



**Mid-Atlantic Fishery Management Council**  
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Christopher M. Moore, Ph.D., Executive Director

## MEMORANDUM

**Date:** July 18, 2022  
**To:** Chris Moore, Executive Director  
**From:** Kiley Dancy, Staff  
**Subject:** Proposed Designation of Hudson Canyon National Marine Sanctuary

### **Introduction**

On Thursday, July 21, 2022, the Mid-Atlantic Fishery Management Council's Ecosystems and Ocean Planning (EOP) Committee and Advisory Panel will meet jointly to provide input to the Council to inform scoping comments on the proposed designation of Hudson Canyon National Marine Sanctuary.

In addition to this memo, materials included for the Committee and AP's consideration of this issue include:

1. June 8, 2022 Federal Register Public Scoping Notice of Intent
2. July 2022 letter to the Mid-Atlantic Council regarding consultation during the proposed designation process
3. April 2017 Mid-Atlantic Council comment letter on Hudson Canyon Sanctuary nomination
4. Staff Memo: Preliminary Landings and Revenue Report for Original Nominated Area
5. *Supplemental:* November 2016 WCS nomination for Hudson Canyon National Marine Sanctuary

### **Background**

In 2014, NOAA re-established a National Marine Sanctuary nomination process allowing communities to propose areas for National Marine Sanctuary designation. Nominations are reviewed against a set of 11 national significance criteria and management considerations. If successful, the nomination is added to a standing inventory of areas NOAA *could* consider for National Marine Sanctuary designation. The Hudson Canyon area off the coast of New York and New Jersey was added to the inventory of possible sanctuaries on February 23, 2017 after NOAA's consideration of a November 17, 2016 nomination from the Wildlife Conservation Society

(WCS)'s New York Aquarium.<sup>1</sup> In early 2022, NOAA's Office of National Marine Sanctuaries (ONMS) sought public input on whether this area still met the 11 significance criteria and should remain on the inventory. Sanctuary designation was not proposed at that time.

In June 2022, NOAA ONMS announced their intent to hold a scoping process and prepare a draft environmental impact statement (DEIS) to consider designating a national marine sanctuary in the Hudson Canyon area. Sanctuary designation is a separate process from nomination, and is a highly participatory process that typically takes 3-5 years and involves the following steps (as described on the ONMS website's [designation page](#)):

1. **Scoping (current step for Hudson Canyon):** NOAA announces its intent to designate a new national marine sanctuary and asks 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.
2. **Sanctuary Proposal:** NOAA prepares draft designation documents including a draft management plan, draft environmental impact statement that analyzes a range of alternatives, proposed regulations and proposed boundaries. NOAA may also form an advisory council to help inform the proposal and focus stakeholder participation.
3. **Public Review:** The public, agency partners, tribes and other stakeholders provide input on the draft documents. NOAA considers all input and determines appropriate changes.
4. **Sanctuary Designation:** NOAA makes a final decision and prepares final documents. Before the designation becomes effective, Congress also has the opportunity to review the documents.

Currently, the ONMS is seeking scoping comments on potential designation of Hudson Canyon through August 8, 2022. No specific proposed area boundaries or regulations have yet been developed. NOAA seeking all relevant comments during this scoping process and specifically requests information on the following topics:

- Boundary options for the proposed sanctuary
- the location, nature, and value of natural and cultural resources in the area under consideration
- specific threats to these resources
- information on Indigenous Tribes and Nations' heritage and connections to the area
- the non-regulatory actions (e.g., education or research programs) NOAA should prioritize within its draft management plan for the proposed sanctuary
- the regulations most appropriate for management of the proposed sanctuary
- the benefits to the "Blue Economy" of the region, including promotion of sustainable tourism and recreation

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<sup>1</sup> <https://nominate.noaa.gov/media/documents/hudson-canyon.pdf>

- a permanent name for the proposed sanctuary

Separate from the public scoping process, the National Marine Sanctuaries Act requires that NOAA consult with the relevant Regional Fishery Management Councils during the designation process for a sanctuary. The Councils are to be provided with the opportunity to prepare draft regulations for fishing within the Exclusive Economic Zone, if the Council deems necessary, to implement the proposed designation. As described in the letter from ONMS in the briefing materials, the Council has been requested to share their recommendations for fishing regulations by December 31, 2022.

In addition to these opportunities for feedback, NOAA may also form a pre-designation Sanctuary Advisory Council that could allow for increased Council and other stakeholder participation in informing the designation process. Sanctuary Advisory Councils are standard for designated national marine sanctuaries; however, assembling them prior to designation has not been typical in the past for most other sanctuaries.<sup>2</sup>

### **Considerations for Development of Council Comments**

In April 2017, following the addition of the Hudson Canyon area to the inventory of potential marine sanctuaries, the Mid-Atlantic Council wrote a letter expressing concerns and recommending that the nomination not move forward to the designation stage.<sup>3</sup> In these comments, the Council noted concerns that sanctuary designation may hinder or conflict with the Council's management authority and objectives for marine resources in the area. While the nomination from WCS included the recommendation that the authority to manage fisheries within the sanctuary remain solely with the Council, Commission, and NMFS, the Council was concerned that this could not be guaranteed through the designation process and over the longer term. The Council also noted that Hudson Canyon is included as part of the Frank R. Lautenberg Deep Sea Coral Protected Area (effective January 2017), the boundaries for which were carefully developed using a cooperative and transparent process involving several stakeholder groups.

These 2017 comments are included in the briefing materials. The Committee and AP may wish to comment on which points from this letter should be carried through to comments on the current scoping process.

The Committee and AP could consider the following questions or points when discussing Council positions for a comment letter:

- Should the Council's overall recommendation continue to be that Hudson Canyon should **not** be designated as a sanctuary, or should the Council take a different position?

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<sup>2</sup> A pre-designation Sanctuary Advisory Council was assembled for the proposed Lake Ontario National Marine Sanctuary. <https://sanctuaries.noaa.gov/lake-ontario/advisory/faq.html>

<sup>3</sup> April 26, 2017 letter available at: <https://www.mafmc.org/s/MAFMC-Hudson-Sanctuary-Comment-Letter-26-April-2017.pdf>

- If continuing to recommend that Hudson Canyon not be designated as a sanctuary, to what extent should the Council provide comments and recommendations to help shape sanctuary documents **if designation does occur**? For example, should the Council comment on potential boundaries, governance structure, or other issues at this time?
- Hudson Canyon is a very important area ecologically and economically for Council managed species and Council stakeholders (see staff memo summarizing recent GARFO analysis of area). What comments or recommendations do the Committee and AP have that would serve to highlight the importance of this area?
- WCS continues to recommend that commercial and recreational fisheries in the potential sanctuary be managed under existing regulatory authorities including the Mid-Atlantic Council, given the Council's "excellent record managing fisheries in the region." The Council will have the opportunity to comment specifically on fishing regulations during the consultation process described above. Are there key points or examples related to existing management that the Committee and AP believe should be brought forward in these comments?
- Should the Council support formation of a pre-designation Sanctuary Advisory Council if relevant?