavily in the determination relative to other perspectives?"

In other instances where NOAA has made significant changes to procedures and guidelines, NOAA has issued an Advanced Notice for Proposed Rulemaking. Yet in this case, NOAA has proceeded straight to a Proposed Rule, many aspects of which are vague, and which in general does not provide the public with a meaningful understanding of the process. **Given the concerns listed above, we recommend NOAA take a step back and issue the proposed sanctuary designation process as an Advanced Notice for Proposed Rulemaking, provide additional detail regarding the actual designation/approval process, and include an explicit mechanism for consultation with the relevant Regional Fishery Management Council and State(s).**

On behalf of the North Pacific Fishery Management Council, I appreciate the opportunity to convey our significant concerns regarding the proposed rule on the revised sanctuary nomination process.

Sincerely,



Chris Oliver  
Executive Director

CC: Samuel Rauch, Assistant Administrator, NMFS  
Holly Bamford, Assistant Administrator, NOS  
Kathryn Sullivan, Acting NOAA Administrator  
James Balsiger, Regional Administrator, NMFS Alaska