

<i>NATIONAL MARINE FISHERIES SERVICE POLICY DIRECTIVE 01-114-01</i> <i>EFFECTIVE DATE: March 9, 2009</i>	
<i>Fisheries Management</i>	
<i>Regional Fishery Management Council Consultation in MPA Nomination Process</i>	
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)
<i>SUMMARY OF REVISIONS:</i>	

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.

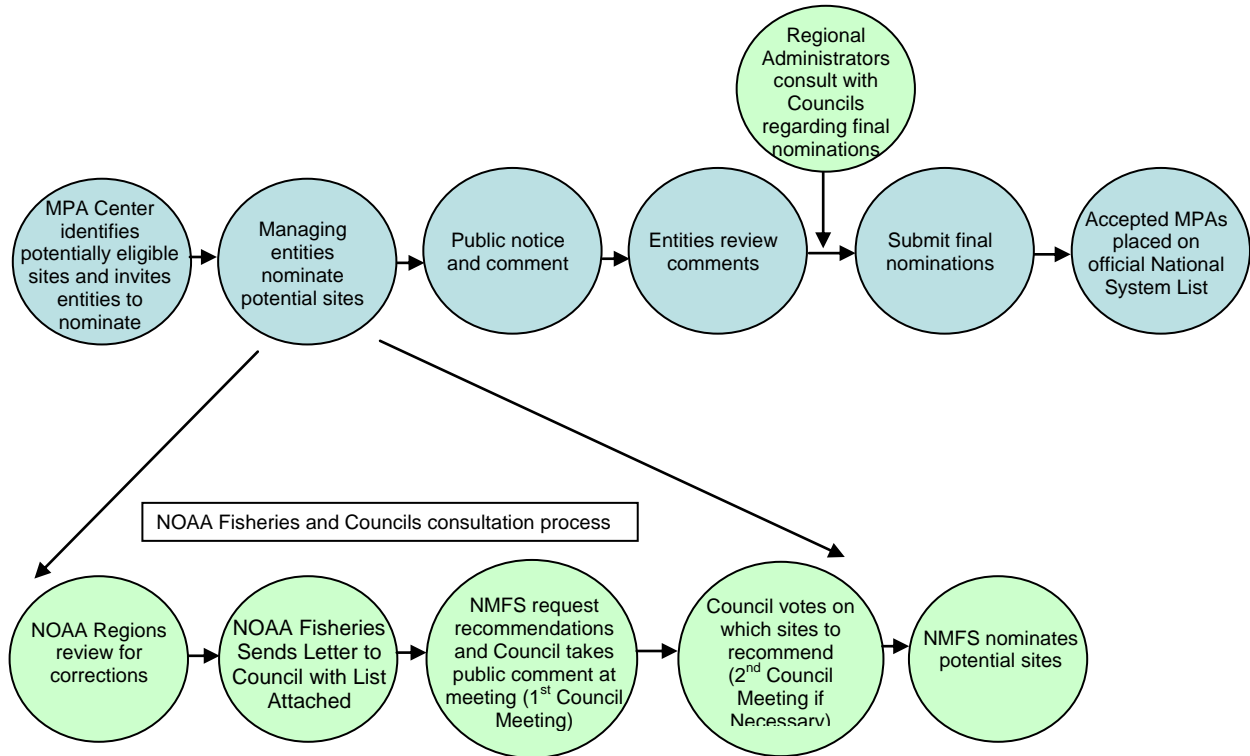
4. The MPA Center will review the set of nominated sites to ensure that nominations are sufficiently justified.
5. The MPA Center will notify the public, via the *Federal Register* and other means, of the sites nominated for inclusion in the National System and provide the opportunity to comment on the 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.

/s/ Jim Balsiger
Assistant Administrator for Fisheries (acting)

2/23/2009

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.

G/SF3/MPA stuff/2nd round/MPA nomination policy_final
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