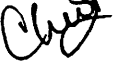


MEMORANDUM

TO: Council, SSC and AP Members

FROM: Chris Oliver 
Executive Director

DATE: March 23, 2009

SUBJECT: MPA Nomination Process

ESTIMATED TIME 1 HOUR

ACTION REQUIRED

Receive status report on nomination process for MPAs

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). The executive order is attached as Item C-5(a). In late November 2008, the final framework was published on the MPA Center's website (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. Summary information on the framework and nomination process is attached (Item C-5(b)).

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. The Policy Directive, attached as Item C-5(c), 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 provide an opportunity for public comment.
- NMFS will share the public comments with the Council.
- The Council reviews the comments and may recommended changes, and documents it in a letter that would include any information required by the MPA Center.
- The NFMS 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.

At this point, we are awaiting the letter from NMFS as described in bullet #2.

The first round of nominations to the National System of MPAs was published in the Federal Register on March 6 (attached as Item C-5(d)). Four sites in the Alaska region have been proposed:

1. Alaska Maritime National Wildlife Refuge
2. Arctic National Wildlife Refuge
3. Glacier Bay National Park & Preserve
4. Yukon Delta National Wildlife Refuge

Comments are due April 6.

Presidential Documents

Executive Order 13158 of May 26, 2000

Marine Protected Areas

By the authority vested in me as President by the Constitution and the laws of the United States of America and in furtherance of the purposes of the National Marine Sanctuaries Act (16 U.S.C. 1431 *et seq.*), National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-ee), National Park Service Organic Act (16 U.S.C. 1 *et seq.*), National Historic Preservation Act (16 U.S.C. 470 *et seq.*), Wilderness Act (16 U.S.C. 1131 *et seq.*), Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), Coastal Zone Management Act (16 U.S.C. 1451 *et seq.*), Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), Marine Mammal Protection Act (16 U.S.C. 1362 *et seq.*), Clean Water Act of 1977 (33 U.S.C. 1251 *et seq.*), National Environmental Policy Act, as amended (42 U.S.C. 4321 *et seq.*), Outer Continental Shelf Lands Act (42 U.S.C. 1331 *et seq.*), and other pertinent statutes, it is ordered as follows:

Section 1. Purpose. This Executive Order will help protect the significant natural and cultural resources within the marine environment for the benefit of present and future generations by strengthening and expanding the Nation's system of marine protected areas (MPAs). An expanded and strengthened comprehensive system of marine protected areas throughout the marine environment would enhance the conservation of our Nation's natural and cultural marine heritage and the ecologically and economically sustainable use of the marine environment for future generations. To this end, the purpose of this order is to, consistent with domestic and international law: (a) strengthen the management, protection, and conservation of existing marine protected areas and establish new or expanded MPAs; (b) develop a scientifically based, comprehensive national system of MPAs representing diverse U.S. marine ecosystems, and the Nation's natural and cultural resources; and (c) avoid causing harm to MPAs through federally conducted, approved, or funded activities.

Sec. 2. Definitions. For the purposes of this order: (a) "Marine protected area" means any area of the marine environment that has been reserved by Federal, State, territorial, tribal, or local laws or regulations to provide lasting protection for part or all of the natural and cultural resources therein.

(b) "Marine environment" means those areas of coastal and ocean waters, the Great Lakes and their connecting waters, and submerged lands thereunder, over which the United States exercises jurisdiction, consistent with international law.

(c) The term "United States" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

Sec. 3. MPA Establishment, Protection, and Management. Each Federal agency whose authorities provide for the establishment or management of MPAs shall take appropriate actions to enhance or expand protection of existing MPAs and establish or recommend, as appropriate, new MPAs. Agencies implementing this section shall consult with the agencies identified in subsection 4(a) of this order, consistent with existing requirements.

Sec. 4. National System of MPAs. (a) To the extent permitted by law and subject to the availability of appropriations, the Department of Commerce and the Department of the Interior, in consultation with the Department

of Defense, the Department of State, the United States Agency for International Development, the Department of Transportation, the Environmental Protection Agency, the National Science Foundation, and other pertinent Federal agencies shall develop a national system of MPAs. They shall coordinate and share information, tools, and strategies, and provide guidance to enable and encourage the use of the following in the exercise of each agency's respective authorities 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 natural and cultural resources for additional protection;

(2) integrated assessments of ecological linkages among MPAs, including ecological reserves in which consumptive uses of resources are prohibited, to provide synergistic benefits;

(3) a biological assessment of the minimum area where consumptive uses would be prohibited that is necessary to preserve representative habitats in different geographic areas of the marine environment;

(4) an assessment of threats and gaps in levels of protection currently afforded to natural and cultural resources, as appropriate;

(5) practical, science-based criteria and protocols for monitoring and evaluating the effectiveness of MPAs;

(6) identification of emerging threats and user conflicts affecting MPAs and appropriate, practical, and equitable management solutions, including effective enforcement strategies, to eliminate or reduce such threats and conflicts;

(7) assessment of the economic effects of the preferred management solutions; and

(8) identification of opportunities to improve linkages with, and technical assistance to, international marine protected area programs.

(b) In carrying out the requirements of section 4 of this order, the Department of Commerce and the Department of the Interior shall consult with those States that contain portions of the marine environment, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands, tribes, Regional Fishery Management Councils, and other entities, as appropriate, to promote coordination of Federal, State, territorial, and tribal actions to establish and manage MPAs.

(c) In carrying out the requirements of this section, the Department of Commerce and the Department of the Interior shall seek the expert advice and recommendations of non-Federal scientists, resource managers, and other interested persons and organizations through a Marine Protected Area Federal Advisory Committee. The Committee shall be established by the Department of Commerce.

(d) The Secretary of Commerce and the Secretary of the Interior shall establish and jointly manage a website for information on MPAs and Federal agency reports required by this order. They shall also publish and maintain a list of MPAs that meet the definition of MPA for the purposes of this order.

(e) The Department of Commerce's National Oceanic and Atmospheric Administration shall establish a Marine Protected Area Center to carry out, in cooperation with the Department of the Interior, the requirements of subsection 4(a) of this order, coordinate the website established pursuant to subsection 4(d) of this order, and partner with governmental and non-governmental entities to conduct necessary research, analysis, and exploration. The goal of the MPA Center shall be, in cooperation with the Department of the Interior, to develop a framework for a national system of MPAs, and to provide Federal, State, territorial, tribal, and local governments with the information, technologies, and strategies to support the system. This

national system framework and the work of the MPA Center is intended to support, not interfere with, agencies' independent exercise of their own existing authorities.

(f) To better protect beaches, coasts, and the marine environment from pollution, the Environmental Protection Agency (EPA), relying upon existing Clean Water Act authorities, shall expeditiously propose new science-based regulations, as necessary, to ensure appropriate levels of protection for the marine environment. Such regulations may include the identification of areas that warrant additional pollution protections and the enhancement of marine water quality standards. The EPA shall consult with the Federal agencies identified in subsection 4(a) of this order, States, territories, tribes, and the public in the development of such new regulations.

Sec. 5. Agency Responsibilities. 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. In implementing this section, each Federal agency shall refer to the MPAs identified under subsection 4(d) of this order.

Sec. 6. Accountability. Each Federal agency that is required to take actions under this order shall prepare and make public annually a concise description of actions taken by it in the previous year to implement the order, including a description of written comments by any person or organization stating that the agency has not complied with this order and a response to such comments by the agency.

Sec. 7. International Law. Federal agencies taking actions pursuant to this Executive Order must act in accordance with international law and with Presidential Proclamation 5928 of December 27, 1988, on the Territorial Sea of the United States of America, Presidential Proclamation 5030 of March 10, 1983, on the Exclusive Economic Zone of the United States of America, and Presidential Proclamation 7219 of September 2, 1999, on the Contiguous Zone of the United States.

Sec. 8. General. (a) Nothing in this order shall be construed as altering existing authorities regarding the establishment of Federal MPAs in areas of the marine environment subject to the jurisdiction and control of States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and Indian tribes.

(b) This order does not diminish, affect, or abrogate Indian treaty rights or United States trust responsibilities to Indian tribes.

(c) This 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.



THE WHITE HOUSE,
May 26, 2000.

IMPLEMENTING THE NATIONAL SYSTEM OF MARINE PROTECTED AREAS: SUMMARY OF NOMINATION PROCESS

The U.S. is implementing a comprehensive, science-based and effective national system of marine protected areas (MPAs). The national system will include eligible existing MPAs across all levels of government to protect important habitats and resources. For more information, visit www.mpa.gov.

INFORMATION IN THIS FACT SHEET NOT APPLICABLE UNTIL LATE NOVEMBER 2008

NOMINATION PROCESS FOR EXISTING SITES TO JOIN THE NATIONAL SYSTEM

The nomination process for the National System of Marine Protected Areas (MPAs) is designed to be transparent, science-based, and to provide an opportunity for public comment. The National Marine Protected Areas Center will be responsible for the technical review of nominations.

There are three entry criteria for existing MPAs to join the national system (plus a fourth for cultural heritage).

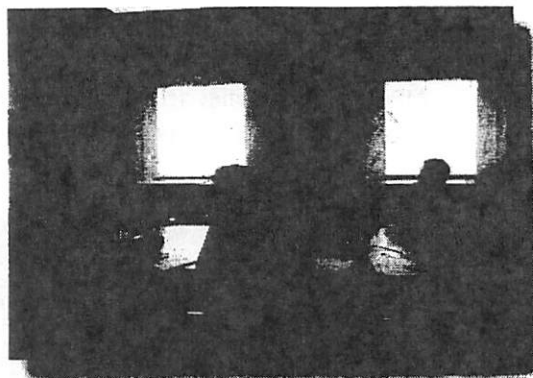
Sites that meet the following three criteria (four for cultural heritage) are eligible for the national system:

1. Meets the definition as defined in the *Framework for the National System of Marine Protected Areas of the United States of America*.
2. Has a management plan (can be site-specific or part of a broader programmatic management plan; must have site goals and objectives and call for monitoring or evaluation of those goals and objectives).
3. Contributes to at least one priority conservation objective as listed in the Framework.
4. Cultural heritage MPAs must also conform to criteria for the National Register for Historic Places.

The MPA Center will use existing information from the MPA Inventory to determine which sites meet the first two criteria. These identified sites will be potentially eligible MPAs. The managing entities of potentially eligible MPAs will be sent a nomination package and invited to nominate some or all of their potentially eligible sites for inclusion in the national system. To do so, they will be asked to document how each nominated MPA meets criterion three above.

ENSURING PUBLIC PARTICIPATION

All nominated sites will be available for public comment. The public will be notified through a *Federal Register* notice, information on www.mpa.gov, and other targeted outreach. The MPA Center will receive, evaluate and forward public comment to the relevant managing entity or entities, which will then reaffirm or withdraw the nomination based on public comment received and other factors deemed relevant. After final MPA Center review, mutually agreed upon MPAs will be accepted into the national system.



The National Oceanic and Atmospheric Administration (NOAA) and the Department of the Interior (DOI) will make a public announcement of the first group of MPAs accepted into the national system. MPAs accepted into the national system will also be added to the official List of National System MPAs, which will be made available to the public via the *Federal Register*, the website www.mpa.gov, and other means.

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NOAA's National Marine Protected Areas (MPA) Center's mission is to facilitate the effective use of science, technology, planning, and information in the planning, management, and evaluation of the nation's system of marine protected areas. The MPA Center works in partnership with federal, state, tribal, and local governments and stakeholders to develop a science-based, comprehensive national system of MPAs. These collaborative efforts will lead to a more efficient, effective use of MPAs now and in the future to conserve and sustain the nation's vital marine resources.



The nomination process will remain open after the first group of sites has been accepted. Nominations will be accepted on a rolling basis, with formal updates to the List and public announcements provided on a periodic basis.

DRAFT TIMELINE FOR INITIAL NOMINATION PROCESS:

LATE NOVEMBER 2008:

Announce publication of *Framework for the National System of Marine Protected Areas of the United States of America* and beginning of nomination process.

MPA Center sends out nomination packages to federal, state and territorial MPA managing entities with potentially eligible existing sites.

LATE JANUARY 2009:

Nomination forms due

MID FEBRUARY 2009:

MPA Center makes list of nominated national system MPAs available for public review; notice in *Federal Register* and on www.mpa.gov.

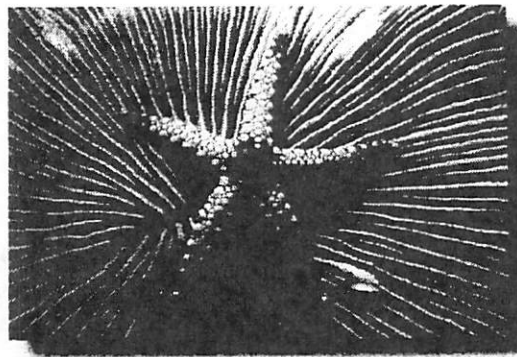
LATE MARCH 2009:

MPA Center and managing entities review public comments received. Managing entities make final determination about which sites to nominate.

MPA Center reviews final nominations to ensure that criteria are met.

APRIL 2009:

MPA Center notifies accepted sites. NOAA and DOI make announcement of first sites to join National System of MPAs. Official List of National System sites posted on www.mpa.gov.



For more information on the National System of Marine Protected Areas, visit www.mpa.gov

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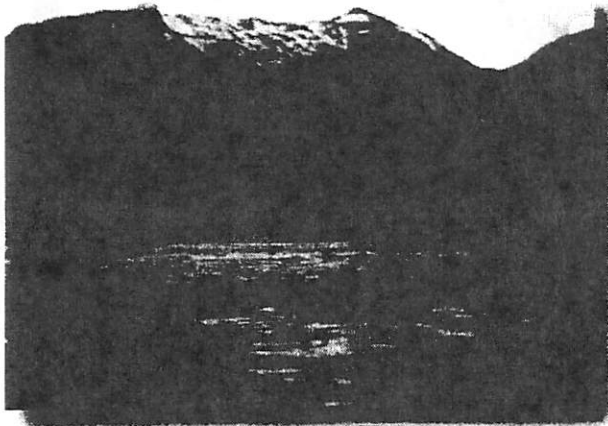
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BENEFITS

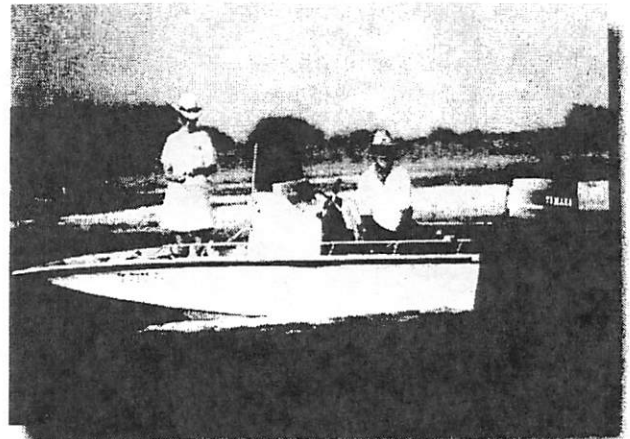
of a National System of Marine Protected Areas

The national system of MPAs provides the first comprehensive mechanism for coordinating MPAs managed by diverse federal, state, territorial, tribal and local agencies to work toward national conservation objectives. The system will benefit the nation's collective conservation efforts and participating MPAs, providing those sites with a means to address issues beyond their boundaries. The following list reflects some of the potential benefits from the creation and effective management of the national system.



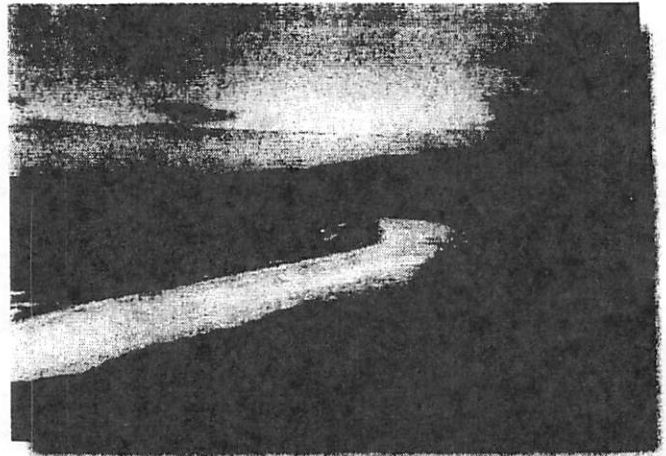
Benefits to Participating MPAs

- **Enhancing Stewardship** - The national system will help protect MPAs against the harmful effects of activities through enhanced regional coordination, public awareness, site management capacity, and recognition of these MPAs as important conservation areas.
- **Building Partnerships** - By establishing a mechanism for coordination around common conservation objectives, the national system provides opportunities for MPAs to work together more effectively. The system will also build partnerships between member MPAs and related ocean management initiatives, such as ocean observing systems, ocean mapping, navigational charting, and others.
- **Increasing Support for Marine Conservation** - The designation of MPAs as part of the national system can enhance the stature of these sites within their managing entities and their local communities, as well as nationally and internationally. This designation will also build support for investment in national system MPAs. National system MPAs may benefit from the same type of support and recognition that MPAs who joined international networks have received; such as the World Heritage Sites, Ramsar Wetlands, or other U.S. national level systems like the National Estuarine Research Reserves, National Marine Sanctuaries, National Parks and Wildlife Refuges.
- **More Effective and Efficient Outreach** - The national system will be an important mechanism for increased public awareness and understanding of the importance of marine resources and conservation efforts. Coordinated outreach efforts will increase the impact of outreach by individual MPAs, and could result in cost savings. Including eligible, but currently little known, sites in the national system could bring increased recognition and visibility to these areas.
- **Promoting Cultural Heritage** - Participation in the national system elevates and enhances the recognition of and appreciation for the cultural heritage value of MPA sites, an often overlooked focus of marine conservation.
- **Protecting MPA Resources** - Section 5 of Executive Order 13158 calls for federal agencies to "avoid harm" to the natural and cultural resources protected by MPAs that are part of the national system. Federal agencies are required to identify their activities that affect the natural and cultural resources protected by individual national system MPAs, and, to the extent permitted by law and the maximum extent practicable, avoid harm to those resources. These activities are to be accomplished through existing resource management or review authorities.



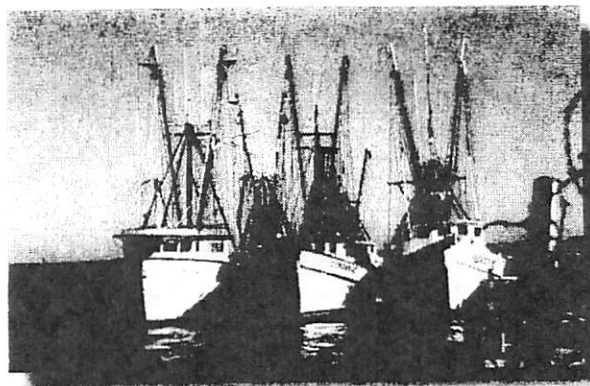
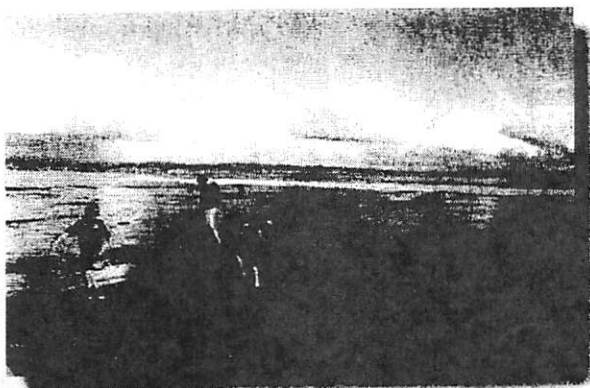
Benefits to the Nation

- **Protecting Representative Ecosystems and Resources** - The national system will significantly boost ongoing efforts to preserve the natural and cultural heritage of the United States by ensuring that the diverse characteristics of the nation's seas are conserved for future generations in a systematic way. The representation of all ecosystem or habitat types in all the nation's marine regions, which includes the Great Lakes, within a single system will help ensure a full complement of biodiversity, habitat types and representative cultural resources.
- **Enhancing Connectivity Among MPAs** - The national system provides an opportunity to identify and establish networks of MPAs that are ecologically connected. An ecological network of MPAs is a set of discrete MPAs within a region that are functionally connected through dispersal of eggs and larvae or movement of juveniles and adults. These networks would enhance linkages between sources and sinks for many marine organisms, which may be essential for some local populations to persist—an increasingly serious challenge in the face of climate change and other impacts. Planning and analysis at the national and regional scales provides an opportunity to address connectivity for many different marine organisms at different spatial scales.
- **Identifying Gaps in Current Protection of Ocean Resources** - The national system will help identify and highlight gaps in protection of important places where MPAs may be an appropriate tool to meet priority conservation objectives. Regional gap analyses will help inform future planning efforts to create MPAs to fill the identified gaps.
- **Providing New Educational Opportunities** - The creation of the national system will enhance opportunities for natural and cultural heritage education. This may include onsite education and interpretation, as well as classroom and web-based resources. The national system will be a valuable tool for educating students and visitors about the nation's diverse marine and coastal ecosystems and cultural resources. It will also provide a mechanism to share educational materials about resources or management approaches among MPAs.
- **Enhancing Research Opportunities** - The national system will provide scientists and managers with more opportunities to understand the dynamics of marine ecosystems and human interactions with them under different management regimes. Increased awareness of the national system may lead to additional funding for research.
- **Improved International Coordination** - By focusing on national objectives, and providing a comprehensive picture of the nation's MPA coverage and focus, the national system will promote more effective links with international MPA programs, encourage the exchange of expertise, and enhance conservation efforts across international boundaries.



Benefits to Ocean Stakeholders

- **Sustaining Fisheries** - One goal of the national system is supporting sustainable production of harvested marine resources. The national system provides a mechanism to coordinate fisheries management activities by regional fisheries management councils, inter-state fisheries commissions, states and tribes with other conservation efforts at the regional scale. This contributes to species recovery, spillover and seeding effects, habitat protection, conservation of old-growth age structure and genetic diversity, as well as providing improved information about access opportunities.
- **Transparent Process for MPA Planning** - The national system outlines a science-based, transparent process for identifying gaps in current protection where new or enhanced MPAs may be needed to address resource conservation needs. The national system does not provide any new authority for establishing or managing MPAs, but lays out design and implementation principles that will guide the development of the system. These include a commitment to balanced stakeholder involvement, respecting local and indigenous values, and adaptive management.
- **Better Planning for Diverse Ocean Uses** - Identifying national system MPAs, as well as identifying areas important for conservation through regional gap analyses, will help inform regional-scale planning and decision making associated with a wide range of ocean uses. This would also contribute to a more predictable regulatory environment for ocean industries.
- **Better Information on MPA Resources, Uses and Recreational Opportunities** - As part of the development of the national system, the MPA Center has developed a comprehensive database on the number, location and types of U.S. MPAs. This information will answer questions from visitors and other users, such as: "Where can I go fishing?" and "What is the purpose of my local MPA?"



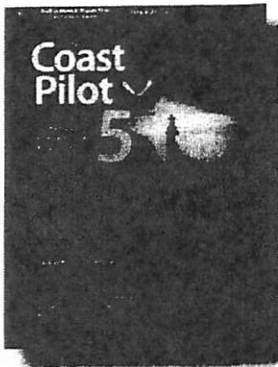
How the National System of MPAs Can Work for All of Us...

The National MPA Center is committed to focusing its efforts on projects and activities to strengthen MPAs and MPA programs, ocean and Great Lakes planning and management, and through them, the conservation of our Nation's natural and cultural marine heritage and the ecologically and economically sustainable use of the marine environment for future generations. Coordinated, cooperative work to achieve common conservation objectives is especially critical during these times of limited operating resources at all levels of government and the private sector. Priorities include:

- **Recognition for MPA Programs and Sites** - Recognition helps build public support for MPA programs. The national system will highlight participating MPA programs and sites on its web site, www.mpa.gov -- an internationally recognized resource for MPA information. Participating programs will also receive a Communications Toolkit to assist them in their outreach efforts, and the right to use the national system identity on materials related to participating MPAs.

How the National System of MPAs Can Work for All of Us... (cont'd)

- **Information for Regional Ocean Governance and MPA Planning and Management** - Information about protected areas, other closures, and ocean uses is critical for a wide range of ocean management decisions. The MPA Center has developed several national databases to address this need:
 - MPA Inventory - The only comprehensive national inventory of U.S. MPAs, the MPA Inventory includes information on nearly 1,700 U.S. MPAs, including GIS data for most sites.
 - "De Facto" MPA Inventory - Many areas are restricted for reasons other than conservation, such as military closures, safety zones, hazard areas and anchorages. The MPA Center has developed a national inventory of these federal "de facto" MPAs, which will be available on www.mpa.gov in 2009.
 - Ocean Uses Atlas - The MPA Center is developing a comprehensive atlas of consumptive and non-consumptive ocean uses for California, and is seeking partnerships to expand this work in other states and regions.
 - MPA Virtual Library - Maintained on www.mpa.gov, the MPA Virtual Library provides searchable citations, articles, web sites and conferences on a wide range of MPA management and design issues.



- **Integration with Ocean and Coastal Management Programs** - The national system provides an opportunity to enhance our collective conservation efforts through the integration of MPA programs with other ocean management programs with complementary goals. For example, the MPA Federal Advisory Committee is currently working on recommendations for integrating the national system with the Integrated Ocean Observing System (IOOS). The needs of the national system can help guide the future development of IOOS, and MPAs in the national system can serve as platforms for ocean observations. The MPA Center is also working with NOAA's Office of Coast Survey to include MPAs in navigational pockets for mariners and recreational users, such as Coast Pilot, Pocket Charts, and electronic navigational charts.

▪ **Facilitation of Regional Assessments and Gap Analyses** - Identifying conservation gaps is a critical step toward achieving the conservation objectives of the national system. These gaps are areas in the ocean and Great Lakes that meet the conservation objectives of the national system but are not adequately protected to ensure their long-term viability. The MPA Center will work collaboratively with partners in each region to complete a gap analysis for U.S. marine ecosystems. These gap analyses can be used by existing federal, state, territorial, tribal and local MPA programs and other ocean and coastal managers to guide future effort to establish new MPAs, strengthen existing ones, or take other protection measures. The gap analysis process will begin on the West Coast (California, Oregon and Washington) in 2009-10.

- **International Linkages to Address Issues of Common Concern** - The national system will help connect regional, state and territorial MPA efforts with relevant international initiatives to address issues of common concern. For example, the North American MPA Network, an initiative of the Commission on Environmental Cooperation (U.S., Canada and Mexico) has focused on the Baja to Bering region, and will begin work in other regions in 2009. Projects include developing common indicators and condition reports from MPAs across the three countries, identification of priority conservation areas, mapping marine ecosystems, training, and technical assistance and exchanges.



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THE NATIONAL SYSTEM OF MPAs:

PRIORITY CONSERVATION OBJECTIVES

www.mpa.gov

The framework for a comprehensive, science-based and effective national system of marine protected areas (MPAs) in U.S. waters was recently released by NOAA and the Department of the Interior. The national system will include eligible existing MPAs across all levels of government, as well as those established in the future by agencies to protect important habitats and resources.

NATIONAL SYSTEM PRIORITY CONSERVATION OBJECTIVES

To ensure the National System of MPAs supports the conservation of our nation's natural and cultural marine heritage and sustainable production marine resources, overarching conservation objectives for the national system were developed.

The conservation objectives were developed and prioritized with input and recommendations of the Marine Protected Areas Federal Advisory Committee (FAC) and other stakeholders. When prioritizing each objective, the following were considered:

1. the availability of existing scientific or other data necessary to achieve the objective
2. the importance of the objective
3. the effort necessary to achieve the objective

Prioritization of these conservation objectives are intended to guide the development of the comprehensive national system, including identification of both existing MPAs to be included, and conservation gaps which might be addressed through the establishment of new MPAs.

Building the national system will begin focused on a subset of the highest priority (near-term) objectives for each of the national system's three goals:

- **Natural Heritage:** Advance comprehensive conservation and management of the nation's biological communities, habitats, ecosystems, and processes, and the ecological services, uses, and values they provide to present and future generations through ecosystem-based MPA approaches.
- **Cultural Heritage:** Advance comprehensive conservation and management of cultural resources that reflect the nation's maritime history and traditional cultural connections to the sea, as well as the uses and value they provide to present and future generations through ecosystem-based MPA approaches.
- **Sustainable Production:** Advance comprehensive conservation and management of the nation's renewable living resources and their habitats (including, but not limited to: spawning, mating, and nursery grounds, and areas established to minimize incidental bycatch of species) and the social, cultural, and economic values and services they provide to present and future generations through ecosystem-based MPA approaches.

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NOAA's National Marine Protected Areas (MPA) Center's mission is to facilitate the effective use of science, technology, planning, and information in the planning, management, and evaluation of the nation's system of marine protected areas. The MPA Center works in partnership with federal, state, tribal, and local governments and stakeholders to develop a science-based, comprehensive national system of MPAs. These collaborative efforts will lead to a more efficient, effective use of MPAs now and in the future to conserve and sustain the nation's vital marine resources.



NATURAL HERITAGE OBJECTIVES

NEAR TERM

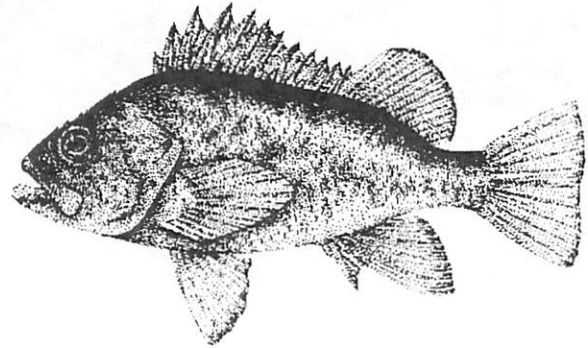
Conserve and manage:

- Key reproduction areas and nursery grounds
- Key biogenic habitats
- Areas of high species and/or high diversity
- Ecologically important geological features and enduring/recurring oceanographic features
- Critical habitat of threatened and endangered species

LONGER TERM

Conserve and manage:

- Unique or rare species, habitats and associated communities
- Key areas for migratory species
- Linked areas important to life histories
- Key areas that provide compatible opportunities for education and research



CULTURAL HERITAGE OBJECTIVES

NEAR TERM

Conserve and manage:

- Key cultural and historic resources listed on the National Register of Historic Places (NRHP)
- Key cultural historic resources determined eligible for the NRHP or listed on a State Register
- Key cultural sites that are paramount

LONGER TERM

Conserve and manage:

- Key cultural and historic sites that may be threatened
- Key cultural and historic sites that can be utilized for heritage tourism
- Key cultural and historic sites that are under-represented

SUSTAINABLE PRODUCTION OBJECTIVES

NEAR TERM

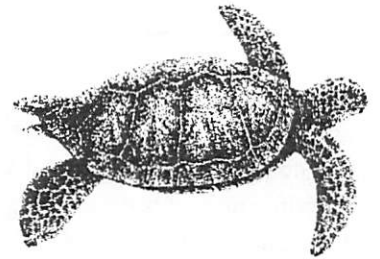
Conserve and manage:

- Key reproduction areas, including larval sources and nursery grounds
- Key areas that sustain or restore high priority fishing grounds

LONGER TERM

Conserve and manage:

- Key areas for maintaining natural age/sex structure of important harvestable species
- Key foraging grounds
- Key areas that mitigate the impacts of bycatch
- Conserve key areas that provide compatible opportunities for education and research



For more information on the priority conservation objectives, and on the National System of MPAs, visit www.mpa.gov

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Department of Commerce • National Oceanic & Atmospheric Administration • National Marine Fisheries Service

NATIONAL MARINE FISHERIES SERVICE POLICY DIRECTIVE 01-114-01
EFFECTIVE DATE: March 9, 2009

Fisheries Management

Regional Fishery Management Council Consultation in MPA Nomination Process

NOTICE: This publication is available at: <http://www.nmfs.noaa.gov/directives/>.

OPR: F/SF (A. Risenhoover)
Type of Issuance: Initial

Certified by: F (J. Balsiger)

SUMMARY OF REVISIONS:

1.0 Introduction

In the United States and around the world, marine protected areas (MPAs) are increasingly recognized as an important and promising management tool for mitigating or buffering impacts to the world's oceans from human activities. Presidential Executive Order 13158 of May 26, 2000 (Order) calls for the development of a National System of Marine Protected Areas (National System) and directs the establishment of a National MPA Center within NOAA to lead its development and implementation. The Order requires collaboration with federal agencies as well as coastal states and territories, tribes, regional fishery management councils (Councils), and other entities as appropriate, including the MPA Federal Advisory Committee. (The collaborative process described in this policy applies only to sites established through conservation and management measures per the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. §§ 1801 *et seq.* (MSA), as a result of Council action.)

The Order further specifies that the National System be scientifically based, comprehensive, and represent the nation's diverse marine ecosystems and natural and cultural resources.

The National System provides the first comprehensive mechanism for coordinating MPAs managed by diverse federal, state, territorial, tribal, and local agencies to work toward national conservation objectives. The National System will benefit the nation's collective conservation efforts and participating MPAs, providing those sites with a means to address issues beyond their boundaries. The National System should benefit participating MPAs by enhancing stewardship, building partnerships, increasing support for marine conservation, fostering more effective and efficient outreach, promoting cultural heritage, and protecting MPA resources. The National System should benefit the nation by protecting representative ecosystems and resources, enhancing connectivity among MPAs, identifying gaps in current protection of ocean resources, providing new educational opportunities, enhancing research opportunities, and improving international coordination.

The National System outlines a science-based, transparent process for identifying gaps in current protection efforts where new or enhanced MPAs may be needed to address resource conservation needs. Effective stakeholder review and consultation is critical to this process. The National System does not provide any new authority for establishing or managing MPAs, but lays out design and implementation principles that will guide the development of the system. These principles include a commitment to balanced stakeholder involvement, respect for local and indigenous values, and adaptive management.

Additional information about Marine Protected Areas, the National Framework for a National System of MPAs, and the nomination process can be found at: <http://www.mpa.gov>.

2.0 Objective

The objective of this policy directive is to establish the process for consulting with Councils:

1. on whether sites that were established under the authorities of the MSA as a result of Council action should be nominated to be included in the National System, and
2. when adding, modifying, or removing MPAs in the National System.

To provide a roadmap for building the National System, the Order calls for the development of a framework for a National System. The 2008 Framework for the National System of MPAs of the United States of America (Framework) is the result of a multi-year development effort. The Framework proposes a National System that is, initially, an assemblage of existing MPA sites, systems, and networks established and managed by federal, state, tribal, or local governments. The Framework outlines several key components of the National System, including:

- A set of overarching National System goals and priority conservation objectives;
- MPA eligibility criteria and other key definitions; and
- A nomination process for MPAs to be included in the National System.

MPA eligibility criteria are:

1. Meets the definition of an MPA as defined in the Framework.
2. Has a management plan (can be site-specific or part of a broader programmatic management plan; must have specified conservation goals and call for monitoring or evaluation of those goals).
3. Contributes to at least one priority conservation objective as listed in the Framework.
4. Cultural heritage MPAs must conform to criteria for the National Register of Historic Places.

Additional information about the Framework can be found at:
http://www.mpa.gov/national_system/final_framework_sup.html

3.0 Overview of Nomination Process

As established in the Framework, the nomination process includes the following steps:

1. The MPA Center will review sites in the U.S. MPA Inventory and identify the set of sites that, on initial review, meet the three (or four, for cultural sites) MPA eligibility criteria described above. Information on whether sites meet criterion 3, supporting at least one priority goal and conservation objective of the National System, will be provided by the managing entity as part of the nomination process. The MPA Inventory (www.mpa.gov) is a refinement of the early NOAA Marine Managed Areas Inventory, which was a broader collection of place-based management areas in U.S. waters.
2. For those sites that are potentially eligible, the MPA Center will send the managing entity or entities a letter of invitation to nominate the site, including the rationale for eligibility. In the case of sites established through conservation and management measures per the MSA, the managing entity is NOAA Fisheries.
3. The managing entity or entities will be asked to consider nominating identified sites for

inclusion in the National System and provide any additional information required to evaluate site eligibility relative to meeting priority conservation objectives. The managing entity may also provide a brief justification and nomination for (a) unsolicited sites believed to meet the requirements for entry into the National System, or (b) other sites that do not appear to currently meet the management plan eligibility criterion but are deemed to be a priority for inclusion based on their ability to fill gaps in national system coverage of the priority conservation objectives and design principles.

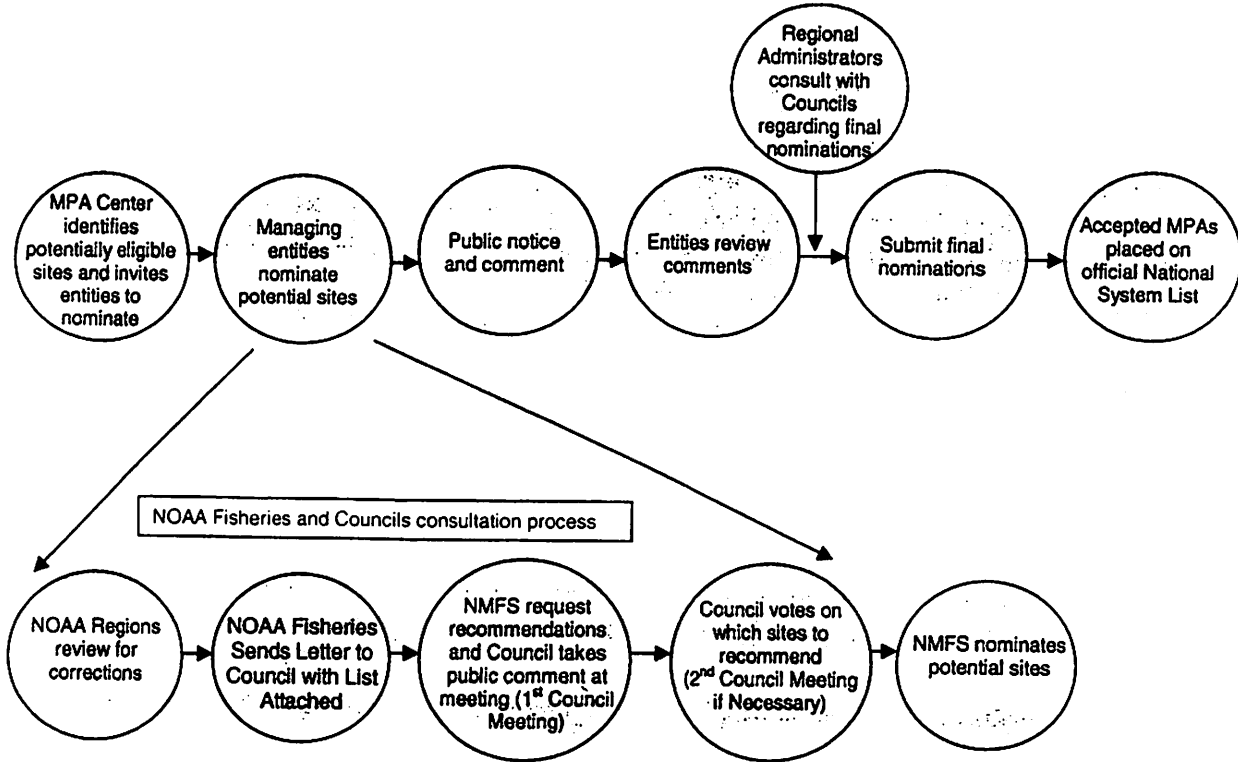
4. The MPA Center will review the set of nominated sites to ensure that nominations are sufficiently justified.
5. The MPA Center will notify the public, via the *Federal Register* and other means, of the sites nominated for inclusion in the National System and provide the opportunity to comment on the eligibility of nominated sites (or sites that have not been nominated) relative to eligibility criteria and any additional justification. The MPA Center will work with the managing entities to ensure adequate public involvement, including public meetings and tribal coordination, as appropriate.
6. The MPA Center will receive, evaluate, and forward public comment to the relevant managing entity or entities, which will then have the opportunity to reaffirm or withdraw the nomination based on public comment received and any other factors deemed relevant.
7. The MPA Center will review the final determination for each nomination, consult as necessary with the managing entity or entities should there be any discrepancies, and accept mutually agreed upon MPAs into the National System.
8. MPAs that are accepted into the National System will be listed in the official List of National System MPAs comprising the National System and made available to the public via the *Federal Register*, the website <http://www.mpa.gov>, and other means.

4.0 Process to Consult with Regional Fishery Management Councils in MPA Nominations and Revisions to Designations

The Councils have a unique and important role as partners with NOAA Fisheries in fisheries management, which includes establishing federal fishery management plans and plan amendments and habitat conservation areas. Therefore, the Councils will be a key partner with NOAA Fisheries in nominating sites to the National System and, conversely, identifying sites that should be removed from the National System due to management or other changes. Through a transparent process, NOAA Fisheries will consult with the Councils and nominate fisheries sites to the National System. This process applies only to sites established through conservation and management measures per the MSA as a result of Council action. Figure 1 shows how the Council consultation process fits within the overall nomination process. Because of the need for a transparent consultation process, MSA sites will be nominated and accepted into the National System as indicated below.

Figure 1. Summary of Nomination Process

Nomination Process



4.1 NOAA Fisheries Service and Regional Fishery Management Council Consultation for Nomination to National System. [Steps in brackets correspond to the overall nomination process discussed in Section 3.0]

- [Steps 1, 2] The MPA center will send NOAA Fisheries a list of sites that are eligible to be included in the National System.
- [Step 3] After receiving the list of eligible sites from the MPA Center, NOAA Fisheries will notify each Council, by letter, of those sites that fall within each Council's jurisdiction.
- [Step 3] In consultation with the appropriate Regional Administrator, each Council will establish a process for reviewing the list of eligible sites, including providing opportunity for public comment at Council meetings. The Council process is expected to occur over the course of two consecutive Council meetings, and conclude with a Council vote on a proposed list of sites to be included in the National System. Should an MPA fall in an area where two Councils or Regions have jurisdiction, the Council or Region that has the lead on the FMP implementing the MPA will nominate the site. The Council recommendations should be documented in a letter to the Regional Administrator and include the following:
 - For sites that a Council recommends be included in the National System, the Council should provide any additional supporting information as required by the MPA Center (<http://www.mpa.gov/pdf/national-system/nominationpackage1208.pdf>)
 - For sites that a Council recommends not be included in the National System, the Council should include a brief justification for that conclusion.
 - Note: The Councils may also use this process to nominate additional sites that are not currently on the list of eligible sites for inclusion in the National System.
- [Step 3] The Regional Administrator will review the Council's recommendation and prepare the proposed list of sites for submission to the MPA Center. NOAA Fisheries will justify the reasons for any changes from the Council's recommendations and in such a case will provide the required supporting information to the MPA Center.
- [Steps 4, 5] NOAA Fisheries will submit the nominations to the MPA Center for review and publication in the Federal Register and provide opportunity for public comment
- [Step 6] After the public comment period has ended, the MPA Center will provide the comments received back to NOAA Fisheries, which will in turn share the public comments received with the applicable Councils.
- [Step 6] The Regional Administrators will coordinate with the respective Council to review the comments and determine whether changes should be made to the list of nominated sites. Council recommendations for changes to the list of nominated sites should be documented in a letter to the Regional Administrator, including any required supporting information required by the MPA Center. It is expected that this process would occur over the course of one Council meeting.
- [Steps 7, 8] The Regional Administrator will review the Council's final recommendation and a final list of sites for submission to the MPA Center. NOAA Fisheries will justify the reasons for any changes from the Council's recommendations and in such a case will provide the required supporting information to the MPA Center.

4.2 Regional Fishery Management Council Consultation for Modifying or Removing MPAs
 Participation in the National System does not constrain the managing entity from changing its

management of the MPA. The managing entity has the ability to, within its own authorities and processes, add or reduce levels of MPA protection, change the size of an MPA, or make other changes. It is expected that a similar consultation process between NOAA Fisheries and the Council as described in section 4.1 would be followed for modifying or removing sites from the National System, although the process may be modified to fit into the overall management process that a Council is following.

In general, to make changes to the National System, the managing entity will provide all significant updates to the MPA Center, but would not be required to re-nominate a site in the case of changes. If NOAA Fisheries and the appropriate Council determine that an MPA no longer meets the National System MPA criteria, then the MPA would be removed from the system by following the procedures established by the MPA Center.

MPA sites that have been included in the List of National System MPAs may be removed at any time by the MPA Center in response to a written request from the managing entity for reasons including:

- The MPA ceases to exist;
- The MPA no longer meets National System MPA eligibility criteria; or
- The managing entity requests removal

All requests from managing entities or actions by the MPA Center to remove an MPA from the National System will be published at www.mpa.gov and in the *Federal Register* for comment. Any comments received will be forwarded to the managing entity for consideration in making its final determination for removal. Upon request of the managing entity, and based upon a supporting rationale, the MPA will be removed from the List of National System MPAs.

For additional detail on the process that the MPA Center will follow for adding, modifying, or removing sites from the National System, refer to the MPA Framework at: http://www.mpa.gov/national_system/final_framework_sup.html

The duration of this policy directive will be indefinite because the National System will be continuously updated with new MPA designations or revisions to existing MPA designations

This policy directive's objective will be attained when the above-described consultation process is carried out effectively on a routine basis

Procedural directives will be issued to implement this policy as needed.

References

This policy directive is supported by the references listed in Attachment 1.


 Assistant Administrator for Fisheries

2-23-09
 Date

Attachment 1

References:

Framework for the National System of Marine Protected Areas of the United States of America

Presidential Executive Order 13158

Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. §§ 1801 et seq.

If additional information is required after an application is accepted, funds can be withheld by the Grants Officer under a special award condition requiring the recipient to submit additional environmental law compliance information sufficient to enable NOAA to make an assessment on any impacts that a project may have on the environment and to verify compliance with any environmental laws.

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements

Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the Federal Register notice of February 11, 2008 (73 FR 7696) are applicable to this solicitation.

Paperwork Reduction Act

This document contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The use of Standard Forms 424, 424A, 424B, SF-LLL, and CD-346 has been approved by the Office of Management and Budget (OMB) under the respective control numbers 0348-0043, 0348-0044, 0348-0040, 0348-0046, and 0605-0001. Notwithstanding any other provision of law, no person is required to, nor shall a person be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

Executive Order 12866 (Regulatory Impact Review)

This notice has been determined to be not significant for purposes of the Executive Order 12866.

Executive Order 12132 (Federalism)

It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 12132.

Administrative Procedure Act/Regulatory Flexibility Act

Prior notice and an opportunity for public comment are not required by the Administrative Procedure Act or any other law for rules concerning public property, loans, grants, benefits, and contracts (5 U.S.C. 553(a)(2)). Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Therefore, a regulatory

flexibility analysis has not been prepared.

Dated: March 2, 2009.

James W. Balsiger,
Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.

[FR Doc. E9-4801 Filed 3-5-09; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Nomination of Existing Marine Protected Areas to the National System of Marine Protected Areas

AGENCY: NOAA, Department of Commerce (DOC).

ACTION: Public notice and opportunity for comment on the list of nominations received from Federal, State and territorial marine protected area programs to join the National System of Marine Protected Areas.

SUMMARY: NOAA and the Department of the Interior (DOI) invited Federal, State, commonwealth, and territorial marine protected areas (MPA) programs with potentially eligible existing MPAs to nominate their sites to the national system of MPAs. The national system and the nomination process are described in the *Framework for the National System of Marine Protected Areas of the United States* (Framework), developed in response to Executive Order 13158 on Marine Protected Areas. The final Framework was published on November 19, 2008, and provides guidance for collaborative efforts among Federal, State, commonwealth, territorial, Tribal and local governments and stakeholders to develop an effective and well coordinated National System of MPAs (national system) that includes existing MPAs meeting national system criteria as well as new sites that may be established by managing agencies to fill key conservation gaps in important ocean areas.

DATES: Comment on the nominations to the national system of MPAs are due April 6, 2009.

ADDRESSES: Comments should be sent to Joseph A. Uravitch, National Oceanic and Atmospheric Administration, National Marine Protected Areas Center, 1305 East West Highway, N/ORM, Silver Spring, MD 20910. Fax: (301) 713-3110. E-mail: mpa.comments@noaa.gov. Comments will be accepted in written form by mail, e-mail, or fax.

FOR FURTHER INFORMATION CONTACT: Lauren Wenzel, NOAA, at 301-713-

3100, ext. 136 or via e-mail at mpa.comments@noaa.gov. An electronic copy of the list of nominated MPAs is available for download at <http://www.mpa.gov>.

SUPPLEMENTARY INFORMATION:

Background on National System

The national system of MPAs includes member MPA sites, networks and systems established and managed by Federal, State, Tribal and/or local governments that collectively enhance conservation of the nation's natural and cultural marine heritage and represent its diverse ecosystems and resources. Although participating sites continue to be managed independently, national system MPAs also work together at the regional and national levels to achieve common objectives for conserving the nation's important natural and cultural resources, with emphasis on achieving the priority conservation objectives of the Framework. MPAs include sites with a wide range of protection, from multiple use areas to no take reserves where all extractive uses are prohibited. The term MPA refers only to the marine portion of a site (below the mean high tide mark) that may include both terrestrial and marine components.

Benefits of joining the national system of MPAs, which are expected to increase over time as the system matures, include a facilitated means to work with other MPAs in the region, and nationally on issues of common conservation concern; fostering greater public and international recognition of MPAs and the resources they protect; priority in the receipt of available technical and other support for cross-cutting needs; and the opportunity to influence Federal and regional ocean conservation and management initiatives (such as integrated ocean observing systems, systematic monitoring and evaluation, targeted outreach to key user groups, and helping to identify and address MPA research needs). In addition, the national system provides a forum for coordinated regional planning about place-based conservation priorities that does not currently exist.

Joining the national system does not restrict or require changes affecting the designation process or management of member MPAs. It does not bring State, territorial or local sites under Federal authority. It does not establish new regulatory authority. The national system is a mechanism to foster great collaboration among participating MPA sites and programs enhance stewardship in the waters of the United States.

Nomination Process

The Framework describes two major focal areas for building the national system of MPAs—a nomination process to allow existing MPAs that meet the entry criteria to become part of the system and a collaborative regional gap analysis process to identify areas of significance for natural or cultural resources that may merit additional protection through existing Federal, State, commonwealth, territorial, Tribal or local MPA authorities. The initial nomination process for the national system began on November 25, 2008, when the National Marine Protected Areas Center (MPA Center) sent a letter to Federal, State, commonwealth, and territorial MPA programs inviting them to submit nominations of eligible MPAs to the national system. The initial deadline for nominations was January 31, 2009; this was extended to February 13, 2009.

There are three entry criteria for existing MPAs to join the national system, plus a fourth for cultural heritage. Sites that meet all pertinent criteria are eligible for the national system.

1. Meets the definition of an MPA as defined in the Framework.
2. Has a management plan (can be site-specific or part of a broader programmatic management plan; must have goals and objectives and call for monitoring or evaluation of those goals and objectives).
3. Contributes to at least one priority conservation objective as listed in the Framework.

4. Cultural heritage MPAs must also conform to criteria for the National Register for Historic Places.

The MPA Center used existing information in the MPA Inventory to determine which MPAs meet the first and second criteria. The inventory is online at http://www.mpa.gov/helpful_resources/inventory.html, and potentially eligible sites are posted online at <http://mpa.gov/pdf/national-system/allsitesumsheet120408.pdf>. As part of the nomination process, the managing entity for each potentially eligible site is asked to provide information on the third and fourth criteria.

List of MPAs Nominated to the National System

The following MPAs have been nominated by their managing programs to join the national system of MPAs. A list providing more detail for each site is available at <http://www.mpa.gov>.

Federal Marine Protected Areas*Marine National Monument*

Papahānaumokuākea Marine National Monument, Hawaii.

National Marine Sanctuaries

Channel Islands National Marine Sanctuary.
Cordell Bank National Marine Sanctuary.
Fagatele Bay National Marine Sanctuary.
Florida Keys National Marine Sanctuary.
Flower Garden Banks National Marine Sanctuary.
Gray's Reef National Marine Sanctuary.
Stellwagen Bank National Marine Sanctuary.
Gulf of the Farallones National Marine Sanctuary.
Hawaiian Islands Humpback Whale National Marine Sanctuary.
Monitor National Marine Sanctuary.
Monterey Bay National Marine Sanctuary.
Olympic Coast National Marine Sanctuary.
Thunder Bay National Marine Sanctuary.

National Parks

Assateague Island National Seashore.
Biscayne National Park.
Channel Islands National Park.
Dry Tortugas National Park.
Everglades National Park.
Glacier Bay National Park.
Isle Royale National Park.
Point Reyes National Park.
Virgin Islands Coral Reef National Monument.
Virgin Islands National Park.

National Wildlife Refuges

ACE Basin National Wildlife Refuge.
Alaska Maritime National Wildlife Refuge.
Alligator River National Wildlife Refuge.
Anahuac National Wildlife Refuge.
Aransas National Wildlife Refuge.
Arctic National Wildlife Refuge.
Back Bay National Wildlife Refuge.
Baker Island National Wildlife Refuge.
Bandon Marsh National Wildlife Refuge.
Big Boggy National Wildlife Refuge.
Big Branch Marsh National Wildlife Refuge.
Blackwater National Wildlife Refuge.
Block Island National Wildlife Refuge.
Bombay Hook National Wildlife Refuge.
Bon Secour National Wildlife Refuge.
Brazoria National Wildlife Refuge.
Breton National Wildlife Refuge.
Cape May National Wildlife Refuge.
Cape Romain National Wildlife Refuge.
Cedar Island National Wildlife Refuge.

Cedar Keys National Wildlife Refuge.
Chassahowitzka National Wildlife Refuge.
Chincoteague National Wildlife Refuge.
Conscience Point National Wildlife Refuge.
Crocodile Lake National Wildlife Refuge.
Cross Island National Wildlife Refuge.
Crystal River National Wildlife Refuge.
Currituck National Wildlife Refuge.
Delta National Wildlife Refuge.
Don Edwards San Francisco Bay National Wildlife Refuge.
Dungeness National Wildlife Refuge.
Eastern Neck National Wildlife Refuge.
Eastern Shore of Virginia National Wildlife Refuge.
Edwin B. Forsythe National Wildlife Refuge.
Featherstone National Wildlife Refuge.
Fisherman Island National Wildlife Refuge.
Grand Bay National Wildlife Refuge.
Grays Harbor National Wildlife Refuge.
Great Bay National Wildlife Refuge.
Great White Heron National Wildlife Refuge.
Guam National Wildlife Refuge.
Howland Island National Wildlife Refuge.
Huron National Wildlife Refuge.
Island Bay National Wildlife Refuge.
J.N. Ding Darling National Wildlife Refuge.
Jarvis Island National Wildlife Refuge.
John H. Chafee National Wildlife Refuge.
Johnston Island National Wildlife Refuge.
Key West National Wildlife Refuge.
Kingman Reef National Wildlife Refuge.
Lewis and Clark National Wildlife Refuge.
Lower Suwannee National Wildlife Refuge.
Mackay Island National Wildlife Refuge.
Marin Islands National Wildlife Refuge.
Martin National Wildlife Refuge.
Mashpee National Wildlife Refuge.
Matlacha Pass National Wildlife Refuge.
Midway Atoll National Wildlife Refuge.
Monomoy National Wildlife Refuge.
National Key Deer Refuge.
Nestucca Bay National Wildlife Refuge.
Ninigret National Wildlife Refuge.
Nisqually National Wildlife Refuge.
Nomans Land Island National Wildlife Refuge.
Occoquan Bay National Wildlife Refuge.
Oyster Bay National Wildlife Refuge.
Palmyra Atoll National Wildlife Refuge.
Parker River National Wildlife Refuge.
Pea Island National Wildlife Refuge.
Pelican Island National Wildlife Refuge.
Pine Island National Wildlife Refuge.
Pinellas National Wildlife Refuge.
Plum Tree Island National Wildlife Refuge.

Pond Island National Wildlife Refuge.
 Prime Hook National Wildlife Refuge.
 Protection Island National Wildlife Refuge.
 Rachel Carson National Wildlife Refuge.
 Rose Atoll National Wildlife Refuge.
 Sabine National Wildlife Refuge.
 Sachuest Point National Wildlife Refuge.
 San Bernard National Wildlife Refuge.
 San Pablo Bay National Wildlife Refuge.
 Seatuck National Wildlife Refuge.
 Shell Keys National Wildlife Refuge.
 Siletz Bay National Wildlife Refuge.
 St. Marks National Wildlife Refuge.
 St. Vincent National Wildlife Refuge.
 Stewart B. McKinney National Wildlife Refuge.
 Supawna Meadows National Wildlife Refuge.
 Susquehanna National Wildlife Refuge.
 Swanquarter National Wildlife Refuge.
 Sweetwater Marsh National Wildlife Refuge.
 Target Rock National Wildlife Refuge.
 Ten Thousand Islands National Wildlife Refuge.
 Waccamaw National Wildlife Refuge.
 Wallops Island National Wildlife Refuge.
 Wertheim National Wildlife Refuge.
 Willapa National Wildlife Refuge.
 Yukon Delta National Wildlife Refuge.

Federal/State Partnership Marine Protected Areas

National Estuarine Research Reserves

Guana Tolomato Matanzas National Estuarine Research Reserve, Florida.
 Jacques Cousteau National Estuarine Research Reserve, New Jersey.
 Rookery Bay National Estuarine Research Reserve, Florida.
 Waquoit Bay National Estuarine Research Reserve, Massachusetts.

State Marine Protected Areas

American Samoa

Aua.

California

Areas of Special Biological Significance (ASBS)
 Ano Nuevo Area of Special Biological Significance.
 Bird Rock Area of Special Biological Significance.
 Bodega Area of Special Biological Significance.
 Carmel Bay Area of Special Biological Significance.
 Del Mar Area of Special Biological Significance.
 Double Point Area of Special Biological Significance.
 Duxbury Reef Area of Special Biological Significance.

Farallon Islands Area of Special Biological Significance.
 Farnsworth Bank Area of Special Biological Significance.
 Gerstle Cove Area of Special Biological Significance.
 Heisler Park Area of Special Biological Significance.
 Irvine Coast Area of Special Biological Significance.
 James V. Fitzgerald Area of Special Biological Significance.
 Jughandle Cove Area of Special Biological Significance.
 Julia Pfeiffer Burns Area of Special Biological Significance.
 King Range Area of Special Biological Significance.
 La Jolla Area of Special Biological Significance.
 Laguna Point to Latiga Point Area of Special Biological Significance.
 Northwest Santa Catalina Area of Special Biological Significance.
 Pacific Creek Area of Special Biological Significance.
 Point Lobos Area of Special Biological Significance.
 Point Reyes Headlands Area of Special Biological Significance.
 Redwoods National Park Area of Special Biological Significance.
 Robert E. Badham Area of Special Biological Significance.
 Salmon Creek Coast Area of Special Biological Significance.
 San Clemente Area of Special Biological Significance.
 San Diego Scripps Area of Special Biological Significance.
 San Nicolas Island & Begg Rock Area of Special Biological Significance.
 Santa Barbara & Anacapa Island Area of Special Biological Significance.
 Santa Rosa & Santa Cruz Island Area of Special Biological Significance.
 Saunders Reef Area of Special Biological Significance.
 Southeast Santa Catalina Area of Special Biological Significance.
 Trinidad Head Area of Special Biological Significance.
 Western Santa Catalina Area of Special Biological Significance.
 Marine Life Protection Act Initiative—California's central coast MPAs
 Ano Nuevo State Marine Conservation Area.
 Asilomar State Marine Reserve.
 Big Creek State Marine Conservation Area.
 Big Creek State Marine Reserve.
 Cambria State Marine Conservation Area.
 Carmel Bay State Marine Conservation Area.
 Carmel Pinnacles State Marine Reserve.
 Edward F. Ricketts State Marine Conservation Area.

Elkhorn Slough State Marine Conservation Area.
 Elkhorn Slough State Marine Reserve.
 Greyhound Rock State Marine Conservation Area.
 Lovers Point State Marine Reserve.
 Moro Cojo Slough State Marine Reserve.
 Morro Bay State Marine Recreational Management Area.
 Morro Bay State Marine Reserve.
 Natural Bridges State Marine Reserve.
 Pacific Grove Marine Gardens State Marine Conservation Area.
 Piedras Blancas State Marine Conservation Area.
 Piedras Blancas State Marine Reserve.
 Point Buchon State Marine Conservation Area.
 Point Buchon State Marine Reserve.
 Point Lobos State Marine Conservation Area.
 Point Lobos State Marine Reserve.
 Point Sur State Marine Conservation Area.
 Point Sur State Marine Reserve.
 Portuguese Ledge State Marine Conservation Area.
 Soquel Canyon State Marine Conservation Area.
 Vandenberg State Marine Reserve.
 White Rock (Cambria) State Marine Conservation Area.

Florida

See National Estuarine Research Reserves, above.

Hawaii

Ahihi Kina'u Natural Area Reserve.
 Hanauma Bay Marine Life Conservation District, Oahu.
 Kaho'olawe Island Reserve.
 Kealakekua Bay Marine Life Conservation District.
 Molokini Shoal Marine Life Conservation District.
 Pupukea Marine Life Conservation District, Oahu.
 West Hawaii Regional Fisheries Management Area.

Maryland

U-1105 Black Panther Historic Shipwreck Preserve.

Massachusetts

See National Estuarine Research Reserves, above.

New Jersey

See National Estuarine Research Reserves, above.

Virginia

Bethel Beach Natural Area Preserve.
 Dameron Marsh Natural Area Preserve.
 False Cape State Park.
 Hughlett Point Natural Area Preserve.
 Kiptopeke State Park.

Savage Neck Dunes Natural Area Preserve.

Washington

Admiralty Head Preserve.
Argyle Lagoon San Juan Islands Marine Preserve.
Blake Island Underwater Park.
Brackett's Landing Shoreline Sanctuary Conservation Area.
Cherry Point Aquatic Reserve.
Cypress Island Aquatic Reserve.
Deception Pass Underwater Park.
False Bay San Juan Islands Marine Preserve.
Fidalgo Bay Aquatic Reserve.
Friday Harbor San Juan Islands Marine Preserve.
Haro Strait Special Management Fishery Area.
Maury Island Aquatic Reserve.
San Juan Channel & Upright Channel Special Management Fishery Area.
Orchard Rocks Conservation Area.
Shaw Island San Juan Islands Marine Preserve.
South Puget Sound Wildfire Area.
Sund Rock Conservation Area.
Yellow and Low Islands San Juan Islands Marine Preserve.
Zelia Schultz/Protection Island Marine Preserve.

Review and Approval

Following this public comment period, the MPA Center will forward public comments to the relevant managing entity or entities, which will reaffirm or withdraw (in writing to the MPA Center) the nomination. After final MPA Center review, mutually agreed upon MPAs will be accepted into the national system and the List of National System MPAs will be posted at <http://www.mpa.gov>.

Dated: March 3, 2009.

John H. Dunnigan,
Assistant Administrator.

[FR Doc. E9-4809 Filed 3-5-09; 8:45 am]
BILLING CODE 3510-08-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XN24

Taking and Importing Marine Mammals; Operations of a Liquefied Natural Gas Port Facility in Massachusetts Bay

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; proposed incidental harassment authorization and receipt of

application for five-year regulations; request for comments and information.

SUMMARY: NMFS has received a request from the Northeast Gateway Energy Bridge L.L.C. (Northeast Gateway or NEG) and its partner, Algonquin Gas Transmission, LLC (Algonquin), for authorization to take marine mammals incidentally to operating and maintaining a liquefied natural gas (LNG) port facility and its associated Pipeline Lateral by NEG and Algonquin, in Massachusetts Bay for the period of May 2009 through May 2014. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an authorization to Northeast Gateway and Algonquin to incidentally take, by harassment, small numbers of marine mammals for a period of 1 year. NMFS is also requesting comments, information, and suggestions concerning Northeast Gateway's application and the structure and content of future regulations.

DATES: Comments and information must be received no later than April 6, 2009.

ADDRESSES: Comments should be addressed to P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3226. The mailbox address for providing email comments on this action is PR1.0648-XN24@noaa.gov. Comments sent via email, including all attachments, must not exceed a 10-megabyte file size. A copy of the application and a list of references used in this document may be obtained by writing to this address, by telephoning the contact listed here (see **FOR FURTHER INFORMATION CONTACT**) and is also available at: <http://www.nmfs.noaa.gov/pr/permits/incidental.htm>.

The Maritime Administration (MARAD) and U.S. Coast Guard (USCG) Final Environmental Impact Statement (Final EIS) on the Northeast Gateway Energy Bridge LNG Deepwater Port license application is available for viewing at <http://dms.dot.gov> under the docket number 22219.

FOR FURTHER INFORMATION CONTACT: Shane Guan, Office of Protected Resources, NMFS, (301) 713-2289, ext 137.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and 101(a)(5)(D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional taking of marine mammals by U.S. citizens who

engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such taking are set forth.

NMFS has defined "negligible impact" in 50 CFR 216.103 as:

an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except with respect to certain activities not pertinent here, the MMPA defines "harassment" as:

any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

On August 15, 2008, NMFS received an application from Tetra Tech EC, Inc., on behalf of Northeast Gateway and Algonquin for an authorization to take 12 species of marine mammals by Level B harassment incidentally to operation and maintenance of an LNG port facility in Massachusetts Bay. Since LNG Port operation and maintenance activities have the potential to take marine mammals, a marine mammal take authorization under the MMPA is warranted. NMFS has already issued a one-year incidental harassment