



## Frequently Asked Questions

### National Marine Sanctuary Nomination & Designation Process - Alaġum Kanuuġ

#### What is the process for accepting a nomination to the inventory of successful nominations?

- NOAA accepts nominations on a rolling basis. Once a nomination is received, NOAA conducts a review to determine if it would be accepted to the inventory of successful nominations.
- The strongest nominations will provide a clear connection and focus on the [11 national significance criteria and management considerations](#) that NOAA outlined when developing this nomination process. NOAA considers the following:
  - Does the place have natural resources or habitat with special ecological significance?
  - Does the place have maritime heritage resources with special historical, cultural, archaeological significance?
  - Does the place support economic uses like tourism, fishing, etc?
  - Do all of these things depend on conservation and management of resources?
- NOAA also looks for:
  - Opportunities for research, education or partnerships;
  - Potential threats or impacts to the qualities that make the area nationally significant;
  - Existing management and regulations for the area and whether they could be supplemented or complemented to meet conservation and management goals for the area; and
  - Broad community-based support.
- Once a nomination is added to the inventory, NOAA may consider it for future designation as a national marine sanctuary. However, being in the inventory does not guarantee that NOAA will begin the sanctuary designation process for that area. For more information about the sanctuary nomination process, see NOAA's regulations at 15 C.F.R. part 922, subpart B, and NOAA's website at: <https://nominate.noaa.gov/>.

#### Now that the Alaġum Kanuuġ nomination has been added to the inventory, what comes next?

- Once a nomination is added to the inventory, NOAA may consider the area for future designation as a national marine sanctuary. At this time, NOAA has not committed to further action on the Alaġum Kanuuġ nomination.
- If a successfully nominated site begins to approach the 4.5-year mark in the inventory, NOAA will notify the nominating party that a 5-year review is necessary to ensure that the site still meets the 11 national significance criteria and management considerations. During this review, the nominating party and the public have an opportunity to provide any new or relevant information about the nomination. If NOAA determines that the site continues to meet the national significance criteria and management considerations, then it will stay in the inventory for another 5 years. If NOAA determines that the site does not continue to meet the national significance criteria and management considerations, then it will be removed from the inventory.

- More information about the 5-year review process is available on NOAA's website: <https://nominate.noaa.gov/5-year-review.html>

**What factors are being considered to decide whether to move the Alaġum Kanuuġ nomination into the designation process? What happens between the time a nomination is included in the inventory and a potential NOAA decision to move into the designation process?**

- The nomination process was completed once NOAA reviewed the Alaġum Kanuuġ nomination and decided to place it in the inventory. However, none of the nominations in the inventory, including Alaġum Kanuuġ, are guaranteed to advance to the designation process.
- There is no defined timeline for when NOAA may choose to move a nomination on the inventory into the designation process. Since launching the nomination process in 2014, NOAA has accepted 9 nominations to the inventory, and 5 of these 9 have entered the designation process, with Mallows Bay-Potomac River and Wisconsin Shipwreck Coast having now been designated as National Marine Sanctuaries. NOAA initiated both designations in 2015, about a year after they were accepted to the inventory, but the designation process for each was not completed until 2019 and 2021, respectively. The proposed Chumash Heritage National Marine Sanctuary, currently in the designation process, spent 6 years on the inventory before entering the designation process.
- During the period of time after a site is added to the inventory, NOAA must weigh several factors, including the availability of resources from both within and outside the agency, the need for resource management, other management priorities, and public support, before deciding to begin the designation process.

**How does NOAA use a nomination to inform the designation of a sanctuary?**

- The nomination is a starting point for any future sanctuary designation. But a designated national marine sanctuary may look different than the nomination, due to the public nature of the designation process. If NOAA decides to initiate designation, it would consider input received during the scoping process as it develops the draft sanctuary designation documents, and would solicit public comment on the proposed designation once those documents are published.

**What is the process to develop a proposed boundary and draft regulations for a proposed sanctuary? How can the nominated area be evaluated if there is not a proposed boundary in the nomination?**

- If NOAA were to decide to initiate a national marine sanctuary designation, boundaries, regulations, and operational details would be proposed after a public scoping process.
- Input from the stakeholders and ocean users, Tribes, ANCSA Native Corps, state and local governments, other federal agencies, the relevant fishery management council(s), and the general public will all be considered in developing a set of boundary alternatives and proposed regulations.
- The results of a public scoping process would assist NOAA in moving forward with the designation process and the preparation and release of draft designation documents, including proposed regulations, a draft management plan, and a draft environmental impact statement, which would include analysis of reasonable alternatives, including boundary alternatives for the proposed designation. This scoping process will also

inform the initiation of any consultations with federal, state, or local agencies, tribes, ANCSA Native Corps, and other interested parties, as appropriate.

- This process is conceptually very similar to other federal decision-making processes where public scoping is used to define a proposed regulatory action which is then subjected to public comment. This process is not unique to the national marine sanctuary designation process.

### **What is the process to designate a sanctuary?**

- The process for designating a national marine sanctuary is initiated by the NOAA Administrator. In some cases, NOAA is directed by Congress to initiate the designation process for a nomination or any area of national significance.
- Once NOAA begins the designation process for an area, NOAA will follow the procedures for designation identified in the National Marine Sanctuaries Act, a process that is highly public and participatory, and which typically takes years to complete.
- If and when NOAA initiates the designation process for Alaġum Kanuuġ, NOAA would consult and/or seek input from the communities and tribal governments of St. Paul and St. George, the State of Alaska, the North Pacific Fishery Management Council, and all affected stakeholders, including other affected tribes, ANCSA native corporations, other Bering Sea communities, the seafood industry, and other ocean users.
- The process for designating a new national marine sanctuary has four main steps, described below. However, if there are changes to the 11 factors of consideration described above, NOAA may decide to terminate the sanctuary designation process at any point during the process.
  - 1. Scoping: NOAA would announce its intent to consider designating a new national marine sanctuary and publish a Notice of Intent to prepare a draft environmental impact statement in the Federal Register to begin the scoping process and ask the public for input on potential boundaries, resources that could be protected, issues NOAA should consider and any information that should be included in the resource analysis. For this particular designation, under section 304(a)(5) of the National Marine Sanctuaries Act (NMSA, 16 U.S.C. § 1434(a)(5)) NOAA would provide the North Pacific Fishery Management Council (Council) with the opportunity to prepare any draft fishing regulations it thinks are necessary for the proposed sanctuary. NOAA recognizes the Council's role under the Magnuson-Stevens Fishery Conservation and Management Act (MSA) and its familiarity and expertise with regard to the resources and fishing activities in the Bering Sea, and is therefore committed to working with the Council throughout this process.
  - 2. Sanctuary Proposal Development: NOAA would consider input received during the initial scoping period and decide if it wants to move forward with the designation process. If yes, NOAA would prepare draft designation documents, including a draft management plan and a draft environmental impact statement that analyzes a range of alternatives, including proposed regulations and proposed boundaries for the sanctuary. Pursuant to Section 304(a)(5) of the NMSA, NOAA would determine if the Council's recommended fishing regulations, or the Council's decision that no additional fishing regulations are necessary, fulfill the purposes and policies of the NMSA and the goals and objectives of the proposed designation. NOAA may also form an advisory council to help inform the proposal and focus stakeholder participation.
  - 3. Sanctuary Proposal Release and Public Review: NOAA would release the draft documents described above for public comment, and the public, State of

Alaska, agency partners, tribes, the Council, and stakeholders would be able provide input on them, including on proposed boundary alternatives and proposed regulations. NOAA would consider all input and determine appropriate changes to the designation documents.

- **4. Sanctuary Designation:** NOAA would make a final decision on whether or not to designate the site as a national marine sanctuary and, if so, prepare the final documents. Before the designation becomes effective, the Governor of Alaska and Congress would have the opportunity to review the final documents. If the sanctuary is located partially or entirely within the seaward boundary of Alaska, the designation or any of its terms would not take effect in state waters if the Governor determines that the designation or any of its terms is unacceptable.

### **How are goals and objectives for a proposed sanctuary determined?**

- The goals and objectives for a proposed sanctuary are defined by NOAA and informed by the purposes and policies of the NMSA, specific guidance provided by Congress or a Presidential memorandum, state and federal agencies, tribal partners, input from the public during the designation process, and the contents of the nomination package (if the proposed sanctuary originated with a nomination).
  - The purposes and policies of the NMSA are identified in section 301(b) (16 USC 1431(b)) include:
    - “to maintain the natural biological communities in the national marine sanctuaries, and to protect, and, where appropriate, restore and enhance natural habitats, populations, and ecological processes”;
    - “to enhance public awareness, understanding, appreciation, and wise and sustainable use of the marine environment, and the natural historical, cultural, and archaeological resources of the National Marine Sanctuary System”;
    - “to support, promote, and coordinate scientific research on, and long-term monitoring of, the resources of these marine areas”;
    - “to facilitate to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities”; and
    - “to develop and implement coordinated plans for the protection and management of these areas with appropriate Federal agencies, State and local governments, Native American tribes and organizations, international organizations, and other public and private interests concerned with the continuing health and resilience of these marine areas.”

### **How would an Alaġum Kanuux national marine sanctuary, if designated, impact fisheries management?**

- National marine sanctuaries conserve marine species and ecosystems while promoting compatible uses, and have a long history of working with recreational and commercial fishermen and the Council management system under the MSA.
- Pursuant to section 304(a)(5), NOAA would provide the Council with the opportunity to propose any draft fishing regulations it may deem necessary to fulfill the proposed goals and objectives of a proposed sanctuary. This role creates a process for NOAA to leverage and learn from the Council’s expertise, as well as familiarity with the resources and the fishing activities in the region.

- NOAA’s decision to reject or accept a Council’s recommendation is determined on a case-by-case basis. NOAA may use the NMSA, the MSA, or both, as appropriate, to promulgate and implement any regulations recommended by the Council or otherwise address fishery management requirements.
- NOAA will accept the Council’s recommended fishing regulations (including a recommendation that no additional fishing regulations are necessary) and, as appropriate, issue them as proposed regulations *unless* NOAA determines that the recommendation does not fulfill the purposes and policies of the NMSA and the goals and objectives of the proposed sanctuary.
- Outside of the section 304(a)(5) process, the Council will continue to manage fishing within a national marine sanctuary under the MSA, provided that such management is consistent with applicable sanctuary regulations.

### **How many national marine sanctuaries allow fishing? How many restrict fishing?**

- Some form of fishing, whether commercial, recreational or subsistence/traditional, is allowed in all national marine sanctuaries.
- While national marine sanctuaries may be designated to protect underwater ecosystems, and/or maritime and cultural heritage resources, they allow a variety of commercial and recreational uses.
- At sites where NOAA regulates some form of fishing under the NMSA, it most often does so through discrete spatial closures to protect sensitive habitats and through gear restrictions. For example, NOAA regulations prohibit the use of any gear except for conventional hook and line gear within Flower Garden Banks National Marine Sanctuary (15 CFR 922.122(a)(8)) and Office of National Marine Sanctuaries regulations prohibit certain recreational and commercial fishing activities within specific areas of the Florida Keys National Marine Sanctuary (15 CFR 922.164).

### **How do sanctuaries add to existing management practices?**

- One of the purposes and policies of the National Marine Sanctuaries Act is “to provide authority for comprehensive and coordinated conservation and management of [ ] marine areas, and activities affecting them, in a manner which complements existing regulatory authorities.”
- Sanctuary designation and management is intended to support, enhance, and further coordinate ongoing resource protection efforts rather than to complicate or replace them. This coordinated resource management approach is unique to each sanctuary, as developed through the designation process and, after designation, through ongoing collaboration and communication with our partners and the public.

### **At what point in the process does NOAA initiate government-to-government consultation with Tribes? Who will NOAA consult with?**

- Executive Order 13175 requires federal agencies to “ensure meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications,” where tribal implications are defined as any actions that “have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.” Federal agencies are also required by law to consult with Alaska native corporations on the same basis as federally recognized tribes.
- NOAA offers government-to-government consultation with tribes at the earliest practicable time that it can reasonably anticipate that a proposed policy or action may

have tribal implications. NOAA's policy is to offer consultation early enough in the process to allow for flexibility and modification of NOAA actions, well before any final actions or decisions with tribal implications are made. Tribes can also request consultation with NOAA themselves at any time if they believe that they may be affected by NOAA's proposed actions.

- NOAA recognizes the distinct and individual cultural traditions and values of Alaska native people and the statutory relationship between Alaska native corporations and the federal government. NOAA has already accepted requests to engage in formal government-to-government consultation regarding the Alaġum Kanuuġ National Marine Sanctuary Nomination; consistent with its obligations and policies, NOAA intends to offer consultation to all tribes and Alaska native corporations that may be affected by its proposed actions regarding the Alaġum Kanuuġ National Marine Sanctuary Nomination if it determines that those actions will have tribal implications. Because an action to designate the Alaġum Kanuuġ National Marine Sanctuary could implicate the Bering Sea and related fisheries, NOAA may consult with tribes in the Bering Sea/Aleutian Islands area if NOAA proposes designation of the sanctuary, as well as with other tribes and Alaska native corporations that are affected by the relevant fisheries.
- NOAA is committed to working productively and transparently with tribal partners. NOAA may also conduct engagement sessions with tribes or tribal organizations outside of the formal government-to-government consultation process at any time as practicable. Engagement could include a range of interactions with tribal governments or with Alaska Native organizations, including sharing of information, joint projects, education and outreach that is outside of the formal government-to-government process.

### **What would co-management with a Tribe look like? Will a Tribe have direct decision-making authority?**

- NOAA can't fully answer this question before initiating a designation process and obtaining public input. Decisions about which resources would be protected through sanctuary designation, as well as the manner of their protection, is something that can only be determined through the public and participatory designation process. As such, NOAA cannot at this stage define what co-management would look like because decisions have not been made about what resources may be managed if a sanctuary is designated.
- Every national marine sanctuary is unique and has different partners with their own interests and relationships to the places and resources they are trying to protect.
- In the instance of Alaġum Kanuuġ, NOAA has received a sanctuary nomination from the Aleut Community of St. Paul Island (ACSPI), a federally recognized tribe.
- If NOAA decides to initiate the designation process for Alaġum Kanuuġ, any proposed co-management framework would be reflected in the draft designation documents, which are all subject to public comment. Any designation process would also comply with Executive Order 13175 and NOAA's Tribal Consultation Policy, and would include government-to-government consultation with the Aleut Community of St. Paul Island and any other affected tribes.
- ACSPI expressed its vision for co-management in the Alaġum Kanuuġ sanctuary nomination, especially the February 15, 2022 addendum. A nomination is just the starting place for a sanctuary, and NOAA is evaluating its legal and programmatic authorities to engage in the type of co-management envisioned in the nomination.