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Policy

on the Establishment and Management
of National Marine Conservation Areas



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2022

Policy on the Establishment and Management of
National Marine Conservation Areas

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APPROVAL

Approved by:



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*Minister of Environment and Climate Change
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December 7, 2022

Date

RECOMMENDATION

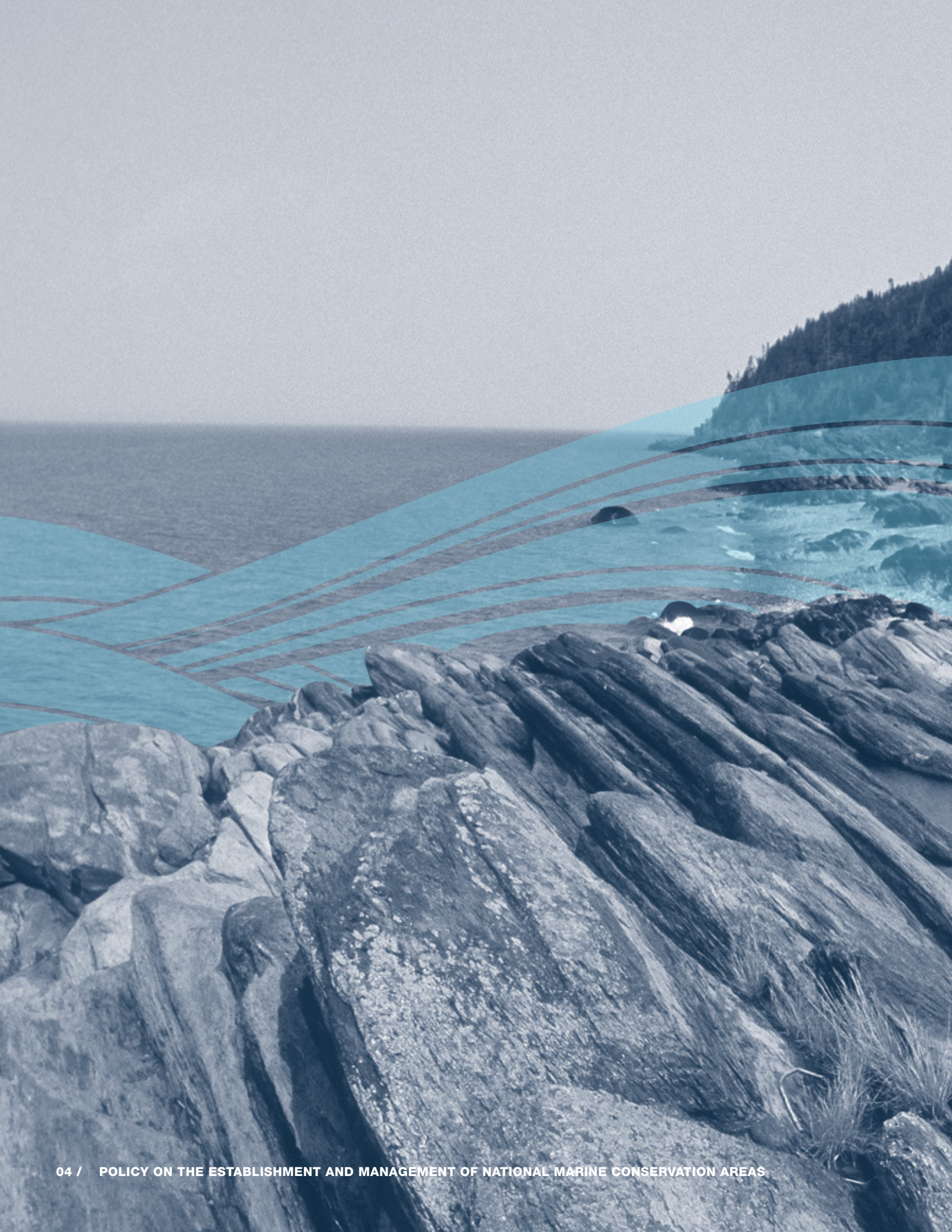
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Ron Hallman
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Date



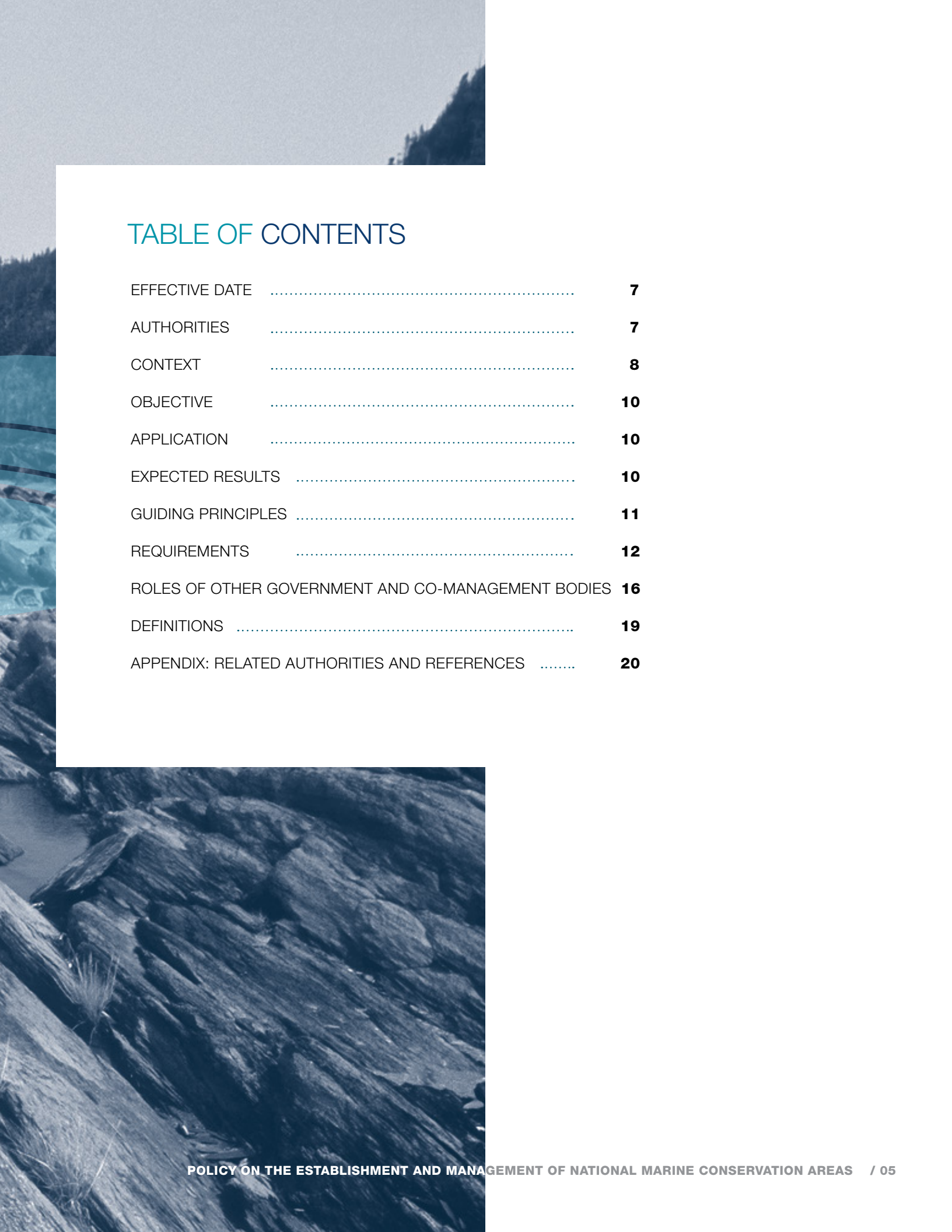


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POLICY ON THE ESTABLISHMENT AND MANAGEMENT OF NATIONAL MARINE CONSERVATION AREAS

1 EFFECTIVE DATE

This Policy takes effect on December 14, 2022.

This Policy and its associated instruments replace the National Marine Conservation Areas Policy found in Part II of *Parks Canada Guiding Principles and Operational Policies (1994)*.

2 AUTHORITIES

This Policy is issued pursuant to the *Canada National Marine Conservation Areas Act (CNMCAA)*.

3 CONTEXT

The Government of Canada is committed to protecting Canada's marine¹ environment, and has made international commitments under the Convention on Biological Diversity to establish and effectively manage marine protected areas. The creation of marine protected areas for long-term conservation is globally recognized as a nature-based solution to address the challenges of biodiversity loss and climate change. Marine protected areas also support a sustainable ocean economy by protecting the habitats and species on which resource-dependent and tourism sectors rely, thus contributing to Canada's broader blue economy goals.



Three federal organizations—Parks Canada, Fisheries and Oceans Canada, and Environment and Climate Change Canada—have mandates to establish and manage marine protected areas. The *2002 Canada National Marine Conservation Areas Act (CNMCAA)* affirms Parks Canada’s role in contributing “to international efforts for the establishment of a worldwide network of representative marine protected areas” (CNMCAA preamble). The Act also provides the legal authority and framework for establishing and managing National Marine Conservation Areas (NMCAs). NMCAs are part of a growing national network of marine protected areas in the Atlantic, Arctic and Pacific oceans. The NMCA system also includes marine protected areas in the Great Lakes. Marine and freshwater NMCAs administered by Parks Canada contribute to the Government of Canada’s conservation targets.

NMCAs are established for the purpose of protecting and conserving representative marine areas for the benefit, education and enjoyment of the people of Canada and the world (CNMCAA s4(1)). They are managed and used in a sustainable manner that meets the needs of present and future generations without compromising the structure and function² of their ecosystems (CNMCAA s4(3)). NMCAs offer an array of ecological, cultural, social and economic benefits, including the provision of ecosystem services and opportunities to pursue cultural practices and sustainable livelihoods. NMCAs contribute to climate change mitigation by enhancing and conserving blue carbon and support climate change adaptation by enhancing ecosystem resilience.

While the CNMCAA provides the authority to establish NMCAs, many pieces of legislation apply to their management. Collaborative approaches respect the legislative mandates of other federal departments and the authorities of provinces, territories, and Indigenous governing bodies.

Indigenous peoples have long-standing connections with lands, waters and ice across Canada through generations of use, occupancy and stewardship. Indigenous peoples’ special constitutional relationship with the Crown is recognized and affirmed in section 35 of the *Constitution Act*, 1982. Work to establish and manage NMCAs supports Canada’s commitment to advancing reconciliation and the implementation of rights, treaty obligations and related commitments. It also upholds the *United Nations Declaration on the Rights of Indigenous Peoples* and the specific obligations within the *United Nations Declaration on the Rights of Indigenous Peoples Act*.

An NMCA Policy was published in 1994 when Parks Canada’s marine program was in its infancy. This revised Policy aligns with the CNMCAA and is based on experience Parks Canada has gained through 30 years of establishing and managing NMCAs. It also reflects government priorities, improved knowledge of the marine environment, and increasing national and international recognition of the value of marine protected areas. It sets out policy requirements for establishing and managing NMCAs while providing the flexibility required to respond to local circumstances and considerations.

¹ In this Policy, “marine” refers to oceans and Great Lakes.

² In northern environments, this includes sea ice structure and function.

4 OBJECTIVE

This Policy provides national direction on the establishment and management of NMCAs.

5 APPLICATION

5.1 This Policy applies to all NMCAs and NMCA Reserves³.

5.2 This Policy applies to the seabed or lakebed and water column within NMCAs⁴. It also applies to wetlands, estuaries and other coastal lands, sea ice or lake ice and islands located within NMCA boundaries.

5.3 This Policy does not apply to the management of marine components of national historic sites, national parks or national park reserves.

5.4 This Policy and its supporting instruments should be read in conjunction with relevant Government of Canada legislation, regulations, policy instruments and formal agreements⁵ (Appendix).

5.5 Nothing in this Policy should be construed to abrogate or derogate from the protection of existing Aboriginal and treaty rights of Indigenous peoples in Canada provided by the recognition and affirmation of those rights in Section 35 of the *Constitution Act, 1982*.

6 EXPECTED RESULTS

Parks Canada expects to achieve the following long-term results through the implementation of this Policy:

6.1 Representative examples of Canada's natural and cultural marine heritage are protected and conserved for the benefit, education and enjoyment of the people of Canada and the world.

6.2 NMCA establishment and management are supported through sustained collaboration and engagement.

6.3 Reconciliation with Indigenous peoples is advanced, including through co-management of NMCAs.

6.4 NMCAs are established and managed in a manner that enhances ecosystem resilience to climate change and other stressors and supports the provision of ecosystem services, including carbon uptake and storage in marine habitats, and other socio-economic benefits.

³ With respect to Saguenay-St. Lawrence Marine Park, jointly created and co-managed by the governments of Quebec and Canada, this Policy may, as necessary and by mutual agreement, inspire the collaboration of the co-managers.

⁴ For simplicity, NMCA is used throughout the Policy to refer to NMCAs and NMCA Reserves.

⁵ Formal agreements may include impact and benefit agreements, land claims agreements, treaties and memoranda of agreement. Key agreements that inform or guide the establishment or management of NMCAs are listed in Section 1.2 of the Appendix.

7 GUIDING PRINCIPLES

The following principles will guide decision-making and work to advance the establishment and effective management of NMCAs:

7.1 Inclusive and Collaborative

Inclusive and transparent processes are the cornerstones of sustained collaboration and engagement.

7.2 Respectful

Indigenous peoples' roles as stewards of their traditional lands and waters are recognized and honoured. Relationships are advanced based on respect for Indigenous rights, worldviews and contributions.

7.3 Ecosystem-based

Ecosystem structure and function, and the relationships among ecosystems, human uses and management actions are considered.

7.4 Knowledge-informed

Decision-making and management approaches are informed by science, Indigenous knowledge, and local perspectives. Knowledge gaps and areas of uncertainty are acknowledged.

7.5 Precautionary

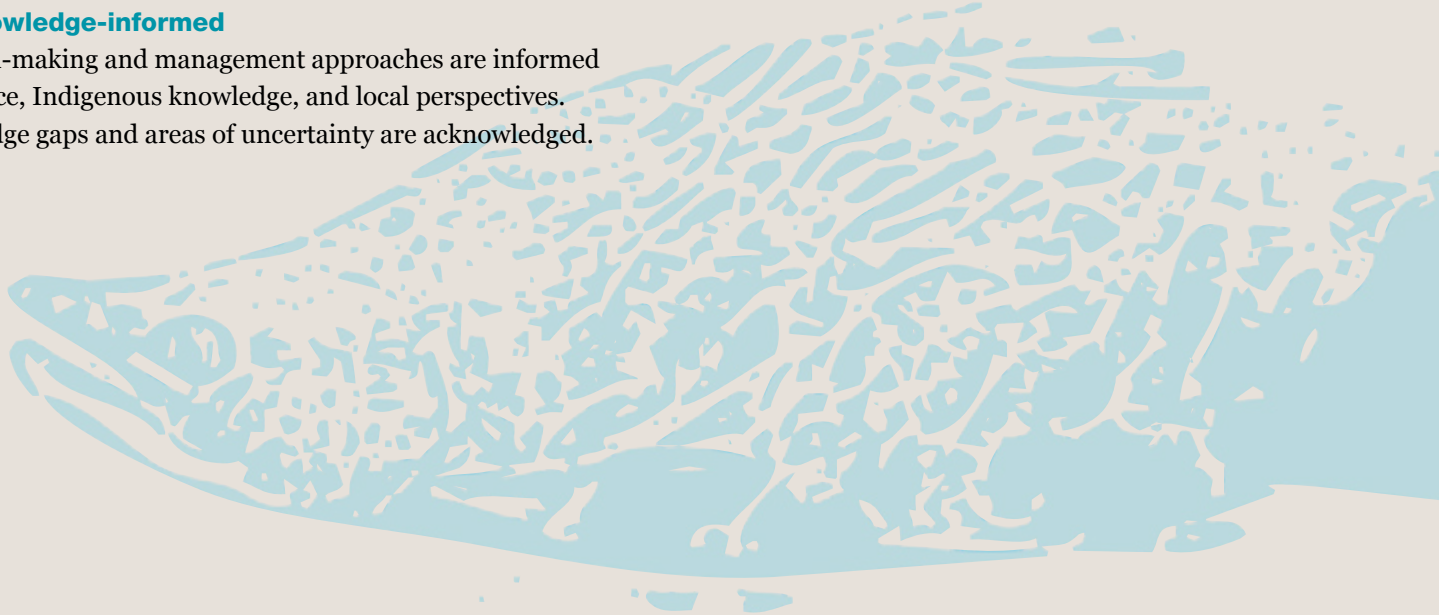
Where there are threats of environmental damage, lack of certainty is not used as a reason for postponing preventive measures.

7.6 Adaptive

Management measures are evaluated and adjusted as knowledge of marine ecosystems and their stressors advances, dynamics of marine environments change and marine uses evolve.

7.7 Climate-informed

Decision-making integrates considerations for climate change mitigation and adaptation⁶ efforts that are informed by science, Indigenous knowledge and local perspectives.



⁶ Definitions for climate change mitigation and adaptation can be found in the 2011 *Federal Adaptation Policy Framework*.

8 REQUIREMENTS

Legislative requirements for NMCA establishment and management are outlined in the CNMCAA. The Act prohibits oil, gas, mineral and aggregate exploration and exploitation and places strict limits on ocean disposal. The Act also provides a framework for program delivery, including provisions concerning consultation and content requirements for management plans. The following policy requirements build on that foundation and provide additional guidance for establishing and managing NMCAs.

8.1 GENERAL

8.1.1 Parks Canada works collaboratively with other federal departments, provinces and territories, and Indigenous governing bodies to establish and manage NMCAs, consistent with the CNMCAA, other applicable legislation, regulations, management plans⁷, other policy instruments and formal agreements (Appendix).

8.1.2 Parks Canada engages Indigenous peoples, coastal communities, stakeholders and the public in NMCA establishment and management through a variety of arrangements, consistent with the CNMCAA, other applicable legislation, regulations, management plans, other policy instruments and formal agreements (Appendix).

8.1.3 Parks Canada, with other management authorities, implements the Government of Canada marine protected areas protection standard⁸.

8.1.4 All of the requirements that follow may be accomplished in collaboration with, or with the involvement of, the parties listed in 8.1.1 and 8.1.2.

8.2 NMCA ESTABLISHMENT

8.2.1 Parks Canada works to establish at least one NMCA in each of the 29 marine regions identified in the NMCA system plan⁹. Each NMCA must be of sufficient extent and such configuration as to maintain self-regulating and resilient marine ecosystems, based on current knowledge of values, processes and ecosystem stressors.

8.2.2 Parks Canada considers proposals advanced by Indigenous peoples, other levels of government, stakeholders and the public.

8.2.3 Parks Canada explores opportunities to enable and advance marine Indigenous Protected and Conserved Areas.

8.2.4 Parks Canada selects candidate NMCAs that, to the extent possible, capture a representative sample of the diversity of characteristics of the marine region, based on assessments of their ecological, oceanographic or limnological, geological and cultural characteristics.

8.2.5 Parks Canada, in collaboration with the implicated provincial, territorial and/or Indigenous governing bodies, assesses the feasibility and desirability of establishing candidate NMCAs.

8.2.6 Parks Canada locates and designs candidate NMCAs to enhance connectivity and complementarity with other marine and terrestrial protected areas.

8.2.7 Parks Canada negotiates and enters into agreements with other federal departments, provinces and territories, and Indigenous governing bodies, as appropriate, to advance the establishment and future management of candidate NMCAs.

8.2.8 Parks Canada may develop an interim management plan, including a zoning plan, that sets out direction for candidate NMCAs in accordance with legal requirements and policies, including Parks Canada's policies and guidance on management planning and reporting.

8.2.9 Parks Canada advances the formal establishment of NMCAs through the appropriate legislative or regulatory process.

⁷ Statements in this Policy about management plans may apply to interim management plans developed during NMCA establishment.

⁸ Under the Government of Canada marine protected areas protection standard, announced in 2019, four key industrial activities are prohibited in all new federal marine protected areas established after April 2019, including NMCAs: oil and gas activities, mining, dumping and bottom trawling. Oil, gas, mineral and aggregate exploration and exploitation are already prohibited in NMCAs under the CNMCAA. The Act also places strict limits on ocean disposal in NMCAs. Detailed guidance to support the implementation of the standard was under development at the time of this Policy's publication. Prohibitions outlined in the standard will be implemented through regulatory tools. More information about the standard is available at: www.dfo-mpo.gc.ca/oceans/mpa-zpm/standards-normes-eng.html.

⁹ Available online at: <https://www.pc.gc.ca/en/amnc-nmca/cnamnc-cnmca/carte-map>

8.3 NMCA MANAGEMENT

8.3.1 Parks Canada undertakes actions to achieve the following eight interconnected, mutually reinforcing management goals. Protecting marine ecosystems and biodiversity is of primary importance.

Goal 1. Protect marine ecosystems and biodiversity to maintain or improve ecological sustainability:

NMCAs provide for long-term ecological sustainability by protecting ecosystems, including the diversity of species, habitats, ecological processes and ecosystem services, in all components of the marine environment—sea bed or lake bed, water column and ice. Self-regulating and resilient ecosystems underpin thriving cultural heritage.

Goal 2. Conserve cultural heritage:

NMCAs conserve cultural heritage that reflects past and present use by Indigenous peoples, coastal communities and others.

Goal 3. Manage use in an ecologically sustainable manner:

NMCAs are managed and used in a manner that meets the needs of present and future generations without compromising ecological sustainability.

Goal 4. Support Indigenous leadership in marine conservation:

Indigenous peoples have been stewarding the waters, ice and lands since time immemorial. Parks Canada recognizes Indigenous leadership and supports opportunities to work with Indigenous laws, knowledge and governance systems in the stewardship of traditional territories, ancestral homelands and treaty lands.

Goal 5. Contribute to the well-being of Indigenous peoples and coastal communities:

The marine environment is fundamental to the social, cultural and economic well-being of Indigenous peoples and coastal communities. NMCAs provide benefits to Indigenous peoples and coastal communities, such as access to local food sources, connection to nature and economic opportunities.

Goal 6. Facilitate opportunities for meaningful visitor experiences:

In NMCAs, visitors discover and experience the marine world, and these connections lead to a deeper understanding of, and appreciation for, Canada's natural and cultural heritage.

Goal 7. Enhance awareness and understanding of NMCAs:

Parks Canada promotes public awareness, appreciation and support of natural and cultural heritage to actively engage Canadians in marine conservation and reinforce their role as marine stewards.

Goal 8. Advance effective collaboration for management:

NMCA management is shaped through collaboration and engagement that bring a diversity of knowledge, perspectives and active participation to protect and conserve these special places.

8.3.2 Parks Canada provides strategic direction for NMCAs through management plans, which are developed on a regular cycle in accordance with the CNMCAA and Parks Canada's policies and guidance for management planning.

- As part of the management planning process, each NMCA is divided into zones. The zoning framework is set out in the *Directive on the Management of National Marine Conservation Areas*.
- Each NMCA must have at least one fully protected¹⁰ zone and one ecologically sustainable use zone.
- Parks Canada works towards the long-term goal of placing the majority of each NMCA in fully protected zones.

8.3.3 Other management tools (e.g., special management areas, temporary closures, voluntary measures), including regulatory tools administered by other federal departments, provinces and territories, may be used to manage NMCAs, consistent with the CNMCAA, the management plan and other applicable legislation, regulations, policy instruments and formal agreements (Appendix).

8.3.4 Parks Canada maximizes climate change mitigation opportunities in support of established national targets, including enhancement and conservation of marine carbon stocks ("blue carbon"). Parks Canada undertakes adaptation efforts to enhance climate resilience of NMCAs and their ecosystems. Adaptation efforts also prioritize human health, safety and security.

8.3.5 Parks Canada implements monitoring programs to assess progress towards achieving management plan objectives and to improve NMCA management effectiveness.

¹⁰ Fully protected zones restrict extractive use except for Indigenous traditional use, which continues in all zones.

9 ROLES OF OTHER GOVERNMENT AND CO-MANAGEMENT BODIES

This section describes the roles of other federal departments, provinces and territories, and Indigenous governing bodies with responsibilities for aspects of NMCA management and establishment, as outlined in legislation, policies and formal agreements. It provides a framework for collaborative approaches to decision-making.



9.1 Fisheries and Oceans Canada has responsibility for fisheries management and aquaculture in NMCAs, including Indigenous fisheries¹¹. Management responsibilities in NMCAs are carried out in accordance with the *Fisheries Act*, the CNMCAA, other legislation, regulations, the Government of Canada marine protected areas protection standard, this Policy, NMCA management plans, other policy instruments and formal agreements (Appendix). Provisions of a management plan respecting fisheries management and aquaculture are subject to an agreement between the Minister responsible for Parks Canada and the Minister responsible for Fisheries and Oceans Canada (CNMCAA s9(4)).

9.2 Transport Canada and the Canadian Coast Guard have responsibility for marine navigation and marine safety in NMCAs. Management responsibilities are carried out in accordance with the *Canada Shipping Act*, the CNMCAA, other legislation, regulations, the Government of Canada marine protected areas protection standard, this Policy, NMCA management plans, other policy instruments and formal agreements (Appendix). Provisions of a management plan respecting marine navigation and marine safety are subject to an agreement between the Minister responsible for Parks Canada and the ministers responsible for Transport Canada and the Canadian Coast Guard (CNMCAA s9(4.1)).

9.3 Other federal departments and agencies have responsibility for other aspects of marine management in NMCAs. Management responsibilities are carried out in accordance with their enabling legislation and regulations, consistent with the CNMCAA, other legislation, regulations, the Government of Canada marine protected areas protection standard, this Policy, NMCA management plans, other policy instruments and formal agreements (Appendix).

9.4 In situations where provincial or territorial governments retain or share management responsibilities in NMCAs¹², such as harvesting, aquaculture or fisheries management, they carry out these management responsibilities in accordance with their enabling legislation and regulations, the CNMCAA, other legislation, regulations, the Government of Canada marine protected areas protection standard, this Policy, NMCA management plans, other policy instruments and formal agreements (Appendix).

9.5 In situations where Indigenous governing bodies retain or share management responsibilities in NMCAs, they carry out these responsibilities in accordance with the CNMCAA, other legislation, regulations, the Government of Canada marine protected areas protection standard, this Policy, NMCA management plans, other policy instruments and Indigenous systems of knowledge, law, and governance as reflected in formal agreements (Appendix).

¹¹ Fisheries and Oceans Canada has delegated responsibility for fisheries management in the Great Lakes to the Province of Ontario. The Province of Ontario leads commercial and recreational fisheries management in Great Lakes NMCAs.

¹² Based on establishment agreements or delegated management authorities.





10 DEFINITIONS

The following definitions clarify how terms used in this Policy should be interpreted.

Coastal community

A group of people who live adjacent to an NMCA, use an NMCA for their livelihood or cultural practices, and have been affected in some way by the establishment of an NMCA.

Coastal community well-being

A state in which coastal communities derive long-term social, economic and cultural benefits from NMCAs.

Ecological sustainability

A state in which marine ecosystems are self-regulating and resilient, and whose structure, function and capacity to provide ecosystem services are not compromised.

Ecologically sustainable use

Use of marine resources in a manner that meets the needs of present and future generations without compromising ecological sustainability.

Indigenous governing body

A council, government or other entity that is authorized to act on behalf of an Indigenous group, community or people that holds rights recognized and affirmed by section 35 of the *Constitution Act, 1982*.

Indigenous peoples

A collective name for the original peoples in Canada and their descendants. The *Constitution Act, 1982* recognizes three distinct groups of Indigenous peoples: First Nations, Métis and Inuit.

Marine protected area

An area in the marine environment that is defined and managed through legal and/or other effective means to achieve the long-term conservation of nature with associated ecosystem services and cultural values (adapted from the International Union for Conservation of Nature).

Marine region

A distinct geographic unit of the marine and Great Lakes environment defined by Parks Canada based on biological, ecological, oceanographic or limnological, and geological characteristics. Parks Canada has identified 29 marine regions in Canada and aims to represent each of these regions in the NMCA system.

Network of marine protected areas

A collection of marine protected areas that operate together to safeguard important ecological components of the ocean and marine biodiversity.

NMCA Reserve

An area or a portion of an area proposed for an NMCA that is subject to a claim in respect of Aboriginal rights accepted for negotiation by the Government of Canada. An NMCA reserve is established and managed in the same manner as an NMCA, but the status of the area is subject to the final resolution of the claim in respect of Aboriginal rights.

Representative

A quality reflecting the characteristics of a marine region, such as its ecological, oceanographic or limnological, geological and cultural characteristics.

APPENDIX: RELATED AUTHORITIES AND REFERENCES

This appendix outlines the major pieces of Government of Canada legislation, formal agreements, regulations and other policy instruments that inform or guide NMCA establishment and management.

1.1 LEGISLATION AND REGULATIONS

Aeronautics Act and associated regulations

Arctic Waters Pollution Prevention Act and associated regulations

Canada National Marine Conservation Areas Act and associated regulations¹³

Canada Shipping Act, 2001 and associated regulations

Canadian Environmental Protection Act, 1999 and associated regulations

Canadian Lands Surveys Act and associated regulation

Canadian Navigable Waters Act and associated regulations

Coastal Fisheries Protection Act

Fisheries Act and associated regulations

Great Lakes Fisheries Convention Act

Impact Assessment Act and associated regulations

International Boundary Waters Treaty Act

Migratory Birds Convention Act, 1994 and associated regulations

Nunavut Planning and Project Assessment Act

Nunavut Act

Parks Canada Agency Act

Saguenay-St. Lawrence Marine Park Act and associated regulation

Species at Risk Act and associated regulations

United Nations Declaration on the Rights of Indigenous Peoples Act

Wrecked, Abandoned or Hazardous Vessels Act

1.2 FORMAL AGREEMENTS

Agreement for the Establishment of a National Park and a National Marine Park in the Township of St. Edmunds, Province of Ontario (1987)

Eeyou Marine Region Land Claims Agreement (2011)

Entente de collaboration Canada-Québec pour l'établissement d'un réseau d'aires marines protégées au Québec (2018)

Entente concernant la création du parc marin du Saguenay (1990)

Gwaii Haanas Marine Agreement (2010)

Inuvialuit Final Agreement (1984)

Labrador Inuit Land Claims Agreement (2004)

Memorandum of Agreement Respecting the Establishment of a National Marine Conservation Area of Canada in Lake Superior (2007)

Nunavik Inuit Land Claims Agreement (2007)

Nunavut Land Claims Agreement (1993)

Tallurutiup Imanga National Marine Conservation Area Inuit Impact and Benefit Agreement (2019)

Promising Pathways – Strengthening Engagement and Relationships with Aboriginal Peoples in Parks Canada Heritage Places – A Resource Guide (2014)

Sea to Sea to Sea. Canada’s National Marine Conservation Areas System Plan (1995)

1.3 PARKS CANADA POLICY INSTRUMENTS

Cultural Resource Management Policy (2013)

Directive on Management Planning and Reporting (2013)

Directive on Impact Assessment (2019)

Directive on Visitor Safety (2013)

Framework for History and Commemoration: National Historic Sites System Plan (2019)

Management Bulletin on Recreational Activity and Special Event Assessments (2008)

Management Bulletin on Research and Collection Permitting for Natural and Social Sciences (2005)

Management Directive on Law Enforcement (2008)

Mapping Change: Fostering a Culture of Reconciliation within Parks Canada (2019)

Policy and Directive on Partnering, Sponsorship and other Forms of Collaboration (2019)

1.4 OTHER POLICY INSTRUMENTS

Aboriginal Consultation and Accommodation – Updated Guidelines for Federal Officials to Fulfill the Duty to Consult, Indigenous and Northern Affairs Canada (2011)

Cabinet Directive on the Environmental Assessment of Policy, Plan and Program Proposals (2010)

Canada’s Federal Marine Protected Areas Strategy (2005)

National Framework for Canada’s Network of Marine Protected Areas (2011)

Federal Adaptation Policy Framework (2011)

Government of Canada marine protected areas protection standard (announced in 2019)

Interdepartmental Principles for Fisheries Management in Federal Marine Protected Areas (2019)

Principles Respecting the Government of Canada’s Relationship with Indigenous Peoples (2018)

¹³ Regulations under the CNMCAA are currently under development.





