The Honorable Brenda Mallory
Council on Environmental Quality
1600 Pennsylvania Ave NW
Washington, DC 20500

Secretary Gina Raimondo
U.S. Department of Commerce
1401 Constitution Ave NW
Washington, DC 20230

Secretary Deb Haaland
U.S. Department of Interior
1849 C St NW
Washington, DC 20240

December 14, 2021

Dear Chair Mallory, Secretaries Raimondo and Haaland,

Thank you for your leadership in advancing President Biden's pledge to protect and conserve at least 30% of U.S. lands and waters and at least 30% of ocean areas by 2030 ('30x30') and for establishing the *America the Beautiful* campaign. Our organizations are strong supporters of this first of its kind national conservation initiative.

One type of internationally recognized conservation measure that, carefully implemented, can contribute to the U.S. 30x30 goal is "other effective area-based conservation measures," or OECMs. This term refers to areas that are achieving the effective *in-situ* conservation[1] of biodiversity, but which, unlike protected areas, are not managed primarily for the long-term conservation of nature. As an example, a military area that prohibits industrial activities for national security reasons may deliver conservation benefits as much as or more than a protected area even though nature conservation is not its primary purpose. Another example could be tribal land governed under Tribal rules, which also delivers long-term nature conservation outcomes (with free, prior, and informed consent of Tribes and Tribal authorities).

A thoughtful approach is necessary to ensure that before an OECM is recognized, the area truly contributes to long-term conservation of biodiversity. We encourage the Administration to evaluate such areas in a manner that is consistent with international guidance and criteria. There is a global movement to establish a common set of criteria for both protected areas and OECMs. Failure to adhere to global standards would result in the proliferation of substandard OECMs that could bring minimal if any biodiversity benefits in this country and around the globe.

In this letter, we provide some brief background information on OECMs and urge that the Biden-Harris Administration consider establishing guidance for the use of this tool when developing the American Conservation and Stewardship Atlas and considering the identification of OECMs in coastal and ocean waters. We are writing about the identification of OECMs specifically in the ocean protection context since that is the area in which a number of our organizations are engaged.

[1] "In-situ conservation" is the conservation of ecosystems and natural habitats and the maintenance and recovery of viable populations of species in their natural surroundings. Convention on Biological Diversity (CBD), Article 2 (Use of Terms).

Background

In November 2018, the Parties to the Convention on Biological Diversity (CBD)[2] considered and adopted a definition for OECMs at the 14th Conference of the Parties. Decision (14/8) defines OECMs as:

> "a geographically defined area other than a Protected Area, which is governed and managed in ways that achieve positive and sustained long-term outcomes for the *in-situ* conservation of biodiversity, with associated ecosystem functions and services and where applicable, cultural, spiritual, socio-economic, and other locally relevant values."

OECM Decision 14/8 (Annex III) also provides 13 guiding principles that describe characteristics that OECMs should have, as well as four criteria and 10 sub-criteria that area-based management measures should meet to be considered OECMs. (*See Attached Table.*) The four criteria include: (1) the area is not already recorded as a protected area, or part of a protected area; (2) the area's boundaries are delineated and supportive governance and management exists; (3) the area achieves a sustained and effective contribution to biodiversity conservation; and (4) ecosystem functions and services and cultural, spiritual, socio-economic and other locally relevant values are supported.

As emphasized by CBD and the International Union for Conservation of Nature (IUCN) guidance,[3] each OECM candidate area must be examined on a case-by-case basis against agreed criteria. In keeping with IUCN's guidance, OECMs must demonstrate they are delivering the effective long-term conservation of important biodiversity.[4] They are not meant to be multiple-use production areas (e.g., production forests, plantations and fisheries areas) that are managed with some biodiversity considerations. IUCN guidance notes that: "while such areas are important, they should be counted toward additional sustainable use targets and not toward the 30% conservation target."[5]

Recommendations

We recommend that the U.S.:

1. Establish a clear national position on OECMs with a definition and criteria consistent with the international CBD and IUCN definition and criteria. Guidance could require more stringent evidence to support whether a site qualifies as an OECM, but, at a minimum, a site should meet the CBD and IUCN definition and criteria. Any OECM should:

---

[2]Although the US is not a Party to CBD it actively engages with all CBD negotiations and processes. Also, the US is an IUCN member.

[3] See IUCN, Recognizing and Reporting Other Effective Conservation Measures (2019); https://portals.iucn.org/library/sites/library/files/documents/PATRS-003-En.pdf.

[4] Examples of areas unlikely to meet the criteria include: "Fishery closures, and other spatial fisheries management tools, including, but not limited to, fishing quotas or catch limits, temporary set asides or gear restriction areas with a single species, species group, or habitat focus, that may be subject to periodic exploitation and/or be defined for stock management purposes, and that do not deliver in situ conservation of the associated ecosystems, habitats and species with which target species are associated." *Id.* at p. 11.

[5] IUCN, Conserving at least 30% of the Planet by 2030—What should count? (2021), p. 4; https://naturebeyond2020.com/wp-content/uploads/2021/09/Conserving-at-least-30-of-the-planet-by-2030-What-should-count-2.pdf.

a. Deliver effective and long-term biodiversity protection to the natural structure and function of the ocean ecosystem in which it is situated. It must not only protect a single species or species complex and the associated habitat.

b. Have a clear governance mechanism.

c. Be in place for the long term and be designed to provide enduring benefits to ocean biodiversity.[6]

d. Have clear boundaries.

e. Have ongoing monitoring (yearly or every other year) with periodic review (for example, every 7-10 years) to determine whether the area continues to provide significant biodiversity protection and resilience, including in the face of climate change, and outline a clear process for removal of the OECM status if the area no longer qualifies according to the criteria outlined herein.

f. Protect ecologically important species (for example, endangered, threatened, keystone and/or foundational species such as forage species) and their habitats within the area.

g. Prevent existing and reasonably foreseeable threats to the area's biodiversity, including by:

    i. Prohibiting environmentally-damaging activities from occurring in OECMs.

    ii. Prohibiting human activities, including across multiple sectors, which have demonstrable negative impacts on the OECM's ability to conserve biodiversity, including activities that may occur or are foreseeable in the near-term.

h. Take account of the management of adjacent areas.

2. Provide a clear process that includes stakeholder input to identify and assess candidate sites for OECMs based on the foundational premise that the OECM candidates must be evaluated on a case-by-case basis and that defines what evidence is needed to show that a site meets the criteria.

3. Ensure that OECMs complement and do not supplant protected areas, including by not diverting resources from the creation, management and monitoring of protected areas.

---

[6] *The IUCN guidance on privately protected areas provides that "long-term" means "when measures for an area have been or will be in place for at least 25 years and where there is an intent to conserve the area in perpetuity*". Stolton, S., et al., "The Futures of Privately Protected Areas." Gland, Switzerland: IUCN, (2014). *The Canadian guidance applicable to OECMs clarifies "long-term" to mean that the measure must either "be entrenched via legislation or regulation" or "there must be clear evidence that the management measure is intended for the long-term (minimum 25 years)"* Department of Fisheries and Oceans Canada, "Operational Guidance for Identifying 'Other Effective Area-based Conservation Measures' in Canada's Marine Environment" Ottawa (2020).

4. Support establishment of OECMs that can contribute to the formation of a network of protected areas and OECMs or can contribute to the conservation of underrepresented habitats and ecosystems.

We hope this information is useful to your agencies as you shape the new American Conservation and Stewardship Atlas and move forward to adopt new and recognize existing conservation measures. We encourage you to consider the role of OECMs, and stress the importance of the U.S. supporting positions domestically and internationally that ensure the inclusion of meaningful conservation outcomes as part of 30X30 and America the Beautiful. Thank you for considering this important issue.

Sincerely,

Audubon Society
Azul
Brown Girl Surf
California Marine Sanctuary Foundation
Center for Biological Diversity
Conservation International
Conservation Law Foundation
Conservation Voters of South Carolina
Friends of the Mariana Trench
Healthy Ocean Coalition
Inland Ocean Coalition
Marine Conservation Institute
Mission Blue
Mystic Aquarium
National Ocean Protection Coalition
National Parks Conservation Association
Natural Resources Defense Council
The Ocean Project
The Pew Charitable Trusts
Wildlife Conservation Society

Cc: Eric Lander, Director, Office of Science and Technology Policy and Science Advisor to the President; Monica Medina, Assistant Secretary for Oceans and International Environmental and Scientific Affairs, U.S. State Department

Table: Other Effective Area-based Conservation Measures Criteria and Sub-Criteria as Adopted by the Parties to the Convention on Biological Diversity[7]

Criterion A: Area is not currently recognized as a protected area	
Not a protected area	▪ The area is not currently recognized or reported as a protected area or part of a protected area; it may have been established for another function.
Criterion B: Area is governed and managed	
Geographically defined space	▪ Size and area are described, including in three dimensions where necessary. ▪ Boundaries are geographically delineated.
Legitimate governance authorities	▪ Governance has legitimate authority and is appropriate for achieving in situ conservation of biodiversity within the area; ▪ Governance by indigenous peoples and local communities is self-identified in accordance with national legislation and applicable international obligations; ▪ Governance reflects the equity considerations adopted in the Convention. ▪ Governance may be by a single authority and/or organization or through collaboration among relevant authorities and provides the ability to address threats collectively.
Managed	▪ Managed in ways that achieve positive and sustained outcomes for the conservation of biological diversity. ▪ Relevant authorities and stakeholders are identified and involved in management. ▪ A management system is in place that contributes to sustaining the in situ conservation of biodiversity. ▪ Management is consistent with the ecosystem approach with the ability to adapt to achieve expected biodiversity conservation outcomes, including long-term outcomes, and including the ability to manage a new threat.
Criterion C: Achieves sustained and effective contribution to in situ conservation of biodiversity	
Effective	▪ The area achieves, or is expected to achieve, positive and sustained outcomes for the in situ conservation of biodiversity. ▪ Threats, existing or reasonably anticipated ones are addressed effectively by preventing, significantly reducing or eliminating them, and by restoring degraded ecosystems. ▪ Mechanisms, such as policy frameworks and regulations, are in place to recognize and respond to new threats. ▪ To the extent relevant and possible, management inside and outside the other effective area-based conservation measure is integrated

[7] Convention on Biological Diversity (2018). "Decision 14/8: Protected areas and other effective area-based conservation measures." Adopted by the Conference of the Parties to the Convention on Biological Diversity at its Fourteenth Meeting (November 2018) at https://www.cbd.int/doc/decisions/cop-14/cop-14-dec-08-en.pdf.

Sustained over long term	▪ The other effective area-based conservation measures are in place for the long term or are likely to be. ▪ "Sustained" pertains to the continuity of governance and management and "long term" pertains to the biodiversity outcome.
In situ conservation of biological diversity	▪ Recognition of other effective area-based conservation measures is expected to include the identification of the range of biodiversity attributes for which the site is considered important (e.g. communities of rare, threatened or endangered species, representative natural ecosystems, range restricted species, key biodiversity areas, areas providing critical ecosystem functions and services, areas for ecological connectivity).
Information and monitoring	▪ Identification of other effective area-based conservation measures should, to the extent possible, document the known biodiversity attributes, as well as, where relevant, cultural and/or spiritual values, of the area and the governance and management in place as a baseline for assessing effectiveness. ▪ A monitoring system informs management on the effectiveness of measures with respect to biodiversity, including the health of ecosystems. ▪ Processes should be in place to evaluate the effectiveness of governance and management, including with respect to equity. ▪ General data of the area such as boundaries, aim and governance are available information.
Criterion D: Associated ecosystem functions and services and cultural, spiritual, socio-economic and other locally relevant values	
Ecosystem functions and services	▪ Ecosystem functions and services are supported, including those of importance to indigenous peoples and local communities, for other effective area-based conservation measures concerning their territories, taking into account interactions and trade-offs among ecosystem functions and services, with a view to ensuring positive biodiversity outcomes and equity. ▪ Management to enhance one particular ecosystem function or service does not impact negatively on the sites overall biological diversity
Cultural, spiritual, socioeconomic and other locally relevant values	▪ Governance and management measures identify, respect and uphold the cultural, spiritual, socioeconomic, and other locally relevant values of the area, where such values exist. ▪ Governance and management measures respect and uphold the knowledge, practices and institutions that are fundamental for the in situ conservation of biodiversity