

# PUBLIC TESTIMONY SIGN-UP SHEET


Agenda Item: D-2 (a) MPA Nomination Process

	NAME (PLEASE PRINT)	TESTIFYING ON BEHALF OF:
1	Dave Benton	MCA
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NOTE to persons providing oral or written testimony to the Council: Section 307(1)(I) of the Magnuson-Stevens Fishery Conservation and Management Act prohibits any person "to knowingly and willfully submit to a Council, the Secretary, or the Governor of a State false information (including, but not limited to, false information regarding the capacity and extent to which a United State fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishing vessels of the United States) regarding any matter that the Council, Secretary, or Governor is considering in the course of carrying out this Act.

MEMORANDUM

TO: Council, SSC and AP Members

FROM: Chris Oliver   
Executive Director

DATE: December 3, 2009

SUBJECT: MPA Nomination Process

ESTIMATED TIME 4 HOURS (all D-2 Items)
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**ACTION REQUIRED**

Review discussion paper on MPA nominations and take action as necessary.

**BACKGROUND**

Back in 2000, President Clinton signed Executive Order 13158, which requires NOAA to establish a Marine Protected Area Center to develop a framework for a national system of marine protected areas (MPAs). In late November 2008, the final framework was published on the MPA Center's website ([www.mpa.gov](http://www.mpa.gov)). In December, the Council received a report from Dr. Joe Uravich, Director of the MPA Center, about the National System of MPAs and the nomination process for the incorporation of existing MPAs, into the national system. In February 2009, NMFS published a policy directive to establish a process for consulting with the councils on (1) whether sites established by Council action should be included in the National System of MPAs, and (2) when adding, modifying, or removing MPAs from the National System.

At the June meeting, after reviewing the letter from the NMFS Alaska Region RA initiating the MPA nomination process, the Council tasked staff, in collaboration with NMFS staff, to prepare a discussion paper which further examines the issues and concerns associated with this process, and provide an initial evaluation of the potential sites for inclusion. The text portion of the discussion paper is attached as Item D-2(a)(1).

The discussion paper provides a revised list of MPAs that appear to meet the eligibility requirements set forth in the framework. There are a total of 251 individual sites listed. The discussion paper proposed four different options regarding which sites should be nominated for inclusion in the national system of MPAs, as follows:

Option 1: No sites nominated at this time.

Option 2: Nominate the quasi-marine reserves (seamounts, AI coral gardens, Bowers Ridge, GOA coral HAPC areas, Sitka pinnacles, and Steller sea lion 3-nm no-transit zones).

Option 3: Nominate all areas except those with boundary changes being considered in the near future (all areas except Steller sea lion areas, Northern Bering Sea Research Area, St Matthew HCA, Nunivak, Etolin Strait, Kuskokwim Bay HCA, Pribilof Islands HCA, Nearshore Bristol Bay, Salmon closure area).

Option 4: Nominate all sites eligible.

At this meeting, the Council may wish to recommend which, if any, eligible sites be added to the National System of MPAs, or request further analysis and public comment prior to taking action.

# **MPA Sites established by the North Pacific Council for Inclusion in the National System of Marine Protected Areas: Decision Options**

## **11/6/09 DRAFT Discussion Paper for December 2009 NPFMC Meeting**

On May 28, 2009, NMFS wrote a letter to the Council to initiate consultation with the Council regarding potential nomination of sites to the National System of Marine Protected Areas (MPAs) pursuant to Executive Order 13158. The letter included an attachment of eligible sites in the region as determined by the MPA Center. The letter and table are attached as Attachment 1.

At its June 2009 meeting, the Council tasked staff to prepare a discussion paper and collaborate with NMFS on the MPA process and potential sites for inclusion. The Council also specifically requested that listed MPAs be broken out into individual sites, and discuss possible future changes to boundaries. This discussion paper was prepared to address these issues.

## **Background**

### **Executive Order**

In 2000, President Clinton signed Executive Order 13158, which requires the Department of Commerce and the Department of Interior to develop a national system of marine protected areas (MPAs) (see Attachment 2). A brief summary of Executive Order 13158 is provided below, followed by a discussion of issues affecting regional fishery management councils.

Section 1 defines the purpose of the Executive Order, which is to:

- strengthen the management, protection, and conservation of existing MPA and establish new or expanded MPAs;
- develop a scientifically based, comprehensive national system of MPAs representing diverse marine ecosystems, and the Nation's natural and cultural resources; and
- avoid causing harm to MPAs through federally conducted, approved, or funded activities.

Section 2 defines MPAs as an area of the marine environment (Great Lakes and coastal and ocean waters) reserved by Federal State, territorial, tribal or local law to provide lasting protection to resources. Section 3 mandates that each Federal agency shall take appropriate actions to enhance or expand protection of existing MPAs and establish or recommend new MPAs.

Section 4 mandates the Department of Commerce and the Department of Interior to develop a national system of MPAs, and provide guidance to Federal Agencies to enable and encourage the use of the following to further enhance and expand protection of existing MPAs and to establish or recommend new MPAs as appropriate:

1. science-based identification and prioritization of resources for additional protection;
2. integrated assessments of ecological linkages among MPAs, including no-take marine reserves, to provide synergistic benefits;
3. biological assessment of the minimize size of no-take marine reserve area necessary to preserve representative habitats in different geographic areas;
4. an assessment of threats and gaps in levels of protection currently afforded to natural and cultural resources;
5. practical, science-based criteria and protocols for monitoring and evaluating the effectiveness of MPAs;
6. identification of threats and user conflicts affecting MPAs, and management solutions;

7. assessment of economic effects of management solutions;
8. identification of opportunities to improve linkages with international MPAs;

This section also requires the Department of Commerce and Department of Interior to consult with states, tribes, and other entities, including the Regional Fishery Management Councils, as appropriate, in carrying out the above mentioned requirements.

To facilitate these purposes and requirements incorporated, the Executive Order requires NOAA to establish a MPA Center. The goal of the NOAA MPA Center is to develop a framework for a national system of MPAs and provide federal state, territorial, tribal, and local governments any information, technology, and strategies to support the system. In November 2008, the NOAA MPA Center published the framework for a national system of MPAs, which provided official MPA criteria and Classification System (Attachment 3), and defined 21 priority conservation objectives (list attached as Attachment 4).

Section 5 includes the 'avoid harm' provision. Specifically, the Executive Order states that "Each Federal agency whose actions affect the natural or cultural resources that are protected by an MPA shall identify such actions. To the extent permitted by law and to the maximum extent practicable, each Federal agency, in taking such actions, shall avoid harm to the natural and cultural resources that are protected by an MPA."

Section 6 of the Executive Order requires that Federal agencies, publish an annual report on the actions taken to implement the order, including a description of written comments by any person or organization stating that the agency has not complied with the Executive Order and a response to such comments by the agency.

Section 7 requires federal agencies to act in accordance with international law. Section 8 notes that the Executive Order does not alter existing authorities of states, territories, or tribes. It also notes that the Executive Order does not create any right or benefit, substantive or procedural, enforceable in law or equity by a party against the United States, its agencies, its officers, or any person.

### **Framework**

The Framework for the National System of MPAs provides comprehensive national goals and guidance for a variety of partnerships among federal, state, tribal, and local governments and stakeholders to develop an effective national system. It provides guidance for how existing MPA sites, programs, and stakeholders can work together at regional, national and international levels, and with public participation, to achieve common conservation objectives through comprehensive MPA planning, identification of enhanced or new MPAs that may be needed, and support for improved MPA science, stewardship and effectiveness.

The Framework outlines the following key components of the national system:

- National system goals and priority conservation objectives (PCOs)
- MPA eligibility criteria and other key definitions
- Design and implementation principles
- A nomination process for existing MPAs to be included in the national system
- A science-based, public process for identifying conservation gaps in the national system
- A process for improving regional and ecosystem-based coordination of MPAs
- Mechanisms for national and international coordination
- Implementation guidance regarding federal agency responsibilities to avoid harm to resources protected by the national system of MPAs

- Mechanisms for monitoring, evaluating, and reporting on national system progress and priorities

According to the MPA Center, the national system of MPAs provides a comprehensive mechanism for coordinating MPAs managed by a diverse set of federal, state, and other agencies. The MPA national system will benefit the nation's conservation efforts and participating MPAs, providing those sites with a means to address issues beyond their boundaries. Examples of some of these benefits include:

- Enhanced stewardship through better coordination, public awareness, and enhanced site management capacity
- Building partnerships for MPAs to work together toward common conservation objectives
- Increased support for marine conservation through the recognition provided by the national system
- Protecting representative ecosystems and resources from all the nation's ecosystem and habitat types
- Identifying gaps in current protection of ocean resources to help inform future MPA planning
- Transparent process for MPA planning that is science-based and includes a commitment to balanced stakeholder involvement

### **NMFS Policy Directive**

In February 2009, NMFS published a policy directive to establish a process for consulting with the Councils on (1) whether sites established by Council action should be included in the National System of MPAs, and (2) when to add, modify, or remove MPAs from the National System. The Policy Directive (Attachment 5) details steps in the consultation process for the initial listing, as summarized below:

- The MPA Center identifies eligible sites, and sends the list to NMFS.
- NMFS notifies the Council by letter of those sites within its jurisdiction.
- NMFS RA consults with the Council on a process for reviewing the list and providing public comment at Council meetings. The Council process is expected to occur over the course of two Council meetings, and conclude with a Council vote on a proposed list of sites to be included in the National System. Should the Council recommend any eligible site not be included, it must include a brief justification.
- NMFS RA reviews the Council recommendation and prepares the final list, including any justifications for any changes from the Council recommendations.
- NMFS RA submits this list to the MPA Center for publication in the Federal Register and provides an opportunity for public comment.
- NMFS will share the public comments with the Council.
- The Council reviews the comments and may recommend changes, and documents it in a letter that would include any information required by the MPA Center.
- The NMFS RA reviews the Council's final recommendation, and submits a final list of sites for submission to the MPA Center. NMFS will justify any changes from the Council's recommendation.

### **Issues of Concern**

In previous discussions, the Council had identified three major areas of concern with the implementation of the Executive Order and the MPA Framework Process. These concerns are 1)

the authority of the Councils in making decisions about MPAs they developed, 2) how the 'avoid harm' provision of the Executive Order will be interpreted and evaluated, and 3) the gap analysis being prepared by the MPA Center and how it will be used by NOAA and impact the Council's management of fisheries.

### 1. Authority of the Councils

Regional Fishery Management Councils are not considered to be Federal agencies (notwithstanding their status as 'executive agencies' of the Department of Commerce) and thus a topical reading of the Executive Order would lead one to conclude that they may not have much authority regarding the implementation of the Executive Order. However, only the Regional Fishery Management Councils have the authority to establish new MPAs related to fisheries management within the EES, or modify the management of fisheries within MPAs. The Executive Order does not change this authority.

Under the Magnuson-Stevens Act, the Secretary's authority (i.e., NMFS) is limited to approving, disapproving, or partially disapproving an FMP or amendment developed and submitted by the councils, except in very limited situations when a council fails to develop a plan or amendment for a fishery that requires conservation and management (MSA Section 304c). It is the councils who are responsible for the design and management plans for MPAs related to fisheries management; NMFS does not have the authority to implement or modify new MPAs for fisheries, without a FMP or amendment submitted by a council.

Concerns had been raised previously about the status of councils' recommendations regarding possible inclusion of MPA sites in the National MPA System. While the councils can only make recommendations at this point, the NOAA Policy Directive does provide an opportunity for councils to explain their rationale for particular recommendations. The Policy Directive however, does assert that NMFS can make changes from the Council's recommendation, so long as NMFS can provide justification for these changes. Presumably, this would include the possibility of NMFS adding MPAs to the National MPA System without a positive recommendation for inclusion of MPAs from a council.

Concern had also been expressed about the possibility of other federal actions that may affect the council authority over MPAs. For example, in June 2006, President Bush used the Antiquities Act to proclaim 140,000 square miles of the Northwestern Hawaiian Islands area as a national monument. The area was renamed the Papahānaumokuākea Marine National Monument in 2007, and commercial fishing will be phased out in the area by 2011. However, it should be noted that the Antiquities Act apparently cannot be used to designate special areas in Alaska and Wyoming due to subsequent land claims acts. It remains unclear as to whether designation as an MPA in the National MPA System might bestow authority over activities in that MPA to NOAA and/or the MPA Center, outside of council authority.

### 2. Avoid Harm Provision

Section 5 of the MPA Executive Order states that "*Each Federal agency whose actions affect the natural or cultural resources that are protected by an MPA shall identify such actions. To the extent permitted by law and to the maximum extent practicable, each Federal agency, in taking such actions, shall avoid harm to the natural and cultural resources that are protected by an MPA.*"

The provision to 'avoid harm' will require other agencies to reassess how their activities affect fishery MPAs that are part of the National System. For example, federal agencies that permit

petroleum exploration or extraction would be required to ensure that these activities would avoid harm to resources protected by MPAs to the extent practicable (e.g., red king crabs in Nearshore Bristol Bay if it were part of the National MPA System).

The 'avoid harm' provision is also a new requirement for fisheries agencies. All existing MPAs for fisheries management were developed by the Regional Fishery Management Councils pursuant to their authority established by the Magnuson Stevens Act. However, neither the Magnuson Stevens Act nor guidelines for implementing the provisions of the Act include a requirement that fishing activities avoid harm to resources within an MPA to the maximum extent practicable. The mandate to avoid harm is an entirely new requirement set forth by the Executive Order.

Because the NMFS conducts, approves, and funds activities that would affect MPAs, NMFS will be required to identify these activities, which would likely include research and fisheries. NMFS approves regulations that manage fishing activities in the EEZ, so the agency would be required to ensure that the fisheries avoid harm to the maximum extent permitted by law and to the maximum extent practicable.

The framework leaves the definition of 'affect', 'avoid harm', and "to the extent permitted by law and to the maximum extent practicable" up to the individual Federal agencies. At this point, NMFS has not prepared any guidance on how these terms might be defined, interpreted, or analyzed.

Additionally, the existing framework provides no information about what resources are protected by an MPA, or where the boundaries of MPAs are, making it difficult if not impossible to assess if authorized activities such as fishing would have any affect on resources in the MPA. Unless the resource(s) protected by an MPA are identified, analysts will have difficulty evaluating the affects of federal activities on these resources.

So, how do MPAs established by Regional Fishery Management Councils meet the 'avoid harm' provision? Quite simply, we don't know. No evaluation has ever been done relative to this new provision, and the fisheries and regulations may have changed substantially since the closure area was implemented. It is not clear if any of the federal agencies intend to review the list of eligible MPAs to determine if activities, such as fishing, will avoid harm to MPA resources to the maximum extent practicable. Without an evaluation of how these activities meet the provision before becoming part of the list, the Councils and NMFS may find themselves targets of bad press or advocacy campaigns that generate enormous public pressure to take action.

Analysis of how eligible MPAs meet the avoid harm provision could provide the Regional Fishery Management Councils with additional information to consider as part of the nomination process. Such an evaluation would also provide councils with an opportunity to consider changes in fishery regulations to meet the avoid harm provision. This could be a very large analysis, however, as it may need to take into account the entire fishery management program to evaluate what may be 'practicable'.

After the initial MPA list is published, Councils may want to integrate the 'avoid harm' evaluation within standard NEPA/RIR analyses done for ongoing actions. The councils commonly implement management measures that modify fishing activities within MPAs, and it should be standard practice to consider the direction and magnitude of the changes relative to harming resources protected by MPAs in the region. Even minor changes in TAC, allocation, effort, gear type or limits, target fisheries, or even implementation of new MPAs, could potentially redistribute effort or effects on MPAs. Just as analysts currently evaluate the effects of



changes on essential fish habitat, an evaluation of ‘avoiding harm to resources within MPAs to the extent practicable’ could be added to standard analyses. This could require substantial additional staff time or resources.

### 3. Gap Analysis

The NOAA MPA Center is in the process of collecting information to conduct an assessment of gaps in the achievement of 21 Primary Conservation Objectives (PCOs) established in the Framework for the National System of MPAs. Of concern is that the Primary Conservation Objectives were developed by the NOAA MPA Center, and these are not the same as the objectives of the MSA National Standards. The mismatch between these will create issues for the Councils once the gaps are identified by the NOAA MPA Center.

Given the broad array of PCOs, one can easily imagine that everywhere in the ocean will be identified as needing an additional MPA, including no-take marine reserves, to achieve all of these objectives. When addressing the essential fish habitat guidelines the councils concluded that everywhere in the ocean is essential habitat for one fish species or another. The MPA Center will likely come to the same conclusion, particularly when the PCOs are much broader in scope than just fish habitat.

For example, imagine an overlay of the areas used by managed fish stocks for reproduction, larval sources, nursery grounds, high priority fishing grounds, foraging grounds, and other areas for maintaining size/age structure of fishes -- together with overlays of areas with high diversity, ecologically important geological features, critical habitat areas of threatened and endangered species, bycatch mitigation areas, and other areas for education and research. When these overlays are compared with the existing MPAs in each region, major gaps will likely exist. These gaps are not due to councils failing to do their jobs to conserve and manage fisheries, but because the objectives of the MSA and the Executive Order are different, and only area-based management measures are considered.

As staff understands it, the gap analysis as envisioned by the MPA Center will evaluate the existing protection offered by existing MPAs without necessarily considering the overall conservation program developed by a council. The gap analysis will evaluate only the use of one tool, MPAs. Yet the PCOs can be achieved by the management program without MPAs. For example, if fishing mortality is low, MPAs may be entirely unnecessary to maintain natural age/sex structure of populations.

NMFS will be in an interesting situation when gaps are identified by its own agency, specifically the NOAA MPA Center. Will NMFS or the NOAA MPA Center try to convince Councils to take actions needed to address the PCO gaps identified, even though these actions are not required under the MSA? Will this be a ‘consultative process’, established with another policy directive? Or will NMFS just set the gap analysis aside and not take any action? Or will NMFS exercise Section 304 of the MSA and establish new MPAs as mandated by the Executive Order, without action from the Councils to initiate these changes? These concerns have been expressed at various meetings, and remain regardless of whether or not Council MPA sites are included in the National System of MPAs.

### 4. Marine Spatial Planning

The Council had also expressed concern regarding the interaction of the marine spatial planning initiative from the Ocean Policy Task Force. At this point, it is unclear how the National MPA System might be used in marine spatial planning.



## **Discussion of Sites Eligible for Nomination to MPA System**

The list of eligible sites supplied by the NMFS letter contained errors and omissions. Several sites should not have been listed at all and many apparently eligible sites were not on the list, for example:

- The halibut longline closure area is managed by the IPHC, not NMFS
- Area 512 is subsumed within the Nearshore Bristol Bay trawl closure.
- The Steller sea lion closures are not adequately distinguished.
- Many sites listed actually consist of multiple, individual sites.
- Many sites incorrectly state that recreational fishing is restricted.

Rather than attempt to correct the table attached to the letter, it made more sense to start over. Table 1 provides a comprehensive revised table, listing individual sites within each named closure area. There are a total of 251 individual sites listed. Although not listed on the table, these areas in total encompass 988,817 nm<sup>2</sup>, which equates to about 97% of the Alaska EEZ. Note that we have added several new columns to the table to provide additional information. Of importance, specific resources protected by individual MPA sites are listed to the extent possible on a spreadsheet. In some cases, these sites were designed to protect essential fish habitat for a variety of species using the benthic habitat at this site. While not listed individually for all sites (given space limitations on the spreadsheet), these fish species would also be considered the resources protected at these sites. Listing the resources that the MPAs are designed to protect should enhance the ability of federal agencies to assess potential actions on resources protected by MPAs should any or all of these sites become part of the National System of MPAs.

In addition to these closure areas on the list, there are other closure areas in the EEZ that were not included because they either did not meet the MPA criteria, or are under a different agency authority. For example, there are several fishery management closure areas in the EEZ established by the Alaska Department of Fish and Game as part of the FMP delegated authorities to the State. These closures include: 1) the 10 nm closures to commercial crab fishing around St. Lawrence, King and Little Diomed Islands, as well as the Norton Sound subsistence area; and 2) the large closure areas for scallop dredging throughout different areas of the EEZ.

Some closure areas do not appear to meet the definition of MPA or the criteria established by the MPA Center. These closure areas include those areas that close to fishing once a bycatch trigger is reached (COBLZ, etc), harvest limit areas, trawl testing zones, research areas, other types of designated marine managed areas. These sites do not appear to meet the definition of MPAs in that they do not provide 'lasting protection' for the natural or cultural resources.

The Steller sea lion protection measures include a complex array of various closure areas to reduce disturbance and possible competition for prey resources (Figures 1-3). These areas include 3 nm no transit and no groundfish fishing zones, no pollock, Pacific cod, or Atka mackerel fishing in foraging areas (Seguam and Bogoslof CH areas), 20 nm closures around haulouts (to hook and line, pot, and trawl gear in the pollock, Pacific cod, or Atka mackerel fisheries), and a suite of gear and fishery specific closures. Certain gear types and sectors are prohibited from fishing in certain areas of SSL critical habitat for pollock, Pacific cod, and/or Atka mackerel. Some of these areas clearly meet the MPA criteria (no-transit zones and no groundfish fishing areas) and some probably would not (closures around Unalaska and Akutan to hook and line catcher vessels > 60' LOA participating in the Pacific cod fishery). The rest seem to fall into an indeterminate category (e.g., fishery specific closures to some gear types but not others, the GOA Atka mackerel fishery area closure, etc.).

Some Steller Sea lion protection closure areas likely meet the MPA criteria established in the MPA Framework. These areas include 1) the 3-nm no transit and no groundfish fishing zones, 2) the Seguam and Bogoslof foraging areas closed to pollock, Pacific cod and Atka mackerel fishing, and 3) the closures around BSAI and GOA rookeries and haulouts that are closed to pollock, cod, and mackerel fishing with trawl gear. The rookery and haulout trawl closures showing the closure area by fishery are listed in Table 2.

### **MPA Nomination Options**

It is clear that the Council has established many MPAs that meet the MPA Center criteria. The question is, which ones (if any) should the Council recommend be included in the national system? The Council could recommend that all MPAs meeting the criteria be included, or no MPAs be included, or a subset of MPAs be included with justification why some were excluded.

**Option 1:** No Action. No closure areas/sites developed by the Council would be included in the National System of MPAs at this time. (Figure 4)

Possible rationale for choosing option 1: Under the existing MSA process, additional fishing restrictions can only be developed by the Councils subject to approval by NMFS. But once an MPA is part of a national system, federal agencies (including NMFS) must take action to assure that federally approved activities (e.g., fishing) avoid harm to MPA resources.

The Council may wish not to nominate sites at this time, and wait for policy guidance from NMFS on the interpretation and definition of ‘affect’, ‘avoid harm’, and “to the extent permitted by law and to the maximum extent practicable”. At that time, the Council may want to re-evaluate the sites relative to the avoid harm provision prior to making a recommendation on sites for inclusion in the National System of MPAs. The Council may recommend option 1 due to future uncertainty associated with putting a closure area on a national list, to the management complications implicit in listing an MPA site and the responsibilities it creates to manage all federal actions that may “harm” the site, and (however unlikely) to potentially lose or diminish its authority over management of fisheries in the area.

**Option 2:** Recommend the Council’s quasi marine reserves be included in the National System of MPAs. (Figure 5)

There are several areas/sites developed by the Council for fisheries management that for all practical purposes serve as marine reserves off Alaska. These areas include all the Seamounts, the AI Coral gardens, Bowers Ridge, the GOA coral HAPC areas, the Sitka Pinnacles, and the Steller sea lion 3-mile no transit zones around rookeries.

None of these closure areas meet the exact criteria for no-take marine reserve because regulations allow recreational and/or subsistence fishing within the boundaries of most areas. Nevertheless, the likelihood of recreational or subsistence fishing occurring in these offshore locations is virtually nil, so they function as no-take reserves.

Possible rationale for choosing option 2: The Council may wish to nominate those sites that function as no-take marine reserves, as these are the sites that the Council has deemed require the most protection from resource removal and habitat disturbance. This would get the Council ‘a seat at the table’ at future meetings where MPAs in Alaska are discussed, evaluated against the PCOs, and provides other benefits to resources protected by Council-developed MPAs. Should

the Council lose, or have to share, authority over spatial management of fisheries in the future, these sites would have the lowest impacts on federally managed fisheries.

**Option 3:** Recommend that those closures areas/sites with stable boundaries and/or regulations (i.e., those unlikely to change in the near future) be included in the National System of MPAs. (Figure 6) Thus, sites with boundaries with possible changes in the near future would be excluded. The areas with boundary changes that may possibly change in the near future, or are currently under consideration by the Council for change, include the Steller sea lion areas (excluding the no transit zones), the Northern Bering Sea Research Area, the Saint Matthew Island Habitat Conservation Area, the Nunivak Island, Etolin Strait, and Kuskokwim Bay Habitat Conservation Area, Pribilof Islands Habitat Conservation Zone, and the Nearshore Bristol Bay Trawl Closure. All other sites would be included in the National System.

**Possible rationale for choosing option 3:** The Council may wish to nominate all sites that have stable boundaries, thus providing additional benefits as described under option 2. The Council would then have the ability to recommend adding the remaining sites at a later date when boundaries were finalized and stable.

The Council sometimes changes area closure boundaries to address changing conditions or management objectives. Several areas are currently being re-evaluated for possible boundary change. The boundaries of the Steller sea lion areas may be modified in the coming years relative to a new ESA Section 7 Biological Opinion on the potential impacts of fisheries on their survival and critical habitat. In October 2009, the Council voted to modify the boundaries of the Northern Bering Sea Research Area as well as the boundary edge near St. Matthew Island Habitat Conservation Area. The Council agreed to review the Nunivak Island, Etolin Strait, and Kuskokwim Bay habitat Conservation Area boundaries a few years after implementation. The Pribilof Islands Habitat Conservation Zone boundaries may change as part of the blue king crab rebuilding plan. Changes to the Nearshore Bristol Bay closure are being contemplated to address concerns about Pacific walrus and subsistence activities, and a discussion paper will be reviewed by the Council in December 2009. Similarly, the Council has discussed the possibility of withdrawing the Salmon FMP, and thus the boundaries of the area would be defined under a different authority than through a Council FMP.

This option would add a relatively broad array of MPAs to the National System, without having to repeatedly revise the boundaries of sites contained in the inventory. The national framework currently only lists MPA site names, and does not currently includes the boundaries, so modifications to the boundaries or regulations within the MPA would not affect its standing on the list, unless the MPA no longer met the criteria for MPAs and the agency requested that it be removed from the list. Rather, modifications would be required to the inventory.

**Option 4:** Recommend that all eligible sites be included in the National System of MPAs (Figures 7-9).

**Possible rationale for choosing option 4:** The Council may wish to nominate all sites that are eligible for the National System. This would provide the most comprehensive benefits (as described by the MPA Center) to resources protected by MPAs.