

**Committee on Natural Resources**  
**Subcommittee on Oversight and Investigations**  
**Oversight Hearing**  
**1324 Longworth House Office Building**  
**September 19, 2023**  
**10:15 AM**

**Oversight Hearing titled** *“Examining Barriers to Access in Federal Waters: A Closer Look at the Marine Sanctuary and Monument System”*

**Questions from Chair Gosar** for Jainey Bavishi, Assistant Secretary of Commerce for Oceans and Atmosphere

1. I understand that many Alaskan communities are concerned that NOAA may soon propose Alaġum Kanuux for a marine sanctuary designation.
  - a. Does NOAA intend to propose Alaġum Kanuux for a marine sanctuary designation? If so, when will that process begin and what will it look like?

Answer: NOAA has no current plans or intent to initiate the sanctuary designation process for Alaġum Kanuux.

- b. If not, what are the circumstances in which NOAA would move forward with the Alaġum Kanuux designation?

Answer: If NOAA considered initiating the sanctuary designation process in the future for Alaġum Kanuux, we would notify the Governor and the Congressional delegation of Alaska far in advance. Standard practice for all sanctuary designations entails a lengthy process, beginning with public scoping that would be highly participatory for the community, stakeholders, and the public. No policies would be predetermined without public input.

- c. Outside of the sanctuary nomination process, is the Administration considering any actions to designate the waters around St. Paul, or other waters off Alaska, as a National Marine Monument under the Antiquities Act?

Answer: We at NOAA are not aware of any deliberations to designate any waters around Alaska as marine national monuments under the Antiquities Act.

2. Over the last two years, the nation’s eight regional fishery management councils developed the first synthesis of conservation areas in federal waters off the United States, identifying hundreds of conservation areas created under fisheries management authority covering more than 72% of federal waters.

- a. Under the 30x30 Initiative, are NOAA and other agencies involved in the American Conservation and Stewardship Atlas development going to incorporate the conservation areas identified in the Councils' report?

Answer: Yes, the Council Coordination Committee (CCC) developed a GIS data set that is recommended as a tool to identify fishery management areas for Atlas base data layers. The National Marine Fisheries Service (NOAA Fisheries) conducted an independent review of the CCC's data set and determined that it was appropriate for use and submitted the data set as part of NOAA's submission.

- b. How else is NOAA going to view and use the Councils' report to address the objectives set out in 30x30?

Answer: NOAA will continue to use this report to inform both the domestic and international accounting of protected and conserved areas in the U.S. EEZ, recognizing the value of the Regional Fishery Management Councils' advisory role and the benefits the Magnuson-Stevens Act (MSA) provides to the ocean and its biodiversity.

3. In a letter to Administrator Spinrad from March 2023, a broad group of Bering Sea stakeholders asserted that NOAA was mistaken in their assessment that the Alaġum Kanuux nomination enjoys "broad community-based support", which the Office of National Marine Sanctuaries identifies as a necessary criterion before a nomination can be accepted and added to the inventory. Stakeholder input on this nomination reveals that the proposal actually had very limited support from other fishery dependent communities, Tribes in the region, stakeholders that rely on areas of the Bering Sea covered by the originally proposed sanctuary boundaries, and from others in the region who would be directly impacted.
  - a. How did NOAA assess the interests and viewpoints of these critical stakeholders in the Alaġum Kanuux sanctuary proposal?

Answer: In 2014, NOAA implemented the Sanctuary Nomination Process in response to widespread interest from the public in a process by which communities could suggest places that NOAA should consider for marine sanctuary designation. In assessing the level of community support for a new sanctuary nomination, NOAA considers statements of support included in the nomination package, as well as any additional views submitted during NOAA's evaluation of the nomination. This evaluation assesses only whether the nomination has sufficiently met NOAA's criteria and management considerations. NOAA did not design the Sanctuary Nomination Process to include public input into initial decisions on a nomination because of the substantial opportunities for public input, including from stakeholders who are critical of a nomination, that would be available if NOAA initiated a designation process.

- b. Was the lack of affirmative support for the sanctuary proposal weighed carefully when attempting to quantify whether the “broad community-based support” threshold had been met?

Answer: In the evaluation of the Alaġum Kanuux nomination, NOAA determined that the nomination had a sufficient level of affirmative broad-based community support. The existence of opposition to the sanctuary nomination did not preclude this determination, which was based on evaluation of sufficiency of support rather than adjudication of competing views.

- c. Did NOAA give disproportionate weight to form letters as part of the nomination packet from stakeholders outside of the region?

Answer: No. NOAA provides due consideration to all information included in a nomination package to the extent that it provides evidence that a nomination meets NOAA’s criteria and management considerations. The nomination package for Alaġum Kanuux, submitted by the Aleut Community of St. Paul Island Tribal Government, included letters of support from a wide variety of local, regional, and national organizations.

4. The Magnuson-Stevens Act lays out ten statutory national standards that fishery management plans and plan amendments must comply with, including requirements that fisheries are not overfished, that bycatch is minimized to the extent practicable, that fishers and fishing communities are treated fairly and equitably, and to promote the safety of human life at sea. The National Marine Sanctuaries Act contains no substantive statutory requirements for managing fisheries inside a sanctuary.
  - a. Does NOAA believe that a Sanctuary’s “goals and objectives” can be a viable basis for managing commercial fisheries, even if they conflict with the national standards in the Magnuson-Stevens Act?

Answer: The MSA provides the primary statutory framework for federal management of commercial fisheries, including its National Standards. The National Marine Sanctuaries Act (NMSA) authorizes the conservation and comprehensive management areas of the marine environment that are of special national significance, while allowing for uses that are compatible with each sanctuary’s designation. In some of these areas of special national significance, comprehensive management may necessitate additional fishing regulations to achieve the goals and objectives of a sanctuary. In these areas, sanctuary-specific fishing regulations are designed to supplement, rather than supplant, NOAA’s fishery management actions under the MSA, and are developed utilizing advice and recommendations received from the relevant regional fishery management council, as provided by the MSA. Section 304(a)(5) of the NMSA recognizes the expertise and advisory role of the regional fishery management councils by providing the appropriate council an opportunity to propose fishing regulations that are necessary to achieve the goals and objectives of the sanctuary designation.

- b. Can NOAA provide assurances that current or future federal administrations and current or future leaders of a sanctuary's sponsors will not use a sanctuary's "goals and objectives" and/or sanctuary management regulations to allow commercial fishing unrestricted by the statutory resource protections in the Magnuson-Stevens Act?

Answer: Under the NMSA, NOAA may promulgate sanctuary-specific fishing regulations if they are necessary to achieve the purposes and policies of the NMSA or the goals and objectives of a sanctuary designation. As a practical matter, because the primary purpose of any sanctuary designation is resource protection, we do not envision a situation in which fishing regulations for a sanctuary would be more permissive than pre-existing MSA regulations. NOAA is and will continue to be heedful of statutory requirements of the MSA under the current and any future presidential administration.

- c. Can a sanctuary's management regulations be used to create specific economic benefits from a commercial fishery inside a sanctuary? For example, could sanctuary regulations require that all fish harvested inside a sanctuary be delivered for processing at a specific port?

Answer: Sanctuary regulations can only regulate activities that either occur within a sanctuary's boundaries or, with respect to activities that occur outside the sanctuary, have potential to harm sanctuary resources.

- d. Is NOAA concerned that fishery participants and other stakeholders who do not get their way at a regional fishery management council will become sanctuary sponsors in an effort to achieve from NOAA's Office of Marine Sanctuaries what they could not achieve at their regional council?

Answer: No, NOAA does not share this concern. The Sanctuary Nomination Process provides a way by which interested communities can suggest places that they believe NOAA should consider for sanctuary designation. The acceptance of a nomination into the inventory indicates only that the nomination has sufficiently met NOAA's significance criteria and management considerations to be eligible for consideration. The sanctuary designation process, if initiated, is a completely separate process during which NOAA solicits and considers input from stakeholders and the public at multiple stages. NOAA is committed to utilizing advice and recommendations received from the applicable fishery management council, in its advisory capacity, regarding any sanctuary nomination that may involve fishery management. During a designation process, per the NMSA, NOAA provides each relevant regional fishery management council, in its advisory capacity, with the first opportunity to propose any fishing regulations that

may be necessary to achieve the goals and objectives of the sanctuary designation for NOAA's consideration.

- e. In *Massachusetts Lobstermen's Association v. Raimondo*, Chief Justice Roberts expressed skepticism about using the Antiquities Act to create new regulatory regimes over large areas of the ocean. How has Chief Justice Roberts' statement affected NOAA's decision-making when choosing a statutory basis for removing large areas of the ocean out from under the Magnuson-Stevens Act?

Answer: NOAA is aware of the Chief Justice's Statement in *Massachusetts Lobstermen's Association v. Raimondo*, and notes that, in the Statement, areas designated as National Marine Sanctuaries were expressly distinguished from Marine National Monuments designated under the Antiquities Act. As observed by the Chief Justice, national marine sanctuaries may only be designated after "satisfying rigorous consultation requirements and issuing findings on 12 statutory criteria." Any decision by NOAA to begin the designation of a new national marine sanctuary is based upon the standards and factors described in the NMSA, as informed by the associated designation consultations, public engagement, and National Environmental Policy Act (NEPA) review.

NOAA does not make decisions related to when to exercise authority under the Antiquities Act to create a marine national monument. NOAA further notes that designation of a national marine sanctuary does not necessarily remove an area from fishery management under the MSA—please see Section 304(a)(5) of the NMSA for the process under which NOAA utilizes recommendations received from the relevant regional fishery management council, in its advisory capacity, to consider sanctuary-specific fishing regulations.

NOAA implements its authorities based on the applicable purposes and standards of each of its statutory authorities.

5. In 2022, NOAA placed in inventory a proposed sanctuary, Alagum Kanuux. As originally proposed, this sanctuary would cover more than 52,000 square miles in the Bering Sea. The current proposal for Alagum Kanuux lacks any boundaries and the designation process, if undertaken, may lead to an even larger sanctuary.
  - a. Has NOAA created up to five years of regulatory uncertainty for Bering Sea fishery participants by adding Alagum Kanuux to inventory? If not, please explain why.

Answer: The Sanctuary Nomination Process is not a regulatory process. The acceptance of a nomination into the inventory indicates only that the nomination has sufficiently met NOAA's significance criteria and management considerations. It does not signal NOAA's intent to begin a designation process or consider new regulations for any given area. NOAA has closely

coordinated with the North Pacific Fishery Management Council, in its advisory capacity, regarding the Alaġum Kanuux nomination and held a public meeting in conjunction with a Council meeting specifically to address stakeholders' questions and concerns.

b. What percentage of U.S. fisheries landings occur in the Bering Sea?

Answer: By volume, Bering Sea and Aleutian Islands' (BSAI) share of U.S. fisheries landings was 47% in 2022, the last year for which data is currently available. By value, BSAI's share of U.S. fisheries landings was 24% in 2022. Information is presented for the BSAI reflecting the standard aggregations for Alaska fisheries landings at the fisheries management plan (FMP) level. Raw numbers used for the calculation are:

- BSAI volume (2022): 1,749,970 MT
- US volume (2022): 3,754,327 MT
- BSAI volume share (2022): 47%
- BSAI value (2022): \$1,324,540,000
- US value (2022): \$5,584,323,553
- BSAI value share (2022): 24%

c. How many jobs does the Bering Sea fishing industry support?

Answer: BSAI fisheries supported a total US employment of 52,320 jobs / workers in 2014, the last year for which data is available. This number can be broken down as follows:

	Employment	Unit of Employment
Employment in BSAI fish harvesting	7,007	workers
Employment in BSAI fish processing (including processing employment in Aleutians West Census area, Aleutians East Borough, and At-sea sector)	16,495	workers
<i>Total BSAI seafood industry employment</i>	<i>23,502</i>	<i>workers</i>
Non-seafood industry employment (Aleutians West Census area and Aleutians East Borough)	810	full and part-time jobs
Non-seafood industry employment (rest of US)	28,008	full and part-time jobs

<b>Total contribution of BSAI fish harvesting to US employment</b>	<b>52,320</b>	<b>full and part-time jobs / workers</b>
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6. Earlier this year, NOAA Fisheries released its National Seafood Strategy which among other things, identifies as its Number One objective to: Maximize fishing opportunities and sustainable seafood production while ensuring the sustainability of fisheries through effective and efficient management.
  - a. How does closing all US waters around the U.S. Pacific Remote Island Area (PRIA), which historically have been important to the U.S. purse seine fleet and the Hawaii longline fleet, and displaces these fleets to fish on the high seas among foreign subsidized vessels, support NOAA's National Seafood Strategy?

Answer: NOAA does not establish, initiate or control the marine monument process. Under the Antiquities Act, the President establishes marine monuments and makes the final decision on what is protected and what uses will be restricted upon establishment. NOAA's process to consider national marine sanctuary designation for the Pacific Remote Islands provides multiple opportunities for public comment.

- b. How does closing US waters to commercial fishing in the Northeast Canyons and Seamounts Marine National Monument, which historically have been important to the US swordfish and tuna longline fleet, support NOAA's National Seafood Strategy?

Answer: NOAA does not establish, initiate or control the marine monument process. Under the Antiquities Act, the President establishes marine monuments and makes the final decision on what is protected and what uses will be restricted upon establishment.

- c. How does closing all US waters in the Northeast Canyons and Seamounts Marine National Monument to the red crab and lobster fisheries, which have operated there for over four decades while maintaining the "pristine" nature of the area, support NOAA's National Seafood Strategy?

Answer: NOAA does not establish, initiate or control the marine monument process. Under the Antiquities Act, the President establishes marine monuments and makes the final decision on what is protected and what uses will be restricted upon establishment.

7. Large-scale negative impact on commercial fishing and coastal communities is currently anticipated from the more-than 2,000 proposed offshore structures to be constructed in connection with offshore wind energy production. Now, with the reimposition of commercial fishing restrictions in the Northeast Canyons and Seamounts Marine National

Monument there is additional pressure on fishermen and those that rely on them for support.

- a. What is NOAA's National Marine Fisheries Service doing to study or in any way monitor what the cumulative impact of these proposals and conflicts will be on commercial fishing?

Answer: As a cooperating agency under NEPA, NOAA Fisheries provides technical expertise to the Department of Interior's Bureau of Ocean Energy Management (BOEM), the lead action agency for offshore energy projects, on their assessments of the impacts of offshore wind projects to fisheries, including cumulative impacts. For example, NOAA Fisheries has analyzed and provided to BOEM a report of [socioeconomic impacts](#) of Atlantic offshore wind development to identify the major species harvested, affected fishery operations, potential revenue impacted, and ports/states affected by offshore wind development in each lease or planning area.

- b. What is NOAA's National Marine Fisheries Service doing to calculate the cost of these cumulative impacts on coastal communities?

Answer: NOAA Fisheries provides technical information to BOEM's analysis of impacts resulting from offshore wind development. In addition to providing [regionally specific socioeconomic analyses](#), NOAA Fisheries has also provided advice and recommendations on commercial and for-hire fisheries in BOEM's development of their draft Guidelines for Mitigating Impacts to Commercial and Recreational Fisheries due to offshore wind.

8. The stated purpose of the Northeast Canyons and Seamounts Marine National Monument is to protect the deep-sea canyons and sea mounts in the area.
  - a. How does prohibiting the continued operation of sustainable commercial pelagic fisheries in the water column above the canyons and seamounts provide protection to these natural structures?

Answer: NOAA does not establish, initiate or control the marine monument process. Under the Antiquities Act, the President establishes marine monuments and makes the final decision on what is protected and what uses will be restricted upon establishment.

- b. If NOAA holds that banning fishing activities above the deep-sea canyons and seamounts somehow provides protection to these natural structures below, why is recreational fishing permitted, especially since there are instances in which recreational fishers use the same gear as commercial fisheries?

Answer: NOAA does not establish, initiate or control the marine monument process. Under the Antiquities Act, the President establishes marine monuments and makes the final decision on what is protected and what uses will be restricted upon establishment. Presidential Proclamation



10287 prohibited commercial fishing in the Northeast Canyons and Seamounts Marine National Monument.

9. What will be the statutory authority for regulations that prohibit commercial fishing in the Monument? What will be the enforcement mechanism? If the authority for the regulations is derived from the Magnuson Stevens Act:

Answer: In order to meet this requirement of the Presidential Proclamation, NOAA Fisheries intends to promulgate regulations under the authority of section 305(d) of the Magnuson-Stevens Act, as necessary to carry out section 303(a)(1)(C) of the Act. Section 303(a)(1)(C) requires conservation and management measures in fishery management plans to be consistent with all applicable laws, which includes the Antiquities Act and Presidential Proclamations issued under the Antiquities Act.

The MSA prohibits any person from violating the Act or any permit or regulation issued pursuant to the Act (16 U.S.C. § 1857(1)(A)); this would include any regulations promulgated under the Act to meet the requirement of the Presidential Proclamation. NOAA and the US Coast Guard are responsible for enforcement of the MSA (16 U.S.C. § 1861). NOAA is supported in this regard by State and territorial enforcement authorities operating under joint enforcement agreements. Violations of the MSA are subject to civil administrative penalties and permit sanctions, criminal penalties for certain violations, and forfeiture actions (16 U.S.C. § 1858-1860). More information about civil administrative penalty actions, including the penalty policy, is available on the website of the [NOAA Office of General Counsel Enforcement Section](#).

- a. What Fishery Management Plans are being modified and when will the National Marine Fisheries Service consult with the Fishery Management Councils on these changes?

Answer: Using the authority at section 305(d) of the MSA, NOAA Fisheries is obligated to issue regulations to ensure all conservation and management measures contained in fishery management plans implemented by the Secretary of Commerce are consistent with all applicable laws, including the Antiquities Act. However, the agency is not modifying any fishery management plans but has proposed regulations that would modify the general provisions for domestic fisheries at 50 CFR 600.10 to define the coordinates of the Monument as proclaimed by the President, and to clarify the prohibitions at 50 CFR 600.725 that while commercial fishing was prohibited by the President's Proclamation, vessels may transit the area provided fishing gear is stowed and unavailable for immediate use. The agency consulted with both the Mid-Atlantic and New England Fishery Management Councils, in their advisory capacities, about their interest in modifying their applicable fishery management plans to incorporate the Monument. Both Councils considered this action but ultimately declined to propose such modifications, with the understanding that NOAA Fisheries would be developing regulations under the Secretary's authority.

- b. How do these regulations help achieve Optimum Yield?

Answer: Optimum yield is defined in the MSA as the maximum sustainable yield reduced by any relevant economic, social, or ecological factor. The amount of fish available to commercial fisheries operating in the region has not been affected by the President's establishment of the Monument.

- c. When will a fishery impact statement or NEPA document be completed to support these regulations, as required by the Magnuson-Stevens Act?

Answer: Because the NOAA Fisheries is not modifying any fishery management plans, a fishery impact statement is not required and is not being prepared. NEPA does not apply because the action is non-discretionary.

If the authority for the regulations is derived from the Antiquities Act:

- a. What is the penalty for violation of these proposed regulations?

Answer: As described above, the MSA provides NOAA's authority for promulgating regulations that prohibit commercial fishing in the Monument, and such regulations will be subject to enforcement under Sections 307-311 of the Act (16 USC 1857-1861). The Antiquities Act authorizes the imposition of criminal penalties. 54 U.S.C. § 320105. Those penalties are described at 18 U.S.C. § 1866. Since NOAA Fisheries does not have the authority to prosecute criminal matters, the agency must defer to the United States Department of Justice with respect to its handling of any potential criminal prosecution and the possible criminal penalties that may be imposed.

10. New England Fishery Management staff attempted to estimate the economic impacts of the Northeast Canyons and Seamounts Marine National Monument, based on work that had been done for the Deep-Sea Coral amendment. That work demonstrated that the New England Deep Sea Coral amendment protected a large percentage of the area covered by the Monument with fewer negative impacts.
- a. What work has NOAA's National Marine Fisheries Agency completed to estimate the commercial fishing impacts of the Monument and the proposed reimposition of a commercial fishing ban?

Answer: NOAA Fisheries prepared a Regulatory Impact Review (RIR) as required under EO 12866.

11. Approximately 82 % of the Northeast Canyons and Seamounts Marine National Monument is covered by the New England Deep Sea Coral Amendment. And an additional 5 % is covered by the Mid-Atlantic Golden Tilefish Restricted Area.

Accordingly, approximately 87% or 88% of the monument is already protected under the Magnuson-Stevens Act. The 12% of the Northeast Canyons and Seamounts Marine National Monument that is not protected by Magnuson-Stevens but included in Monument is essentially the plateau above the canyons. That area is a gently sloping mud plateau with no special objects of any kind, but there has been historical fishing on that area, or above that area for the past 40-50 years. Both the NGOs who advocated for the monument, and the Draft Management Plan and Environmental Assessment refer to the monument area as "largely pristine."

- a. Why is the 12% of the monument comprising the plateau included in the monument?
- b. What is the justification for considering this region part of the smallest area necessary to protect the canyons and seamounts?
- c. What is the purpose of banning commercial fishing in this area?

Answer (a, b, and c): NOAA does not establish, initiate, or control the marine monument process. Under the Antiquities Act, the President establishes marine monuments and makes the final decision on what is protected and what uses will be restricted upon establishment. Section 2 of the Antiquities Act of 1906, 34 Stat. 225 (codified at 16 U.S.C. § 431), provides:

[T]he President of the United States is hereby authorized, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and may reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with proper care and management of the objects to be protected: Provided, That when such objects are situated upon a tract covered by a bona fide unperfected claim or held in private ownership, the tract, or so much thereof as may be necessary for the proper care and management of the object, may be relinquished to the Government, and the Secretary of the Interior is hereby authorized to accept the relinquishment of such tracts on behalf of the Government of the United States.

12. The Draft Environmental Assessment included in the Draft Management Plan and Environmental Assessment for the Northeast Canyons and Seamounts Marine National Monument is almost completely silent on impacts to the commercial fishery.
  - a. How is this consistent with NEPA guidance to evaluate cumulative effects of past, present, and reasonably foreseeable future actions?

Answer: NEPA does not require NOAA or NOAA Fisheries to evaluate the effects of activities prohibited in the Monument by its establishing Presidential Proclamation. In accordance with 40 CFR 1501.1, in determining whether NEPA applies, federal agencies should consider, "whether the proposed activity or decision, in whole or in part, is a non-discretionary action for which the agency lacks authority to consider environmental effects as part of its decision-making process."

Neither NOAA nor NOAA Fisheries has discretion related to the enactment of the prohibitions in Presidential Proclamation 9496, which established the Monument. While the draft management plan identifies activities to ensure compliance with these prohibitions, neither NOAA nor NOAA Fisheries has discretion over the prohibitions themselves and is not able to consider any alternatives to them. Consequently, these prohibitions are not subject to NEPA and their effects on the human environment are not considered within the scope of this draft environmental assessment.

**Questions from Rep. Case** for Assistant Secretary Bavishi

1. What are some of the benefits of overlaying a Marine National Monument with a National Marine Sanctuary?

Answer: Among the purposes of the National Marine Sanctuaries Act is to provide for comprehensive and coordinated conservation and management of nationally significant marine areas. Sanctuary designation and management is intended to enhance and further coordinate existing protections and management efforts rather than to replace or duplicate them. For each sanctuary, NOAA develops a comprehensive management plan through robust collaboration and communication with our partners and the community. These management plans bring to bear additional NOAA capacity and expertise in research and management of coastal and marine resources, maritime heritage and archaeology, and public education and outreach. In addition, when natural and cultural resources in a marine protected area sustain damage, a national marine sanctuary designation also creates an additional mechanism by which NOAA and its co-trustees can assess damage, recover funds from responsible parties, and conduct actions to restore injured resources and compensate resource users for the loss of their use.

**Questions from Rep. Raúl Grijalva** for Ms. Jainey Bavishi, Assistant Secretary of Commerce for Oceans and Atmosphere, National Oceanic and Atmospheric Administration (NOAA)

1. There is a lack of clarity on how NOAA navigates the intersection of its various management authorities, such as the Office of National Marine Sanctuaries (ONMS) and the National Marine Fisheries Service (NMFS).
  - How does the ONMS collaborate with other agencies to address activities outside of a sanctuary that impact the sanctuary's health (e.g., water quality)?

Answer: Section 304(d) of the National Marine Sanctuaries Act requires consultation with NOAA for any federal agency actions that are likely to destroy, cause the loss of, or injure any sanctuary resource. Such actions include those that are internal or external to a national marine sanctuary, including private activities authorized by federal licenses, leases, or permits. During this consultation process, NOAA may recommend alternative actions or additional actions to mitigate or prevent the potential injury to sanctuary resources. If the other agency takes an action other than an alternative recommended by NOAA and such action results in the destruction of,

loss of, or injury to a sanctuary resource, then the agency is required to prevent and mitigate further damage and restore or replace the sanctuary resource in a manner approved by NOAA.

- How do ONMS and NMFS work together to address concerns when fisheries are found to be harming the health of sanctuary resources?

Answer: NOAA periodically reviews its progress toward implementing the management plan and goals for the sanctuary, especially the effectiveness of site-specific management techniques and strategies. During such a review, if NOAA found that fishing activity was harming the health of sanctuary resources, NOAA would consider additional or different management actions to protect sanctuary resources. If such additional actions included changes to sanctuary-specific fishing regulations, NOAA would provide the relevant regional fishery management council with the opportunity to propose, in its advisory capacity, any changes to fishing regulations that would be necessary to meet the goals and objectives of the sanctuary for NOAA's consideration. NOAA may also consider additional non-regulatory actions, such as outreach and the promotion of best practices, to protect sanctuary resources that are under threat.

- How do NOAA and Department leadership engage to make sure the requirements of the National Marine Sanctuaries Act are met when protection may require fishery restrictions?

Answer: Section 304(a)(5) of the National Marine Sanctuaries Act recognizes the role and expertise of the regional fishery management councils by providing the appropriate council an opportunity to recommend, in its advisory capacity, fishing regulations that are necessary to achieve the goals and objectives of the sanctuary designation for NOAA's consideration. The council may also recommend that no additional fishing regulations are necessary. If NOAA determines that a council's recommendation meets the goals and objectives of the sanctuary designation, it will issue them. Where a council declines to make a determination with respect to the need for regulations, makes a determination which is rejected by the Secretary, or fails to propose draft regulations in a timely manner, NOAA prepares the regulations. For both Acts, NOAA issues such regulations under delegated authority from the Secretary of Commerce and subject to review by the Department.

- Who within NOAA is responsible for ensuring that management actions to secure the health of fisheries resources within a national marine sanctuary are referred to the regional fishery management council for timely consideration and decision making?

Answer: Pursuant to Section 304(a)(5) of the National Marine Sanctuaries Act, NOAA's Office of National Marine Sanctuaries, in coordination with relevant offices within NOAA Fisheries, including the Office of Sustainable Fisheries and the relevant regional fisheries offices, provides the appropriate fishery management council(s) with the opportunity to recommend, in its

advisory capacity, fishing regulations for NOAA's consideration to implement the proposed sanctuary designation.

- Who within NOAA is responsible for ensuring that fishery management council actions are sufficient to secure healthy sanctuary resources? What is the process for secretarial action when that standard is not met?

Answer: Day-to-day management of the National Marine Sanctuaries System (System) is delegated from the Secretary to NOAA's Office of National Marine Sanctuaries (ONMS). ONMS is responsible for determining whether a council's recommendation under Section 304(a)(5) of the National Marine Sanctuaries Act, including a recommendation that no additional fishing regulations are needed, meet the goals and objectives of the sanctuary designation. Where a council declines to make a determination with respect to the need for regulations, makes a determination which is rejected by the Secretary, or fails to propose draft regulations in a timely manner, NOAA prepares the regulations.

- What is the process for navigating instances of fishery management and resource protection overlap?

Answer: Sanctuary-specific fishing regulations are designed to supplement, rather than supplant, fishery management actions under the Magnuson-Stevens Act. Where they are necessary to achieve the goals and objectives of a sanctuary designation, NOAA may issue fishing regulations under either the National Marine Sanctuaries Act or the Magnuson-Stevens Fishery Conservation and Management Act. In issuing such regulations, NOAA coordinates across offices that are responsible for their respective resource protection authorities to ensure they are consistent and compatible.