

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.

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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.
 Bregon 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.
 Pupukeya 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.

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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 incidental 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 incidental 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