

Center for Regulatory Effectiveness

1601 Connecticut Ave, NW – Suite 500

Washington, DC 20009

Tel: (202) 265-2383 Fax: (202) 939-6969

Secretary1@mbsdc.com www.TheCRE.com

**Comments on National Oceanic and Atmospheric Administration (“NOAA”)
National Marine Protected Areas Center External Review,
76 FR 74777 (Dec. 1, 2011), available online at
<http://www.gpo.gov/fdsys/pkg/FR-2011-12-01/pdf/2011-30700.pdf> ;
Filed by Email to mpa.comments@noaa.gov, on January 9, 2012**

CRE appreciates the opportunity to submit these comments on the National Marine Protected Areas Center (“MPA Center”) external review.

NOAA’s Federal Register notice soliciting public comment explains:

“An external review of the MPA Center is needed to maximize its effectiveness and transparency and to ensure that the MPA Center is conducting high quality work of significant value to NOAA and the nation. To this end, the MPA Center is seeking external feedback, including public comment on the program’s approach to balancing competing priorities.”

“An independent, external panel of four experts in subject matter of the MPA Center’s program focus will convene for a three day meeting in late January, 2012 to review materials and information about the MPA Center, develop findings and make Recommendations. The program is seeking input on the questions listed below. Please note that you do not need to address all questions, and the MPA Center welcomes additional input on topics not covered in the questions listed.”¹

For our comments, we first note our assumption that the “independent, external panel of four experts” will be constituted under the Federal Advisory Committee Act (“FACA”), 5 U.S.C. Appendix 2, and will comply with all FACA requirements. Please inform us if our assumption is wrong.

Second, we request that the panel be informed of NOAA’s Information Quality Act (“IQA”) Guidelines, and that NOAA’s IQA Guidelines be included in the charge language to the panel. The panel should be asked to determine whether the MPA Center is complying with NOAA’s IQA Guidelines during the Center’s information disseminations.

¹ 76 FR 74777 (Dec. 1, 2011), available online at <http://www.gpo.gov/fdsys/pkg/FR-2011-12-01/pdf/2011-30700.pdf> .

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Our request is consistent with guidance by the Office of Management and Budget (“OMB”) to other agencies using external expert review panels. OMB has stated:

“Since the development of Agency Information Quality (IQ) guidelines required by statute, many agencies have been using charge language that tracks with the standards of their own IQ guidelines. For example, such language often focuses on whether or not the information in question is accurate, clear, complete, transparently and objectively described, and scientifically justified. We believe it may be useful for EPA to follow a similar approach and incorporate some of the language from your IQ guidelines into the formulation of the charge questions.”²

NOAA should refer to the following IQA documents when informing the panel of IQA requirements, and when charging the panel with reviewing the MPA Center’s compliance with them: Information Quality Overview³; NOAA Information Quality Guidelines⁴; NAO 216-115: Strengthening NOAA’s Research and Development Enterprise⁵; Section 515 Pre-dissemination Review Documentation and Certification⁶; OMB Peer Review Bulletin⁷; NOAA Peer Review Plans⁸; and National Oceanic and Atmospheric Administration Policy on Conflicts of Interest For Peer Review Subject to OMB’s Peer Review Bulletin.⁹

NOAA should also refer to the following additional IQA requirement when informing the panel of IQA requirements, and when charging the panel with reviewing the MPA Center’s compliance with them: *NOAA/NMFS’ Instruction on GUIDELINES FOR AGENCY ADMINISTRATIVE RECORDS*, which states at pages 2-3 that:

² Available online at

http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CB4QFjAA&url=http%3A%2F%2Ffoaspub.epa.gov%2Ffeims%2Ffeimscomm.getfile%3Fp_download_id%3D494270&ei=dWXwTpn5L4bi0QHK2tGkAg&usq=AFQjCNHY2WeZIIVCfpyKRi-BX2hoZBrQXQ&sig2=vWmSq7tNoz5OUSfM6xG0Dg

³ Available online at http://www.cio.noaa.gov/Policy_Programs/IQA_Overview_7-30-10-FINAL.pdf

⁴ Available online at http://www.cio.noaa.gov/Policy_Programs/IQ_Guidelines_110606.html

⁵ Available online at

http://www.corporateservices.noaa.gov/ames/administrative_orders/chapter_216/216-115.html

⁶ Available online at <https://reefshark.nmfs.noaa.gov/f/pds/publicsite/documents/procedures/04-108-03.pdf>

⁷ Available online at

http://www.cio.noaa.gov/Policy_Programs/OMB_Peer_Review_Bulletin_m05-03.pdf

⁸ Available online at http://www.cio.noaa.gov/Policy_Programs/prplans/PRsummaries.html

⁹ Available online at

http://www.cio.noaa.gov/Policy_Programs/NOAA_PRB_COI_Policy_110606.html .In addition to the links provided above, all these NOAA IQA requirements are also available online at http://www.cio.noaa.gov/Policy_Programs/info_quality.html .

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“The AR [Administrative Record] first must document the process the agency used in reaching its final decision in order to show that the agency followed required procedures. For NOAA actions, procedural requirements include...the Information Quality Act...”¹⁰

We once again thank you for the opportunity to submit these comments. We look forward to NOAA’s response.

A handwritten signature in black ink, appearing to read "Jim Tozzi". The signature is stylized with a large, sweeping initial "J" and "T".

Jim Tozzi
Member, Board of Advisors

¹⁰ This NMFS *Instruction* is available online at <https://reefshark.nmfs.noaa.gov/f/pds/publicsite/documents/procedures/30-123-01.pdf>