

**HJR**

**16**

<TARGET><BILL>HJR 16</BILL><SUBJECT>HJR  
16</SUBJECT><COMM>SRES28</COMM></TARGET>

# ALASKA STATE LEGISLATURE

Sen. Cathy Giessel, Chair  
Sen. Fred Dyson, Vice Chair  
Sen. Lesil McGuire  
Sen. Anna Fairclough  
Sen. Click Bishop  
Sen. Peter Micciche  
Sen. Hollis French



State Capitol, Room 427  
Juneau AK 99801-1182  
907-465-4843  
Fax: 907-465-3871  
800-465-4843

## Senate Resources Committee

Butrovich Room 205  
Friday, April 12, 2013  
3:30-5:00 p.m.

## AGENDA

### ➤ HJR 16 National Ocean Policy

Teleconference

# SENATE COMMITTEE REPORT

DATE: 4/11/13

FURTHER: Rules

DATE TURNED  
IN TO OFFICE: 4/12/13

**Resources Committee** considered CS FOR HOUSE JOINT RESOLUTION NO. 16(RES) am

## HJR 16-NATIONAL OCEAN POLICY

Relating to the National Ocean Council, the development of a national ocean policy, and coastal and marine spatial planning.

and recommends:

- be replaced with SCS \_\_\_\_\_ ( \_\_\_\_\_ )  Same Title  Technical Title Change  
 New Title/SCR No. \_\_\_\_\_
- adopt previous SCS \_\_\_\_\_ ( \_\_\_\_\_ )  Same Title  Technical Title Change  
 New Title/SCR No. \_\_\_\_\_
- attached amendment(s)
- adopt \_\_\_\_\_ Letter of Intent
- further referral to \_\_\_\_\_ Committee

Dept Abbr.	
ADM	LWF
CED	LAW
COR	LEG
CRT	MVA
EED	DNR
DEC	DPS
DFG	REV
GOV	DOT
DHS	UA

NEW FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #

PREVIOUS FISCAL NOTE(S)				
Dept.	Fiscal	Indet.	Zero	FN #
LEG			✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	Do PASS	Do NOT PASS	NO REC	AMEND
	Micciche	✓			
	Bishop	✓			
	Dyson	✓			
CHAIR:	Giesse	✓			

# ALASKA STATE LEGISLATURE

*Session:*  
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## REPRESENTATIVE DAN SADDLER

### Sponsor Statement

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#### House Joint Resolution 16 – Relating to National Ocean Policy

House Joint Resolution 16 urges an Alaska exemption from a forthcoming and far-reaching federal policy to manage and zone activities in marine and coastal areas.

President Obama created the National Ocean Council (NOC) in 2010 by executive fiat and gave it broad authority to create a national policy that would, among other things, “ensure the protection, maintenance, and restoration of the health of ocean, coastal, and Great Lakes ecosystems and resources” and “respond to climate change and ocean acidification.”

A key part of that national ocean policy (NOP) is the development of coastal and marine spatial plans (CSMP). This federal ocean-use planning or “zoning” would prescribe what, where, and when certain activities are allowed – not only in our marine and coastal areas but also on wetlands and waterways located far inland of our coasts and oceans. The list of activities subject to regulation under both the NOP and the CSMP would prospectively include oil, gas, and renewable energy development, fishing, mining, timber, transportation, and tourism.

While highly populated areas of the Lower 48 – where user conflicts over scarce resources are well-demonstrated – might benefit from a federally driven ocean policy and zoning plan, in Alaska there is neither a proven scarcity of resources nor a demonstrated level of user conflict that would warrant the increased bureaucratic burden and government imposition these federal policies presage.

The NOC released its National Ocean Policy Draft Implementation Plan in January of 2012, with the stated intent of releasing a final implementation plan in spring of 2012. The final plan is a year overdue and likely nearing completion. Now is the time for the Legislature to urge an Alaska exemption to a NOP and CSMP or, at a minimum, to ask for voluntary state-by-state participation in these federal policies.

I urge you to help ensure Alaska maintains control over activities on our oceans, coasts, and waterways and to minimize federal overreach by supporting HJR 16.

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## REPRESENTATIVE DAN SADDLER

**To:** Senator Cathy Giessel, Chair, Senate Resources Committee

**From:** Rep. Dan Saddler, Co-Chair, House Resources Committee *DRS*

**Date:** 4/11/2013

**Re:** Bill hearing request: HJR 16: National Ocean Policy

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Please consider scheduling HJR 16: National Ocean Policy for a hearing in the Senate Resources Committee at your earliest possible convenience.

HJR 16 urges an Alaska exemption from the forthcoming National Ocean Policy and Coastal & Marine Spatial Planning – two closely related and far-reaching federal policies that could significantly impact Alaska's ability to manage our coasts, oceans, wetlands, and waterways.

The National Ocean Council released its Draft Implementation Plan last January; the final plan is a year overdue and is likely to be released soon. It is important that the Legislature pass HJR 16 this session in order to send a strong message to the federal government urging an Alaska exemption to a National Ocean Policy and Coastal & Marine Spatial Planning before it is too late.

If you have any questions, please feel free to contact me or my staff assigned to HB 99, Trevor Fulton, at (907) 465-3768 or [trevor.fulton@akleg.gov](mailto:trevor.fulton@akleg.gov).

# Fiscal Note

State of Alaska  
2013 Legislative Session

Bill Version: HJR 16  
Fiscal Note Number: \_\_\_\_\_  
( ) Publish Date: \_\_\_\_\_

Identifier: HJR16-LEG-SESS-04-04-16  
Title: NATIONAL OCEAN POLICY  
Sponsor: SADDLER  
Requester: House Resources

Department: Alaska Legislature  
Appropriation: Legislative Operating Budget  
Allocation: Session Expenses  
OMB Component Number: 782

**Expenditures/Revenues**

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2014 Appropriation Requested	Included in Governor's FY2014 Request	Out-Year Cost Estimates				
			FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
<b>OPERATING EXPENDITURES</b>	<b>FY 2014</b>	<b>FY 2014</b>	<b>FY 2015</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>FY 2018</b>	<b>FY 2019</b>
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
<b>Total Operating</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Fund Source (Operating Only)**

None							
<b>Total</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**Positions**

Full-time							
Part-time							
Temporary							

<b>Change in Revenues</b>							
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Estimated SUPPLEMENTAL (FY2013) cost: 0.0

Estimated CAPITAL (FY2014) cost: 0.0

**ASSOCIATED REGULATIONS**

Does the bill direct, or will the bill result in, regulation changes adopted by your agency?  
If yes, by what date are the regulations to be adopted, amended or repealed?

**Why this fiscal note differs from previous version:**

Initial Version
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Prepared By: <u>Jessica Geary, Finance Manager</u>	Phone: <u>(907)465-6626</u>
Division: <u>Legislative Affairs Agency</u>	Date: <u>04/04/2013 03:19 PM</u>
Approved By: <u>Pamela Varni, Executive Director</u>	Date: <u>04/04/13</u>
<u>Legislative Affairs Agency</u>	

**FISCAL NOTE ANALYSIS**

**STATE OF ALASKA  
2013 LEGISLATIVE SESSION**

**BILL NO.** HJR 16

**Analysis**

This Legislation has zero fiscal impact on the Legislative Affairs Agency.



# National Ocean Council

[About the Council](#) | [NOC Blog](#) | [National Ocean Policy](#) | [Priority Objectives](#) | [Coastal and Marine Spatial Planning](#) | [FAQ](#) | [Contact Us](#)

## About the National Ocean Council

The National Ocean Council is a dual Principal- and Deputy- level committee. Membership of the NOC initially includes the following, with additional officers designated by the Co-Chairs as needed:

- The Secretaries of: State, Defense, the Interior, Agriculture, Health and Human Services, Commerce, Labor, Transportation, Energy, and Homeland Security
- The Attorney General
- The Administrators of: the Environmental Protection Agency (EPA) and the National Aeronautics and Space Administration (NASA)
- The Chairs of: The Council on Environmental Quality (CEQ), the Federal Energy Regulatory Commission (FERC), and the Joint Chiefs of Staff
- The Directors of: the Office of Management and Budget (OMB), National Intelligence, the Office of Science and Technology Policy (OSTP), the National Science Foundation (NSF)
- The Assistants to: the President for National Security Affairs, Homeland Security and Counterterrorism, Domestic Policy, Economic Policy, and Energy and Climate Change
- An employee of the United States designated by the Vice President
- The Under Secretary of Commerce for Oceans and Atmosphere (NOAA Administrator)

### Steering Committee

The Steering Committee is the key forum for ensuring integration and coordination on priority areas within the NOC. It will be a high-level, streamlined body of five members from OSTP, CEQ, one Chair each of the Ocean Resource Management Interagency Policy Committee (ORM-IPC) and Ocean Science and Technology Interagency Policy Committee (OST-IPC), and the Director of the NOC Staff.

#### Ocean Resource Management Interagency Policy Committee

The ORM-IPC will function as the ocean resource management body of the NOC, with an emphasis on ensuring the interagency implementation of the National Policy, national priority objectives, and other priorities defined or approved by the NOC. Chairs of the ORM-IPC will be designated by the NOC and the Committee will consist of Deputy Assistant Secretaries or comparable representatives, or appropriate senior-level representatives with decision-making authority from departments, agencies and offices represented on the NOC.

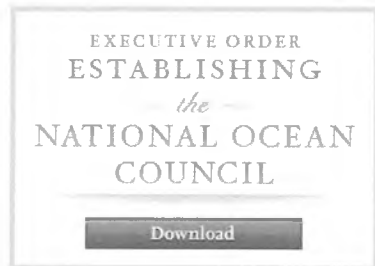
#### Ocean Science and Technology Interagency Policy Committee (OST-IPC)

The OST-IPC will function as the ocean science and technology body of the NOC, with an emphasis on ensuring the interagency implementation of the National Policy, national priority objectives, and other priorities for science and technology objectives. Chairs of the OST-IPC will be appointed through the National Science and Technology Council procedures in consultation with the NOC, and the Committee will consist of Deputy Assistant Secretaries or comparable representatives, or appropriate senior-level representatives with decision-making authority from departments, agencies, and offices represented on the NOC.

### Governance Coordinating Committee

On February 23, 2011, the National Ocean Council established the Governance Coordinating Committee (GCC), in consultation with appropriate state, tribal, and local governments and organizations, to serve as a key coordinating body on inter-jurisdictional ocean policy issues. The GCC consists of 18 members from states, Federally recognized tribes, and local governments. Members include:

- One state representative each from the Great Lakes Region, Gulf of Mexico Region, Mid-Atlantic Region, Northeast Region, South Atlantic Region, and West Coast Region
- One state representative each from Alaska, the Pacific Islands, and the Caribbean
- Two at-large representatives from inland States
- One state legislative representative
- Three at-large tribal representatives



- Three local government representatives from coastal states (i.e., two mayors and one county official)

GCC members will serve staggered one to two-year terms. The current GCC members are:

**Brian Baird**, California (West Coast Region)  
Assistant Secretary for Ocean and Coastal Policy, California Natural Resources Agency

**Kathleen Leyden**, Maine (Northeast Region)  
Director of Maine's Coastal Zone Management Program

**David Naftzger**, Illinois (Great Lakes Region)  
Executive Director, Great Lakes-St. Lawrence River Basin Water Resources Council

**Lelei Peau**, American Samoa (Pacific Islands Region)  
Deputy Director, Department of Commerce for the American Samoa Government

**Mark Robbins**, Alaska (Alaska Region)  
Associate Director, Office of the Governor

**Paige Rothenberger**, U.S. Virgin Islands (Caribbean Region)  
Coral Reef Initiative Coordinator, USVI Dept. of Planning & Natural Resources

**George Stafford**, New York (Mid-Atlantic Region)  
Deputy Secretary of State

**Bill Walker**, Mississippi (Gulf of Mexico Region)  
Chair of the Gulf of Mexico Alliance Management Team and Executive Director of the MS Department of Marine Resources

**Steve Crawford**, Maine (Tribal Representative)  
Environmental Director, Passamaquoddy Tribe of Pleasant Point, ME

**Jacque Hostler**, California (Tribal Representative)  
Chief Executive Officer and Director of the Transportation and Land-Use Department, Cher-Ae Heights Indian Community of the Trinidad Rancheria

**Micah McCarty**, Washington State (Tribal Representative)  
Tribal Chairman & Marine Policy & Fisheries Advisor, Makah Tribal Council

**Kristin Jacobs**, Florida (Local Government Representative)  
County Commissioner - District 2, Broward County, Florida

**Geraldine Knatz**, California (Local Government Representative)  
Executive Director, Port of Los Angeles

**Joan Murphy**, Illinois (Local Government Representative)  
Cook County Commissioner, IL, 6th District

**Kevin Ranker**, Washington State (State Legislative Representative)  
Washington State Senator

Additional GCC members will be announced as they are selected. [Click here to read the press release announcing the establishment of the GCC.](#)

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THE WHITE HOUSE

Office of the Press Secretary

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For Immediate Release

July 19, 2010

EXECUTIVE ORDER

- - - - -

STEWARDSHIP OF THE OCEAN, OUR COASTS, AND THE GREAT LAKES

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Purpose. The ocean, our coasts, and the Great Lakes provide jobs, food, energy resources, ecological services, recreation, and tourism opportunities, and play critical roles in our Nation's transportation, economy, and trade, as well as the global mobility of our Armed Forces and the maintenance of international peace and security. The Deepwater Horizon oil spill in the Gulf of Mexico and resulting environmental crisis is a stark reminder of how vulnerable our marine environments are, and how much communities and the Nation rely on healthy and resilient ocean and coastal ecosystems. America's stewardship of the ocean, our coasts, and the Great Lakes is intrinsically linked to environmental sustainability, human health and well-being, national prosperity, adaptation to climate and other environmental changes, social justice, international diplomacy, and national and homeland security.

This order adopts the recommendations of the Interagency Ocean Policy Task Force, except where otherwise provided in this order, and directs executive agencies to implement those recommendations under the guidance of a National Ocean Council. Based on those recommendations, this order establishes a national policy to ensure the protection, maintenance, and restoration of the health of ocean, coastal, and Great Lakes ecosystems and resources, enhance the sustainability of ocean and coastal economies, preserve our maritime heritage, support sustainable uses and access, provide for adaptive management to enhance our understanding of and capacity to respond to climate change and ocean acidification, and coordinate with our national security and foreign policy interests.

This order also provides for the development of coastal and marine spatial plans that build upon and improve existing Federal, State, tribal, local, and regional decisionmaking and planning processes. These regional plans will enable a more integrated, comprehensive, ecosystem-based, flexible, and proactive approach to planning and managing sustainable multiple uses across sectors and improve the conservation of the ocean, our coasts, and the Great Lakes.

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Sec. 2. Policy. (a) To achieve an America whose stewardship ensures that the ocean, our coasts, and the Great Lakes are healthy and resilient, safe and productive, and understood and treasured so as to promote the well-being, prosperity, and security of present and future generations, it is the policy of the United States to:

(i) protect, maintain, and restore the health and biological diversity of ocean, coastal, and Great Lakes ecosystems and resources;

(ii) improve the resiliency of ocean, coastal, and Great Lakes ecosystems, communities, and economies;

(iii) bolster the conservation and sustainable uses of land in ways that will improve the health of ocean, coastal, and Great Lakes ecosystems;

(iv) use the best available science and knowledge to inform decisions affecting the ocean, our coasts, and the Great Lakes, and enhance humanity's capacity to understand, respond, and adapt to a changing global environment;

(v) support sustainable, safe, secure, and productive access to, and uses of the ocean, our coasts, and the Great Lakes;

(vi) respect and preserve our Nation's maritime heritage, including our social, cultural, recreational, and historical values;

(vii) exercise rights and jurisdiction and perform duties in accordance with applicable international law, including respect for and preservation of navigational rights and freedoms, which are essential for the global economy and international peace and security;

(viii) increase scientific understanding of ocean, coastal, and Great Lakes ecosystems as part of the global interconnected systems of air, land, ice, and water, including their relationships to humans and their activities;

(ix) improve our understanding and awareness of changing environmental conditions, trends, and their causes, and of human activities taking place in ocean, coastal, and Great Lakes waters; and

(x) foster a public understanding of the value of the ocean, our coasts, and the Great Lakes to build a foundation for improved stewardship.

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(b) The United States shall promote this policy by:

(i) ensuring a comprehensive and collaborative framework for the stewardship of the ocean, our coasts, and the Great Lakes that facilitates cohesive actions across the Federal Government, as well as participation of State, tribal, and local authorities, regional governance structures, nongovernmental organizations, the public, and the private sector;

(ii) cooperating and exercising leadership at the international level;

(iii) pursuing the United States' accession to the Law of the Sea Convention; and

(iv) supporting ocean stewardship in a fiscally responsible manner.

Sec. 3. Definitions. As used in this order:

(a) "Final Recommendations" means the *Final Recommendations of the Interagency Ocean Policy Task Force* that shall be made publicly available and for which a notice of public availability shall be published in the *Federal Register*.

(b) The term "coastal and marine spatial planning" means a comprehensive, adaptive, integrated, ecosystem-based, and transparent spatial planning process, based on sound science, for analyzing current and anticipated uses of ocean, coastal, and Great Lakes areas. Coastal and marine spatial planning identifies areas most suitable for various types or classes of activities in order to reduce conflicts among uses, reduce environmental impacts, facilitate compatible uses, and preserve critical ecosystem services to meet economic, environmental, security, and social objectives. In practical terms, coastal and marine spatial planning provides a public policy process for society to better determine how the ocean, our coasts, and Great Lakes are sustainably used and protected -- now and for future generations.

(c) The term "coastal and marine spatial plans" means the plans that are certified by the National Ocean Council as developed in accordance with the definition, goals, principles, and process described in the Final Recommendations.

Sec. 4. Establishment of National Ocean Council. (a) There is hereby established the National Ocean Council (Council).

(b) The Council shall consist of the following:

(i) the Chair of the Council on Environmental Quality and the Director of the Office of Science and Technology Policy, who shall be the Co-Chairs of the Council;

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(ii) the Secretaries of State, Defense, the Interior, Agriculture, Health and Human Services, Commerce, Labor, Transportation, Energy, and Homeland Security, the Attorney General, the Administrator of the Environmental Protection Agency, the Director of the Office of Management and Budget, the Under Secretary of Commerce for Oceans and Atmosphere (Administrator of the National Oceanic and Atmospheric Administration), the Administrator of the National Aeronautics and Space Administration, the Director of National Intelligence, the Director of the National Science Foundation, and the Chairman of the Joint Chiefs of Staff;

(iii) the National Security Advisor and the Assistants to the President for Homeland Security and Counterterrorism, Domestic Policy, Energy and Climate Change, and Economic Policy;

(iv) an employee of the Federal Government designated by the Vice President; and

(v) such other officers or employees of the Federal Government as the Co-Chairs of the Council may from time to time designate.

(c) The Co-Chairs shall invite the participation of the Chairman of the Federal Energy Regulatory Commission, to the extent consistent with the Commission's statutory authorities and legal obligations, and may invite the participation of such other independent agencies as the Council deems appropriate.

(d) The Co-Chairs of the Council, in consultation with the National Security Advisor and the Assistant to the President for Homeland Security and Counterterrorism, shall regularly convene and preside at meetings of the Council, determine its agenda, direct its work, and, as appropriate to address particular subject matters, establish and direct committees of the Council that shall consist exclusively of members of the Council.

(e) A member of the Council may designate, to perform committee functions of the member, any person who is within such member's department, agency, or office and who is (i) an officer of the United States appointed by the President, (ii) a member of the Senior Executive Service or the Senior Intelligence Service, (iii) a general officer or flag officer, or (iv) an employee of the Vice President.

(f) Consistent with applicable law and subject to the availability of appropriations, the Office of Science and Technology Policy and the Council on Environmental Quality shall provide the Council with funding, including through the National Science and Technology Council or the Office of Environmental Quality. The Council on Environmental Quality shall, to the extent permitted by law and subject to the availability of appropriations, provide administrative support necessary to implement this order.

(g) The day-to-day operations of the Council shall be administered by a Director and a Deputy Director, who shall supervise a full-time staff to assist the Co-Chairs in their implementation of this order.

Sec. 5. Functions of the Council. (a) The Council shall have the structure and function and operate as defined in the Final Recommendations. The Council is authorized, after the Council's first year of operation, to make modifications to its structure, function, and operations to improve its effectiveness and efficiency in furthering the policy set forth in section 2 of this order.

(b) To implement the policy set forth in section 2 of this order, the Council shall provide appropriate direction to ensure that executive departments', agencies', or offices' decisions and actions affecting the ocean, our coasts, and the Great Lakes will be guided by the stewardship principles and national priority objectives set forth in the Final Recommendations, to the extent consistent with applicable law. The Council shall base its decisions on the consensus of its members. With respect to those matters in which consensus cannot be reached, the National Security Advisor shall coordinate with the Co-Chairs and, as appropriate, the Assistants to the President for Energy and Climate Change, and Economic Policy, and the employee of the United States designated by the Vice President, subject to the limitations set forth in section 9 of this order, to present the disputed issue or issues for decision by the President.

Sec. 6. Agency Responsibilities. (a) All executive departments, agencies, and offices that are members of the Council and any other executive department, agency, or office whose actions affect the ocean, our coasts, and the Great Lakes shall, to the fullest extent consistent with applicable law:

(i) take such action as necessary to implement the policy set forth in section 2 of this order and the stewardship principles and national priority objectives as set forth in the Final Recommendations and subsequent guidance from the Council; and

(ii) participate in the process for coastal and marine spatial planning and comply with Council certified coastal and marine spatial plans, as described in the Final Recommendations and subsequent guidance from the Council.

(b) Each executive department, agency, and office that is required to take actions under this order shall prepare and make publicly available an annual report including a concise description of actions taken by the agency in the previous calendar year to implement the order, a description of written comments by persons or organizations regarding the agency's compliance with this order, and the agency's response to such comments.

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(c) Each executive department, agency, and office that is required to take actions under this order shall coordinate and contribute resources, as appropriate, to assist in establishing a common information management system as defined in the Final Recommendations and shall be held accountable for managing its own information assets by keeping them current, easily accessible, and consistent with Federal standards.

(d) To the extent permitted by law, executive departments, agencies, and offices shall provide the Council such information, support, and assistance as the Council, through the Co-Chairs, may request.

Sec. 7. Governance Coordinating Committee. The Council shall establish a Governance Coordinating Committee that shall consist of 18 officials from State, tribal, and local governments in accordance with the Final Recommendations. The Committee may establish subcommittees chaired by representatives of the Governance Coordinating Committee. These subcommittees may include additional representatives from State, tribal, and local governments, as appropriate to provide for greater collaboration and diversity of views.

Sec. 8. Regional Advisory Committees. The lead Federal department, agency, or office for each regional planning body established for the development of regional coastal and marine spatial plans, in consultation with their nonfederal co-lead agencies and membership of their regional planning body, shall establish such advisory committees under the Federal Advisory Committee Act, 5 U.S.C. App., as they deem necessary to provide information and to advise the regional planning body on the development of regional coastal and marine spatial plans to promote the policy established in section 2 of this order.

Sec. 9. General Provisions. (a) Nothing in this order, the establishment of the Council, and the Final Recommendations shall be construed to impair or otherwise affect:

(i) authority granted by law to an executive department or agency or the head thereof; or

(ii) functions assigned by the President to the National Security Council or Homeland Security Council (including subordinate bodies) relating to matters affecting foreign affairs, national security, homeland security, or intelligence.

(b) Nothing in this order shall be construed to impair or otherwise affect the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(c) In carrying out the provisions of this order and implementing the Final Recommendations, all actions of the Council and the executive departments, agencies, and offices that constitute it shall be consistent with applicable international law, including customary international law, such as that reflected in the Law of the Sea Convention.

(d) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Sec. 10. Revocation. Executive Order 13366 of December 17, 2004, is hereby revoked.

BARACK OBAMA

THE WHITE HOUSE,  
July 19, 2010.

# # #



# RESOURCE DEVELOPMENT COUNCIL

Growing Alaska Through Responsible Resource Development

Founded 1975

**Executive Director**

Rick Rogers

**2011-2012 Executive Committee**

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Phil Cochrane, Sr. Vice President

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**Rick Rogers**

**Executive Director**

**Resource Development Council for Alaska**

## **Testimony on Alaska's Sovereignty in Peril: The National Ocean Policy's Goal to Federalize Alaska**

**April 3, 2012**

Good morning Members of the Subcommittee. My name is Rick Rogers, Executive Director of the Resource Development Council for Alaska (RDC). RDC is a statewide membership-funded non-profit trade association representing the combined interest of the Forestry, Fishing, Tourism, Mining, and Oil and Gas industries in Alaska. Our membership is truly a broad cross section of Alaska businesses, including the aforementioned industries as well as local communities, all twelve Alaska Native Regional Corporations, organized labor, utilities and support businesses that recognize the important role resource development plays in our economy. I have submitted a copy of our most recent annual report for the record.

The National Ocean Policy will have a disproportionate impact on Alaska's resource dependent industries and our economy as a whole. It is appropriate the Subcommittee chose to hold a field hearing here in Alaska. At approximately 34,000 miles, Alaska has more coastline than that of all other states in our nation combined.

The National Ocean Policy adds uncertainty and anxiety to an already cumbersome and complex regime of state and federal permitting and oversight. Increased bureaucracy could hamper the already slow processes with no added benefit to the environment. In our view the Coastal Marine Spatial Planning/Regional Planning Body structure is an unauthorized new regulatory program that suggests a federal level "top down" approach to management resources with minimal local input.

The ecosystem-based management goal requires a vast amount of scientific data to be fully implemented. The lack of sufficient information is often the basis for third party legal claims by Environmental Non-government Organizations (eNGOs) to block development projects and their corresponding jobs. Natural resource managers need to use best available data to move forward and make the best decisions with information available. Ecosystem Based Management runs the risk of "paralysis-by-analysis."

The National Ocean Policy's stated goal of reaching to onshore activities adds to the uncertainty and anxiety for upland land use and resource development. Section 404 of Clean Water Act and ubiquitous nature of wetlands means upland activities are

already highly regulated in Alaska. Ever increasing and stringent clean air standards are already burdensome offshore and inland. A plethora of petitions to list additional species under the Endangered Species Act on and offshore add burden to landowners and resource industries. The hard rock mines in Alaska require over 60 State and Federal authorizations to proceed with development. The National Ocean Policy adds yet another hurdle to overcome, and may serve to provide an additional platform for third party eNGOs to litigate against projects that appear to lack the informational requirements or expectations for the National Ocean Policy.

RDC is concerned that Coastal and Marine Spatial Planning may lead to far reaching use restrictions on marine waters that will over-ride the social and economic needs of Alaskans. Broad swaths of submerged lands could be restricted in exclusionary zones for a nebulous national agenda of "ecosystem-based-management". Even if restricted zones were more modest in size and scope, use restrictions in strategic marine corridors necessary for resource transport and shipping could be devastating to our marine-dependent industries.

One of the key justifications for Coastal and Marine Spatial Planning is to resolve conflict among diverse resource interests, yet RDC members representing Mining, Tourism, Forestry, Oil and Gas, and Fisheries interests are firmly aligned. These industries are all concerned that NOP will create far more difficulties than it will resolve.

RDC is concerned that funds used to implement National Ocean Policy will come at the expense of congressionally-mandated activities. RDC's member companies require mandatory permits and often federal leases to operate, and declining federal resources should not be expended on National Ocean Policy at the expense of these congressionally mandated obligations. RDC members also require the best scientific data to address the impacts of their activities and funding diverted to National Ocean Policy could come at the expense of needed scientific efforts.

We urge Congress to maintain an integral role in these broad efforts to change the way ocean and coastal resources are managed, and the power of appropriation should be considered in restraining the premature implementation of the National Ocean Policy. Congressional oversight is needed to ensure implementation of the National Ocean Policy does not constrain the ability of federal agencies to fulfill their congressional mandates to adjudicate needed federal permits and leases.

RDC is concerned with the process being used to roll out this far-reaching policy. RDC has repeatedly requested meaningful stakeholder engagement without the suspected bias toward conservation and blocking responsible resource access and development. These concerns are underscored by the fact that Regional Planning Bodies charged with developing zoning plans will be comprised solely of government officials.

Detailed economic analysis of impacts of the policy should be completed and available for full public and Congressional review before policy implementation. The Handbook for Coastal and Marine Spatial Planning must be subject to public input, review, and comment before implementation.

We have urged the National Ocean Council to utilize pilot projects in geographic areas where NOP and CMSP has broad acceptance, before large swaths of ocean and marine areas, such as Alaska, have this policy imposed upon them.

In this time of tenuous economic recovery and high unemployment, Congress and the administration should be untangling the complex web of statutes and regulations that are strangling our productive resource sectors of our economy. The National Ocean Policy does the opposite by adding complexity and jurisdictional ambiguity. Congress, the states, and the private sector should have a more meaningful role in

development and implementation of such far-reaching policies for state and federal waters and upland resources.

Thank you for the opportunity to comment on this far-reaching initiative. We thank the members of this Subcommittee for watching out for the best interests of Alaskans and all Americans.

### **Additional Background to Augment RDC verbal testimony.**

Natural resources are vital to the economic survival of Alaska and its residents. In part, Alaska was granted statehood due to our vast natural resources; the federal government expected Alaska to utilize its bounty of natural resources to build and sustain its economy. Alaska's constitution includes a unique provision, Title 8, the preamble of which states "It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest." To fulfill the vision of Alaska's Constitution, we must have access to our resources, and avoid uncertainty and unnecessary regulations that offer no added benefit to the environment.

The National Ocean Policy will have a disproportionate impact on Alaska's resource-dependent industries and our economy as a whole. It is appropriate the Subcommittee chose to hold a field hearing here in Alaska. At approximately 34,000 miles, Alaska has more coastline than that of all other states in our nation combined.

RDC members know that Alaska's economy is based on responsible resource development conducted in accordance with existing local, state, and federal environmental protections and laws. Alaskans must continue to have access to our valuable and traditional resources. The responsible development of these resources creates jobs in communities throughout Alaska, many of which have few other jobs available. Many of these communities will disappear if overly burdensome regulations are added to existing and new projects.

Alaska fisheries provide over half of the commercial seafood harvested in U.S., and these sustainably managed fisheries are a model for the world. Oil and Gas reserves in the Beaufort/Chukchi Seas alone could result in 26 billion barrels of oil and 32 trillion cubic feet of natural gas over next 50 years, yielding 54,700 new jobs, \$145 billion in payroll, and \$193 billion in government revenue. All Alaska industries, forestry, tourism, oil and gas, fisheries and mining, are highly dependent on ocean access and marine transportation.

For the record, RDC submits four publication summaries highlighting the economic significance of oil and gas, mineral, tourism and fisheries resources. Unfortunately we do not have a similar report of our timber industry, except to report that it is a mere shadow of its former self, having precipitously declined due to what RDC views as failed federal public land policy constraining timber supply. The decline of the timber industry in Alaska highlights our need to be ever vigilant regarding the unintended consequences of policy initiatives such as the National Ocean Policy and Coastal and Marine Spatial Planning.

The policy raises significant concerns from the fisheries community regarding the future role of the stakeholder driven Regional Fishery Management Councils. The North Pacific Fishery Management Council is a model for sustainable and adaptive management of this renewable resource. The old adage, "if it isn't broke, don't fix it" should apply and it needs to be abundantly clear that the decision authority of the stakeholder driven Regional Fisheries Management Councils is not compromised by a new National Ocean

Policy structure. The Regional Fishery Management Councils are working well and should not be coopted by a new regional planning and management structure.

RDC is concerned that Coastal and Marine Spatial Planning may impose disproportionate restrictions on the ability of Alaskans to have a balanced and robust resource based economy. Consider that 58.6% of uplands in Alaska are federally managed lands, 65% of which are in restrictive conservation system units such as parks, Wilderness Areas, refuges and wild and scenic rivers. For the record, we have submitted an RDC publication entitled "Who Owns Alaska" which highlights the dominance of federal management of uplands in Alaska with priorities that are often in direct conflict with the economic interest of Alaskans.

RDC shares the concerns expressed by Alaska Governor Sean Parnell and the six other Governors in the Outer Continental Shelf Governors Coalition in their letter to President Obama dated March 13, 2012. In that correspondence, the Governors raise concerns of unintended consequences for all types of energy development. RDC notes that the same unintended consequences are likely to also affect fisheries, forestry, mineral development and tourism activities.

RDC has weighed in on this important policy initiative several times. We have asked that the National Ocean Council improve coordination of existing protection measures, such as the Clean Water Act, the National Environmental Policy Act, and the Magnuson-Stevens Fishery Conservation Act instead of adding another layer of bureaucracy. In reference to the other Strategic Action Plan objectives not addressed in RDC verbal testimony, included are copies of two detailed letters RDC wrote to the NOC in 2011, and our most recent written input on March 28, just last week.

Attachments submitted for the record include:

2011 Annual Report of the Resource Development Council for Alaska. Available online at <http://akrdc.org/membership/annualreport/annualreport2011.pdf>

*Economic Report Overview, Potential National-Level Benefits of Oil and Gas Development in the Beaufort and Chukchi Sea*, University of Alaska Institute of Economic Research and Northern Economics. Available online at <http://www.northerneconomics.com/pdfs/ShellOCS/National%20Effects%20page%20brochure%20FINAL.pdf>.

*The Economic Benefits of Alaska's Mining Industry*, Alaska Miners Association, January 2012. <http://www.alaskaminers.org/mcd11sum.pdf>

*The Seafood Industry in Alaska's Economy*, Prepared by Northern Economics for the Marine Conservation Alliance, available online at [http://www.marineconservationalliance.org/wp-content/uploads/2011/02/SIAE\\_Feb2011a.pdf](http://www.marineconservationalliance.org/wp-content/uploads/2011/02/SIAE_Feb2011a.pdf)

*Alaska Visitor Statistics Program VI, Summer 2011, Executive Summary*, Prepared by The McDowell Group for Alaska Department of Commerce, Community and Economic Development. Available online at <http://www.commerce.state.ak.us/ded/dev/toubus/pub/2011AVSP-ExecSummary-StandAlone.pdf>

*Who Owns Alaska, A Special Issue of Resource Review*, A periodic publication of the Resource Development Council for Alaska. Available online at <http://akrdc.org/newsletters/2009/whoownsalaska.pdf>

RDC written comments to the National Ocean Council dated April 29, 2011, July 1, 2011 and March 28, 2012.



February 27, 2012

Submitted Electronically

National Ocean Council  
722 Jackson Place NW  
Washington, DC 20503

**RE: Comments on National Ocean Policy Draft Implementation Plan**

Dear Members of the National Ocean Council:

The National Ocean Policy Coalition ("Coalition") is pleased to submit comments on the National Ocean Policy Draft Implementation Plan ("Implementation Plan"). The Coalition is an organization of diverse interests representing sectors and entities that support tens of millions of jobs, contribute trillions of dollars to the U.S. economy, and seek to ensure that the National Ocean Policy is implemented in a manner that best benefits the National interest, including protection of the commercial and recreational value of the oceans, marine-related natural resources, and terrestrial lands of the United States.

The Coalition recognizes the value of a national ocean policy that recognizes the critical role our oceans, coastal areas, and marine ecosystems play in our nation's economy, national security, culture, health, and well-being, and conserves the natural resources and marine habitat of our oceans and coastal regions. The Coalition does not support the draft Implementation Plan because we are concerned that, as written, it will not achieve these objectives.

We encourage you to delay further policy development and implementation until Congress, user groups, and the public have been fully engaged and all potential economic, societal, and legal impacts of implementing the National Ocean Policy have been assessed and are understood. It remains unclear how the National Ocean Policy will align with existing and functioning regulatory structures that already effectively manage the use of the coastal and marine environment and environmental impacts of permitted activities. Our members are concerned that implementation will result in the creation of new regulations and/or management regimes that will not benefit our mutual desire for clarity and certainty in the use of the marine environment. When ready to proceed, we strongly encourage the use of a pilot project that is limited to one geographic area in order to test policy implementation and allow for any necessary adjustments. The pilot and any further action should account for the observations and recommendations discussed below.

We respectfully urge the National Ocean Council to carefully consider the Coalition's thoughts and recommendations on these and other important points that are contained herein, as well as the comments and concerns expressed to date.<sup>1</sup>

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<sup>1</sup> See National Ocean Policy Coalition's April 28, 2011 Comments on the Development of Strategic Action Plans for the Nine Priority Objectives for Implementation of the National Policy for the Stewardship of the Ocean, Our Coasts, and the Great Lakes, *available at*

## I. INTRODUCTION

The Coalition has prepared detailed comments in response to the release of the draft Implementation Plan. Observations that emerged from our review include but are not limited to the following:

### ECOSYSTEM-BASED MANAGEMENT

- The proposed definition for Ecosystem-based Management should account for the importance of our economic heritage and specify that actions will not be taken until the foundational science for Ecosystem-based Management and ecosystem services has been sufficiently developed.

### BUDGETARY REQUIREMENTS AND FUNDING SOURCES

- Only resources specifically appropriated by Congress to support the National Ocean Policy should be directed to support the initiative, and budget guidance should reflect the will of Congress and existing statutory authorities.
- All funding for National Ocean Policy implementation activities must rely solely on government resources, without imposing new taxes, fees, or other funding mechanisms on commercial and recreational interests in the absence of congressional authorization.

### REGULATIONS AND RESTRICTIONS UNDER THE NATIONAL OCEAN POLICY

- To ensure that the policy does not create any new regulations or restrictions, actions carried out in furtherance of the National Ocean Policy should be based entirely on collaborative and voluntary efforts among federal, state, local, and industry officials, and in no case should regulations be promulgated without adhering to the Administrative Procedure Act.

### COASTAL AND MARINE SPATIAL PLANNING NATIONAL OBJECTIVES

- Clarity on definitions of and determinations on “sustainable” uses and “new” activities should be provided, and any related decisions should account for critical economic and societal contributions, economic impacts, and historical use patterns.
- Requests or decisions pertaining to human use activity should not be delayed or denied due to the absence of a Coastal and Marine Spatial Plan or an ecosystem characterization under the National Ocean Policy.

### PILOT PROJECTS FOR NATIONAL OCEAN POLICY OBJECTIVES

- To avoid the risk of unintended consequences, the use of pilot projects should be extended to cover all actions taken pursuant to the National Ocean Policy.

### FLEXIBILITY WITH COASTAL AND MARINE SPATIAL PLANNING

- Timelines pertaining to the establishment of regional planning bodies and development of Coastal and Marine Spatial Plans should be advisory and allow participating states and non-federal officials to establish such bodies and plans at a time and pace of their choosing.

## COMPOSITION OF REGIONAL PLANNING BODIES

- Regional planning body membership should be open to include non-government officials and representatives of all potentially impacted sectors that contribute to the respective region's economy, including non-governmental and non-voting Regional Fishery Management Council representatives, with membership determined in a transparent, accountable, and representative manner.
- State, tribal, and local governments should also have adequate representation, with membership determined in a transparent, accountable, and representative manner.

## STAKEHOLDER ENGAGEMENT

- Any regional advisory committee or entity formed to advise on National Ocean Policy matters should be balanced and comprised of members that are sector-appointed and representative of the potentially impacted commercial and recreational interests, and engagement with commercial and recreational interests should occur at every stage of policy development and implementation at the national and regional levels, including through balanced advisory groups.

## COASTAL AND MARINE SPATIAL PLANNING HANDBOOK

- The Council should provide ample opportunity for public review and comment on the Interim "Handbook for Regional Coastal and Marine Spatial Planning," given its expected guidance on key issues such as national consistency determinations, dispute resolution, stakeholder engagement, and the incorporation of Coastal and Marine Spatial Plans into decision-making processes.

## PERMITTING EFFICIENCIES

- While attempts to streamline federal permitting activities are laudable, such efforts should be carried out under existing management regimes that have been established by statute.

## ARCTIC CONSIDERATIONS

- The final Implementation Plan should acknowledge the existing U.S. and international efforts that are underway and further evaluate, reference, and incorporate this body of work to avoid redundancies.

## DATA INTEGRITY

- The final Implementation Plan should clarify that data from all sources will only be included, referenced, or otherwise endorsed by the National Ocean Council (or any other entity or system established under the National Ocean Policy) if such data has been certified to be in compliance with all federal laws, regulations, and policies pertaining to data quality and integrity.

## II. DETAILED COMMENTS

### ECOSYSTEM-BASED MANAGEMENT

The draft Implementation Plan notes that adopting Ecosystem-based Management (“EBM”) as the “foundation for resource stewardship” involves a “fundamental shift in the way Federal agencies manage the ocean, our coasts, and the Great Lakes.”<sup>2</sup> It further states that a “holistic approach that examines and accounts for the complex relationships among species and their habitats is required,”<sup>3</sup> providing the following definition for Ecosystem-based Management:

“...the term EBM describes an integrated approach to management, including resource management, that considers the entire ecosystem, including humans, and elements that are integral to ecosystem functioning. Informed by both natural and social science, EBM is intended to conserve and restore our natural and cultural heritage by sustaining diverse, productive, resilient ecosystems and the services they provide, thereby promoting the long-term health, security, and well-being of our Nation. Specifically, EBM:

- Recognizes that humans are a part of ecosystems and that healthy ecosystems are essential to human welfare;
- Focuses on ensuring the abundance and long-term sustainability of natural resources and the benefits they provide....by emphasizing protection and restoration of ecosystem structure, functioning, and key processes;
- Is place-based, with a focus on a specific ecosystem, is implemented on a range of scales, and addresses a range of activities and cumulative impacts affecting the ecosystem;
- Recognizes ecological complexity and accounts for the interconnectedness within individual systems, including interactions among target and non-target species and key services;
- Acknowledges the interconnectedness among different systems, such as between air, land, and sea, while remaining open and flexible to change and adaptation;
- Is based on sound natural and social science, is information-driven, and is adaptable to changing environmental, social, and economic conditions;
- Considers diverse ecological, social, economic, cultural, and institutional perspectives, recognizing their strong interdependencies, and assesses trade-offs among diverse management objectives; and
- Aims to conserve and protect our natural and cultural heritage.”<sup>4</sup>

If Ecosystem-based Management is to adequately recognize the role humans play in ecosystems and consider economic and social perspectives, then the final Implementation Plan should modify the definition to clarify that Ecosystem-based Management is “intended to conserve and restore our natural, *economic*, and cultural heritage by sustaining diverse, productive, resilient, *and accessible* ecosystems and the services *and benefits* they *have provided and will continue to provide*, thereby promoting the long-term health, security, and well-being of our Nation.”

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<sup>2</sup> See Draft National Ocean Policy Implementation Plan, National Ocean Council, released January 12, 2012, Page 11, available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/national\\_ocean\\_policy\\_draft\\_implementation\\_plan\\_01-12-12.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/national_ocean_policy_draft_implementation_plan_01-12-12.pdf). See also Page 11 (“Although there are examples of EBM efforts with multiple Federal agencies, State and local governments, and other stakeholders working together with a focus on particular ecosystems...generally management has focused largely on single species, uses, and ecosystem benefits.”).

<sup>3</sup> See Draft National Ocean Policy Implementation Plan, National Ocean Council, released January 12, 2012, Page 9, available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/national\\_ocean\\_policy\\_draft\\_implementation\\_plan\\_01-12-12.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/national_ocean_policy_draft_implementation_plan_01-12-12.pdf).

<sup>4</sup> See Draft National Ocean Policy Implementation Plan, National Ocean Council, released January 12, 2012, Pages 10-11, available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/national\\_ocean\\_policy\\_draft\\_implementation\\_plan\\_01-12-12.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/national_ocean_policy_draft_implementation_plan_01-12-12.pdf).

The final Implementation Plan should also ensure that proposed implementation timelines and actions, particularly with regard to those such as Coastal and Marine Spatial Planning that are premised on Ecosystem-based Management, do not lead to decisions being made without the proper foundational science.

The science underpinning Ecosystem-based Management and ecosystem services has not advanced to the point at which ecosystem health can be assessed and the dynamics of change can be measured on an ecosystem basis that includes ecosystem services for human use. If science related to Ecosystem-based Management and ecosystem services is to form the foundation for National Ocean Policy actions, including Coastal and Marine Spatial Planning on an ecosystem scale, then such scientific disciplines must first be sufficiently developed and established in a manner that can account for ecosystem services for human use.

#### BUDGETARY REQUIREMENTS AND FUNDING SOURCES

The current budgetary environment and fiscal constraints that face the nation are resulting in increased competition for fewer federal resources. As the draft Implementation Plan notes, the ability to complete proposed actions and milestones in the timelines provided are based in part on the availability of funding.<sup>5</sup> In the context of National Ocean Policy implementation, great care should be taken with respect to federal resource allocation so that regulated industries and entities--and the jobs and communities that they support--do not succumb to backlogs and delays that impact their ability to operate.

To that end, the Coalition notes that federal agencies have been "instructed to prioritize" the National Ocean Policy in their FY 2013 budgets,<sup>6</sup> and that in developing the draft Implementation Plan, federal agencies were asked to consider how existing federal resources can be utilized as well as "repurposed" in order to support the policy.<sup>7</sup> Other entities have previously raised concerns about such a possibility.<sup>8</sup>

In order to prevent the diversion of existing resources away from activities that are essential to the ability of businesses to function and the economy and local communities to thrive, the final Implementation Plan should state that only resources appropriated by Congress specifically in support of the National Ocean Policy will be used to fund the initiative.

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<sup>5</sup> See Draft National Ocean Policy Implementation Plan, National Ocean Council, released January 12, 2012, Page 5, available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/national\\_ocean\\_policy\\_draft\\_implementation\\_plan\\_01-12-12.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/national_ocean_policy_draft_implementation_plan_01-12-12.pdf) ("...given the constrained fiscal climate and the uncertainty in the budget and appropriations processes, completion of every action and milestone in this draft Implementation Plan within the timeframes expected are contingent on the availability of funds.").

<sup>6</sup> See Appendix to Draft National Ocean Policy Implementation Plan, National Ocean Council, released January 12, 2012, Page 108, available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/national\\_ocean\\_policy\\_draft\\_implementation\\_plan\\_01-12-12.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/national_ocean_policy_draft_implementation_plan_01-12-12.pdf).

<sup>7</sup> See Draft National Ocean Policy Implementation Plan, National Ocean Council, released January 12, 2012, Page 5, available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/national\\_ocean\\_policy\\_draft\\_implementation\\_plan\\_01-12-12.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/national_ocean_policy_draft_implementation_plan_01-12-12.pdf) ("As the actions in this draft Implementation Plan were developed, Federal agencies were asked to consider three questions: What activities can be accomplished with existing Federal and partner resources? How can existing resources be repurposed for greater efficiency and effectiveness? Where do we need to include activities that with minimal additional resources may allow for additional truly transformative and far-reaching impact?").

<sup>8</sup> See July 1, 2011 Comments on Strategic Action Plans Submitted by the Association of Fish & Wildlife Agencies ("...we continue to have concerns with the resources necessary to accomplish this initiative. We are particularly concerned that CMSP will divert resources, particularly from the National Marine Fisheries Service...budget, to undertake the large data compilation and analysis required by CMSP. In an era of tight budgets, we cannot endorse the use of limited resources for CMSP when the critical stock assessment needs of the agency are not funded at sufficient levels."), available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/full\\_website\\_public\\_comments\\_6\\_30\\_11\\_to\\_7\\_2\\_11\\_final\\_0.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/full_website_public_comments_6_30_11_to_7_2_11_final_0.pdf); and July 1, 2011 Comments on Strategic Action Plans Submitted by Ocean Peace, Inc. ("Until the Executive Branch is able to provide a detailed blueprint describing how Federal agencies will cooperate and/or coordinate their activities with respect to CMSP, how they will balance competing agency mandates, and how they will balance competing budgetary concerns, among other things, no Federal funds should be expended in support of CMSP."), available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/full\\_website\\_public\\_comments\\_6\\_30\\_11\\_to\\_7\\_2\\_11\\_final\\_0.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/full_website_public_comments_6_30_11_to_7_2_11_final_0.pdf)

This will ensure that funds appropriated by Congress are allocated by the Executive Branch toward the very activities that they were intended to support. If the National Ocean Council distributes an annual memorandum providing “further guidance and prioritization toward allocating Federal resources to achieve implementation goals,”<sup>9</sup> such guidance should also reflect the will of Congress and existing statutory authorities.

To address concerns by stakeholders<sup>10</sup> about the possibility that decisions may be made based on biases of outside groups with unique interests, the final Implementation Plan should clarify that all funding for National Ocean Policy implementation activities rely solely on government resources. This will ensure that stakeholders with user perspectives are not blocked from participating in the process. In addition, the final Implementation Plan should make clear that new taxes, fees, or other funding mechanisms will not be imposed on commercial and recreational interests without congressional authorization.

## REGULATIONS AND RESTRICTIONS UNDER THE NATIONAL OCEAN POLICY

It has been stated before that the National Ocean Policy will not result in any new regulations or restrictions and does not contain a zoning plan.<sup>11</sup> The Final Recommendations of the Interagency Ocean Policy Task Force (“Final Recommendations”) that were adopted through Executive Order 13547, however, state that effective National Ocean Policy implementation will “require clear and easily understood requirements and regulations, where appropriate, that include enforcement as a critical component.”<sup>12</sup>

More recently, the U.S. Department of the Interior noted that Coastal and Marine Spatial Planning “has emerged as a new paradigm and planning strategy for coordinating all marine and coastal activities and facility constructions with the context of a national zoning plan.” The Department added that “it is anticipated that the [Coastal and Marine Spatial] plans will serve as an overlay for decisions made under existing regulatory mandates.”<sup>13</sup>

The draft Implementation Plan notes with regard to one National Ocean Policy objective that “[s]uccessful implementation will require concerted activities, including the use of regulatory...measures.”<sup>14</sup> It also calls for identifying “underutilized” laws and regulations and “opportunities to incorporate [Ecosystem-based Management] principles into Federal laws,

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<sup>9</sup> See Draft National Ocean Policy Implementation Plan, National Ocean Council, released January 12, 2012, Page 5, available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/national\\_ocean\\_policy\\_draft\\_implementation\\_plan\\_01-12-12.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/national_ocean_policy_draft_implementation_plan_01-12-12.pdf).

<sup>10</sup> See e.g. Comments on Coordinate and Support Strategic Action Plan Outline Submitted by Quinault Indian Nation (“...leveraging nonprofit and private dollars to achieve federal action has potential bias issues”), available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/full\\_website\\_public\\_comments\\_6\\_30\\_11\\_to\\_7\\_2\\_11\\_final\\_0.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/full_website_public_comments_6_30_11_to_7_2_11_final_0.pdf).

<sup>11</sup> See e.g. Draft National Ocean Policy Implementation Plan, National Ocean Council, released January 12, 2012, Page 4, available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/national\\_ocean\\_policy\\_draft\\_implementation\\_plan\\_01-12-12.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/national_ocean_policy_draft_implementation_plan_01-12-12.pdf) (“This draft Implementation Plan creates no new regulations.”); Statement of Nancy H. Sutley, Chair, White House Council on Environmental Quality, Testimony on “The President’s New National Ocean Policy - A Plan for Further Restrictions on Ocean, Coastal and Inland Activities,” October 26, 2011 U.S. House Natural Resources Committee Hearing, available at <http://naturalresources.house.gov/UploadedFiles/SutleyTestimony10.26.11.pdf> (“The National Ocean Policy does not establish any new regulations or restrict the multiple uses of the ocean... coastal and marine spatial planning is not zoning... Coastal and marine spatial planning has been mischaracterized as “ocean zoning”... The National Ocean Policy does not impose any restrictions on ocean, coastal, or Great Lakes activities...); and National Ocean Council Website, Frequently Asked Questions, available at <http://www.whitehouse.gov/administration/eop/oceans/faq> (“The National Policy does not establish any new regulations or restrict any ocean uses or activities... The National Policy is not a map drawing exercise and does not contain a zoning plan or establish any restrictions on activities, nor does it restrict access.”).

<sup>12</sup> See Final Recommendations of the Interagency Ocean Policy Task Force, released July 19, 2010, Page 30, available at [http://www.whitehouse.gov/files/documents/OPTF\\_FinalRecs.pdf](http://www.whitehouse.gov/files/documents/OPTF_FinalRecs.pdf).

<sup>13</sup> See Draft Programmatic Environmental Impact Statement, Outer Continental Shelf Oil and Gas Leasing Program:2012-2017, U.S. Interior Department, Bureau of Ocean Energy Management, November 2011, Page 4-54 and 4-58, available at [http://www.boem.gov/uploadedFiles/BOEM\\_2012-2017\\_OCS\\_Oil\\_and\\_Gas\\_Leasing\\_Draft\\_Programmatic\\_EIS.pdf](http://www.boem.gov/uploadedFiles/BOEM_2012-2017_OCS_Oil_and_Gas_Leasing_Draft_Programmatic_EIS.pdf).

<sup>14</sup> See Draft National Ocean Policy Implementation Plan, National Ocean Council, released January 12, 2012, Pages 63-64, available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/national\\_ocean\\_policy\\_draft\\_implementation\\_plan\\_01-12-12.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/national_ocean_policy_draft_implementation_plan_01-12-12.pdf).

regulations, and policies,”<sup>15</sup> as well as “strengthen[ing]” the “content and/or application” of existing laws to “incorporate and better support climate change adaptation efforts.”<sup>16</sup> The latter proposal could potentially result in the reinterpretation of statutes in a manner that contravenes the original legislative intent.

The draft Implementation Plan further notes that successful implementation will require regulatory action to address water quality and sustainable practices on land, specifically citing regulatory measures related to Total Maximum Daily Loads, Combined Sewer Outflow Controls, waste and stormwater management, and vessel discharge,<sup>17</sup> and calling for the protection, restoration, or enhancement of more than 2 million acres of lands identified as high conservation priorities, including at least 100,000 acres of wetlands, wetland-associated uplands, and other high-priority habitat, and 700,000 acres of forestlands. The draft Implementation Plan also proposes to reactivate the National Marine Sanctuary Site Evaluation List,<sup>18</sup> and calls for the identification of “options to minimize and/or mitigate the risk associated with vessel use and carriage of heavy-grade fuel oil in the Arctic.”<sup>19</sup>

In light of the above, as well as statements from National Ocean Council members as to the relationship between Marine Protected Area designations and Coastal and Marine Spatial Planning,<sup>20</sup> the National Ocean Policy as currently envisioned could result in unnecessary restrictions or prohibitions on commercial and recreational activities through zoning plans, regulations, and land use designations.

Concerns in this regard are heightened in that sectors potentially impacted by the policy are responsible for supporting over 73 million jobs and contributing nearly \$9.5 trillion to the nation’s economy.<sup>21</sup> However, the draft Implementation Plan does not seem to adequately address the significance of these economic and societal contributions and the effects that unnecessary constraints and additional uncertainty could have on the nation and local communities. In some cases, sectors that contribute billions of dollars annually to the U.S. economy go without mention.<sup>22</sup>

To ensure that the National Ocean Policy does not create any new regulations or restrictions and unnecessarily harm economic and recreational activity, the final Implementation Plan should clarify that all actions carried out in furtherance of the National Ocean Policy shall be based entirely on collaborative and voluntary efforts among federal, state, local, and industry

<sup>15</sup> See Draft National Ocean Policy Implementation Plan, National Ocean Council, released January 12, 2012, Page 13, available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/national\\_ocean\\_policy\\_draft\\_implementation\\_plan\\_01-12-12.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/national_ocean_policy_draft_implementation_plan_01-12-12.pdf).

<sup>16</sup> See Draft National Ocean Policy Implementation Plan, National Ocean Council, released January 12, 2012, Page 39, available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/national\\_ocean\\_policy\\_draft\\_implementation\\_plan\\_01-12-12.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/national_ocean_policy_draft_implementation_plan_01-12-12.pdf).

<sup>17</sup> See Draft National Ocean Policy Implementation Plan, National Ocean Council, released January 12, 2012, Page 73, available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/national\\_ocean\\_policy\\_draft\\_implementation\\_plan\\_01-12-12.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/national_ocean_policy_draft_implementation_plan_01-12-12.pdf).

<sup>18</sup> See Draft National Ocean Policy Implementation Plan, National Ocean Council, released January 12, 2012, Page 74, available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/national\\_ocean\\_policy\\_draft\\_implementation\\_plan\\_01-12-12.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/national_ocean_policy_draft_implementation_plan_01-12-12.pdf).

<sup>19</sup> See Draft National Ocean Policy Implementation Plan, National Ocean Council, released January 12, 2012, Page 79, available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/national\\_ocean\\_policy\\_draft\\_implementation\\_plan\\_01-12-12.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/national_ocean_policy_draft_implementation_plan_01-12-12.pdf).

<sup>20</sup> See October 31, 2011 Letter from Dr. Jane Lubchenco, Under Secretary of Commerce for Oceans and Atmosphere, to Mr. Eugenio Pineiro-Soler, Chair of the Marine Protected Areas Federal Advisory Committee (“...many of the ideas presented in the [Marine Protected Areas Federal Advisory Committee’s] recommendations are being actively considered and incorporated into emerging plans and guidance.”). See also Marine Protected Areas Federal Advisory Committee Recommendations for the Coastal and Marine Spatial Planning Process, available at [http://www.mpa.gov/pdf/helpful-resources/mpa\\_fac\\_recommendations\\_sep2011.pdf](http://www.mpa.gov/pdf/helpful-resources/mpa_fac_recommendations_sep2011.pdf).

<sup>21</sup> See Appendix 2, Sector-By-Sector Analysis, Economic Contributions of Agriculture, Aquaculture, Chemical, Coal, Commercial Fishing, Construction, Forest and Paper, Manufacturing, Oil and Gas, Ports, Power Generation and Transmission, Recreational Boating, Recreational Fishing, Tourism, and Transportation Sectors, National Ocean Policy Coalition’s July 1, 2011 Comments on Strategic Action Plan Outlines, available at [http://gallery.mailchimp.com/6bb66fed099f6eb4e4253667e/files/NOPC\\_Comments\\_on\\_SAP\\_Outlines.pdf](http://gallery.mailchimp.com/6bb66fed099f6eb4e4253667e/files/NOPC_Comments_on_SAP_Outlines.pdf).

<sup>22</sup> With regard to recreational boating, for example, saltwater and Great Lakes anglers, who operate in geographic areas covered by the National Ocean Policy and fish almost by necessity from a recreational boat, generate approximately \$13.8 billion in retail sales and \$38.5 billion in total expenditures each year, supporting 363,000 jobs and generating more than \$2.3 billion in federal and state taxes annually. See National Marine Manufacturers Association’s 2010 Recreational Boating Statistical Abstract, Page 67, available at <http://www.nmma.org/statistics/publications/statisticalabstract.aspx>

officials. In no case should regulations be promulgated without adhering to the Administrative Procedure Act.

## COASTAL AND MARINE SPATIAL PLANNING NATIONAL OBJECTIVES

Pursuant to the Final Recommendations of the Interagency Ocean Policy Task Force that were adopted in the Executive Order establishing the National Ocean Policy, all Coastal and Marine Spatial Plans will be reviewed by the National Ocean Council to ensure consistency with national objectives, among other things.<sup>23</sup>

The draft Implementation Plan proposes the following two national objectives:

National Objective 1: Preserve and enhance opportunities for sustainable ocean use through the promotion of regulatory efficiency, consistency, and transparency, as well as improved coordination across Federal agencies.

National Objective 2: Reduce cumulative impacts on environmentally sensitive resources and habitats in ocean, coastal, and Great Lakes waters.<sup>24</sup>

The draft Implementation Plan, however, does not identify the criteria under which the National Ocean Council will make determinations and certifications with regard to consistency with the national objectives. The final Implementation Plan should clarify how Coastal and Marine Spatial Plans will be reviewed for national consistency and provide ample opportunity for public review and comment on this important subject.

### National Objective 1

Efforts to maintain and expand opportunities for ocean, coastal, and Great Lakes use through better federal coordination and increased regulatory efficiency, consistency, and clarity should be encouraged. As noted below, such efforts should be given a high priority and carried out under existing management regimes that have been established by statute.

For purposes of this national objective, the draft Implementation Plan defines “sustainability” as “compatibility of current and proposed ocean and coastal uses with the long-term maintenance of important ecosystem services, including other uses.”<sup>25</sup> It further notes that coastal and marine spatial planning can reduce delays and costs in part by “pre-assessing areas where certain uses may be better suited” and “identifying in advance those uses that might have synergistic relationships.”<sup>26</sup>

“Sustainability” includes environmental, economic, and social components. In order to ensure that opportunities for ocean, coastal, and Great Lakes uses are preserved, the final Implementation Plan should specify that determinations as to what constitutes “sustainable” uses are further defined, adequately account for critical economic and societal contributions, do not result in decisions that negatively impact the economy, and build on (rather than detract from) the uses that have taken place in the applicable area over time.

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<sup>23</sup> See Final Recommendations of the Interagency Ocean Policy Task Force, released July 19, 2010, Page 63, available at [http://www.whitehouse.gov/files/documents/OPTF\\_FinalRecs.pdf](http://www.whitehouse.gov/files/documents/OPTF_FinalRecs.pdf) (“The NOC would review each regional CMS Plan to ensure it is consistent with the National Policy, CMSP goals and principles as provided in this framework, any national objectives, performance measures, or guidance the NOC has articulated, and any other relevant national priorities.”).

<sup>24</sup> See Draft National Ocean Policy Implementation Plan, National Ocean Council, released January 12, 2012, Pages 87-88, available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/national\\_ocean\\_policy\\_draft\\_implementation\\_plan\\_01-12-12.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/national_ocean_policy_draft_implementation_plan_01-12-12.pdf)

<sup>25</sup> See Draft National Ocean Policy Implementation Plan, National Ocean Council, released January 12, 2012, Page 87, available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/national\\_ocean\\_policy\\_draft\\_implementation\\_plan\\_01-12-12.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/national_ocean_policy_draft_implementation_plan_01-12-12.pdf)

<sup>26</sup> See Draft National Ocean Policy Implementation Plan, National Ocean Council, released January 12, 2012, Page 87, available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/national\\_ocean\\_policy\\_draft\\_implementation\\_plan\\_01-12-12.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/national_ocean_policy_draft_implementation_plan_01-12-12.pdf).

## National Objective 2

According to the draft Implementation Plan, implementation of National Objective 2 will “improve the ability of decision-makers to identify and define sensitive areas and habitats, identify opportunities to mitigate or completely avoid impacts to sensitive areas, identify areas where future activities would cause the least amount of negative impact, maximize sustainable and beneficial uses of the marine environment, and protect the integrity of marine and coastal ecosystems.”<sup>27</sup>

It further states that Coastal and Marine Spatial Planning “should strive to improve our ability to characterize the past, present, and if possible, potential future conditions of an ecosystem spatially *–before* any particular new activity is implemented.”

Without further clarification, such an approach could harm commercial and recreational activities and the jobs and communities they support. Certain groups have already begun to argue that federal permits for commercial activity should not be issued until Coastal and Marine Spatial Planning is in place.<sup>28</sup>

One entity commented that the “ocean zoning framework should be established *before* pending or future offshore projects are allowed to move forward,” adding that “allowing offshore projects to first move forward without first implementing an ocean zoning framework will inevitably result in projects that are harmful to the environment and ecosystem and potentially contradict the final spatial planning process put forth by the [National Ocean] Council.”<sup>29</sup>

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<sup>27</sup> See Draft National Ocean Policy Implementation Plan, National Ocean Council, released January 12, 2012, Pages 88-89, available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/national\\_ocean\\_policy\\_draft\\_implementation\\_plan\\_01-12-12.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/national_ocean_policy_draft_implementation_plan_01-12-12.pdf).

<sup>28</sup> See October 13, 2011 Comments on Cape Wind Associates, LLC Application for Incidental Harassment Authorization for the Non-Lethal Taking of Marine Mammals Resulting from Pre-Construction High Resolution Geophysical Survey in Nantucket Sound, Submitted by Tribal Historic Preservation Department of the Wampanoag Tribe of Gay Head (Aquinnah) on Cape Wind Associates, LLC Application for Incidental Harassment Authorization for the Non-Lethal Taking of Marine Mammals Resulting from Pre-Construction High Resolution Geophysical Survey in Nantucket Sound; and October 13, 2011 Joint Comments on Cape Wind Associates, LLC Application for Incidental Harassment Authorization for the Non-Lethal Taking of Marine Mammals Resulting from Pre-Construction High Resolution Geophysical Survey in Nantucket Sound, Submitted by Gloucester Fishermen’s Wives Association, Hyannis Yacht Club, Institute for Fisheries Resources, Oceans Public Trust Initiative (a project of Earth Island Institute’s International Marine Mammal Project), Pegasus Foundation, Save our Sound/Alliance to Protect Nantucket Sound, and Three Bays Preservation, available at [http://www.nmfs.noaa.gov/pr/pdfs/permits/cwa\\_comments.pdf](http://www.nmfs.noaa.gov/pr/pdfs/permits/cwa_comments.pdf).

<sup>29</sup> See April 29, 2011 Comments on the Development of Strategic Action Plans Submitted by Oceans Public Trust Initiative, available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/comments\\_on\\_all\\_9\\_saps\\_1.24.11-4.29.11.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/comments_on_all_9_saps_1.24.11-4.29.11.pdf). See also April 29, 2011 Comments on the Development of Strategic Action Plans Submitted by Clean Ocean Action (“EBM and CMSP implementation will (and should) rely heavily on baseline studies, pilot programs, and cumulative impact analyses. No decisions should be made to approve new uses of the coastal and ocean zone (including Outer Continental Shelf energy production, exploration, or siting), or to affect existing uses, without these pre-planning studies and research projects.”), available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/comments\\_on\\_all\\_9\\_saps\\_1.24.11-4.29.11.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/comments_on_all_9_saps_1.24.11-4.29.11.pdf); April 26, 2011 Comments on the Development of Strategic Action Plans Submitted by Alliance to Protect Nantucket Sound (“...this [coastal and marine spatial planning] process...should be completed prior to the approval of significant coastal offshore development activities...the CMSP process must 1) encompass all coastal and ocean resources and uses, and 2) must be completed prior to permitting any specific projects...Requiring a moratorium on all proposed projects until ocean zoning is in place promotes the advantages of responsible planning and protecting environmentally sensitive areas such as Nantucket Sound...Allowing pending offshore projects to move forward without first completing CMSP could result in projects being sited in areas with significant negative impacts on the environment that should have been deemed off limits to development.”), available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/comments\\_on\\_all\\_9\\_saps\\_1.24.11-4.29.11.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/comments_on_all_9_saps_1.24.11-4.29.11.pdf); April 28, 2011 Joint Comments on the Development of Strategic Action Plans Submitted by Alaska Wilderness League, Center for Biological Diversity, Clean Air–Cool Planet, Defenders of Wildlife, Earthjustice, National Audubon Society, Natural Resources Defense Council, Northern Alaska Environmental Center, Ocean Conservancy, Oceana, Pacific Environment, Pew Environment Group, Sierra Club, The Wilderness Society, and World Wildlife Fund (“...agencies should take steps to ensure that sufficient baseline scientific information, appropriate monitoring programs, and adequate environmental protections are in place before decision-makers approve actions that may affect the health and resilience of Arctic marine ecosystems.”), available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/comments\\_on\\_all\\_9\\_saps\\_1.24.11-4.29.11.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/comments_on_all_9_saps_1.24.11-4.29.11.pdf); and April 28, 2011 Joint Comments on the Development of Strategic Action Plans Submitted by Alaska Wilderness League, Center for Biological Diversity, Clean Air–Cool Planet, Defenders of Wildlife, Earthjustice, National Audubon Society, Natural Resources Defense Council, Northern Alaska Environmental Center, Ocean Conservancy, Oceana, Pacific Environment, Pew Environment Group, Sierra Club, The Wilderness Society, and World Wildlife Fund, available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/comments\\_on\\_all\\_9\\_saps\\_1.24.11-4.29.11.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/comments_on_all_9_saps_1.24.11-4.29.11.pdf) (“To satisfy the

If, as the Final Recommendations state, “CMSP is not meant to delay or halt existing or pending plans and projects related to marine and Great Lakes environments or their uses,”<sup>30</sup> then the final Implementation Plan should make clear that federal entities are not to deny requests or delay decisions pertaining to human use activity due to the absence of a Coastal and Marine Spatial Plan. Approvals for existing or new projects should remain subject to existing laws and regulations that currently govern the multiple uses that take place in and near our oceans, coasts, and Great Lakes.

It should further specify that in making determinations about consistency between Coastal and Marine Spatial Plans and national objectives, requests or decisions pertaining to human use activity will not be delayed or denied in the event that past, present, and/or future conditions of the applicable ecosystem have not been characterized under the construct of the National Ocean Policy.

Furthermore, the final Implementation Plan should clarify what constitutes a “new” activity and specify that such determinations will be based on historical uses in a wide area within the applicable region, rather than historical use patterns in a single, precise location.

If activities deemed to be “new” are not allowed to proceed until a Coastal and Marine Spatial Plan and associated studies and analysis have been completed and implemented, the impact on economic activity, jobs, and livelihoods could be significant and entail legal implications.

Further, and as discussed above, in order to be science-based and apply on an ecosystem scale, Coastal and Marine Spatial Planning should be based on established protocols for Ecosystem-based Management in the applicable regions. Unless or until there is a means to monitor and assess the health of the ecosystem based on agreed and monitored indicators, the likelihood increases that Coastal and Marine Spatial Planning could be initiated as a precautionary use avoidance tool.

#### PILOT PROJECTS FOR NATIONAL OCEAN POLICY OBJECTIVES

The Coalition continues to believe that initial nationwide application of the National Ocean Policy will increase the risk of significant and unintended economic and societal consequences.

A wide and diverse group of interests have previously expressed support for the notion of a pilot project, specifically with regard to Coastal and Marine Spatial Planning.<sup>31</sup> The risk of unintended

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National Ocean Policy’s stewardship principles, decision-makers in the Arctic must engage in more comprehensive preparation before deciding whether or under what conditions to permit offshore oil and gas activity in the U.S. Arctic.”).

<sup>30</sup> See Final Recommendations of the Interagency Ocean Policy Task Force, released July 19, 2010, Page 63, *available at* [http://www.whitehouse.gov/files/documents/OPTF\\_FinalRecs.pdf](http://www.whitehouse.gov/files/documents/OPTF_FinalRecs.pdf).

<sup>31</sup> See June 29, 2011 Comments on Strategic Action Plan Outlines Submitted by Eight Regional Fishery Management Councils (“...we wish to suggest the possibility of the NOC [National Ocean Council] engaging in a CMSP pilot project once the strategic action plan is finalized...there are regions where experience exists with current regional ocean partnerships and/or Governors alliances – that experience could serve well to test the strengths and weaknesses of the process, and to fine-tune the strategic action plan before applying it on a National scale, across all nine regions.”), *available at*

[http://www.whitehouse.gov/sites/default/files/microsites/ceq/sap\\_website\\_public\\_comments\\_6\\_18\\_11\\_to\\_6\\_29\\_11\\_with\\_attachments.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/sap_website_public_comments_6_18_11_to_6_29_11_with_attachments.pdf); July 1, 2011 Comments on Strategic Action Outlines Submitted by Consortium for Ocean Leadership, *available at*

[http://www.whitehouse.gov/sites/default/files/microsites/ceq/full\\_website\\_public\\_comments\\_6\\_30\\_11\\_to\\_7\\_2\\_11\\_final\\_0.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/full_website_public_comments_6_30_11_to_7_2_11_final_0.pdf) (“We believe, as a first step, the National Ocean Council should support a state-focused operational framework centered on regional issues with distributed data management and stakeholder engagement.”); and Comments Submitted on Strategic Action Plan Outlines by Quinault Indian Nation, *available at*

[http://www.whitehouse.gov/sites/default/files/microsites/ceq/full\\_website\\_public\\_comments\\_6\\_30\\_11\\_to\\_7\\_2\\_11\\_final\\_0.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/full_website_public_comments_6_30_11_to_7_2_11_final_0.pdf) (“...any regional plans should start small, concentrating on workable areas that have sufficient data to conduct CMSP and learn from those experiences before beginning wider scale planning based on insufficient data.”). See also July 1, 2011 Comments on Strategic Action Plan Outlines Submitted by the Association for Fish & Wildlife Agencies (“With regard to the “wheres and whens” of CMSP, we encourage you to approach this effort in manageable segments. We concur with others whom have observed that CMSP should be undertaken where the concept is desired.”), *available at*

consequences was highlighted during recent exchanges about the potential for confusion and uncertainty in the event that a regional planning body makes a determination to restrict an activity that might otherwise be allowed under existing authorities.<sup>32</sup> In addition, several objectives addressed in the draft Implementation Plan already include proposed actions and milestones that incorporate the use of pilot projects.<sup>33</sup>

Therefore, to address the risk associated with immediate nationwide application and allow for the careful consideration and study of all potential impacts, the final Implementation Plan should extend the use of pilot projects to cover all actions taken pursuant to the National Ocean Policy by first focusing on a limited geographic area.

## FLEXIBILITY WITH COASTAL AND MARINE SPATIAL PLANNING

With regard to Coastal and Marine Spatial Planning, the draft Implementation Plan proposes to conduct regional workshops and simulation exercises in the nine regional planning areas established under the policy.<sup>34</sup> In addition, regional planning bodies tasked with developing Coastal and Marine Spatial Plans would be set up in stages, with all regions submitting Coastal and Marine Spatial Plans to the National Ocean Council for certification by 2019 at the latest.<sup>35</sup>

While adjustments to timeline constraints and opportunities for engagement are welcomed, important questions remain about the authority, establishment, and role of regional planning bodies tasked with developing Coastal and Marine Spatial Plans. A chief concern is that regional planning bodies will supplant the role of existing state and federal agencies in managing resources and activities in areas under their jurisdiction, and that these new entities will add an unnecessary layer of bureaucracy on top of existing governance structures and management regimes. For example, it remains unclear as to how the National Ocean Policy will align with existing and functioning regulatory structures, including but not limited to those under the Outer Continental Shelf Lands Act and National Environmental Policy Act, that are already

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[http://www.whitehouse.gov/sites/default/files/microsites/ceq/full\\_website\\_public\\_comments\\_6\\_30\\_11\\_to\\_7\\_2\\_11\\_final\\_0.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/full_website_public_comments_6_30_11_to_7_2_11_final_0.pdf); and July 1, 2011 Comments on Strategic Action Plan Outlines Submitted by the West Coast Governors' Agreement on Ocean Health ("...consider implementing pilots..."), available at

[http://www.whitehouse.gov/sites/default/files/microsites/ceq/full\\_website\\_public\\_comments\\_6\\_30\\_11\\_to\\_7\\_2\\_11\\_final\\_0.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/full_website_public_comments_6_30_11_to_7_2_11_final_0.pdf).

<sup>32</sup> See October 26, 2011 U.S. House Natural Resources Committee Hearing on "The President's New National Ocean Policy - A Plan for Further Restrictions on Ocean, Coastal and Inland Activities", 47:34-48:38 mark, available at

[http://resources.edgeboss.net/wmedia/resources/112/2011\\_10\\_26\\_fc.vvx](http://resources.edgeboss.net/wmedia/resources/112/2011_10_26_fc.vvx) (U.S. Rep. Mark Amodei: "...Is this new plan...going to be used by agencies as a reason to deny a permit?...What I'd like to know is if the plan is created for a specific area, and I've got approval from whomever the planning and zoning folks are...but yet I go to the appropriate federal agency and say 'I want the permit,' is it going to be one those things where it's like, 'I'm sorry, you're not in compliance with the federal plan,' so until you are?...") Under Secretary of Commerce for Oceans and Atmosphere and National Oceanic and Atmospheric Administrator Dr. Jane Lubchenco: "I think it's hard to talk about examples like that in a vacuum. A concrete one is probably easier to focus on.")

<sup>33</sup> See Draft National Ocean Policy Implementation Plan, National Ocean Council, released January 12, 2012, Pages 16-17 (Ecosystem Based Management: "Identify and implement place-based pilot projects that foster an EBM approach to managing ocean and coastal resources"); Page 20 (Inform Decisions and Improve Understanding: "Establish a National Shellfish Initiative, in partnership with commercial and restoration aquaculture communities, that includes pilot projects..."); Page 23 (Inform Decisions and Improve Understanding: "Initiate a pilot project to include one or more public health or economic indicators, such as port commerce and storm damage prevented, in the Coastal Condition Report"); Page 47 (Regional Ecosystem Protection and Restoration: "The overarching strategy to address wetland loss will be based on the results of pilot studies ...Develop an analytical framework and pilot assessment selection strategy... Identify coastal watersheds for pilot assessments..."); Page 51 (Regional Ecosystem Protection and Restoration: "Review the initial round of pilot-scale proposals, and report on the pilot program's effectiveness and make recommendations for its continued improvement..."); Page 52 (Regional Ecosystem Protection and Restoration: "Develop and pilot a methodology for conducting a marine gap analysis and inventorying information sources to support the analysis...Showcase the gap analysis in one U.S. region..."); Page 66 (Water Quality and Sustainable Practices on Land: "Implement environmental market pilot projects...between Federal and regional partners for nutrient and sediment reduction..."); Page 67 (Water Quality and Sustainable Practices on Land: "Develop pilot projects to increase access to the Urban Waters Federal Partnership..."); and Page 81 (Changing Conditions in the Arctic: "Review pilot DBO activities...Complete pilot phases analysis..."), available at

[http://www.whitehouse.gov/sites/default/files/microsites/ceq/national\\_ocean\\_policy\\_draft\\_implementation\\_plan\\_01-12-12.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/national_ocean_policy_draft_implementation_plan_01-12-12.pdf).

<sup>34</sup> See Draft National Ocean Policy Implementation Plan, National Ocean Council, released January 12, 2012, Page 90, available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/national\\_ocean\\_policy\\_draft\\_implementation\\_plan\\_01-12-12.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/national_ocean_policy_draft_implementation_plan_01-12-12.pdf).

<sup>35</sup> See Draft National Ocean Policy Implementation Plan, National Ocean Council, released January 12, 2012, Page 92, available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/national\\_ocean\\_policy\\_draft\\_implementation\\_plan\\_01-12-12.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/national_ocean_policy_draft_implementation_plan_01-12-12.pdf).

effectively managing the use of the coastal and marine environment and environmental impacts of permitted activities.

Another concern is that Coastal and Marine Spatial Plans developed by regional planning bodies “are expected to vary from region to region,”<sup>36</sup> and that application of federal laws said to authorize such plans may vary by region as well. Thus, federal statutes may no longer be uniformly applied in a national manner as originally intended, and the rules under which commercial and recreational interests operate may deviate between regions and locations that are in close proximity with one another. The uncertainty associated with such a scenario could be detrimental to economic activities occurring in the applicable region(s).

To the extent that efforts to move forward with the establishment of regional planning bodies and the development of Coastal and Marine Spatial Plans nonetheless continue, to ensure maximum flexibility and maintain consistency with the National Ocean Council’s statement that the “final timeline of each RPB [regional planning body] stand-up will be up to the regions,”<sup>37</sup> the final Implementation Plan should provide additional clarification. Specifically, the final Implementation Plan should state that timelines pertaining to the establishment of regional planning bodies are advisory and provide that states in applicable regions may establish such bodies at a time and pace of their choosing, in the event that states in a given region decide to participate.

In line with the draft Implementation Plan’s acknowledgement that “[e]ach region is unique in geographic scope, natural resources, cultural expectations and sensitivities, economic homeland and national security attributes, and existing structures for environmental protection and resource management,”<sup>38</sup> the final Implementation Plan should also clarify that regions may move forward with the development of Coastal and Marine Spatial Plans on timelines set and agreed to by non-federal officials in the various regions, in the event that they decide to proceed.

#### COMPOSITION OF REGIONAL PLANNING BODIES

The draft Implementation Plan notes that membership on regional planning bodies charged with developing Coastal and Marine Spatial Plans is restricted to Federal, State, and Tribal entities.<sup>39</sup> Subsequent to release of the draft Implementation Plan, the National Ocean Council announced that membership would be extended to *voting government* members of Regional Fishery Management Councils.<sup>40</sup> According to the announcement, each Regional Fishery Management Council will be asked to name one of its Federal, State, Tribal, or local government voting members to serve as its representative to the regional planning body for the applicable region. Thus, representatives of sectors other than fishing that rely on federal decision-making to carry out their activities are still excluded from membership, as well as Executive Directors of the Councils and non-government representatives of the fishing community.

Measures which ensure that potentially impacted stakeholder user groups have direct representation in policy and decision-making processes are encouraged and supported. Merely granting certain government officials additional seats at the table, however, is not sufficient to

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<sup>36</sup> See Page 58, Final Recommendations of the Interagency Ocean Policy Task Force, released July 19, 2010, available at [http://www.whitehouse.gov/files/documents/OPTF\\_FinalRecs.pdf](http://www.whitehouse.gov/files/documents/OPTF_FinalRecs.pdf).

<sup>37</sup> See National Coastal and Marine Spatial Planning Workshop Summary Report, Page 26, available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/national\\_cmsp\\_workshop\\_summary\\_report.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/national_cmsp_workshop_summary_report.pdf).

<sup>38</sup> See National Coastal and Marine Spatial Planning Workshop Summary Report, Page 92, available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/national\\_cmsp\\_workshop\\_summary\\_report.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/national_cmsp_workshop_summary_report.pdf).

<sup>39</sup> See Draft National Ocean Policy Implementation Plan, National Ocean Council, released January 12, 2012, Page 91, available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/national\\_ocean\\_policy\\_draft\\_implementation\\_plan\\_01-12-12.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/national_ocean_policy_draft_implementation_plan_01-12-12.pdf).

<sup>40</sup> See National Ocean Council Blog, “Another Step Toward Ocean Stewardship,” Posted February 1, 2012, available at <http://www.whitehouse.gov/blog/2012/02/01/another-step-toward-ocean-stewardship>.

ensure that the National Ocean Policy in practice represents a bottom-up initiative that is grounded in and guided by the actual needs and vision of those with the greatest knowledge, familiarity, and experience with the issues most relevant to the regulated community.

The draft Implementation Plan states that the framework for Coastal and Marine Spatial Planning “provides that the regional planning bodies are inherently intergovernmental,” and notes that regions are required to engage and consult with stakeholders, the public, and certain experts.<sup>41</sup> However, engagement and consultation requirements--details on which guidance has not yet been provided--do not equate to the formal and significant role that should be accorded to sectors that contribute significant economic benefits and jobs to local communities and the nation at large.

The final Implementation Plan therefore should require that regional planning body membership will be open to include non-government officials and representatives of all potentially impacted sectors that contribute to the respective region’s economy. The final Implementation Plan should further clarify that members will be chosen in a transparent, accountable, and representative manner.

With regard to public sector representation, states, tribes, and localities should receive adequate representation on regional planning bodies, rather than simply allotting one representative for each participating state.<sup>42</sup> States and tribal representation should be determined in a transparent, accountable, and representative manner.

The final Implementation Plan should further provide for representation of local officials on regional planning bodies. The National Ocean Council previously decided to revisit the issue of whether to allow their participation as members of regional planning bodies,<sup>43</sup> and this important group should also be provided with a direct seat on these entities. Decisions as to local representation should be made in a transparent, accountable, and representative manner.

## STAKEHOLDER ENGAGEMENT

In addition to regional planning body membership, the Coalition reiterates its previous comments that any regional advisory committees formed to advise on National Ocean Policy matters should be balanced and comprised of members that are sector-appointed and representative of the potentially impacted commercial and recreational interests. Advice from such committees should receive significant deference, and they should be empowered to provide advice on their own initiative under a structured process, not just upon request. Such guidelines should also apply to any other entities formed to advise on National Ocean Policy matters.

All commercial and recreational interests must be included in stakeholder engagement efforts going forward as part of an open and transparent process that complies with the letter and

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<sup>41</sup> See Appendix to Draft National Ocean Policy Implementation Plan, National Ocean Council, released January 12, 2012, Page 110, available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/national\\_ocean\\_policy\\_draft\\_implementation\\_plan\\_01-12-12.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/national_ocean_policy_draft_implementation_plan_01-12-12.pdf).

<sup>42</sup> See e.g. July 1, 2011 Comments on Strategic Action Plans Submitted by the Association of Fish & Wildlife Agencies (“Coastal states must be recognized as partners with sovereign jurisdictions and authorities, not relegated to stakeholder status in coastal and marine policy development. To that end, state fish and wildlife agencies should be included on the RPBs...We are disappointed with the lack of representation by our member agencies on the committees established to date under the National Ocean Policy. We believe the most effective and efficient mechanism for our agencies’ engagement at this point would be to have a seat for each state’s fish and wildlife agency on each of the RPBs; we cannot rely on other state agencies to grasp the intricacies of our management authorities.”), available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/full\\_website\\_public\\_comments\\_6\\_30\\_11\\_to\\_7\\_2\\_11\\_final\\_0.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/full_website_public_comments_6_30_11_to_7_2_11_final_0.pdf).

<sup>43</sup> See National Coastal and Marine Spatial Planning Workshop Summary Report, Page 30, available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/national\\_cmsp\\_workshop\\_summary\\_report.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/national_cmsp_workshop_summary_report.pdf).

spirit of the Administrative Procedure Act. Such engagement should occur at every stage of policy development and implementation and at the national and regional levels, including through balanced advisory groups as discussed above.

## COASTAL AND MARINE SPATIAL PLANNING HANDBOOK

By virtue of Executive Order 13547's incorporation of the Final Recommendations of the Interagency Ocean Policy Task Force, the draft Implementation Plan was to include legal analysis and recommendations for legislative changes and a description of a dispute resolution mechanism.<sup>44</sup> In addition, according to the Strategic Action Plan outline for Coastal and Marine Spatial Planning released last year, the draft Implementation Plan was to include, among other things, guidance on stakeholder and public engagement, consultation with scientists and technical and other experts, how Coastal and Marine Spatial Plans will be reviewed for national consistency, and how Coastal and Marine Spatial Plans will be incorporated into decision-making processes.<sup>45</sup>

Since guidance on these subjects was not included in the draft Implementation Plan, the National Ocean Council noted that an Interim "Handbook for Regional Coastal and Marine Spatial Planning" that addresses these and other topics will be made publicly available prior to its finalization sometime this year.<sup>46</sup> Given that the information contained in the guidance is highly significant to all those who may be impacted by Coastal and Marine Spatial Planning, ample opportunity for public review and comment on the Handbook should be provided before it is finalized.

## PERMITTING EFFICIENCIES

The Coalition notes the proposed action to improve the efficiency of permitting of ocean, coastal, and Great Lakes uses, and shares the National Ocean Council's recognition that there are "overlapping, redundant, and sometimes conflicting permit review processes that result in unnecessary delays."<sup>47</sup>

Specifically, the draft Implementation Plan proposes to focus initially on one sector, while waiting to address others until as late as 2015.<sup>48</sup> While attempts to streamline federal permitting activities are laudable, such efforts should be given a high priority and carried out under existing management regimes that have been established by statute.

## ARCTIC CONSIDERATIONS

Many U.S. and international efforts are already underway with respect to issues in the Arctic, including but not limited to initiatives led by the Arctic Council and the Department of the Interior. The final Implementation Plan should acknowledge these existing U.S. and

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<sup>44</sup> See Final Recommendations of the Interagency Ocean Policy Task Force, released July 19, 2010, Page 70, available at [http://www.whitehouse.gov/files/documents/OPTF\\_FinalRecs.pdf](http://www.whitehouse.gov/files/documents/OPTF_FinalRecs.pdf).

<sup>45</sup> See Strategic Action Plan Outline for Coastal and Marine Spatial Planning, released June 2, 2011, available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/sap\\_2\\_cmsp\\_full\\_content\\_outline\\_06-02-11\\_clean.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/sap_2_cmsp_full_content_outline_06-02-11_clean.pdf).

<sup>46</sup> See Draft National Ocean Policy Implementation Plan, National Ocean Council, released January 12, 2012, Pages 87 ("Topics not covered in this draft Implementation Plan will be included in a CMSP handbook as discussed in Action 1 below.") and 89 ("Provide the Interim Handbook to Federal agency regional planning body co-leads. (NOC Office; 2012)...Concurrently post the Interim Handbook on the NOC website. (NOC Office; 2012)"), available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/national\\_ocean\\_policy\\_draft\\_implementation\\_plan\\_01-12-12.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/national_ocean_policy_draft_implementation_plan_01-12-12.pdf)

<sup>47</sup> See Draft National Ocean Policy Implementation Plan, National Ocean Council, released January 12, 2012, Page 40, available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/national\\_ocean\\_policy\\_draft\\_implementation\\_plan\\_01-12-12.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/national_ocean_policy_draft_implementation_plan_01-12-12.pdf).

<sup>48</sup> See Draft National Ocean Policy Implementation Plan, National Ocean Council, released January 12, 2012, Pages 40, 41, available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/national\\_ocean\\_policy\\_draft\\_implementation\\_plan\\_01-12-12.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/national_ocean_policy_draft_implementation_plan_01-12-12.pdf).

international efforts that are underway and further evaluate, reference, and incorporate this body of work to avoid redundancies.

## FEDERAL EMISSIONS MANAGEMENT

The draft Implementation Plan includes several references to emissions management and activities that federal entities will engage in to address the subject in the context of the National Ocean Policy. While in one case, the draft Implementation Plan proposes support for “private-sector development of greenhouse gas offset protocols for use in voluntary carbon markets,”<sup>49</sup> it also calls for development of a “protocol for carbon sequestration as an ecosystem service that can be incorporated into existing Federal policies and laws that require the use of ecosystem-based management approaches for environmental management.”<sup>50</sup> In addition, the draft Implementation Plan proposes to reduce air deposition of mercury, sulfur, nitrogen, and other substances.<sup>51</sup>

Emissions are already tightly regulated through a myriad of existing regulatory and permitting controls. The final Implementation Plan should clarify that federal entities will not use the National Ocean Policy as justification for the establishment of redundant controls on single use activities or the adoption of new emissions management strategies, including but not limited to the creation of a mandatory carbon trading program, without the express authorization of Congress.

## DATA INTEGRITY

The recent launch of the prototype ocean.data.gov web portal<sup>52</sup> highlights the need for data used, referenced, or otherwise relied upon in support of decisions made pursuant to the National Ocean Policy to be compliant with all federal laws pertaining to data quality and information integrity.

Although the portal, “intended to be used for Coastal and Marine Spatial Planning, including both spatial data for mapping as well as data that could be used in decision support tools,”<sup>53</sup> currently only contains federal data sets, “[c]hanges are currently being made to accommodate non-federal spatial data and information.”<sup>54</sup>

To that end, suggestions have been requested on “how best to integrate data from State and academic sources.”<sup>55</sup> In the meantime, the portal already includes a guidance on selecting “Decision Support Tools” in furtherance of Coastal and Marine Spatial Planning.<sup>56</sup> The portal includes direct links to thirteen such tools, all but three of which are non-federal in nature.

Furthermore, consideration should also be given to including data gathered by user groups as potential source material. Such data would be subject to the same level of scrutiny for data

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<sup>49</sup> See Draft National Ocean Policy Implementation Plan, National Ocean Council, released January 12, 2012, Page 49, available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/national\\_ocean\\_policy\\_draft\\_implementation\\_plan\\_01-12-12.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/national_ocean_policy_draft_implementation_plan_01-12-12.pdf).

<sup>50</sup> See Draft National Ocean Policy Implementation Plan, National Ocean Council, released January 12, 2012, Page 49, available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/national\\_ocean\\_policy\\_draft\\_implementation\\_plan\\_01-12-12.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/national_ocean_policy_draft_implementation_plan_01-12-12.pdf).

<sup>51</sup> See Draft National Ocean Policy Implementation Plan, National Ocean Council, released January 12, 2012, Page 67, available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/national\\_ocean\\_policy\\_draft\\_implementation\\_plan\\_01-12-12.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/national_ocean_policy_draft_implementation_plan_01-12-12.pdf).

<sup>52</sup> See National Ocean Council Blog, “Opening Our Oceans With Data.Gov,” Posted December 6, 2011, available at <http://www.whitehouse.gov/blog/2011/12/06/opening-our-oceans-datagov>.

<sup>53</sup> See Ocean.Data.Gov Prototype, Frequently Asked Questions, available at <http://www.data.gov/communities/node/237/view/faq>.

<sup>54</sup> See Ocean.Data.Gov Prototype, Quick Reference – FAQs from Practitioners, available at <http://www.data.gov/communities/node/237/community-of-practice/quick-reference>.

<sup>55</sup> See Ocean.Data.Gov Prototype, Frequently Asked Questions, available at <http://www.data.gov/communities/node/237/view/faq>.

<sup>56</sup> See Ocean.Data.Gov Prototype, Tools, available at <http://www.data.gov/communities/node/237/tools#>.

quality as data submitted by federal agencies, the academic community, and Non-Governmental Organizations.

In order to ensure the integrity of all data relied on in furtherance of activities conducted pursuant to the National Ocean Policy, the final Implementation Plan should clarify that data from any source will only be included, referenced, or otherwise endorsed by the National Ocean Council (or any other entity or system established under the National Ocean Policy) if such data has been certified to be in compliance with all federal laws, regulations, and policies pertaining to data quality and integrity.

### III. CONCLUSION


The Coalition continues to strongly support a National Ocean Policy that serves as a mechanism for job creation, infrastructure revitalization, and economic growth, and relies on full utilization of existing programs and well-established authorities that are already in place. Moving forward with such an initiative will avoid the creation of new bureaucracies, procedures, and regulations and substantially address the National Ocean Council's recognition of the "complexity of organizing, managing, and implementing the National Ocean Policy."<sup>57</sup>

The Coalition remains concerned, however, that many of the actions proposed in the draft Implementation Plan will lead to a much different result and adversely impact sectors including agriculture, commercial fishing, construction, manufacturing, marine commerce, mining, oil and gas and renewable energy, recreational boating, recreational fishing, and shipping and waterborne transportation. The cumulative impacts resulting from the added uncertainty, regulations, and costs associated with elements of the draft Implementation Plan could adversely affect commercial and recreational activities that are crucial components of the nation's economic and social fabric.

Therefore, the Coalition encourages you to delay further policy development and implementation until Congress, user groups, and the public have been fully engaged and all potential economic, societal, and legal impacts of implementing the National Ocean Policy have been assessed and are understood. When ready to proceed, we strongly encourage the use of a pilot project that is limited to one geographic area in order to test policy implementation and allow for any necessary adjustments. The pilot and any further action should account for the observations and recommendations discussed above.

The concerns and recommendations included herein, as well as our comments previously submitted, have been developed from the unique perspective of the Coalition's membership, which represents entities and sectors that support tens of millions of jobs and contribute trillions of dollars to the U.S. economy. The Coalition appreciates the opportunity to comment on the draft Implementation Plan and respectfully requests that our comments be carefully considered.

Sincerely,



Brent D. Greenfield  
Executive Director  
National Ocean Policy Coalition

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<sup>57</sup> See Draft National Ocean Policy Implementation Plan, National Ocean Council, released January 12, 2012, Page 39, available at [http://www.whitehouse.gov/sites/default/files/microsites/ceq/national\\_ocean\\_policy\\_draft\\_implementation\\_plan\\_01-12-12.pdf](http://www.whitehouse.gov/sites/default/files/microsites/ceq/national_ocean_policy_draft_implementation_plan_01-12-12.pdf).



# UNITED FISHERMEN OF ALASKA

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April 10, 2013

Representative Dan Saddler  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801

**RE: Support for CSHJR16 regarding National Ocean Policy**

Dear Representative Saddler

United Fishermen of Alaska is the largest statewide commercial fishing trade association, representing 36 commercial fishing organizations participating in fisheries throughout the state and its offshore federal waters.

UFA supports CS for House Joint Resolution No.16(RES). Given the fact that fisheries in Alaska's waters and our federal offshore waters consistently account for more than half of U.S. production, and that these waters and fisheries do not suffer from many of the problems that face U.S. waters in other areas of the country, we have long held that the ongoing National Ocean Policy process is unnecessary in Alaska. In addition, it poses increased costs and regulatory overlaps at a time when federal funding is reduced for science and stock assessments that are critical to continued fisheries, and undermines the authority of the process of the North Pacific Fishery Management Council that UFA has long supported.

We appreciate the call for an exemption for Alaska and our offshore waters from the National Ocean Policy that is in CSHJR16.

Thank you for your attention to this important matter, and for your support of CSHJR 16.

Julianne Curry  
Executive Director

MEMBER ORGANIZATIONS

Alaska Bering Sea Crabbers • Alaska Independent Fishermen's Marketing Association • Alaska Independent Tendermen's Association  
Alaska Longline Fishermen's Association • Alaska Scallop Association • Alaska Trollers Association • Alaska Whitefish Trawlers Association  
Aleutian Pribilof Islands Community Development Association • Armstrong Keta • At-sea Processors Association • Bristol Bay Reserve  
Cape Barnabas Inc. • Concerned Area "M" Fishermen • Cook Inlet Aquaculture Association • Cordova District Fishermen United  
Douglas Island Pink and Chum • Freezer Longline Coalition • Golden King Crab Coalition • Groundfish Forum • Kenai Peninsula Fishermen's Association  
Kodiak Regional Aquaculture Association • North Pacific Fisheries Association • Northern Southeast Regional Aquaculture Association  
Petersburg Vessel Owners Association • Prince William Sound Aquaculture Corporation • Purse Seine Vessel Owner Association  
Seafood Producers Cooperative • Southeast Alaska Herring Conservation Alliance • Southeast Alaska Fisherman's Alliance  
Southeast Alaska Regional Dive Fisheries Association • Southeast Alaska Seiners • Southern Southeast Regional Aquaculture Association  
United Catcher Boats • United Cook Inlet Drift Association • United Southeast Alaska Gillnetters • Valdez Fisheries Development Association

**Rick Rogers  
Executive Director  
Resource Development Council for Alaska**

**Testimony on HJR16  
National Ocean Policy  
House Resources Committee, April 8, 2013**

Good afternoon co-chairs Feige, Saddler and members of the committee. My name is Rick Rogers, Executive Director of the Resource Development Council for Alaska (RDC).

RDC has been engaged in the issue of National Ocean Policy and Marine Spatial Planning since the release of executive order in July 2010. We have participated in public comments on numerous occasions, I testified before a federal subcommittee on Fisheries, Wildlife, Oceans and Insular Affairs last April, and I serve on the board of the National Ocean Policy Coalition, a national coalition of concerned user groups including industrial, commercial and recreational users of oceans and the Great Lakes.

RDC is engaged in this issue because any National Ocean Policy will have a disproportionate impact on Alaska's resource dependent industries and our economy as a whole. At approximately 34,000 miles, Alaska has more coastline than that of all other states in our nation combined.

The National Ocean Policy adds uncertainty and anxiety to an already cumbersome and complex regime of state and federal permitting and oversight. Increased bureaucracy could hamper the already slow processes with no added benefit to the environment. In our view the Coastal Marine Spatial Planning/Regional Planning Body structure is an unauthorized new regulatory program that suggests a federal level "top down" approach to management resources with minimal local input.

The ecosystem-based management goal requires a vast amount of scientific data to be fully implemented. The lack of sufficient information is often the basis for third party legal claims by Environmental Non-government Organizations (eNGOs) to block

development projects and their corresponding jobs. Natural resource managers need to use best available data to move forward and make the best decisions with information available. Ecosystem Based Management runs the risk of “paralysis-by-analysis.”

The National Ocean Policy’s stated goal of reaching to onshore activities adds to the uncertainty and anxiety for upland land use and resource development. In the executive order you find the words “affecting the ocean, our coasts and the great Lakes”. Federal water, air and endangered species statutes combined with the vast federal land holdings in Alaska result in undue federal control over Alaska land and resource management. An additional nexus of “affecting the ocean” will exacerbate this federal over reach.

RDC is concerned that Coastal and Marine Spatial Planning may lead to far reaching use restrictions on marine waters that will over-ride the social and economic needs of Alaskans. Broad swaths of submerged lands could be restricted in exclusionary zones for a nebulous national agenda of “ecosystem-based-management”. Even if restricted zones were more modest in size and scope, use restrictions in strategic marine corridors necessary for resource transport and shipping could be devastating to our marine-dependent industries.

One of the key justifications for Coastal and Marine Spatial Planning is to resolve conflict among diverse resource interests, yet RDC members representing Mining, Tourism, Forestry, Oil and Gas, and Fisheries interests are firmly aligned. These industries are all concerned that NOP will create far more difficulties than it will resolve.

I would like to thank representative Saddler in addressing this important issue. While I respect the demands on the legislature in this busy 90-day session, passage of this resolution this session would be timely as the National Ocean Policy implementation plan is expected to be released by the National Ocean Council soon.

Thank you for hearing our perspective on this important issue. I would be glad to answer any questions from the committee.

Doug Vincent-Lang  
ADF+G, DWC

HOUSE RESOURCES  
4/8/2013

Good afternoon, Mr. Chair, members of the Committee. My name is Doug Vincent-Lang. Thank you for the opportunity to speak with you today regarding HJR 16.

Let me begin by stating that Alaska has a strong interest in assuring the continued health and productivity of its marine and coastal resources. We rely on these areas for commercial and sport fisheries, subsistence uses, recreation, transportation, shipping, and a multitude of other uses. Marine and coastal resources are vital to our economy, supporting a vibrant fishing industry that produces almost six billion dollars in economic activity in our state annually, accounts for approximately 60 percent of the nation's seafood production, and is our largest private sector employer. Coastal and marine areas also provide abundant development opportunities, such as; offshore oil and gas, renewable energy, shipping, and tourism. With over 44,000 miles of shoreline - more mileage than the other eight proposed planning areas combined - and an expansive EEZ, Alaska's interest in managing ocean and coastal resources cannot be overstated.

Implementation of the President's National Ocean Policy institutes a new federal framework to govern marine and coastal activities. Upon inspection, it federalizes decision processes regarding marine and coastal activities and embeds authority into regional governance boards dominated by federal agencies and federal decision processes.

Alaska's marine and coastal resources and their uses are already tightly regulated by a vast and diverse array of federal, state, and local authorities. This existing oversight has a proven track record and is fully capable of ensuring the long-term health and viability of our marine and coastal resources. We do not believe additional federal regulatory oversight is needed and we oppose creation of additional federal bureaucracy and regulation and view this as an unnecessary threat to our sovereignty. We also do not support use of this process for zoning or alternatively termed regulated marine use planning purposes. Instead, we support achieving efficiency by relying on the effective proven processes and authorities that are already in place. Any establishment of further authority should be through Congressional action. Congress has a keen awareness of the current multi-jurisdictional structure and respect for the traditional role of states in managing their marine and coastal resources.

Jurisdiction and management decisions for marine waters and submerged lands and responsibility for marine and coastal activities and ecosystems is divided between the states and the federal government. Alaska's jurisdiction includes uplands, wetlands, tide and submerged lands and extends out three nautical miles to the territorial limit. Within these areas, Alaska manages and leases lands, and with federal and local agencies, permits or restricts activities on them that could impact the environment. Alaska and the federal government each have respective sovereign responsibilities and authorities to maintain healthy, resilient, and sustainable marine and coastal resources. Any adopted program must recognize and respect Alaska's jurisdiction and sovereign authorities. Coastal states must be recognized as equal partners with sovereign jurisdictions and authorities, not relegated to stakeholder status in marine and coastal policy development and implementation.

Rather than development and implementation of new regulatory programs, a better focus would be investment in Arctic research, monitoring, and infrastructure. In short, we need more resources, not more rules, to ensure conservation of our coastal and marine resources. It is unfortunate that the new planning effort is draining agency resources at a time when core agency functions are struggling for funding due to declining federal budgets. We prefer to see the federal government focus its resources on the many needs in the Arctic and to focus on much needed research and monitoring rather than expending resources on an unnecessary and duplicative planning effort.

Finally, to ensure an effective outcome, it is important that any planning effort have clearly defined expected outcomes, an appropriate timeline, and provides both the states and the users of marine and coastal resources with primary authority to develop ocean and coastal policies. Despite numerous requests by the state to provide such specifics, they have yet to be provided. The health and management of our marine and coastal resources is simply too critical to engage in a process that does not provide meaningful dialogue opportunities to address stated concerns.

In closing, this policy is simply not ready for implementation. Until requested details are provided, especially with respect to governance and regulated use, the State cannot support

**this effort as currently described. We urge Congress to involve itself in this process and for the National Ocean Council to delay implementation of this policy to allow more meaningful dialogue to address state and other affected users concerns. We also urge a more meaningful dialogue with the State that recognizes its sovereign authorities and responsibilities.**

**We appreciate your resolution and the concern it expresses. Thank you for the opportunity to speak with you today.**

**Subject:**

FW: Commerce Secretary to Murkowski: Tsunami Debris Aid Increasing 20%



NEWS RELEASE

# LISA MURKOWSKI

UNITED STATES SENATOR | ALASKA

**FOR IMMEDIATE RELEASE**

April 11, 2013

Contact: Matthew Felling 202.224.9301  
or Andrea Gusty 907-276-3217

## **Commerce Secretary to Murkowski: Debris Aid Increasing 20%**

*Senator Raises Questions on Halibut, Coastal and Marine Spatial Planning*

WASHINGTON, D.C. – Senator Lisa Murkowski today questioned Acting Commerce Secretary Rebecca Blank on several critical ocean policies facing Alaskan coastal communities during a Commerce, Justice, and Science (CJS) Appropriations Subcommittee hearing, and was informed that NOAA’s national marine debris removal program is being increased twenty percent, mostly to deal with tsunami debris.

Among the topics raised in a rapid-fire question and answer period were: tsunami marine debris relief; issues surrounding the North Pacific Groundfish Observer Program and an update on the controversial coastal and marine spatial planning program.

In her questioning, Senator Murkowski pressed Secretary Blank on how NOAA planned to respond to incoming tsunami marine debris floating west to the United States. “An estimated 1.5 million tons of debris is floating out there in the ocean,” said Senator Murkowski. “We’ve seen it come up on the shores in Hawaii, out in Oregon, in Alaska, and we know it will still come our way years after the fact.” Secretary Blank indicated the Commerce Department is working to provide increased funding levels to deal with future marine debris in impacted states, bumping up its funding from \$5 million to \$6 million in FY14.



**Senator Murkowski on Japanese Tsunami Marine Debris**  
(Click image to watch video)

Senator Murkowski asked for details on NOAA's North Pacific Groundfish Observer Program, which in January was expanded to include groundfish vessels under 60 feet, and commercial halibut vessels. While Senator Murkowski recognizes the importance of scientific data to better manage our fisheries, she is concerned that the agency is not working quickly enough to implement an electronic monitoring (EM) option for Alaskan vessels. Today, Senator Murkowski asked Secretary Blank for a commitment for faster implementation of an EM system.

"Electronic monitoring is the option that Alaskans are very interested in," said Senator Murkowski. "We've been told that the electronic monitoring option is going to be forthcoming, but it seems that not only is the process slow, it gives the appearance that NOAA is putting impediments in implementing the observer program."



**Senator Murkowski on NOAA's North Pacific Groundfish Observer Program**  
(Click image to watch video)

Lastly, Murkowski asked for details on Coastal and Marine Spatial Planning, a program created by President Obama last year through Executive Order. The program, which Alaskans have consistently rejected, calls for regional bodies across the United States to address issues in the ocean for fishing, transportation, energy and recreation. Murkowski continued to raise her concerns that regional plans could potentially designate areas that are prime for offshore renewable energy development and set aside other areas that are vital fish habitat.

"I'm told that the administration is on the verge here of releasing its National Ocean Policy implementation plan, and that Alaska will in fact be excluded from the requirement to form a regional planning body, said Senator Murkowski. "It's been represented to us that those states that don't want to participate will not have to participate."



**Senator Murkowski on the Concerns Surround the Implementation of Coastal and Marine Spatial Planning**

(Click image to watch video)

While Acting Secretary Blank could not confirm this understanding with Senator Murkowski because it is a decision that lies within the Obama administration's Council of Economic Quality, Murkowski reminded her that "we're monitoring this very carefully and we're being told that states that don't want to participate don't have to participate."

# # #

*Note: Please do not reply to this email. This mailbox is unattended. For further information, please contact Senator Murkowski's press office at 202-224-9301 or 907-276-3217. Visit our website at <http://murkowski.senate.gov>*