

Inventory and implementing E.O. 13158. The public will be informed of changes to the criteria through the **Federal Register** and the MPA web site, <http://www.mpa.gov>.

It is important to distinguish between the MMA Inventory and the List of MPAs. The MMA Inventory is not designed to fulfill the requirement of E.O. 13158 for a List of MPAs but is the first step toward development of that List. The List is to be established at some future date after an administrative process for listing has been established.

After public comment on this notice, NOAA and DOI will decide if the working criteria for building the MMA Inventory should be broadened, narrowed, or otherwise modified. A notice of agency decision will be published in the **Federal Register** and the MPA web site, <http://www.mpa.gov>, will be modified appropriately.

### Proposal

E.O. 13158 defines a "marine protected area" as "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." The E.O. defines "marine environment" to mean "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." The E.O. does not define other key terms in the MPA definition such as "lasting," "protection," and "cultural resources." Given the breadth of these terms and the wide array of sites they could include, NOAA and DOI are clarifying key terms within the E.O.'s MPA definition that will serve as criteria for determining MPAs.

Therefore, NOAA and DOI jointly propose the following definitions for: "area," "marine," "reserved," "lasting," "protection," and "cultural." These definitions serve as criteria and include a description of the characteristics necessary for inclusion in the MMA Inventory and a description of features that would exclude a site from the MMA Inventory.

### Area

To be included in the MMA Inventory, the site:

Must have legally defined geographical boundaries, and may be of any size, except that the site must be a subset of the U.S. Federal, state, commonwealth, territorial, local or tribal marine environment in which it is

located. Application of this criterion would exclude, for example: Generic broad-based resource management authorities without specific locations. Areas whose boundaries change over time based on species presence.

### Marine

To be included in the MMA Inventory, the site:

Must be: (a) ocean or coastal waters (note: coastal waters may include intertidal areas, bays or estuaries); (b) an area of the Great Lakes or their connecting waters; (c) an area of lands under ocean or coastal waters or the Great Lakes or their connecting waters; or (d) a combination of the above. The term "intertidal" is understood to mean the shore zone between the mean low water and mean high water marks. An MMA may be part of a larger site that includes uplands, however, the terrestrial portion is not considered an MMA. For mapping purposes, an MMA may show an associated terrestrial protected area.

NOAA and DOI propose to use the following definition for the term "estuary": "Part of a river or stream or other body of water having unimpaired connection with the open sea, where the sea water is measurably diluted with fresh water derived from land drainage, and extending upstream to where ocean-derived salts measure less than 0.5 parts per thousand during the period of average annual low flow." Application of this criterion would exclude, for example, strictly freshwater sites outside the Great Lakes region that contain marine species at certain seasons or life history stages unless that site is a component of a larger, multi-unit MMA. Estuarine-like sites on tributaries of the Great Lakes will be considered for inclusion if they are located within the eight digit U.S. Geological Survey cataloging unit adjacent to a Great Lake or its connecting waters.

### Reserved

To be included in the MMA Inventory, the site:

Must be established by and currently subject to Federal, state, commonwealth, territorial, local or tribal law or regulation.

Application of this criterion would exclude, for example:

Privately created or maintained marine sites.

### Lasting

To be included in the MMA Inventory, the site:

Must provide year-after-year protection for at least three months of each year.

Must be established with an expectation of, or at least the potential for, permanence. If the reservation will expire on a date certain, the reservation must provide a minimum of two years of continuous protection and must have a specific mechanism to consider renewal of protection at the expiration of the reservation.

Application of this criterion would exclude, for example:

Areas subject only to temporary protections, such as areas protected only by emergency fishery regulations under the Magnuson-Stevens Act, which expire after 180 days, and areas that are protected by annual management specifications.

### Protection

To be included in the MMA Inventory, the site:

Must have existing laws or regulations that are designed and applied to afford the site with increased protection for part or all of the natural and submerged cultural resources therein for the purpose of maintaining or enhancing the long-term conservation of these resources, beyond any general protections that apply outside the site. Application of this criterion would exclude, for example:

Areas closed to avoid fishing gear conflicts.

Area-based regulations established solely to limit fisheries by quota management or to facilitate enforcement.

In addition, the Executive Order uses the term cultural resources. NOAA and DOI interpret this to mean any submerged historical or submerged cultural feature, including archaeological sites, historic structures, shipwrecks, artifacts, and subsistence uses in the marine environment.

Taken together, these definitions and criteria provide the basis for selecting sites to be included in the MMA Inventory.

### MMA Inventory Data Fields

In addition to the above proposal, comments are solicited on what data and information should be provided about each site in the MMA Inventory. To make the MMA Inventory a useful resource for managers, scientists, users and the public, NOAA and DOI propose to provide specific information in a consistent format for each site. This information could be used by both government and non-government entities to aid analyses of protection of marine resources and improve regional