

Administration of Joseph R. Biden, Jr., 2021

Proclamation 10287—Northeast Canyons and Seamounts Marine National Monument

October 8, 2021

By the President of the United States of America

A Proclamation

On September 15, 2016, President Barack Obama issued Proclamation 9496 (Northeast Canyons and Seamounts Marine National Monument), which designated approximately 4,913 square miles of waters and submerged lands where the Atlantic Ocean meets the continental shelf as the Northeast Canyons and Seamounts Marine National Monument. This designation represented the culmination of nearly a half-century of conservation efforts to preserve the vulnerable deep marine ecosystems of the Atlantic canyons and seamounts, which are widely known as natural laboratories for the long-term study of benthic ecology due to their rich biodiversity of important deep-sea corals, endangered whales, endangered and threatened sea turtles, other marine mammals, and numerous fish and invertebrate species.

The monument is composed of two units, the Canyons Unit and the Seamounts Unit, each of which showcases unique geological features that anchor vulnerable ecological communities threatened by varied uses, climate change, and related impacts. As described by Proclamation 9496, the Canyons Unit includes three underwater canyons: Oceanographer, Gilbert, and Lydonia. The canyons' hard walls, which range from 200 meters to thousands of meters deep, provide important habitats for, and support the life cycles of, a diversity of ocean life, including sponges, corals, and other invertebrates; larger species such as squid, octopuses, skates, flounders, and crabs; and highly migratory oceanic species, including tuna, billfish, sharks, toothed whales (such as the endangered sperm whale), and many species of beaked whales. The larger Seamounts Unit is home to four extinct undersea volcanoes—Bear, Physalia, Retriever, and Mytilus—that form a portion of an underwater chain of more than 30 extinct volcanoes that runs from the southern side of the Georges Bank to midway across the western Atlantic Ocean. These extinct volcanoes were formed as the Earth's crust passed over a stationary hot spot that pushed magma up through the seafloor, and many of them have flat tops that were created as ocean waves eroded the cooling magma. Geographically isolated from the continental platform and characterized by steep and complex submarine topography that interrupts existing ocean currents and provides a constant supply of plankton and nutrients, the seamounts are biological islands with various substrates that form ocean oases and act as incubators for new life. All four seamounts support highly diverse ecological communities, including many rare and endemic species that are new to science and are not known to live anywhere else on Earth. Together, the monument's submarine canyons and seamounts create the unique ecological conditions necessary to support one of the Atlantic Ocean's most biologically productive and important marine environments and one of science's greatest oceanic laboratories. Proclamation 9496 recognized the undersea canyons and seamounts, the deep-sea, pelagic, and other marine ecosystems they support, and the biodiversity they contain as objects of historic and scientific interest and dedicated the Federal lands and waters within the monuments' boundaries to their protection.

To provide for the proper care and management of the monument's objects of historic and scientific interest, Proclamation 9496 directed the Secretary of Commerce and the Secretary of the Interior (Secretaries) to prepare a joint management plan and promulgate implementing regulations, as appropriate. To the extent consistent with domestic and international law, Proclamation 9496 also directed the Secretaries to prohibit certain activities within the

monument, including mineral exploration and development; the use of poisons, electrical charges, or explosives to collect or harvest monument resources; and drilling into, anchoring, dredging, or otherwise altering submerged lands. Proclamation 9496 also directed the Secretaries to prohibit all commercial fishing within the monument, but allowed the Secretaries to permit a 7 year phase-out for red crab and American lobster commercial fishing.

Despite the monument's ecological importance, wealth of objects of historic and scientific interest, and potential for additional scientific discovery, President Donald Trump issued Proclamation 10049 (Modifying the Northeast Canyons and Seamounts Marine National Monument) on June 5, 2020, to remove the restrictions on commercial fishing. Multiple parties challenged Proclamation 10049 in Federal court, asserting that it exceeded the President's authority under the Antiquities Act. Restoring the prohibition on commercial fishing will ensure that the unique, fragile, and largely pristine canyons and seamounts, and the dynamic ocean systems and marine life they support, identified in Proclamation 9496 as objects of historic or scientific interest requiring protection under the Antiquities Act, will be safeguarded and will continue to provide an important venue for scientific study and research.

The Canyons Unit and Seamounts Unit each contain interconnected oceanographic, geologic, and biologic features that create a unique oceanic system that supports an abundant concentration of biodiversity. These features' close proximity to each other results in an interdependent whole that exceeds the sum of its constituent parts.

In the case of the Canyons Unit, the monument boundary closely corresponds to a contiguous continental shelf break area around the heads of the three canyons, which extend seaward from features that have not yet fully taken on the distinctive canyon shape, to the walls and valleys of the canyons themselves, and out to the start of the outer shelf thousands of meters below. Within this transitional region, the walls of the three closely situated canyons combine with ocean currents, temperature gradients, eddies, and fronts to create significant and complex nutrient cycling and other processes that result in a biologically rich and distinct oceanic system. The Canyons Unit is sized to correspond to and protect these large-scale oceanic processes that provide the foundation for the distinct habitat that supports numerous objects of scientific interest. For example, the shallower depths of the canyons include ecologically significant and vulnerable habitat for tilefish, which function as ecosystem engineers by creating "pueblo" habitat at depths of 100 to 300 meters in the monument's canyons, which in turn supports a diversity of fish and invertebrate species. The Canyons Unit also supports a great abundance of marine mammals and other upper-trophic level predators attracted to the prey abundance fostered by the Canyons Unit's unique marine landscape. Due to the close proximity of the three canyons to one another, congregating marine mammals and pelagic fish species routinely transit the inter-canyon areas while foraging among the biologic abundance found there. This is an example of the important ecological linkages that connect the monument's various topographies, the surrounding shelf, and the water column above them, which necessitate protection of the entire interrelated system.

In the case of the Seamounts Unit, the boundary encompasses the four seamounts and the areas between the edges of Bear and Retriever Seamounts on the north side, Bear and Mytilus Seamounts on the south side, and out to the boundary line of the Exclusive Economic Zone on the east side. These four seamounts, rising thousands of feet from the surrounding seafloor, are the only seamounts located within U.S. Atlantic waters. As with the Canyons Unit, the proximity of these important geologic features to each other influences the currents, upwelling, stratification, and mixing that make the species and habitat within the monument so diverse, abundant, and unique. The seamounts function as oases in the open ocean environment and feature distinct ecological communities as they grade down from the relatively shallow seamount peaks to the abyss below. They are critical to protecting the ecosystem linkages that transport nutrients to the surface through predator-prey interactions and temperature-driven upwelling, and transport

organic carbon to deep-sea ecosystems (corals and benthic communities) through plankton and fecal detritus, downwelling materials, down-slope currents, and animal migration and mortality.

The boundaries of the monument reflect the need to protect the canyons, seamounts, and the attendant deep-sea, pelagic, and other marine ecosystems, which are themselves objects of historic and scientific interest, as well as the complex geologic, oceanographic, and biologic characteristics in the Canyons Unit and Seamounts Unit. The monument ensures these vulnerable marine ecosystems are safeguarded and will remain the great ocean laboratories recognized in Proclamation 9496. The boundaries are closely hewn to prominent geologic objects that form the foundation of closely linked habitats, which support the monument's great abundance and diversity of life. The boundaries are scaled to avoid cascading negative effects from failing to protect parts of these complex and interconnected marine environments and their unique oceanographic processes. In order to ensure effective management and protection of the objects of historic and scientific interest, straight-line coordinates are used where possible to provide clear and enforceable demarcation of this open-ocean monument. For these reasons, Proclamation 9496 found that the lands owned or controlled by the Federal Government within the monument's boundaries were the smallest area compatible with the proper care and management of the objects of historic and scientific interest designated for protection.

Commercial fishing activity has the potential to significantly degrade the monument's objects of historic and scientific interest. Bottom-contact fishing gear and fixed fishing gear (for example, traps, gillnets, and bottom and pelagic long-line gear) with buoys, submerged lines, and associated traps, mesh, or hooks, all pose threats to the canyons and seamounts, the ecosystem, and the deep-sea, pelagic, and other marine life they support, as well as the additional objects of historic and scientific interest contained therein. Although statutes such as the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*, the Endangered Species Act, 16 U.S.C. 1531 *et seq.*, the Migratory Bird Treaty Act, 16 U.S.C. 703–712, the National Wildlife Refuge System Administration Act, 16 U.S.C. 668dd–668ee, the Refuge Recreation Act, 16 U.S.C. 460k *et seq.*, the Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*, the Clean Water Act, 33 U.S.C. 1251 *et seq.*, the Oil Pollution Act, 33 U.S.C. 2701 *et seq.*, the National Marine Sanctuaries Act, 16 U.S.C. 1431 *et seq.*, and Title I of the Marine Protection, Research and Sanctuaries Act (Ocean Dumping Act), 33 U.S.C. 1401 *et seq.*, provide important safeguards that did not exist prior to the Antiquities Act's passage, these laws do not adequately address the threats facing the canyons and seamounts and their surrounding ecosystem. The prohibition on commercial fishing confers necessary, additional, and lasting protections for the objects of historic and scientific interest in the Northeast Canyons and Seamounts Marine National Monument for current and future generations.

Protection of the Northeast Canyons and Seamounts as a marine national monument preserves significant geological features, marine biota, and deep-sea, pelagic, and other marine ecosystems that the canyons and seamounts create and support as they interact with ocean currents, ensuring that the natural and scientific values of this area are maintained for the benefit of all Americans and for the discovery of new information about living marine resources for years to come.

Whereas, section 320301 of title 54, United States Code (the "Antiquities Act") authorizes the President, 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 Federal Government to be national monuments, and to reserve as a part thereof parcels of land, the limits of which shall be confined to the smallest area compatible with the proper care and management of the objects to be protected; and

Whereas, Proclamation 9496 designated the Northeast Canyons and Seamounts Marine National Monument in the Atlantic Ocean and reserved approximately 4,913 square miles of water and submerged lands in and around certain deep-sea canyons and seamounts situated upon lands and interests in lands owned or controlled by the Federal Government as the smallest area compatible with the proper care and management of objects of historic and scientific interest; and

Whereas, Proclamation 10049 modified the conditions of the Northeast Canyons and Seamounts Marine National Monument to allow commercial fishing activities, which could impact monument objects; and

Whereas, I find that the resources identified above and in Proclamation 9496 are objects of historic or scientific interest in need of protection under the Antiquities Act; and

Whereas, I find that the unique nature of the waters and submerged lands that make up the marine environment in the Northeast Canyons and Seamounts area and the collection of objects and resources therein make the entire area within the boundaries of the monument an object of historic and scientific interest in need of protection under the Antiquities Act; and

Whereas, I find that there are documented threats to the objects identified above and in Proclamation 9496; and

Whereas, I find that the objects identified above and in Proclamation 9496 are not adequately protected by applicable law and other administrative designations; and

Whereas, I find that the boundaries of the monument reserved by Proclamation 9496 represent the smallest area compatible with the proper care and management of the objects of historic or scientific interest; and

Whereas, it is in the public interest to ensure the preservation and protection of the objects of historic and scientific interest in the Northeast Canyons and Seamounts Marine National Monument;

Now, Therefore, I, Joseph R. Biden Jr., President of the United States of America, by the authority vested in me by section 320301 of title 54, United States Code, hereby proclaim that, in order to provide for the proper care and management of the objects identified above and in Proclamation 9496, management of lands and interests in lands owned or controlled by the Federal Government within the Northeast Canyons and Seamounts Marine National Monument shall be governed by the management provisions of Proclamation 9496. Such provisions include paragraph 6 in the section entitled "Prohibited Activities" and paragraph 5 in the section entitled "Regulated Activities," which provide for the prohibition of all commercial fishing in the monument, except for red crab and American lobster commercial fishing, which may be permitted until September 15, 2023.

The Secretary of Commerce, through the National Oceanic and Atmospheric Administration, and the Secretary of the Interior, through the United States Fish and Wildlife Service, share management responsibility for the monument, as prescribed in Proclamation 9496. Within their respective authorities, the Secretaries shall prepare a joint management plan for the monument by September 15, 2023, and, as appropriate, shall promulgate implementing regulations that address any further specific actions necessary for the proper care and management of the objects and area identified above and in Proclamation 9496.

To the extent any provision of Proclamation 10049 is inconsistent with this proclamation or Proclamation 9496, the terms of this proclamation and Proclamation 9496 shall govern.

Warning is hereby given to all unauthorized persons not to appropriate, excavate, injure, destroy, or remove any feature of this monument and not to locate or settle upon any lands thereof.

If any provision of this proclamation, including its application to a particular parcel of land, is held to be invalid, the remainder of this proclamation and its application to other parcels of land shall not be affected thereby.

In Witness Whereof, I have hereunto set my hand this eighth day of October, in the year of our Lord two thousand twenty-one, and of the Independence of the United States of America the two hundred and forty-sixth.

JOSEPH R. BIDEN, JR.

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NOTE: This proclamation was published in the *Federal Register* on October 15.

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