



November 11, 2009

Nancy Sutley, Chair
Council on Environmental Quality
722 Jackson Place NW
Washington, DC 20006

Dear Chair Sutley and Members of the Interagency Ocean Policy Task Force:

The Marine Fish Conservation Network (Network), representing nearly 200 environmental, fishing, and scientific organizations nationwide, is dedicated to protecting the health and sustainability of living marine resources for present and future generations. While important gains in fishery conservation and management have been made with successive reauthorizations of the national fisheries law (the Magnuson-Stevens Fishery Conservation and Management Act), there remain significant impacts on fisheries that are outside its jurisdiction. Integrating coastal and marine spatial planning could provide significant benefits to fisheries, such as better protection of important fish habitat and greater consultation regarding the compatibility of uses and activities with fishing and healthy marine ecosystems. Thus, the Network welcomed President Obama's memorandum of June 12, 2009, in which the President established an Interagency Ocean Policy Task Force (Task Force), led by the Council on Environmental Quality (CEQ), to develop recommendations for the adoption of a national policy for our oceans, coasts and Great Lakes, as well as a framework for coastal and marine spatial planning.

The Interagency Ocean Policy Task Force's interim report on recommended national ocean policy builds on the Pew Oceans Commission report of 2003 and the U.S. Commission on Ocean Policy (USCOP) report to Congress of 2004. Both commissions reached very similar conclusions about the need for an ecosystem-based approach to management of ocean resources, and for better coordination among federal agencies and activities in the Exclusive Economic Zone.

As demands on our oceans and coasts grow, so do the conflicts between traditional uses such as fishing, and new or emerging uses, such as the siting of renewable energy facilities or aquaculture projects. Providing adequate protection to ecosystems and addressing conflicts is difficult because at least 20 federal agencies and numerous federal ocean-related statutes have produced a patchwork of management regimes to address specific sectors or activities.¹ The combined and cumulative effects of pollution, habitat degradation, coastal development, overfishing and other

¹ Crowder L. B., Osherenko, G., Young, O. R., Aíramé, S., Norse, E. A., Baron, N., Day, J. C., Douvère, F., Ehler, C. N., Halpern, B. S., Langdon, S. J., McLeod, K. L., Ogden, J. C., Peach, R. E., Rosenberg, A. A., and Wilson, J. A. (2006). Resolving Mismatches in US Ocean Governance. *Science* 313 (5787): 617-618.

human impacts have seriously altered marine and coastal ecosystems over time, and the growing impacts of global climate change increasingly threaten to undermine our efforts to protect, maintain and restore healthy ocean ecosystems and traditional uses such as the fisheries that they support. A national ocean policy is urgently needed to provide clearer management objectives and better coordination of our existing fragmented and sector-based ocean governance system.

The Network strongly supports the Task Force's recommended national priority objectives for a national ocean, coastal and Great Lakes policy based on stewardship and an ecosystem-based approach to management of activities and uses. The goal of marine spatial planning should be to help implement the recommended national ocean policy to protect, maintain and restore the health of marine ecosystems so that they can continue to provide the goods and services (including ecosystem services) that people want and need. The remainder of our comments provides our recommendations for an effective marine spatial planning framework² that is capable of achieving the objectives of the national policy, consistent with stewardship responsibilities in the public trust.

Broadly, the Network envisions a governance structure for marine spatial planning that:

- **Demonstrates strong federal leadership.** Standards for marine spatial planning should be set to help achieve the national ocean policy either through executive order or legislation. The proposed National Ocean Council should review regional marine spatial plans for consistency with national standards, while allowing for regional differences in ecosystem scales, processes, and diversity, as well as allowing states and regions the option to exceed national standards.
- **Focuses planning efforts at the regional level.** Representatives from federal, state and local governments (across all relevant agencies), tribes, fishery management councils, interstate fishery management commissions and the international community (where appropriate), should collaborate on regional marine spatial plans through Regional Ocean Councils (ROCs). Planning needs to be able to address issues at the scale of ecosystems with plans ideally following meaningful ecosystem boundaries.
- **Ensures robust public participation.** Each Regional Ocean Council should ensure robust public engagement in the marine spatial planning process. This would include the ROCs being required to convene Public Advisory Committees in each region.
- **Ensures a strong scientific basis for decision-making.** A Scientific Advisory Committee should be constituted in each region to provide scientific expertise throughout the planning process, including ecosystem assessments. Ecosystem assessments should be conducted in each region at an early stage of the marine spatial planning process.
- **Is supported by dedicated planning staff.** At the federal level, a new or existing agency should be designated as the lead agency and tasked with coordinating the planning and assessment work necessary for marine spatial planning. The Network recommends the National Oceanic and Atmospheric Administration (NOAA) as an appropriate agency for this role.

² Given the marine focus of the Network, we are not directly commenting on spatial planning for the Great Lakes although we support the inclusion of the Great Lakes in the national ocean policy.

As the Task Force develops its recommendations, the Network offers the following specific comments on key elements we believe are integral to an effective marine spatial planning framework:

1. Marine spatial planning should be a tool for implementing ecosystem-based management
2. Marine spatial planning should set and aim to achieve clearly defined goals and objectives consistent with the national ocean policy
3. Marine spatial planning should be comprehensive and integrative – across agencies, sectors and levels of government, and should establish a common platform for data
4. A clear authority for marine spatial planning is needed to facilitate data collection, oversee the development of marine spatial plans, ensure consistency and resolve conflicts.
5. Marine spatial planning should be adaptive – plans should be regularly updated and responsive to new information and conditions
6. Affected and interested parties from all backgrounds must be actively engaged, and the decision-making process should be open and transparent
7. Adequate funding and resources must be made available to support marine spatial planning at all levels

1. Marine spatial planning should be a tool for implementing ecosystem-based management

The Marine Fish Conservation Network supports the President and the Interagency Ocean Policy Taskforce in calling for ecosystem-based management as a foundational principle of a national ocean policy, and identifying coastal and marine spatial planning (MSP) as an important tool for its implementation.

According to a scientific consensus statement signed by more than 200 scientists, marine ecosystem-based management is an integrated approach to management that considers the entire ecosystem, including humans. The goal of ecosystem-based management is to maintain an ecosystem in a healthy, productive and resilient condition so that it can provide the services humans want and need. Specifically, ecosystem-based management emphasizes the protection of ecosystem structure, functioning and key processes; is place-based in focusing on a specific ecosystem and the range of activities affecting it; explicitly accounts for the interconnectedness among systems, such as between air, land and sea; and integrates ecological, social, economic and institutional perspectives, recognizing their strong interdependences.³ Marine ecosystem-based management should take into account the fluid and open nature of marine ecosystems and the cascading impacts of human inputs into the marine environment, including uses in the adjoining watershed. The management of human activities should protect the health and biodiversity of

³ McLeod, K. L., Lubchenco, J., Palumbi, S. R., and Rosenberg, A. A. (2005). Scientific Consensus Statement on Marine Ecosystem-Based Management. Signed by 221 academic scientists and policy experts with relevant expertise and published by the Communication Partnership for Science and the Sea at <http://compassonline.org/?q=EBM>.

marine ecosystems, including their genetic, species, population and habitat diversity, as well as their functions and services.

It is important to recognize that MSP is a mechanism for achieving ecosystem-based management, rather than an end in itself. A range of tools and measures will be needed to implement the goal of an ecosystem-based management, but a focus on the spatial and temporal aspects through marine spatial planning is a good way to make ecosystem-based management more tangible. Marine spatial planning makes it possible to consider the cumulative impacts of different sectors rather than focusing on a single species, sector, activity or concern.

In order to implement ecosystem-based management, marine spatial plans need to be able to address issues at the scale of ecosystems and be able to address linkages between systems. Ideally, plans should follow meaningful ecosystem boundaries, such as those based on biogeography, oceanography and bathymetry. This could involve conducting a bioregional classification process (an example of this is Australia's Integrated Marine and Coastal Regionalisation of Australia (IMCRA v4.0) framework) or using boundaries from existing classifications such as the Large Marine Ecosystems (LME)⁴ identified by the United Nations Environment Program (UNEP) and the National Oceanic and Atmospheric Administration (NOAA). The boundaries of existing ocean management regions, such as those of the regional fishery management councils and state fishery commissions, should also be considered for purposes of marine spatial planning.

The Network recommends that regional ecosystem assessments be conducted as an important preliminary phase of MSP to provide a baseline of information for developing marine spatial plans. Ecosystem assessments would identify and describe ecological and biophysical features and important ecological areas, including but not limited to, highly productive areas, areas of high habitat complexity, biologically diverse areas, and representative habitat. The assessments would also identify the human activities that occur in the region and the options for protecting the ecosystem goods and services that people want and need.

2. Marine spatial planning should set and aim to achieve clearly defined goals and objectives consistent with the national ocean policy

Marine spatial planning (MSP) is an important mechanism for achieving the goals set out in a national ocean policy. Much of the benefit of MSP will come from drawing together relevant objectives and using these together with information about pressures, use and the state of the marine environment to assess the spatial interactions and cumulative impacts among different sectors, activities and uses. The MSP process should then analyze the management measures

⁴ Another example of an ocean classification system is the Marine Ecoregions of the World as described in: Spalding, M.D., Fox, H.D., Allen, G.R., Davidson, N., Ferdana, Z.A., Finlayson, M., Halpern, B.S., Jorge, M.A., Lombana, A., Lourie, S.A., Martin, K.D., McManus, E., Molnar, J., Recchia, C.A., and Robertson, J. (2007). Marine Ecoregions of the World: A Bioregionalization of Coastal and Shelf Areas. *BioScience* 57(7): 573-583.

available to manage those interactions to reduce impacts, restore ecosystem functioning, and ensure sustainable use.⁵

The Interim Report of the Task Force outlines a policy and a list of nine proposed national priority objectives including coastal and marine spatial planning. The Network supports this policy and these priority objectives, and further recommends that robust ecosystem-based management standards be developed for the national marine spatial planning process. These standards could be set through an executive order or legislation. The national marine spatial planning standards should ensure the protection, maintenance and restoration of ocean and coastal ecosystems and resources.

Regional Ocean Councils should identify planning needs and priorities for each region, consistent with national policy and standards. The process for identifying regional planning needs and priorities should be as participatory as possible, incorporating the input of all relevant stakeholders and local communities in creating specific regional planning objectives. Regional Science Advisory Committees should provide expert recommendations to maintain biological diversity and ecological integrity in each region. Specific plan objectives can help focus data-gathering activities and can be further refined after regional ecosystem assessments have been conducted. Assessing the interaction among objectives and deciding how to best to accomplish them will be fundamental to the planning process.

3. MSP should be comprehensive and integrative - across sectors, agencies and levels of government, and should establish a common platform for data

Coastal and marine spatial planning is a tool to implement ecosystem-based management and move beyond species-by-species and sector-by-sector management. While not supplanting single sector management, MSP should aim to coordinate and integrate planning and decision-making across agencies and jurisdictions.

Marine spatial planning at the regional level (with federal oversight) offers the best opportunity of matching planning to the appropriate ecological scale. MFCN envisions a cooperative coastal and marine spatial planning process involving all relevant governing bodies for each region, with robust public participation and scientific review. Representatives of relevant federal agencies, state agencies, tribes, local governments, fishery management councils, interstate fishery commissions and the international community (as appropriate) should collaborate on regional coastal and marine spatial plans through a Regional Ocean Council. Federal agencies would retain jurisdiction over federal waters and activities; implementation of marine spatial plans would be binding upon federal level bodies and encouraged at other levels. Where they exist, the regional ocean partnerships (e.g. Northeast Regional Ocean Council, Gulf of Mexico Alliance) could form a starting point for membership of non-federal partners. Regional plans developed through each Regional Ocean Council would be reviewed by the National Ocean Council to ensure consistency with national ocean policy and national marine spatial planning standards.

⁵ Gilliland and Foley (2008). Key Elements and Steps in the Process of Developing Ecosystem-Based Marine Spatial Planning. *Marine Policy* 32: 787-796.

In order to facilitate integrated planning between agencies, a lead agency should be designated to ensure the coordinated participation of federal agencies. Many countries, including Australia (Department of Environment, Water and Heritage) Canada (Fisheries and Oceans Canada), and Germany (Federal Maritime and Hydrographic Agency) have tasked an existing agency to coordinate the marine spatial planning process. Another option is to create a new entity, as proposed in the United Kingdom (Marine Management Organisation) or as created for managing Australia's Great Barrier Reef (Great Barrier Reef Marine Park Authority). The Network identifies the National Oceanic and Atmospheric Administration (NOAA) as an appropriate agency for coordinating the federal MSP process, working in close cooperation with all relevant agencies including, inter alia, the United States Coast Guard, the Environmental Protection Agency, the Minerals Management Service, the United States Geological Survey and the Federal Energy Regulatory Authority. NOAA has both an appropriate mission⁶ and much of the expertise necessary to coordinate regional ecosystem assessments and plan development.

There are a number of data integration processes currently underway, including the Integrated Ocean Observing System and the Multi-purpose Marine Cadastre. An important and time-intensive part of the MSP process is the gathering and managing of data and information. At the national level, there should be an assessment of how existing data integration efforts can assist MSP, how data can be more readily shared and standardized among federal agencies, and if needed, a system for storing, accessing, and managing data for MSP should be created to prevent the duplication and associated cost of reproducing one for each region. To aid state implementation of marine spatial plans, federal agencies should be responsive to state requests for data in a timely manner.

4. Establishing clear lines of authority for marine spatial planning is essential to ensure accountability and consistency as well as resolve conflicts.

International experiences show that much can be achieved in the absence of a specific legislative framework for marine spatial planning. However, it is also recognized that a comprehensive legal basis for marine spatial planning provides a more strategic, integrated and forward-looking framework for the ocean. Absent comprehensive legislation, the creation and implementation of a marine spatial plan will likely depend on a variety of provisions found within our existing fragmented and sector-based ocean governance system. Although there is no current national MSP framework, numerous provisions within existing laws and policies support MSP. In the absence of a new legal authority, the existing legal authorities will remain very important for developing and implementing a federal MSP approach. To move beyond the current fragmented ocean governance structure, however, it will be necessary to establish a high-level interagency decision-making body, such as the proposed National Ocean Council.

Whether established through Executive Order or new legislation, the Network recommends that the national ocean policy establish clear federal authority to set marine spatial planning goals and standards, facilitate regional assessment and planning, ensure regional plan consistency and resolve conflicts. An effective MSP governance structure should establish a lead agency or agencies

⁶ NOAA Mission: To understand and predict changes in Earth's environment and conserve and manage coastal and marine resources to meet our Nation's economic, social, and environmental needs. <http://www.noaa.gov/about-noaa.html>

with responsibility for coordinating data collection and exchange of information across all relevant federal agencies. As noted above, we believe NOAA is uniquely suited by its mission, scientific and resource management expertise, and its role as the Nation's primary ocean agency to coordinate the federal MSP process, particularly at the regional level. However, we also believe that the Ocean Policy Task Force recommendation for high-level federal engagement through the proposed National Ocean Council (NOC) could provide effective leadership as well.

It will also be vital to establish effective mechanisms for resolving interagency conflicts in the planning process. The proposed NOC could provide the basis for resolving conflicts among agencies at the Executive level, but the establishment of effective conflict resolution processes within the regional ocean governance structure will also be essential. In order to plan for sustainable ocean uses, we need to understand to what extent existing and emerging human uses of the ocean are compatible with healthy ecosystems and with each other. An effective governance structure for marine spatial planning must provide conflict resolution mechanisms that address potential conflicts among existing and proposed uses and activities and, to the extent possible, facilitate cooperation between international, federal, state, local and tribal authorities and plans.

5. MSP should be adaptive – plans should be regularly updated and responsive to new information and conditions

Marine spatial planning does not lead to a one-time plan. It is a continuing, iterative process that learns and adapts to new information and changing conditions over time. Given the dynamic nature of natural systems and management approaches, there is a need for monitoring, evaluation and adaptation of marine spatial plans on a continuing basis. Therefore, it is important to provide clear guidance on how to take account of new information or changing conditions without having to review or revise the whole plan, while maintaining the integrity of the overall planning process.

As part of the marine spatial planning process, a coordinated coastal and ocean research plan should be put in place to monitor ocean changes and ecosystem responses and inform federal agency strategies and management plans regarding the appropriate uses of ocean and coastal resources. An essential aspect of any monitoring effort is the development of indicators to monitor. At least two types of monitoring are relevant to marine spatial planning and are closely related: assessment of the state of the system; and measuring the performance of the MSP management measures.⁷

Monitoring, evaluation and reporting should be integrated as part of the periodic planning and management process. Wherever possible, stakeholder participation through participatory monitoring and evaluation programs should be encouraged. Findings and recommendations of evaluations should be regularly reported in a manner that is understandable by stakeholders and usable by managers.⁸ Incentives may need to be provided to ensure regions and states are able to modify their management plans if ecosystem conditions change within their jurisdictions.

⁷ United Nations Educational, Scientific and Cultural Organization (2009). Evaluating Performance. http://www.unesco-ioc-marinesp.be/msp_good_practice/evaluating_performance

⁸ Day, J (2008). The Need and Practice of Monitoring, Evaluating and Adapting Marine Planning and Management – Lessons from the Great Barrier Reef. *Marine Policy* 32:823-831.

Currently, many federal agency programs do not account for impacts of climate change on marine living resources and the ecosystems that sustain them. Using an adaptive management approach, marine spatial planning should aim to avoid or minimize the adverse impacts of climate change, and enhance the capacity of marine species and ecosystems to adapt to climate change impacts that are unavoidable.

6. Affected and interested parties from all backgrounds must be actively engaged, and the decision-making process should be open and transparent

Meaningful engagement with people affected by and interested in the marine spatial planning process is essential for a number of reasons. Marine spatial planning aims to achieve multiple objectives and therefore needs to reflect the expectations, opportunities and conflicts of each region. Active public engagement also encourages ownership of the resulting spatial plan, engenders trust, enables incorporation of information additional to government sources and can generate new options and solutions. Public engagement needs to start from the beginning of the process, continue through all stages of the marine spatial planning process and include all important stakeholders including local communities.

Public engagement processes should be appropriate to each region, while ensuring that each region ensures adequate participation. To this end, we recommend that Public Advisory Committees be constituted for each region to provide input into the planning process, with the possibility of forming additional sub-groups to address particular local or issue concerns. Each Regional Ocean Council should be required to establish and maintain a Public Advisory Committee comprised of nongovernmental members of the public, including a wide range of citizens interested in multiple uses of ocean waters and resources. Other processes to facilitate public participation include town hall meetings, group specific meetings and public submission processes (including collection of spatially specific information as well as an opportunity to comment on any resulting draft plan).

In order to enable effective participation, there needs to be clear communication of the problems that marine spatial planning seeks to address, and of the planning process itself. An educational and informational campaign at the outset, with regular online and print updates would assist in promoting public understanding of the problems and process.

While it is important that the voices of all interested and affected parties be heard, it is equally important that the marine planning process is able to determine whether a proposed new or expanded use of our oceans is consistent with the policy set out in the National Ocean Policy and standards set at the national level.

7. Ensure adequate resources are available to support marine spatial planning at all levels

In tracking the nation's progress toward implementing the recommendations of the U.S. Commission on Ocean Policy (USCOP)⁹ and the Pew Oceans Commission¹⁰, the Joint Ocean Commission Initiative (JOICI) has concluded that chronic under-funding for ocean programs is hindering significant progress in addressing the crises facing our oceans and has called on Congress

⁹US Commission on Ocean Policy (2004). *An Ocean Blueprint for the 21st Century*. Final Report. Washington, DC.

¹⁰ Pew Oceans Commission (2003). *America's Living Oceans: Charting a Course for Sea Change*. A Report to the Nation. Pew Oceans Commission, Arlington, Virginia.

to fully fund ocean programs across the federal government.¹¹ The USCOP estimated that the new funding necessary for implementing their recommendations would be up to \$3.87 billion in ongoing annual costs for NOAA and other federal agencies. More recently, Senate Commerce, Science and Technology Chairman Rockefeller and Senators Cantwell, and Snowe have called for \$8 billion for the NOAA's budget to support a strong agency leadership role in the Ocean Policy Task Force's recommended national ocean policy framework.

Marine spatial planning will not be possible without adequate and sustained funding to support the process. MSP will require dedicated staff and resources to carry out ongoing monitoring programs, collect and synthesize data, conduct assessments, and coordinate the development of regional plans and public consultations. Funding should also be available to states to facilitate implementation consistent with resulting marine spatial plans.

Most governments that have undertaken MSP have funded it through direct allocations from general tax revenues. However, given the fiscal constraints of the federal budget, additional financing mechanisms should also be considered. For instance, a portion of dedicated revenue from ocean activities could be used to reinvest in planning and sound management. The Joint Ocean Commission Initiative has recommended the creation of an Ocean Investment Fund in the U.S. Treasury that would be drawn from resource rents for the use of publicly owned resources in federal waters, and the Network encourages the Task Force to consider such alternative funding streams to supplement Congressional appropriations.

Thank you for allowing the Marine Fish Conservation Network to comment on the significant policy and planning choices facing you.

Sincerely,



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¹¹ Joint Ocean Commission Initiative (JOCI), <http://www.jointoceancommission.org/>