

### Scope of the Order

The product covered by the order is all stock deformed steel concrete reinforcing bars sold in straight lengths and coils. This includes all hot-rolled deformed rebar rolled from billet steel, rail steel, axle steel, or low-alloy steel. It excludes (i) plain round rebar, (ii) rebar that a processor has further worked or fabricated, and (iii) all coated rebar. Deformed rebar is currently classifiable in the *Harmonized Tariff Schedule of the United States* (HTSUS) under item numbers 7213.10.000 and 7214.20.000. The HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this proceeding is dispositive.

### Determination to Rescind, in Part

On November 7, 2008, the Department published its final results for the April 1, 2006, through March 31, 2007, administrative review of the antidumping duty on rebar from Turkey. *See Certain Steel Concrete Reinforcing Bars From Turkey; Final Results of Antidumping Duty Administrative Review and Determination To Revoke in Part*, 73 FR 66218 (November 7, 2008). In that review, we found that Habas met the requirements of revocation as described in 19 CFR 351.222(b) and, thus, we revoked the order with respect to subject merchandise produced and exported by Habas. As a result of Habas' revocation in 2006–2007 administrative review, we are rescinding the April 1, 2007, through March 31, 2008, administrative review with respect to this company because there is no statutory or regulatory basis to conduct an administrative review for a producer/exporter that has been revoked from the antidumping duty order.

The Department will issue appropriate assessment instructions directly to the U.S. Customs and Border Protection (CBP) 15 days after the publication of this notice. Because we have revoked the order with respect to subject merchandise produced and exported by Habas, we have instructed CBP that entries of such merchandise that were suspended on or after April 1, 2007, should be liquidated without regard to antidumping duties and that all cash deposits collected will be returned with interest.

This notice serves as a reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of

APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published pursuant to sections 751(a) and 777(i) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: November 12, 2008.

**Stephen J. Claeys,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. E8–27489 Filed 11–18–08; 8:45 am]

**BILLING CODE 3510–DS–S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration (NOAA)

#### Final Framework for the National System of Marine Protected Areas of the United States and Response to Comments

**AGENCY:** NOAA, Department of Commerce (DOC).

**ACTION:** Notice of availability of the final Framework for the National System of Marine Protected Areas of the United States and response to comments on Revised Draft Framework.

**SUMMARY:** NOAA and the Department of the Interior (DOI) jointly propose the Framework for the National System of Marine Protected Areas of the United States (Framework), as required by Executive Order 13158 on Marine Protected Areas (MPAs). This Framework provides overarching guidance for collaborative efforts among federal, state, commonwealth, territorial, tribal and local governments and stakeholders to develop an effective National System of MPAs (national system) from existing sites, build coordination and collaborative efforts, and identify ecosystem-based gaps in the protection of significant natural and cultural resources for possible future action by the nation's MPA authorities. The document further provides the guiding principles, key definitions, goals, and objectives for the National System, based on the breadth of input received from MPA stakeholders and governmental partners around the nation over the past several years, and two public comment periods.

#### FOR FURTHER INFORMATION CONTACT:

Please direct all questions and requests for additional information concerning the Framework to: Lauren Wenzel, NOAA, at 301–713–3100, ext. 136 or via e-mail at [Lauren.wenzel@noaa.gov](mailto:Lauren.wenzel@noaa.gov). An electronic copy of the Framework is

available for download at <http://www.mpa.gov/>.

#### SUPPLEMENTARY INFORMATION:

##### I. Background on MPA Framework

The National Oceanic and Atmospheric Administration's (NOAA) National Marine Protected Areas Center (MPA Center), in cooperation with the Department of the Interior (DOI), has developed a *Framework for the National System of Marine Protected Areas of the United States* (Framework) to meet requirements under Executive Order 13158 on Marine Protected Areas (Order). The purpose of this notice is to notify the public of the availability of this document and respond to public comments on the *Revised Draft Framework for Developing a National System of Marine Protected Areas*. NOAA and DOI have undertaken two public comment periods on previous drafts of this document to solicit input and comments from governments and stakeholders in order to ensure that the final document represents the diversity of the nation's interests in the marine environment and marine protected areas (MPAs).

NOAA and DOI recognize the principal role that state, commonwealth, territorial (hereafter referred to as "state") and tribal governments, along with federal agencies, must have in developing and implementing the national system. Roughly 80% of the nation's existing MPAs are under the jurisdiction of non-federal agencies. The significance of these government-to-government relationships and the marine resources managed by states and tribes necessitates this national, rather than federal, approach to building the National System. In developing this Framework, NOAA and the DOT have made and will continue to expand efforts to understand and incorporate, as appropriate, the recommendations of government partners concerning a structure and function for the National System that builds partnerships with and supports the efforts and voluntary participation of state, tribal, and local governments.

Increasing impacts on the world's oceans, caused by development, overfishing, and natural events, are straining the health of our coastal and marine ecosystems. Some of these impacts to the marine and Great Lakes environment have resulted in declining fish populations; degradation of coral reefs, seagrass beds, and other vital habitats; threats to rare or endangered species; and loss of artifacts and resources that are part of our nation's historic and cultural heritage. The effects of these mounting losses are

being directly felt in the social and economic fabric of our nation's communities. MPAs offer a promising ocean and coastal management tool to mitigate or buffer these impacts. It is important to clarify that the term "MPA," as used here, is not synonymous with or limited to "no-take areas" or "marine reserves." Instead, the term "MPA" denotes an array of levels of protection, from areas that allow multiple use activities to those that prohibit take and/or access. When used effectively and in conjunction with other management tools, MPAs can help to ensure healthy Great Lakes and oceans by contributing to the overall protection of critical marine habitats and resources. In this way, effective MPAs can offer social and economic opportunities for current and future generations, such as tourism, biotechnology, fishing, education, and scientific research.

Since 2001, the MPA Center and its federal, state, and tribal partners have been collecting information on the vast array of the nation's MPAs to serve as the foundation for building the National System. This inventory has resulted in the identification of over 1,700 place-based sites established by hundreds of federal and state authorities. A number of these existing sites are further managed as systems by their respective agencies or programs. The types of sites found range from multiple-use areas to no-take reserves. The vast majority of these areas allow multiple uses, and less than one percent of the total area under management in the United States (U.S.) is no-take. This inventory also has revealed a dramatic increase in the use of MPAs over the past several decades. Most MPAs in the U.S. have been established since 1970, and most allow recreational and commercial uses. With this expanded use of MPAs has come many new and enhanced protections to natural and cultural resources. A preliminary analysis of U.S. place-based conservation efforts reveals important trends in how these areas, including MPAs, are being used to conserve some of the nation's most significant marine resources. The emerging results illustrate that while there are many such areas currently in U.S. waters, these diverse sites vary widely in mandate, jurisdiction, purpose, size, and level of protection.

Moreover, this initial analysis illustrates how the growing recognition of MPAs as essential conservation tools has resulted in a multitude of new MPA programs and authorities at all levels of government, often times for a sole purpose or objective. While there are good examples of where MPA efforts are

coordinated locally across programs and levels of government, there is no larger framework for collaborating MPA efforts across ecosystems and nationally to meet common goals. This complex governance structure leads to public confusion, and, in many cases, conservation efforts that are not as effective as they could be with better coordination. The results of this initial analysis have further reinforced the need for a national system and provided much of the baseline information to begin building it.

In recognition of the key role MPAs can play and their growing use, the U.S. is developing an effective national system to support the effective stewardship, lasting protection, restoration, and sustainable use of the nation's significant natural and cultural marine resources. The MPA Center is charged by the Order to carry out these requirements in cooperation with DOI. Neither the Order nor the national system establishes any new legal authorities to designate or manage MPAs, nor do they alter any existing state, federal, or tribal laws or programs.

The MPA Center has developed this Framework based on information from the initial analysis of information about existing place-based conservation efforts, along with comments from hundreds of individuals at over sixty meetings, initial tribal consultations, and recommendations from federal, non-governmental and state advisory groups. As a result, the proposed collaborative development of an effective National System outlined in this document provides a structure for an assemblage of MPA sites, systems, and networks established and managed by federal, state, tribal, and local governments to collectively work together at the regional and national levels to achieve common objectives for conserving the nation's vital natural and cultural resources.

By establishing an effective structure for working together, the National System will help to increase the efficient protection of important marine resources; contribute to the nation's overall social and economic health; support government agency cooperation and integration; and improve the public's access to scientific information and decision-making about the nation's marine resources. The efforts of the national system are also intended to benefit participating state, tribal, federal, and local government partners through collaborative efforts to identify shared priorities for improving MPA effectiveness and develop partnerships to provide assistance in meeting those needs. Further, it provides a foundation

for cooperation with other countries to conserve resources of common concern.

## II. Comments and Responses

In March 2008, NOAA and DOI (agencies) published the Revised Draft Framework for Developing the National System of MPAs (Revised Draft Framework) for public comment. By the end of the two-month comment period, 34 individual submissions had been received from a variety of government agencies, non-governmental organizations, industry and conservation interests, advisory groups and the public. In addition, NOAA and DOI solicited advice from the MPA Federal Advisory Committee (MPA FAC).

Given the breadth, multi-faceted nature, and complexity of comments and recommendations received, related comments have been grouped below into categories to simplify the development of responses. For each of the comment categories listed below, a summary of comments is provided, and a corresponding response provides an explanation and rationale about changes that were or were not made in the final Framework for the National System of Marine Protected Areas of the United States of America (Framework).

Comment Category 1: General Comments on Revised Draft Framework Content  
 Comment Category 2: Goals and Objectives of the National System  
 Comment Category 3: Design and Implementation Principles  
 Comment Category 4: Definitions and Entry Criteria  
 Comment Category 5: Public Involvement  
 Comment Category 6: Gap Analysis Process  
 Comment Category 7: Risk Assessment  
 Comment Category 8: Role of Regional Fishery Management Councils  
 Comment Category 9: Monitoring and Evaluation  
 Comment Category 10: Federal Agency Responsibility to Avoid Harm  
 Comment Category 11: Steering Committee Composition and Role  
 Comment Category 12: Benefits of the National System  
 Comment Category 13: Tribal  
 Comment Category 14: Funding  
 Comment Category 15: Level of Detail  
 Comment Category 16: Draft Environmental Assessment

## Comments and Responses

### *Comment Category 1: General Comments on Revised Draft Framework Content*

**Summary:** A range of comments were received on the overall content of the Revised Draft Framework. A number of these recommended the Framework recognize the need to balance multiple uses and interests in the marine environment, and that the document

acknowledge the broader management context in which the national system will operate. Related comments asked that the document emphasize the language of the Executive Order (EO), stating that the national system supports, and does not interfere with, existing agencies' exercise of independent authorities. Other general comments noted a need for more fully-protected marine reserves and high seas protection, and recommended that the national system be limited to these highly protected areas. One comment noted that the EO does not provide authority to implement a national system, only to develop it.

*Response:* The agencies agree that acknowledgement of the broader management context is appropriate, and also have added language from the EO noting that the national system supports, and does not interfere with, existing agencies' exercise of independent authorities to further clarify the overall purpose of the national system. The Executive Summary has also been updated to reflect these comments.

Regarding the comment promoting the establishment of more fully-protected marine reserves and high seas protection, the EO does not establish any new legal authorities to designate or manage MPAs, nor does it alter any existing federal, state, local, or tribal MPA laws or programs. In addition, the national system is intended to be inclusive of MPAs across the spectrum of levels of protection, from multiple use to no-take, recognizing that existing MPAs across this spectrum offer different values to the national system that can help meet its goals and objectives. Finally, the processes in the Framework for identifying conservation gaps in the national system and supporting regional MPA planning are designed to ensure opportunities for public input on the purpose and level of protection of any future MPAs that may be needed to achieve a comprehensive, representative national system.

Regarding the comment that the EO does not provide the authority to implement a national system, only to develop it, the agencies contend that the EO envisioned both the development and implementation of a national system (see Sections 1(b) and 4(a) of the EO).

#### *Comment Category 2: Goals and Objectives of the National System*

*Summary:* There were several diverse comments about the goals and objectives of the national system. A few comments noted that recreational

fishing and boating is part of U.S. cultural heritage and should be noted as such. One comment suggested that the priority conservation objectives (PCOs) are unachievable, while another comment suggested that the standards for protection in the PCOs are too low, and that rather than "conserving and managing," the PCOs should be expanded to include the goals of eliminating, reducing, restoring and protecting the integrity of marine ecosystems. A final comment suggested that the word 'management' should be included in the objectives as it is in the goals.

*Response:* The Framework defines a cultural resource as a tangible entity that is valued by or significantly representative of a culture, or that contains significant information about a culture. This definition is based on the National Register of Historic Places with additional input from the Marine Protected Areas Federal Advisory Committee. Based on these sources, recreational fishing and boating constitute uses of marine resources, not goals. The Framework recognizes the importance of appropriate access and compatible uses, and identifies these within the national system Design and Implementation Principles.

The agencies agree that the national system goals and objectives are ambitious and broad in scope. The purpose of the Framework is to provide a foundation for the national system, and to set out long term, national level goals and objectives that provide a focus for common conservation efforts across numerous and varied MPA authorities.

One of the priority conservation objectives addresses restoration as well as conservation, but does not specify eliminating or reducing uses or impacts, as these actions fall under the authority of managing entities. Review of the PCOs and the priorities among them will be part of an adaptive management process. The agencies perceive 'management' to be part of the conservation goals and objectives, and have clarified the Framework to reflect this.

#### *Comment Category 3: Design and Implementation Principles*

*Summary:* A variety of comments were received on the design and implementation principles within the Framework, including comments on the need to incorporate a precautionary approach, to use local knowledge and the best scientific information available, and to provide for public review and comment. Two comments suggested that the definition of 'precautionary design' be modified to include language from

the Magnuson-Stevens Fishery Conservation and Management Act (MSA). Others noted that the use of the precautionary approach can lead to decisions that are not based on sound science. Finally, some comments sought to better define and apply adaptive management. Commenters noted that adaptive management should include an assessment of the problem and the modification of management approaches (as appropriate) when new information is obtained. One specific example cited the lifting of restrictions on fishing as the condition of resources improves.

*Response:* The agencies believe that a precautionary approach and the use of the best available science are addressed in the Design and Implementation Principles. These principles have been adapted from recommendations of the MPA FAC and the International Union for the Conservation of Nature (IUCN) report, "Establishing networks of marine protected areas: A guide for developing national and regional capacity for building MPA networks" (WCPA/IUCN, 2007). The agencies believe that these broad guidelines are best suited to the wide range of federal, state and other governmental authorities envisioned as part of the national system, rather than adapting guidelines from one authority, such as the MSA. Finally, the agencies agree that adaptive management should include an assessment of the problem and potential solutions. However, actions to modify management approaches, such as lifting restrictions on fishing based on monitoring and evaluation of management effectiveness, will depend on the goals of an individual MPA and its managing program.

#### *Comment Category 4: Definitions and Entry Criteria*

*Summary:* A number of comments noted the need to better define important terms within the Framework, including a concise definition of the national system, among others. In addition, it was suggested that the term "lasting" for sustainable production be defined as a period of at least 10 years.

Comments on the eligibility criteria included the following: (1) Screening to determine whether sites meet the management plan criteria should precede PCO analysis; (2) a management plan should have clearly stated objectives and a commitment of resources for monitoring and enforcement; (3) MPAs should be screened for the specific benefits they will contribute to the national system; and (4) the qualification criteria for entry should be strict to ensure the national system is composed of sites

protecting rare, critical or unique habitats. One comment also questioned the use of verbal community agreements in a management plan.

*Response:* The agencies agree that the Framework could benefit from better definition of important terms. The Final Framework includes revised definitions of important terms, including a definition of the national system. For sustainable production MPAs, the agencies note that the time period required to provide for lasting protection will vary according to the resource an individual MPA was established to protect. Therefore, "lasting" is to be defined as the duration of protection necessary to achieve the mandated long-term sustainable production objectives for which the site was established.

The agencies agree that the management plan criteria should precede the PCO analysis. This change is reflected in the Final Framework. The agencies believe that requiring an MPA management plan to include a commitment of resources for monitoring and evaluation as an entry criterion for the national system is unnecessarily restrictive and would require extensive data collection that would delay the establishment of the national system. It is also not clear what level of resources would then be considered sufficient to meet this criterion. The agencies disagree that the specific benefits an individual MPA will contribute to the national system should be added as an entry criterion. Rather, the agencies see information on a site's benefits as contributing to the evaluation of the national system. Regarding establishing stricter qualification criteria, the agencies believe that this has been addressed by developing the PCOs.

The agencies have included verbal agreements as meeting the management plan criteria in order to acknowledge the continuing oral tradition of many tribes and Pacific Island cultures.

#### *Comment Category 5: Public Involvement*

*Summary:* Some commenters noted the importance of involving the public, including local communities and user groups (e.g., fishermen and fishing groups, among others), in developing and implementing the national system. Several comments noted the importance of public involvement during the nomination process, with some suggesting public hearings during this period, and others maintaining that this would be burdensome and duplicative of other requirements. One comment also proposed that non-governmental organizations should be permitted to

make nominations to the national system. A final comment asked that the Framework clarify that nominations should originate in the region.

*Response:* The agencies agree that public involvement is critical, but do not agree that fishermen should be singled out for specific mention when discussing public involvement. The agencies have added language to the Framework to note that the MPA Center will work with the managing entities to ensure adequate public involvement, including public meetings as appropriate. The agencies disagree that non-governmental organizations should be permitted to nominate sites to the national system, since the managing entity has the authority for management decision-making about its sites. Stakeholders who are interested in the nomination of certain MPAs should contact and work with the managing entity or entities. The Framework clearly states that nominations originate with the managing entity of the site with the MPA Center providing technical assistance.

#### *Comment Category 6: Gap Analysis Process*

*Summary:* Several comments were received on the gap analysis process, including: (1) The focus of gap analysis should not be gaps in the priority conservation objectives, but gaps under a regulatory agency's purview; (2) it should be concurrent with nomination processes for existing MPAs; (3) it should consider social as well as biological goals; (4) it should include a sound scientific basis for an MPA's boundaries; (5) it should be conducted at the regional level with the participation of managers; (6) it should take into account other existing management measures; and (7) national system reporting should include reporting on actions taken to address gaps.

*Response:* The purpose of the national system is to span all levels of government and types of authorities, not to conduct gap analysis at the individual MPA program level, which is the responsibility of those individual MPA programs. Regarding the timing of the gap analysis process, the agencies received several comments to the initial Draft Framework stating that the national system lacked focus and priorities. Thus, the agencies have set priorities in the Final Framework, first working on a limited set of near-term objectives. As funding, technology, and resources permit, the agencies will then focus on mid-term and long-term objectives. The regional gap analysis process will overlap with the national

system nomination process for existing sites, but is more resource intensive and will take longer to complete. The Framework envisions that gap analyses will be updated periodically as resources permit.

The regional gap analyses will focus on gaps in addressing the priority conservation objectives, which relate to biological or cultural resource goals. However, human uses and impacts on the marine environment also will be considered during the gap analysis process.

The agencies agree that a gap analysis should be conducted at the regional level with participation of existing managers and with consideration of other efforts, and that reporting should include updates on actions taken to address conservation gaps. Language has been added to the Framework to clarify these points.

#### *Comment Category 7: Risk Assessment*

*Summary:* Several comments noted the need for an objective assessment of risks, costs and benefits of the national system.

*Response:* Risk analysis has a wide range of meanings as a tool for business, engineering, and public policy, and it is not clear what the commenters envision in calling for such an assessment as part of a non-regulatory initiative. The agencies maintain that risk, cost and benefit assessments are not called for in the EO as part of national system development, and that such detailed analyses are not necessary at the broad programmatic scale of the Framework.

#### *Comment Category 8: Role of Regional Fishery Management Councils (Councils)*

*Summary:* Several commenters asked that the Framework clarify the role of Councils in identifying, nominating, altering and withdrawing national system MPAs.

*Response:* The agencies have added language to the Framework to further explain the role of the Councils. The Councils will be a key partner to NOAA in nominating fishery sites to the national system. Through a transparent process, NOAA would consult with its Council partners and fully consider the views and interests of the Councils prior to nominating a site to the national system. These NOAA-Council consultations would take place at the regional-level during key stages of the nominating process, and NOAA's National Marine Fisheries Service would make final decisions on nominations.

The agencies also have added language to the Framework to clarify

that participation in the national system does not constrain the management entity, including the Councils, from changing its management of the MPA within its own authorities and required processes.

*Comment Category 9: Monitoring and Evaluation*

**Summary:** Many comments noted the importance of quantifiable performance measures in evaluating the national system, and some suggested that a review of how each MPA contributes to the national system should be included as a measure of success. Other comments suggested that the language of Section 4(a) of the EO should be reflected in the text, which calls on the MPA Center to provide guidance on “practical, science-based criteria and protocols for monitoring and evaluating the effectiveness of MPAs.” Some comments sought further clarification on how the national system will be evaluated. One comment recommended that the agencies develop multi-tiered criteria for sites in the national system that reflect the degree to which individual MPAs contribute to the overall effectiveness of the system.

**Response:** The agencies agree that quantifiable performance measures to evaluate the national system are critical. The Framework describes the process the MPA Center will follow to develop such measures, including seeking advice from the MPA Federal Advisory Committee.

Section 4(a) of the EO calls upon the agencies to “coordinate and share information, tools, and strategies” on a variety of issues, including “practical, science-based criteria and protocols for monitoring and evaluating the effectiveness of MPAs.” This activity is part of the MPA Center’s goal to foster MPA stewardship by providing training and technical assistance to individual MPAs, but is not a requirement of the national system. The purpose of the national system is not to evaluate individual sites, which remains the responsibility of the managing entity(ies), but rather the system as a whole.

Regarding the recommendation to develop multi-tiered criteria to assess the contribution of individual MPAs to the national system, the agencies agree that the type of information suggested (such as level of protection) would be helpful in identifying the needs of, and priorities for, the national system. However, the agencies do not believe that a formal tiered structure will add to the efficacy of the system.

*Comment Category 10: Federal Agency Responsibility to Avoid Harm*

**Summary:** Several comments requested additional details clarifying the scope of the avoid harm provision, including how and by whom it will be applied. Related comments were received requesting a standard definition of avoid harm for all federal agencies, and an augmented oversight role for the MPA Center.

**Response:** The agencies believe the current level of detail describing the avoid harm provision is appropriate, but have included an example of how it is intended to be applied. As described in the Framework, each federal agency is responsible for complying with and reporting annually on its compliance with the EO’s Section 5 avoid harm directives: “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.” The agencies disagree that a single definition of avoid harm and other key terms used to describe the requirements under Section 5 is needed. An agency’s requirements under Section 5, in any instance, is dependent on the agency’s interpretation, consistent with any required compliance with the legal framework for the resources protected by the MPA and any other applicable natural or cultural resource review or protection authorities or procedures. The MPA Center’s role is to make these reports available to the public on the <http://www.MPA.gov> Web site, facilitate a federal agency coordination mechanism through the Federal Interagency MPA Working Group, and upon request by federal agencies, facilitate technical or other assistance.

*Comment Category 11: Steering Committee Composition and Role*

**Summary:** Several comments requested clarification about the role of the Steering Committee, especially with respect to the Regional Fishery Management Councils, the MPA Federal Advisory Committee, and the public.

**Response:** The agencies agree that additional clarification is needed to explain the role of the Steering Committee in providing operational guidance from MPA management agencies. To do so, the Steering Committee has been renamed the Management Committee. The agencies have clarified in the Framework the

Management Committee’s role with respect to the MPA Federal Advisory Committee (MPA FAC) and added two members of the MPA FAC as ex officio members of the Management Committee. Fishery Management Councils were already listed as members of the Management Committee. The public and nongovernmental organizations will not be members of the Management Committee, but their views will be represented through the MPA FAC which consists of non-federal voting members.

*Comment Category 12: Benefits of the National System*

**Summary:** Several comments provided editorial suggestions to note additional benefits of the national system, including greater regulatory certainty for ocean industry and opportunities for recreational fishing. Other comments requested changes to: emphasize the role of science in MPA design; clarify that ecological connectivity exists independent of MPAs; discuss the benefits of a “bottom up” regional structure; and note the responsibilities and benefits to MPA sites and programs of joining the national system.

**Response:** The agencies agree with the suggestions for additional benefits of the national system, and incorporated these ideas into the Framework. Additionally, the Framework now clarifies language relating to ecological connectivity. The agencies believe that the role of science in developing and implementing the national system, and the benefits of the regional structure of the system were addressed with existing language.

*Comment Category 13: Tribal Comments*

**Summary:** One comment was received noting the importance of appropriately engaging tribal governments in the national system development process.

**Response:** The agencies agree that federally recognized tribes must be engaged on a government to government basis, but believe that the Framework already addresses this issue. The level of detail requested in this comment will be more appropriately addressed in subsequent documents and actions.

*Comment Category 14: Funding*

**Summary:** Many comments asked for an estimation of the costs of implementing the national system, including funding levels needed to implement regional processes as well as best estimates of costs associated with a state’s involvement in the national system. A few comments asked that the Framework better address incentives for

participation and the need for increased funds to encourage state participation. One comment suggested the Framework be accompanied by a robust request for additional resources.

**Response:** The agencies agree that a detailed estimation of the costs of implementing the national system is necessary, but should not be part of the Framework, which is a broad policy document. An estimation of costs will be developed as part of a National System Action Plan. The agencies agree that incentives for participation are critical to the success of the national system, and have added language to note this need. Resources for implementation of the MPA Executive Order are sought through agencies' federal appropriations processes.

#### *Comment Category 15: Level of Detail*

**Summary:** Several comments requested that the Framework include information on particular steps in the national system implementation process, such as gap analysis and evaluation, and the funding requirements of the system.

**Response:** The agencies believe that this level of detail is outside the scope of the Framework as a broad programmatic document outlining the goals, objectives, functions and processes of the national system. The MPA Center plans to develop a National System Action Plan that will address many of these issues in more detail, and will be made available to the public. Subsequent information on later stages of the national system, such as gap analysis and evaluation, will be made public through the MPA Center's *Web site* ([www.mpa.gov](http://www.mpa.gov)) and national and regional outreach efforts.

#### *Comment Category 16: Draft Environmental Assessment*

**Summary:** One commenter raised several issues about the draft environmental assessment. These comments included: (1) The "no action" alternative is misspecified; (2) a reasonable range of alternatives was not analyzed; and (3) it does not adequately describe the affected environment, environmental consequences and cumulative effects.

**Response:** The agencies disagree and believe that the EA accurately describes the "no action" alternative, assesses a reasonable range of alternatives, and adequately addresses the affected environment, environmental consequences and cumulative effects at a programmatic level. The Framework itself will not have a significant effect (positive or negative) on the environment as it serves to establish

administrative, managerial, and coordination roles. Any future discretionary federal action that might have an effect on the human environment would require National Environmental Policy Act (NEPA) compliance either tiered from this EA or completed independently by the designating program since the MPA Center does not have the authority to create new MPAs or modify the regulatory authority of existing MPAs.

The "no action" alternative would have the "MPA Executive Order \* \* \* stand alone without any further detail of the process necessary for developing the national system." This alternative describes "no action" as it relates to a national system Framework, not all activities that might be conducted by the MPA Center.

The reason for the simplified range of alternatives in the EA is that any alternative other than those described would simply be a different managerial strategy to achieve the goals of the EO. As such, because the agencies are bound by the EO to achieve certain goals and operating procedures, any impact analysis of the various organizational permutations would show no difference between additional potential alternatives and the preferred.

The agencies believe that the level of detail in this EA is appropriate for the programmatic, broad planning scale of the national system Framework. More detailed analyses on the affected environment, environmental consequences, and cumulative effects would be provided as needed in any tiered or independent NEPA processes required for future discretionary federal actions associated with the national system, such as the creation of new MPAs.

#### **Classification**

##### *Regulatory Planning and Review*

This action is not a regulatory action subject to E.O. 12866 (58 FR 51735, October 4, 1993).

##### *Energy Effects*

NOAA and DOI have determined that this action will have no effect on energy supply, distribution, or use and is therefore not a "significant energy action" as defined by Executive Order 13211 (66 FR 28355, May 18, 2001). No Statement of Energy Effects is required and therefore none has been prepared.

##### *Government to Government Relationship With Tribes*

E.O. 13175—Consultation and Coordination with Indian Tribal Governments—outlines the

responsibilities of the Federal Government regarding its policies with tribal implications, *i.e.*, regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes (65 FR 67249, November 9, 2000). Pursuant to E.O. 13175, tribal governments were consulted in the development of this Framework, and NOAA and DOI will continue to consult with tribal governments as the national system is developed.

#### *Administrative Procedure Act*

Pursuant to authority at 5 U.S.C. 553(b)(A), prior notice and an opportunity for public comment are not required to be given, as this document concerns agency procedure or practice. Nevertheless, NOAA and DOI wanted the benefit of the public's comment and therefore provided for two opportunities for public comment.

Dated: November 7, 2008.

**William Corso,**

*Deputy Assistant Administrator, Ocean Services and Coastal Zone Management.*

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## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

**RIN 0648-XL81**

#### **Mid-Atlantic Fishery Management Council; Public Meetings**

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

**ACTION:** Notice of public meetings.

**SUMMARY:** The Mid-Atlantic Fishery Management Council (Council), its Omnibus Annual Catch Limits/Accountability Measures (ACL/AM) Committee, its Research Set-Aside (RSA) Committee, its Ecosystems and Ocean Planning Committee, its Squid, Mackerel, and Butterfish Committee, its Surfclam/Ocean Quahog Committee, and its Executive Committee will hold public meetings.

**DATES:** The meetings will be held on Tuesday, December 9, 2008 through Thursday, December 11, 2008. See **SUPPLEMENTARY INFORMATION** for specific dates and times.