



Richard L. Ranger
Senior Policy Advisor

Upstream and Industry Operations

1220 L Street, NW
Washington, DC 20005-4070
USA
Telephone 202-682-8057
Fax 202-682-8426
Cell 202-494-1430
Email rangerr@api.org
www.api.org

May 16, 2008

Mr. Joseph A. Uravich
National MPA Center
N/ORM, National Oceanographic and Atmospheric Administration
1305 East-West Highway
Silver Spring, MD 20910

Comments to Revised Draft Framework for Developing the National System of Marine Protected Areas

Via E-Mail

Dear Mr. Uravich:

This letter is submitted on behalf of the American Petroleum Institute ("API"), and the National Ocean Industries Association ("NOIA") in response to the Revised Draft Framework for Developing the National System of Marine Protected Areas. Our organizations represent more than 400 companies that are involved in various aspects of the geophysical, oil and natural gas exploration, production and service industries.

The oil and gas industry supports a process for identification of a national system of MPAs that is:

- based on objective criteria derived through rigorous science,
- informed by careful analysis of risks, costs and benefits to the marine environment and to legitimate economic uses of that environment, and
- transparent and open to stakeholders on an equal-footing basis.

In the attachment to this letter, we have provided more detailed comments and recommended edits to the Revised Draft Framework. Our general comments are as follows:

- a. The marine and coastal environments are uniquely multiple use environments that support an array of commercial and recreational activities and uses, that hold a diverse mix of ecological, fisheries, cultural and mineral resources of great value, and that provide a source of wealth, subsistence and aesthetic enrichment and pleasure to people who live along the coastlines as well as inland. Any policy action, including the stewardship of a system of MPAs should be informed by these interests, and recognize the importance of balance among them.
- b. Determining the relevance of design principles for a national system of MPAs must be based on sound scientific information. This information should be provided and available for public review as part of the listing nomination process.
- c. Qualification criteria should be strict, and the selection criteria for new MPA designations should be even stricter. The purpose of including a particular MPA in a national system should be to protect rare, critical or unique habitats. The bar should be set at a high level and a national system should hold the gems, not merely samples of each identifiable marine habitat. The proposed

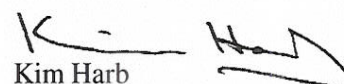
- “representativeness” criteria should be critically examined to see if these criteria serve a listing process that pursues this objective.
- d. A prerequisite for inclusion of an area in a national system of MPAs must be a management plan for the area with clearly stated objectives that assures a commitment of resources for monitoring and enforcement. This will assure that management of the area will conform to the objectives for which it has been designated as a MPA. A national MPA system should not be used to warehouse areas to accommodate the desires of certain interest groups to prevent or discourage economic activity in the marine environment near or around such areas.
 - e. The “no harm” standard set by Executive Order 13158 should be defined in this framework document. Definition of this term is necessary to ensure consistency in how it is applied by the respective agencies as each evaluates the consequence of the identification of a specific MPA to the management mandates established by law for that agency. Having a framework definition of “no harm” is critical to avoid inconsistent application between agencies or even within agencies.
 - f. When identifying an “area” that merits designation as MPA a sound scientific basis for setting boundaries of that area should be provided.
 - g. Use of a “Precautionary Approach” to allow consideration of an area as part of a national system is neither necessary nor appropriate since such an approach is not based on the strength of the available science, and can lead to decisions made without adequate scientific basis.

The ocean environment will continue to increase in importance to Americans as an ecological resource and frontier for research, as a source for food, as a pathway for shipping and trade, as a place to recreate, and as a region holding energy resources of strategic importance. Offshore areas currently account for about 20 percent of our domestic oil and gas production. Based on assessments by the U.S. Geological Survey and the Minerals Management Service, 50 percent of undiscovered oil resources and 36 percent of undiscovered natural gas resources lie offshore. If we are to meet our growing demand for oil and natural gas, our nation will need to develop these offshore resources. Our industry is committed to developing the energy resources in the marine environment that our nation needs in an environmentally responsible manner.

We hope that the comments in this letter and in the attachment can be incorporated into the revised Draft Framework in a manner that will allow a national system of MPAs to play a valuable role in stewardship of the nation’s marine and coastal environment for balanced and sustainable use of its environmental, economic and cultural benefits. Thank you for considering these comments.

Very truly yours,


Richard Ranger
API


Kim Harb
National Ocean Industries Association

**Attachment to Letter Dated May 16, 2008
API Comments to Revised Draft Framework
for Developing the National System of Marine Protected Areas**

Executive Summary

First page: Add as second sentence to second paragraph: “MPAs can be a component of a management system for ocean and coastal regions that recognized the character of these regions as habitats for marine life, as receiving environments for human and natural activities onshore, and as domains for a multitude of human uses: recreational; commercial; industrial; and residential.”

Add to last sentence in third paragraph: “shipping, recreational boating, and energy/mineral development”

Second page: Rewrite first sentence in first paragraph to read: “The Revised Draft Framework recognizes that U.S. MPA programs can help achieve more efficient, balanced, and effective conservation and development of the nation’s important natural and cultural resources . . .”

Under bulleted items on this page, change fourth bullet to read: “A public process to identify gaps in the national system that relies upon science and objective assessment of risk, cost and benefit criteria, and incorporates the perspectives of potentially affected ocean users”

Text of Draft Framework

Page 3: Change last sentence in first paragraph under “Background” to read: “In the same way, myriad human uses, livelihoods, and other activities take place in the marine and coastal environment, and benefit from the sustained health of our nation’s vast natural, resource, and cultural heritage”.

Page 4: Change sentence in last paragraph beginning “An effective national system must include . . .” to read “To meet the nation’s goals for conserving natural and cultural heritage and for achieving sustainable production of resources found in the coastal and marine environments, an effective national system must include an approach to balancing types and levels of MPA protections that is science-based, stakeholder informed, and derived from an objective assessment of risk, cost and benefit.”

Page 5: Change first sentence in top paragraph to read: “While MPAs are an important tool for marine conservation, other types of management approaches are employed to address marine conservation objectives while allowing other uses and activities in the marine environment to take place in an economically sustainable and environmentally responsible manner”.

Page 7: Add under “Social and Economic Benefits”, a new number 3 (renumbering other paragraphs as necessary): “4. Extractive Uses – Identification of important MPAs through a national system could assist planning and decision-making and mitigation measures associated with development of mineral resources in the marine and coastal environment such as crude oil and natural gas”.

Page 8: Add to last sentence in #4 under “Public Awareness, Understanding and Education”: “. . . as well as raising awareness about the need for trade offs to achieve a balance between human uses and conservation objectives in the marine and coastal environment”.

Page 11: Change the sentence under “National System Design Principles” to read: “Relying to the extent possible on science-based information and on objective assessment of risk, cost and benefit, design principles will be developed and used to guide the identification of priority conservation gaps in the national system (Section V(D)) and regional MPA planning (Sections VI (A)(2)).”

Page 12: Change wording of #4 under “National System Design Principles” to read: “Design informed by science and local knowledge – decisions rely on careful inquiry and analysis of risk and benefit, using the best information currently available from natural science, social science, customary and local knowledge and other information, rather than delaying decision processes to await more and better information. Where information is limited, decisions should consider achievable management objectives, consider analogous situations to the extent reasonable, balancing between protection and economic and technical feasibility”.

Page 12: Add to last sentence in #3 under “National System Planning and Implementation Principles”: “. . . and modifying management approaches as appropriate based on information obtained”.

Page 13: Add to #10 “Appropriate access and compatible uses”: “Consistent with conservation goals and objectives, and based upon objective assessment of risk, cost and benefit, provides opportunities for appropriate access to and/or compatible uses of resources in the marine environment.”

Page 18: The description of “critical planning steps or components” beginning toward the bottom of page 28 and continuing onto page 29 is quite good. This discussion section should be moved forward to page 18 “V. Building the National System of MPAs/A. Summary and Sequence”. The referenced discussion section of six numbered paragraphs from pages 28-29 should be moved to this section V.A., immediately under the paragraph with the two numbered subsections that begins “Building the national system will involve two major sets of activities”.

Page 18: Change numbered paragraph 1 to read as follows “As described in Section IV (B)(1) the MPA Center will publish, on an as needed and sequential basis, subsets of the near-term, mid-term and long-term national system conservation objectives for each goal, and the science-based evaluation and decision-making tools to guide a systematic and (to the extent possible) uniform process to identify existing MPAs that are eligible for the national system, as well as the analysis and identification of conservation gaps”.

Page 21: Add as a numbered reason for removal of a MPA from the system: “The need for the particular MPA has ended”, and change reason currently numbered 4 to read: “other circumstances pending review, including receipt of a stakeholder petition or request to remove an area from the National System”.

Page 22: In first sentence of paragraph beginning “Efforts to identify conservation gaps”, delete the word “readily”.

Page 22: Add as last sentence to paragraph beginning “Gap identification efforts will be focused at the regional scale”, the following sentence: “Scientific information and reference to management priorities will be used to make an informed decision whether the commissioning new or additional research or recommended designation of new MPAs, or some other alternative, is the most appropriate next step in response to identification of a gap.”

Page 23: Insert as new numbered item 5: “Identify the ocean users and activities that could be affected by designation of a MPA.

Page 27: Change wording of first bullet #a under “2. Improving MPA science and research” to: “developing science-based tools to identify and measure regional, ecosystem and site connectivity”.

Page 28: Add as #d to “4. Improving the evaluation of MPA effectiveness”: “Develop performance measures and tools to evaluate the cost and benefit of MPAs and the processes for identification of MPAs and assessing their role in management of marine and coastal resources”.

Page 28: The description of “critical planning steps or components” beginning toward the bottom of page 28 and continuing onto page 29 is quite good. This discussion section should be moved forward to page 18 “V. Building the National System of MPAs/A. Summary and Sequence”. The referenced discussion section of six numbered paragraphs from pages 28-29 should be moved to this section V.A., immediately under the paragraph with the two numbered subsections that begins “Building the national system will involve two major sets of activities”.

Page 31: The “avoid harm” standard set out in the EO is not defined in the Draft Framework which is a major shortcoming of the document that should be remedied. Each agency with a management responsibility in the marine and coastal environment has the responsibility to comply with its enabling and/or governing legislation. Effective guidance or management of a MPA program requires that standards established at law for such agencies should be judged against consistent set of criteria when making the determination of no harm required by the EO. Interpretation of this critical term should not be left to each individual agency, particularly since multiple laws may apply at a single site. Because of this, it is critical that the Draft Framework set out some basic standards for the application of the standard to ensure consistency as agencies make their determination under their respective legal authorities.

Page 33: Add as last sentence to paragraph beginning “To implement Section 5” the following sentence: “Agencies shall also consider their statutory responsibilities under various laws affecting the management and disposition of natural resources in the marine and coastal environments, for example the Outer Continental Shelf Lands Act, and identify activities carried out under this framework document that may affect access to (or management of) such resources”.

Page 34: Add as task enumerated under “Biennial ‘State of the National System of MPAs’ Progress Report” the following: “A list/assessment of the economic impacts on fishing, energy/minerals development and other authorized economic uses of the marine and /or coastal environments as a result of the establishment of MPAs”.

Page 34: Add as enumerated items under “MPA.gov Website”: “Information on the analysis/assessment of MPA sites and/or nominations.” and “Information on the MPA system design principles and on scientific or other studies underway from time to time to re-evaluate the effectiveness of these principles to achieve MPA system objectives”.

Page 35: Add as a task/responsibility under “G. Role of the National MPA Center in the National System”: “Report on performance of the MPA system including the cost-benefit and effectiveness of the MPA system and information on the consequences to the economy (local, regional or

national) from prohibitions or restrictions other authorized economic uses of the marine and /or coastal environments as a result of the establishment of MPAs”

Page 36: Add definition of “no harm” from Executive Order 13158.