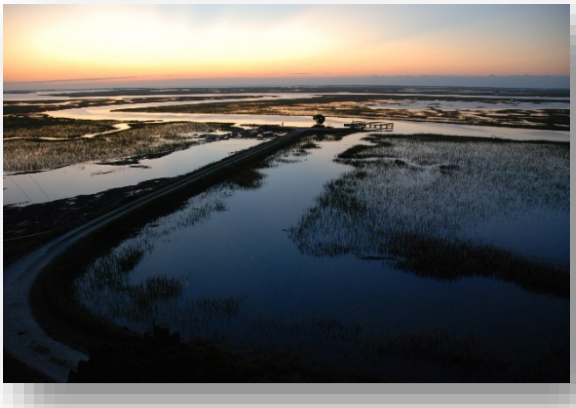
National Estuarine Research Reserve Designation Guidance

Site Selection, Nomination, and Designation



June 29, 2021

Authored by NOAA

Stewardship Division
Office for Coastal Management
National Ocean Service
National Oceanic and Atmospheric Administration

National Estuarine Research Reserve Designation Guidance

Site Selection, Nomination, and Designation

Dear User,

The enclosed guidance provides a detailed overview of the national estuarine research reserve designation process, including feedback and insights from different states where reserve sites were designated. The process to designate a new reserve in the national system is a long and involved multi-year process requiring a long-term commitment by a state or territory and NOAA. There are multiple steps and milestones to this process that will require the involvement of many individuals and organizations at the local and state levels. Reserves are based on partnerships, with NOAA serving as the lead federal partner. Other partners in the process include state agencies, nonprofit groups, universities, and members of local communities, to name a few. Forming a collaborative partnership between a lead state partner or champion, NOAA, and other interested parties during the designation process is important and necessary for the long-term success of a future reserve.

On average, a designation may take between 3 to 5 years if all partners are working diligently throughout the process. As the primary audiences for this guidance, the lead state partner and NOAA staff need to work together toward achieving the designation milestones laid out in this document. The guidance is broken out into eight sections, providing specific guidance and recommendations to the lead state partner and NOAA staff. Contained within the document are links to other important supporting documentation and guidance.

The user should note that certain details related to internal NOAA approval processes may change over time and should be reviewed and compared to current clearance and approval procedures.

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1. Introduction to the National Estuarine Research Reserve System

The National Estuarine Research Reserve System (Reserve System) is a network of 29 protected areas representing different biogeographic regions and estuarine types within the U.S. that are protected for long-term research, monitoring, education, and coastal stewardship. Established by the Coastal Zone Management Act of 1972, as amended, the Reserve System is a partnership program between the National Oceanic and Atmospheric Administration (NOAA) and the coastal states. NOAA provides funding and national guidance. Each reserve is managed at the site level by a lead state agency or university, with input from local partners.

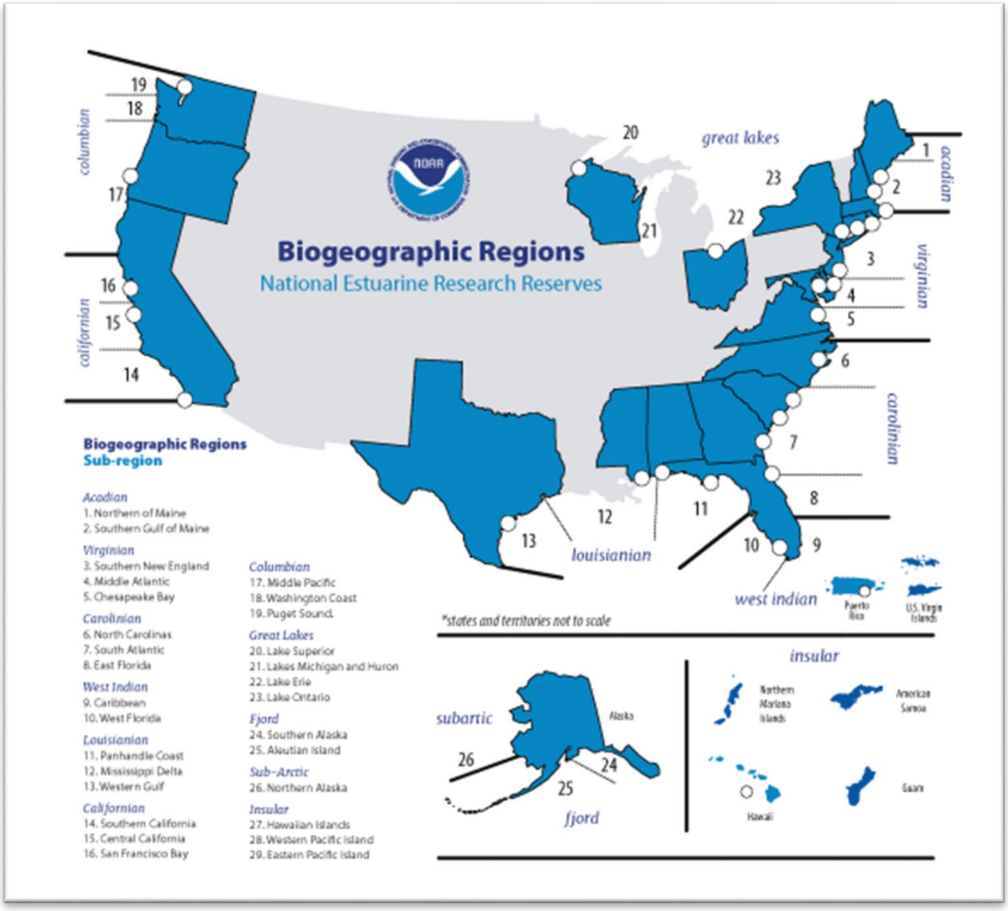


Figure 1. National Estuarine Research Reserve System, 2017

Reserve staff members work with local communities and regional groups to address natural resource management issues, such as nonpoint source pollution, visitor use, invasive species, habitat restoration, and changing climatic conditions. Through integrated research, education, and resource stewardship, the reserves help communities develop strategies to deal successfully with these coastal resource issues.

Reserves provide adult professional audiences with training on estuarine issues of concern in their local communities. They offer field classes for K-12 students and professional development programs in estuarine education for teachers. Reserves also provide long-term water quality and biological monitoring as well as opportunities for scientists and graduate students to conduct research in a "living laboratory."

What is a National Estuarine Research Reserve?

Each reserve, as defined in § 921.2 of the National Estuarine Research Reserve System regulations, is

"*an area that is a representative estuarine ecosystem suitable for long-term research, which may include all of the key land and water portions of an estuary, and adjacent transitional areas and uplands constituting to the extent feasible a natural unit, and which is set aside as a natural field laboratory to provide long-term opportunities for research, education, and interpretation . . . .*"

In other words, reserves serve as living laboratories for the study of estuaries and natural and man-made changes. They help connect science to people, whether they are teachers, students, decision makers, or coastal residents, and serve as demonstration sites where new ideas are tested and modeled.

A number of system-wide programs implemented by reserves focus on monitoring, training, and education that allow them to have a regional and national impact. The integration of locally relevant reserve programs with system-wide approaches fosters innovation and allows comparison of estuarine conditions across the country. In addition, reserves, as place-based entities, build trusted long-term relationships with local communities, state and federal agencies, and other nongovernmental entities and form partnerships that amplify the impact of individual reserves and the Reserve System. By working locally, regionally, and nationally, the Reserve System is more efficient and effective in addressing the key issues faced by coastal managers and communities today.

History of Reserve Designations

The U.S. Congress, through the Coastal Zone Management Act (CZMA) of 1972, established the Reserve System. Originally designated as estuarine sanctuaries, the 1985 reauthorization of the CZMA, enacted in 1986, renamed them as estuarine research reserves. In 1974, South Slough, located in southwestern

Oregon, became the first reserve designated. Since then, the system has expanded to 29 reserves with the most recent, He'eia in Hawai'i, designated in 2017.

The Reserve System expanded significantly during the 1980s and 1990s as noted in Figure 2. Then, in the 2000s the number of reserve designations leveled off to roughly one per five years. Despite significant increases in funding for the Reserve System in 1999, most of those resources were allocated to support a range of system-wide programs including the System-Wide Monitoring Program, Graduate Research Fellowships, and the Coastal Training Program.

As currently comprised, the Reserve System includes several multi-component reserves that are also multi-component designations, which means that, in some cases, different sites making up a reserve were designated over time. Examples include Chesapeake Bay Maryland and North Carolina reserves. In the history of the Reserve System, only one designated reserve was subsequently de-designated from the system. Waimanu Valley, in Hawaii, was originally designated in 1978 and then de-designated in 1996 by NOAA. A full listing of history of reserve designations is provided in Appendix E.

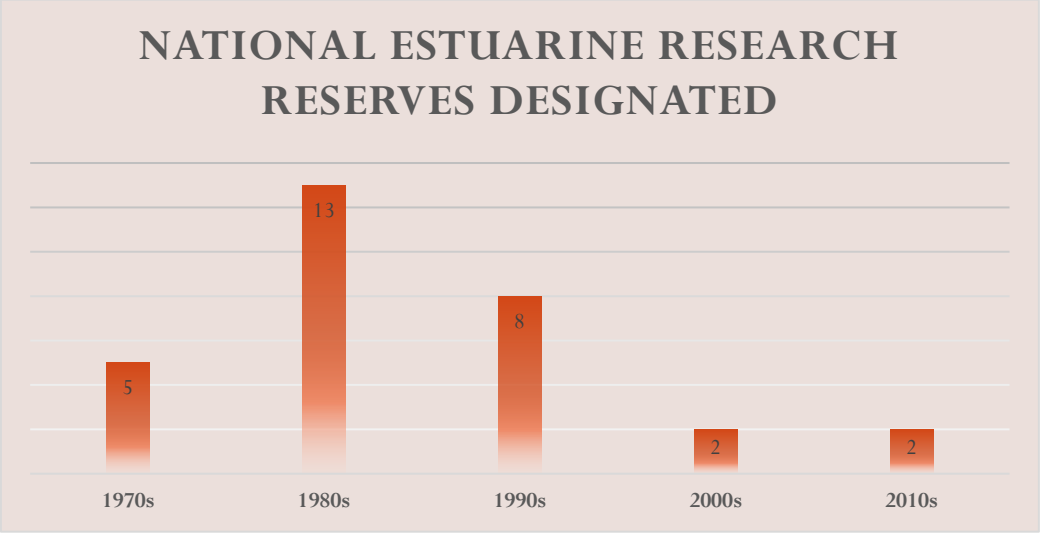


Figure 2. Research Reserve Designations by Decade (through 2017)

Future Expansion of the National Estuarine Research Reserve System

Within the U.S., 34 coastal and Great Lakes states and U.S. territories are eligible to designate a reserve. Of these, 24 states and territories have one or more reserves for a total 29 reserves across the nation. South Carolina has two reserves, while Florida and California have three each. As of 2018, Connecticut and Louisiana are the only marine coastal states in the country lacking a National Estuarine Research Reserve.

In 2016, NOAA convened a Blue Ribbon Panel to look at *"what should drive future geographic expansion and how to determine the point at which the system could be considered 'complete.'"* The panel noted that, historically, geographic expansion of the Reserve System was driven by biogeographic representation and interest from the states. However, the panel recognized that the Reserve System is challenged in trying to balance system expansion with the need to provide sufficient baseline support to existing reserves. The relatively flat budget scenarios since the early 2000s make this a key consideration when considering bringing new reserves into the system.

Currently, eight sub-regions (as defined in Appendix 2 of the Reserve System regulations (15 CFR Part 921)) do not contain a research reserve. To identify strategies needed to fill this gap, NOAA with its Reserve System partners are working to develop 5-year and 10-year strategic plan for the system and its resource needs. A steering committee was formed to establish a vision for the future of the Reserve System that is based on

- A recognition that completing biogeographic representation within the Reserve System may not be the most efficient or effective way to achieve its mission and goals per 15 CFR 921.1;

- A commitment to increasing congressional interest in understanding the Reserve System goals and the process for establishment of additional reserves to help meet the mission; and

- A need to align budget and resources with the pace of expansion to achieve current system goals and meet coastal community needs.

Funding Support for Reserve System Designation

Before starting a designation process, a state should consider what resources it will need to sustain a multi-year designation process and identify matching funding and staff to support the operation of a reserve upon designation. Per Reserve System regulations §920.10, pre-designation assistance is available to coastal states for site selection and scoping, site nomination, development of a draft management plan and draft environmental impact statement, development of a final management plan and final environmental impact statement, and to support a designation ceremony. This assistance may not exceed $100,000 during the length of the designation process. In addition to the federal financial assistance, states must provide 30 percent matching support (Table 2). Other federal financial assistance is not eligible to be used as state match to the pre-designation assistance. States have many options to supplement the federal financial assistance, and those are outlined in Table 1. In many instances, a state will use a combination of options to support the designation process.

Table 1. State and University Funding Support for Research Reserve Designation

Type of Funding Support	Generic Description
Cash	
Match for Federal Pre-Designation Assistance	State financial resource are used to match the federal dollars to support any or all aspects of the designation process
Third-Party Grants	State leverages third-party funding to support designation process outside of pre-designation assistance grant matching requirements (non-federal funding only)
Partner Support	Funding provided by partners to support any or all aspects of the designation process including document printing.
In-Kind	
Staff Support	State staff support used as match to federal funds or to generally support designation
Partner Support	Non-cash support from a partner (i.e., food, facilities, supplies, vehicle use, volunteers, etc.)
GIS or Product Support	Mapping support to the site nomination, management plan development, and environmental impact statement process
Combined	
Travel Support	Funding or staff supporting travel or logistics for meetings and reserve site-selection visits
Partial Cash and In-Kind Match	State uses a combination of cash and in-kind support to meet the federal matching requirements to support any or all aspects of the designation process

Upon designation, a reserve becomes eligible for annual operations funding and construction/acquisition funding resources. Each funding option has specific statutory matching requirements as described in table below.

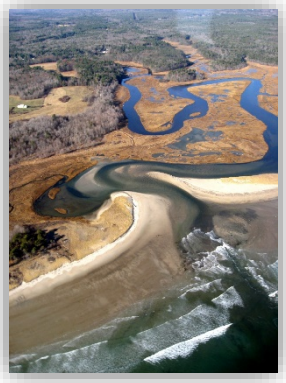
Table 2. Federal Funding Sources and Matching Requirements 2018 for Research Reserves

Type	Match Requirements	
	Federal Share	**State Share**
Operations Funds	70%	30%
Construction Awards	70%	30%
Land Acquisition Awards	50%	50%
Other NOAA Funds	Variable	Variable

2. Designation Process Overview

The process for federal designation of a national estuarine research reserve (research reserve or reserve) requires *multiple* steps and involves many individuals and organizations. Reserves are built on partnerships, with NOAA serving as the lead federal partner. Other partners include state agencies, nonprofit groups, universities, and members of the local community. The collaborative partnership formed between the lead state partner, NOAA, and other interested parties during the designation process is important and necessary for the long-term success of a proposed reserve. It takes the support from all partners to designate and operate a reserve. Since 2000, on average it takes approximately five years to designate a reserve if all partners are working diligently during each step of the process.

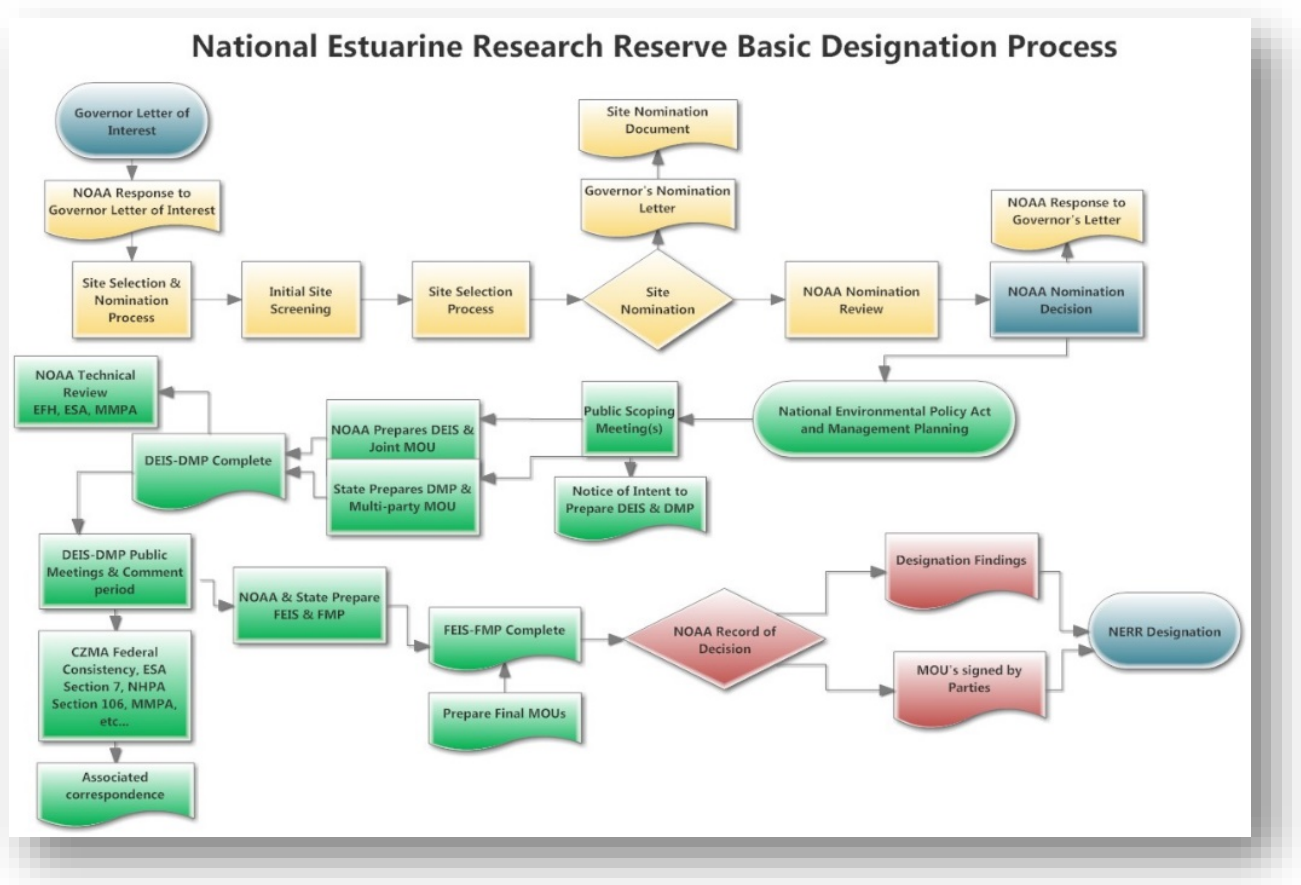
Each reserve designated is *operated* and *managed* by a state lead organization. This is where the designation process begins. Usually, a specific state resource agency or university will take the lead in organizing an effort to learn about what the national system is and to begin mobilizing local stakeholders to support a reserve designation. The state must take the first step in seeking federal designation as a reserve. NOAA works with the state at each step along the way. (photos NOAA)



A. The Basic Designation Process

The basic process for designating a national estuarine research reserve is summarized graphically in Figure 3. Note that there are several key components of the process that, combined, provide the essential information needed for the NOAA administrator to make an informed decision to designate or not.

Figure 3. National Estuarine Research Reserve System Designation Process, 2017



B. Critical Milestones to Reserve Designation

The critical milestones leading to the designation of a reserve are listed below and discussed in more depth on the subsequent pages. Situations may vary, resulting in slight modifications to some of the designation milestones. Detailed information for each of these steps can be found in additional guidance documents and the Reserve System regulations (15 CFR 921).

- ✓ **Governor's Letter of Interest**
- ✓ **Site-Selection Criteria and Nomination**
- ✓ **Drafting an Environmental Impact Statement and Management Plan**
- ✓ **Developing NOAA-State and Multi-party Memorandums of Understanding**
- ✓ **Finalizing the Environmental Impact Statement and Management Plan**
- ✓ **Findings and Record of Decision**
- ✓ **Designation Ceremony**

Milestone 1. A Governor's Letter of Interest

Each reserve designation has one or more local champions that seek to develop local community and state support to pursue the development of a national estuarine research reserve. Before the consideration of a governor's letter of interest, the champion works to develop support for the idea of a reserve. Usually, the champion is from a university or state agency working with local coastal interest groups to gauge public support for a reserve site and to identify a potential state lead in developing a reserve. Building support for creating a reserve site within a state can take years before in advance of seeking a governor's letter of interest. Critical considerations include the following:

- Developing state and local support for a generic site location. (More specific location is determined during Site Selection.)
- Identifying the lead state agency or university to lead the designation process. The state lead is typically the managing reserve partner (e.g., University of Texas for Mission-Aransas Research Reserve) at the time of designation but not always, as was the case with the He'eia Research Reserve process.
- Working with state elected officials to address the required cost-share funding for ongoing reserve operations (30 percent match requirement for annual operations awards)
- Working with federal legislators to support additional annual operations funding for a new reserve

The state champion or lead is advised to open a dialogue with the NOAA Office for Coastal Management's Stewardship Division director to address questions about the process.

Recommended elements of the governor's letter of interest include the following:

- ✓ Explain why the state would like to designation a national estuarine research reserve.
- ✓ Identify a lead state agency or university to work with NOAA.
- ✓ Request designation assistance funding and technical assistance.
- ✓ Address the letter to the NOAA administrator.
- ✓ Signed and dated by the state or territorial governor.

Examples found in Appendix B.

Milestone 2. Site Selection and Nomination

Site selection is a process that enables the state to evaluate and select candidate sites for the consideration as a reserve. Critical to the success of this step is the formation of committees or teams (See Section 3, "Best Practices") to evaluate and select a site for nomination to NOAA. For a state, these groups are designed to

- Identify and Evaluate candidate sites;
- Conduct outreach to the public and affected entities;
- Develop partnerships to support reserve designation and future operations;

- Select a site for nomination; and
- Create a nomination package for NOAA.

Overall, there are *four* critically important parts to site selection and nomination, detailed as follows:

Developing Site Selection Criteria

Site selection criteria are designed to address major site considerations that reflect the goals of the National Estuarine Research Reserve System as described in § 921.1 of the system regulations. Sites may consider modifying or adding additional criteria that reflect regional differences in the ecological characteristics of the habitats to be considered. The suite of criteria selected by a state for a Reserve System designation process require NOAA approval.

Preliminary Site Screening

Prior to the application of the full suite of site selection criteria, it may be appropriate for the state, in consultation with the Office for Coastal Management, to utilize a simplified procedure to screen the proposed sites to eliminate those areas that are clearly not suitable candidates. A preliminary screening should reduce the amount of time and effort that is required to apply the full suite of criteria to all sites. This is particularly important for states with a large array of potential sites.

Selecting a Site for Nomination

Upon narrowing down the list of potential sites, a state should evaluate the remaining candidate sites using the approved site-selection criteria. Typically, a small team of experts, with strong technical expertise or relevant local knowledge, scores the list of candidate sites using the approved selection criteria. The scored sites are ranked and forwarded to another team for final selection. In addition to scoring according to the site-selection criteria, a nominated site should incorporate public, partner, and stakeholder input.

Creating a Nomination Document

A site nomination package makes the case to NOAA for the designation of a new reserve to the Reserve System. The nomination provides the rationale for why the site would be a valuable addition to the national network and contribute to the goals as described in § 921.1 of the Reserve System regulations. The package should at a minimum provide a detailed description of the site-selection process; describe how the site conforms to Reserve System requirements under § 921.11 of the system regulations; provide a detailed description of the site; and describe its compatibility with existing plans and land and water uses.

Section 3 of this guidance provides additional detail about site selection and nomination.

Milestone 3. Drafting an Environmental Impact Statement and Management Plan

Management Plan

Upon NOAA approval of a site nomination, the NOAA administrator identifies the next steps in the reserve designation process. This includes

- Identifying who the state will be working with at NOAA;
- Hosting joint state and NOAA public meetings in the area affected by a reserve designation to

identify significant issues related to the proposed site that were not captured during the public engagement process prior to site nomination;

- Notifying the state or university lead to begin preparing a draft reserve management plan with assistance and support from NOAA. Note that the draft plan includes the development of appropriate memorandums of agreement/understanding between NOAA and the lead state agency or university and between the state and any land-owning partners; and
- NOAA's responsibility in preparing a draft environmental impact statement with support from the state.

Designating a national estuarine research reserve is considered a major federal action under both the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 et seq., and 15 CFR § 921.13 of the Reserve System regulations. This requires that NOAA careful consider the environmental effects of proposed actions, analyze potential environmental effects of proposed actions and their alternatives, avoid or minimize adverse effects of proposed actions, and restore and enhance environmental quality to the greatest extent practicable. Early on in the environmental impact statement development process, all applicable consultations (Endangered Species Act, NHPA Sec. 106, etc.) related to this federal action should also be implemented.

The nominated reserve site and its management alternatives and impacts are evaluated in depth to satisfy all federal and state environmental statutes. NOAA's Office for Coastal Management and the lead state agency or university work closely together to develop both the Draft management plan and the DEIS documents.

During this step, NOAA is required to publish the following Notices in the *Federal Register*.

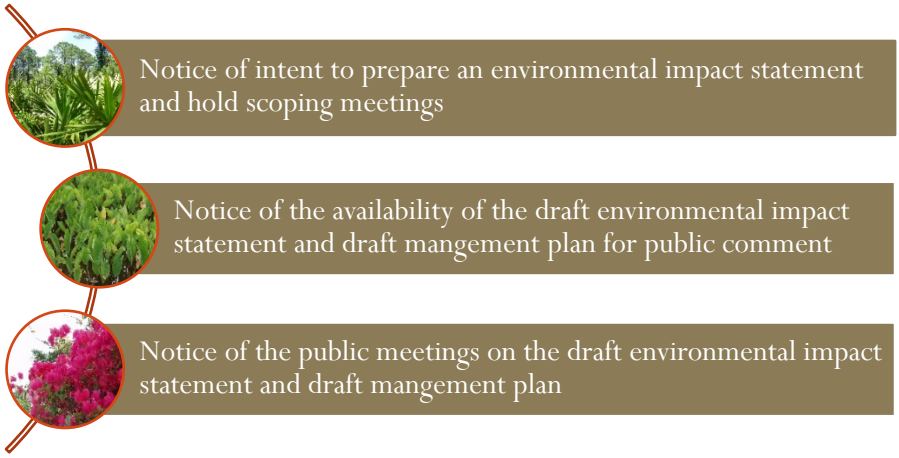


Figure 4. NOAA-Published Federal Register Notices Early in Designation Process, 2017

The date of publication of the draft environmental impact statement and draft management plan in the *Federal Register* begins a required 45-day comment period on the draft statement and plan. Jointly, the state lead and NOAA hold a public meeting or meetings on the draft statement and plan no sooner than 30-45 days after the announcement. NOAA also publishes a notice of the public meetings in the *Federal Register* 15 days before the hearing. Concurrently, the state publishes a notice of the public meetings in

the local media and, depending on state requirements, may publish the notice through official administrative outlets.

Milestone 4. Developing NOAA-State and Multi-party Memorandums of Understanding

Memorandums of understanding (MOU) are created to formalize partnerships and work with other federal agencies; universities; state, local, and international governments; tribes; private institutions; and other organizations. In the case of a national estuarine research reserve, an MOU details the federal-state role in the management of a reserve and expresses the state's long-term commitment to operating and managing a reserve in accordance with Section 315 of the Coastal Zone Management Act.

If the proposed reserve has multiple land and water owners or managing entities, the lead state partner must develop additional MOUs with those parties to ensure the long-term protection and operation of a reserve. Drafts of all MOU's must be included in the draft management plan and final MOUs in the final management plan. The MOUs must be signed before the official designation of the reserve. The NOAA-state partner MOU template is included Appendix A.

Milestone 5. Finalizing the Environmental Impact Statement and the Management Plan

Upon completion of the 45-day public comment period for the draft environmental impact statement and draft management plan, the lead state agency and NOAA prepare finalized versions of those documents. The following general actions should occur:

- ✓ NOAA, after consulting with the state, responds to public comments on the draft environmental impact statement and draft management plan.
- ✓ NOAA makes changes to the draft environmental impact statement in response to the public comments.
- ✓ The state, after consulting with NOAA, makes necessary changes to the draft management plan and submits preliminary and final documents to NOAA for review.
- ✓ The NOAA-state and joint party MOUs establishing roles and responsibilities are finalized.
- ✓ The final environmental impact statement and final management plan include:
    - Added chapter or appendix containing public comments and how they were addressed in the environmental impact statement;

- Finalized versions of the MOUs in the draft management plan appendices;
- List of the agencies and individuals that were specifically notified of the opportunity to comment on the draft environmental impact statement and draft management plan documents; and
- Revised versions of the environmental impact statement and management plan for the proposed reserve.

Upon approval, NOAA, or in some cases the state partner, prints the final environmental impact statement and final management plan and distributes it to those who provided comments, to other interested parties, and to the NEPA distribution list posted on the Council on Environmental Quality website and available from the NOAA Office for Coastal Management's Environmental Compliance webpage.

NOAA, through the U.S. Environmental Protection Agency, publishes a *Federal Register* notice announcing the availability of the final environmental impact statement and final management plan. The date of publication begins a 30-day "cooling-off" period. During this time, NOAA may receive comments but is not obligated to respond to them. This is essentially a time to address any minor issues or major litigious issues.

MILESTONE 6. FINDING AND THE RECORD OF DECISION

NOAA, through the U.S. Environmental Protection Agency (EPA), announces the availability of the final environmental impact statement and final management plan in the *Federal Register*. After a 30-day cooling-off period is over and all issues identified through public comments or other avenues have been addressed, the following actions need to occur:

Figure 5. Designation Process Actions Post-Cooling-Off Period, 2017

NOAA prepares the designation findings, certificate of designation, and the record of decision for signature by the NOAA administrator. Once the designation findings and record of decision are signed, the designation of the site to the national system is official.

Subsequently, NOAA publishes a *Federal Register* notice announcing the reserve designation, the consistency determination, and the NEPA record of decision. The lead state partner announcing the

designation of the reserve should publish the designation in the local media and state administrative outlets as appropriate.

Milestone 7. Designation Ceremony

Following the publishing of a *Federal Register* notice and local media announcement of a reserve designation, the state normally organizes a designation ceremony with congressional and state participation.

NOAA may support the state by providing an invitation list of NOAA personnel, arrange for speakers from NOAA, and assist with publicity. At the event, NOAA presents a ceremonial certificate of designation to state officials and congressional representatives.

C. Detailed Internal NOAA Process for Reserve Designations

As outlined in Figure 3, the overall reserve designation process has many steps and milestones over the course of a multi-year designation effort. NOAA uses a detailed internal decision-making process to review and clear actions that achieve the milestones identified throughout the process. Periodically, some of the details within this process may change due to internal Office for Coastal Management and National Ocean Service (NOS) decision-making. *Section 7, "Navigating the NOAA Review and Clearance Process,"* provides important guidance for NOAA staff to follow to ensure that the different milestones and requirements of the designation process are met.

D. Post-Designation – Reserve Funding and Implementation

Annual Reserve System operations funding is supported through annual congressional appropriations to the reserves. This funding is allocated for reserve operations, management, education, monitoring, and research according to Section 315 (e) of the Coastal Zone Management Act, and applicable Reserve System regulations under §921 subparts G, H, and I. Operational funding must be matched 70:30 (federal: state) except for specific projects that benefit the entire system. Reserves wishing to designate part of their allocation to another entity must meet statutory and regulatory requirements regarding

recipient eligibility. Additionally, Office of Management and Budget Uniform Grants Guidance applies to all Reserve System operations awards. For more information on Office of Management and Budget Grants Guidance, visit *www.grants.gov/fi/web/grants/learn-grants/grant-polices*.

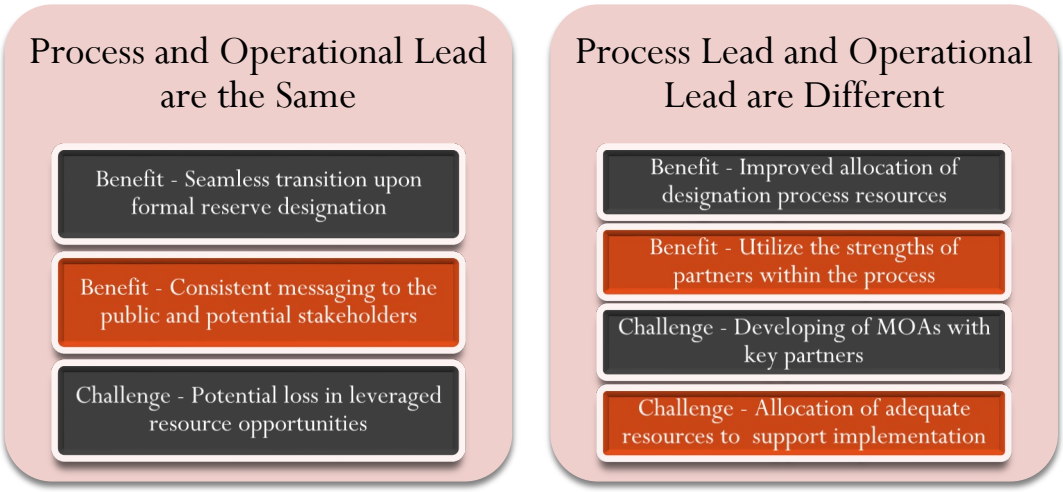
Separate Reserve System Procurement, Acquisition, and Construction (PAC) funding is available to support reserve facilities construction and land acquisition needs. This funding is based on annual congressional appropriations and is competitively awarded to applicable reserves in the system. New reserves are encouraged to compete for this funding to meet their facility needs and build the infrastructure necessary to implement their core programs. Note that to be eligible for PAC funding, projects submitted by the reserve must be identified in the reserve management plan.

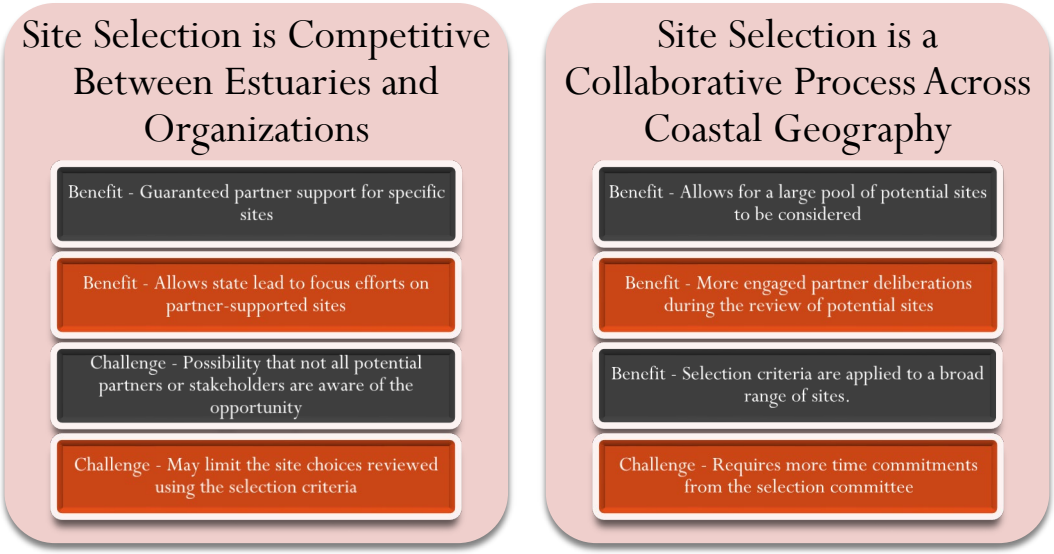
Each year, the Office for Coastal Management provides official guidance to reserves following congressional appropriations and specific guidance from NOAA. Typically, the Reserve System ORF and PAC funding guidance is released between February and April.

E. State Approaches to the Designation Process

Historically, states and territories have taken different approaches to the designation of a research reserve site. Each approach used has its benefits and challenges. The table below offers a glimpse of some of the benefits and challenges that may be encountered when implementing different approaches to developing a reserve site.

Table 3. Research Reserve Development Approaches for States





3. Best Practices

Designation of a national estuarine research reserve is a multi-year effort that includes multiple steps requiring a concerted and detailed engagement by NOAA and the state Lead. Over the course of multiple designation processes, many best practices have been identified to aid the various parties in successfully designating a site to the National Estuarine Research Reserve System. They have also laid the groundwork for the long-term success and viability of the reserve.

To ensure a successful designation effort and build the foundation for a successful reserve in the years to come, key best practices are listed for the state and NOAA to consider during the designation of a reserve site.

List of Best Practices

Create a NOAA-State Coordination

Setting up a NOAA-state coordination team provides the key designation staff with an overall view of all the parts of the development process over the entire length of the designation. To sustain and streamline the designation process through the multi-year effort, an important observation from the state perspective is to keep the NOAA and state staffing consistent through the process.

Example NOAA Coordination Team Makeup – Reserve System site liaison; General Counsel assigned to the state; Office for Coastal Management NEPA coordinator; Office for Coastal Management regional lead or designee.

Example State Coordination Team Makeup – State partner lead, facilitator or communications lead, science lead. Other staff are variable based on need and site.

USE A STAKEHOLDER ENGAGEMENT PROCESS

"We enabled their 'ownership' of both the process and decisions, which I think was key." – Patrick Robinson, Wisconsin Extension

Although each reserve designation process is unique, a successful strategy implemented by many states has been to use a stakeholder engagement process. Traditionally top-down, agency-driven decision-making has been the primary mechanism in natural resource management. More recently, successful resource management actions have incorporated processes that involve stakeholders and acknowledge the importance of public attitudes, perceptions, beliefs, and knowledge.[1] Stakeholder engagement has become a key component of designating national estuarine research reserves.

Since 2000, states have identified stakeholder engagement as a key component of their success in the National Estuarine Research Reserve System designation process. Bringing the full range of stakeholders to the table from the beginning enables a state to ensure that

- Potential adversaries and allies to the action feel that their voices and concerns are heard;
- Obstacles or hurdles to a reserve are identified early in the process and time is allowed for solutions to be developed;
- Willing stakeholders feel some ownership with the designation process and decisions; and
- Decisions are transparent and collaborative.

Given the multi-year timeline from conception to designation, the time and effort invested in a stakeholder engagement process will pay huge dividends in the long-term not just for this process but also in the long-term success of the reserve.

IDENTIFY THE LEAD STATE AGENCY EARLY

"Ensure that the lead state agency for the management of the reserve is involved and committed to the process . . ." – Hawaii Office of Planning

[1] NOAA, Coastal Services Center [now Office for Coastal Management]. 2007. *Introduction to Stakeholder Participation*. NOAA Coastal Services Center, Charleston, South Carolina.

Given the substantial investment of time and people needed to complete a reserve designation, it is critically important to identify and secure the commitment of a lead state agency to manage the process and operate the future reserve. The lead state agency should be prepared to commit state resources to support a multi-year effort and engage NOAA and other stakeholders throughout the designation process. This is key to ensuring that the process and engagement with stakeholders are sustained over time.

According to §921.11 of the National Estuarine Research Reserve System regulations, the state or territorial governor must formally identify a lead state agency or university that has the authority and responsibility for leading the designation process. The lead state agency is identified either in writing through an initial letter to NOAA seeking to designate a reserve or through a subsequent formal site nomination. Examples of these letters are found in Appendix B.

In partnership with NOAA, the state agency lead is tasked with managing the process and developing the appropriate documentation for a reserve designation. Although the lead state agency may be different for the management and operation of a reserve, it is essential that the lead be identified early. Without a lead state agency partner, NOAA will not begin a designation process. Ideally, the governor will identify the same lead state agency for both the development of a reserve and its subsequent operation. Early identification allows for better coordination with NOAA and certainty for potential partners.

ASSIGN A PROJECT LEAD

"Assigning a project lead was key!" – Sally Palmer, University of Texas

Ideally, both the lead state agency and NOAA identify and assign a lead person to manage the complex multi-year reserve designation process. These two people regularly engage with each other and their respective designation teams to ensure that the process is streamlined and sustained. These individuals develop agreed-upon timelines and roles and responsibilities for each phase of the designation process. On the state side, some of these include the following:

- Ensuring that the many different committees or teams are meeting and working toward specific goals and objectives;
- Hosting meetings about the process with a variety of potential stakeholders (i.e., local businesses, nongovernmental organizations, state agencies, municipalities, homeowner associations, etc.);
- Proactively identifying and addressing obstacles or concerns identified by stakeholders;
- Developing position descriptions for each committee or team so that all know their roles;
- Providing periodic updates to stakeholders and partners about the process; and
- Engaging with congressional delegations to gain support and keep apprised of the designation process status.

On the NOAA side, this may include

- Organizing periodic briefings with NOAA leadership on the status of the effort;

- Leading the NOAA team that will review the site nomination and developing an environmental impact statement to support or not support designation of the proposed reserve; and
- Engaging with local stakeholders about what a reserve is and what it really means to have one.

Nurture Local Support for a Reserve

The Reserve System designation process is a first and important step in the evolution of a reserve. Previous lead state agencies have noted that proactively bringing together stakeholders in the designation process was critical to ensuring success. Using a stakeholder engagement process is also one way to build and nurture local support for a reserve. Sometimes the local stakeholders are initially skeptical of what it means to have a reserve site. Providing multiple opportunities for stakeholders to engage in the process and communicate issues or concerns will go a long way to building a local network of reserve supporters and sow the seeds of a future "Friends of the Reserve" group.

Use Teams and Committees throughout the Process

"*Probably the greatest factor in our success . . .*" – Wisconsin Extension

The use of teams and committees to support various parts of the designation process is critical to a successful reserve designation. No one partner or individual has the knowledge and expertise to manage and complete the seven critical steps of the designation process or ensure stakeholder support for a reserve. Teams and committees enable the state agency lead to meet designation milestones, create information products, and build stakeholder support for a reserve.

Teams and committees form to support the reserve designation process in many ways, including

- Identifying and evaluating candidate sites
- Formulating state-specific site-selection criteria
- Educating the public and partners about the process and selected site
- Developing partnerships between stakeholders in support of a reserve
- Helping create a vision, mission, and goals for a reserve
- Creating technical or outreach materials to support designation
- Developing support within the state congressional delegation for a reserve
- Managing a public participatory process
- Bringing together diverse expertise and perspectives into the different steps of the designation process
- Working with the state or territorial governor to nominate a site for consideration

Multiple committees or teams are normally created to manage and guide the state through the different

phases of the designation. At a minimum, the lead state agency usually creates the following teams:

Site Coordination or Management Team

This team is typically lead by the lead state agency or university. It provides leadership and oversees the designation process for the state side. This team ensures that all the other teams are staffed and working towards defined goals and objectives. Most often, this team develops the site nomination package and the draft and final reserve management plan, and supports NOAA's environmental impact statement. This team also works to build support for a new reserve site within its congressional delegation.

Site Selection Team

This team consists of technical experts and people with local knowledge essential for the site-selection process. This team helps create resource-mapping products for potential sites, reviews and modifies site selection criteria to account for state and local considerations, and incorporates local knowledge to inform the selection process.

Site Evaluation Team

This team consists of technical experts and key stakeholders or partners that evaluate and score sites using uniform site selection criteria. In addition, this team can offer specific cultural and local perspectives regarding proposed sites.

State-NOAA Liaison team

This small team consists of persons representing the lead state agency and key partners. This team communicates directly with the NOAA team to coordinate the different parts of the designation process over time. Many of the individuals on this team are usually on the Site Coordination Team too.

Education and Outreach Team

This team consists of people with expertise in education and public outreach. The team develops and implements a public participatory process to ensure that stakeholders are informed about the designation process and to gather and share issues and concerns with the lead state agency, NOAA, and the other teams. It also help develops and disseminates reserve designation-related educational materials and resources to stakeholders and partners.

Teams meet as often as needed to accomplish their specific objectives and will eventually sunset as different milestones are achieved. The use of teams is time-consuming but essential to a successful reserve designation process. Using a collaborative and participatory process, the teams engage in decision-making and provide ownership for those involved. This creates an effective process and will pay dividends in the future as the reserve develops after designation.

IDENTIFY AND DELINEATE CORE AND BUFFER

Identifying the core and buffer areas of a proposed reserve site is a critical consideration when a state nominates a reserve to NOAA. Section 921.11 of Reserve System regulations describes site boundaries

as follows: "*encompass an adequate portion of the key land and water areas of the natural system to approximate an ecological unit and to ensure effective conservation. Boundary size will vary greatly depending on the nature of the ecosystem. Reserve boundaries must encompass the area within which adequate control has or will be established by the managing entity over human activities occurring within the Reserve*."

In practice, once the general site is identified through the site-selection process, the state agency lead must not only identify proposed boundaries for the site but also identify core and buffer areas within that proposed boundary. Section 5 provides more details on delineating reserve boundaries.

Reserves may include existing federal or state lands already in a protected status where mutual benefit can be enhanced. However, NOAA will not approve a site for potential reserve status that is dependent primarily (greater than 50 percent of total area) upon the inclusion of currently protected federal lands in order to meet the requirements for reserve status (such as key land and water areas). Normally, federal land areas generally included within reserve boundaries should serve as a buffer or for other ancillary purposes; and may be included, subject to NOAA approval, as a *limited portion* of the core area.

Develop Timelines and Requirements for Each Part of the Process

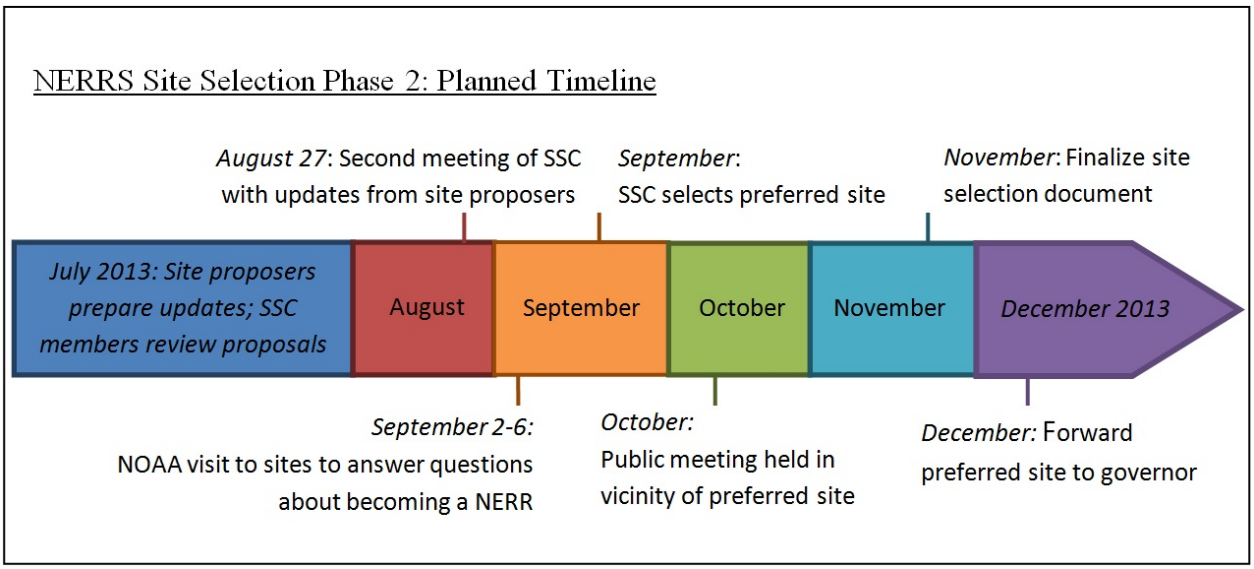
"*Ensuring teams and committees were aware of the timeline . . . was critical for the success of these groups*" – Hawaii Office of Planning

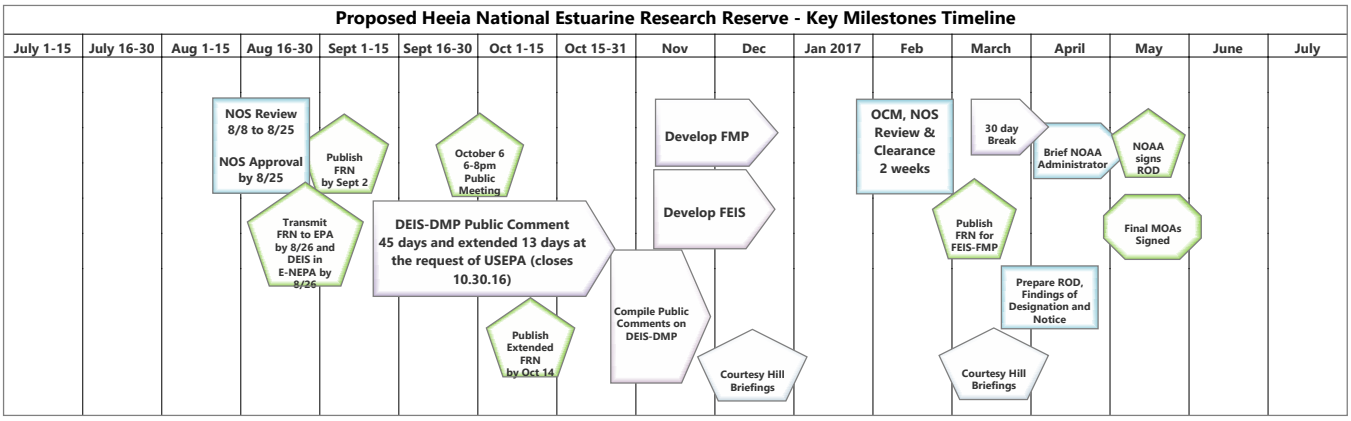
Understanding specific milestones in the process is very helpful for guiding the work and expectations of the state agency Lead, NOAA, partners, and others involved in a reserve designation process. As a multi-year effect using multiple teams or committees to achieve specific goals and objectives, the development of timelines is an important planning tool supporting reserve designation. They are not static planning tools and must be periodically updated to account for real-world and unexpected changes that occur over time.

In previous designations, timelines have been created to support a variety of needs. These include

- Tracking the major milestones of the multi-year process
- Managing the details of specific steps in the process (i.e., developing reserve management plan)
- Detailing NOAA's internal clearance process
- Providing an overview of the process for public audiences
- Supporting budget planning for state congressional delegations
- Guiding specific teams and committees (i.e., Site-Selection Team)

Timelines can be simple or complex depending on the need and the specific audience. Consider each of these factors carefully when developing a timeline. Examples follow:





SECURE LONG-TERM SOURCE OF STATE MATCH EARLY IN THE PROCESS

"I think that state match is an incredibly important decision that needs to last in spite of politics, retirements . . ." – Sally Palmer, University of Texas

Reserve system regulations stipulate a 70:30 match requirement for annual operational funds. As a result, there are two important considerations during the development of a new reserve.

1. Federal appropriations from Congress to support the Reserve System annual operations awards.
2. State funding to meet the match requirements of federal appropriations to a reserve.

Previously detailed in Section 1, "Funding Support for Reserve System Designation," the lead state partner should look to secure increased federal funding early in the process. This is extremely important because without an increase in federal funding, the available operational funding for the other reserves already in the Reserve System will decrease when the newly designated reserve becomes operational.

Secondly, the lead state agency has to plan for several financial resource commitments. These include matching funds for federal pre-designation assistance, funding staff and meeting support for the process, and most importantly, securing a source of long-term state match for reserve operations described in Table 1. Since 2000, federal-supported annual operations awards average over $600,000, with states providing 30 percent match for those dollars. Some important considerations for the lead state agency include the following:

1. What are my potential sources for long-term match funding?
2. Are there key partners I can leverage to support reserve operations after designation?
3. How to I work with my congressional delegation to increase Reserve System base funding on the federal side?
4. What do I need to do secure long-term match funding to support reserve operations?
5. Does my source of state match offer flexibility in changing budget cycles?

Answer these questions early in the process to prevent funding from becoming a roadblock to a successful reserve designation toward the end of the process. The long-term viability and success of a reserve depends on addressing these two considerations before designation.

Communicate Early and Often

"Persistence, meetings, and smiling." – University of Texas

Meeting often and early was very important over the course of the process. The use of multiple teams or committees to manage and guide the state through the different phases of the designation requires a lot of communication, facilitation, patience, and listening. Organize these teams and committees early in the designation effort and have them meet often. This will help them achieve their goals and objectives and develop ownership in the process by its members.

Outside of the multiple teams directly involved in designation, the state lead should meet periodically with a host of other critical stakeholders, including state agencies, local nongovernmental organizations, municipalities, tribal and cultural organizations, business groups, etc. A consistent flow of information and feedback with these stakeholder groups is critically important to build and maintain stakeholder support for a reserve. It will also help the state and NOAA identify and address important issues and concerns that these stakeholders communicate.

Learn from Previous Reserve Experiences

Staff from the state agency leads have access to a wealth of experience within the Reserve System and have experience going through the designation process, the initial startup phase, and longer-term reserve operations and management. Some suggestions on how a state agency lead can learn from

previous reserves:

- ✓ Seek NOAA recommendations of specific reserve staff to consult with.
- ✓ Invite reserve managers from comparable reserves to talk to local stakeholders and partners about what it means to have a research reserve.
- ✓ Participate in the National Estuarine Research Reserve System Annual Meeting and Program Managers Meeting to learn about how the system collaborates and coordinates strategically and programmatically.
- ✓ Send staff to visit other reserves to learn how a reserve operationalizes its activities and how it interacts with its reserve advisory board.

TRIBAL ENGAGEMENT IS A PRIORITY

Under Executive Order 13175, ‘‘Consultation and Coordination with Indian Tribal Governments’’ (November 6, 2000), establishes the manner in which the NOAA works with federally recognized Indian tribes when developing policies that have tribal implications, including the designation of a reserve site. This executive order reaffirms the unique government-to government relationship that exists between Indian tribes and NOAA. Federally recognized tribes, as sovereign governments, require consultation through consensus-based government-to-government discussions. However, this executive order does not cover other cultural groups, such as Native Hawaiians and the Geechee (i.e., Gullah) of Georgia and Florida. Regardless, tribes and other cultural groups potentially affected by a potential reserve site and their representative associations must be engaged in the designation process. Examples consultations letters are found in Appendix A.

Some basic guidelines around this engagement:

- ✓ Federally recognized tribes are not a public but rather a foreign government requiring government-to-government consultation.
- ✓ Each interested tribe or cultural group should be offered an opportunity to consult on the reserve designation.
- ✓ There is a difference between federally recognized and non-recognized tribes.
- ✓ All consultations are different, and there are no hard-and-fast rules for consultation.
- ✓ The federal government has an innate trust interest with the tribes.

IMPORTANT - Consult with qualified legal counsel before engaging with tribal or cultural groups as part of a designation process.

PLAN FOR A 5+ YEAR DESIGNATION EFFORT

Designation of a national estuarine research reserve is a complex multi-year effort that requires sustained engagement by the state agency lead, NOAA, and the many partners and stakeholders that participate in the process. All recent reserve designations have run from 3 to 5 years from the time NOAA positively responds to the letter of interest from a state or territorial governor. This does not include the initial engagement with stakeholders, partners, and elected and appointed officials that must happen before asking the governor to send a letter to NOAA. Many previous efforts noted that the process takes a long time and a substantial amount of work; however, given the magnitude of the decision, it is time well spent to ensure the long-term success of a reserve.

NOAA may respond to a letter of interest by not pursuing a designation at that time. Although rare, this could occur if the current administration does not support expansion of the Reserve System; if there are not sufficient resources at the Office for Coastal Management to support the 3-5 year designation process; or if there is strong objections from Congress. These factors and others could impact NOAA's decision whether to move forward with the process.

4. Site-Selection Criteria and Process

A. Introduction to Site Selection

Once NOAA determines that it can accept a new nomination based on the state or territorial governor's letter of interest, the identified state agency lead may submit an application to NOAA for site-selection funding. As outlined in Section 1, the state is eligible for federal funds for pre-designation activities. Activities appropriate for these funds are developing site selection, developing and applying a site-selection process, preparation of the draft environmental impact statement and draft management plan and final environmental impact statement and final management plan, and limited basic characterization studies of the physical, chemical, and biological attributes of the site.

Note: Federal **assistance may not exceed $100,000 during the length of the designation process.**

To ensure that pre-designation assistance funds are available for subsequent steps in the process, NOAA recommends that the state agency lead use approximately $25,000 to $40,000 in federal funding along with additional state resources to support the site-selection process. While not imperative that the state agency lead manage pre-designation funds, it is encouraged that they be prepared to accept and manage funds once the designation occurs. Any applications for pre-designation funds must identify who will be conducting the work and supplying match for the award.

Use the site-selection criteria detailed below in Section 4 as a model for determining new sites for the Reserve System. The criteria can be modified in consultation with the Office for Coastal Management to reflect regional differences in the ecological characteristics of the habitats to be considered. The relative "values" placed upon the criteria can also be modified as appropriate.

At the very outset of the site-selection and site-nomination process, determine whether there is an existing reserve located in the particular biogeographic and typological classification scheme under consideration. Candidate sites located in a biogeographic sub-region not currently represented are automatically of high value to the National Estuarine Research Reserve System. However, candidate sites within a biogeographic sub-region that is already represented in the national system can still be considered if they include unique habitat types. Some keys to a successful site-selection process are described in Figure 6.

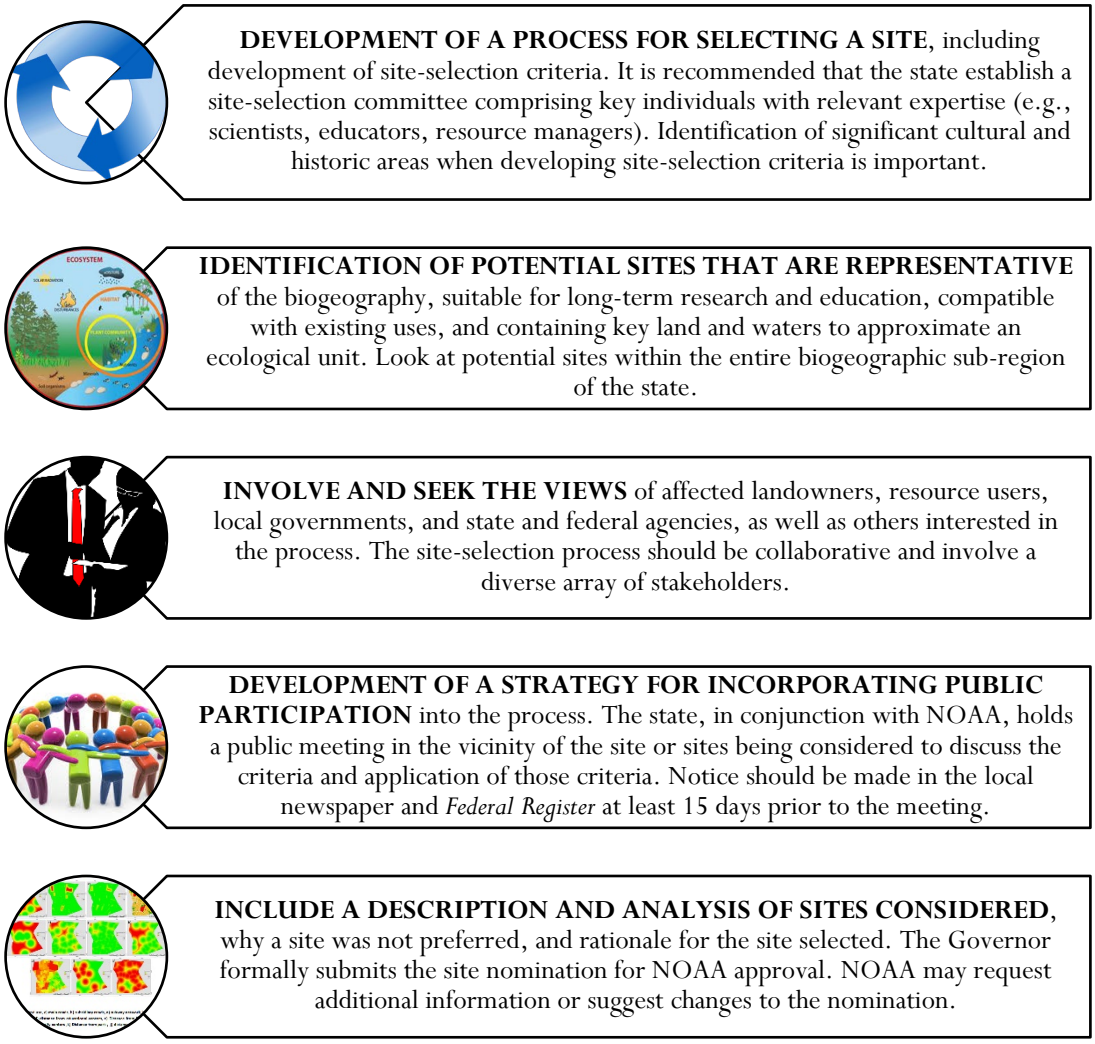


Figure 6. Key Elements of Site Selection

B. Preliminary Screening Process

Before the application of the full suite of site-selection criteria detailed above, it may be appropriate for the state, in consultation with the Office for Coastal Management, to utilize a simplified procedure to screen the proposed sites to eliminate those areas that are clearly not suitable candidates. A preliminary screening should reduce the amount of time and effort that is required to apply the full suite of criteria to all sites. Candidate sites that do not meet the following preliminary screening criteria should be considered for elimination.

- The candidate site is a representative estuary in the biogeographic region or sub-region.
- The proposed boundaries of the candidate site include sufficient land and water area to maintain the integrity of the ecosystem.
- The candidate site consists of publicly owned lands or demonstrates sufficient potential for land acquisition and adequate land-use control to meet Reserve System objectives.
- The candidate site is accessible by normal modes of transportation.
- The candidate site is suitable for research, monitoring, and resource protection activities.
- The candidate site is suitable for education, training, and interpretation activities.
- The candidate site is suitable to address key local, state, and regional coastal management issues.

C. Site Screening and Application of Site-Selection Criteria

There are a variety of ways that the application of the full set of site-selection criteria (Section 4) to the screened sites can be undertaken. An initial step is to identify who will be responsible for this phase of the site-selection process. Normally, these individuals become members of a site-selection committee. Once the site-selection committee has been identified, it is recommended that each member preliminarily assess and score each of the candidate sites individually. If necessary, the scoring within each criterion may be crafted to help better evaluate the proposed sites.

Field visits to each site will allow the committee members an opportunity to gain firsthand knowledge of the characteristics of each site. They should also give everyone a better understanding of the factors to be considered under each selection criterion and how these factors should be taken into account. Field trips may be appropriate before scoring the sites. However, the committee members should be familiar with the site-selection criteria before visiting the candidate sites.

Figure 7. Site-Selection Decisional Processes, 2017

After site-selection committee members have assessed the candidate sites individually, the site-selection committee should convene to assess the sites collectively and determine one site for nomination to the governor. Several options exist for this collective decision-making. These options are described below:

Option 1. Strict Averaging of the Individual Scores

All committee member scores for each criterion would be averaged and then totaled and weighted to arrive at one site to recommend to the governor for nomination.

Option 2. Working Group Discussions

The site-selection committee would be divided into two to three small working groups to assess all of the candidate sites, taking their individual assessments and scores into account. Each working group would then reach consensus as a group on an appropriate score for each criterion.

Thereafter, the working groups would reconvene in full committee and compare their collective decision-making with the goal of overall consensus on the scoring for each candidate site. One site would be recommended to the governor for nomination.

Option 3. Committee Discussion

The committee as a whole would assess each site, taking individual assessments and scores into account. Members would reach consensus as a group on each criterion and ultimately select the site to be recommended to the governor for nomination.

D. Reserve System Site-Selection Criteria

The site-selection criteria are designed to help states evaluate and select new estuarine research reserve sites for consideration within the national system. The criteria provided in this guidance fully support the guiding principles of site selection as described in §921.11 of the Reserve System regulations. However, additional criteria or modifications are allowed, in consultation with the Office for Coastal Management, to reflect regional differences in the ecological characteristics of the habitats to be considered or other factors. In addition, the relative “values” placed upon the criteria can also be modified as appropriate.

The criteria fall into the seven major categories:

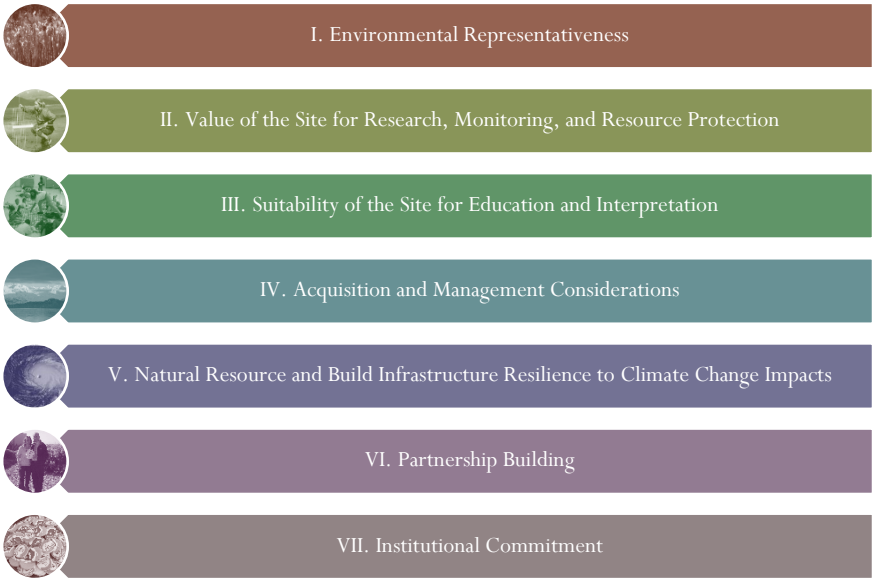


Figure 8. Site-Selection Criteria, 2017

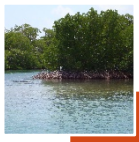
I. Environmental Representativeness: Ecosystem and Ecological Characteristics

In order to determine the representativeness of a candidate site relative to ecosystem type (as defined in Appendix 2 of Reserve System program regulations (15 CFR Part 921)), the site will be evaluated using the following suite of ecological, biological, physical, and chemical characteristics that fall under the general category of "Ecosystem and Ecological Characteristics." The first five criteria for ecological and biological characteristics focus primarily on factors concerning a site's diversity and balance in regard to the types of ecosystems and habitats present, as well as any significant or unique biotic trait. The remaining criteria for physical and chemical characteristics focus on a site's position within the watershed to which it belongs, geological and salinity characteristics, water quality, and the degree to which it is developed.

A. *Ecosystem Composition*. This is a measure of the diversity of ecosystem types present within the boundaries of the site. This criterion is based on the assumption that sites that have a high diversity of major ecosystem types are of higher relative "value" for protection and management than those with low ecosystem diversity (unless the ecosystem in consideration is rare or unique: see "Habitat Uniqueness of the Site"). Use the following ecosystem type designations (Appendix 2 of Reserve System program regulations (15 CFR Part 921)). Modify as appropriate.

Group I - Shorelands

- Maritime Forest-Woodland
- Coastal Shrublands
- Coastal Grasslands
- Coastal Tundra
- Coastal Cliffs



Group II - Transition Areas

- Coastal Marshes
- Coastal Swamps
- Coastal Mangroves
- Intertidal Beaches
- Intertidal Mud and Sand Flats
- Intertidal Algal Beds

Group III - Submerged Bottoms

- Subtidal Hard Bottoms
- Subtidal Soft Bottoms
- Subtidal Plants

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3 Points — The site has a high diversity of ecosystem composition, i.e., it contains at least one representative habitat from *each* of the three main ecosystem groups listed above (e.g., maritime forest, coastal marsh, and oyster reef).

2 Points — The site has a moderate diversity of ecosystem composition, i.e., it contains at least one representative habitat from two of the three main ecosystem groups listed above (e.g., maritime forest and coastal marsh).

1 Point — The site has a low diversity of ecosystem composition, i.e., it contains at least two representative habitats from only *one* of the three main ecosystem groups listed above (e.g., coastal marsh and mud flat).

0 Points — The site has a very low diversity of ecosystem composition, i.e., it contains only a single habitat type within any one of the three main ecosystem groups listed above (e.g., maritime forest).

B. *Balanced Ecosystem Composition*. This is a measure of the relative composition of ecosystem types within the boundaries of a site. This criterion is based on the assumption that sites with a balanced proportion of ecosystem types are of higher relative "value" for protection and management. High, moderate, and low values are assigned to sites that contain variations in the proportions of all three ecosystem types. A value of zero is assigned to a site that is dominated by one ecosystem type or contains less than three ecosystem types.

3 Points — The site contains representative upland, intertidal, and subtidal habitats in relatively equal proportions (i.e., areal cover of any one ecosystem type not less than 25 percent of the total area).

2 Points — The site contains representative upland, intertidal, and subtidal habitats, with the areal cover of any one type not less than 10 percent of the total area.

1 Point — The site contains representative upland, intertidal, and subtidal habitats, with the areal cover of any one type less than 10 percent of the total area.

0 Points The site contains representative upland, intertidal, and subtidal habitats, with the areal cover of two types being less than 10 percent of the total area *or* the site consists of habitats from only one or two of the three major ecosystem types.

C. *Habitat Composition and Complexity*. This is a measure of the diversity of habitat types present within the major ecosystem type found within the boundaries of the site. This criterion is based on the assumption that sites that have a high diversity of habitat types are of higher relative "value" for protection and management than those with a low diversity of habitat types. Major ecosystem type is defined here as that type that comprises approximately 40 percent of the site. Use the habitat type designations listed above for "ecosystem composition."

3 Points The site has a high diversity of habitat composition within its major ecosystem type, i.e., it contains three or more habitat types or subtypes within its major ecosystem type (e.g., site consists of a combination of swamps, coastal marshes, and mud flats) *or* has a combination of multiple coastal marsh types (e.g., high, mid, and low marsh zones).

2 Points The site has a moderate diversity of habitat composition within its major ecosystem type, i.e., it contains only two habitat types or subtypes within its major ecosystem type (e.g., consists of a combination of swamps and a single coastal marsh type).

1 Point The site has a low diversity of habitat composition within its major ecosystem type, i.e., its major ecosystem type consist of a single habitat type (e.g., maritime forest or *Juncus* marsh).

D. *Habitat Uniqueness of the Site*. This criterion is a measure of the presence of rare or unique habitat types within a candidate site. This criterion recognizes the importance of emphasizing unique areas in the selection process, in addition to the representativeness of the candidate site in terms of ecosystem and habitat diversity. Unique habitat is defined here as a habitat type of "limited" known occurrence within the biogeographic region or sub-region. This criterion can be a simple "yes/no" question.

3 Points The site contains one or more "unique" habitat types within its boundaries.

0 Points The site contains no "unique" habitat types within its boundaries.

E. *Significant Faunal and Floral Support.* This is a measure of the degree to which a site supports significant faunal or floral components. This criterion focuses on a site's contribution (i.e., function) toward supporting the activities (e.g., feeding, nesting) of the following suite of significant faunal or floral components. The list of components includes groups or organisms that are known to be dependent upon estuarine habitats for the entire or a crucial part of their life cycle.

- Fish and Shellfish Spawning and Nursery Grounds (includes use by either freshwater, estuarine, or estuarine-dependent marine species)
- Migratory Bird or Waterfowl Use
- Bird Nesting or Roosting Area
- Critical Mammal Habitat
- Non-Game Animals (amphibians, reptiles, etc.)

- State or federally Listed Species (animal or plant – including candidate species)

3 Points The candidate site supports or serves as an important site for a wide range of the faunal or floral components listed above (4 of 6) or is an extremely important site for any threatened or endangered species.

2 Points The site supports or serves as an important site for a moderate range and diversity of the significant faunal or floral components listed above (3 of 6).

1 Point The site supports or serves as an important site for one or two of the significant faunal or floral components listed above.

0 Points The site does not support significant faunal or floral components.

F. *Site's Relationship to Its Tidally Influenced Drainage Basin*. This is a measure of relative proportion or juxtaposition of a site relative to the greater tidally influenced drainage basin to which it belongs. This factor assumes that, except for the deltaic portions of major river systems, most coastal drainage basins are relatively small, tidally influenced, coastal plain drainages, and that a site's "value" increases as a function of how much of the overall drainage basin is encompassed within its boundaries. Aerial photos and detailed topographic maps should be used for judging this criterion.

3 Points The site encompasses a relatively large percentage (greater than 75 percent) of the tidally influenced portion of the drainage basin to which it belongs.

2 Points The site is not large relative to the overall drainage basin (less than 75 but greater than 25 percent), but is situated either near the mouth or headwaters of the drainage basin.

1 Point The site is small relative to the overall drainage basin (less than 25 percent), but is situated either near the mouth or headwaters of the drainage basin.

0 Points The site is small relative to the overall drainage basin (less than 25 percent) and does not encompass either the mouth or headwaters of the drainage basin.

G. *Geologic Representativeness, Diversity, and Uniqueness of the Site.* This is a measure of the representativeness, diversity, and uniqueness of the geologic characteristics that define part or the whole of a candidate site. This criterion attempts to consider both the surface and subsurface geologic formations that may be representative or unique within a site, particularly as they affect or define associated biotic habitats. Included in these considerations are the ways that local geology affects surface hydrology, such as drainage systems, and subsurface hydrology, such as shallow-water aquifers. Geologic and hydrologic maps should be used to evaluate this criterion.

3 Points The site has numerous representative geologic characteristics, two or more unique geologic characteristics, and contains a high diversity of formation types or strata within its boundaries.

2 Points The site has a moderate number of representative geologic characteristics and at least one unique geologic characteristic, and contains a moderate diversity of formation types or strata within its boundaries.

1 Point The site has a moderate number of geologic characteristics, no unique geologic characteristics, or contains a moderate diversity of formation types or strata within its boundaries.

0 Points The site has few or only one representative geologic characteristics, no unique geologic characteristics, or contains few or only one formation type or strata within its boundaries.

H. *Salinity Gradient.* This is a measure of the range of salinity within a candidate site's boundaries. This criterion recognizes the effect of salinity on the biotic structure of estuarine habitats (including the plant communities and faunal components that inhabit them). It makes the assumption that a site with a greater range of salinity will support a broader range of habitat types and organisms.

3 Points The site encompasses a 25 parts per thousand (ppt) or greater *range* of salinity within its boundaries (e.g., 0-25 ppt, 5-30 ppt).

2 Points The site encompasses a 15-24 ppt range of salinity within its boundaries (e.g., 0-15 ppt, 5-25 ppt, 10-30 ppt).

1 Point The site encompasses a 6-14 ppt range of salinity within its boundaries (e.g., 0-8 ppt, 10-22 ppt, 25-32 ppt).

0 Points The site encompasses a 5 ppt or less range of salinity within its boundaries (e.g., 0-5 ppt, 8-10 ppt, 20-25 ppt).

I. *Degree Developed and Potential Impacts to Water Quality*. This is a measure of the degree to which the site and its surrounding area are developed and the relative impacts to surface waters from human activities. This criterion is based on the assumption that human impacts to a site are directly proportional to the degree of development. Exceptions to this assumption may need to be considered where development at a site and its surrounding area have been subject to high levels of control. Data on land use and water quality measurements from local, county, and state government agencies should be used to judge this criterion.

3 Points The site is relatively undisturbed and the watershed contains low intensity development (e.g., few residences, minimal agricultural or silvicultural activity) or the land is in protected status.

2 Points The site is relatively undisturbed and the watershed contains moderate development (e.g., relatively few residences, moderate agricultural or silvicultural activity, minimal commercial development).

1 Point The site has been moderately disturbed and the watershed contains relatively intensive development (e.g., moderate density of residences, or the presence of industrial activity).

0 Points The site has been extremely disturbed and the watershed contains very intensive development (e.g., high density residential, or commercial or industrial activity).

II. Value of the Site for Research, Monitoring, and Resource Protection

A. *Value of Site for Research*. This is a measure of the opportunities offered by characteristics of the site for research, such as a high diversity of ecosystem and habitat types, a balanced habitat composition, a wide salinity range, biotic or geologic representativeness of the site, known historic uses or archaeological sites, and unique opportunities to conduct applied research regarding important local, state, and regional coastal management issues (including past and potential management activities). The assumption is that a site with representative, unique, and highly diverse characteristics will provide greater research, monitoring, and resource protection opportunities than one lacking these characteristics. Ratings generated for these factors under previous selection criteria can be used as a guide for rating this overall factor.

3 Points The site has (1) a high diversity of ecosystem and habitat types, (2) moderate salinity range, (3) representative biotic and geologic sites or characteristics, (4) state and federally listed species, (5) historic and archaeological significance, and (6) opportunities to address important habitat or resource management issues.

2 Points The site has four or five of the six above.

1 Point The site has two or three of the six above.

0 Points The site has one or none of the six above.

B. *Previous Research and Monitoring Efforts*. This is a measure of the degree to which the site has been used for past research and monitoring, including considerations of the diversity of inquiry (fields of research), and the availability of data (the form and availability of documentation, e.g., peer-reviewed papers, grey literature, inventory reports). The assumption is that an area with previously established research and monitoring interest offers greater opportunity for future projects than an area that has not sparked such an interest in the past.

3 Points The site has a long history of well-documented research and monitoring projects in a wide variety of topics. Data are readily available.

2 Points The site has had major and well-documented research and monitoring efforts, generating data that are readily available. It has not had a long history of research and monitoring.

1 Point The site has had only minor research and monitoring projects generating limited data (e.g., inventories) that may be difficult to obtain.

0 Points The site has no known history of research and monitoring.

C. *Suitability of Site for Environmental Baseline Monitoring*. This is a measure of the suitability of the site as a reference area for assessing long-term resource trends or ecological characteristics, based on the degree to which the site has been altered by land-use practices on or near the site. The assumption is that a site that has relatively pristine land areas and waters will be a more valuable reference area to generate baseline monitoring information than a site that has been extensively altered.

3 Points The site has outstanding areas to generate environmental baseline data to assess long-term resource trends or ecological characteristics for a wide range of needs.

2 Points The site has adequate areas to generate environmental baseline data to assess long-term resource trends or ecological characteristics for many needs.

1 Point The site has marginal areas to generate environmental baseline data to assess long-term resource trends or ecological characteristics.

0 Points The site has been so extensively altered by past activities that it is unsuitable for generating environmental baseline data.

D. *Ability to Address Key Local, State, and Regional Coastal Management Issues*. This is a measure of the degree to which the site is appropriate for investigating issues relevant to coastal management at the local, state, and regional levels. Solutions to these issues may require either the application of land management practices or habitat manipulations in order to perform meaningful research and assessment. As such, the site should offer *both* adequate control areas plus areas where demonstration projects and habitat manipulations can be accommodated in order to study many of the issues of concern. The assumption is that a site where coastal management issues arise and can be addressed will be of greater value from a resource protection standpoint than sites where these issues do not arise. The significant issues should be identified for each region and may include the following:

- Wetlands development
- Wetlands mitigation, restoration, creation
- Dredging and spoil disposal
- Beneficial uses of dredged materials
- Shoreline erosion
- Commercial or recreational fisheries
- Waterfowl and other wildlife management
- Best management practices for habitat protection or management (e.g., fire management)
- Best management practices to limit impacts from agricultural, silvicultural, or development activities
- Best methods to control pestiferous insects or undesirable vegetation
- Effects of pollutants on water quality and living resources
- Impacts of sea-level rise
- Prehistoric and early historic settlement and land use

3 Points The site is highly appropriate for investigating coastal zone management issues.

2 Points The site is appropriate for investigating coastal zone management issues.

1 Point The site is minimally appropriate for investigating coastal zone management issues.

0 Points The site is not appropriate for investigating coastal zone management issues.

III. Suitability of the Site for Training, Education, and Interpretation

A. *Diversity and Quality of Training, Education, and Interpretation Opportunities.* This is a measure of the variety and quality of training, education, and interpretation opportunities (i.e., ecological, archaeological, cultural, historical, etc.) provided by the site for the different target audiences. The assumption is that a candidate site with a diversity of such opportunities of high quality will be utilized to a greater extent than one with fewer opportunities.

3 Points The site has numerous different training, education, and interpretation opportunities of high quality.

2 Points The site has several significantly different educational opportunities of good quality.

1 Point The site has few significant educational opportunities.

0 Points The site has insignificant educational opportunities.

B. *Diversity and Availability of Target Audiences.* This is a measure of the diversity and availability of target audiences (e.g., user groups, resource managers, residents, environmental groups, decision makers, teachers and students, the general public) which may routinely utilize the site for training, education, and interpretation. The assumption is that a candidate site with a variety of available target audiences will be utilized to a greater extent than one with fewer target audiences.

3 Points The site is suitable for a variety of target audiences that are readily available.

2 Points The site is suitable for a moderate number of target audiences that are readily available.

1 Point The site is suitable for few target audiences that are available.

0 Points The site is so remote or inaccessible that it is not suitable for any target audience.

IV. Acquisition and Management Considerations

Acquisition, Facilities, and Proximity

A. *Land Ownership*. This is a measure of the degree to which the property is divided (e.g., divided into only a few parcels or owned by many individuals). The assumption is that a candidate site with fewer property owners will be easier to acquire or control.

3 Points The property is relatively undivided.

2 Points The property is divided with few property owners.

1 Point The property is divided with many property owners.

B. *Publicly Owned Lands and Feasibility of Land Acquisition.* This is a measure of the degree to which the land within the site is currently owned by the state, federal government, or local governments, or environmental interest groups, and the degree to which there is interest in donating or selling property by its owners. The assumption is that the degree of control needed to maintain the site in relatively

pristine conditions increases with publicly owned land and lands controlled by environmental groups, and that the chances of purchasing additional areas increase with private property owners who are willing to sell.

3 Points A large percentage (more than 50 percent) of the candidate site is currently owned by the state, federal, or local governments, or environmental groups, and these entities have an interest in participating in a research reserve.

2 Points State, federal, or local governments, or environmental groups own 25 to 50 percent of the candidate site with the remainder in the hands of a few owners who have an interest in participating in a research reserve.

1 Point State, federal, or local governments or environmental groups own less than 25 percent of the site with the remainder in the hands of a few owners who have an interest in participating in a research reserve.

0 Points The site is owned by a large number of owners with little potential interest in sale or donation.

C. *Availability of Facilities*. The degree to which there are existing facilities or potential sites for future facilities that can be used by staff, researchers, classes, and training groups (e.g., administrative building space, dormitories, labs, interpretive centers, trails and boardwalks, boat ramps, etc.). The assumption is that, due to limited reserve construction funds, a candidate site with existing facilities can meet the objectives of the Reserve System program sooner and more completely than a site without existing facilities. The availability of other sources of construction funds should be considered as part of this criterion.

3 Points The site has established structures and facilities that can be used for reserve activities.

2 Points The site has limited established structures or facilities that can be used for reserve activities.

1 Point The site has excellent potential for the development of facilities for reserve activities.

0 Points The site has limited potential for the development facilities for reserve activities.

D. *Proximity and Accessibility of Site to Researchers, Educators, and Resource Management Decision Makers.* This is a measure of (1) the relative proximity of the site to urban centers, K-12 schools, research and education institutions, and resource management agencies that may routinely utilize the site and (2) the adequacy of the roads or points for boat access at the site. The underlying assumption is that the proximity and accessibility of the site will enhance its utilization for education, research, monitoring, and resource protection purposes.

3 Points The candidate site can be utilized by the above-listed entities during a single day trip. There are good roads or points for boat access at the site.

2 Points The candidate site is relatively isolated and utilization would require an overnight stay from any of the above-listed entities, but accommodations are readily available. There are adequate roads or points for boat access at the site.

1 Point The candidate site is relatively isolated and reasonable accommodations for an overnight stay to utilize the site are limited. There are limited roads or points for boat access at the site.

0 Points The candidate site is extremely isolated and accommodations to utilize the site are not available. There are inadequate or no roads, or points for boat access at the site.

Management Considerations

E. *Controlled Land and Water Access*. This is a measure of the degree to which land and water access to the candidate site can be controlled and limited. It is based on size, geography, proximity to adjacent development, and historical controls. The assumption is that the integrity and security of a potential reserve site can be better maintained with a higher level of controlled land and water access.

3 Points The candidate site is relatively isolated and of a size that can be controlled. Historically, access has been controlled, and can easily be controlled in the future due to the presence of limited access points by boat or vehicle.

2 Points The candidate site is not very isolated, but has a limited number of access points. Historically, site access has not been controlled, but the site is of a size that it can be controlled in the future.

1 Point Site access will be difficult to control due to the large number of access points or the size of the area. Historically, site access has not been controlled and it is unclear whether it can be controlled in the future.

0 Points Site access cannot be controlled due to the large number of access points, lack of historical controls, the size of the area, or dense adjacent development.

F. *Compatibility with Existing Management Practices and Consumptive and Non-Consumptive Uses*. This is a measure of the degree to which existing management practices (e.g., habitat manipulations, best management practices) and historic and current consumptive and non-consumptive uses might be in conflict with foreseeable management practices implemented under a research reserve program. The assumption is that sites with fewer conflicts are more likely to maintain both public support and the integrity of the site.

NOTE: This factor should be measured in light of special circumstances (such as the presence of unique habitats or of listed species) that might cause the state to limit what is now unlimited use or practices by groups or individuals and, in the process, cause some conflict in regard to designation of a reserve site. It should be measured with an eye toward balancing protection of critical sites or resources against reasonable access to other parts of the site.

3 Points Existing management practices and consumptive and non-consumptive uses would not be in conflict with any foreseeable management policy of a research reserve.

2 Points Due to the presence of proportionately small areas of unique habitat and endangered species or threats to the integrity of the ecosystem, there is the potential for limited restrictions on existing management practices or consumptive and non-consumptive

uses of a site.

1 Point — Due to the presence of areas of unique habitat and endangered species and threats to the integrity of the ecosystem, some restrictions on existing management practices or consumptive and non-consumptive uses of a site are likely.

0 Points — Large areas of unique habitat and threats to the integrity of the ecosystem will require restrictions on existing management practices or consumptive and non-consumptive uses of a site.

G. *Compatibility with Adjacent Land Use*. This is a measure of the potential conflicts between management practices on a research reserve site with land-use practices on adjacent lands. It is also a measure of the adequacy of land-use regulations, plans, or other controls to sustain the site's resources for long-term research, education, and resource protection. The assumption is that a candidate site with compatible land-use practices on adjacent lands is more likely to maintain the integrity of the reserve.

NOTE: As with the previous factor, this issue should be evaluated with an eye toward the potential for present or future conflicts with adjacent lands and the potential to designate buffer zones around a site.

3 Points — A large percentage of the land adjacent to the site is not currently used for activities that might impact the site (and therefore, may be obtainable as a buffer) or the land-use practices on adjacent lands would not have any negative impacts on a possible research reserve.

2 Points — A large to moderate percentage of the land adjacent to the site is not currently used for activities that might negatively impact the site, or the land-use practices on adjacent lands either could be negotiated or would have only minor impacts a possible research reserve.

1 Point — Some of the land adjacent to the site is currently used for activities that would have negative impacts on a possible research reserve and may not be negotiable.

0 Points — A large percentage of the land adjacent to the site is currently used for activities that would have negative impacts on a possible research reserve and would lead to conflicts.

H. *Future Development Plans*. This is a measure of the potential level of future development in areas on or adjacent to a candidate site that would impact the site. The assumption is that a candidate site with minimal to no development plans on-site and on adjacent lands is more likely to maintain the integrity of the reserve.

NOTE: Even more so than the previous factor, this issue involves the degree to which adjacent lands are currently being used or may be attainable as buffer areas for the research reserve.

3 Points — A large percentage (more than 50 percent) of the land adjacent to the site is currently undeveloped or is, for whatever reason, very unlikely to be developed in the near future (e.g., consisting of marginally developable property, such as wetlands, which could be obtained as buffer).

2 Points A moderate percentage (between 25 and 50 percent) of the land adjacent to the site is currently undeveloped or is not likely to be developed in the near future.

1 Point A small to moderate percentage (10 to 25 percent) of the land adjacent to the site is currently undeveloped or is not likely to be developed in the near future, with limited levels of development on other lands.

0 Points A large percentage (more than 50 percent) of the land adjacent to the site is developed and the area is likely to continue to be developed in the future.

V. Natural Resource and Build Infrastructure Resilience to Climate Change Impacts

Natural Resources

A changing climate is resulting in a variety of impacts that differ based on geography and conditions within geography. Reserves are designated as 'representative estuarine ecosystems' for 'long-term protection … to ensure a stable environment for research.' (15 CFR 921.1) Planning for the impacts of climate change and other anthropogenic or natural perturbations is imperative to ensure these systems can remain representative estuaries within their biogeographic region.

A. *Preservation of key ecological functions and services.* This criterion focuses on the ecosystem's ability to be resilient, to be able to 'absorb impacts without significant changes in condition or functioning' (NOAA's Next Generation Strategic Plan, 2010). This includes the capability of the system to respond and recover from significant threats with minimum damage and the ability to maintain ecological function, integrity of the ecological unit and provide ecosystem services.

3 Points Ecosystem is resilient and adaptable under high impact climate change scenarios given current understanding of vulnerability.

2 Points Ecosystem is resilient and adaptable under medium impact climate change stressor/threat scenarios.

1 Point Ecosystem is unlikely to be resilient and adaptable under medium/low climate change stressor/threat scenarios.

0 Points Ecosystem is vulnerable and not resilient under any climate change scenarios.

B. *Ability to accommodate habitat shifts*. This criterion focuses on the ability to accommodate shifts in habitat as sea level, inundation or other climate induced change occurs. Is there sufficient ability of the system to accommodate these shifts and is there an ability to acquire land further up the watershed to allow for maintenance of an ecological unit. This includes consideration for boundary expansion.

3 Points Reserve boundary allows for habitat migration and several areas adjacent to the boundary provide an option for expansion to accommodate habitat shifts and boundary expansion.

2 Points Reserve boundary allows for some habitat migration and some areas adjacent to the boundary provide an option for expansion to accommodate habitat shifts and boundary expansion.

1 Point Reserve boundary allows for little habitat migration and little to no areas adjacent to the boundary provides an option for expansion to accommodate habitat shifts and boundary expansion.

0 Points Reserve boundary does not allow for habitat migration and there are no areas adjacent to the boundary that provides an option for expansion to accommodate habitat shifts and boundary expansion.

Infrastructure and Access

A changing climate is resulting in a variety of impacts that differ based on geography and conditions within geography. Reserves are designated to ensure a stable platform for research, address significant coastal management issues, enhance public awareness and understanding and promote use of the reserves consistent with the purposes outlined. Access to infrastructure that supports these purposes is key to achieving the mission of the reserve system.

C. *Facility Resilience*. This criterion focuses on the expected vulnerability of existing facilities (including visitor centers, labs, storage facilities) proposed for use by the reserve to remain viable and accessible taking into account the most relevant climate change stressors in the locale. This accounts for adaptive strategies that are and/or may be in place to mitigate anticipated stressors.

3 Points Facility (ies) resilient and adaptable under high impact climate change scenarios given current understanding of vulnerability.

2 Points Facilities resilient and adaptable under medium impact climate change stressor/threat scenarios.

1 Point Facilities unlikely to be resilient and adaptable under medium/low impact climate change stressor/threat scenarios.

0 Points Facilities vulnerable and not resilient under any climate change scenarios.

D. *Public Access Resilience*. This criterion focuses on the ability to access the resources of the reserve. This includes access to water via docks and boat launches; access to interpretive and educational experiences via trails, pavilions, amphitheaters, as well as access to existing recreational and professional opportunities in the resource.

3 Points Public access infrastructure is resilient and adaptable under high impact climate change scenarios given current understanding of vulnerability.

2 Points Public access infrastructure resilient and adaptable under medium impact climate change stressor/threat scenarios.

1 Point Public access infrastructure unlikely to be resilient and adaptable under medium/low impact climate change stressor/threat scenarios.

0 Points Public access infrastructure vulnerable and not resilient under any climate change scenarios.

VI. Partnership Building

Partnerships should be relevant and aid the program in achieving their goals, reaching target audiences, and developing and delivering key messages. They increase the resilience of the reserve and its ability to work with the local community to address climate change and impacts from other important stressors. Partnerships can increase the ability to address research needs and gaps, reach education and public engagement goals, and provide access to facilities and field opportunities. Institutional partnerships can also provide administrative services, support leveraging of resources, and reduce program costs. These organizations or third parties can also assist with fund-raising, grant development and management, and management of program income (ex. Friends Groups and NERRA). The strength of the reserve's partnerships and potential for partnerships will be evaluated based on the following:

A. *Potential to develop partnerships*. This criterion focuses on the site's ability to create new partnerships and strengthen existing partnerships in order to achieve their goals, reach target audiences, develop and deliver key messages, and address relevant coastal management issues. This can be demonstrated by potential partner interest, geography, etc. with a focus on the outcomes of the partnership, not the number or name of organizations. This will be measured by the following metrics:

- Existing MOUs or agreements explaining shared resources such as facilities and salaries
- Memberships of key individuals to professional organizations such as National Marine Educators Association, Society of Wetland Scientists, other state professional organizations, research organizations, local or regional consortiums, etc.
- Recent history of key personnel participation in multi-institutional grants, publications, and projects
- Letters from existing informal partners about past projects, their outcomes, and organizational structure
- Letters from potential partners focusing on how the partner could complement or contribute to the reserve goals. This letter should include information such as historical context for partnership and their vision for contributing to the reserve mission.

3 Points	The candidate site has strong potential to develop and strengthen new and existing partnerships of high quality evidenced by metrics stated above.
2 Points	The candidate site has potential for new partnerships of good quality to develop.
1 Point	The candidate site has potential for partnership development.
0 Points	The candidate site has insignificant potential for partnerships.

B. *Internal NOAA Partnerships*. This is a measure of the number and quality of partnerships with other NOAA entities that already exist within a program or that have the potential to develop based on common goals, geographic proximity, etc. The assumption is that a candidate site with a high diversity of existing partnerships and partnership potential will have opportunities to leverage support and create sustainable programs more so than one with fewer partnerships. Some examples include Sea Grant, Coastal Programs, Marine Sanctuaries, Weather Service, Climate Office and other line offices of NOAA. This will be measured by the following metrics:

- Existing MOUs or agreements explaining shared resources such as facilities and salaries
- Recent history of key personnel participation in grants, publications, and projects with NOAA

3 Points	The candidate site has a history of NOAA partnerships and there is strong potential to

develop and strengthen new and existing ones of high quality evidenced by the metrics stated above.

2 Points The candidate site has several partnerships in place and there is potential for new partnerships of good quality to develop.

1 Point The candidate site has potential for partnership development.

0 Points The candidate site has insignificant potential for partnerships.

C. *Diversity of Partnerships*. This is a measure of the ability to reach diverse audiences through existing partnerships or potential partnerships based on common goals and geographic proximity. The assumption is that a candidate site with a high diversity of existing partnerships and partnership potential will have opportunities to leverage support and create sustainable programs more so than one with fewer partnerships. These partnerships should increase the candidate site's ability to address relevant coastal management issues, address research needs and gaps, and reach diverse audiences. These partner organizations should range in diversity such as federal agencies (ex. National Estuary Programs, National Wildlife Refuges, National Parks), state agencies and parks, local organizations (Marine Labs and Land Trusts), NGOs, and umbrella groups (national, regional or local). These partnerships should help bridge the gap between the NERRS and new audiences that the NERRS has not typically engaged (e.g. urban audiences) or that could help the NERRS become more effective at reaching intended audiences (e.g. national municipal association to facilitate reaching local officials). The focus of these partnerships should be the outcomes, not the number or name of organizations. This will be measured by the following metrics:

- Existing MOUs or agreements explaining shared resources such as facilities and salaries
- Recent history of key personnel participation in multi-institutional grants, publications, projects
- Letters from existing informal partners about past projects, outcomes, and organizational structure
- Letters from potential partners focusing on how the partner could complement or contribute to the reserve goals. This letter should include historical context and vision for partnership contributing to the reserve mission.

3 Points The candidate site has many diverse partnerships and there is strong potential to develop and strengthen new and existing ones of high quality evidenced by metrics stated above.

2 Points The candidate site has several diverse partnerships in place and there is potential for new partnerships of good quality to develop.

1 Point The candidate site has potential for partnership development.

0 Points The candidate site has insignificant potential for partnerships.

VII. Institutional Commitment

Strong institutional commitment from a state or university partner often can provide valuable resources and services for reserve operation and success. This can be a helpful criterion to consider during the

nomination and designation process. These commitments can take various forms including real dollars and in-kind services and can help meet cost share requirements. Institutional commitment can be a good indicator of program success and sustainability.

A. *Financial Support*. This sub-criterion focuses on the direct financial support a state or university partner will commit to the reserve. Partners can provide salary support for reserve staff, shared positions, a reduction in overhead costs, and the engagement of volunteers in reserve programs and activities that can be quantified and used as match funding.

3 Points	Institutional commitment of financial support for personnel and funding (i.e., reduced overhead or volunteer hour match funding) will enhance reserve capacity.
2 Points	Institutional commitment of financial support for personnel and funding will enhance reserve capacity moderately.
1 Point	Institutional commitment of financial support is minimal and will do little to enhance reserve capacity.
0 Points	Institutional commitment of financial support is non-existent.

B*. In-kind Services*. This sub-criterion focuses on the in-kind services to which state and university partners or third parties (e.g., Friends Groups, NERRA) often can commit. Support for facilities (e.g., infrastructure, equipment, vehicles) includes maintenance and repair and access to field and laboratory capabilities including coastal research laboratories and sampling platforms (i.e., boats, buoys and labs). Support for administrative services can also be provided, such as personnel support, lab services, grant preparation and management, management of program income, reduced program costs, and fund-raising.

3 Points	Institutional commitment of in kind services that include each of the following: facilities, personnel, grant administration. Third party support is established or probable and fills a need not provided by the partner.
2 Points	Institutional commitment of in kind services that include support or services in two of the following: facilities, personnel, grant administration. Third party support is possible and fills a need not provided by the partner.
1 Point	Institutional commitment of in kind services is minimal and limited to one or two of the following: facilities, personnel, grant administration. Third party support is unlikely or minimal.
0 Points	Institutional commitment of in kind services is non-existent.

VII. Additional State Criteria (Optional and Process Specific)

In many cases, the state's site-selection-related committees and teams have added additional site-selection criteria that reflect specific and unique state or regional characteristics or management considerations. Any additional state developed criteria must be approved by NOAA as part of the suite of site-selection criteria that will be applied to the process of determining a possible site for nomination as

a research reserve. Some examples of criteria developed by other states are provided below:

A. *Coastal Resilience Research*. This consideration is important for the reserve site in order to be able to assess climate and coastal change impacts on the area.

3 Points The site's ecological resources will be affected by climate change impacts including erosion, sea-level rise, etc., and these impacts will be able to be well-documented.

2 Points The site's ecological resources will be affected by climate change impacts including erosion, sea-level rise, etc., and these impacts may be able to be documented.

1 Point The site's ecological resources will be affected by climate change impacts including erosion, sea-level rise, etc., and these impacts will probably not be able to be documented.

B. *Natural Community Diversity*. This is a measure of the diversity of representative natural community types present within the boundaries of the site (see criterion 1A for a list of representative natural community types in the Superior Coastal Plain Ecological Landscape). This criterion is based on the assumption that sites that have a high diversity of representative natural community types are of higher relative "value" for protection and management than those with a low diversity of representative natural community types. Evaluation of this criterion will rely on the best professional judgment of Site-Selection Technical Team members and potential supplemental analysis using aerial photography, topographic maps, National Hydrography dataset, and other existing resources.

3 Points The candidate site has a high number of representative natural communities present, i.e., it is in the top-quarter when the candidate sites are evaluated on the number of natural communities present.

2 Points The site has a moderate number of representative natural communities present, i.e., it is in the top-half when the candidate sites are evaluated on the number of natural communities present.

1 Point The site has a low number of representative natural communities present, i.e., it is in the bottom half when the candidate sites are evaluated on the number of natural communities present.

0 Points The site has a very low number of representative natural communities present, i.e., it is in the bottom quarter when the candidate sites are evaluated on the number of natural communities present.

C. *Extent of Lake Superior Intrusion and Seiche Influence*. This criterion recognizes the importance of Great Lakes water intrusion and seiche influence to freshwater estuary structure and function. The criterion assumes that sites with observable, frequent Lake Superior intrusion and seiche influence will best demonstrate the associated physicochemical gradients (e.g., specific conductivity, turbidity, and temperature) that are intrinsic to freshwater estuaries. Evaluation of this criterion will rely on the best professional judgment of Site-Selection Technical Team members, and, when possible, will be supported through a review of existing sources of information.

3 Points The site has significant Lake Superior intrusion and seiche influence.

2 Points The site has moderate Lake Superior intrusion and seiche influence.

1 Point The site has minimal Lake Superior intrusion and seiche influence.

0 Points The site has no Lake Superior intrusion and seiche influence.

D. *Value of Site for Environmental Education and Interpretation Programs*. It is likely that sites with existing education programs have the necessary infrastructure in place to further expand their programs, thus it is valuable to rate sites based on the presence of these programs. However, in an area as large and relatively pristine as the Lake Superior shoreline, numerous excellent sites exist where virtually no education or interpretation programs have been developed. Thus, the potential for education and interpretation program development should be considered as well according to the diversity and quality of educational and interpretive program opportunities.

3 Points The site has a long history of education and interpretation, or the site offers excellent potential for future education and interpretation program development.

2 Points The site has a good but short history of education and interpretation, but is otherwise well suited for education and interpretation program development, or the site offers good potential for future education and interpretation program development.

1 Point The site has had only a minor amount of education and interpretation being conducted, or the site offers fair potential for future education and interpretation program development.

0 Points The site offers no significant potential for education and interpretation program development.

E. *Drainage Basin and Freshwater Inflow Interface*. In Western Gulf of Mexico estuaries, a critical physical factor in ecosystem function is the presence and amount of riverine influence. Thus, it is imperative that a site encompass a river, stream, bayou, or deltaic network of features with sources of freshwater inflow from adjacent drainage basins.

3 Points The site has significant freshwater inflow.

0 Points The site does not have significant freshwater inflow.

E. Overall Site-Selection Process and Nomination

Once NOAA determines that it can accept a new nomination submission, the lead agency may submit an application to NOAA for site-selection funding (50:50 match requirement). A state is eligible for a total of $100,000 in federal funds for pre-designation activities, which include site selection, preparation of the draft environmental impact statement and draft management plan, and final statement and plan, and a limited basic characterization of the physical, chemical, and biological characteristics of the site. It is recommended that the preliminary application for the site-selection phase request $25,000 to $40,000.

The previously detailed set of site-selection criteria is a model for states that plan to propose new sites for the National Estuarine Research Reserve System. A state may choose to modify them in consultation with the Office for Coastal Management to reflect regional differences in the ecological characteristics of the habitats to be considered. In addition, the relative "values" placed upon the criteria can be modified as appropriate.

The governor submits to the NOAA administrator a site-selection document and a nomination letter identifying the proposed site and confirming the lead state agency. NOAA reviews the site-selection document and sends a letter to the governor accepting, rejecting, or suggesting modifications to the nomination.

The nomination must identify the site-selection agency, the potential managing agency, and a proposed site-selection process that incorporates public participation. Steps for selecting a site include the following:

- The state develops a process for selecting a site that includes site-selection criteria, and implements the process. NOAA recommends that the state establish a site-selection committee composed of key interested individuals (e.g., scientists, educators, resource managers, nongovernmental organizations) for this purpose.
- The site-selection process should cover the entire biogeographic sub-region within the state and then narrow down the options. A site must contribute to the biogeographic and typological balance of the National Estuarine Research Reserve System, and be adequately protected for long-term research, education, and stewardship.
- Contacts must be made with affected landowners, potentially affected adjacent resource users, local governments, and state and federal agencies.
- The state, in conjunction with NOAA, holds a public meeting in the vicinity of the site or sites being considered. The meeting must be publicized in a local newspaper and in the *Federal Register* at least 15 days before being held.
- The state normally submits preliminary and final site-selection documents. NOAA may request additional information or suggest changes to the nomination.

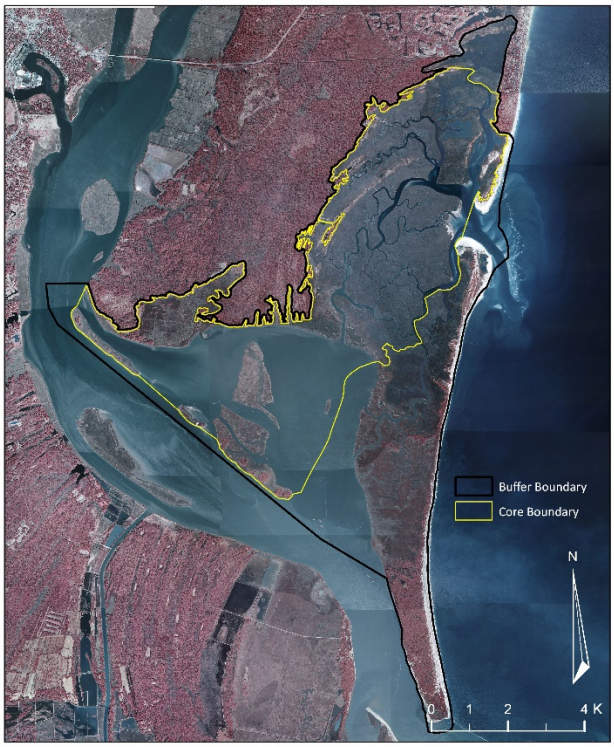
5. Boundary Delineation

A. Introduction to Boundary Delineation

NOAA has identified 11 distinct biogeographic regions and 29 sub-regions in the U.S., each of which contains several types of estuarine ecosystems (15 C.F.R. Part 921, Appendix I and II). As of 2017, the system includes 29 reserves and three state in the process of designating a reserve.

Reserve boundaries will vary depending on the nature of the ecosystem. Boundaries must include an adequate portion of the key land and water areas of the natural system to approximate an ecological unit and to ensure effective conservation.

Criteria for setting boundaries are contained in Reserve System regulations (Title 15 of the *Code of Federal Regulations* Part 921, Section 921.11). The main factor in delineating reserve boundaries is a determination that the site's boundaries "*encompass an adequate portion of the **key land and water areas** of the natural system to approximate an ecological unit and to assure effective conservation*." The regulations intend that environmental and scientific factors be given primary consideration in the initial delineation of proposed boundaries.



North Inlet-Winyah Bay National Estuarine Research Reserve Boundaries

North Inlet-Winyah Bay National Estuarine Research Reserve

Once a site is selected by a state, the delineation of proposed boundaries is the next important step before approval of the site by NOAA. The establishment of final boundaries is a difficult process that requires consideration of many factors, environmental and administrative. Boundary size will vary greatly depending on the size of the ecosystem.

A balance must be sought in determining the overall size of a reserve between encompassing enough area to include an ecosystem large enough to make long-term estuarine research viable, and having a discrete contiguous area that can be effectively managed. The reserve boundary must provide protection for the ecosystem but may not be arbitrary (i.e., based on the availability of property nearby which may be available for purchase). This is, in part, an effort to ensure that property interests purchased in an effort to establish adequate state control of a reserve are actually required for the integrity of the reserve.

National Estuarine Research Reserves may include existing federal or state lands already in a protected status where mutual benefit can be enhanced. Limits do apply, however, to the extent of federal lands that can be included in a reserve. NOAA will not approve a site that is dependent primarily upon the inclusion of federal lands in order to meet the requirements for reserve status (such as key land and water areas). Generally, federal lands included within a reserve should serve as a buffer or for other ancillary purposes; and may be included, subject to NOAA approval, as a limited portion of the core area.

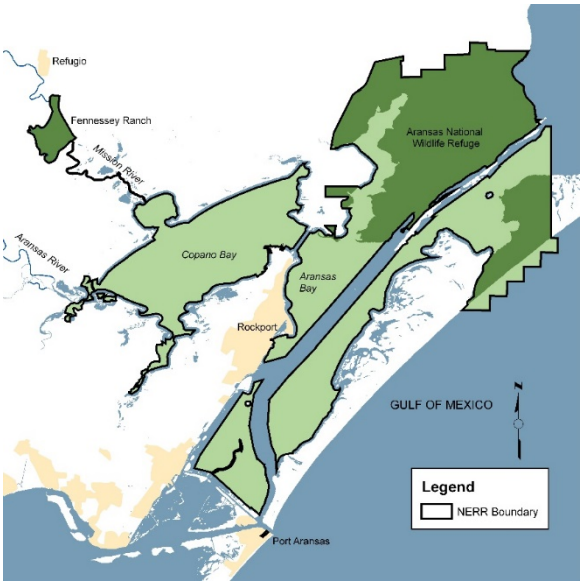
B. General Principles

Boundaries of reserves connote some degree of control by the managing entity over human activities and the natural resources occurring within the reserve. Generally, reserve boundaries will include two areas: key land and water areas, or a "core" area, and a buffer zone. Control on the landward side may involve direct ownership or jurisdiction by the agency that manages the core area; it may also mean control exercised by administrative action, easements, or by other means. Federal and state lands contiguous with the reserve may be included within the boundaries only after formal agreements approved by NOAA have been established through proper administrative or legal measures.

C. Basic Scientific Principles for Establishing Reserve Boundaries

- Reserve boundaries are proposed by the lead state agency through a site-nomination document for consideration by NOAA. It is preferable that boundaries include contiguous land and water areas that are essential to the reserve, i.e., to establish a natural field laboratory capable of supporting Reserve System long-term research, stewardship, and educational objectives.

- Boundaries should encompass an entire ecological unit (habitats and communities), including adjacent terrestrial areas, especially watersheds and drainage areas. However, protecting a whole watershed will, in most cases, be extraordinarily difficult and prohibitive in cost. The solution is to establish and protect a core area incorporating the critical portions of the estuarine ecosystem.



- Key land and water areas make up a core area to preserve, for research purposes, a full range of significant physical, chemical, and biological factors contributing to the diversity of fauna, flora, and natural processes occurring within the estuary.

- The determination of which water and land areas are "key" to a particular reserve must be based upon specific scientific knowledge of the area. A basic principle to follow when deciding upon key land and water areas is that they should encompass resources that are representative of the total ecosystem and which, if compromised, could endanger the research objectives of the reserve.

- An area adjacent to or surrounding the core, and on which the integrity of the core area depends, is the buffer zone. Buffer zones protect the core and provide additional protection for estuarine-dependent species. The buffer zone may also include an area best suited for facilities required for research and interpretation. Additionally, buffers must encompass an area sufficient to accommodate the shift of the core in case of biological, ecological, or geomorphologic change.

- Buffers are usually of the same biome as the core and may accommodate NOAA-approved manipulative research that should not be carried out in the core. They may encompass wetlands

not in the core area, ecotones, and upstream effects where practical, as well as shoreland and contiguous ocean or bay water.

- Determination of the landward boundary of a reserve is difficult because of transitional zones, the slope of the upland, the size of the estuary, and other factors. At a minimum, the landward boundary should encompass wetlands that contribute to estuarine processes. Wetlands may be defined in terms of vegetation, and the upland limit of wetlands can be defined accordingly. There is generally a transitional zone (ecotone) in which vegetative types from two or more ecological groups mix together. Ecotones combine the characteristics of the communities they join and often have an unusually high abundance and diversity of life and serve a unique function to the ecosystem. The emergence of upland vegetation will indicate in general terms where the landward boundary of a reserve should be drawn. However, how much, if any, of the uplands are included in the proposed boundary must be determined on the basis of scientific judgment and not property lines or the availability of land for acquisition.

- Estuarine resources do not necessarily end at the shoreline, but may include adjacent open water areas.

D. Recommended General Procedure for Proposed Boundary Delineation

I. Conduct a scientific survey of the proposed site

*Identify proposed **land boundaries***

- ✓ Vegetation types
- ✓ Landform/physical (natural or man-made)
- ✓ Land uses
- ✓ Estuarine-dependent physical processes, biological components, or combination

*Identify proposed **water boundaries***

- ✓ Natural delineation between discrete or separable landforms
- ✓ Natural delineation between discrete or separable water bodies or portions of the same water body.

II. Identify key land and water areas (Core Area)

- ✓ Within boundaries established by a scientific survey (see I above), identify, and rank in order of their importance, the most important ecological units of the proposed area, i.e., those units most important to the integrity of the area and its resources. (Refer to the list of basic principles listed in this sub-section C.)
- ✓ Consider the following when ranking:
  - ❖ Why are these units important?
  - ❖ What is the minimum land and water area needed to protect these highest priority ecological units?

III. Identify buffer areas

- ✓ Within the boundary established for the scientific survey (see I above) and in consideration of the core area identified in II, identify the minimum buffer area required to
  - ❖ Ensure the long-term viability of the core area for research purposes, and
  - ❖ Provide sites for needed research or educational support facilities and infrastructure (i.e., trails, boardwalks, boat launches).

Note that core and buffer areas "will likely require significantly different levels of control (see Reserve System Regulations Sec. 921.13(a) (7))." Key aspects of core and buffer areas are listed in the table 4 below.

Table 4. Core and Buffer Zones of a Research Reserve

CORE	BUFFER
For national estuarine research reserves, the term "core area" refers to key land and water areas.	The term "buffer zone" refers to an area adjacent to or surrounding key land and water areas and essential to their integrity.
The term "key land and water areas" refers to that core area within the reserve that is so vital to the functioning of the estuarine ecosystem that it must be under a level of control sufficient to ensure the long-term viability of the reserve for research on natural processes.	Buffer zones protect the core area and provide additional protection for estuarine-dependent species, including those that are rare or endangered.
Those ecological units of a natural estuarine system which preserve, for research purposes, a full range of significant physical, chemical, and biological factors contributing to the diversity of fauna, flora, and natural processes occurring within the estuary.	When determined appropriate by the state and approved by NOAA, the buffer zone may also include areas necessary for facilities required for research and interpretation.
The determination of which land and water areas are "key" to a particular reserve must be based on specific scientific knowledge of the area. A basic principle to follow when deciding upon key land and water areas is that they should encompass resources representative of the total ecosystem, and which if compromised could endanger the research objectives of the reserve.	Additionally, buffer zones should be established sufficient to accommodate shifts of the core area because of biological, ecological, or geomorphological change that reasonably could be expected to occur.

E. Multi-Component Reserves

A multi-component reserve has two or more noncontiguous protected areas, or components, that are under the managerial jurisdiction of the reserve. Multiple components are appropriate when a state has a complex coast that makes it impossible for a single component to represent the habitat diversity in a biogeographic region. They should not be considered solely as a means for increasing protected land within a state.

A multi-component reserve as shown in Figure 9 is "treated as one reserve in terms of financial

assistance and development of an overall management framework and plan" (Reserve System regulations, §921.10b). It is subject to the same funding limits as single-component reserves, and it must function as one unit and not as individual "mini" reserves. When reviewing a multi-component site considered by the lead state agency, NOAA will look for strong administrative, educational, research, and monitoring plans that establish an identity for the reserve and the national system. A state may choose to develop a multi-component reserve at any time during designation or operation of the reserve. The number of components is not limited, but the benefit of additional components must be balanced against increased management responsibility and program dilution. NOAA and the lead state agency will determine the feasibility of planned components with each reserve on a case-by-case basis. Since 2000, lead state agencies have considered multi-component reserves but not pursued this option because of the prohibitive operational costs and coordination needs involved in managing this type of reserve.

Figure 9. North Carolina Research Reserve – Multi Components

6. Developing an Environmental Impact Statement and Reserve Management Plan

A. Introduction

The development of an environmental impact statement and reserve management plan is the most comprehensive and time-intensive part of a reserve designation process. According to Reserve System regulations §921.12, upon NOAA approval of the site nomination, the state and NOAA must develop a draft management plan and prepare a draft environmental impact statement. Reserve System regulations clearly define the roles of NOAA and the state partner in this process.

- ✓ NOAA is the primary lead in developing the draft environmental impact statement to meet its NEPA obligations. And the lead state partner supports NOAA's preparation of the draft environmental impact statement by collecting relevant information and providing it to NOAA.
- ✓ The lead state partner is the primary lead for developing a draft management plan, including the drafting of a NOAA–state MOU and any additional MOUs between state partners. NOAA provides guidance to assist in the development of the management plan and MOUs.

The lead state partner and NOAA should begin to prepare a draft environmental impact statement and draft management plan immediately following the approval of the notice of intent to prepare those documents. The basic milestones in the development of the draft statement and plan are shown in Figure 10.

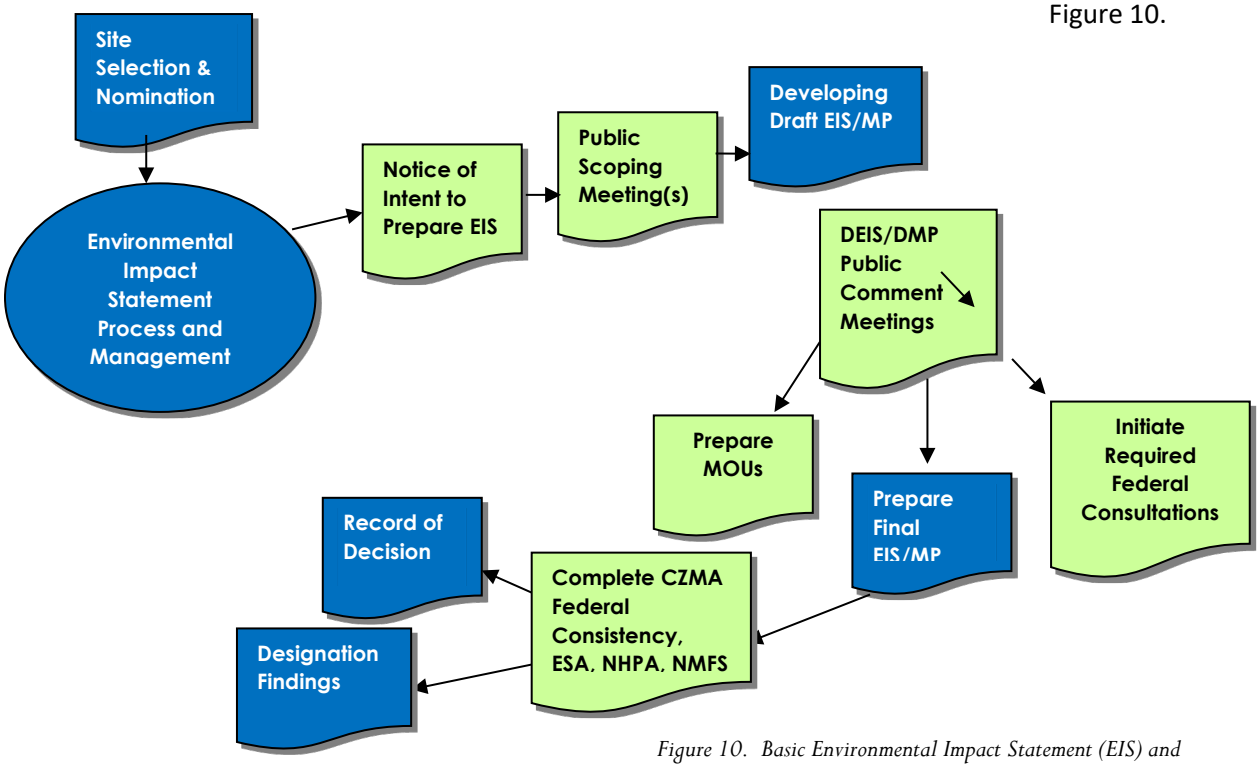


Figure 10. Basic Environmental Impact Statement (EIS) and Management Plan (MP) Development Processes, 2017

B. NEPA Process

The National Environmental Policy Act of 1969, as amended, requires that federal agencies consider the environmental impacts of major federal actions. The designation of a reserve is considered a major federal action and requires a NEPA review before NOAA can officially designate a reserve. As required by National Estuarine Research Reserve System regulations (§ 921.13), an environmental impact statement and management plan must be developed to assess the possible environmental impacts of the proposed designation and to identify future management strategies if the proposed reserve is designated.

NEPA is triggered when a proposal for a major federal action exists. Council of Environmental Quality regulations define major federal actions to include adoption of official policy, such as rules and regulations; adoption of formal plans; adoption of programs; and approvals of specific projects. Normally, the key question from §102(2) (C) is – "*Does the proposed action significantly affect the quality of the human environment?".* However, Reserve System regulations §921.12 require the development of an environmental impact statement for the designation of a national estuarine research reserve.

NOAA must meet NEPA requirements whenever NOAA's decision on a proposal for action would result in a physical effect on the human environment, even when the effect would be beneficial, and regardless of who proposes the action or where it would take place (40 C.F.R. 1508.18).

After NOAA approval of the site nomination document, the lead state agency may submit an application to NOAA, limited to the unallocated portion of the $100,000, for development of the draft environmental impact statement/draft management plan, Final environmental impact statement/final management plan, and other basic characterization studies. The state application for post-site-selection funding must include

- A Draft Management Plan outline, including milestones and timeline, and
- An outline of a draft memorandum of understanding between the lead state agency and NOAA detailing the federal and state roles in reserve management (as well as additional MOUs with land-owning [or-leasing] or managing partners, if applicable).

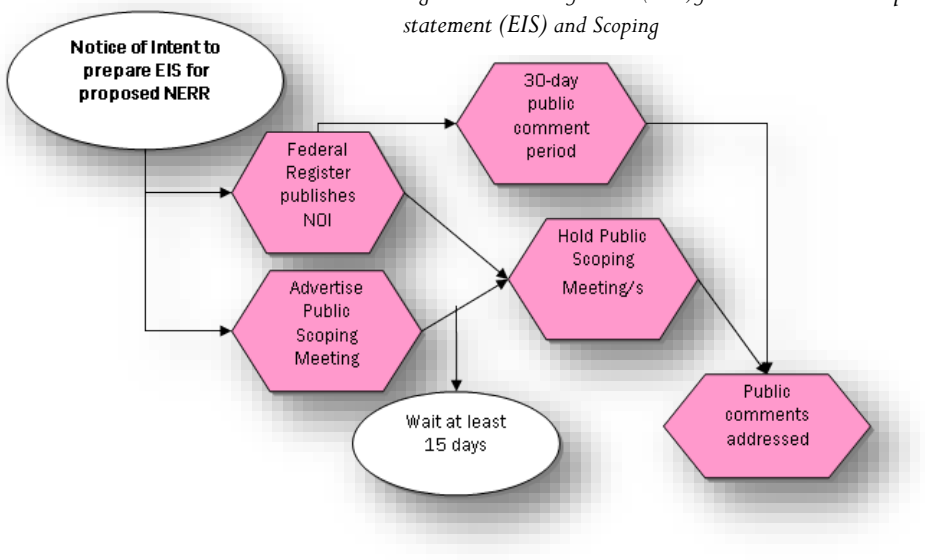
C. Starting the NEPA Process for a Reserve Designation

Before preparation of the draft environmental impact statement and draft management plan, NOAA publishes a ***notice of intent*** to prepare an environmental impact statement in the *Federal Register*. The notice should

- Describe the proposed action and possible alternatives
- Provide information on planned scoping meetings or hearings
- Provide contact information
- Provide a minimum 30-day public comment period

The lead state partner, with assistance from NOAA, holds a scoping meeting(s) to solicit the views of the public regarding the proposed project before the draft environmental impact statement and management plan are prepared. NOAA must publish the notice of intent in the *Federal Register* at least 15 days before the scoping meeting. Concurrent to the NOAA action, the lead state partner must both advertise the scoping meeting in local media outlets (newspapers at least 15 days before the scheduled scoping meeting) and send letters to potential stakeholders about the scoping (Figure 11). An example notice of intent is found in Appendix F.

Figure 11. Notice of Intent (NOI) for environmental impact statement (EIS) and Scoping



The formal ***public scoping*** process begins after the notice is published in the *Federal Register*, but can in practice begin before that notice is published. The purpose of a scoping process is to help the lead state partner and NOAA determine the range of issues associated with the designation of a national estuarine research reserve based on the site nomination document.

The scoping process may be conducted using several formats, including

- Internal meetings between NOAA and state-level stakeholders
- Formal public hearings where the public provides testimonial that is recorded into the official record
- Informal public meetings with at-large or invited individuals to discuss the proposed designation
- Solicitation of public comment through various media (mass mailings, newspapers, internet, phone conversations)

Although a public meeting is not a typical requirement, Reserve System regulations § 921.11 (c) require NOAA to hold a public scoping meeting with the lead state partner in the area or areas most affected by the proposed reserve designation. This meeting is required to be held no earlier than 15 days after the notice of intent is published in the *Federal Register*.

The goal of a public scoping meeting is to determine the range of issues regarding the proposed designation by engaging a broad group of interested private and public parties. The process helps NOAA and the lead state partner to be responsive to information and concerns that may arise (See Appendix J, "Important Questions and Answers for Public Meetings"). The process helps determine the relevant stakeholders; identify significant environmental issues; strengthen stakeholder support for reserve designation; and identify information gaps or other actions that may affect designation. During the scoping meeting(s), comments are accepted from the public and eventually considered and addressed in the draft environmental impact statement and draft management plan as they are developed.

Previous reserve-designation-related scoping meetings have identified multiple benefits for the process:

- The lead state partner found these meetings very useful for providing a venue for NOAA to engage with partners who want to better understand what it really means to be part of a research reserve.

- Provides an opportunity for NOAA to communicate face to face with partners and stakeholders the differences between a national estuarine research reserve and other types of protected areas (i.e., national marine sanctuary).

- Alleviates concerns from stakeholders and partners about new regulations regarding the management of the lands and waters within the reserve. NOAA regulations § 921.11 (c) (3) note that the core areas of a proposed reserve "must be under a level of control sufficient to ensure the long-term viability of the Reserve for research on natural process." As such, these controls must already be in place using existing state regulations for designation of a reserve to occur.

Note: Scoping is an iterative process and continues throughout the development of the environmental impact statement until the final version is published in the* Federal Register*.

D. Developing a Draft Environmental Impact Statement

Upon the publishing of the notice of intent in the *Federal Register*, NOAA, with support from the lead state partner, begins developing a draft environmental impact statement to support an environmental analysis of the proposed reserve designation. The analysis process that produces an environmental impact statement allows the NOAA administrator to make an informed decision about whether to designate the proposed reserve into the Reserve System.

For a reserve designation, the development of a draft environmental impact statement can typically be a 6-12 month project. The lead state partner is advised to begin collecting information for the environmental impact statement before the publishing of the notice of intent. For the lead state partner, this includes

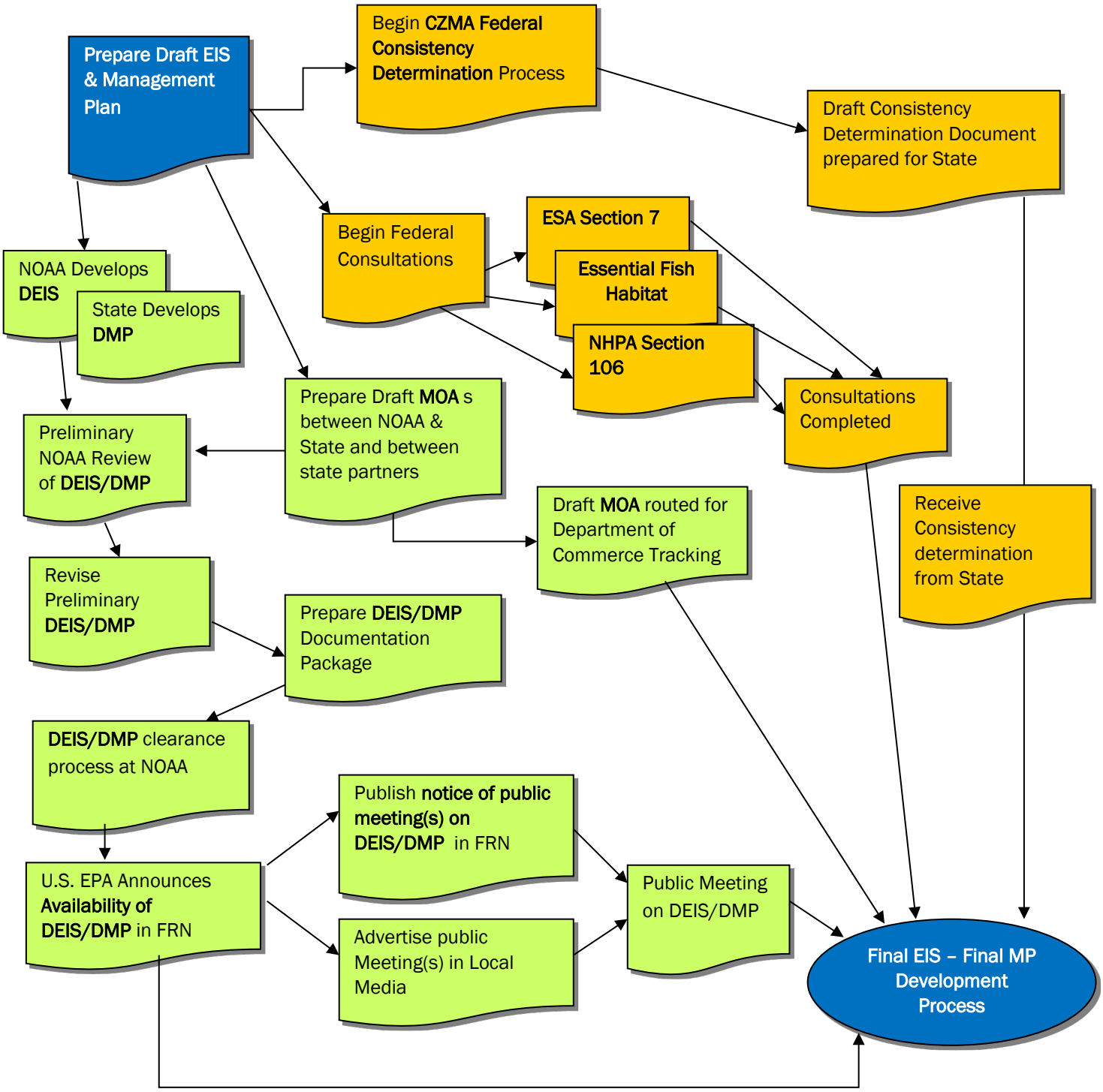
- Leveraging the work of the various teams and committees that was used in the nomination document previously submitted to NOAA for acceptance;
- Utilizing mapping products and documents that were contracted out in support of the site-selection and nomination process; and
- Leveraging partner knowledge and information about the site.

Most importantly, the environmental impact statement preparers must remember to address stakeholder concerns or comments identified during the scoping meetings when developing the draft. Figure 12 provides a detailed roadmap of the process NOAA and the lead state partner follow in preparing a draft environmental impact statement and associated draft management plan for a new reserve. Additional guidance can be found within the Companion Manual for NOAA Administrative Order 216-6A at https://www.nepa.noaa.gov/docs/NOAA-NAO-216-6A-Companion-Manual-01132017.pdf

Important considerations regarding the development of the draft environmental impact statement include the following.

- NOAA taking the lead in developing the draft, with the lead state partner and associated stakeholder committees or teams taking a supporting role.
- Identifying a small team within the Office for Coastal Management to support the development of the draft. At a minimum, include representation from the Office for Coastal Management's Ecosystems Team, General Counsel, and Environmental Compliance Team, and an Office for Coastal Management lead.

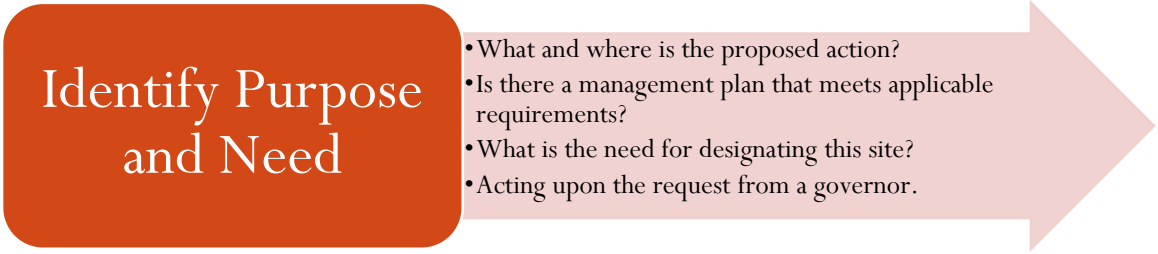
Figure 12. Overall process for preparing a Draft Environmental Impact Statement (DEIS) and Draft Management Plan (DMP)



- NOAA and the lead state partner must work together throughout this process and ensure that partners and stakeholders are engaged throughout.
- Partner and stakeholder concerns identified through the public engagement process (i.e., scoping meetings) must be addressed in the document.
- If tribes are involved, make sure to have specific targeted engagement with them from sovereign nation to nation.
- Concurrently, initiate consultations with federal agencies for applicable federal statutes (i.e., Endangered Species Act Section 7, Marine Mammal Protection Act, National Historic Preservation Act, etc.).
- NOAA and the lead state partner develop a draft environmental impact statement development timeline.
- Leverage the Office for Coastal Management for facilitation and geospatial support for developing the draft statement and draft management plan.
- An internal NOAA review and clearance process for environmental impact statements is incorporated into this review process. The NOAA clearance process for approving a draft EIS for public comment includes both a preliminary review and formal clearance.

After completing the initial scoping meetings, *the development of the draft environmental impact statement and associated environmental analysis* include the following:

This team is tasked with conducting the environmental analysis for the designation of a research reserve. To sustain continuity between the draft environmental impact statement and the final version, it is important that the team remain in place for the duration of the designation process. At a minimum, bi-weekly team meetings are recommended to ensure that actions and milestones are met.



The draft environmental impact statement development team needs to describe what NOAA and the state want to do, and identify where this action is going to occur. For a research reserve designation, the

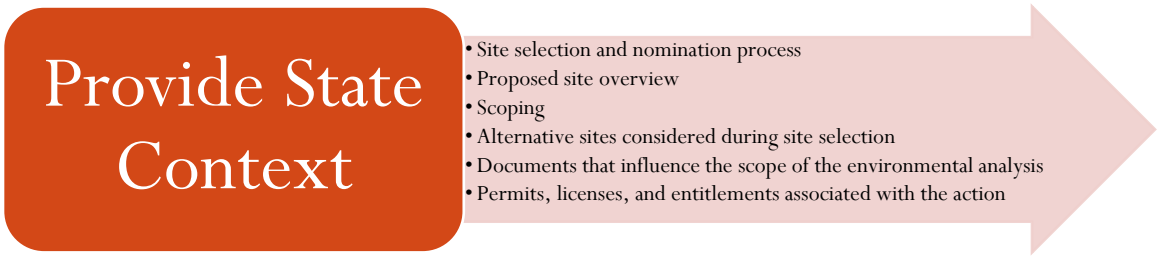
purpose of the proposed action includes both the designation of the proposed reserve and approval of the reserve management plan and its subsequent implementation of plan management elements resulting from the designation. This should answer the question, "Why is NOAA proposing to approve the reserve designation?"

Depending on the location of the proposed reserve, the need for the proposed action could either be

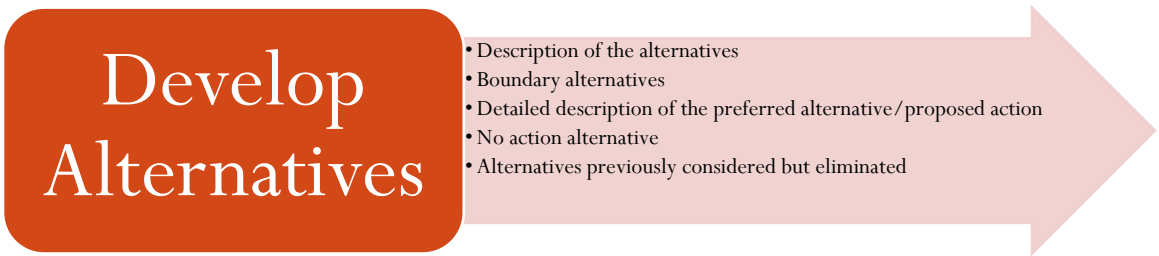
1. To fill a currently unrepresented gap in the national system furthering the national goal to ensure that the system reflects the wide range of estuarine types within the U.S. as described in Appendix 2 of the Section 921, or
2. Represent a significant addition to the Reserve System because of its unique estuarine type or habitats that are not represented in the system, or
3. Represent a coastal state currently not represented in the Reserve System.

Additionally, the team needs to note that NOAA is acting upon a nomination of the site by the state or territorial governor for inclusion within the national system.

The purpose and need serves as an important screening criterion for determining which alternatives to designation of the proposed reserve are reasonable. All reasonable alternatives examined in detail must meet the defined purpose and need.



To further support the purpose and need for the action to designate a reserve, the draft environmental impact statement development team should provide an overview of the public involvement in the process. The team should specifically summarize the site-selection and nomination process and identify relevant issues discovered during scoping. For a research reserve designation, it's important to provide a basic overview of proposed reserve and alternative sites considered during the site-selection process. Also, the draft environmental impact statement needs to identify any laws, regulations, and other documents that have influenced the scope of this analysis.



The draft environmental impact statement development team needs to describe the proposed action to designate a reserve and the range of alternatives to that action. According to Council of Environmental Quality regulations 40 CFR 1502.14, the process must

- ✓ Rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated.
- ✓ Devote substantial treatment to each alternative considered in detail, including the proposed action so that reviewers may evaluate their comparative merits.
- ✓ Include reasonable alternatives such as alternative boundaries, sites, multiple sites or others.
- ✓ Include the no-action alternative. The no-action alternative is the most likely future that could be expected to occur in the absence of the project.
- ✓ Identify NOAA's preferred alternative or alternatives, if one or more exists.
- ✓ Include appropriate mitigation measures not already included in the proposed action or alternatives.

The team will need to provide objective descriptions of all reasonable alternatives under consideration by NOAA. It is recommended that NOAA and the lead state agency partner include short, concise summaries of the impacts of each alternative, provided in comparative form. This usually includes providing a matrix or table summarizing and comparing the alternatives in terms of environmental impacts and benefits. For a research reserve designation, the alternatives identified in this section are those that may be feasibly carried out based on technical, economic, environmental, and other factors, and meet the purpose and need for the proposed action. The range of alternatives must include

- ***No-Action Alternative*** – Analysis of the impacts of no reserve designation. It's a continuation of the status quo where the stated purpose and need for a reserve designation is not met.
- ***Preferred Alternative*** – **This is the proposed action of designating a reserve**. Note that this alternative may be different than the site nomination boundaries.
- ***Boundary Alternatives*** – Typically, different boundary configurations are considered as part of the analysis and one of these might be the preferred alternative.

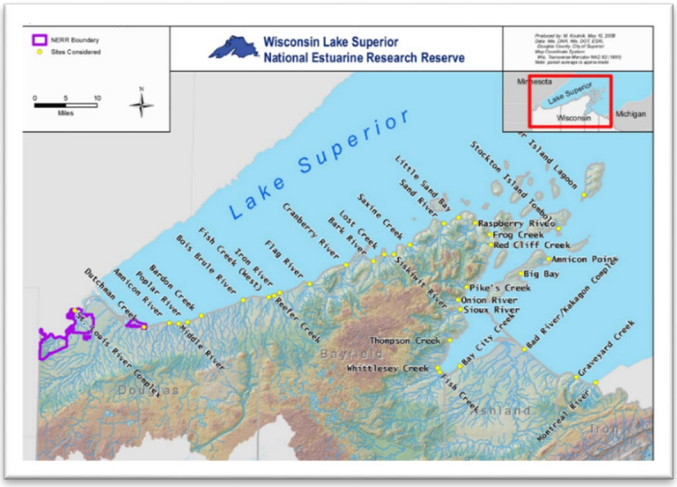


Figure 13. Examples of Sites Eliminated from Detailed Study

The draft environmental impact statement should also include a discussion of alternatives that were considered but not analyzed. During the site-selection stage of the designation process, the lead state agency may consider a number of alternatives that could be considered reasonable but are unlikely to accomplish the goal of designating a new reserve. Any alternatives considered but rejected for further analysis should be briefly discussed in a subsection of the draft environmental impact statement (i.e., "Alternatives Considered, but not Further Analyzed"). The team must briefly describe why other alternatives were eliminated from the more detailed review. This allows the draft to identify these alternatives, as shown in Figure 13, and to explain why they were not reasonable for achieving the purpose and need of designating a proposed reserve.

This draft should also include a detailed description of the proposed action or preferred alternative. Within this description, include the total acres for each component of the proposed site that is described, as well as a map that depicts the core and buffer areas within the proposed boundary, as shown in Figure 14.

Figure 14. Example Preferred Alternative Core and Buffer Areas detailed study

Additionally, providing a brief description of the anticipated environmental impacts or consequences of the proposed action and alternatives on the affected environment is important to include when comparing alternatives. A more detailed analysis of the impacts of each alternative is to be discussed in the "Environmental Consequences" section of the draft environmental impact statement.

Describe the Affected Environment

- Description of the natural environment that includes:
  - Phyiscal characteristics (hydrology, water quality, climate, etc…)
  - Biological characteristics (habitats, living resources, T&E Species, etc.)
- Description of the human environment that includes:
  - Economic setting (economy, demographics, infrastructure, etc…)
  - Historic and cultural setting (historical sites, cultural resources, archaeological features, land uses, human uses, etc.)

The "Affected Environment" section describes the existing and historical environment in and around the proposed reserve boundaries. Federal regulations 40 CFR 1502.15 describe this requirement as follows:

"The environmental impact statement shall succinctly describe the environment of the area(s) to be affected or created by the alternatives under consideration. The descriptions shall be no longer than is necessary to understand the effects of the alternatives. Data and analyses in a statement shall be commensurate with the importance of the impact, with less important material summarized, consolidated, or simply referenced. Agencies shall avoid useless bulk in statements and shall concentrate effort and attention on important issues. Verbose descriptions of the affected environment are themselves no measure of the adequacy of an environmental impact statement."

This section of the draft environmental impact statement is typically divided into subsections that address two major categories of resources affected by the research reserve designation. These are the natural environment and the human environment. For example, previous reserve designation environmental impact statements have used subsections describing biological resources (including endangered and threatened species), socioeconomic resources, habitat, cultural resources, and historical resources. Other ideas for subsections are hydrology, geology, existing infrastructure, climate.

Under the "Natural Environment" section, the team should summarize the current conditions of the resources and environment in the geographic area. Under "Physical Resources," make sure to include specifics about special status or listed species that are found in the area.

For the "Human Environment" section make sure to provide sufficient information regarding the current condition and or presence of historical and cultural resources.

Details on the location and range of both the species and historical or cultural resource will be very important toward meeting the requirements of other federal statues like the Endangered Species Act or the National Historic Preservation Act during the designation process. Only include information pertaining to existing conditions; impact analyses occur in later parts of the draft environmental impact statement.

Note that each resource described in the "Affected Environment" section must also receive a parallel discussion in the "Environmental Consequences" section of the draft environmental impact statement. Additionally, incorporating by reference other environmental impact statements and environmental assessments may be useful for adding specific information about the affected environment without adding length to the document.

The core environmental impacts analysis of a "federal action," such as a research reserve designation, is the "Environmental Consequences" section. The team must provide a detailed analysis and description

of any general or specific environmental impacts or effects resulting from reserve designation or the reasonable alternatives that have been considered. **This analysis must mirror each part of the natural and human environments described in the "Affected Environment" section.**

Impacts and effects can include ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative. They may also include those resulting from actions that may have both beneficial and detrimental effects, even if on balance the agency believes that the effect will be beneficial.

In addition to any direct or indirect impacts to individual resources described in the affected environment, the team must also include an analysis of the cumulative impacts. The cumulative impacts of the proposed action (e.g., reserve designation) include both direct and indirect effects on the resources, ecosystems, and human community described in the "Affected Environment" section. The team should note that cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time. To help support this analysis, cumulative effects analysis recommendations and tips are provided in Appendix F.

Furthermore, the team must review how the establishment of the proposed reserve affects known state, local, and regional plans or policies for areas within the reserve boundaries. Referencing the proposed reserve management plan and the various agreements between parties, the analysis should look at how the lands and waters are managed within the proposed boundaries in relationship to other relevant plans and polices within the same areas.

NEPA also requires consideration of the relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity. For reserve designations, the analysis is expected to show that short-term uses of the environment relating to a research reserve site are expected to result in overall improvements to the health and quality of the affected natural and socioeconomic environments. Any adverse effects are expected to be predominantly short-term (e.g., during the restoration or construction process). Such short-term, adverse effects are also expected to coincide with long-term benefits to ecosystem services and productivity.

To close out this section, NEPA requires an analysis of the extent to which the proposed action's direct and indirect effects would commit operational resources to uses that cannot be recovered or that future generations would be unable to reverse. Resource commitments are considered irreversible or irretrievable when impacts from their use or consumption would limit future use options and those changes could not be reversed, reclaimed, or repaired. Irreversible commitments generally occur to nonrenewable resources such as minerals or cultural resources, and to those resources that are renewable only over long time spans, such as soil productivity, while irretrievable commitments generally apply to the loss of production, harvest, or natural resources and are not necessarily irreversible. Typically for a reserve designation, implementation of the reserve management plan should result in few irreversible or irretrievable commitments of resources.

The team should organize this section to show the following:

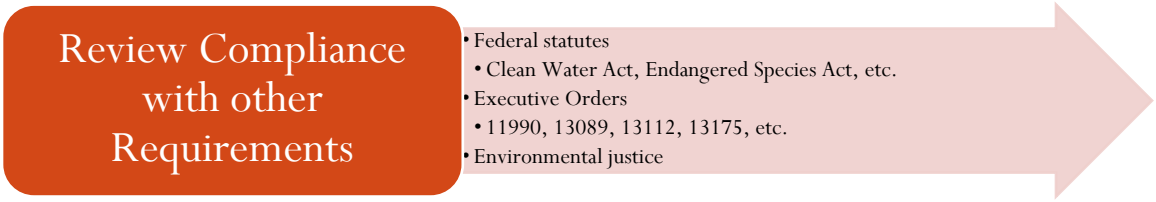
- ✓ The overall or general impacts of reserve designation and the significance of these impacts.
- ✓ Specific impacts or effects of reserve designation and their significance as related to the sections

described in the "Affected Environment" section.

- ✓ Possible conflicts between the reserve designation and applicable federal, regional, state, and local plans, programs, or controls for the proposed reserve site.
- ✓ Unavoidable adverse environmental or socioeconomic impacts that may result from reserve designation.
- ✓ The cumulative impacts of reserve designation and alternatives on activities occurring in the area or environment affected by the action.
- ✓ If identified, mitigation measures (measures that avoid, reduce or minimize the effects of designating a research reserve) should be included in the analysis of each alternative. A table can be used to show mitigation measures for each alternative identified in the environmental impact statement. Mitigation measures may include the following actions:
    - Avoidance of impacts associated with the preferred action or its alternatives
    - Minimizing the degree or magnitude of the reserve designation and its implementation
    - Compensating for the impact of reserve designation

Note: resource manipulation and restoration activities described within the reserve management plan may address mitigation by detailing actions planned to restore affected environments or habitats.

Overall, designation of a research reserve is typically an administrative function, and the environmental consequences are positive because designation brings the development of research, education, and stewardship programs; economic benefits to local communities; and the potential for strengthened environmental protections implemented by the state. =



The environmental impact analysis must also include a review of the proposed action's compliance with other statutory, regulatory, or administrative requirements. Provide a basic overview of each relevant requirement and a short description of how the reserve designation is in compliance with that requirement. Relevant requirements to review include the following:

- ✓ Clean Air Act (42 U.S.C. §§ 7401 et seq.)
- ✓ Clean Water Act (33 U.S.C. §§ 1251 et seq.)
- ✓ Coastal Zone Management Act (16 U.S.C. §§ 1451, et seq.)
- ✓ Endangered Species Act (16 U.S.C. §§ 1531, et seq.)
- ✓ Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. §§ 1801 et seq.)
- ✓ Marine Mammal Protection Act (16 U.S.C. §§ 1361 et seq.)
- ✓ Migratory Bird Treaty Act (16 U.S.C. §§ 715 et seq.)
- ✓ National Historic Preservation Act (16 U.S.C. §§ 470 et seq.)
- ✓ National Marine Sanctuaries Act (16 U.S.C. §§ 1431 et seq.)
- ✓ Environmental Justice and Executive Order 12948
- ✓ Executive Order 11990 – Protection of Wetlands

- ✓ Executive Order 13690 – Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input
- ✓ Executive Order 13089 – Coral Reef Protection
- ✓ Executive Order 13112 – Invasive Species
- ✓ Executive Order 13158 – Marine Protected Areas
- ✓ Executive Order 13175 – Consultation and Coordination with Indian Tribal Governments

Required Components of an Environmental Impact Statement

Figure 15. Required Draft Environmental Impact Statement Contents

NEPA regulations (40 CFR 1502.10) require all environmental impact statement documents to contain the following contents as shown in Figure 15. More detail regarding this content is provided below.

Cover Sheet

Every environmental impact statement must have a one-page cover sheet that includes the following information:

- ✓ A list of the responsible agencies, including the lead agency and any cooperating agencies. In the case of reserve designation, these include the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Ocean Service, Office for Coastal Management, and their addresses.
- ✓ The title of the proposed action that is the subject of the statement, together with the state and county, or counties (or other jurisdiction if applicable), where the action is located. Recent examples include

  Final Programmatic Environmental Impact Statement
  Federal Approval of the Texas National Estuarine Research Reserve and Management Plan: The Mission-Aransas Estuary

- ✓ The name, address, and telephone number of the person at the NOAA who can supply further information.
- ✓ A designation of the statement as a draft, final, or draft or final supplement.
- ✓ A one-paragraph abstract of the statement.

Executive Summary

The executive summary must accurately summarize the substantive parts of the environmental impact statement and should be no more than a few pages in length. The summary shall include

- ✓ A brief summary of the major conclusions
- ✓ A description of any areas of controversy (including issues raised by agencies and the public)
- ✓ The major issues (including the choice among alternatives) that are discussed in the statement

Table of Contents

The table of contents organizes the environmental impact statement and should include a list of tables, figures, and acronyms, in addition to the major sections of the document. Other recommended components referenced in the table of contents include a list of preparers or acknowledgments, list of persons or organizations receiving the document, references, and a list of attachments and appendices.

Purpose and Need

An environmental impact statement must contain a purpose and need statement. Council of Environmental Quality regulations 40 CFR 1502.13 state, "*The statement shall briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action*." The purpose and need specifies the underlying purpose and need to which NOAA is responding and sets the overall direction of the environmental analysis process.

Description of Proposed Action and Alternatives

As required by Section 102 (2) (E) of NEPA, every environmental impact statement must contain a

detailed description of the proposed action and alternatives. This section describes the proposed action and each alternative that will accomplish the purpose and need for reserve designation. Identifying the proposed action will inform reviewers of the reserve designation being considered. The proposed action is also call the *preferred alternative* of all the alternatives NOAA has identified for the environmental impact statement. NOAA selects a preferred alternative based on environmental, economic, technical, and other considerations.

The Affected Environment

This section is a description of the current state of the environment in which the proposed action and alternatives are considered. Current conditions within the boundaries of the proposed reserve and its vicinity are described in detail and serve as a baseline for comparison of alternatives and their associated impacts.

Environmental Consequences

An environmental impact statement must have a detailed description and analysis of the anticipated environmental consequences of the proposed action and alternatives (including the no-action alternative) on the resources described in the "Affected Environment" section. In this section, NOAA and the state partner provide a detailed analysis and description of any general or specific environmental impacts or effects resulting from research reserve designation or the reasonable alternatives that have been considered.

List of Preparers

The environmental impact statement must include a list of persons involved or consulted in the preparation of the document. This section should include any person who was primarily responsible for preparing the document or background papers, or who provided substantial information. This includes NOAA staff members and state partner staff members.

Distribution List

The environmental impact statement must include a distribution list that includes other agencies, organizations, and individuals who have requested the document. An asterisk or some kind of notation should be included for those organizations or individuals who commented on the draft document.

Index and Appendices

The environmental impact statement must contain an index. The index should include an alphabetical list of key words and their associated page numbers that will allow the reader to find information easily within the document. The index should focus on subject matter and not be a simple repeat of the table of contents. Any appendices to support the environmental impact statement should also be included. There are several mandatory appendices or attachments:

- ✓ Reserve management plan
- ✓ Reserve–NOAA memorandum of understanding
- ✓ Reserve–Local partner memorandum of understanding (i.e., multi-party MOU)
- ✓ Public comments to the environmental impact statement and responses to those comments
- ✓ Concurrence letters as per other legal requirements
- ✓ Federal consistency

Other materials best consolidated into the appendix:

- ✓ Lengthy technical discussions, baseline studies, etc…
- ✓ Materials likely to be understood by technically trained individuals

E. Developing a Draft Reserve Management Plan

Estuarine sites nominated for the Reserve System, including current research reserve sites, face multiple anthropogenic and natural stressors. These sites must plan for the continued protection and use of the reserve for research, education, and public access. Developing a comprehensive management plan will provide a foundation for addressing the challenges of protecting and managing the future reserve. Therefore, the purpose of a reserve management plan is to

- ❖ Provide the vision and framework to guide reserve activities during a five-year period;
- ❖ Present opportunities to discuss reserve niche and strategic collaborations with partners;
- ❖ Communicate how the reserve is addressing priority coastal management issues through their stated goals, objectives, and strategies;
- ❖ Highlight reserve priorities and staff capabilities to address those priorities;
- ❖ Demonstrate how Reserve System programs are locally relevant and nationally significant;
- ❖ Enable the reserve and NOAA to track progress and determine opportunities for growth; and
- ❖ Position the reserve to acquire facilities construction and land acquisition funds.

Per federal regulations, 15 C.F.R. Part 921.13 (a), management plans must describe the reserve's most pressing coastal management issues; goals, objectives, and actions for addressing those issues; plans for administration, research, education and interpretation, public access, construction, acquisition, and resource protection; and restoration and habitat manipulation, if applicable—and they must include a memorandum of understanding between NOAA and the state agency. Required and optional components for management plans are listed below in Table 5. Additional information, including a

checklist for each required component, can be found in Part 2, "Guidance for Reserve Management Plan Components."

The draft management plan developed during the reserve designation process serves as

- Part of the draft environmental impact statement as an attachment or appendix, and
- As a stand-alone management plan document

Detailed guidance on each of the components of a research reserve management plan can be found in the "*Reserve System Management Plan Guidelines and Resources – 2019.*"

Table 5. Reserve System Management Plan Components

Executive Summary (approximately 1-2 pages)	Describe plan purpose and scope, designation date and acreage of reserve, threats and stressors and priority management issues, reserve niche
Introduction to the Reserve System (approximately 3 pages)	Standard language
Introduction to the Reserve (approximately 5 pages)	❖ Synopsis of history, as well as ecological, social, and cultural value to community (reference site profile or other documents for more extensive background, this is simply an overview to set context) ❖ Overview of threats and stressors ❖ Description of boundary ○ Core and buffer description ○ Boundary map with core and buffer; land ownership map; habitat map
Program Foundations (approximately 6 pages – 2 per system-wide program)	❖ Research and Monitoring; Education; Coastal Training (standard system-wide language) ❖ Program context, capacities, needs, and opportunities (and as possible evaluation strategies)
Reserve Strategic Plan (variable)	❖ Goals, objectives, and actions for research, monitoring, education, training, and stewardship
Administrative Plan (approximately 5 pages)	❖ Organizational framework and chart ❖ Staffing needs and plan ❖ Advisory committees and purpose ❖ Key partnerships and opportunities for administration (optional volunteer plan, vessel and vehicle plan, and communications plan)
Public Access and Visitor Use Plan (approximately 5 pages)	❖ Description of public access points, as well as challenges ❖ Map of public access points
Resource Protection Plan (approximately 5 pages)	❖ Description of management authorities ❖ Description and map of allowable uses ❖ Surveillance and enforcement, as well as challenges
Facility Development and Improvement Plan (approximately 5 pages)	❖ Overview of current facilities, uses, and challenges ❖ Description of facility needs
Acquisition Plan (approximately 5 pages)	❖ Acquisition target areas and description of value and purpose ❖ Map of acquisition areas ❖ Acquisition strategy
Resource Manipulation Plan (If applicable)	

Restoration Plan (If applicable)	
Appendices	❖ MOU between NOAA and state and other multi-party MOUs ❖ Federal Consistency determination ❖ Public comments and description of how they were addressed ❖ Additional plans of reference as appropriate

Based on the *Companion Guide for NERR Management Plan Guidance* found on the Reserve System intranet**.**

The state (e.g., lead state partner), with assistance by NOAA, prepares a preliminary and final draft management plan, including an MOU identifying the state and NOAA roles in managing the reserve. The state submits the preliminary and final versions of the draft management plan and its supporting documents to NOAA for review before a decision to move the process to public comment.

For a reserve, the management plan is the primary long-term planning document, which is required for the designation of a research reserve site. For a lead state agency, the development of a management plan is a process that can take a year or more. For a lead state partner, feedback and lessons learned from other states that have led a successful management plan development process as part of a research reserve designation can provide important insights. The following graphic (Figure 16) summarizes feedback about the management planning process from the most recent reserve designations.

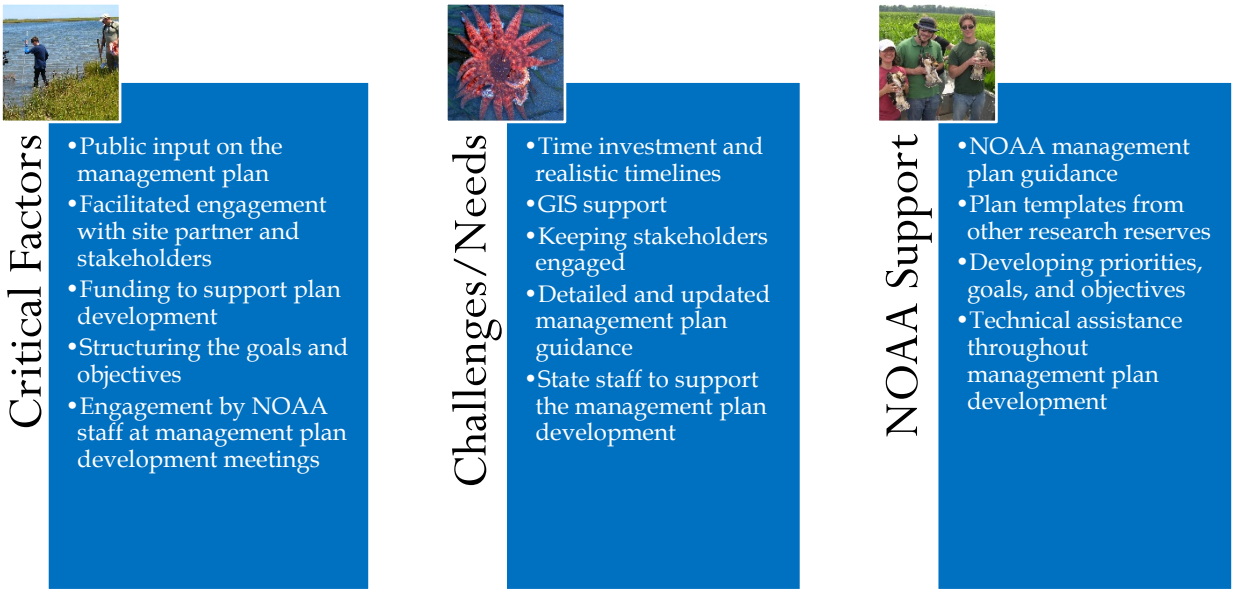


Figure 16. Management Plan Development Tips from State Leads

NOAA has a number of resources that can support the management plan development process:

- ✓ Reserve System Management Plan Guidelines and Resources, 2013

- ✓ Preparing to Write Your Strategic Plan, Social Science Tools for Coastal Programs, 2011
- ✓ Introduction to Planning and Facilitating Effective Meetings, 2010.
- ✓ NOAA Habitat Blueprint: A Framework to Improve Habitat for Fisheries, Marine Life, and Coastal Communities (2012), NOAA Office of Habitat Conservation, National Marine Fisheries Service.
- ✓ NOAA's Habitat Priority Planner: A GIS Tool to Help Identify and Prioritize Areas for Conservation, Restoration, and Planning.

For additional tools and information visit *https://coast.noaa.gov/digitalcoast/*

F. Environmental Impact Statement and Management Plan Milestones

As previously outlined in *Section 2,* "Designation Process Overview," and per federal regulations, 15 C.F.R. Part 921.13, NOAA and the lead state partner have specific milestones to achieve as part of the designation process. The following *required* milestones are specific to the development of the environmental impact statement (EIS) and management plan (MP).

NOAA Milestones

Prepare a notice of intent to assemble a draft EIS/MP, with a minimum public comment period of 30 days before the release of the draft EIS, to be published in the *Federal Register*.

Prepare, with assistance from the state, a preliminary and final draft EIS.

File a completed draft EIS/draft MP with the U.S. EPA and prepare a 45 day notice of availability for public comment to be published in the *Federal Register*. The Notice of Availability is published no less than 30 days prior to a public meeting(s) on the draft EIS/draft MP.

Prepare a notice announcing a public meeting(s) on the draft EIS/MP to be published in the *Federal Register*.

Address comments received on the draft EIS/MP and file a completed final EIS/MP with the U.S. EPA. Notice of Availability for the final EIS/MP is published in the *Federal Register* no less than 30 days before issuing a Record of Decision.

Prepare a notice announcing the designation of the new reserve and the availability of the NEPA Record of Decision to be published in the *Federal Register*.

State Milestones

Conduct a scoping meeting(s) to solicit public comment on the proposed reserve prior to preparing the draft EIS/draft MP. Advertise the meeting(s) in local media at least 15 prior to the meeting(s) being held.

Prepare, with assistance from NOAA, a preliminary and final draft MP to NOAA. The draft MP must contain a draft MOA(s) between the state and NOAA.

Publish a notice in local media of the public hearings to review the draft EIS/draft MP. The hearings should be held 30-45 days after NOAA announces the availability of the draft EIS/draft MP in the *Federal Register*.

Prepare, with assistance from NOAA, a preliminary and a final EIS/MP and submit to NOAA. The final EIS/MP must respond to all comments received on the draft EIS/MP, as well as a final MOA between the state and NOAA and any other MOAs developed with local partners (see Appendix A).

Submit all relevant MOAs signed by the state and all applicable partners. NOAA must receive copies of the signed MOAs prior to the NOAA administrator signing the designation findings and certificate that officially designates the reserve.

Publish a notice in local media announcing the official designation of the new reserve.

G. Public Comment and Review for the Draft Environmental Impact Statement

As per Reserve System regulations, 15 C.F.R. Part 921.13 (d), NOAA, through the U.S. Environmental Protection Agency, announces the availability of the draft environmental impact statement and draft management plan in the *Federal Register*. The date of publication begins the 45-day comment period on the draft environmental statement and management plan. The public comment period must include a public meeting in the vicinity of the proposed action.

For Reserve System designations, the lead state partner and NOAA jointly hold this public meeting, or meetings, between 30-45 days after the *Federal Register* announcement. NOAA also must publish a notice of the public meeting in the *Federal Register* 15 days before the meeting.

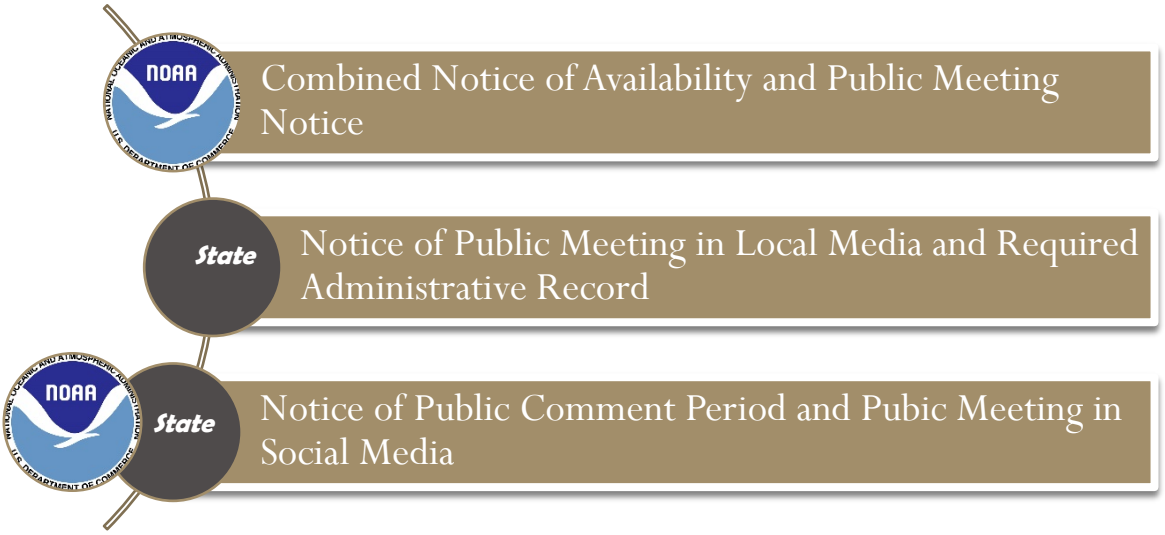


Figure 17. Informing the Public – NOAA AND State Roles

In most cases, NOAA publishes the notice of availability of the draft environmental impact statement and draft management plan, and the notice of the public meeting together as one combined notice in the *Federal Register* as listed in Figure 17. Concurrently, the lead state partner publishes a notice of the public meeting in various local media and its required administrative record to ensure that local stakeholders are informed of the public meeting. It is also recommended that the lead state agency use social media to inform local stakeholders and those that have participated in the designation process to date.

❖ Hosting a Public Meeting on the Draft Environmental Impact Statement and Draft Management Plan

NOAA relies on the lead state partner to host a public meeting about the draft environmental impact

statement and the draft management plan. In most cases, NOAA publishes the notice of availability of the draft documents and the notice of the public meeting together as one combined notice in the *Federal Register* as listed in Figure 17. Concurrently, the lead state partner publishes a notice of the public meeting in various local media to ensure that local stakeholders are informed. It is also recommended that the lead state agency use social media to inform local stakeholders and those that have participated in the designation process to date. In planning the public meeting be sure to

- ✓ Develop a process agenda for the meeting that details the roles of NOAA, lead state partner, and others during the meeting.
- ✓ Prepare official NOAA remarks introducing the meeting and giving instructions on how to provide comment to the audience. Example is provided in Appendix K.
- ✓ Have all participants sign in so that in the future you can communicate the release of the final documents to them.
- ✓ Provide appropriate handouts about the site and the Reserve System.
- ✓ Show maps of the site and the alternatives for participants to see.

NOTE: At the public meeting, NOAA is accepting public comments, not responding to them. Responses will be provided in the final environmental impact statement and final management plan.

❖ Gathering Public Comments

There are multiple ways to ensure that written comments on the draft environmental impact statement and draft management plan are captured by NOAA to support the development of final versions. These include

- ✓ Filling out the comment sheet and placing it in the comment box on the table near the entrance to the meeting before you depart

- ✓ Making oral comments at public meeting(s)

- ✓ Making comments through the federal e-rulemaking portal. See

  www.regulations.gov/docket

  Once the appropriate document for comment is accessed, the commenter must click the ‘‘Comment Now!’’ icon, complete the required fields, and enter or attach comments.

- ✓ By mailing comments directly to

  [ADD APPROPRIATE CONTACT PERSON]
  OFFICE FOR COASTAL MANAGEMENT
  NATIONAL OCEAN SERVICE, NOAA
  1305 EAST WEST HIGHWAY, N/ORM2, ROOM 10622
  SILVER SPRING, MD 20910

IMPORTANT NOTE: Written comments will be accepted until [the closing date identified in the *Federal Register* Notice]. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NOAA.

❖ Review of Public Comments

At the conclusion of the public comment period, NOAA and the lead state partner will compile and review the comments on the draft environmental impact statement and draft plan for the proposed reserve designation. NOAA and the lead state partner will create a final environmental impact statement and final management plan that address the relevant comments from the public comment period. Furthermore, any subsequent changes identified by NOAA and the lead state partner that did not make it into the published draft documents can be incorporated into the final environmental impact statement. **Each public comment must be listed with a specific response and placed in an appendix of the final environmental impact statement and management plan document.**

If, during the comment period, NOAA determines that some critical information was omitted in the draft environmental impact statement that would have a bearing on the decision to designate a reserve, a supplement may need to be published to incorporate this new information.

H. Developing a Final Environmental Impact Statement and Final Reserve Management Plan

Upon closure of the public comment period for the draft environmental impact statement and draft management plan, NOAA and the lead state partner begin preparing a final environmental impact statement and plan to support a designation decision by the NOAA administrator. It is recommended that two months be allocated to develop these documents before beginning the official review and clearance process. Developing the final versions requires:

- ❖ NOAA to work collaboratively with the lead state partner in compiling and responding to comments on the draft documents. Comments and responses are included in an appendix to the final documents.

- ❖ NOAA and the state make necessary changes to the draft documents and submit preliminary and final documents to NOAA for review. The final documents must include these appendices:

  - ✓ Proposed MOU between NOAA and the state (not signed)

  - ✓ Draft or final MOU(s) among reserve partners establishing roles and responsibilities (these must be finalized before designation but should not be signed in the final environmental impact statement and management plan)

- ✓ Public comments and responses.

- ❖ Upon approval, NOAA, or in some cases the lead state partner, provides electronic copies of the final environmental impact statement and management plan to those who provided comments, to other interested parties, and to the NEPA distribution list posted on the Council on Environmental Quality website.

- ❖ Upon approval, NOAA, or in some cases the lead state partner, may also print the environmental impact statement and management plan and distribute it to those who provided comments, to other interested parties, or to the NEPA distribution list posted on the Council on Environmental Quality website and available from the NOAA Office of Public and Constituent Affairs.

- ❖ NOAA, through the U.S. EPA, publishes a *Federal Register* notice announcing the availability of the final environmental impact statement and management plan. The date of publication begins the 30-day "cooling-off" period. During this time, NOAA may receive comments but is not obligated to respond to them. This is essentially a time to address any minor issues or major litigious issues.

I. Considerations for Federally Recognized Tribes

A critical consideration during the development of the environmental impact statement and supporting reserve management plan is the consultation and coordination with Indian tribal governments in accordance with Executive Order 13175 and the subsequent NOAA policy that "*establishes the manner in which the Department works with federally recognized Indian tribes when developing Department policies that have tribal implications.*" The policy reaffirms the unique government-to-government relationship that exists between Indian tribes and NOAA. NOAA continues its commitment to support tribes in the development of strong and stable economies able to participate in today's national and global marketplace.

As a result, the Office for Coastal Management will work to identify local tribes and tribal associations that are affected by the designation of a research reserve. Figure 18 provides recommendations on tribal consultations during a reserve designation.

Some of the *key concerns* that should be addressed in the designation process include:

- ✓ **Off-reservation treaty rights** – Rights to hunt, fish, and gather on state lands. Recognized tribes have access to these lands and self-regulate their ability to hunt, fish, and gather on them. These rights were never given up by the tribes, and they retain them according to treaty. Are these compatible with Reserve System regulations?
- ✓ **Delegated authorities** – Tribal associations may have delegated authorities from federally recognized tribes. These associations or commissions protect member tribes' interests in exercising their reserved treaty rights and manage natural resources.

- ✓ **Unique sovereign relationship** – Tribes maintain a unique sovereign relationship with the federal government. As such, the tribes expect government-to-government consultation directly with NOAA and request that the lead state partner not interfere with or usurp this tribal–federal relationship.
- ✓ **Cultural Groups** – Cultural groups, such as native Hawaiian's, may have significant social and governance powers in coastal communities. As such, NOAA should make every effort to consult with these groups and consider them key stakeholders in the designation process.

Figure 18. Tribal Consultation Recommendations

NOAA and the lead state partner must also account for what the expectations of tribes and cultural groups are for their engagement and participation in the research reserve designation process. Some of these may include the following:

- ✓ Any future research reserve designation within the ceded territories must not modify, alter, or in any way affect treaty rights. This, by necessity, includes access to and availability of harvested resources. For the tribes, protecting water bodies and associated shorelines includes the protection of treaty rights.
- ✓ The tribes, as sovereign governments, require consultation through consensus-based government-to-government discussions.
- ✓ Tribes maintain a unique sovereign relationship with the federal government. As such, the tribes expect government-to-government consultation directly with NOAA. Tribes are not a public but rather a foreign government requiring government-to-government consultations.
- ✓ Consultation of all individual tribes and specific cultural groups identified in the process.

J. Federal Consultations

Under NEPA, the environmental impact statement is an umbrella that integrates related environmental review and consultation requirements (e.g., Endangered Species Act, Clean Water Act, National Historic Preservation Act, etc.). These requirements are discussed on pages 22-24 of the Companion Manual for NOAA Administrative Order 216-6A at *http://www.nepa.noaa.gov/docs/NOAA-NAO-216-6A-Companion-Manual-03012018.pdf*.

These reviews and consultations should be prepared concurrently with the environmental impact statement and be integrated into the final version. Furthermore, the environmental impact statement needs to identify all federal requirements and licenses, as well as relevant state requirements. The key federal consultations (*Figure 19*) include the following:

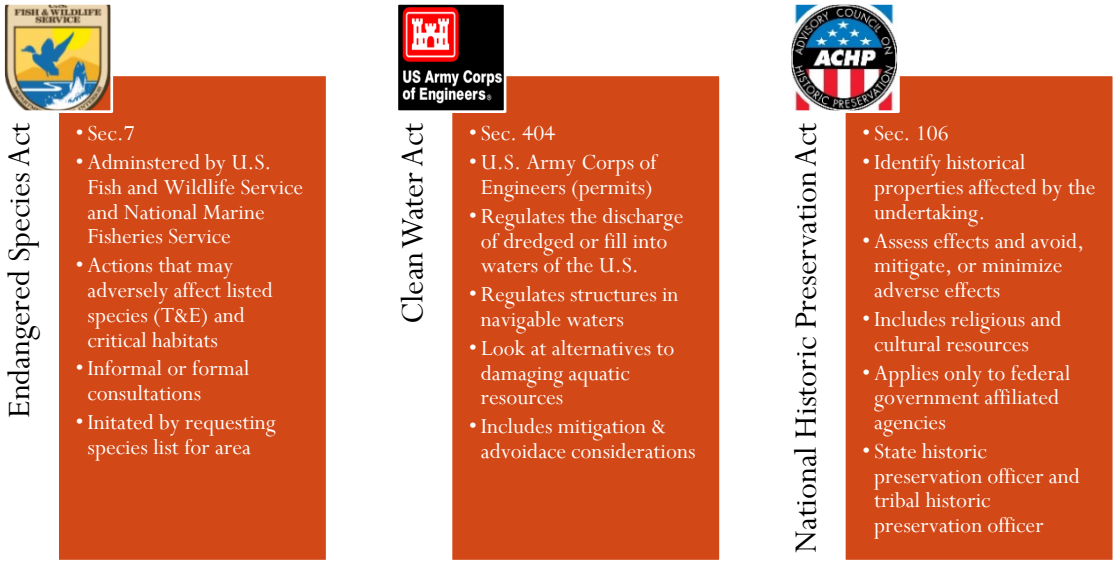


Figure 19. Key EIS Consultations

Endangered Species Act (16 U.S.C. §§ 1531, et seq.)

The purpose of the Endangered Species Act (ESA) is to protect animal and plant species from extinction and direct all federal agencies to conserve endangered and threatened species and the ecosystems upon which they depend. Under the act, NOAA's National Marine Fisheries Service and the U.S. Fish and Wildlife Service (collectively, the services) publish lists of endangered, threatened, candidate, and other species with special status under the act. The services also may designate critical habitat for endangered or threatened species. As described in the Companion Manual, section 7(a)(2) of the ESA states, "*Each Federal agency shall ensure that any action authorized, funded, or carried out . . . is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat*."

The U.S. Fish and Wildlife Service (USFWS) has primary responsibility for terrestrial and freshwater organisms, and the National Marine Fisheries Service (NMFS) has primary responsibility for marine species. Some species fall under both agencies, depending on location of the effect (i.e., sea turtles).

When a federal agency action may affect a protected species or its critical habitat, that agency is required to consult with NMFS or the USFWS, depending upon the protected species potentially affected.

Under this statute, NOAA must

- ✓ Determine whether listed or proposed species or designated or proposed critical habitat may be in the action area;
- ✓ Determine the effects of the action on the species or critical habitat;
- ✓ Explore ways to modify the action to reduce or remove adverse effects or benefit the species or critical habitat; and
- ✓ Make a determination if the project will have "no effect" or whether informal or formal consultation is required.

The general consultation process is described below in Figure 20.

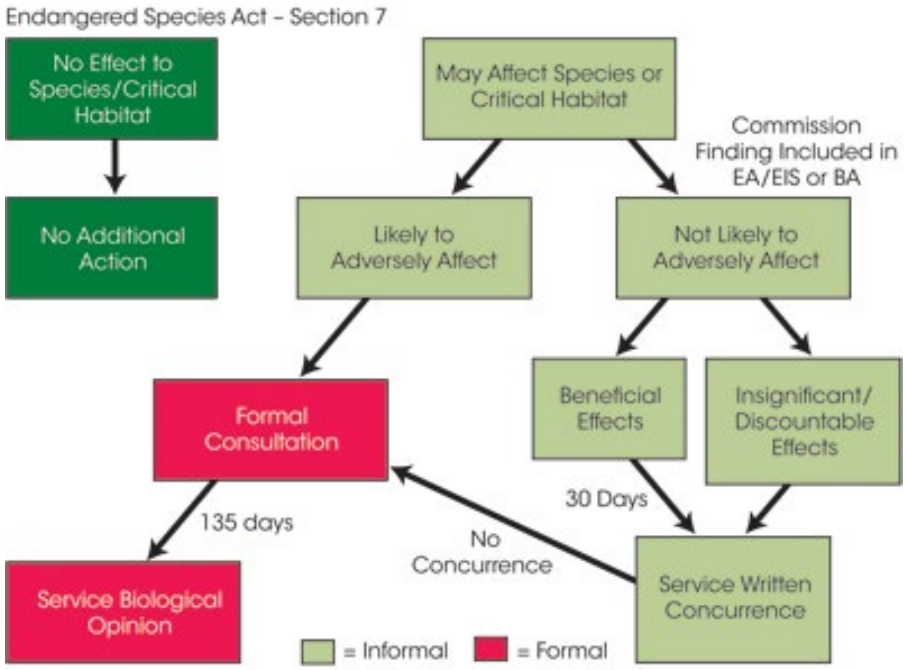


Figure 20. ESA Section 7 Consultation Process

A more detail description of the ESA consultation process for the designation of a research reserve is found in Appendix N.

Clean Water Act (33 U.S.C. §§ 1251 et seq.)

The Clean Water Act (33 U.S.C. §§ 1251 et seq.) is the principal federal law governing water quality. The act's objective is to restore and maintain the chemical, physical, and biological integrity of the nation's waters. The act regulates both the direct (sometimes called point source) and indirect (sometimes called nonpoint source) discharge of pollutants. Section 404 authorizes a permit program, administered by the U.S. Army Corps of Engineers, for the discharge of dredged or fill material into the waters of the U.S. Section 401 of the act requires applicants for federal licenses or permits to conduct activities that may result in a discharge of pollution into navigable waters to obtain certification of compliance with applicable state water quality standards and goals (or a waiver from the state). Other sections of the act govern point source and nonpoint source pollution. Figure 21 provides a graphically representation of the waters that the corps has jurisdiction over under different parts of the act.

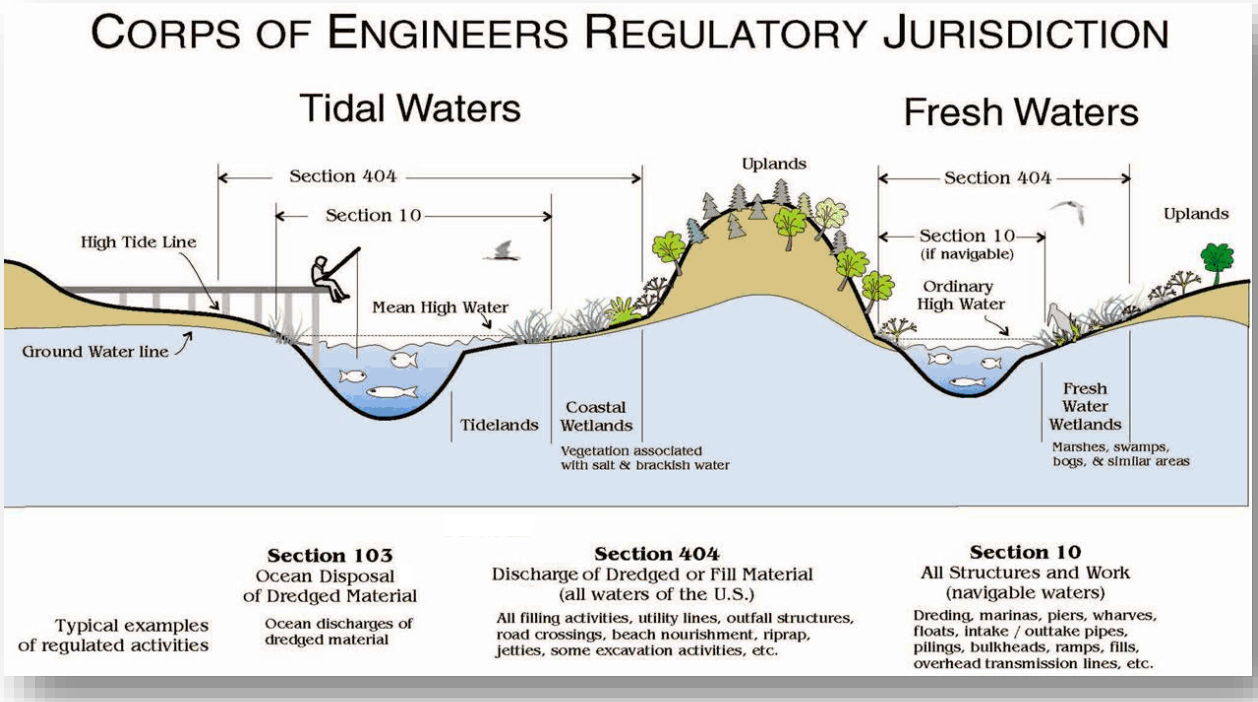


Figure 21. U.S. Army Corps of Engineers Regulatory Jurisdiction

The designation of a research reserve may include activities, as described in the reserve management plan, work in jurisdictional waters of the U.S. that could discharge (dump, place, deposit) dredged or fill material in waters of the U.S., including wetlands. The team should consult with the U.S. Army Corps of Engineers to determine if such activities require permits under section 404 of the Clean Water Act. The specific impacts of the proposed activities to tidal and fresh waters will determine what permit type is required.

Under this statute, NOAA must

- ✓ Determine if the proposed activities would neither degrade nor have of the effect of degrading the jurisdictional waters in the area;
- ✓ Determine if activities identified in the reserve management plan require permits under section 404 of the Clean Water Act;
- ✓ If applicable, determine the type of permit needed (i.e., nationwide, regional general, programmatic general, individual; and
- ✓ Describe the best management practices that the proposed reserve or partners are planning to implement to avoid or mitigate impacts related to activities identified in the management plan.

National Historic Preservation Act (16 U.S.C. §§ 470 et seq.)

The National Historic Preservation Act (NHPA) of 1966 established a comprehensive program to preserve the historical and cultural foundation of the nation as a living part of community life. Section 106 of the NHPA is a crucial part of that program that requires consideration of historic preservation in the many projects with federal involvement that take place every day across the nation.

For a research reserve designation, complying with Section 106 is the responsibility of NOAA. While the lead state partner may be asked to provide pertinent information needed for completing a Section 106 consultation, NOAA remains responsible for all findings and determinations. The team will need to consider the effects on historic properties of a research reserve designation ("undertakings" as defined by 36 CFR 800.16).

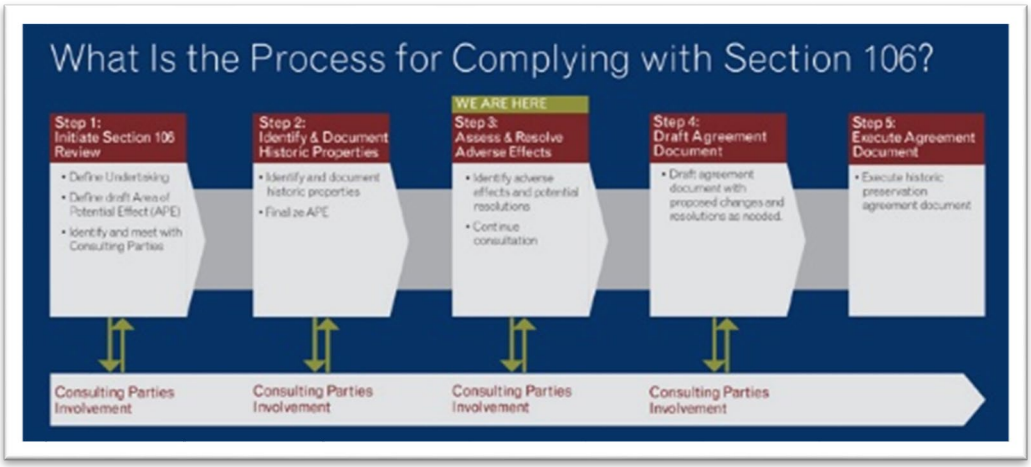


Figure 22. NHPA Section 106 Consultation Process

The Section 106 consultation process, as outlined in Figure 22, requires the team to identify and evaluate historic properties with the proposed research reserve boundaries and make an initial determination of the effects of their undertakings on historic properties or resources. NOAA is required to prepare a findings determination letter for the state or tribal historic preservation officer.

A more detail description of the NHPA consultation process for the designation of a research reserve is found in Appendix O.

K. Federal Consistency

The Coastal Zone Management Act (CZMA) (16 U.S.C. §§ 1451, et seq.) was established to preserve, protect, develop, and, where possible, restore and enhance the nation's coastal resources. Under the act, Section 307 requires that any federal action inside or outside of a state's coastal zone that affects any land or water use or natural resources of the coastal zone to be consistent, to the maximum extent practicable, with the enforceable policies of approved state management programs. In the case of the designation of a research reserve, the state Coastal Zone Management Program must certify that the proposed reserve is consistent with the state's approved coastal management program. Section 921.4(b) of the Reserve System regulations provide additional guidance.

Under this statute, NOAA must

- ✓ Draft a CZMA federal consistency determination document, in cooperation with Office for Coastal Management federal consistency staff, for the applicable state coastal program;
- ✓ Send the determination letter to the state for review and concurrence; and
- ✓ Complete this review at least 90 days before the expected record of decision by the NOAA administrator.

7. Navigating the NOAA Review and Clearance Process

A. Introduction

A significant part of the process to designate a research reserve site is internal to NOAA. Oversight of the National Estuarine Research Reserve System is through the Office for Coastal Management within the National Ocean Service (NOS). Both the Office for Coastal Management and NOS are deeply involved in the review and clearance of the new research reserve site prior to a decision by the NOAA administrator to officially designate or not.

Periodically, some details in the review and clearance process change, and policies and procedures are updated. The process described below was recently used in 2016-17 for the He'eia Research Reserve designation process. This process can span several years of the approximately 5 years, on average, required to designate a reserve.

B. Review and Clearance Process Overview

There are four distinct review and clearance points during the designation process as described in Figure 23. These include:

- Nomination Review and Approval
- Draft Environmental Impact Statement (DEIS)/Draft Management Plan(DMP) Review and Clearance
- Final Environmental Impact Statement (FEIS)/Final Management Plan (FEIS) Review and Clearance
- NOAA Findings of Designation

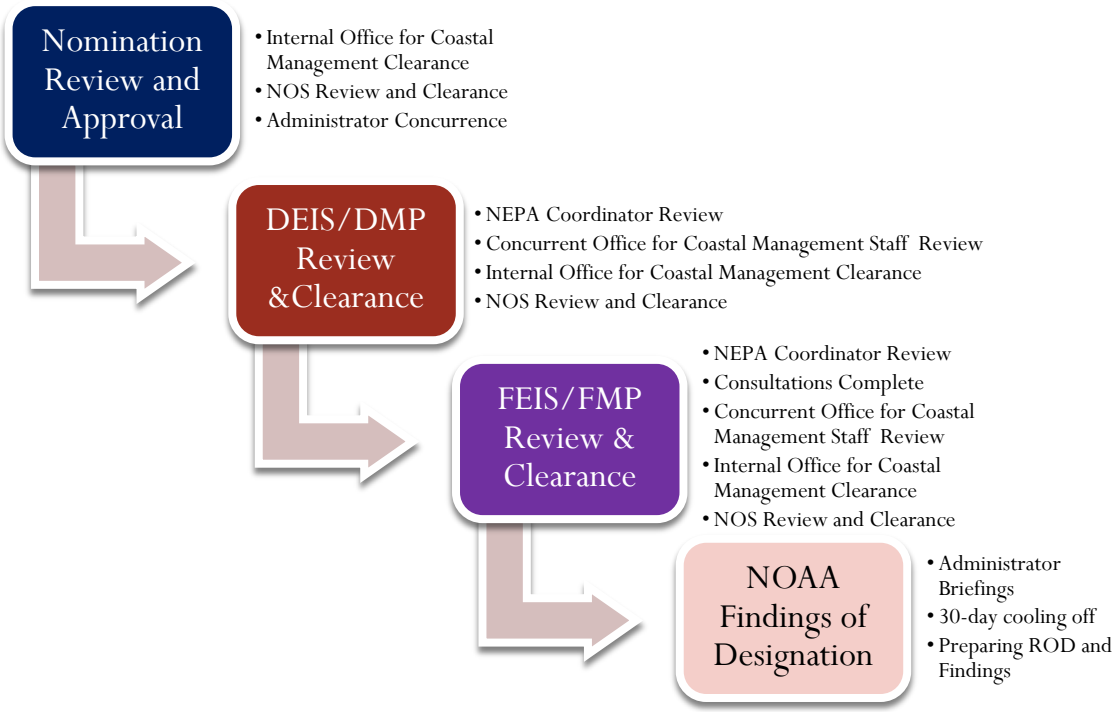


Figure 23. Major NOAA Review and Clearance

Understanding the process and accounting for it within a designation timeline is critical for the coordination of the process between NOAA and the lead state partner. With a clear timeline and associated milestones, the partners will be better able to coordinate and make the necessary resource commitments to ensure successful process. A more detailed step-by-step process is provided in Appendix M.

C. Nomination Review and Approval

Plan for a 3.5 month review and approval of a proposed research reserve site nomination from the state or territorial governor developed by the lead state partner. The review and clearance process must include appropriate briefings and associated materials, including 3-things memo, talking points, designation timeline, a site map, summary of alternatives, and a review of issues of concern. In preparation for the NOAA brief and decisional, prepare a letter from the NOAA administrator to the state or territorial governor informing them of NOAA's decision to move forward or not. Figure 24 below provides a step-by-step overview of this NOAA decisional process.

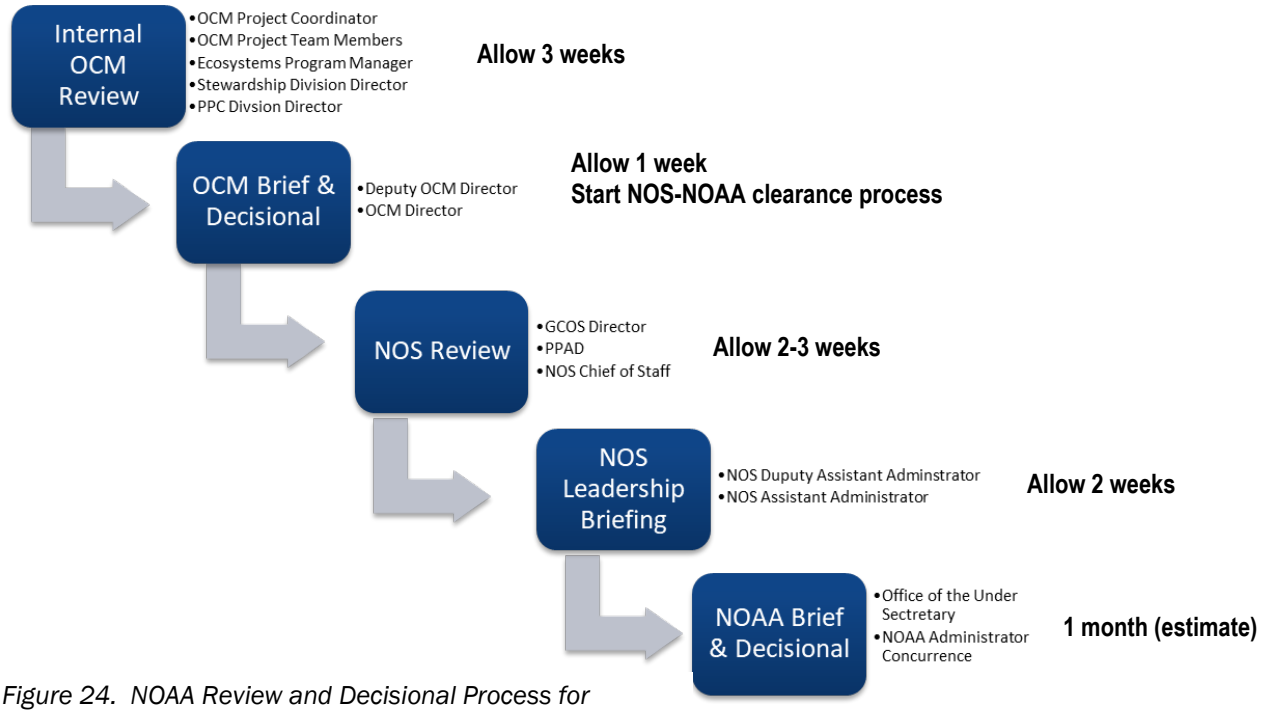


Figure 24. NOAA Review and Decisional Process for Reserve System Site Nominations

Nomination Documentation Requirements for a Research Reserve Nomination Review

Based on Sec. 921.11 of the Reserve System regulations, the site nomination document must include

➲ A description of the proposed site(s) and its (their) major resources, including location, proposed boundaries, and adjacent land uses.

➲ A description of the proposed site-selection process, including an analysis of how the proposed site contributes to the biogeographical and typological balance of the Reserve System.

➲ A description of the proposed site's ecological characteristics, including its biological productivity and diversity of flora and fauna. The site should also, to the maximum extent possible, be an estuarine ecosystem minimally affected by human activity or influence as per Sec. 921.12(e) of the Reserve System regulations.

➲ Identification of the site-selection agency and the potential reserve management agency.

➲ A description of the public participation process used to support site selection that

- Describes how the state sought the views of affected landowners, local governments, other state and federal agencies and other parties who are interested in the area(s) being considered for selection as a potential National Estuarine Research Reserve.
- Provide evidence that at least one public meeting in the vicinity of the proposed site was held and that notice the meeting, including the time, place, and relevant subject matter, was given through the area's principal newspaper at least 15 days before the date of the meeting.
- Captures the views of interested parties by including a summary of public comments, and, if interstate issues are involved, documentation that the governor(s) of the other affected state(s) has been contacted.
- Provides copies of all correspondence, including contact letters to all affected landowners.

➲ A list of all sites considered and a brief statement of the reasons why a site was not preferred.

➲ A discussion of the proposed site(s) capacity to attract a broad range of research and educational interests.

➲ A description of the site's suitability for long-term estuarine research, including ecological factors and demonstrate proximity to existing research facilities and educational institutions.

➲ Appropriate maps and a description of the proposed site's boundaries. The proposed boundaries should encompass an adequate portion of the key land and water areas of the natural system to approximate an ecological unit and to ensure effective conservation.

NOTE: For research reserve designations, boundary size will vary greatly depending on the nature of the ecosystem (e.g., Kachemak Bay, AK - 366,100 acres vs. Old Woman Creek, OH at 573 acres). In general, reserve boundaries must encompass the area within which adequate control has or will be established by the managing entity over human activities occurring within the identified boundaries. Reserve boundaries will encompass two areas: key land and water areas (known as the "*core area*") and a buffer zone. The core and buffer zones will likely require significantly different levels of control (see Sec. 921.13(a) (7)). See more on core and buffer areas in *Section IV. Boundary Delineation*.

➲ Identifying within the proposed boundaries, any existing federal or state lands already in a protected status where mutual benefit can be enhanced. Federal lands and waters identified within the proposed boundary **cannot exceed 49 percent of the total area**. NOAA will not approve a site for potential national estuarine research reserve status that is dependent primarily upon the inclusion of currently protected federal lands in order to meet the requirements for reserve status (such as key land and water areas).

NOTE: If such lands are included within a proposed reserve's boundary, it may be included, subject to NOAA approval, as a limited portion of the core area.

➲ A description of the site's compatibility with existing and potential land and water uses in contiguous areas as well as approved coastal and estuarine management plans.

➲ A brief discussion of the site's relevance and importance to education and interpretive efforts, consistent with the need for continued protection of the natural system.

Appendix D, "Site Nomination Checklist," will help you evaluate the Reserve System site nomination for consistency with Reserve System regulations and requirements. Comments should be relevant to the review criteria and assist the NOAA administrator in his or her decision to accept the nomination or return it to the state for additional action. Other comments related to opportunities or connections to ongoing NOAA activities and plans are welcome.

D. Draft Environmental Impact Statement and Draft Management Plan Review and Clearance

Preliminary Review and Clearance

Plan for a 3-month preliminary review of the draft environmental impact statement and draft management plan. Included in the preliminary review are briefings for the Office for Coastal Management stewardship director and program manager, and the NOS and Office for Coastal Management NEPA coordinators. These briefings must include briefing documents (e.g., 3-things memo, talking points, designation timeline, site map, summary of alternatives, and any issues of concern). As part of these briefings, prepare an overview of this research reserve designation process and NOAA's internal review and clearance process. The Reserve Reserve Designation Team lead is typically responsible for setting up these briefings. Additionally, these documents will support future briefings for the Office for Coastal Management director and the NOAA assistant administrator during the formal Office for Coastal Management and NOS clearance process.

Start the preliminary review after briefing Office for Coastal Management leadership and the NEPA coordinators. Following these briefings, allow a **2-week period** for the Office for Coastal Management and NOS NEPA coordinators to review the preliminary draft environmental impact statement and draft management plan.

After the NEPA coordinator review, allow 3 weeks for the draft documents to be reviewed internally and concurrently by the Office for Coastal Management:

For the Draft Environmental Impact Statement and Draft Management Plan

- Lead state partner
- Office for Coastal Management (OCM) Ecosystems Program manager
- OCM regional team lead
- OCM Stewardship Division director
- OCM Policy, Planning, Communications director or designee

For the Draft Management Plan Only

- OCM Reserve System research coordinator
- OCM Reserve System education coordinator

- OCM Reserve System stewardship coordinator
- OCM Reserve System Coastal Training Program coordinator

Allow for a 21-day internal Office for Coastal Management review period.

Concurrent with the Office for Coastal Management clearance, the NOS NEPA coordinator will request a **technical assistance review** with appropriate National Marine Fisheries Service (NMFS) staff.

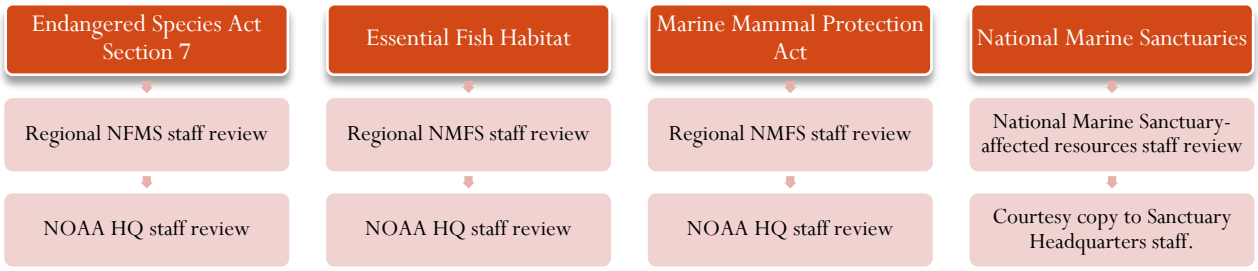


Figure 25. NMFS Technical Assistance Review Components

The breadth of a **technical assistance review** with NMFS staff is shown in Figure 25. Allow up to 30 days for this review to be completed. The final review is by NOAA's Office of General Counsel–Ocean and Coasts Section (GCOS). The Oceans and Coasts Section provides legal counsel to the National Ocean Service, including the National Marine Sanctuary Program, the Office for Coastal Management, and the Office of Coast Survey. In these roles, the office helps implement the National Marine Sanctuaries Act, the Coastal Zone Management Act, the Coast Survey Act, and other statutes. GCOS is provided with 1-2 weeks to complete their review of the preliminary DEIS/DMP.

Upon receipt of comments from the Office for Coastal Management, NEPA Coordinator, and others obtained during the preliminary review process, NOAA and the lead state partner revise the preliminary DEIS/DMP in preparation for the formal document review process. NOAA takes the lead in preparing the final DEIS with assistance from the lead state partner. Similarly, The lead state partner, with assistance from NOAA, prepares a final DMP, including an MOU identifying the state and NOAA roles in managing the reserve. Time allotted to complete revisions to the DEIS/DMP is based on the breadth and depth of the comments received during the preliminary review process. Expect to allot 4-6 weeks for a revised DEIS/DMP to be ready to start the Formal DEIS/DMP review and clearance process.

Note: Consider a 1-week in-person meeting with the lead state partner to hammer out changes to the draft environmental impact statement and draft management plan.

Formal Draft Environmental Impact Statement and Draft Management Plan Review and Clearance

The formal review and clearance process required by NOAA, as shown in Figure 26, allows for official clearance of the draft environmental impact statement (DEIS) and draft management plan (DMP) by the

Office for Coastal Management and NOS. Upon completion of a revised DEIS/DMP based on comments received from the preliminary review and clearance process, Office for Coastal Management Communications staff provide a final editorial review of the draft environmental impact statement. If possible, complete this step before beginning the formal NOAA clearance process. However, if minimal changes are expected during the clearance process, editorial work may occur concurrently. Depending on the condition of the document, plan for a 6 week document editing process. Tips for writing and formatting large documents are found in Appendix P.

NOTE: Provide Office for Coastal Management Communications with the consolidated document in Microsoft Word format.

Once a revised version of the DEIS/DMP and supporting documents are ready for the official clearance process, work with administrative staff to enter the documents into the controlled correspondence routing system. In preparation for moving the DEIS/DMP through the formal NOAA review and clearance process, the following documents (paper and digital) need to be included in the Data by Design Routing (controlled correspondence):

- ✓ 3-things memo (prep for the meeting with Office for Coastal Management director and NOS assistant administrator)
- ✓ Transmittal memos (NOS environmental compliance coordinator to EPA)
- ✓ Dear reviewer letter (NOS Environmental Compliance to EPA)
- ✓ DEIS/DMP

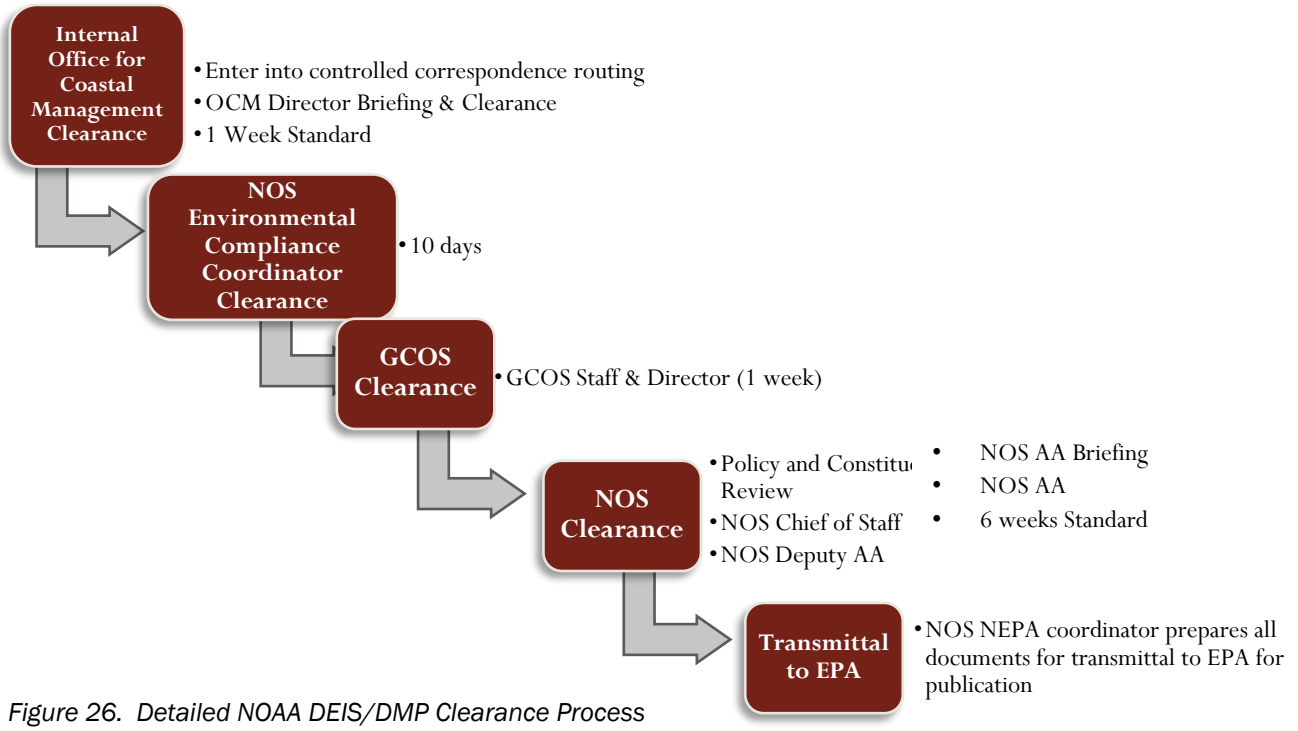


Figure 26. Detailed NOAA DEIS/DMP Clearance Process

Key considerations during the Review and Clearance Process

For the formal review of the reserve designation DEIS/DMP, there are multiple steps to follow within the Office for Coastal Management and NOS clearance process. There are several very important steps for the Office for Coastal Management reserve designation team lead to pursue during this review and clearance period.

1. Work with the Office for Coastal Management administrative staff in the Business Division and the NOS assistant administrator correspondence unit to **ensure that the documents are entered into controlled correspondence and routed correctly**.
2. **Look into Office for Coastal Management leadership availability for meetings and briefings** about the designation and the DEIS/DMP with the NOAA Reserve Development Team and state partners. The times available for leadership to meet may be limited so plan accordingly.
3. Seek Office for Coastal Management leadership support and Planning, Policy, and Communication Division assistance in developing **courtesy political leadership briefings** about the reserve designation process.
4. Provide copies of the revised DEIS/DMP to known formal reviewers before the start of the formal review process for the purpose of **pre-review** (e.g., Office for Coastal Management NEPA coordinator, Stewardship director, GCOS, Office for Coastal Management director, Policy and Constituent Affairs Division, NOS chief of staff, NOS assistant administrator)
5. Coordinate with Planning, Policy, and Communication Division on their efforts to **develop a rollout plan** for the DEIS/DMP.
6. Ensure that **external consultations** (i.e., Endangered Species Act, Marine Mammal Protection Act, etc.) are moving forward.

Some important considerations for Office for Coastal Management leadership at this time:

1. Make time for review of the DEIS/DMP and availability to participate in briefings regarding the designation process.
2. Assist in preparing NOS for a concise approval process.
3. Breakthrough unforeseen Office for Coastal Management–NOS obstacles to timely clearance.

Step 1 – Internal Office for Coastal Management clearance of the DEIS/DMP
This includes a briefing for the Office for Coastal Management director and deputy director to clear the document for NOS. Expect to provide a one-week window to prepare for the briefing, allowing the Office for Coastal Management director and deputy director to review the documents, hold a briefing, and answer questions. Official clearance occurs in the online system. The Office for Coastal Management administrative staff and the NOS Correspondence Unit create the official review and clearance routing in the online system as well as a hard-copy control sheet.

Step 2 – NOS environmental compliance coordinator clearance
Provide the NOS environmental compliance coordinator with a copy of the DEIS/DMP for review. Any NEPA-related actions that require NOS assistant administrator clearance must be reviewed by the NOS environmental compliance coordinator. This step provides the coordinator with an opportunity to review the document and will facilitate the timely processing of the document within NOS.

Step 3 – GCOS clearance

Following clearance by the Office for Coastal Management, transmit the document to GCOS for legal review and clearance. Since the NOAA designation team includes legal counsel from GCOS, most legal issues should have already been addressed earlier in the process. However, GCOS review and clearance officially occurs outside of the controlled correspondence online system; therefore, a hard copy must be provided, and clearance is provided through signature on a hard-copy control sheet.

NOTE: This step should only need a week to complete. Check in with GCOS periodically to ensure that their review and clearance of the document is completed.

Step 4 – NOS clearance

After GCOS clears the DEIS/DMP package, the NOS controlled correspondence unit officially manages the NOS clearance process. The package is transmitted to the NOS Policy and Constituent Affairs Division for review. In addition to Policy and Constituent Affairs Division, the NOS chief of staff and NOS deputy assistant administrator review and clear the package before clearance by the NOS assistant administrator. This includes a briefing for the NOS assistant administrator. Relevant NOS and Office for Coastal Management leadership will most likely participate in this meeting. Therefore, schedule this briefing as soon as the final DEIS/DMP is ready for review. Expect to provide a four-week review within NOS, allowing NOS leadership time to review the documents and to hold a briefing. Note: The supporting materials prepared for the Office for Coastal Management leadership briefing are typically used for the NOS briefing.

NOS Controlled Correspondence Control Sheet

- ✓ NOS Correspondence Unit
- ✓ NOS Environmental Compliance Coordinator
- ✓ NOS Correspondence Unit
- ✓ GCOS
- ✓ NOS Correspondence Unit
- ✓ Policy and Constituent Affairs Division
- ✓ NOS Correspondence Unit
- ✓ NOS Chief of Staff
- ✓ NOS Correspondence Unit
- ✓ NOS Deputy AA
- ✓ NOS AA
- ✓ NOS Correspondence Unit

Step 5 – Transmittal to EPA

After the briefing, the NOS assistant administrator will have the option to clear the package. Any additional corrections to the DEIS can be made at this time. Once cleared by the NOS assistant administrator, scan the signed documents, enclose them with the DEIS/DMP, and forward to the NOS environmental compliance coordinator for clearance. The Office for Coastal Management environmental compliance coordinator finalizes the transmittal letter and dear reviewer letter for forwarding to U.S. Environmental Protection Agency electronically.

Before transmitting the Federal Register Notice to EPA, the Office for Coastal Management sends the DEIS/DMP package to the NOS Office of Legislative Affairs representative introducing the project, map, web link, and note that says that we would like to set up courtesy briefings with the state delegation and authorized natural resource committees.

Once cleared, the document is expected to be published in the *Federal Register* as the designation process moves to a required 45-day public comment period.

Concurrent Federal Register Notice Review and Clearance Process

As the package is being reviewed by the Policy and Constituent Affairs Division, the NOAA designation team can begin a concurrent process for both the Office for Coastal Management review and clearance of the *Federal Register* notice of availability for the public comment period and the Federal Register Notice for the public meeting as per Reserve System regulations. The formal review and clearance process required by NOAA, as shown in Figure 27, allows for official clearance of the DEIS/DMP by the Office for Coastal Management and NOS.

As described in Reserve System regulations, 15 C.F.R. Part 921.13 (d), NOAA announces the availability of the DEIS/DMP for public comment in the *Federal Register* through a notice of availability. The date of the Federal Register Notice publication begins the 45-day comment period on the DEIS/DMP. Separately and concurrently, a second Federal Register Notice as required by Reserve System regulations is used to give notice of the required public meeting(s) to be held at least 15 days after publication of the notice of availability and public comment period. In most cases, NOAA and EPA work to publish the notice of availability of the DEIS/DMP and the notice of the public meeting *concurrently* in the *Federal Register*.

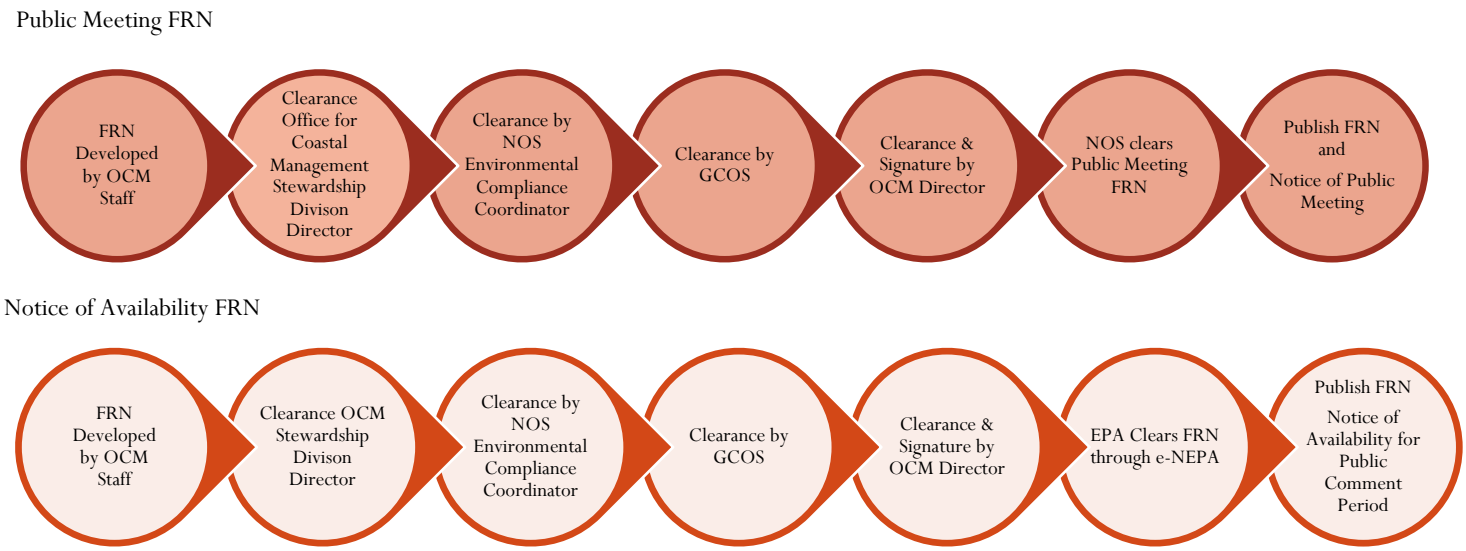


Figure 27. Concurrent DEIS/DMP Notice of Availability and Public Meeting Federal Register Notice

Some key actions when developing a Federal Register Notice announcing the DEIS/DMP public comment period area are as follows:

- Determine the point of contact for receiving public comments on DEIS/DMP. The notice should also direct commenters to submit comments through the federal e-rulemaking portal. Go to: *http://www.regulations.gov*

- Make sure to set up an account in the Federal Docket Management System (FDMS.gov). This allows you to post documents for review on regulations.gov and have a central location to capture and archive comments from the public.

- Work with the lead state partner and regional staff to determine a public meeting date.

- Prepare *Federal Register* notice text announcing public meeting on DEIS/DMP.

- Send the draft federal register notice through the clearance process described in Figure 27. Reviewers (in order) Ecosystems program manager – clearance; Stewardship director – clearance; Office for Coastal Management or NOS environmental compliance coordinator – review; GCOS – clearance; Office for Coastal Management deputy director – clearance; Office for Coastal Management director – clearance and signature. **Federal register notice signatory authority resides with the Office for Coastal Management director.**

- **Submission of the federal register notice to EPA is concurrent with NOS assistant administrator approval of the DEIS/DMP.**

- The complete DEIS package that is transmitted electronically to EPA through the e-NEPA electronic filing system (Central Data Exchange, or CDX). The federal register notice will be filed on Friday (if delivered before 2 p.m.) and published the following Friday.

- Work with the lead state partner to develop a DEIS/DMP distribution list.

- Mail the DEIS/DMP to interested parties concurrent with transmittal of the federal register notice to EPA. Send electronic copies to interested parties and to the NEPA distribution list posted on the Council of Environmental Quality website.

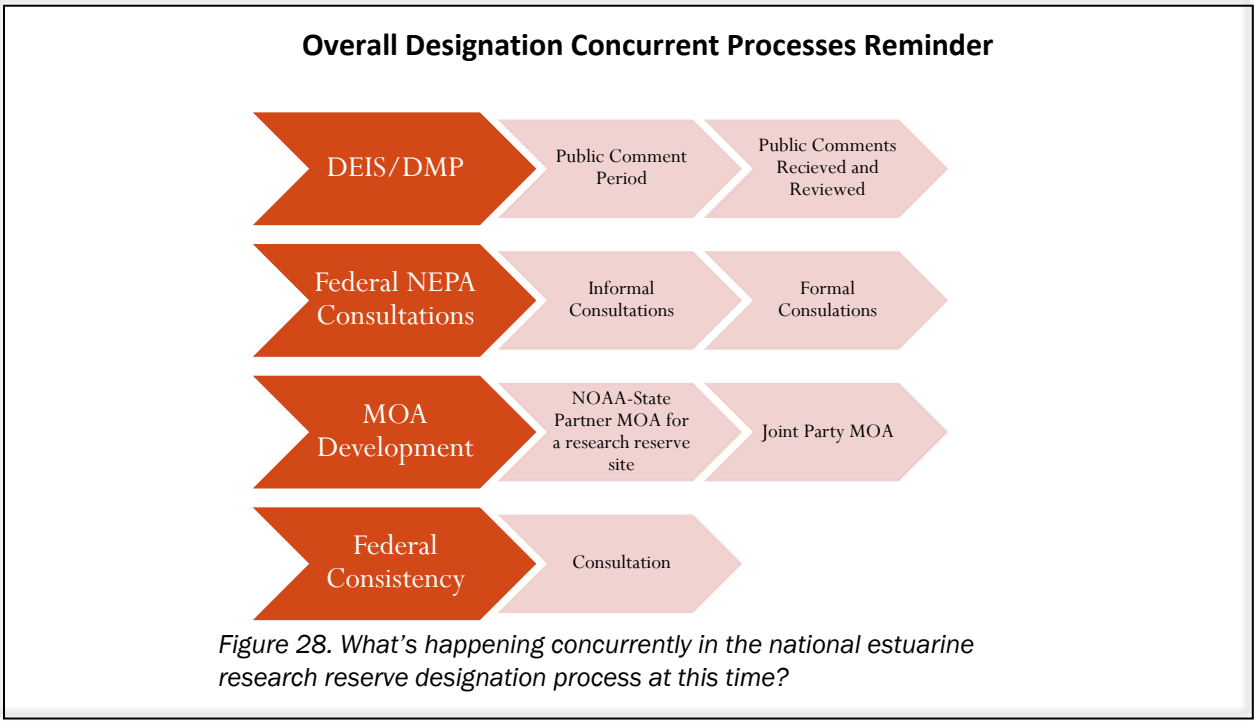


Figure 28. What's happening concurrently in the national estuarine research reserve designation process at this time?

E. Final Environmental Impact Statement and Final Management Plan Review and Clearance

As described in Section 6. Subsection H, a final environmental impact statement (FEIS) and final management plan (FMP) is developed based on the comments received during the public comment period. Combined with the results of the different ongoing and concurrent consultations, the FEIS/FMP is used to support a designation decision by the NOAA administrator. Some additions to the FEIS/FMP that was not part of the DEIS/DMP include the following:

- An appendix documenting the public comments and responses
- Final MOUs between NOAA and the state and the multi-party (unsigned)
- Distribution list for the DEIS/DMP
- Federal consistency determination documentation
- Correspondence for other federal consultations
- Consultations with tribal or other cultural groups, if applicable

Note: External consultations with appropriate USFWS, NMFS, state historic preservation officer or tribal historic preservation officer, and other officials, and a federal consistency review must be completed and enclosed in the FEIS before the start of the formal review and clearance process.

A step-by-step overview of the detailed NOAA review and clearance process laid out in Figure 29 allows for official clearance of the FEIS/FMP by the Office for Coastal Management and NOS. Once the FEIS/FMP and supporting documents are ready for the official clearance process, work with Office for

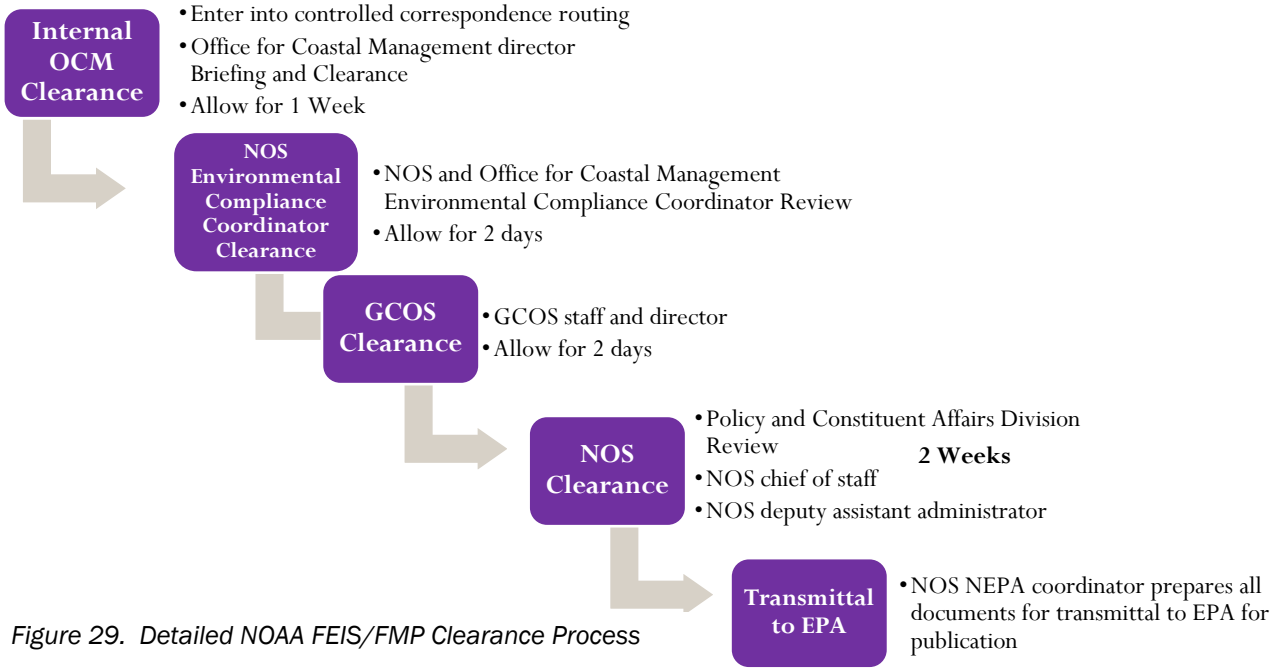


Figure 29. Detailed NOAA FEIS/FMP Clearance Process

Coastal Management administrative staff to enter the documents into the controlled correspondence routing system.

In preparation for moving the FEIS/FMP through the formal NOAA review and clearance process, the following documents (paper and digital) need to be included in the Data by Design Routing (controlled correspondence):

- ✓ Three-things memo (prep for the meeting with Office for Coastal Management director and NOS assistant administrator)
- ✓ Transmittal memos (NOS environmental compliance coordinator to EPA)
- ✓ Dear reviewer letter (NOS environmental compliance to EPA)
- ✓ FEIS/FMP
- ✓ Rollout plan

Anticipate a shorter Office for Coastal Management and NOS review of the FEIS/FMP (1-month combined total) as the reviewers have already seen the draft version and during the DEIS/DMP clearance process. Once cleared, a mandatory 30-day cooling-off period must occur before bringing the research reserve designation to the NOAA administrator for consideration and a possible record of decision and designation findings.

Note – Rollout plan and invitations for the NOAA administrator to attend the designation ceremony

need to be made 3 months before designation! Fill out an event request form and contact NOS Program Coordination Office and Policy and Constituent Affairs Division staff.

Key considerations during the FEIS/FMP Review and Clearance Process

For the formal review of the reserve designation FEIS/FMP, there are multiple steps to follow within the Office for Coastal Management and NOS clearance process. There are several very important steps for the Office for Coastal Management reserve designation team lead to pursue during this review and clearance period.

1. Work with the Office for Coastal Management administrative staff in the Business Division and the NOS assistant administrator correspondence unit to **ensure that the documents are entered into controlled correspondence and routed correctly**.
2. **Arrange briefing with Office for Coastal Management and NOS leadership** about the FEIS/FMP and the closing steps of the designation process. This includes briefing for the NOAA administrator and a record of decision with the NOAA Reserve Development Team and state partners. The times available for leadership to meet may be limited, so plan soon after the public comment period for the DEIS/DMP ends.
3. Seek Office for Coastal Management leadership support and Planning, Policy, and Communication Division assistance in developing **courtesy political leadership briefings** about the reserve designation via the rollout plan.
4. Prepare and clear ***Federal Register*** **notice of availability** of the FEIS/FMP concurrent with the FEIS/FMP review.

Some important considerations for Office for Coastal Management and NOS leadership at this time include the following:

1. Make time to participate in FEIS clearance briefings
2. Work with NOAA downtown to schedule NOAA administrator briefing and decisional
3. Break through unforeseen Office for Coastal Management–NOS obstacles to timely clearance

The details of the FEIS/FMP clearance process mirror the DEIS/DMP clearance process described in subsection D but include a shorter review period at each step. The FEIS/FMP review occurs concurrently with the *Federal Register* notice of availability review, as shown in Figure 30.

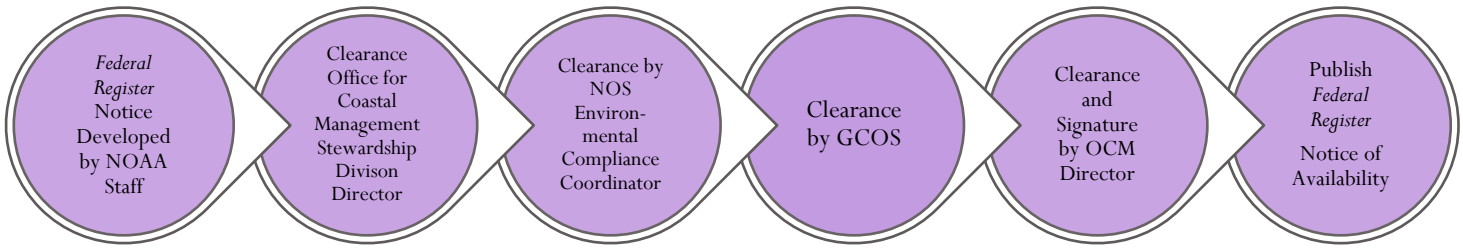


Figure 30. FEIS/FMP Notice of Availability

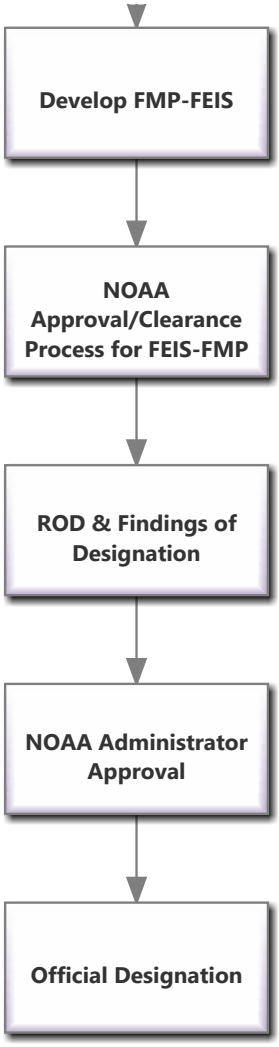
Once cleared by NOS, the Office for Coastal Management Communications staff makes final edits to the FEIS. The *Federal Register* notice and the document should be made available electronically through Regulations.gov. NOAA or state partner may print copies of FEIS/FMP for distribution to those persons that provided comment, to other interested parties, and to the NEPA distribution list posted on the Council of Environmental Quality website. Concurrently, publishing in the *Federal Register* officially starts the mandatory 30-day cooling-off period before any record of decision by the NOAA administrator. This is essentially a time to address any minor issues or major litigious issues.

Note: A complete FEIS package that is transmitted electronically to EPA through the e-NEPA electronic filing system (Central Data Exchange, or CDX, includes the dear-EPA letter, the FEIS/FMP, and the *Federal Register* notice.

F. 30-Day Cooling-Off Period

During the cooling-off period the Reserve Designation Team follows these steps:

- Ensure the final MOU signed by NOAA and state partner. Five copies are signed by the Office for Coastal Management director and sent to appropriate state official for signature. State partner returns three signed copies to the Office for Coastal Management.
- Receive a signed copy of the separate multi-party MOU signed by state partner and other key reserve partners.
- The lead state partner begins to organize a designation ceremony with assistance from Office for Coastal Management Policy, Planning and Communication division staff.
- Work with Office for Coastal Management and NOS leadership to schedule a briefing for the NOAA administrator to consider designation of the proposed research reserve.
- Prepare materials for the NOAA administrator briefings. Repurpose briefing materials from the NOS leadership FEIS/FMP clearance process.
- Prepare formal National Estuarine Research Reserve designation package that goes to the NOAA administrator



G. NOAA Findings of Designation

In preparation for a research reserve designation decision by the NOAA administrator, the Designation Team prepares a *Federal Register* notice announcing the designation of a reserve under consideration, a findings of designation (Appendix C), and the NEPA record of decision regarding the designation decision (Appendix H).

Note *This Federal Register notice is channeled through NOAA, not EPA.*

Another critical component is coordinating with the Office for Coastal Management Communications staff to implement a communications strategy (press release (reviewed by NOAA Communications, web rollout, etc.). Communications staff should also engage with Office for Coastal Management leadership and the lead state partner to prepare for a designation ceremony and in assembling a briefing package (e.g., designation findings package) for NOAA administrator.

Note: When preparing briefing materials for the NOAA administrator be sure to use the briefing templates or contact the NOS Program Coordination Office directly for guidance.

The formal review and clearance process required for the Designation Findings Package is shown in Figure 31. Controlled correspondence routing for the package includes the NOAA Administrator Decision and allows for official clearance of the package by the Office for Coastal Management and NOS. Although there is no set timeframe for a decision by the NOAA administrator, plan for 1 month clearance process for the package.

Figure 31. Formal NOAA Designation Findings Review and Clearance Process

Office for Coastal Management leadership and staff will brief the NOAA administrator on the proposed action to designate a research reserve and provide the findings package. The complete designation findings package for the NOAA administrator's signature includes – record of decision, findings of designation, and designation notice, and possibly the ceremonial designation certificates (Appendix C). If the NOAA administrator decides to accept and approve a NOAA recommendation to designate a research reserve, two parts require his or her signature.

- ✓ To complete the NEPA requirements of the federal action, the record of decision must be signed. See Appendix H for an example.
- ✓ To fulfill the CZMA requirements for designation, the findings of designation must be signed and noted in the *Federal Register*. Sometimes a ceremonial certificate of designation is also signed. See Appendix C for an example.

Note: The NOAA-state MOU is signed by the Office for Coastal Management director and does not become effective until the NOAA administrator signs the findings of designation.

Another important planning consideration is related to a designation ceremony at the research reserve site. Sometime after official designation by NOAA, a designation ceremony is held at the new reserve site. The NOAA administrator or other NOAA leadership may attend along with members of the state congressional delegation. For the ceremony, consider sending a NOAA flag, printing a ceremonial certificate, and obtaining a gift for the site (e.g., map), among other considerations.

8. Guidelines for MOUs

A. Introduction

Memorandums of understanding (MOU) are made to form partnerships and work with other federal agencies, universities, states, local and international governments, tribes, private institutions, and other organizations. The process of initiating, extending, or modifying these agreements involves clearance of the official MOU and required supporting documentation, which can often be time-consuming. Approval and clearance signatures are obtained during a controlled routing of the MOU package through the program office, NOS senior management, NOAA General Counsel, and if required the Office of the Executive Secretary, and Department of Commerce General Counsel. As a general rule, if you are trying to establish a relationship with any party outside of NOAA, and it involves the use of money, property, or employee time, you should contact the Department of Commerce General Law Division (202-482-5391) as early as possible to get some guidance. Information on agreements is also available online at *www.ogc.doc.gov/ogc/admin/general.html*.

Several steps need to be taken to process agreements:

- Advanced planning
- Choosing the right type of agreement
- Drafting the terms and conditions
- Reviewing and clearing the agreement
- Executing the agreement
- Administering the agreement

B. Choosing the Correct Authority and Type of Agreement

The name memorandum of agreement, or MOU, carries no legal authority, but is simply a way to refer to an agreement with another organization. However, it is important to choose the correct authority and type of agreement for the relationship you are about to establish. Agreements between NOAA and other agencies are important for several management and legal reasons. You may want to keep track of funds, justify program activities, or ensure that a job gets done. There are also legal reasons such as 31 U.S.C. §1301, “only for purpose of appropriation,” 31 U.S.C. § 1501, “obligation only when in writing,” and 31 U.S.C. §1532, “no transfer without authority.” If you feel that drafting an agreement with another agency is needed, you must first determine what type of agreement is necessary.

There are essentially five types of agreements:

1. Contracts
2. Economy Act Agreements (31 U.S.C. § 1535)
3. Joint Projects (15 U.S.C. § 1525)
4. Grants and Cooperative Agreements
5. Other Types of MOUs and Agreements

Other types of MOUs and Agreements

Some relationships are formed because of unique statutory authority or because they do not involve expenditure of funds or property. The Office of General Counsel is available to help draft these types of agreements and can offer advice on traps for the unwary.

A template for the aforementioned agreements can be viewed on the Department of Commerce Office of General Counsel website at https://ogc.commerce.gov/. Please consult this website before you draft a document.

C. MOU Clearance Process

For a National Estuarine Research Reserve MOU, an Office of General Counsel-approved template is available in Appendix A. This template is well drafted and contains all necessary supporting documentation. Usually, the NOAA Reserve Designation Team members include legal counsel from GCOS. GCOS pre-clears the MOU before the Office for Coastal Management's MOU coordinator enters it into the NOS Agreements Database.

NOS has created an electronic MOU Agreements Database that serves as a repository for MOU documents and tracks their status. The NOS MOU point of contact is Martin Freeman or Rachel Keylon. Martin Freeman can be reached at (301) 713-3070 or at *Martin.Freeman@noaa.gov*. His office is located on the 13th floor of SSMC4. He ensures that the MOU moves through the clearance process. Below are the steps required to process a research reserve MOU. NOTE: You will want to start with at least five copies of your original document for signature. The research reserve state lead partner will keep two

Figure 32. Basic Research Reserve MOU Clearance Process

copies and the Office for Coastal Management will keep two copies. You may want more copies if there are several partners.

Step 1. A new record must be created in the MOU Database Tracking System by the Office for Coastal Management staff.

Once the MOU language has been agreed upon by all parties, email the MOU to the Office for Coastal Management MOU coordinator for entering the agreement into the Notice of Availability Database. The MOU coordinator is located in the Business Management Division (*Christopher.Katalinas@noaa.gov*).

Step 4. A hard copy of the MOU must be submitted to the NOS MOU official for clearance.

Once all required signatures are obtained, the package should be delivered to the NOS MOU coordinator. As previously noted, the NOS MOU point of contact is Martin Freeman or Rachel Keylon. They ensure that the MOU moves through the NOS clearance process. Once the NOS chief financial officer signs the NOS approval memo, the NOS MOU coordinator forwards the MOU to the Office for Coastal Management MOU coordinator for Office for Coastal Management clearance and signature.

Step 2. The MOU package is routed through the Office for Coastal Management for clearance and signature.

Upon receipt of the cleared MOU from NOS, the MOU coordinator works with the Office for Coastal Management Director's Office for clearance and signature and includes the folder containing the MOU paperwork and supporting documentation. Once signed by the director, the Director's Office will send the signed MOU to Stewardship liaison.

Step 3. State partner signatures are obtained for the MOU.

The Office for Coastal Management emails the MOU package to the state partner for co-signature. Following signature by the state lead agency, the executed agreement will be emailed back to the Office for Coastal Management.

Step 5. The approved agreement is entered into the NOS MOU database.

The Office for Coastal Management emails the fully signed version of the MOU to the NOS MOU official to upload the executed version into the database to make it a permanent part of the system. It is at this point that the agreement will be assigned an official MOU tracking code. A hard copy is retained for official record.

Appendix A – MOU Examples

NOAA-State Partner MOU Template

Memorandum of Understanding

Between the

National Oceanic and Atmospheric Administration And

The (state agency)

Detailing the state-federal roles in the Management of the (name of reserve)

This Memorandum of Understanding (MOU) establishes the framework for the cooperative management of (name of reserve) in the State of (said state), between (state partner agency) and the National Oceanic and Atmospheric Administration, Office for Coastal Management (NOAA). This MOU supersedes the previous Memorandum of Understanding between NOAA and (state partner agency) regarding (name of reserve) made on (date of last MOU).

I. BACKGROUND

A. The State of (said state) has determined the waters and related coastal habitats of (state reserve areas) provide unique opportunities for study of natural and human processes to contribute to the science of estuarine ecosystem processes, enhance environmental education opportunities and public understanding of estuarine areas, and provide a stable environment for research through the long-term protection of reserve resources.

B. The State of (said state) has determined that the resources of the (name of reserve) and the values they represent to the citizens of (said state) and the United States will benefit from the management of these resources as part of the National Estuarine Research Reserve System.

C. The (state agency), as the agency designated by the Governor of (said state), is responsible for maintaining, operating and managing the (name of reserve) in accordance with Section 315 of the CZMA and acknowledges the value of state-federal cooperation for the long-term management and protection of the reserve in a manner consistent with the purpose of its designation.

D. NOAA finds that the State of (said state) has satisfied the legal and procedural requirements for designation and, pursuant to its authority under Section 315 of the Coastal Zone Management Act of 1972, as amended (CZMA, 16 U.S.C. § 1461), and in accordance with implementing regulations at 15 C.F.R. Part 921, has designated the (name of reserve).

E. The (name of reserve) management plan approved by NOAA describes the goals, objectives, strategies/actions, administrative structure, and institutional arrangements for the reserve, including this MOU and others. In consideration of the mutual agreements herein, NOAA and (state agency) agree to the following roles indicated in Section II of this agreement.

II. STATE-FEDERAL ROLES IN RESERVE MANAGEMENT

A. (state agency) Role in Reserve Management The (state agency) shall:

1. be responsible for compliance with all federal laws and regulations, and ensure that the (name of reserve) management plan is consistent with the provisions of the CZMA and implementing regulations;

2. ensure protection of the natural and cultural resources of the reserve, and ensure enforcement of the provisions of state law and regulations aimed at protecting the reserve;

3. ensure adequate, long-term protection and management of lands and waters included within the reserve boundary;

4. apply for, budget, allocate, and expend funds in accordance with federal and state laws, the reserve management plan, and annual funding guidance for reserve operations, research and monitoring, education and stewardship, and, as necessary, land acquisition and reserve facility construction;

5. conduct and coordinate research and monitoring programs that encourage scientists from a variety of institutions to work together to understand the ecology of the reserve ecosystem to improve coastal management;

6. conduct and maintain programs that disseminate research results via materials, activities, workshops, and conferences to resource users, state and local agencies, school systems, general public, and other interested parties;

7. provide staff and endeavor to secure state funding for the manager, education coordinator, and research coordinator;

8. secure facilities and equipment required to implement the provisions within the reserve management plan;

9. ensure adequate funding for facilities operation and maintenance;

10. maintain effective liaison with local, regional, state, and federal policy makers, regulators and the general public;

11. serve as principal contact for issues involving proposed boundary changes and/or amendments to the reserve management plan; and

12. respond to NOAA's requests for information made pursuant to Section 312 of the CZMA, particularly cooperative agreement and grant progress reports and evaluation findings, including necessary actions and recommendations.

B. Federal Role in Reserve Management NOAA's Office for Coastal Management shall:

1. administer the provisions of the Sections 312 and 315 of the CZMA to ensure that the reserve operates in accordance with goals of the Reserve System and the (name of reserve) reserve management plan;

2. review and process applications for financial assistance from the (state agency), consistent with 15 C.F.R. Part 921, for management and operation of the reserve, and, as appropriate, land acquisition and facility construction;

3. advise (state agency) of existing and emerging national and regional issues that have bearing on the reserve and Reserve System;

4. maintain an information exchange network among reserves, including available research and monitoring data and educational materials developed within the Reserve System; and

5. to the extent possible, facilitate the allocation of NOAA resources and capabilities in support of reserve goals and programs.

C. General Provisions

1. Nothing in this agreement or subsequent financial assistance awards shall obligate either party in the expenditure of funds, or for future payments of money, in excess of appropriations authorized by law.

2. Upon termination of this agreement or any subsequent financial assistance awards to (state agency), any equipment purchased for studies to further this agreement will be disposed of in accordance with applicable federal law, regulations, and the terms and conditions, including special award conditions, applicable to financial assistance awards.

3. A free exchange of research and assessment data between the parties is encouraged and is necessary to ensure success of cooperative studies.

D. Other Provisions

1. Nothing in this agreement diminishes the independent authority or coordination responsibility of either party in administering its respective statutory obligations. Nothing in this agreement is intended to conflict with current

written directives or policies of either party. If the terms of this agreement are inconsistent with existing written directives or policies of either party entering this agreement, then those portions of the agreement which are determined to be inconsistent with such written directives or policies shall be invalid; but the remaining terms not affected by the inconsistency shall remain in full force and effect. In the event of the discovery of such inconsistency, and at the first opportunity for revision of this agreement, the parties shall seek to amend or terminate the agreement in accordance with the provisions of subsection V of this agreement.

2. Any disagreement on the interpretation of a provision, amendment, or other matter related to this agreement shall be resolved informally at the lowest operating level of each party's respective organization. If such disagreement cannot be resolved, then the area(s) of disagreement shall be stated in writing and presented to the other party for further consideration. If agreement is not reached within thirty (30) days of presentation, then the parties shall forward the written presentation of the disagreement to their respective higher official for appropriate resolution.

III. REAL PROPERTY ACQUIRED FOR PURPOSE OF THE RESERVE

The (state agency) agrees to fully comply with conditions set forth at 15 C.F.R. § 921.21(e), which establishes legal documentation requirements concerning the use and disposition of real property acquired for reserve purposes with federal funds under Section 315 of the CZMA.

IV. PROGRAM EVALUATION

NOAA's Office for Coastal Management will schedule periodic evaluations of (state agency) performance in meeting the terms of this agreement, financial assistance awards, and the reserve management plan. Where findings of deficiency occur, NOAA may initiate action in accordance with the interim sanctions or withdrawal of designation procedures established by the CZMA and applicable regulations at 15 C.F.R. Part 921, Subpart E.

V. EFFECTIVE DATE, REVIEW, AMENDMENT AND TERMINATION

A. This agreement is effective on the date of the last signature on this agreement and shall be in effect until terminated by either party.

B. This agreement will be reviewed periodically by both parties and may only be amended by the mutual written consent of both parties.

C. This agreement may be terminated by mutual consent of both parties or by unilateral termination by either party. Termination of this agreement may provide grounds for NOAA (at its discretion) to withdraw designation of the reserve from the Reserve System, pursuant to applicable provisions of the CZMA and its implementing regulations as described under 15 C.F.R. Parts 921 (Subpart E) and 923 (Subpart L). Section 315 of the CZMA provides that NOAA may withdraw designation of a National Estuarine Research Reserve if: 1) NOAA finds that any of the criteria for establishing the reserve no longer exist; or 2) a substantial portion of the research conducted

within the reserve fails to meet Reserve System guidelines. In making any decision to withdraw designation, NOAA will take into consideration factors set forth in 15 C.F.R. § 921.40.

D. Should this agreement be terminated or designation of the reserve be withdrawn by NOAA, reimbursement of unexpended funds from financial assistance awards shall be determined on a pro rata basis according to the amount of work done by the parties at the time of termination or withdrawal. Additionally, reimbursement for land purchased and facilities constructed with NOAA funds shall be consistent with terms and special award conditions of financial assistance awards.

E. If any clause, sentence or other portion of this MOU shall become illegal, null, or void for any reason, the remaining portions of this MOU shall remain in full force and effect.

F. No waiver of right by either party of any provision of this MOU shall be binding unless expressly confirmed in writing by the party giving the waiver.

IN WITNESS THEREOF, the parties have caused this agreement to be executed.

_____	_____
Name	Name
Director	Director
Office for Coastal Management	State Agency Department
National Ocean Service	
National Oceanic and Atmospheric Administration	
U.S. Department of Commerce	
_____	_____
Date	Date

Tribal Consultation Letter Example

WISCONSIN DEPARTMENT OF ADMINISTRATION

JIM DOYLE
GOVERNOR
MICHAEL L. MORGAN
SECRETARY
Division of Intergovernmental Relations
Post Office Box 8944
Madison, WI 53708-8944
Voice (608) 266-0288
Fax (608) 267-6917

March 20, 2008

Acting-Chairman Peter Lemieux
Bad River Band of Lake Superior Chippewa
P.O. Box 39
Odanah, WI 54861

Dear Acting-Chairman Lemieux:

I want to update you on the initiative to nominate a National Estuarine Research Reserve (NERR) on Lake Superior within the State of Wisconsin. After input from the initiative's site evaluation and public involvement advisory teams, the Wisconsin State Agency Liaison Team will be recommending to Governor Doyle the nomination of the St. Louis River as a National Estuarine Research Reserve (NERR).

The Department of Administration and its state agency partners will host an Open House on April 3 from 6:00 – 8:00 p.m. in Superior at the Wisconsin Indianhead Technical College. The event's purpose will be to gather public comments on the recommendation and answer questions related to the proposed St. Louis River NERR site. An informational presentation will begin at 7:00 p.m.

Staff from the Great Lakes Indian Fish and Wildlife Commission (GLIFWC) has participated in the site evaluation process. We have invited their continued involvement in the next steps for this process. Formal input from GLIFWC will be requested for the draft Management Plan and draft Environmental Impact Statement (EIS). We anticipate that the management plan and EIS process will start later in 2008 and run for 18-24 months.

If you have any specific questions regarding the Wisconsin Lake Superior NERR project, please contact Travis Olson of the Wisconsin Coastal Management Program at 608-266-3687 (email travis.olson@wisconsin.gov).

As always, any further questions regarding State-Tribal relations can be directed to either me at 608-261-7520 (email harald.jordahl@wisconsin.gov) or Dawn Vick, leader of the State-Tribal Relations initiative on my staff at 608-266-7043 (email dawn.vick@wisconsin.gov). We welcome your government's continued involvement as we take the next steps leading the way to formal designation of the Lake Superior NERR.

Sincerely,

Harald "Jordy" Jordahl
Acting Administrator
Division of Intergovernmental Relations

cc: Ervin Soulier, Bad River Band of Lake Superior Chippewa
Mike Friis, Wisconsin Coastal Management Program
Dawn Vick, Wisconsin Department of Administration
Matt Chasse, U.S. NOAA
Karen Danielsen, GLIFWC

Wisconsin.gov

Cooperating Agency Memorandum of Agreement–Memorandum of Understanding Example

COOPERATING AGENCY AGREEMENT

and

MEMORANDUM OF AGREEMENT

THE FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA

and the

THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OFFICE FOR COASTAL MANAGEMENT

This Memorandum of Agreement (MOA) is entered into by The Fond du Lac Band of Lake Superior Chippewa (Fond du Lac), a federally recognized Indian tribe, and the National Oceanic and Atmospheric Administration's (NOAA) Office for Coastal Management (OCM) (hereinafter the Parties). The MOA provides a framework for cooperation and coordination throughout the preparation and completion of the procedures required by the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. § 4321 et seq., for OCM's proposed action to designate a national estuarine research reserve (NERR) on the St. Louis River near Superior, Wisconsin (hereinafter the Proposed Action). The MOA is consistent with the guidance and regulations of the Council on Environmental Quality (CEQ) at 40 C.F.R. Parts 1500-1508.

Whereas, NOAA OCM is the lead agency for the Proposed Action to establish a National Estuarine Research Reserve on the St. Louis River, in and adjacent to Superior, Wisconsin;

Whereas the Fond du Lac Band of Lake Superior Chippewa is a sovereign entity that enjoys government-to-government relationship with the United States;

Whereas NOAA OCM recognizes the special expertise of the Fond du Lac Band of Chippewa in evaluating any impacts that the Proposed Action may have on the Fond du Lac's exercise of its treaty rights, treaty trust resources, and cultural and historic resources related to the Fond du Lac;

The Parties agree as follows:

I. PARTIES and AUTHORITIES

NOAA Estuarine Reserves Division enters into this MOA pursuant to the Coastal Zone Management Act (CZMA), 16 U.S.C. §§ 1451, 1461, and its implementing regulations; the National Environmental Policy Act, 42 U.S.C. § 4321 et seq. (NEPA), and its implementing regulations; and Executive Order No. 13175, Consultation and Coordination with Indian Tribal Governments, 65 Fed. Reg. 67249-52 ((November 9, 2000).

Fond du Lac Band of Lake Superior Chippewa enters into this MOA pursuant to its inherent authority pursuant to its sovereignty, created by the La Point Treaty of September 30, 1854, 10 Stat. 1109; the sovereign obligation of the Fond du Lac Reservation Business Committee, as the governing body of the Fond du Lac Band, under the Indian Reorganization Act, 25 U.S.C. § 461 et seq., and in accordance with the Indian Self-Determination Act, 25 U.S.C, § 450 et seq.; the Executive Office of the President memorandum to the Council on Environmental Quality, dated July 28, 1999; and the cooperating agency status responsibilities found in 40 C.F.R. § 1501.6.

II. OBJECTIVES

The Parties enter into this MOA to memorialize their responsibilities and expectations and to further coordination and cooperation during the preparation of an Environmental Impact Statement (EIS) analyzing the impacts to the human environment of the Proposed Action to establish a National estuarine research reserve (NERR) near the St. Louis River and Superior, Wisconsin.

III. RESPONSIBILITIES

NOAA Estuarine Reserves Division is the lead agency for the purposes of NEPA, with obligations for fulfilling the requirements of NEPA. NOAA OCM will provide necessary and appropriate expertise and coordination and will ensure all information relevant to the Proposed Action is included and analyzed in the NEPA documents in accordance with the requirements of NEPA and the CEQ regulations;

NOAA Estuarine Reserves Division will work cooperatively with Fond du Lac to ensure full access to non-privileged data, information, analysis, expertise, and public comments received during and until the conclusion of the NEPA process;

Fond du Lac will use its best efforts to act as a cooperating agency and will review and identify information relevant to the Proposed Action with particular attention to historic and past use of the relevant area, associated historical and cultural information, habitat characterization, and its expertise in the treaty resources in and around the area proposed for designation as a NERR.

IV. CONFLICT RESOLUTION

Every effort will be made by the Parties to reach mutual agreement regarding issues addressed and analyzed during the NEPA process. In the event a conflict arises between the Parties, the following procedures will be followed:

1) The designated Points of Contact for each Party will use their best efforts to resolve the dispute;

2) In the event the Points of Contact are unable to resolve the dispute, the immediate supervisor within the government or agency of each Point of Contact shall meet and use their best efforts to resolve the dispute;

3) In the event the second level of dispute resolution is unsuccessful, either Fond du Lac or NOAA OCM may request formal government-to-government consultation in such a format as is acceptable to both Fond du Lac and NOAA OCM to resolve their concerns.

V. AMENDMENT AND TERMINATION

This MOA may be amended by written agreement signed by all of the Parties.

Any Party may withdraw and terminate its participation in this MOA upon 30 days written notice to each of the other Parties. This MOA will remain in effect until the Record of Decision concluding the NEPA process for the Proposed Action is signed by the designated NOAA official.

VI. NO FUNDS WILL BE TRANSFERRED

This MOA does not authorize or effect any transfer of funds. In addition, all obligations of NOAA OCM pursuant to this MOA are subject to and dependent upon the availability of funds. Nothing in this MOA creates any right, benefit, or legal obligation, substantive, procedural, or enforceable by any Party or non-party to the MOA.

SIGNATURES

For the Fond du Lac Band of Lake Superior Chippewa:

_____ Date:_____

Karen R. Diver, Chairwoman, Fond du Lac Reservation Business Committee

For NOAA Estuarine Reserves Division:

_____Date _____

Laurie McGilvray, Division Chief

Cultural Consultation Letter Example

U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Office for Coastal Management
Silver Spring Metro Center, Building 4
1305 East-West Highway
Silver Spring, Maryland 20910

18 June 2015

G. Umi Kai
'Aha Kāne
P.O. Box 31303
Honolulu, HI 96820-1303

Dear Mr. Kai:

The State of Hawai'i nominated the He'eia estuary within the He'eia Ahupua'a and the Kāhe'ohe Bay watershed to be established as a National Estuarine Research Reserve (NERR). The NERR System is a federal-state partnership administered by the National Oceanic and Atmospheric Administration (NOAA). NERR sites are managed in order to facilitate long-term research and monitoring, education and training, and stewardship of coastal resources. The proposed reserve would be managed by the Hawai'i Institute of Marine Biology, in collaboration with local partners, and with oversight by NOAA. NOAA also provides states with technical assistance, guidance, and funding. Funding supports such program purposes as research, monitoring, facility construction and operation, teacher training, education, restoration, and stewardship activities.

The nominated site is shown on the enclosed map. The area of potential effects include: He'eia State Park (18.5 acres) on its northern coast; He'eia fishpond (88 acres) at its estuarine border (where traditional Hawaiian aquaculture takes place); the He'eia wetlands (where an ongoing wetlands restoration project aims to restore traditional agricultural uses) at the proposed site's upland end (405 acres); and the Hawai'i Institute of Marine Biology (28 acres) on Moku o Lo'e (Coconut Island). An additional 530 acres of water area include patch and fringing reefs. Just outside the site is a barrier reef. The total acreage of the proposed site is 1,070 acres.

Section 106 of the National Historic Preservation Act (NHPA) requires that federal agencies identify historic properties that may be impacted by a federal undertaking, and seek to protect those properties that are listed, or eligible for listing, on the National Register of Historic Places. NHPA regulations at 36 CFR Part 800 identify a process to determine site eligibility, to evaluate potential impacts, and to identify impact avoidance or mitigation actions.

NOAA, which approves the designation of proposed NERRs, is currently evaluating the nominated site. Designation as a NERR would constitute an "undertaking" under the National Historic Preservation Act (NHPA). See 36 Code of Federal Regulations (C.F.R.) § 800.16(y). Pursuant to the NHPA, we are seeking your assistance in identifying properties within the area of potential effects that may be eligible for the National Register listing, and providing us with any information you may have relating to religious or cultural significance that your organization attaches to the property that might be affected by designation of the NERR in Hawai'i. If you have any information you wish to share with us about the site, please contact me. We would also like to take this opportunity to request your assistance in identifying any additional Native Hawaiian Organizations that may be interested in commenting on this action. If you would like to participate as a consulting party, submit your request in writing to me at the mailing address provided in this letter (below). *See* 36 CFR 800.3(f).

In addition, as part of the evaluation process associated with Designation of the proposed reserve, an Environmental Impact Statement (EIS) will be prepared in accordance with the National Environmental Policy Act. Once drafted, the EIS will be released for public comment, likely this autumn. There will be a 45-day public comment period, including a public hearing, to solicit input on the draft EIS from interested parties.

For more information about the NERR designation process, see 15 C.F.R., Part 921, Subpart D. See also the Hawai'i Office of Planning website at http://planning.hawaii.gov/czm/initiatives/nerrs-site-proposal-process.

Please do not hesitate to contact me if you have any questions or comments. I can be reached via telephone at (301) 563-1127, via mail at patmarie.nedelka@noaa.gov, or via mail addressed to my attention and sent to: NOAA Office for Coastal Management, 1305 East West Hwy, 11th Floor, N/OCM-1, Silver Spring, Maryland 20910.

Sincerely,

Patmarie S. Nedelka
NEPA and Environmental Compliance Coordinator

Enclosure

Appendix B – Governor Letter of Interest Examples

EXECUTIVE CHAMBERS

HONOLULU

NEIL ABERCROMBIE
GOVERNOR

July 26, 2012

Dr. Jane Lubchenco
Administrator
National Oceanic and Atmospheric Administration
1401 Constitution Avenue, NW
Washington, D.C. 20230

Re: Hawaii National Estuarine Research Reserve Site Selection

Dear Dr. Lubchenco:

I have long admired the National Estuarine Research Reserve (NERR) network and I am writing to inform you of the State of Hawaii's interest in establishing a Hawaii NERR site. A coordinated partnership between Hawaii and the NERR program will provide much needed information for the NERR information network for paleotropical estuarine processes and enhance our state efforts to protect Hawaii's unique environment.

Hawaii is the most remote set of islands in the world and its estuarine ecosystems are relatively new in geological time. Thus, their formation and function will provide essential information in understanding the biogeochemical processes for healthy estuarine ecosystems. The Hawaiian marine environment probably houses more endemic species than any other part of the United States, and it is the only representative of the paleotropical ecosystem in the United States. These unique features make it very important to establish a NERR in Hawaii and are consistent with state and federal efforts to conserve Hawaii's coastal environments.

The establishment of a NERR in Hawaii meets the guidelines of your current policy regarding system expansion:

1. Create a NERR in a state currently not represented in the program.
2. Add important estuary types not represented in the nationwide NERR system.
3. Complete the nationwide NERR system by siting a reserve in the Hawaii and former U.S. Trust Pacific Islands region.
4. Create opportunities for a multi-state or state-tribal partnership through NERR programs.

Moreover, Hawaii is uniquely qualified to join the nationwide network of NERR. The University of Hawaii (UH) system, a potential partner in the Hawaii NERR, has a long history of conducting research on coastal and marine ecosystems. UH also has research in public policy and informal/formal education opportunities which provides training in the stewardship of the coastal reefs and fisheries. Moreover, the UH extension service and UH Sea Grant have extensive experience transferring the science of resource management to practical solutions for the local coast communities. These integrated components would make UH an important partner for any Hawaii NERR.

The State of Hawaii would greatly benefit from technical assistance and a commitment to guide our state through the site selection process. The Office of Planning, led by Director Jesse Souki, is willing and more than capable of being the lead state agency in selecting a NERR site in Hawaii. I also invite you to visit Hawaii to gain firsthand experience of its estuarine environments.

I look forward to working with you and your staff on this scientifically important and exciting project. If there is any further information I can provide, please do not hesitate to contact me or Wendy Clerinx, my Director of Policy, at 808-586-0225 with any questions.

Sincerely,

NEIL ABERCROMBIE
Governor, State of Hawaii

Cc: The Honorable Daniel K. Inouye, U.S. Senator
The Honorable Daniel K. Akaka, U.S. Senator
The Honorable Mazie K. Hirono, U.S. Representative
The Honorable Colleen Hanabusa, U.S. Representative
Laurie McGilvray, Chief, Estuarine Reserves Division, National Oceanic and Atmospheric Administration
William Aila, Jr., Director, Department of Land and Natural Resources
Jesse Souki, Director, Office of Planning

OFFICE OF THE GOVERNOR

RICK PERRY
GOVERNOR

September 26, 2001

Scott B. Gudes
Acting Under Secretary of Oceans and Atmosphere
National Oceanic and Atmospheric Administration
Department of Commerce
Herbert C. Hoover Building, Room 5128
14th and Constitution Avenue NW
Washington, D.C. 20230

Dear Secretary Gudes:

The State of Texas is interested in participating in the National Estuarine Research Reserve System (NERRS) as administered by your agency under Section 315 of the Coastal Zone Management Act. Federal statute and regulation allow states to nominate one site in each biogeographic region. The State of Texas contains eight different biogeographic zones associated with coastal watershed and estuarine-bay complexes.

I am pleased to submit a nomination and request for financial assistance to begin the site selection process for our first NERRS site in the Nueces biogeographic region. I designate the University of Texas at Austin, Marine Science Institute (UTMSI) as the lead agency under this program. The Texas General Land Office administers the Coastal Management Program, and will pass through funds and provide general oversight to UTMSI during the site selection process. Please contact Dr. Paul Montagna at UTMSI with future correspondence on this program.

Sincerely,

Rick Perry

Rick Perry
Governor

cc: The Honorable Solomon Ortiz, United States House of Representatives
Dr. Paul A. Montagna, The University of Texas at Austin, Marine Science Institute
750 Channelview Drive, Port Aransas, TX 78373
Laurie McGilvray, NOAA, Office of Ocean and Coastal Resource Management, Sanctuaries and Reserves Division; 18285 Connecticut Avenue, NW, Washington, D.C. 20235

POST OFFICE BOX 12428 AUSTIN, TEXAS 78711 (512) 463-2000 (VOICE)/(512) 475-3165 (TDD)

JIM DOYLE
GOVERNOR
STATE OF WISCONSIN

March 1, 2004

Vice Admiral Conrad C. Lautenbacher, Jr., Administrator
National Oceanic and Atmospheric Administration
1401 Constitution Avenue, NW
Washington, D.C. 20230

RE: Wisconsin National Estuarine Research Reserve Site Selection

Dear Vice Admiral Lautenbacher:

I am pleased to notify your office of Wisconsin's interest in establishing a National Estuarine Research Reserve (NERR) in our Lake Superior coastal area. Wisconsin's Coastal Management Program and the NERR Program share common goals of improving coastal decision making, increasing awareness of coastal resources through education and promoting stewardship of estuarine natural areas. A coordinated partnership between Wisconsin and the National Oceanic and Atmospheric Administration (NOAA) will benefit the Great Lakes and the NERR system.

Wisconsin is distinctively qualified to join the nationwide network of NERRs. The University of Wisconsin System, a potential partner in a Lake Superior NERR, has a long history of conducting research for the advancement of public policy through what is known as the "Wisconsin Idea". UW-Extension, UW Sea Grant and many of our UW campuses have extensive experience transferring the science of resource management to practical solutions for the local coastal communities.

The Great Lakes are an invaluable state and national resource. Seven coastal wetlands on Lake Superior are designated as State Natural Areas. Lake Superior has been designated and international clean water demonstration area by the United States, Canada and all bordering states and provinces. This designation recognizes the high quality of Lake Superior waters and coastal ecosystems and the need to prevent future problems. Establishing a NERR in Wisconsin is consistent with these and other state efforts to protect Great Lakes estuaries.

The establishment of a NERR in Wisconsin meets the guidelines of your current policy regarding system expansion:

1. Complete the nationwide NERR system by siting a reserve in the Lake Superior subregion.
2. Create a NERR in a state currently not represented in the program.
3. Add important estuary types not represented in the nationwide NERR system.

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4. Create opportunities for a multi-state or state-tribal partnership through NERR programs.

The State of Wisconsin formally seeks federal funds, technical assistance and commitment to guide our state through the site selection process. The Wisconsin Coastal Management Program in the Department of Administration, working closely with the Wisconsin Department of Natural Resources and the partners identified above, will serve as the lead agency for establishing a NERR. I also invite you to visit Wisconsin's Lake Superior region to gain firsthand experience of its internationally important estuarine systems.

I look forward to working with you and your staff on this exciting project. Thank you.

Sincerely,

Jim Doyle
Governor

cc: Wisconsin Congressional Delegation

Marc Marotta, Secretary
Wisconsin Department of Administration

Scott Hassett, Secretary
Wisconsin Department of Natural Resources

Kevin P. Reilly, Chancellor
University of Wisconsin Extension

Arlen Leholm, Cooperative Extension Dean
University of Wisconsin-Extension

Laurie McGilvray, Chief
Estuarine Reserves Division, OCRM

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Appendix C – Designation Findings Examples

He'eia National Estuarine Research Reserve

Findings of Designation

On May 21, 2014, the Governor of the State of Hawai'i nominated He'eia estuary as a National Estuarine Research Reserve. As the Under Secretary of Commerce for Oceans and Atmosphere and Administrator of the National Oceanic and Atmospheric Administration (NOAA), I have reviewed the record concerning the establishment of the He'eia National Estuarine Research Reserve, including the attached Final Environmental Impact Statement and Final Management Plan (FEIS/FMP) issued in December 2016. Based on that review, I am designating the He'eia estuary as part of the National Estuarine Research Reserve System pursuant to Section 315 of the Coastal Zone Management Act (CZMA) of 1972, as amended, 16 U.S.C. § 1461, and its implementing regulations at 15 C.F.R. Part 921.

Findings resulting from my review are:

A. *Section 315(b)(2)(A) of the CZMA and 15 C.F.R. § 921.30(a)(1), require that the area is a representative estuarine ecosystem that is suitable for long-term research and contributes to the biogeographic and typological balance of the National Estuarine Research Reserve System.*

The proposed area being considered for a He'eia National Estuarine Research Reserve is a representative estuarine ecosystem of the Hawaiian Islands sub-region of the Insular biogeographic region. No other National Estuarine Research Reserve is currently designated in this biogeographic region; therefore, the addition of this site contributes to the biogeographic and typological balance of the System. The He'eia estuary, located within the Kāne'ohe Bay region on the windward side of O'ahu, is highly suitable for long-term research on the physical, chemical, and biological processes of estuaries in part because it contains many different estuarine characteristics, or typologies, representative of the Hawaiian Islands sub-region of the Insular biogeographic region. The 1,385-acre site encompasses a diverse range of habitats including uplands (e.g., open areas and forests), wetlands (e.g., streams, ponds, and freshwater and estuarine wetlands), and marine habitats (e.g., patch reefs, sandy bottoms, and seagrass beds). Each are affected to varying degrees by invasive species and other anthropogenic factors. Significant historic and cultural resources are also found within this habitat mosaic, including He'eia fishpond, one of the largest intact historical fishponds in the Hawaiian Islands, along with the practice of traditional native Hawaiian taro cultivation. The native flora and fauna, rich cultural traditions and practices, historical attributes, diverse habitats, and the existing and potential future impacts of multiple coastal stressors come together to create a compelling addition to the National Estuarine Research Reserve System.

The proposed Reserve will be operated by the Hawai'i Institute of Marine Biology (HIMB) in partnership with numerous local partners. As a premier institute of scientific study, the HIMB has been conducting ecological research and monitoring in Kāne'ohe Bay since its establishment in 1951. Located within the Reserve boundaries, HIMB offers key research capabilities and scientific expertise that support long-term research that provide data and information to support the management of coastal ecosystems.

Designation of the area as a reserve will serve not only to enhance public awareness and understanding of the estuary and its associated habitats but also to educate visitors and local communities about traditional Hawaiian cultural practices. The He'eia estuary's ecological and cultural resources provide suitable opportunities for public education and interpretation.

B. *Section 315(b)(2)(B) of the CZMA requires that the law of the coastal state provides long-term protection for Reserve resources to ensure a stable environment for research.*

Existing state laws provide long-term protection for reserve resources that ensure a stable environment for research. In addition, coordination between federal, state, and local agencies with regulatory responsibilities in the Reserve is designed to ensure a comprehensive approach to management of the Reserve and its resources. All land-holding entities, either owners or leases, within the proposed boundaries are signatories to a voluntary multi-party charter agreement describing the roles and responsibilities of each party within the administrative boundary of the He'eia Reserve. This agreement allows University of Hawai'i HIMB, which is the lead State Agency, to coordinate programmatic and strategic activities with these partners to ensure future actions are consistent with the Reserve's management plan and with National Estuarine Research Reserve System, local, state, or federal regulations.

State ownership and/or existing regulatory authorities and management programs guide resource protection and management of existing and/or future uses within the Reserve boundary. The Hawai'i Department of Lands and Natural Resources (DLNR) has jurisdiction over the proposed Reserve core area. For example, within these marine waters, DLNR requires that HIMB have a special activities permit from DLNR for the collection of marine organisms for the 64 acre Hawai'i Marine Laboratory Refuge surrounding Moku o Lo'e.

Portions of the He'eia Reserve are located within various land use districts that establish allowable uses and permit requirements that provide long-term state protections. Most important among these is the State Land Use Conservation District (CDUP). Pursuant to Hawai'i Revised Statute Chapter 183C and Hawai'i Administrative Rules Title 13, Chapter 5, a CDUP identifies areas needed for the preservation of the State's fragile natural ecosystems and the sustainability of the State's water supply. DLNR promulgates rules to govern uses within CDUPs to conserve, protect and preserve the important natural resources of the State. A majority of the Reserve is within a CDUP including Coconut Island and its surrounding waters, He'eia fishpond, and the upland forests within the Hawai'i Community Development Authority parcel. Other land-use districts that apply to the lands and waters within the proposed boundaries include the He'eia Community Development District, and the City and County of Honolulu's Special Management Area.

The Hawai'i Office of Planning is authorized to coordinate review of proposed activities in the He'eia estuary for consistency with the Federally-approved state coastal management program. The State has provided a determination that the proposed Reserve is consistent to the maximum extent practicable with the enforceable policies of the Hawai'i coastal zone management program.

Finally, the Kāne'ohe Bay Master Plan (1992), the Sustainable Communities Plan for the Ko'olau Poko planning area (2016), the Ko'olau Poko Watershed Management Plan (2016), the Hawai'i's Shoreline Protection Act (1975), the Multi-party Charter between University of Hawai'i Institute of Marine Biology and its partner organizations (Appendix C of the FEIS), and the land use leases between the Hawai'i Community Development Authority and the local non-profit Kāko'o 'Ōiwi (2010) and between Kamehameha Schools and Paepae o He'eia (2001) provide the institutional framework and plans and policies that collectively serve to ensure that the activities on the major land and water components of the Reserve will be managed in conformance with the goals of Section 315 of the CZMA.

C. *Section 315(b)(2)(C) of the CZMA and 15 C.F.R. § 921.30(a)(3) require that designation of the area as a reserve will serve to enhance public awareness and understanding of estuarine areas, and provide suitable opportunities for public education and interpretation.*

Education and outreach are tools that Reserve staff will use to address the human dimension of resource issues. Combined with research and stewardship, education and outreach are key elements of resource protection in the National Estuarine Research Reserve System. Major public awareness and understanding goals of the Reserve are to:

- Increase understanding of the effects of human activities and natural events and inform decision-making affecting the He'eia estuary, coastal ecosystems, and ultimately the entire ahupua'a of He'eia;
- Inspire and educate the community about estuaries, coastal ecosystems, and traditional Hawaiian practices, such as lo'i (taro patches) and loko i'a (fishponds), that mālama (nurture) these systems sustainably; and
- Create opportunities for collaboration to practice and promote stewardship that sustains cultural, biological, and natural resources.

The FMP describes an education/interpretation/outreach plan for the Reserve that is focused on improved understanding and stewardship of coastal resources through education. This plan is expected provide suitable opportunities for public education and interpretation.

D. *Section 315(b)(2)(D) of the CZMA requires that the coastal state in which the area is located comply with the requirements of any regulations issued by the Secretary of Commerce to implement Section 315.*

The State of Hawai'i has met the specific requirements of the implementing regulations (15 C.F.R. § 921.30) for designation of a National Estuarine Research Reserve. In addition to the requirements noted in A-C above, the State of Hawai'i has complied with the following requirements:

(1) *Key land and water areas must be under adequate state control sufficient to provide long-term protection for reserve resources to ensure a stable environment for research (15 C.F.R. § 921.30(a)(2)).*

Refer to information previously discussed in part B of the findings.

(2) *A final management plan has been approved by NOAA (15 C.F.R. § 921.30(a)(4)).*

The final management plan was approved by NOAA as part of the FEIS and noticed in the *Federal Register* on December 16, 2016. (81 Fed. Reg. 91137).

(3) *A Memorandum of Understanding (MOU) has been signed between the state partner (HIMB) and NOAA ensuring a long-term commitment by the state to the effective operation and implementation of the area as a National Estuarine Research Reserve (15 C.F.R. § 921.30(a)(5)).*

The attached MOU was signed by the Director of the Hawai'i Institute of Marine Biology, Dean, School of Ocean and Earth Sciences and Technology, Chancellor of the University of Hawai'i, Mānoa, and the Director of NOAA's Office for Coastal Management.

(4) *All MOU's necessary for reserve management (i.e., with relevant federal, state, and local agencies and/or private organizations) must be signed (15 C.F.R. § 921.30(a)(6)).*

All MOU's have been signed and are on file with NOAA and the State.

(5) *The coastal state in which the area is located must have complied with the requirements of 15 C.F.R. Part 921, Subpart B, Site Selection, Post Site Selection and Management Plan Development (15 C.F.R. § 921.30(a)(7)).*

The State has complied with all requirements of Subpart B including providing documentation regarding the site's contribution to the biogeographical and typological balance of the Reserve System; assurance that the site's boundaries encompass an adequate portion of the key land and water areas of the natural system to approximate an ecological unit and to ensure effective conservation; evidence that the site is suitable for long-term research and compatible with existing and potential land and water uses in contiguous areas. NOAA received certification from the State of Hawai'i's Office of Planning on November 2, 2016, that Reserve designation is consistent to the maximum extent practicable with approved coastal management program. The State duly prepared a draft management plan and a final management plan, and provided opportunities for public participation in the designation process consistent with the applicable requirements of the National Estuarine Research Reserve implementing regulations.

Kathryn D. Sullivan, Ph.D.
Under Secretary for Oceans and Atmosphere

1-18-17

Date

Appendix D – Site Nomination Review Checklist

Fulfillment of National Estuarine Research Reserve System Program Regulations 15CFR 921.11

The following is a checklist that will be used by Office for Coastal Management staff to ensure that a site nomination package fulfills the Reserve System program regulation requirements.

Contents of the Site Nomination Package in

Fulfillment of 15 CFR 921.11 (b) and (d)

- ❒ Nomination of the proposed site by the governor
- ❒ Description of the site-selection process
- ❒ Identification of the site-selection agency and potential management agency
- ❒ List of all sites considered
- ❒ Brief statement of the reasons why a site was not preferred
- ❒ Description of the proposed site in relationship to each of the guiding principles (15 CFR 921.11 (c))
- ❒ Analysis of the proposed site based on the biogeographic scheme/typology
- ❒ Description of the proposed site and its major resources.
    - ❒ location
    - ❒ proposed boundaries

- ❒ adjacent land uses
- ❒ maps

❒ Description of the public participation process

❒ Summary of public comments

❒ Documentation that governor(s) of other affected state(s) has been contacted if interstate issues are involved

❒ Copies of all correspondence, including contact letters to affected landowners

Fulfillment of Procedural Requirements in 15 CFR 921.11 (b) and (d)

❒ The state sought the views of:

- ❒ Affected landowners
- ❒ Local governments
- ❒ Other state agencies
- ❒ Federal agencies
- ❒ Other parties interested in the area

❒ The state held at least one public meeting in the vicinity of the proposed site

❒ Fifteen days before the meeting, notice of the meeting was placed:

- ❒ in the area's principal newspaper

❒ by NOAA in the *Federal Register*

Conformity of the Proposed Site with Guiding Principles in 15 CFR 921.11(c)

____ The site contributes to the biogeographic and typological balance of the Reserve System.

____ The site is located in a biogeographic region and sub-region not represented in the system.

____ The site is a representative estuarine ecosystem.

____ The site's ecological characteristics will attract a broad range of research interests.

____ The site is suitable for long-term estuarine research based on ecological factors and proximity to research facilities and educational institutions.

____ The site's ecological characteristics will attract a broad range of educational interests.

____ The site is important to education and interpretive efforts.

____ The site is, to the maximum extent possible, minimally affected by human activity or influence.

____ The site is compatible with existing and potential land and water uses in contiguous areas.

____ The site is compatible with approved coastal and estuarine management plans.

____ The site boundaries encompass an adequate portion of key land and water areas to approximate an ecological unit.

____ The site boundaries encompass an adequate portion of key land and water areas to ensure effective conservation.

____ Less than 50 percent of the proposed reserve is currently federally protected.

____ The managing entity has or will establish adequate control over human activities occurring within the area.

Conformity of State's Request for Funds for EIS and Management Plan with 15 CFR 12

____ Request for funds for EIS and management plan

(Amount: $_____)

____ Request for funds for limited site characterization

(Amount: $_____)

____ Draft management plan outline

____ Outline of draft MOU between state and NOAA

Appendix E – Historical Reserve Designations

Reserve	Bio Region	Bio Sub-Region	Designation Date
Connecticut	Virginian	Southern New England	EST 2018-19
He'eia	Insular	Hawaiian Islands	January 18, 2017
Lake Superior	Great Lakes	Lake Superior	October 18, 2010
Mission-Aransas	Louisianian	Western Gulf	May 1, 2006
San Francisco Bay	Californian	San Francisco Bay	October 10, 2003♦
GTM	Carolinian	East Florida	August 20, 1999
Grand Bay	Louisianian	Mississippi Delta	June 16, 1999
Kachemak Bay	Fjord	Aleutian Island	February 12, 1999
Jacques Cousteau	Virginian	Southern New England	April 3, 1998
Delaware	Virginian	Middle Atlantic	July 21, 1993
North Inlet-Winyah Bay	Carolinian	South Atlantic	August 30, 1992
ACE Basin	Carolinian	South Atlantic	August 27, 1992
Chesapeake Bay, VA	Virginian	Chesapeake Bay	June 14, 1991
Great Bay	Acadian	Southern Gulf of Maine	October 3, 1989
Waquoit Bay	Virginian	Southern New England	June 20, 1988
Wells	Acadian	Southern Gulf of Maine	August 31, 1986♦
Weeks Bay	Louisianian	Panhandle Coast	February 19, 1986
North Carolina	Carolinian	North Carolinas	1985#
Chesapeake Bay, MD	Virginian	Chesapeake Bay	July 1985#
Hudson River	Virginian	Southern New England	September 27, 1982
Jobos Bay	West Indian	Caribbean	September 1981
Tijuana River	Californian	Southern California	1982
Apalachicola	Louisianian	Panhandle	November 1, 1980
Old Woman Creek	Great Lakes	Lake Erie	September 5, 1980♦
Narragansett Bay	Virginian	Southern New England	August 1980
Padilla Bay	Columbian	Puget Sound	1980
Elkhorn Slough	Californian	Central California	1979
Rookery Bay	Louisianian	West Florida	September 12, 1978
Waimanu Valley	Insular	Hawaiian Islands	1978*
Sapelo Island	Carolinian	South Atlantic	December 22, 1976
South Slough	Columbian	Middle Pacific	1974

♦DEDICATION CEREMONY DATES

*WAIMANU VALLEY RESEARCH RESERVE DE-DESIGNATED JUNE 10, 1996

#MULTI-COMPONENT DESIGNATIONS:

Chesapeake Bay, MD
- Monie Bay – July 1985
- Jug Bay –- Sept. 22, 1985
- Otter Point Creek – Oct. 4, 1990

North Carolina
- Currituck Banks – 1985
- Rachel Carson –- 1985
- Zeke's Island – 1985
- Masonboro Island – designation: Jan. 4, 1991

Appendix F – Environmental Impact Statement Structure

The NEPA regulations (40 CFR 1502.10) require all EIS documents to contain the following contents.

Required EIS Contents	
Cover Sheet	Executive Summary
Table of Contents	Purpose and Need
Description of Proposed Action	Alternatives to Proposed Action
Affected Environment	Environmental Consequences
Mitigation Methods	List of Preparers
Distribution List	Index and Appendices

a. Cover Sheet

Every EIS must have a one-page cover sheet that includes the following information:

- A list of the responsible agencies including the lead agency and any cooperating agencies. In the case of reserve designation, *U.S. Department of Commerce; National Oceanic and Atmospheric Administration; National Ocean Service; Office of Ocean and Coastal Resource Management; Estuarine Reserves Division; and address*
- The title of the proposed action that is the subject of the statement, together with the state and county(ies) (or other jurisdiction if applicable) where the action is located. Recent examples include:
  Final Programmatic Environmental Impact Statement

  Federal Approval of the Texas National Estuarine Research Reserve

  and Management Plan: The Mission-Aransas Estuary

  Final Environmental Impact Statement and Final Management Plan

  to establish the San Francisco Bay National Estuarine Research Reserve

- The name, address, and telephone number of the person at the NOAA who can supply further information.
- A designation of the statement as a draft, final, or draft or final supplement.
- A one-paragraph abstract of the statement.

b. Summary

The summary must accurately summarize the substantive parts of the EIS. It may also be called the executive summary and should be no more than a few pages in length. The summary shall include:

- A brief summary of the major conclusions.
- A description of any areas of controversy (including issues raised by agencies and the public).
- The major issues (including the choice among alternatives) that will be discussed in the EIS.

c. Table of Contents

The table of contents provides organization to the EIS and should include a list of tables, figures, and acronyms in addition to the major sections, described below, of the document. Other recommended components referenced in the table of contents include a list of preparers or acknowledgments, list of persons or organizations receiving the document, references, and a list of attachments and appendices.

d. Purpose and Need

An EIS must contain a purpose and need statement. Council of Environmental Quality regulations 40 CFR 1502.13 state, "*The statement shall briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action.*" This section presents a brief statement explaining why the action (i.e., reserve designation) is being considered. The purpose and need specifies the underlying purpose and need to which NOAA is responding and sets the overall direction of the environmental analysis process. The purpose and need section should answer the question, "Why is NOAA proposing to approve the reserve designation?" An example is that the reserve is "representative of an estuarine ecosystem suitable for long-term research and education." A proposed reserve should be in a biogeographic region that is currently unrepresented in the national system and/or have a unique ecosystem type(s) or physical characteristics described in Appendix 2 of the Sec. 921, or are from a state currently not represented in the Reserve System.

The purpose and need serves as an important screening criterion for determining which alternatives to designation of the proposed reserve are reasonable. All reasonable alternatives examined in detail must meet the defined purpose and need.

The purpose and need statement must:

- Be broadly to address the number of alternatives to be considered.
- Describe the goal or end result of the action not the manner in which to accomplish the end result.
- Be short and concise manner that describes the driving force behind NOAA's desire to designate the proposed reserve.

e. Description of Proposed Action and Alternatives

As required by Section 102 (2) (E) of NEPA, every EIS must contain a detailed description of the proposed action and alternatives. Considered the heart of the EIS, this section describes the proposed action and each alternative that will accomplish the purpose and need for reserve designation. Identifying the proposed action will inform reviewers of the reserve designation being considered. The proposed action is also call the preferred alternative of all the alternatives NOAA has identified for the EIS. NOAA selects a preferred alternative based on environmental, economic, technical, and other considerations.

In addition to the proposed action, this section should provide objective descriptions of all reasonable alternatives under consideration by NOAA. It is recommended that NOAA and the state partner include short, concise summaries of the impacts of each alternative, provided in comparative form. Previous reserve designation EIS documents have used a tabular format to depict each alternative and their impacts as shown in Figure 1. A more detailed analysis of the impacts of each alternative should be discussed in the "Environmental Consequences" section of the EIS.

Figure 1. Example tabular format of Alternatives and their Impacts

Table 4. Summary of alternatives. Abbreviations in the table: GIWW=Gulf Intracoastal Water Way, MHT=Mean High Tide, MP=Management Plan.

Alternatives	Action	Alternative Size	Social Impacts	Environmental Impacts	Research, Education
Preferred Alternative	Approve nominated site and implementation of management plan	185,708 acres[1]	Minor impacts to communities and uses adjacent to Reserve	Minor impacts related to sampling studies, construction of associated facilities	Positive new opportunities for conducting research
Boundary Alternative A	Include the GIWW and all transportation corridors	236,641 acres	Additional permit burden for future dredging operations[3]	Minor impacts related to sampling studies, construction of associated facilities	Positive new opportunities for conducting research related to dredging activities or best use sites
Boundary Alternative B	Extend the Reserve boundary an additional 1,000 feet to MHT Line	207,043 acres	Additional permit burden for applicants for new piers and docks[3]	Minor impacts related to sampling studies, construction of associated facilities	Additional opportunities for research along shorelines, i.e., seagrass habitats

The alternatives identified in this section are those that may be feasibly carried out based on technical, economic, environmental and other factors, and meets the purpose and need for the proposed action. A no-action alternative must be included as one of the alternatives described in this section.

According to Council of Environmental Quality regulations 40 CFR 1502.14 the Proposed Action and Alternatives section should:

- Rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated.
- Devote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits.
- Include reasonable alternatives such as alternative boundaries, sites, multiple sites or others.
- Include the No-Action Alternative. The No-Action Alternative is the most likely future that could be expected to occur in the absence of the project.
- Identify NOAA's preferred alternative or alternatives, if one or more exists.
- Include appropriate mitigation measures not already included in the proposed action or alternatives.

Refer to the NOAA, December 16, 2002, *Memorandum for Legal Guidance on Determining Related Actions and Developing Reasonable Alternatives for Inclusion in a Single EIS* at http://www.nepa.noaa.gov/reasonable_alts.pdf for more information on development of alternatives.

Determining the Number of Alternatives to Include

The number of alternatives considered reasonable will vary depending on the nature of the purpose and need for the action. The alternatives described in this section should be representative of all of those possible actions that can be reasonably expected to satisfy the purpose and need.

At a minimum, NOAA must include a description of two alternatives: the proposed action or preferred alternative and the no-action alternative. However, in the case of national estuarine research reserve designation, NOAA and the state partner should look at several alternatives including:

- Alternative reserve boundaries
- Alternative reserve sites
- Alternative management options

In many instances there are potentially a very large number of possible alternatives. NOAA should only analyze and compare a reasonable range of alternatives in the EIS to meet the purpose and need for designating a new reserve.

What is the No-Action Alternative?

NOAA must include a no-action alternative as part of the EIS for reserve designation. The no-action alternative is simply the continuation of the status quo and the proposed National Estuarine Research Reserve is not designated. In this alternative, NOAA will not meet the stated purpose and need of the action. The alternative should accurately describe what would happen if the reserve designation did not take place without being overly speculative. Additionally, this alternative provides a baseline comparison with the proposed action and any alternatives.

Alternatives Considered but Not Analyzed

During the initial stages of the designation process, NOAA and the state partner may consider a number of alternatives that could be considered reasonable but are unlikely to accomplish the goal of designating a new reserve. For example, during the site-selection process an alternative site was looked at but was not considered reasonable because the site lacked adequate state control and was dropped from consideration.

Any alternatives considered but rejected for further analysis should be briefly discussed in a subsection of the EIS (i.e., "Alternatives Considered, but not Further Analyzed"). This allows NOAA to identify these alternatives and to explain why they were not reasonable for achieving the purpose and need of designating a proposed reserve.

Summarizing the Environmental Consequences

Within this section, NOAA and the state partner should briefly describe the anticipated environmental consequences of reserve designation and alternatives on the affected environment. A detailed analysis of these environmental consequences will be found in the Environmental Consequences section of the EIS.

Designation of a research reserve is typically an administrative function and the environmental consequences are positive as designation brings the development of research, education, and stewardship programs; economic benefits to local communities; and the potential for strengthened environmental protections implemented by the state. Some explanation of the environmental consequences of future reserve infrastructure should be described, if applicable.

f. The Affected Environment

This section is a description of the environment in which the proposed action and alternatives are considered. Current conditions of the proposed reserve and its vicinity are described in detail and serve as a baseline for comparison of each alternative and their associated impacts.

Federal regulations 40 CFR 1502.15 describe this requirement as follows:

> *The environmental impact statement shall **succinctly** describe the environment of the area(s) to be affected or created by the alternatives under consideration. The descriptions shall be no longer than is necessary to understand the effects of the alternatives. Data and analyses in a statement shall be commensurate with the importance of the impact, with less important material summarized, consolidated, or simply referenced. Agencies shall avoid useless bulk in statements and shall concentrate effort and attention on important issues. Verbose descriptions of the affected environment are themselves no measure of the adequacy of an environmental impact statement.*

This section is typically divided into subsections that address major categories of resources affected by the research reserve designation. For example, previous research reserve designation EIS's have used subsections describing biological resources (including endangered and threatened species), socioeconomic resources, habitat, cultural resources, and historical resources. Other ideas for subsections include the following as well as other areas of interest specific to the proposed reserve:

Hydrology	*Geology*
Zoning	*Pollution Sources*
Existing Infrastructure	*Climate*

Each resource described in the Affected Environment Chapter must also receive a parallel discussion in the Environmental Consequences Chapter. Additionally, incorporating by reference other environmental impact statements and environmental assessments may be used to add information about the affected environment without adding length to the document. This is especially useful if existing infrastructure or land acquisition projects are ongoing during the designation process.

g. Environmental Consequences

An EIS must have a detailed description of the anticipated environmental consequences of the research reserve designation and alternatives (including the No-Action Alternative) on the resources described in the Affected Environment section. In this section, NOAA and the state partner describe the scientific and analytic basis for the comparison of the proposed research reserve designation and alternatives. The section must provide a detailed analysis and description of any general or specific environmental impacts or effects resulting from research reserve designation or the reasonable alternatives.

Effects can include ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative. Effects may also include those resulting from actions which may have both beneficial and detrimental effects, even if on balance the agency believes that the effect will be beneficial.

The section should be organized to show the following:

- The overall or general impacts of research reserve designation and the significance of these impacts.
- Specific impacts or effects of research reserve designation and their significance as related to the sections described in the Affected Environment section.
- Possible conflicts between the research reserve designation and applicable federal, regional, state, and local plans, programs, or controls for the proposed reserve site. This includes but is not limited to the:
    - Endangered Species Act
    - Magnuson-Stevens Fishery Conservation and Management Act
    - National Historic Preservation Act
    - Coastal Zone Management Act
- Unavoidable adverse environmental or socioeconomic impacts that may result from research reserve designation.

- The cumulative impacts of research reserve designation and alternatives on activities occurring in the area/environment affected by the action. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

h. Mitigation Measures

In some examples, alternatives, including the preferred alternative, reference measures that avoid, reduce or minimize the effects of designating a research reserve. If identified, these mitigation measures should be included in the analysis of each alternative in the Environmental Consequences section. A table can be used to show mitigation measures as related to each alternative identified in the EIS.

Mitigation measures may include the following actions:

- Avoidance of impacts associated with the preferred action or its alternatives
- Minimizing the degree or magnitude of the research reserve designation and its implementation
- Compensating for the impact of research reserve designation
- Restoring affected environments or habitats. The resource manipulation/ restoration part of the management plan may address mitigation in detail.

i. List of Preparers

The EIS must include a list of persons involved or consulted in the preparation of the document. This section should include any person that was primarily responsible for preparing the document, background papers, or provided substantial information. This includes NOAA staff and state partner staff.

j. Distribution List

The EIS must include a distribution list that includes other agencies, organizations, and individuals who have requested the document. An asterisk or some kind of notation should be included for those organizations or individuals who commented on the draft document.

k. Index and Appendices The EIS must contain an index. The index should include an alphabetical list of key words and their associated page numbers that will allow the reader to find information easily within the EIS. The index should focus on subject matter not a simple repeat of the table of contents. Any appendices to support the EIS should also be included. One mandatory appendix or attachment is the Reserve Management Plan. Other materials that are best consolidated into the appendix are:

- Lengthy technical discussions, baseline studies, etc…
- Materials likely to be understood by technically trained individuals
- Comments to the EIS and responses to those comments
- Concurrence letters as per other legal requirements
- Reserve – NOAA Memorandum of Understanding
- Reserve – Local partner Memorandum of Understanding

Appendix G – Cumulative Effects Analysis Recommendations and Tips

National Oceanic and Atmospheric Administration
Created March 21, 2008
Updated October 17, 2017

Cumulative Effects Analysis Recommendations and Tips

The Council on Environmental Quality's Regulations for Implementing NEPA defines *cumulative impact* as:

> *the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (federal or non-federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.* (40 CFR 1508.7)

Although there is no universal guidance explaining how to conduct cumulative effects analyses, the Council of Environmental Quality and several federal agencies have developed a handbook to assist a NEPA practitioner with the analysis of cumulative effects. This document, derived from several different sources regarding cumulative effects analysis, will provide tips and recommendations for developing a cumulative effects analysis for a NOAA major federal action.

In general, the level of cumulative effects analysis needs to be aligned with the degree of direct and indirect effects of the proposed action or preferred alternative on the environment. Developing a cumulative effects analysis should be seen as an iterative process, in that the analysis may shed light on resources that were not discovered during the scoping process, requiring the analyst to add them to the affected resources and reanalyze a portion of the cumulative impacts.

Scoping for Cumulative Impacts:

The purpose of scoping is to determine whether the resources, ecosystems, and human communities of concern have already been affected by past or present activities and whether other agencies or the public have plans that may affect the resources in the future.

Step 1: Identify the significant cumulative effects issues associated with the proposed action and define the assessment goals[2]

To identify the significant cumulative effects issues, an analyst must define (a) the direct and indirect effects of the proposed action, (b) the resources, ecosystems, and human communities that will be affected, and (c) which effects on these resources are important from a cumulative effects perspective. Table 2 lists questions that should be considered to identify all pertinent significant cumulative effects issues.

Step 2: Establish the geographic scope for the analysis

To establish the geographic scope for analysis, analysts should:

- determine the area that will be affected by the action (This is the project impact zone.)
- make a list of the resources within that zone that could be affected by the proposed action

[2] The eleven step process is taken directly from the Council on Environmental Quality's *Considering Cumulative Effects*, which is referenced at the end of this document.

• determine the geographic areas occupied by those resources outside of the project impact zone (In most cases, the largest of these areas will be the appropriate area for the analysis of cumulative effects.)
• determine the affected institutional jurisdictions, both for the lead agency and other agencies or groups

Step 3: Establish the time frame for the analysis
To identify the time frame for the analysis, analysts should consider:
• the nature of the proposed action
• the resource(s) of concern
• the point in time at which further cumulative effects (or, if appropriate, their discounted present value) are expected to become inconsequential
• the period for which useful predictions can be made

Step 4: Identify other actions affecting the resources, ecosystems, and human communities of concern
This is also known as identifying the past, present, and reasonably foreseeable future actions.
Effective cumulative effects analysis requires close coordination among agencies so that all past, present, and future actions are considered. The availability of data often determines how far back past effects can be analyzed. Identifying present actions is easier than identifying past or future actions, but it can still be a difficult task. The first step in identifying future actions is to investigate the plans of the proponent agency and other agencies in the area. In general, future actions can be excluded if: (a) the action is outside the geographic boundaries or time frame established for the analysis, (b) the action will not affect resources that are the subject of the analysis, (c) including the action would be considered arbitrary, or (d) the action is not reasonably foreseeable (e.g., not formally proposed, planned, permitted, authorized, or funded).

Describing the Affected Environment:

The purpose of describing the affected environment is to describe the baseline conditions to provide the context for evaluating environmental consequences of the cumulative effects.

Step 5: Characterize the resources, ecosystems, and human communities identified in scoping in terms of their response to change and capacity to withstand stresses
The existing conditions for resources and ecosystems can best be described by first establishing an environmental baseline, or point of reference, for each resource/ecosystem. Likewise, the relative well-being of human communities can be judged on the basis of demographic, geographic, economic, social, and health indicators. The baseline should describe the status of the resource/ecosystem, taking into account the conditions, trends, and past actions that have resulted in the current condition. Appropriate indicator measures should be selected to represent each resource/ecosystem.

Step 6: Characterize the stresses affecting these resources, ecosystems, and human communities and their relation to regulatory thresholds
Environmental impact assessment is an attempt to characterize the relationship between human activities and the resultant environmental and social effects; therefore, the next step in describing the affected environment is to compile data on stress factors pertaining to each resource, ecosystem, and human community. Two types of information should be used to describe stress factors contributing to cumulative effects. First, the analyst

should identify the types, distribution, and intensity of key social and economic activities within the region. Data on these socioeconomic "driving variables" can identify cumulative effects problems in the project area.[3] Second, the analyst should look for individual indicators of stress on specific resources, ecosystems, and human communities. Like the familiar "canary in the coal mine," changes in certain resources can serve as an early warning of impending environmental or social degradation.[4] The goal of characterizing stresses is to determine whether the resources, ecosystems, and human communities of concern are approaching conditions where additional stresses will have an important cumulative effect.

Step 7: Define a baseline condition for the resources, ecosystems, and human communities

This baseline will provide the analyst with the necessary information to properly evaluate the environmental consequences of cumulative effects. However, obtaining information to describe the affected environment can be expensive and time-consuming. Analysts should determine which data are essential for a specific analysis and compare that with the data sets that are readily available. There are many sources of data available on the internet, from federal agency websites to local or regional planning organization websites. For example, Census Bureau data can be helpful for providing demographic, housing, and socioeconomic data.

Determining the Environmental Consequences:

Step 8: Identify the important cause-and-effect relationships between human activities and resources, ecosystems, and human communities

It is important to link the various stresses and the resources they affect. Cause-and-effect relationships can be simple (linear) or complex (non-linear). The relationship between the percent of fine sediment and in a stream bed and the emergence of salmon fry is an example of a model of cause and effect that can be useful for identifying the cumulative effects on a specific resource. This model describes the response of the resource to a change in its environment. To determine the consequences of the proposed action on the resource, the analyst must determine which cumulative environmental changes will result from the proposed action and other actions.

Using information gathered to describe the affected environment, the factors that affect resources (i.e., the causes in the cause-and-effect relationships) can be identified and a conceptual model of cause and effect can be developed. The model can be developed even if the exact mechanism or magnitude of the cause-and-effect relationship is not known. Because models can become quite complex with several relationships that cannot be quantified with known data, the analyst should restrict the model to include only important relationships that can be supported with information.

The next step is to quantify the effect on the resource for each identified relationship using available data. If cause-and-effect relationships cannot be quantified, or if quantification is not needed to adequately characterize the consequences of each alternative, qualitative evaluation procedures can be used. The analyst may categorize the magnitude of effects into a set number of classes (e.g., high, medium, or low) or provide a descriptive narrative of the types of effects that may occur. Often, the analyst will be limited to qualitative evaluations of effects because cause and-effect relationships are poorly understood or because few site-specific data are available.

[3] McCabe, G, C Orians, C Clavate, and K Branch. 1991. Driving variables that impact environmental quality. Battelle Pacific Northwest National Laboratory, Richland, WA.

[4] Reid, WV, JA McNeely, DB Tunstall, and D Bryant. 1991. Indicators of Biodiversity Conservation. World Resources Institute, Washington, D.C.

Even when the analyst cannot quantify cumulative effects, a useful comparison of relative effects can enable a decision-maker to choose among alternatives. The cause-and-effect relationships for each resource are used to determine the magnitude of the cumulative effect resulting from all actions included in the analysis.

Step 9: Determine the magnitude and significance of cumulative effects

The analyst's primary goal is to determine the magnitude and significance of the environmental consequences of the proposed action in the context of the cumulative effects of other past, present, and future actions. The critical element in reaching this goal is defining an appropriate baseline or threshold condition of the resource, ecosystem, and human community beyond which adverse or beneficial change would cause significant degradation or enhancement of the resource, respectively.

Initially, the analyst will determine the separate effects of past, present, proposed, and other future actions. Once each group of effects is determined, cumulative effects can be calculated.

The cumulative effects of a specific resource will not necessarily be the sum of the effects of all actions. Knowing how a particular resource responds to environmental change is essential for determining the cumulative effect of multiple actions.

The significance of effects should be determined based on context and intensity. In its implementing regulations for NEPA, the Council of Environmental Quality states that "the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality" (40 CFR 1508.27). Significance may vary with the setting of the proposed action.

Step 10: Modify or add alternatives to avoid, minimize, or mitigate significant cumulative effects

If it is determined that significant cumulative effects would occur as a result of a proposed action, the project proponent should avoid, minimize, or mitigate adverse effects by modifying or adding alternatives. The decision-maker should not overlook opportunities to enhance resources when adverse cumulative effects are not significant. By analyzing the cause-and-effect relationships resulting in cumulative effects, strategies to mitigate effects or enhance resources can be developed. For each resource, ecosystem, and human community of concern, the key to developing constructive mitigation strategies is determining which of the cause-and-effect pathways results in the greatest effect. Although mitigation of significant effects is an option, in most cases avoidance or minimization are more effective than remediating detrimental effects.

Step 11: Monitor the cumulative effects of the selected alternative and adapt management

Due to the complex nature of cumulative effects analysis, uncertainties in the analysis will always exist. Therefore, monitoring is essential to analyzing the actual effects of the proposed action and mitigation measures on the environment. Important components of a monitoring program for assessing cumulative effects include the following:

- measurable indicators of the magnitude and direction of ecological and social change
- appropriate timeframes and spatial scales
- means of assessing causality and measuring mitigation efficacy
- provisions for adaptive management

Adaptive management is a useful tool in these situations to provide a way to continually adjust management and mitigation measures in the face of new information regarding effects on the environment and should use the data gained in monitoring to inform new decisions.

References

Council on Environmental Quality. 1997. *Considering Cumulative Effects Under the National Environmental Policy Act*.
Council on Environmental Quality. June 24, 2005 Memorandum regarding *Guidance on the Consideration of Past Actions in Cumulative Effects Analysis*.
Council on Environmental Quality. 2007. *A Citizen's Guide to the NEPA*.
National Marine Fisheries Service, Northeast Regional Office. 2012. *Guidance on Cumulative Effects Analysis in Environmental Assessments and Environmental Impact Statements*.

Appendix H – Record of Decision

2017 Example

He'eia National Estuarine Research Reserve
Record of Decision

PROPOSED ACTION:

To designate sections of the He'eia estuary within the Kāne'ohe Bay region on the windward side of O'ahu in Hawai'i as a National Estuarine Research Reserve. The National Oceanic and Atmospheric Administration (NOAA) works with coastal states to establish National Estuarine Research Reserves, thereby fulfilling its mission of establishing and managing a national system of reserves that represent the various biogeographic regions and subregions of estuarine types in the United States.

DECISION:

NOAA has decided to designate the He'eia National Estuarine Research Reserve (the Reserve), the boundary of which is identified in the Final Environmental Impact Statement (FEIS) and the Final Management Plan and is the preferred alternative. NOAA believes that by adhering to the best management practices identified in Appendix I of the FEIS (noted in several of the approved Management Plan's objectives and actions), and by complying with the applicable requirements of the National Estuarine Research Reserve program, all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted.

ALTERNATIVES CONSIDERED:

1. NO ACTION - Under this alternative, NOAA would not designate the He'eia National Estuarine Research Reserve. Not designating the Reserve would ignore a need identified by the citizens of the State of Hawai'i during the designation process for the Reserve to enable better understanding and management of the coastal ecosystems of Hawai'i and to bring these areas under a more collaborative, coordinated, and unified management program. In addition, NOAA would not fulfill its goal to establish a national system of reserves that are representative of estuaries within each biogeographic region of the United States.

2. ALTERNATIVE BOUNDARIES - In addition to the No Action Alternative, NOAA considered alternative boundaries for the proposed Reserve. Specifically, NOAA considered: (a) including additional upland areas, specifically the entire Hawai'i Community Development Authority (HCDA) parcel, the City and County of Honolulu parcel, and the town pier; (b) including additional marine water areas centered around Kāne'ohe Bay reefs 7, 8, 9, and 10; and (c) limiting the boundary of the Reserve to the original nominated site boundaries.

The first of these alternative boundaries was rejected for several reasons. The 210-acre City and County of Honolulu parcel is partially zoned for residential development. The future residential development within the Reserve would be inconsistent with goals and

requirements of the National Estuarine Research Reserve System. In addition, the He'eia Kea Small Boat Harbor has multiple current commercial entities using the facilities and requires periodic maintenance dredging to keep boat access open for commercial fishing and ecotourism vessels. These uses would need to be regularly reevaluated for consistency with the applicable NOAA regulations.

The second alternative, which contains marine waters which are also included in the preferred alternative, was dismissed because it omitted terrestrial areas determined appropriate for inclusion within the designated boundary. In this alternative, the upland areas were found to be insufficient in geographic size and habitat diversity to allow for the study of different ecosystem based management approaches to address one of the Reserve's primary research questions. Specifically, the area available to support the study of native upland forest restoration approaches to ecosystem based management was not included in this alternative.

The final alternative, the original site nomination boundary, was rejected because it failed to include specific water areas and uplands that are critical for providing the Reserve with the ability to research and test different approaches to ecosystem based management that is central to the Reserve's primary research. By omitting the marine areas that included Reefs 7,8,9 and 10 and the forested uplands of the HCDA parcel, the nominated Reserve was deemed to be insufficient in size to allow for the adequate study and monitoring of different ecosystem based management approaches over time.

ENVIRONMENTALLY PREFERABLE ALTERNATIVES

All of the boundary alternatives, including the preferred alternative, are expected to result in overall beneficial impacts to the environment within the designated boundaries as the ongoing restoration and cultural practices being conducted by the site partners will benefit from the important coordinated research, long-term monitoring and educational functions enabled by a Reserve designation. Accordingly, NOAA has determined that each of the boundary alternatives above constitute an environmentally preferable alternative.

COMMENTS RECEIVED ON THE FINAL ENVIRONMENTAL IMPACT STATEMENT

None.

PERMITS AND OTHER AUTHORIZATIONS REQUIRED

Designation of the Reserve does not require any federal permits, however, it should be noted that specific reserve projects conducted by site partners following designation may have regulatory compliance requirements under the Clean Water Act or other applicable laws. NOAA intends to coordinate, as appropriate, with the Reserve and other parties to facilitate compliance with any such requirements. . Designation of the Reserve has been deemed to be consistent with the federally approved Hawai'i Coastal Management Program. The U.S. Fish and Wildlife Service and NOAA's National Marine Fisheries

Service determined that designation will likely have no effect on federally listed species or habitats. NOAA consulted with the Hawai'i state historic preservation officer, as required by National Historic Preservation Act, providing a no adverse effect to historic properties determination for designation of the Reserve and approval of the final management plan. The Office for Coastal Management presumed concurrence since there is no response within 30 days of receipt of letter (36 C.F.R. § 800.3(c)(4)). Additionally, NOAA sought consultations with representative Native Hawaiian organizations pursuant to National Historic Preservation Act. None requested to be a consulting party in the designation.

SIGNED: _____ DATE: 1-18-17

Kathryn D. Sullivan, Ph.D.
Under Secretary of Commerce for Oceans and Atmosphere

Lake Superior National Estuarine Research Reserve
Record of Decision

PROPOSED ACTION:

To designate sections of the lower St. Louis River estuary along Lake Superior in northern Wisconsin as a National Estuarine Research Reserve. The National Oceanic and Atmospheric Administration (NOAA) works with coastal states to establish National Estuarine Research Reserves, thereby fulfilling its mission of establishing and managing a national system of reserves that represent the various biogeographic regions and subregions of estuarine types in the United States.

DECISION:

NOAA has decided to designate the Lake Superior National Estuarine Research Reserve (the Reserve), the boundary of which is identified in the final environmental impact statement and the final management plan and is the preferred alternative.

ALTERNATIVES CONSIDERED:

1. NO ACTION - Under this alternative, NOAA would not designate the Lake Superior National Estuarine Research Reserve. Not designating the Reserve would ignore a need repeatedly identified by the citizens of the State of Wisconsin during the designation process for the Reserve to better understand and manage the coastal ecosystems of Wisconsin and to bring these areas under a more collaborative, coordinated, and unified management program. In addition, NOAA would not be able to fulfill its mission to establish a national system of reserves that are representative of estuaries within each biogeographic region of the United States.

2. ALTERNATIVE BOUNDARIES - Several alternatives were identified in the environmental impact statements as follows: (a) remove the Pokegama-Carnegie Component; (b) include additional water areas; (c) include Hog Island and Newton Creek; and (d) remove the Wisconsin Point component.

The first of these alternative boundaries was rejected because the Pokegama-Carnegie component is rich with native vegetative habitats that would benefit from improved and coordinated stewardship. The second alternative was dismissed because including additional water areas would increase potential conflict with the future activities of the Port of Superior. The third alternative was rejected because Hog Island is geographically isolated from the key components of the reserve and the area has experienced extensive ecological changes as a result of human activities associated with the activities of the Port of Superior and the Murphy Oil Refinery at the headwaters of Newton Creek. Such changes to the area's ecological characteristics do not contribute to the representativeness of the estuarine system. Elements of this alternative remain viable in the future, where restoration activities are feasible and could expand the representative characteristics of the estuary. The final alternative, the removal of Wisconsin Point was also rejected

because inclusion of Wisconsin Point will expand opportunities for Great Lakes estuarine research with its unique geomorphology, as well as its wetland and xeric dune habitats and their status as protected state, county, or city lands. In addition, the presence of a historic Ojibwe burial ground also provides a great opportunity to highlight the rich cultural resources of the area.

COMMENTS RECEIVED ON THE FINAL ENVIRONMENTAL IMPACT STATEMENT

None.

PERMITS AND OTHER AUTHORIZATIONS REQUIRED

Designation of the Reserve does not require any federal permits. Designation of the Reserve has been deemed to be consistent with the federally approved Wisconsin Coastal Management Program. The U.S. Fish and Wildlife Service has determined that designation will likely have no effect on federally listed species. The Wisconsin state historic preservation and representative tribal historic preservation officers have determined that no historic properties will be adversely affected by designation.

SIGNED: _____ DATE: OCT 18 2010

Jane Lubchenco, Ph.D.
Under Secretary of Commerce
for Oceans and Atmosphere

Appendix I – Certification of Findings

2010 Example

DESIGNATION OF THE
LAKE SUPERIOR NATIONAL ESTUARINE RESEARCH RESERVE

Consistent with the provisions of Section 315 of the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1461, the State of Wisconsin has met the following conditions to establish the Lake Superior National Estuarine Research Reserve:

1) The St. Louis River freshwater estuary is a representative estuarine ecosystem that is suitable for long-term research and contributes to the biogeographical and typological balance of the National Estuarine Research Reserve System.

2) Wisconsin state law provides long-term protection for National Estuarine Research Reserve resources to ensure a stable environment for research.

3) Designation of lands and waters within the St. Louis River freshwater estuary as a Reserve will serve to enhance public awareness and understanding of estuarine areas and provide suitable opportunities for public education and interpretation.

4) The State of Wisconsin has complied with the requirements of the regulations relating to designation of a National Estuarine Research Reserve.

Accordingly, I hereby designate the Lake Superior National Estuarine Research Reserve, the boundary of which is specified in the final management plan.

OCT 18 2010

Jane Lubchenco, Ph.D.
Under Secretary of Commerce
for Oceans and Atmosphere

Appendix J – Important Questions and Answers for Public Meetings

QUESTION: How will the proposed reserve affect current public uses at the site?
ANSWER: Designation will not, in-and-of-itself change the current public uses of the lands and waters within a reserve. State authorities manage public uses on state lands and waters, and site land owners make decisions about the permissible uses of their land consistent with applicable state authorities. The state and/or site land owners may decide to change or modify to uses to meet specific reserve management plan goals and objectives for the site or at some future time for reasons that have yet to be determined or foreseen.

QUESTION: Will designation of the proposed reserve result in new federal regulations?
ANSWER: The designation, in-and-of-itself, will not result in any new federal regulations for the area. There are, however, existing regulatory requirements which guide how the site would be managed as a reserve. Decisions regarding land uses in the area will be determined through the reserve management plan process and be implemented by respective landowners consistent with the overall guidance provided by the Reserve System implementing regulations. As part of this process, land uses may change over time provided they are consistent with the applicable Reserve System regulations.

QUESTION: Will NOAA consider comments submitted by a Stakeholder after the close of the comment period provided in the Federal Register notice?
ANSWER: NOAA can only guarantee that relevant comments submitted during the comment period will be considered. Although NOAA retains discretion to consider relevant comments submitted outside the comment period, to ensure that comments are considered, the public should submit any comments before the (Date) close of the comment period.

QUESTION: What are the benefits of having a research reserve at the site?
ANSWER: The benefits of a reserve generally include the following:

- bringing new scientists and students from all over the U.S. to study at the site
- providing opportunity to apply for funds for facilities and land acquisition
- providing an opportunity to apply for operational funds that are currently restricted to Reserve System sites
- additional opportunities to educate k-12 students about the estuary, science, and cultural knowledge
- improved science-based information becomes available to support local decision makers
- fostering collaborations and partnerships to solve local and regional problems

QUESTION: What is the difference between Nomination and Designation for National Estuarine Research Reserves?
ANSWER: The governor of a state submits a nomination of a proposed site for a reserve to NOAA for consideration. The nomination package must include a detailed site-selection process and a description of the public participation process used to support site selection. Designation of a reserve is considered by NOAA after a NEPA review is completed and a management plan is developed for the proposed site. Designation officially recognizes the site as a reserve in the national system of estuarine research reserves, while nomination simply starts the formal process toward designation.

QUESTION: What is the difference between the federal vs. state roles in a reserve?

ANSWER: (Lead state partner) would be NOAA's partner in the day to day operation and management of the reserve. NOAA provides national programmatic support, funding, and coordination for the national estuarine research Reserve System.

QUESTION: What is the difference between a National Estuarine Research Reserve and a National Marine Sanctuary?

ANSWER: Reserve sites are operated by a state partner (i.e., state agency or University) in partnership with NOAA's Office for Coastal Management with a70-30 funding match for annual operations support using cooperative agreements. National marine sanctuaries are managed by NOAA's Office of National Marine Sanctuaries. In some instances NOAA works closely with state co-managers in national marine sanctuaries that include state waters, but as part of a national marine sanctuary, the areas are under federal protection. Reserves are established under the Coastal Zone Management Act, while National Marine Sanctuaries are established under the National Marine Sanctuaries Act. Research Reserves generally consist of state lands and waters and may include uplands, beaches and dry land associated with the estuaries. Marine sanctuaries may include state and federal waters and the submerged lands under them but do not include any dry land. Although the systems do have different legislation and purposes, they serve similar goals of place-based conservation, fostering science-based management, and working on the ground with local communities. Within the National Ocean Service, these programs are increasingly working together to share lessons across the two systems.

QUESTION: How is a research reserve site nomination different from the Sanctuary nomination process?

ANSWER: Research reserve site nominations and National Marine Sanctuary nominations are two different processes run under different authorities (Coastal Zone Management Act and National Marine Sanctuaries Act). The National Estuarine Research Reserve designation process begins with a specific nomination request from the Governor of a state to NOAA. An interested state conducts a detailed site-selection and nomination process with community input to identify the most appropriate sites for a future estuarine research reserve. The Governor of the state would then submit the nomination of a proposed reserve site to NOAA for consideration. If the nomination is accepted by NOAA, the state then develops a management plan for the site and NOAA completes an environmental review of the proposed designation, culminating in designation of a new National Estuarine Research Reserve. Sanctuaries may be either nominated by the public or established by Congress through legislation (e.g., Humpback Whale National Marine Sanctuary). The Sanctuary Nomination Process is a community-based, grassroots process that allows interested individuals and organizations to nominate marine and Great Lakes areas for NOAA to consider as a national marine sanctuary. The Governor of a state or a state agency may be part of the community that submits a national marine sanctuary nomination. Once a Sanctuary Nomination is received, NOAA will review to consider whether to add the nominated site to an inventory of areas for possible national marine sanctuary designation through a public process outlined in the National Marine Sanctuaries Act. For more information on the sanctuary nomination process visit: *www.nominate.noaa.gov*.

QUESTION: What are the next steps after the public comment period?

ANSWER: Upon completion of the public comment period of the proposed reserve's Draft Environmental Impact Statement and Draft Management Plan, NOAA and lead state partner would proceed to the next phase of the reserve designation process, which includes considering and responding to the relevant comments received from the public. If NOAA determines that designation is appropriate, a final version of the reserve management plan and environmental impact statement would be released, along with NOAA's response to any public comments received.

Concurrently, NOAA and the lead state partner also would finalize a memorandum of understanding that will guide the federal-state partnership and the University will have a similar arrangement with all the key partners at the state level governing those partnerships. Upon completion of the NEPA review and the development of a final reserve management plan, the NOAA Administrator will review the final package and decide whether to issue a finding of designation officially designating the reserve.

QUESTION: What is NOAA's plan to provide funding for the new reserve site?
ANSWER: Once a reserve is designated, it is eligible to receive funds from NOAA under the Coastal Zone Management Act, which are allocated by equal share amounts among operational reserves. Funds from NOAA for any newly designated reserve, however, are not guaranteed and depend on appropriation levels from Congress and priority to ensure operation of existing reserves. NOAA will consider the resource needs of the whole research Reserve System in planning for future years' budget requests.

Appendix K – NOAA Introductory Remarks for Draft Environmental Impact Statement and Draft Management Plan Public Meeting

PUBLIC HEARING INTRODUCTORY REMARKS

He‘eia National Estuarine Research Reserve

(6:00 PM, Thursday, October 6, 2016)

GOOD EVENING LADIES AND GENTLEMEN. I’D LIKE TO WELCOME YOU TO THIS PUBLIC HEARING WHICH HAS BEEN CALLED FOR THE PURPOSE OF RECEIVING TESTIMONY ON THE PROPOSAL TO ESTABLISH THE HE’EIA NATIONAL ESTUARINE RESEARCH RESERVE, ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT DISCUSSING THIS PROPOSAL AND THE PLAN THAT WILL BE USED TO MANAGE THE RESEARCH RESERVE.

MY NAME IS JOHN KING AND I AM A DEPUTY DIRECTOR OF NOAA’S OFFICE FOR COASTAL MANAGEMENT, AN AGENCY OF THE NATIONAL OCEANIC AND ATMOSHPERHIC ADMINISTRATION, IN THE U.S. DEPARTMENT OF COMMERCE AND WORK IN PARTNERSHIP WITH THE STATE OF HAWAI’I’S OFFICE OF PLANNING. THE OFFICE FOR COASTAL MANAGEMENT IS RESPONSIBLE FOR ADMINISTERING THE PROVISIONS OF THE FEDERAL COASTAL ZONE MANAGEMENT ACT OF 1972 THAT PROVIDES IN PART, THE AUTHORITY TO DESIGNATE AND SUPPORT THE STATE MANAGEMENT OF ESTUARINE RESEARCH RESERVES.

WITH ME TODAY ARE MS. JOELLE GORE, THE DIRECTOR OF THE STEWARDSHIP DIVISION IN THE OFFICE FOR COASTAL MANAGEMENT, UNDER WHICH FEDERAL SUPPORT FOR THE PROPOSED HE’EIA RESEARCH RESERVE RESIDES. MS. GORE WILL HAVE AN OPPORTUNITY TO ADDRESS YOU SHORTLY.

THIS MEETING IS BEING HELD PURSUANT TO SECTION 921.13(d) OF THE ESTUARINE RESERCH RESERVE REGULATIONS WHICH YOU CAN SEE ON IN APPENDIX A ON PAGE 1-10 OF THE DRAFT MANAGEMENT PLAN. THE HEARING ALSO SATISFIES PART OF THE PROCEDURES OF THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969, WHICH CALLS FOR THE PREPARATION OF DRAFT AND FINAL ENVIRONMENTAL IMPACT STATEMENTS CONCERNING PROPOSED MAJOR FEDERAL ACTIONS THAT MAY SIGNIFICANTLY AFFECT THE ENVIRONMENT. IN THIS CASE, THE FEDERAL ACTION INCLUDES THE DESIGNATION OF THE HE’EIA RESERVE UNDER THE PROVISIONS OF THE COASTAL ZONE MANAGEMENT ACT OF 1972 ENSURING A JOINT STATE-FEDERAL PARTNERSHIP AND THE APPROVAL OF A MANAGEMENT FRAMEWORK DESCRIBED IN THE MANAGEMENT PLAN FOR THE RESEARCH RESERVE.

THIS PUBLIC MEETING IS BEING HELD AS PART OF THE PROCESS TO CONSIDER THE ENVIRONMENI'AL EFFECTS OF THE PROPOSED RESEARCH RESERVE. The Office for Coastal Management AWARDED A PREVIOUS FINANCIAL GRANT TO THE STATE OF HAWAI'I'S OFFICE OF PLANNING TO CONDUCT A PRE-DESIGNATION PLANNING STUDY AND TO COORDINATE WITH LOCAL, STATE, AND FEDERAL AGENCIES AND PUBLIC INTEREST GROUPS FOR THE CREATION OF A RESEARCH RESERVE MANAGEMENT PLAN. THIS OFFICE, THE OFFICE OF PLANNING, AND THE UNIVERSITY OF HAWAI'I INSTITUTE OF MARINE BIOLOGY HAVE PREPARED THE DRAFT ENVIRONMENTAL IMPACT STATEMENT THAT IS THE SUBJECT OF THIS HEARING.

ATERNATIVES TO FEDERAL APPROVAL, BOUNDARIES, ALTERNATIVE SITES AND TAKING NO ACTION ARE PRESENTED AND EVALUATED IN THE ENVIRONMENTAL IMPACT STATEMENT ALONG WITH THEIR POTENTIAL ENVIRONMENTAL CONSEQUENCES. THE PREFERRED ALTERNATIVE PRESENTED FOR THE HE'EIA ESTUARINE RESEARCH RESERVE DOES NOT REPRESENT A FINAL DECISION. THIS HEARING PROVIDES AN OPPORTUNITY FOR ALL INTERESTED PARTIES TO PRESENT THEIR VIEWS ON THE ADEQUACY OF THE ENVIRONMENTAL IMPACT STATEMENT AND THE PREFERRED RESERVE DESIGNATION ALTERNATIVE.

NOTICE OF AVAILABILITY OF THE DRAFT ENVIRONMENTAL IMPACT STATEMENT AND A NOTICE OF THIS PUBLIC MEETING WAS PRINTED IN THE *FEDERAL REGISTER* ON FRIDAY, SEPTEMBER 2. NEWSPAPER ANNOUNCEMENTS ON THIS HEARING APPEARED IN X LOCAL NEWSPAPERS:

ELECTRONIC COPIES OF THE DRAFT ENVIRONMENTAL IMPACT STATEMENT WERE MADE AVAILABLE TO INDIVIDUALS AND INTERESTED PARTIES IN ADVANCE OF THIS HEARING AT *COAST.NOAA.GOV/CZM/COMPLIANCE*. THERE ARE A LIMITED NUMBER OF COPIES AVAILABLE FOR YOU TO VIEW TODAY AT THE STORY TABLES.

COMMENTS RECEIVED DURING THIS HEARING, AND WRITTEN COMMENTS RECEIVED BY OCTOBER 17, WILL BE FULLY CONSIDERED BY APPROPRIATE NOAA DECISION MAKERS IN DETERMINING WHETHER OR NOT TO ESTABLISH THE ESTUARINE RESEARCH RESERVE. RESPONSES TO ALL COMMENTS WILL BE PROVIDED IN THE FINAL ENVIRONMENTAL IMPACT STATEMENT. AGAIN, THE PERIOD FOR RECEIVING PUBLIC COMMENTS ON THIS DOCUMENT CLOSES ON OCTOBER 17TH.

WRITTEN COMENTS MAY BE SUBMITTED USING ONE OF THREE METHODS. THESE INCLUDE ELECTRONICALLY, BY SUBMITTING COMMENTS THROUGH THE FEDERAL E-RULEMAKING PORTAL. BY MAILING COMMENTS SHOULD BE DIRECTED TO THE PROGRAM OFFICIAL IDENTIFIED BELOW. OR LASTLY BY FILLING IN THE COMMENT SHEETS PROVIDED AND DEPOSITING THEM IN THE COMMENT BOX ON THE TABLE IN THE BY THE ENTRANCE. I CAN PROVIDE THIS INFORMATION AGAIN LATER FOLLOWING THE MEETING FOR ANYONE WHO MAY BE INTERESTED IN SENDING WRITTEN COMMENTS ON THE ENVIRONMENTAL IMPACT STATEMENT.

JOELLE GORE, STEWARDSHIP DIVISION CHIEF

OFFICE FOR COASTAL MANAGEMENT

NATIONAL OCEAN SERVICE, NOAA

1305 EAST WEST HIGHWAY, N/ORM2, ROOM 10622

SILVER SPRING, MD 20910.

BEFORE RECEIVING YOUR COMMENTS ON THIS ESTUARINE RESEARCH RESERVE PROPOSAL, I WOULD LIKE TO ASK MS. JOELLE GORE TO PROVIDE YOU WITH A BRIEF BACKGROUND ON THE NATIONAL ESTUARINE RESEARCH RESERVE PROGRAM AND A SUMMARY OF THE IMPACTS WE ANTICIPATE WITH APPROVAL OF THE LAKE SUPERIOR NATIONAL ESTUARINE RESEARCH RESERVE AND ANNUAL FINANCIAL GRANTS TO ASSIST WITH IMPLEMENTATION OF THE PROGRAM.

HERE ARE THE PROCEDURES WE INTEND TO USE FOR THIS MEETING. ALL PERSONS HAVE BEEN ASKED TO SIGN ATTENDANCE CARDS AND INDICATE IF THEY WOULD LIKE TO MAKE A STATEMENT. IF YOU HAVE NOT FILLED ONE OF THESE OUT, PLEASE RAISE YOUR HAND AND WE WILL PROVIDE ONE. WE WOULD LIKE EACH SPEAKER TO MAKE THEIR PRESENTATION FROM THE TABLE SO WE AND THE AUDIENCE AND THE RECORDER CAN HEAR YOU MORE CLEARLY.

A VERBATIM TRANSCRIPT OF THIS HEARING WILL BE TAKEN AND WILL BE USED TO ASSIST IN THE PREPARATION OF A MEETING SUMMARY. IF YOU HAVE A PREPARED STATEMENT, I WOULD APPRECIATE A COPY FOR OUR RECORDS.

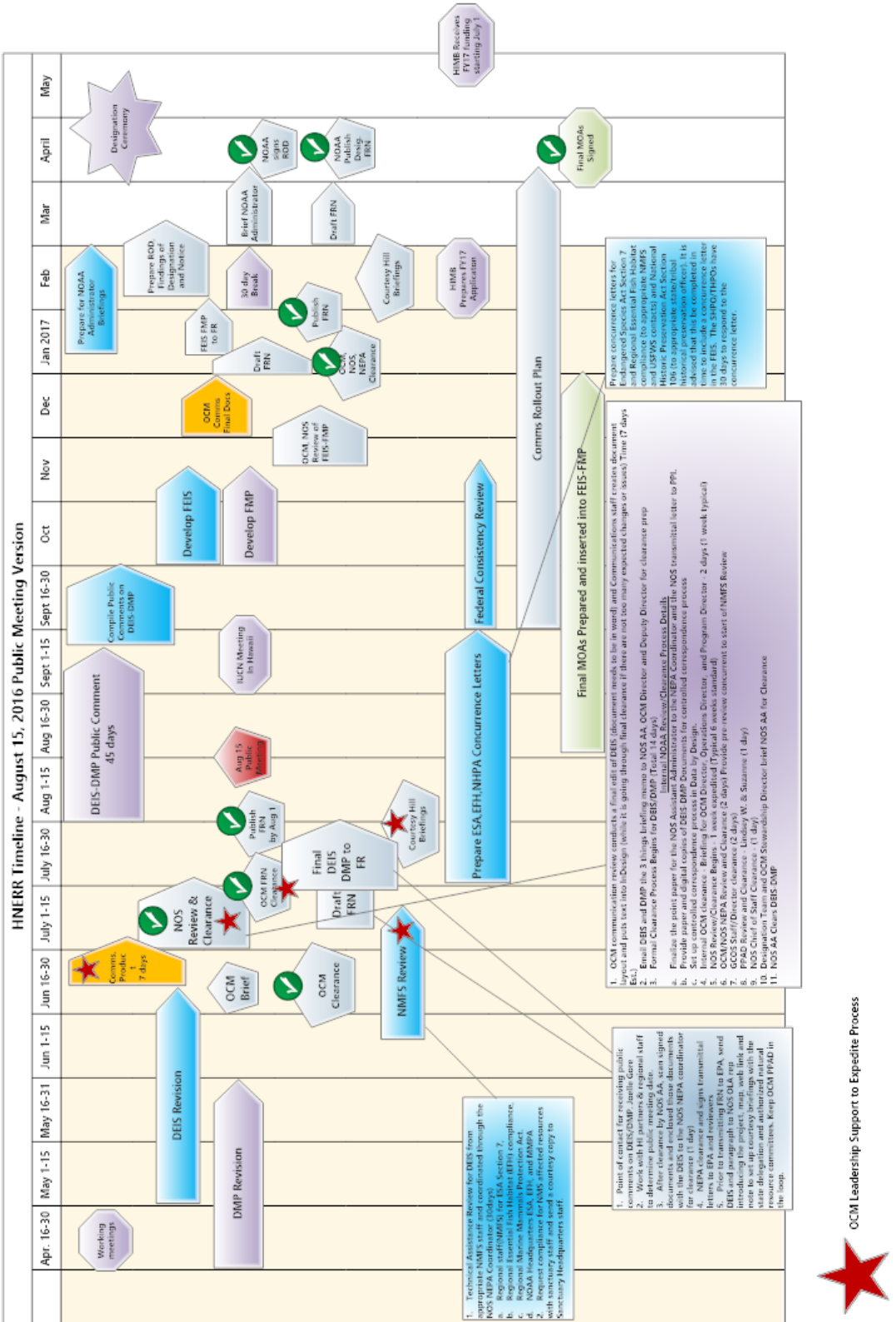
ONLY THOSE MAKING STATEMENTS OR SENDING COMMENTS WILL RECEIVE COPIES OF THE FINAL ENVIRONMENTAL IMPACT STATEMENT OR YOU MAY SPECIFICALLY REQUEST A COPY BEFORE YOU LEAVE TODAY.

IT IS IMPORTANT TO REMEMBER THAT THIS MEETING IS FOR THE PURPOSE OF RECEIVING YOUR COMMENTS ONLY. THERE WILL BE NO RESPONSE TO YOUR COMMENTS ON BEHALF OF THE OFFICE FOR COASTAL MANAGEMENT, OP, OR HIMB AT THIS TIME. THAT BEING SAID, YOUR COMMENTS ARE IMPORTANT IN BETTER UNDERSTANDING POTENTIAL IMPACTS OF A RESEARCH RESERVE SITE. RESPONSES TO ALL COMMENTS WILL BE PROVIDED AFTER THEIR FULL CONSIDERATION IN THE FINAL ANALYSIS AND DECISION-MAKING PROCESS AND YOU WILL SEE THOSE RESPONSES IN THE FINAL ENVIRONMENTAL IMPACT STATEMENT. SHOULD YOU HAVE ADDITIONAL QUESTIONS OR REQUESTS FOR CLAIRIFICATIONS, ROB, MYSELF OR THE OTHER STAFF PRESENT MAY ASSIST YOU AFTER THE FORMAL PART OF THE HEARING.

WE APPRECIATE YOUR ATTENDANCE HERE TODAY AND LOOK FORWARD TO YOUR COMMENTS, OBSERVATIONS, AND EXPRESSION OF SUPPORT OR CONCERN. ARE THERE ANY QUESTIONS REGARDING THE PROCEDURES OF THIS HEARING?

IF NOT, WE CAN PROCEED WITH THE FIRST SPEAKER. PLEASE STATE YOUR NAME AND AFFILIATION FOR THE RECORD.

Appendix L – Detailed Designation Timeline Example



Appendix M – Detailed Designation Process

National Estuarine Research Reserve Designation

Draft Environmental Impact Statement (DEIS) and Draft Management Plan (DMP) Step-by-step Process

1. Site Nomination document approved by NOAA
2. Notice of intent (Attachment 1) to prepare draft Environmental Impact Statement/Management Plan and notice of scoping meeting is created by Office for Coastal Management staff for publication in the *Federal Register* Notice. The notice of intent should:
    a. Described the proposed action
    b. Provide information in planned scoping mtgs. or hearings
    c. Provide contact information
3. Publish a notice of intent in the *Federal Register* at least 15 days before scoping meeting.
4. State partner advertises in local media outlets, newspapers, and administrative requirements and sends letters to potential stakeholders about the scoping meeting concurrently with federal action.
5. Public scoping meeting is held
6. State partner, in collaboration with NOAA, develops and prepares a Draft EIS and Draft MP. An EIS contains (see NOAA NEPA guidance for further details):
    a. Cover sheet
    b. Summary or Executive summary
    c. Table of Contents
    d. Purpose and Need statement – brief statement explaining why this EIS is being developed
    e. Description of proposed actions and alternatives (remember to include "No-Action Alternative") Also, identify the preferred alternative
    f. Affected Environment
    g. Environmental Consequences
    h. Mitigation measures (if applicable)
    i. List of Preparers
    j. Distribution List
    k. Index
    l. Appendices
7. State partner and NOAA address stakeholder concerns identified in scoping meetings in development of Draft EIS and Draft Management Plan
8. Send state or tribal historic preservation officer preliminary Sect 106 contact letter –NOS NEPA Coordinator
9. Review team conducts an internal edit of the draft document
10. Determine the need for printed versions of the draft EIS document for distribution (local determination).
11. Work with state partner to get distribution list for the DEIS/DMP
12. **Preliminary NOAA review for DEIS/DMP (Total 3 months)**
13. Set up meetings to brief Office for Coastal Management director and NOS assistant administrator for Office for Coastal Management and NOS clearance process
14. NOS NEPA Coordinator Review of draft DEIS/DMP (**2 weeks**)
15. Create draft the briefing documents (e.g., three-things memo) for Office for Coastal Management Director and NOS Administrator. Be sure to include the following attachments: talking points, a sitemap, summary of alternatives, and any issues of concern.
16. Brief Ecosystems Program Manager and Stewardship Division Director on DEIS/DMP Review
17. Office for Coastal Management review by Ecosystems Program Manager, Stewardship Division director, Planning, Policy, and Communication Division director – **3 weeks maximum –** Additional documents for review include the 3-things briefing memo with note of briefings scheduled
18. Revise DEIS/DMP based on preliminary Office for Coastal Management comments

19. Request a Technical Assistance Review for DEIS from appropriate NMFS staff and coordinated through the NOS environmental compliance coordinator (30days) this was a change from previously required 2 weeks
    a. Regional contacts (NMFS) for Endangered Species Act Section 7,
    b. Regional contacts for Essential Fish Habitat compliance,
    c. Regional contacts for Marine Mammal Protection Act.
    d. NOAA Headquarters ESA, Essential Fish Habitat, and Marine Mammal Protection Act contacts
20. Concurrent with NMFS Technical Review - Request compliance with National Marine Sanctuary-affected resources with sanctuary staff and send a courtesy copy to Sanctuary Headquarters staff.
21. Revise DEIS/DMP based on NMFS Technical Review comments
22. General Counsel–Ocean and Coasts Section (GCOS) Review of the DEIS/DMP (**1 week**)
23. Revise DEIS/DMP based on preliminary GCOS comments
24. Office for Coastal Management communication review conducts a final edit (document needs to be in word) and Communications staff creates document layout and puts text into InDesign (while it is going through final clearance if there are not too many expected changes or issues) Time (**14-21 days Est.)**
25. Email DEIS and DMP and the 3-things briefing memo to NOS assistant administrator, Office for Coastal Management director and deputy director, and GCOS with note of briefings scheduled
26. **Formal Clearance Process Begins for DEIS/DMP (Total 7 weeks)**
27. Enter document into Data by Design
28. Internal Office for Coastal Management clearance process – Briefing for Office for Coastal Management director and deputy director – **1 week**
29. NOS Review/Clearance Begins (**Total 6 weeks standard**)
30. NOS environmental compliance coordinator Pre-review (**2 weeks**)
31. GCOS staff/director clearance (**1 week**)
32. Policy and Constituent Affairs Division Review and Clearance - (**1 week**)
33. NOS chief of staff clearance – **(1 week)**
34. Designation Team and Ecosystems Program Manager brief NOS assistant administrator for clearance
35. Internal NOAA Review/Clearance Process Details
    a. Finalize the point paper from the NOS assistant administrator to the NOS environmental compliance coordinator.
    b. Documents
    c. Set up controlled correspondence process in *Data by Design* with NOS correspondence Unit. Reviewers should be:
        i. Correspondence Unit
        ii. GCOS
        iii. Correspondence Unit
        iv. PPAD
        v. Correspondence Unit
        vi. NOS Chief of Staff
        vii. Correspondence Unit
        viii. NOS deputy assistant administrator
        ix. NOS assistant administrator
        x. PPAD Contact
        xi. NOS NEPA Coordinator
        NOTE: after NOS assistant administrator *signs it, make corrections to the DEIS and then work with Office for Coastal Management and NOS environmental compliance coordinator with transmittal letter and Dear Reviewer letter*
        xii. Enclose the point paper and transmittal letter.
        xiii. Office for Coastal Management or NOS environmental compliance coordinator prepares all documents that accompany the DEIS – that is, 1) the "Dear Reviewer" letter and 2) the "EPA" [Environmental Protection Agency] letter. These can be found at *www.intranet.nepa.noaa.gov*. When those are ready, forward them electronically to *ppi.nepa@noaa.gov* to review.
36. NOS assistant administrator clearance
37. Official NOS environmental compliance coordinator Clearance- After clearance by NOS assistant administrator, scan signed documents and enclose those documents with the DEIS to the NOS environmental compliance coordinator and send a copy to Office for Coastal Management environmental compliance coordinator staff and the Ecosystems Program Manager for official 14 day review period (**2 weeks**)

38. NOS environmental compliance coordinator clearance and signs transmittal letters to EPA and reviewers
39. Before transmitting *Federal Register* Notice to EPA electronically, Office for Coastal Management sends DEIS and paragraph to NOS OLA rep introducing the project, map, web link and note that says that we would like to set up courtesy briefings with the state delegation and authorized natural resource committees. Keep the Office for Coastal Management's Policy and Constituent Affairs Division liaison in the loop.
40. Prepare concurrence letters for Endangered Species Act Section 7 and Regional Essential Fish Habitat compliance (to appropriate NMFS and USFWS contacts) and National Historic Preservation Act Section 106 (to appropriate state or tribal historical preservation officer). It is advised that this be done in time to include the concurrence letter in the FEIS. *The state or tribal historic preservation officers have 30 days to respond to the concurrence letter.*
41. Determine who will be the point of contact for receiving public comments on DEIS/DMP. Office for Coastal Management Stewardship Division Director or Designee
42. Work with partners and regional staff to determine public meeting date.
43. Prepare *Federal Register* Notice text announcing public meeting on DEIS/DMP. Only the *Federal Register* text is necessary. Signatory authority resides with the Office for Coastal Management Director.
    a. Reviewers (in order) Ecosystems program manager – clearance; GCOS – clearance, Stewardship Division director – clearance, Office for Coastal Management deputy director – clearance, Office for Coastal Management director – clearance and signature.
44. The *Federal Register* notice needs to be delivered electronically to EPA (not NOAA) for publication. *https://www.epa.gov/nepa/environmental-impact-statement-filing-guidance* If the *Federal Register* Notice will be filed on Friday (if delivered before 2pm) and published the following Friday
45. Make sure you are ready to email DEIS/DMP to interested parties concurrent with delivery to EPA. File *Federal Register* Notice and email copies to interested parties and to the NEPA distribution list posted on the Council of Environmental Quality (CEQ) website.
46. **EPA announces availability of DEIS/DMP** in *Federal Register* Notice (**45-day minimum public comment period**) at least 15 days before meeting date. State partner advertises public meeting in local media outlets concurrently with NOAA notice.
47. Public meeting(s) held at least 15 days after Federal Register notice publishes.
48. Public meeting(s) comments received by the closing date (45days after Federal Register notice published) are incorporated into Final EIS/FMP. Add appendix with public comments to the document.
49. NOAA drafts a CZMA federal consistency determination document. Send federal consistency determination to state for review and concurrence. Try to complete at least 90 days before the federal action. If the timing is less than 90 days, get an email confirmation from the state that the adjusted timeframe is acceptable.
50. State creates a draft/final MOU(s) between state partner and reserve partners establishing roles and responsibilities (must be finalized before designation but should not be signed in the FEIS/FMP). Enter MOU into NOS MOU database.
51. Office for Coastal Management staff compiles public comments. Add an appendix to EIS that contains scanned copies of all public comments.
52. Note –Rollout Plan and invitations for the NOAA assistant administrator to attend the designation ceremony need to be made 3 months before designation! Fill out an event request form and contact NOS Program Coordination Office and Policy and Constituent Affairs Division staff.
53. Office for Coastal Management staff prepares final draft of Final EIS/Management Plan incorporating responses to public comments by state partner with the help of NOAA (**2 months**)
54. NOAA Review of draft FEIS/FMP (**4 months or less**)
55. Office for Coastal Management environmental compliance coordinator review of draft FEIS/FMP (Ecosystems Program manager, Stewardship director/deputy, GCOS, Policy and Constituent Affairs Division, NOS environmental compliance coordinator, etc. as noted above) **2 weeks maximum**.
56. The Final EIS/MP includes an unsigned Memorandum of Agreement between NOAA and the state partner and ideally, signed concurrence for ESA and NHPA requirements. If there are any issues re: endangered species, historical preservation, and/or fed consistency, these concurrence letters should be included in the FEIS. Otherwise it is not mandatory, but still encouraged.
57. ESA section 7 and NHPA section 106 consultations complete and concurrence letters received from appropriate USFWS, NMFS, state or tribal historic preservation officer and other officials.
58. Upon complete of NOAA review. Office for Coastal Management Communications staff makes final edits and format changes. (14 days)
59. After a final review by NOAA, NOAA or state partner prints some copies of FEIS/Final Management Plan for distribution but makes the document available electronically to those persons that provided comment, to other interested parties, and to the NEPA distribution list posted on the Council of Environmental Quality website.
60. Final package includes:

a. FEIS/FMP that incorporates:
    i. DEIS comments
    ii. MOUbetween NOAA and state partner, unsigned
    iii. MOU(s) between state partner and other reserve partners, unsigned
    iv. Concurrence letters for ESA and NHPA (ideally) and Federal Consistency Letter
    v. List of persons receiving the FEIS/FMP
    vi. Index and appendices, as appropriate
    vii. Cover sheet that states the document is an EIS consolidated with a Management Plan

61. After package is reviewed (**14 days**) and signed off by NOS environmental compliance coordinator, the package must be uploaded to e-NEPA at EPA for filing. See https://www.epa.gov/nepa/environmental-impact-statement-filing-guidance for help. The Federal Register notice will be filed on Friday (if delivered before 2pm) and published the following Friday
62. FEIS/FMP is emailed to those persons that provided comment, to other interested parties, and to the NEPA distribution list posted on the Council of Environmental Quality website.
63. **EPA publishes the Notice of Availability of FEIS/FMP** in the *Federal Register* Notice. The date of publishing starts a 30 day public "cooling-off" period.
64. During cooling-off period:
    a. Final MOU signed by NOAA and state partner. Five copies are signed by Office for Coastal Management Director and sent to appropriate state official for signature. State partner returns three signed copies to the Office for Coastal Management.
    b. Separate MOU(s) signed by state partner and other reserve partners. NOAA receives a signed copy
    c. State begins to organize a designation ceremony with assistance from Office for Coastal Management Communications staff.
65. After cooling-off period: Office for Coastal Management prepares record of decision, findings of designation, notice of designation.
66. **NOAA prepares *Federal Register* Notice** from NOAA announcing Reserve Designation, the Consistency Determination, and the NEPA Record of Decision. This *Federal Register* notice is channeled through NOAA, not EPA.
67. Schedule briefings with the NOAA Administrator
68. Coordinate with Office for Coastal Management Communications to develop a communications strategy (press release (reviewed by NOAA PA, web rollout, etc). Communications person will also help prepare for the ceremony, assembling a briefing package for NOAA Admin re: the ceremony, sending a NOAA flag, printing ceremonial certificate, obtaining a gift for the site (map), etc.
69. Prepare briefing materials and brief NOAA administrator on designation and the ceremony, may require 1-3 briefings. Be sure to use the briefing templates provided at http://www.dco.noaa.gov/correspondence.html or contact the NOS Program Coordination Office
70. NOAA Administrator briefed and signs Record of Decision and Findings of Designation making the site officially a National Estuarine Research Reserve.
71. NOAA publishes a notice in the *Federal Register* announcing the Reserve Designation, the Consistency Determination, and the NEPA Record of Decision.
72. Designation ceremony is held and state partner announces designation in local media outlets.

Appendix N – Compliance with the Endangered Species Act

Compliance with the Endangered Species Act
May 2017
The purpose of the Endangered Species Act (ESA) is to protect and recover imperiled species and the ecosystems upon which they depend. It is administered by the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS). The USFWS has primary responsibility for terrestrial and freshwater organisms, while the NMFS has primary responsibility for marine species. Some species fall under both agencies, depending on location of affect (i.e. sea turtles).

Under the ESA, species may be listed as either endangered or threatened. "Endangered" means a species is in danger of extinction throughout all or a significant portion of its range. "Threatened" means a species is likely to become endangered within the foreseeable future. All species of plants and animals, except pest insects, are eligible for listing as endangered or threatened. For the purposes of the ESA, Congress defined species to include subspecies, varieties, and, for vertebrates, distinct population segments.

Overview of the Section 7 Interagency Consultation Process
Section 7(a)(2) of the ESA states, "Each Federal agency shall ensure that any action authorized, funded, or carried out . . . is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat . . **".** Under ESA Sec. 7., federal agencies must:

- Determine whether listed/proposed species or designated/proposed critical habitat may be in the action area;
- Determine the effects of the action on the species/critical habitat;
- Explore ways to modify the action to reduce, remove adverse effects or benefit the species/critical habitat; and
- Make a determination if the project will have no effect or there is informal or formal consultation required

Step 1: Determining the Action Area:
To ensure ESA compliance, NOAA must evaluate all areas or locations to be affected directly or indirectly by the federal action. The "action area" can be much larger than the immediate project area involved in the action. To determine the "action area" for ESA consultation related to grants and funded projects or actions within the Office for Coastal Management and the Coral Reef Conservation Program, the federal program office or Office for Coastal Management Coral Reef Conservation Program point of contact will
1. Identify the range of impacts from the proposed activity, such as

- Ground disturbance (including access roads)
- Changes in water quality and quantity (both surface and underground water)
- Air quality
- Lighting effects
- Noise disturbance

2. Draw a line around all of the affected areas identified under action #1 to define the action area.

High-resolution maps can be Generate from the U.S. Geological Survey (USGS) webpage (https://viewer.nationalmap.gov/basic/#startUp). Select "USGS topo" as the data set on the upper left, 7.5 minute

(i.e., 1:24,000) will be preselected in the right, upper legend. Drag a box using the box icon within the map to select an area (or enter coordinates, or zoom in, etc.) and then press the "Find Maps" button on the upper left hand corner under "Datasets." All of the available 1:24,000 maps in that selected area will pop up.

Step 2: Making an Initial Determination (i.e., No Effect, May Affect, Not Likely to Adversely Affect or Likely to Adversely Affect):

Once the action area has been identified, staff is expected to obtain a list of potential endangered or threatened species in that location using the search function on the USFWS' Endangered Species webpage (http://www.fws.gov/endangered/index.html) and/or contacting the appropriate NMFS regional office.

The USFWS webpage includes species habitat preferences and life history for listed species in the 50 states and is searchable by state, county or species.

For projects in the territories, staff should contact the NMFS or USFWS office in that jurisdiction to solicit this information.

Using this information, and other information/documentation that you may have about the project (including permits), consider the following questions:

1. Is the proposed action going to be in or affecting the habitat type(s) preferred by the endangered or threatened species?
2. If so, will the species be exposed to project impacts?
3. If so, will the action potentially affect the species?

You will make one of the following conclusions: **(*)**

1*. There are **no listed species** or critical habitat in your project area.

2*. There **may be listed species** or critical habitat in your project area, but there will be **no adverse effect** on them because

a. The project will be conducted in the off-season;

b. The methods being implemented will not affect the listed species; or

c. The applicant has a valid ESA permit for the activity that details the allowable activities.

3*. There **are listed species** or critical habitat in your project area, but there will be **no adverse effect** on **them because proper best management practices** will be used.

4*. There **are listed species** or critical habitat in your project area, and there **will be an adverse effect** on them or critical habitat.

Once you have made your conclusion, you will proceed with the consultation process.

Step 3: Conducting the Consultation Process

If you conclude 1*, this is a **No Effect** determination. Document with a Memo to the Record, including information to support this conclusion (why is there no effect to species or habitat). Upload the memo into Grants Online or C-Request or maintain with the administrative record for the action. Nothing else is required.

If you conclude 2* or 3*, this is a **May affect but not likely to adversely affect (MANLAA)** determination and includes beneficial, discountable, or insignificant effects to species or habitat. This determination requires written concurrence from NMFS or USFWS, as applicable.

1. Send an email or formal letter to the appropriate regional NMFS or USFWS office requesting concurrence. Provide the following information:

- Project description
- Action area, maps, diagrams
- Listed species
- Project effects on each species, and reason, including those that are discountable, insignificant, discountable or wholly beneficial.

2. The NMFS or USFWS office will generally respond promptly and agree with NOAA's initial determination. Occasionally, they may ask for additional information.

3. Infrequently, NMFS or USFWS will respond with a concurrence as long as certain best management practices or other conditions are followed to ensure no adverse effects. In this case, staff must work with the state, grantee, or principal investigator to ensure they understand the additional requirements and receive written agreement that best management practices will be followed.

4. Upload the original letter to NMFS or USFWS, as well as their concurrence document and other supporting documents, into Grants Online or C-Request or maintain with the administrative record for the action.

If you conclude 4*, **OR** NMFS or USFWS does not concur, you have a **Likely to Adversely Affect** determination and you must request Formal Consultation with NMFS or USFWS. Historically, the Office for Coastal Management has not funded projects that required formal consultation for a number of reasons, including the lack of staff resources necessary to complete the consultation. You should consult leadership and work with the state or awardee to identify another project that can be completed without the added requirements of formal consultation. Formal Consultation can take many months to complete and the process is as follows.

1. Once you have provided a complete project description, the NMFS or USFWS has 30 days to determine if the request is complete. If not, you will need to provide the specific information needed.
2. If the request is complete, the NMFS or USFWS has 90 days from the receipt of request to complete formal consultation and 45 days to prepare the biological opinion (135 days total) BEFORE the project may proceed.
3. Upload the completed biological opinion, and other correspondence, into Grants Online or C-Request or maintain with the administrative record for the action.

For more information, see the ESA Section 7 Consultation Handbook: *www.fws.gov/**endangered**/esa-library/pdf/esa_section7_**handbook**.pdf*
USFWS - https://www.fws.gov/endangered/what-we-do/consultations-overview.htm
USFWS IPaC - https://ecos.fws.gov/ecp/
NMFS - http://www.nmfs.noaa.gov/pr/laws/esa/

Appendix O – Compliance with the National Historic Preservation Act

Compliance with the National Historic Preservation Act, May 2017
The National Historic Preservation Act (NHPA) of 1966 established a comprehensive program to preserve the historical and cultural foundation of the nation as a living part of community life. Section 106 of the NHPA is a crucial part of that program that requires consideration of historic preservation in the many projects with federal involvement that take place every day across the nation.

Complying with Section 106 is a federal agency responsibility and, while applicants may be asked to carry out some of the tasks for completing a Section 106 review, the federal agency remains responsible for all findings and determinations.

Overview of the NHPA Section 106 Consultation Process
Section 106 requires federal agencies to consider the effects on historic properties of projects they carry out, assist, permit, license, or approve ("undertakings" as defined by 36 CFR 800.16). Federal agencies must also provide the Advisory Council on Historic Preservation a reasonable opportunity to comment on such undertakings before the approval of the expenditure of any federal funds on the undertaking or before the issuance of any license. Agencies comply with Section 106 through the process in the implementing regulations, "Protection of Historic Properties" (36 CFR Part 800).

Historic properties are any prehistoric or historic districts, sites, buildings, structures, or objects that are listed in the National Register of Historic Places, which is maintained by the National Park Service. Historic properties may also be eligible for listing depending on the property's age, integrity and significance. Also included are any artifacts, records, and remains (surface or subsurface) that are related to and located within historic properties and any properties of traditional religious and cultural importance to tribes or Native Hawaiian organizations.

A fundamental goal of the Section 106 process is to ensure that federal agencies consult with interested parties to identify and evaluate historic properties, assess the effects of their undertakings on historic properties or resources, and attempt to negotiate an outcome that will balance project needs and historic preservation values.

Conducting the Section 106 Process

Step 1: Establish if Federal Action is an Undertaking
The first step in the Section 106 review process requires the federal agency to determine whether the proposed project is an undertaking (36 CFR 800.3(a)).
An undertaking is defined as "a project, activity, or program funded in whole or in part by a federal agency, including those carried out by or on behalf of a federal agency, those carried out with federal financial assistance, and those requiring a federal permit, license, or approval." (36 CFR 800.16) Once a federal agency determines it has an undertaking, it must determine whether that undertaking is a type of activity that has the potential to affect historic properties, assuming such properties are present. The following questions can help an agency determine whether it has an undertaking that may require Section 106 review.

- Is a federally owned or federally controlled property involved in the project, such as a military base, park, forest, office building, post office, or courthouse? Will approval be required to use federal lands for a right-of-way or associated activity?
- Will a project that is receiving federal funds, grants, or loans involve any bricks and mortar activities? Will it involve ground or sediment disturbance or excavation? Will it change or restrict existing land use in the future?
- Does the project require a federal permit, license, or approval to cross wetlands, operate a dam or wind turbines, or to site a telecommunications tower? Does the project involve filling wetlands or affect navigable waterways that requires a Corps of Engineers permit?
- Does a privately funded undertaking require the use of federal lands to connect a linear activity such as a gas or oil pipeline or broadband? Has the applicant been advised to obtain a federal permit, approval, or license?

It the answer is "no" to all of the above, the action is not an undertaking. Document your conclusion in a memo to the file and upload into Grants Online or C-Request or maintain with in the administrative record for the action. No further action is required to comply with Section 106.

If the answer is "yes" to any of the above, the action is an undertaking. In general, the Office for Coastal Management provides federal funds to support program implementation. These financial assistance awards include a variety of different project types. It is recommended that the Office for Coastal Management consider federal funding to be an "undertaking." Continue with Step 2.

Step 2: Making the Initial Determination

If the action has no potential to cause effects on historic properties or resources, even assuming that such historic properties were present, no further Section 106 review is required.

1. Example activities that have no potential to cause effects include: staffing, planning, administration, feasibility studies, engineering design, preparation of bid documents or permit applications.
2. Document your determination in a memo for the record and upload into Grants Online or C-Request or maintain in the administrative record for the project.

All other determinations will require written consultation.

Step 3: Identification of Historic Properties or Resources, including Tribal

1. Define the Area of Potential Effect for the project. The Area of Potential Effect is a geographic area within which a project may directly or indirectly affect historic properties. It should include areas that may result in ground disturbance; visible or audible disturbances; or changes in public access, traffic patterns or land use. The Area of Potential Effect may be larger than the project area.
    a. Provide this information on a high-resolution map (1:24,000 or USGS quad map)
2. Identify any historic properties in the Area of Potential Effect. Historic properties can be found through a variety of methods, including state or tribal databases, local historic societies, libraries or local government archives.
3. The National Park Service maintains the listing of every property listed in the National Register. They may also have information on properties that have been determined to be eligible for listing and have been nominated for, but not yet listed on the National Register. (*http://www.nps.gov/nr/*)

a. The National Park Service also supports a mapping tool to assist with identification of public, non-restricted sites (*www.nps.gov/maps/full.html?mapId=7ad17cc9-b808-4ff8-a2f9-a99909164466*)

4. Some state historic preservation offices have searchable databases – these can also provide useful information for identifying historic properties, especially those eligible for listing.

Step 4: Assess Effects and Prepare Consultation Letter

1. Identify the appropriate state historic preservation officer or tribal historic preservation officer. Tribal historic preservation officer information can be found on the following websites:
    a. Individual state historic agency website.
    b. The National Association of Tribal Historic Preservation Officers (http://nathpo.org/wp/thpos/find-a-thpo/)
    c. Bureau of Indian Affairs (https://www.bia.gov/WhoWeAre/BIA/OIS/TribalGovernmentServices/TribalDirectory/)
2. Prepare a letter to the state or tribal historic preservation officer that describes the determination (see below) and request concurrence. The state or tribal historic preservation officer has 30 days in which to respond. After that time, the Office for Coastal Management may presume concurrence. Typically, state historic preservation officers require hard-copy requests, but *may* accept advance courtesy copies by email or FAX.
    a. Consultation letters should provide the following:
        i. Project description
        ii. Map of the Area of Potential Effect
            1. Provide USGS quad maps or similar scale.
                a. Obtain from applicants
                b. Generate from USGS webpage (https://viewer.nationalmap.gov/basic/#startUp)
                    i. Select "USGS topo" as the data set on the upper left, 7.5 minute (i.e., 1:24,000) will be preselected in the right, upper legend. Drag a box using the box icon within the map to select an area (or enter coordinates, or zoom in, etc.) and then press the "Find Maps" button on the upper left hand corner under "Datasets." All of the available 1:24,000 maps in that selected area will pop up.
        iii. High-quality photos and diagrams
        iv. Description of all known National Register-listed (or eligible) properties, including description of search methods
        v. Assess effects of undertaking on listed sites and make determination.
            1. Generally, one of the following determinations are made:
                a. If no historic properties or resources are found, the determination is typically **No Historic Properties Affected**.
                b. If there are historic properties or resources within the Area of Potential Effect, the determination will either be **No Adverse Effect** or **Adverse Effect**. (36 CFR 800.5)
                    i. A **No Adverse Effect** determination is appropriate for: planning, education, and outreach activities; certain restoration activities on historic properties (historic lighthouses); landscaping; or certain curatorial work. This determination may also be appropriate if the historic property is too far away to be affected by the action.

ii. An **Adverse Effect** determination would include activities that involve physical destruction or removal/relocation of historic property or resource.

3. The state or tribal historic preservation officer has 30 days to respond to consultation letter. If the state or tribal historic preservation officer does not respond, the Office for Coastal Management can presume concurrence.
    a. Keep in mind that postal system and mail rooms may affect when the state or tribal historic preservation officer actually receive the request AND when the Office for Coastal Management receives a response.
        i. Provide exact mailing address details for response – on Office for Coastal Management letterhead that does not include address.

4. Staff should upload the initial correspondence and the state historic preservation officer's response (or a memorandum to the file indicating that no response was received within 30 days and the historic preservation officer's concurrence is presumed) into Grants Online, C-Request or maintain in the administrative record for the project. These documents and all supporting documentation must be made publically available. The Office for Coastal Management's NEPA and Environmental Compliance webpage is one location for satisfying this requirement. Work with the Office for Coastal Management's NEPA environmental compliance coordinator for further advice.

If the state or tribal historic preservation officer objects to the Office for Coastal Management's determination, the officer may invite the Advisory Council on Historic Preservation to participate in any future consultations, including the development of a memorandum of agreement (MOU). *Note:* An MOU can take months to complete the NOAA clearance process. Given the significant level of effort required, staff should consult with the Office for Coastal Management's NEPA environmental compliance coordinator regarding a path forward for the project. Typically, the office has worked with the state to identify alternate solutions or project options.

Special Consideration for Native Hawaiian Organizations

Indian tribes and Native Hawaiian organizations are entitled to consult on undertakings that may affect historic properties of religious and cultural significance to them, regardless of location. A federal agency must conduct government-to-government consultation with federally recognized Indian tribes and such consultation should be conducted in a sensitive manner respectful of tribal sovereignty. Indian tribes and Native Hawaiian organizations possess special expertise in identifying and assessing the eligibility of properties that may possess religious and cultural significance to them for the National Register of Historic Places, whether located on and off tribal lands. They also possess expertise in assessing effects to these resources. (*www.achp.gov/docs/consultation-indian-tribe-handbook.pdf and http://www.achp.gov/Native%20Hawaiian%20Consultation%20Handbook.pdf*)

NOAAs Tribal Consultation Procedures

NOAA has additional information for tribal consultations, and issued a handbook in 2013. This Handbook is intended to improve coordination and consultation with Indian tribal governments. It assists NOAA, including its regional and field staff, in conducting effective government-to-government consultations and fulfills NOAA's obligations under E.O. 13175 and Department Administrative Order 218-8 on Consultation and Coordination with Indian Tribal Governments, and the Department of Commerce Tribal Consultation and Coordination Policy. (*www.legislative.noaa.gov/tribalrelations.html*)

Additional Information

The regulations implementing Section 106 can be found on the Advisory Council on Historic Preservation's Web site at *www.achp.gov/regs-rev04.pdf*.

National Conference of State Historic Preservation Officers – *http://ncshpo.org/*

Appendix P – NOAA Document Editing Tips

Writing and Formatting Large Documents

- **No acronyms.** The policy of our office is to eliminate acronyms from all documents, no matter the intended audience. After introducing a full name or term, use a shortened version, pronoun, or synonym for following references.
- **Minimize jargon.** Law, science, government, and educational and technical fields, to name a few, all have specialized language that might as well be an unknown tongue. Allow others into your specialized culture by avoiding jargon, or by using it judiciously.
- **Don't go crazy with capitalization.** Readers become fatigued when unnecessary words are called out for special attention. A few examples: Federal, State, the Reserve, the Committee.
- **Avoid repetition.** Your reader's time is limited. If your message is so important, say it really well and repeat it only when warranted.
- **Sentence length.** Vary the length and structure of your sentences to keep your reader's interest. Reading a paragraph aloud will often help you shape your sentences.
- **Write a final draft.** Text with typos and other simple errors is essentially a rough draft. Make your best effort before you submit your work so that the editor can concentrate on improvements rather than corrections to your document.
- **Keep layout simple.**
    - Use Calibri as your font.
    - Use only three or four heading levels, or you will risk confusing your reader.
    - Use section and page breaks sparingly and consistently—or you will likely confuse Word!
    - Use graphics only when they add to the message, and then use only simple tables or graphics.
    - Keep your report cover simple.