

Marine Planning Handbook

National Ocean Council

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INTRODUCTION

Purpose of this Handbook

The purpose of this Handbook is to provide information and guidance to regions that choose to establish regional planning bodies and develop marine plans. State, tribal, and Fishery Management Council participation on regional planning bodies is voluntary.

Regions that develop marine plans will define what to address and how they do so, but some components of planning—such as providing opportunities for public input—are common to all regions. The common planning elements outlined here provide guidance on a nationally consistent but regionally flexible approach to a planning process that addresses regional priorities. The Handbook provides an outline of these common practices to guide regions as they develop marine plans that work best for them. It clearly identifies specific kinds of information or actions that are necessary to ensure regions that develop marine plans do so through a transparent, participatory, science-based process.

The Handbook supplements the discussion of marine planning in the National Ocean Policy Implementation Plan. It is based on the extensive public and stakeholder input specific to marine planning that was received during public review of those documents. The Handbook provides more specific information and guidance on regional planning bodies, regional participation, and marine plans. The Handbook will be periodically updated to reflect lessons learned. Nothing in this document creates private rights of action or other enforceable legal rights.

Overview of Marine Planning

Each coastal and ocean region of the country has its own interests and ways of doing business, but all regions want to support their marine economies and coastal communities and enjoy a healthy environment. Marine planning is a science- and information-based tool that can help advance local and regional interests, such as management challenges associated with the multiple uses of the ocean, economic and energy development priorities, and conservation objectives.

Marine planning provides information that all ocean interests can use to maximize the benefits and minimize the impacts of how we use the ocean. Marine planning develops:

- Regional understanding and agreement about issues that should be addressed;
- Context for acquiring and sharing data and information to help avoid and reduce conflicts;
- An effective process to ensure that stakeholder interests and expertise are part of solutions;
- A tool to guide and coordinate Federal actions in the region; and
- Enhanced coordination among Federal, State, tribal, and stakeholders on ocean and coastal issues.

To develop marine plans, representatives from all levels of government work together, publicly and transparently, as a regional planning body. Their work is informed by the expertise and perspective of stakeholders, whose participation ensures that the planning is based on a full understanding of the range of interests and interactions in each region. As discussed in detail in the regional participation section below, stakeholder and public participation is fundamental to marine planning.

The scope, scale, and content of marine plans are defined by the regions themselves, to solve problems that regions care about in ways that reflect their unique interests, capacity to participate, and ways of doing business. Marine planning should build on and complement existing programs, partnerships, and initiatives. This flexible approach ensures that each region can determine the benefits it wants to achieve and the process by which it does so.

REGIONAL PLANNING BODIES

Purpose of Regional Planning Bodies

Regional planning bodies are groups composed of representatives from different levels of government in a region: State,¹ tribal, Federal, regional fishery management council, and local government. The purpose of regional planning bodies is to coordinate with stakeholders, scientific, business, and technical experts, and members of the public to identify and address issues of importance to the region.

Regional planning bodies are not regulatory. Accordingly, they have no independent legal authority to regulate or otherwise direct Federal, State, tribal, or local government actions. Members do not delegate to the regional planning body or any other entity the decision-making or legal authority of the government they represent. Likewise, regional planning body actions do not alter or supersede any legal authority, including jurisdiction or decision-making authority over a matter.

Establishment

Regional planning bodies are established based on the interest of State governors and tribal governments in a region. When these parties determine that they want to establish a regional planning body, they designate members of their organization to participate. Federal representatives will be appointed by the respective Federal agency. The National Ocean Council will recognize by letter that the regional planning body is established.

Many regions have existing regional ocean governance structures or partnerships. Regional planning bodies are intended to complement these existing activities in whatever manner best meets the needs of the region. Some regions may choose to establish a regional planning body as a separate entity, while other regions may want to use an existing body to also serve as the regional planning body.

Membership

State Members: State participants represent their respective State interests, mandates, and goals in the overall regional planning process. State representative(s) must be an elected official, or the elected official's designated employee with the authority to act on his or her behalf on the regional planning body. To ensure balanced representation on the regional planning body, each State in a region can designate up to two representatives.

Tribal Members: The National Ocean Policy acknowledges that federally recognized American Indian and Alaska Native tribal governments are sovereign nations, and recognizes the principle of government-to-government consultation. Through the regional planning body structure, federally recognized tribes will ensure that tribal interests, lands, reserved rights, and co-management agreements are appropriately respected and included in the regional planning process. Strong partnerships among Federal and tribal authorities are essential to a truly forward-looking, comprehensive planning effort—one that serves to preserve our Nation's history and cultural heritage. As partners in the regional planning process, tribes will be called upon to share not only their traditional knowledge, but also their natural resource management and environmental expertise. Through better coordination and cooperation at the regional planning body level, tribes can help all participants understand treaty rights, other tribal interests, traditional ecological knowledge, and tribal scientific capacity, all of which are vital to strengthening regional partnerships.

When engaging in regional planning, the U.S. Government and its agencies will continue to work with federally recognized tribes on a government-to-government basis to consult and address issues concerning

¹ "State" includes Puerto Rico, the U.S. Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa.

tribal self-government, trust resources, treaty rights, and other reserved rights. The regional planning process will need to account for the means of coordinating these government-to-government consultations as well as promote sharing of information, coordination, and resolution of differences at a local level.

The tribal representative to a regional planning body will be an elected or duly appointed tribal official, or the tribal official's designated employee with the authority to act on his or her behalf on regional planning body matters. The lead Federal representative in these regions will work with interested federally recognized tribes, through government-to-government consultation, to develop representation for tribal participation on the regional planning body.

Local Government Members: Consistent with local government interests in the region, regional planning bodies will invite substantive participation of local governments in the marine planning process. Regional planning bodies will coordinate with city, county, State, or Federal municipal associations and similar groups as appropriate to help determine the approach that works best in a given region.

One option for addressing local government matters relevant to marine planning is for a regional planning body to establish a Federal Advisory Committee Act-exempt local government committee, comprised of elected local government officials or their designated employees from municipalities in each State in the region. One member of the local government committee would sit as a member of the regional planning body. Another option is for the regional planning body to provide mechanisms for local government input to the marine planning process through its State representatives on the regional planning body.

Federal Members: Federal agencies with ocean interests will identify one representative for each regional planning body as appropriate. These individuals serve as their agency's sole official representative to the regional planning body. Federal representative members are subject-matter experts with sufficient seniority, positional authority, and expertise to enable them to represent their agencies on the regional planning bodies and have sufficient authority to make marine planning recommendations on their agency's behalf.

The Federal participants will: (1) represent their respective agency mandates and goals in the overall regional planning process; (2) help provide data, resources, and tools that may be applicable in addressing regionally identified planning challenges; (3) ensure coordination of Federal agency actions at the regional level in support of regional objectives; (4) encourage regional consistency with national programs and activities; (5) serve as the Federal Government point of contact for government-to-government consultation with federally recognized tribes in the regions; and (6) work to ensure compliance with the Freedom of Information Act, the Federal Advisory Committee Act, and other applicable Federal laws.

Federal agencies can assist regions with marine planning by providing Federal staffing and expertise to set up and help run regional planning bodies, by being regional planning body members, by hosting workshops, and by providing data and tools through ocean.data.gov and other resources.

Regional Fishery Management Council Members: Regional fishery management councils are quasi-regulatory bodies with jurisdiction over the marine fisheries in the exclusive economic zone (not in State waters) and have expertise about those resources in their respective regions. Fishery management councils can designate one Federal, State, tribal, or local government official who serves as a voting member on the fishery management council to sit on the regional planning body in those regions that overlap with the fishery management councils' respective ocean areas of responsibility. An official identified by fishery management councils to serve as regional planning body members will represent the fishery management council in his/her capacity as a Federal, State, tribal, or local government official.

Ex Officio Members: Regional planning bodies can identify ex officio members, including non-coastal States. Because activities taking place outside of the regional planning area may affect planning decisions in that area, a regional planning body can extend ex officio membership to adjacent States to help integrate and enhance consistency among regions.

As the United States shares maritime boundaries with other nations, such as Canada, Mexico, and island neighbors in the Caribbean and Pacific, regions can extend ex officio status to representatives from those nations under certain circumstances. Such decisions require close coordination with the National Ocean Council Office and the Department of State.

An ex officio member can participate in all discussions of the regional planning body, but cannot participate in regional planning body decision-making.

Co-Leadership

State, Federal and tribal regional planning bodies will each identify a lead representative. The regional planning body will be jointly led by these co-leads. Co-leads do not have decision-making authority over regional planning work; instead, their shared role is to facilitate and guide the regional planning process.

In consultation with regional planning body members, co-leads may consider and decide how to fulfill the following roles and responsibilities:

- Develop and adopt a charter;
- Guide, facilitate, and provide professional capacity to support timely regional work;
- Perform executive secretariat functions for the regional planning body, such as calling meetings, developing meeting agendas, taking and distributing meeting minutes, communicating with the National Ocean Council, and performing other administrative duties, as appropriate and necessary;
- Communicate and coordinate with existing regional bodies such as regional ocean observing systems, regional ocean partnerships, and others;
- Coordinate with the members of the regional planning body to establish working groups;
- Promote collaboration among regional planning body members and seek consensus;
- Coordinate public outreach and stakeholder engagement as part of the regional planning process; and
- Facilitate development and adoption of a regional marine plan.

The National Ocean Council recommends a 2-year term of office for each co-lead, at which time the regional planning body may extend the term(s) or identify new co-leads. Each regional planning body can decide whether to limit the number of successive terms a co-lead may serve.

Decision-Making

Regional planning bodies will make a number of decisions to guide development of marine plans. Decisions of the regional planning body are not made by vote, but through discussion and agreement—general consensus—among the members. General consensus means the absence of express disagreement by a member, but does not require unanimous concurrence. This approach ensures that all members of the regional planning body have an equal voice in decision-making.

There may be times when regional planning body members cannot come to agreement on a particular issue. In an instance where express disagreement by a member on a particular issue prevents general consensus, the co-leads will facilitate discussion to develop a solution that addresses the member's concern. This may entail providing more information, modifying a proposed action, or developing an entirely new approach to address the issue. If an issue between Federal agencies prevents the regional

planning body from achieving general consensus, and discussion at the regional planning body level cannot resolve the issue, it can be raised to the National Ocean Council for resolution, as described in the model charter (see Appendix). The National Ocean Council will not seek to resolve issues between Federal and non-Federal members. However, it is available as a collaborative resource to suggest possible solutions to specific issues if non-Federal members want to raise an issue for consideration.

Working Groups

Regional planning bodies can choose to establish a steering committee, technical committees, working groups, or other bodies, to help administer the regional planning body's work, address specific subject matter, coordinate with stakeholder experts, and/or provide recommendation back to the full membership.

Meetings

Regional planning bodies will ensure frequent, inclusive, and transparent engagement of partners, the public, and stakeholders.

Regional planning body meetings will be scheduled at the call of the regional planning body co-leads, either in-person or via teleconference. Each regular meeting will be open to the public, with sufficient advance notice of each meeting. The calendar will be public and made available to all interested persons through the regional planning body's web page and other media. Regional planning body members may choose to approve an annual calendar of regular meeting dates, times, and locations.

The regional planning body will not make consensus-based decisions on an agenda item at a meeting for which public notice has not been provided in advance.

Regional planning body agendas will provide time and opportunity for interested persons to present oral or written statements on items on the agenda or to introduce and inform regional planning body members about issues that are not on the agenda. Meeting minutes will be recorded and contain a list of attendees and summary of matters discussed; such minutes will be available to the public.

Regional planning body work sessions are informal meetings to address internal issues such as pre-planning steps, administrative and logistical matters, or specialized technical issues. Regional planning body work sessions may be scheduled as recommended by the regional planning body members and/or co-leads. Regional planning body work sessions are not required to be open to the public, but the final minutes and work session results will be made available to the public. A brief report of the work session results and follow-up actions will be included on the agenda of the next regular regional planning body meeting.

Transparency

As a matter of course, regional planning bodies will promote informed public participation and operate with transparency. This includes proactively and regularly posting online the records of the regional planning body decision making process without waiting for requests from the public for these records. If members of a regional planning body receive a request for records, they will respond in accordance with laws and regulations that apply to them as representatives of a Federal agency, State agency, tribe, or regional fishery management council.

Stakeholder Participation

A cornerstone of marine planning, and of the work of regional planning bodies, is the engagement and substantive participation of stakeholders and the public. Regional planning bodies will work with stakeholders and the public to develop strategies that ensure that their interests and expertise inform regional work. Stakeholders bring special science, technical, business skills, and interests to marine

planning, and will be engaged in the discussion, evaluation, and application of information. (See the regional participation section for more information.)

Charter

Each regional planning body will create a charter to ensure a clear understanding of the roles, responsibilities, and commitments of the regional planning body members. At a minimum, the charter will clearly describe:

- Membership;
- Roles and responsibilities;
- Goals of regional planning;
- Member commitments;
- Decision-making procedures;
- Operations and procedures; and
- Relationship to existing authorities.

Each region has different interests, capacities, and ways of doing business, and will draft a charter that incorporates these elements as reflected by its individual circumstances. A model charter is attached to this Handbook. An example of how the model charter has been used by a regional planning body is available at www.northeastoceancouncil.org/wp-content/uploads/2012/11/Charter-without-signatories_FINAL.pdf.

Resources

Members of the regional planning body are responsible for supporting their own participation in regional planning. Participating in regional planning bodies assists agencies in carrying out their existing missions by facilitating improved coordination with their Federal, State, tribal, and regional fishery management council partners. Consistent with existing authorities and missions, the work of regional planning bodies can also be supported by in-kind services from planning body members, external resources such as grant opportunities, and partnerships.

In addition, individual regions have different networks of partners and existing initiatives that can directly or indirectly address issues related to marine planning. For example, marine planning will benefit from regional data portals, as well as habitat characterization, shoreline data, recreational fishing and boating surveys, and additional information that have been developed through other initiatives.

Regional planning bodies may also evaluate public-private partnership models that engage the participation of many different sectors and interests to support marine planning. Public-private partnerships can be structured to provide independent, transparent, third-party management of resources that could support administration, stakeholder and public participation, and/or data acquisition and analysis.

Relationship to the National Ocean Council

The National Ocean Council supports and interacts with the regions and marine planning in several ways. First, the Council can help address regional needs for data and other information. For example, all regions have identified environmental spatial data as a critical need. Many of these data exist, but are not readily available from Federal agencies. Regions can request assistance from the Council in getting the materials they need.

Second, the Council can clarify the coordinated position of the Federal Government on a given issue of importance to a region. For example, regions may request clarification of policy where there is overlap among Federal agencies with similar missions and mandates that affect activities in a region.

Third, in the event the Federal agencies are unable to come to a coordinated position on a particular issue, the Council can mediate the discussion and provide guidance. For example, if agencies disagree about information required to support an environmental review/permit streamlining initiative under a marine plan, the Council can assist in advancing a solution by convening representatives from the relevant agencies for discussion and negotiation as needed.

Last, the Council's concurrence with a marine plan ensures that subsequent federal agency actions in the region will be informed and guided by the region's work and support the outcomes the region seeks to achieve.

REGIONAL PARTICIPATION

Overview

The participation of stakeholders, tribes and indigenous groups, and the public is fundamental to marine planning. Federal and State agencies, tribes and indigenous groups, local governments, academic and research institutions, user communities, industry, non-governmental organizations, and the public all have environmental, economic, security, social, and cultural information relevant to marine planning.

The participation of all of these groups ensures that marine plans are informed by their expertise and perspectives, and that there is a full understanding of the range of interests and interactions in each region. Consultation with scientists, technical experts, and those with traditional knowledge or expertise ensures that regions' work is based on and guided by the best available science and information. Local, regional and national organizations that represent public recreational access and conservation interests have experience and expertise to inform marine planning. Engagement with the public ensures that all those with an interest in the ocean are informed about work in a region and have opportunities to engage and comment on the direction, process, materials, and products involved. To ensure that engagement is as efficient as possible, regional planning bodies should seek to coordinate with existing regional governance, business and industry, academic, and other stakeholder organizations and networks.

Tribes and Indigenous Groups

As regional planning bodies begin their work, engagement with any federally recognized tribes, State recognized tribes, or indigenous populations that may be affected by the efforts of the regional planning body should occur early and often as appropriate. The participation of federally recognized tribes as members of the regional planning body does not supplant the obligation of the Federal Government (in this case, the Federal agency members of the regional planning body) to conduct government-to-government consultation with potentially affected federally recognized tribes. Regional planning bodies will develop a mechanism to engage State-recognized tribes or indigenous communities with jurisdictional responsibilities or interests relevant to marine planning, such as the indigenous populations of Hawaii and the U.S. Commonwealths and Territories. Engagement of affected tribes or indigenous populations, including consultation with federally recognized tribes, can provide the regional planning body with critical information and expertise necessary for marine planning. Tribal leaders and historic preservation officers can serve as guides to existing cultural-use information as well as traditional knowledge. Traditional knowledge can include information about tribal sacred sites as well as historic and current ecological conditions and environmental use information.

Fishery Management Councils

Fishery management councils are represented on regional planning bodies. Through these members, regional planning bodies should coordinate with fishery management councils to ensure that facts and other information developed by the fishery management council and other experts relevant to fishery management informs the planning process. This could include establishing a standing technical committee comprising scientific and technical experts from the geographically associated regional fishery management council.

Stakeholder Participation

Each regional planning body will create participation and outreach practices, appropriate to its needs and capacity, which engage stakeholders, scientific/technical experts, and the public as participants in the process. To do so, regional planning bodies' interactions with stakeholders and the public should be based on the following principles:

Clear Goals and Avenues for Stakeholder and Public Participation

- The goals, schedule, and reasons for the planning process are communicated publicly and include a clear map of the decision process and stakeholder input points.
- Public and stakeholder involvement is developed and implemented in consultation with the stakeholder groups.
- Regional planning body member roles (such as leadership, decision-making, staffing, and information gathering) are clearly defined, as are stakeholder and public roles, including commenting on plans and products, providing relevant information, distributing information to their colleagues and communities, and making suggestions.
- Opportunities for stakeholder and public involvement are regular and known. Each region will use one or more means for this involvement, with reference to what has worked well in that region in the past and the best tools available now.

Inclusiveness and Accessibility

- Opportunities for stakeholder participation include the full range of interests in national and regional coastal and ocean planning.
- Barriers to participation are identified and addressed before and during convening of the stakeholders.
- Engagement processes accommodate those stakeholders with varying levels of interest and resources through a variety of effective engagement mechanisms.

Transparency and Openness

- Information about the decision process and supporting information for the plan are publicly available for review and comment.
- Stakeholders have access to the regional planning body through consistent and appropriate communication channels.
- Decision-makers are open to learning from stakeholders and take their ideas into consideration.
- Decision-makers provide feedback to stakeholders about how their input has been taken into consideration and describe how that input has shaped interim and final products.

Informed Engagement

- Quality, informed discussion and engagement occurs throughout all phases of the process.
- Stakeholders and planners engage in a process of mutual education to improve overall knowledge about the process and subject matter, and to enhance substantive discussions.
- Interactive and informed discussions take place among agencies, all levels of government, regional planning bodies, and stakeholders.
- Technical information is provided in an appropriate format for stakeholder and public understanding and use.
- Stakeholders have access to technical experts and input into scientific and technical aspects of the planning process.
- Stakeholder knowledge and data are evaluated for possible inclusion into the plan.

Timeliness

- Participation occurs at a time that allows stakeholder input to be used in the development of the products of the planning process.
- Stakeholders have sufficient notice of meetings and advance materials to effectively participate.

Process Integrity

- Stakeholders have confidence in the value of the process and that their views have been heard.

- The regional planning body and the stakeholders hold themselves accountable for meaningful participation in the process.

Adaptability and Flexibility

- As needs and issues evolve, additional options for stakeholder engagement are developed.
- Engagement methods take into consideration unique regional and local features.

Methods of Participation

Regional planning bodies have a wide range of mechanisms and processes available for engaging the public and stakeholders throughout the planning process. Options for engaging and informing stakeholders and the public include public meetings, project websites, webinars, public comment periods, surveys, focus groups, roundtable discussions, and teleconferences.

In addition, regional planning bodies can consult with stakeholders and experts through tools that include, but are not limited to:

- **Memoranda of Understanding.** Regional planning body members may find it useful to enter into a Memorandum of Understanding with a specific organization that can offer significant assistance with one or more issues. Memoranda can be drafted between any Federal, State, or local agency, or with a public or private university, laboratory, industry, non-governmental organization, or other private organization that agrees with the stated purpose of the agreement.
- **Workshops and Conferences.** Regional planning bodies can host scientific and technical workshops or conferences for the purpose of convening stakeholders and other experts to address the science relevant to marine planning issues. This approach may lead to other more focused mechanisms of obtaining scientific, academic, and technical input.
- **Regional Committees.** Regional planning bodies can choose to establish advisory and expert stakeholder committees to support their work. These could include advisory committees to obtain consensus advice or recommendations from stakeholders and experts; expert panels to review the science or technical data bearing on a marine planning issue; or working groups to investigate and research particular marine planning issues.

As described in the marine planning section, below, regional planning bodies should develop with stakeholder and public input a clear and detailed plan that describes what methods will be used to ensure robust and substantive stakeholder and public participation in the planning process.

Sources of Expertise

Regional planning bodies can obtain expertise and guidance from stakeholders and governmental and non-governmental organizations, including:

- **Government agencies and research laboratories.** Federal, State, tribal, territorial, and local government agencies have expertise relevant to solving marine planning issues. Several Federal agencies have amassed large quantities of marine and spatial data, maintain laboratories with scientific and technical experts, and have funded numerous research studies. Most of this information is available online at ocean.data.gov.
- **Regional associations for ocean observations.** Existing regional associations and organizations associated with coastal, ocean, and marine stewardship and observing activities have direct access

to experts and collaborate to archive scientific and geographic data of relevance to marine planning.

- **Professional scientific and technical societies.** A number of societies maintain up-to-date contact information for experts with knowledge relevant to marine planning and/or may be able to direct regional planning bodies to scientific and technical resources and experts.
- **Academic organizations, universities, and research laboratories.** Scientists and technical experts employed by public and private universities, colleges, and research laboratories possess a wealth of information. Many of these organizations have public relations or outreach offices to facilitate contact with professors, researchers, engineers, graduate students, and technicians working in these departments and laboratories.
- **Private companies/industry.** Private companies or industry associations often have experts who can be consulted by regional planning bodies on specific issues. These and similar organizations may be able to help regional planning bodies access scientific reports, strategic plans, or consensus studies, and can be helpful in identifying local and regional stakeholders.
- **Tribal or indigenous community organizations.** Intertribal and indigenous community organizations have historical and cultural expertise and information that may be relevant to marine planning.
- **Non-Governmental Organizations.** Like the business community, non-governmental organizations are a source of expertise and can provide access to data and other resources. For example, local, regional and national organizations that represent public recreational access and conservation interests have experience and expertise to inform marine planning.

Federal Advisory Committee Act Considerations

Some tools for engaging the participation of stakeholders, experts, and the public may be subject to the Federal Advisory Committee Act. In general, the Act applies when a Federal agency convenes a group that includes non-Federal entities to obtain consensus advice or recommendations to inform Federal agency decision-making. Advisory committees established under the Act must have a charter and are subject to formal membership and requirements related to meeting announcements and timeliness.

The Act generally does not apply when a regional planning body is not seeking consensus advice, opinions, or recommendations from a collective group. For instance, it would not apply if the regional planning body requests information or viewpoints from individual attendees.

The applicability of the Act is case-specific. Depending on the nature, composition, and desired outcome of workgroups, committees, or panels that a regional planning body may wish to use, the Federal Advisory Committee Act may or may not apply. For example, as noted above, an expert panel can be convened to review the scientific data and knowledge related to habitat characterization. Since in this case the regional planning body would not be asking the group for consensus advice on an issue, the Act would not apply.

If there is a question about the applicability of the Act to a group proposed by the regional planning body, Federal co-leads, in consultation with the regional planning body, should consult with home-agency counsel. Regardless of the applicability of the Act to a group convened by a regional planning body, regional planning bodies must ensure that any work done by these groups is publicly available.

MARINE PLANNING

A Marine Plan

The scope, scale, and content of marine planning are defined by the regions themselves to solve problems that regions care about in ways that reflect their special interests, capacity to participate, and ways of doing business. Each region has flexibility to build the elements of its plans over time in response to what the region wants to accomplish, the resources available to do the work, and the time it will take to learn what works best in that region.

Marine plans produced by regional planning bodies can provide information about specific issues, resources, and areas of interest to better inform existing management authorities and measures. They can also describe future desired conditions and provide information and guidance that support regional actions moving forward.

Examples of potential focus areas for marine planning include, but are not limited to:

- Developing information that facilitates more effective review and permitting among State, Federal, and tribal authorities for a specific class of activity such as offshore energy infrastructure;
- Characterizing environmental conditions and current and anticipated future uses of marine space to assist in siting offshore renewable energy;
- Developing and implementing a plan to acquire data and information to support more efficient management of activities of particular regional interest, such as remote sensing data to support coastal mapping;
- Developing and implementing a plan to acquire data and information to support sustainability of coastal and marine ecosystems in the region;
- Identifying a specific geographic area and addressing management challenges that would benefit from multi-government resolution;
- Identifying and developing information that better informs agency or government-to-government consultations under the Endangered Species Act, Marine Mammal Protection Act, and the National Environmental Policy Act that apply to offshore development activities important to the region; and
- Developing maps and information that inform effective co-location of multiple existing and new ocean uses, such as commercial fishing, vessel traffic lanes, military training, sand and gravel mining, dredging and dumping, and new energy infrastructure development.

Some States, tribes, and regions are already doing similar work. A marine plan should build on these initiatives and incorporate the information and management objectives they seek to advance, consistent with the State, tribe, or regional interest in doing so. For non-Federal governments, this provides the opportunity to influence Federal activities in both State and Federal waters.

Regions may choose to organize themselves around, or focus on, specific areas or management issues within the region. These choices are informed by a region's geographic breadth and/or diversity, the issues that a region wants to address, the capacity and interests of different groups in the region, practical constraints of coordination within the region, or other considerations. Regions can determine how such approach works best in the context of the region as a whole.

Marine plans incorporate ecosystem-based management, an approach that considers the dynamic and interconnected relationship between the ocean environment and human activity, to help make decisions that can better sustain the many benefits the ocean provides. Ecosystem-based management is an evolving practice, and how it is used to inform a region's work must be commensurate with the level of

confidence supported by the state of knowledge. Marine planning provides an opportunity for scientists, managers, and stakeholders to work together in the regions to develop and test applications of ecosystem based management incrementally and transparently as knowledge, scientific data and information, and experience increase.

Planning Framework

Some elements of the process and content of marine planning are common to all regions. The marine planning framework described below provides a framework for regional work that can be tailored to the circumstances of individual regions. The framework allows all interested parties to clearly understand the issues involved, the process and material used to develop the plan, and how the plan will be used to address the issues the region has chosen to address.

Consistent with the scope and scale of a region's work, a marine plan should include:

- Goals and objectives that the region wants to accomplish through its marine plan;
- A regional assessment that uses maps and information to describe the marine environment and human activities relevant to the subject matter of the plan;
- The regulatory context relevant to the subject matter of the plan;
- A description of the planning process, materials, analyses, and information and guidance that make up the plan;
- A description of where and how the marine plan intersects with Federal agencies' existing authorities;
- A description of how the results of the marine plan will enhance coordination and promote consistency in Federal agencies' interpretation and application of existing laws and regulations;
- Ongoing monitoring and evaluation mechanisms that assess the effectiveness of the plan; and
- The dispute resolution process developed by the National Ocean Council for Federal agencies.

To develop a marine plan, regional planning bodies should address the following steps in a way that best suits their needs, interests, and capacity:

- Assess regional capacity for marine planning;
- Host introductory discussions with members, stakeholders, and the public;
- Agree on a shared vision;
- Identify regional goals and objectives;
- Develop a work plan that outlines how the region will develop a marine plan;
- Analyze data, uses, services, and impacts;
- Develop and evaluate options for achieving the region's goals and objectives;
- Provide a draft plan for public comment;
- Provide a final plan for National Ocean Council review and concurrence; and
- Implement, monitor, evaluate, and modify the plan over time.

These steps do not have to be sequential. For example, regional planning bodies can begin to identify available data, sources of expertise, stakeholder issues of interest, and other information as part of introductory discussions with stakeholders and the public. In practice, there may be feedback loops among the planning steps. For example, evaluating options for achieving the region's goals and objectives may reveal the need for additional information, or for additional expert analysis of data and information.

The following sections provide additional information about these planning steps and describe how they can be organized to develop a marine plan.

Regional Capacity and Existing Efforts

A capacity assessment helps guide the work of the region by identifying and building on existing resources and initiatives at the regional, State, territorial, tribal, and local levels. The assessment should also identify non-governmental resources, information, and expertise that may support marine planning.

The capacity assessment does not need to inventory all data and resources within a region, but should include those products, tools, data, expertise, and other information that can directly contribute to advancing regional goals and objectives. Types of information to consider for a regional capacity assessment include, but are not limited to:

- **Expertise.** Identify national and regional sources of expertise and skill sets available to the regional planning process and identify gaps and additional expertise needed.
- **Information.** Identify information and data collection and management efforts that can contribute to a regional assessment. Regional data portals and ocean.data.gov provides access to a broad range of information.
- **Tools and Services.** Identify products and decision support tools, such as mapping resources, scientific modeling, and observation capabilities that can contribute to planning analyses. Ocean.data.gov provides a listing of many of these tools.
- **Authorities and Management Activities.** Identify authorities, management, and existing planning efforts that the planning process can build upon, or that can support and inform the planning process.

To support this assessment, regional planning bodies may want to develop a template to inventory the contributions each regional planning-body member agency can make to marine planning in that region. The individual assessments can then be compiled and used to form the basis for the regional capacity assessment. Contributions to this assessment should include government partners and, where applicable, non-governmental organizations, to ensure that all aspects of relevant projects, conditions, data, tools/products, and expertise are included.

Regional Vision

Regions may find it helpful to develop a regional vision that broadly describes what the region wants to have accomplished in the future. The concept of a regional vision as a “desired future state” can help keep the planning process focused on key issues as the marine plan is developed. Developing a vision can also assist the regional planning body, stakeholders, and the public to identify key issues, interests, and objectives.

Regional and National Goals and Objectives

To shape and focus the planning process and achieve desired outcomes, regions should collaboratively develop regional goals and objectives that reflect their unique issues, needs, and capacities.

Clear, broad-based goals define the outcomes regions seek to achieve. Regional goals should be consistent with the national goals, which are to:

- Support sustainable, safe, secure, efficient, and productive uses of the ocean, our coasts, and the Great Lakes, including those that contribute to the economy, commerce, recreation, conservation, homeland and national security, human health, safety, and welfare;
- Protect, maintain, and restore the Nation’s ocean, coastal, and Great Lakes resources and ensure resilient ecosystems and their ability to provide sustained delivery of ecosystem services;
- Provide for and maintain public access to the ocean, coasts, and Great Lakes;
- Promote compatibility among uses and reduce user conflicts and environmental impacts;
- Improve the coherence, efficiency, and consistency of decision-making and regulatory processes;

- Increase certainty and predictability in planning for and implementing new investments for ocean, coastal, and Great Lakes uses; and
- Enhance interagency, intergovernmental, and international communication and collaboration.

Regional objectives identify the subject matter of the marine plan and determine the data and information that the region will need. Regional objectives can include statements of desired benefits, uses, or ecological conditions. Examples include:

- Ensure continued public access for recreational activities;
- Promote port development, including offshore port facilities;
- Promote efficient commercial shipping;
- Support habitat conservation;
- Promote sustainable commercial fishing;
- Promote offshore energy development;
- Identify high-value ecosystems and promote their sustainability;
- Streamline existing permitting processes;
- Promote sustainable off-shore and coastal aquaculture development;
- Protect essential fish habitat;
- Promote effective coastal restoration efforts; and
- Preserve military and law-enforcement training areas and capabilities.

Regional objectives should be consistent with national objectives, which are to:

- Grow the ocean, coastal and Great Lakes economies;
- Increase regulatory efficiency and consistency; and
- Reduce adverse impacts, including cumulative effects, to environmentally sensitive ocean and coastal areas.

Work Plan

Each regional planning body should develop a work plan that outlines activities and milestones for the region's work. A work plan guides a regional planning body's efforts and provides a transparent roadmap of its work for stakeholders and the public.

Each regional planning body should establish a schedule for developing a marine plan that reflects circumstances unique to the region, is sufficient to do the work thoughtfully and transparently, and defines a reasonable and finite period of effort. At a maximum, regional planning bodies currently established should aim to complete marine plans by 2017. Regional planning bodies established in the future should aim to complete marine plans within 4 years of their establishment.

At a level of detail consistent with the scope and scale of the region's work, a work plan should describe:

- The overall planning process;
- Key milestones and products, including an estimate of effort and duration;
- Available and required resources; and
- How the regional planning body will substantively engage participants in developing the marine plan, including:
 - Stakeholders, experts, and the public;
 - Regional Ocean Partnerships and other existing regional science, management, business, and/or policy bodies;
 - Appropriate local authorities; and
 - Representatives of the indigenous community and traditionally under-served, minority, and low-income populations within the region.

In addition to describing how stakeholders and the public will participate in the planning process on a consistent, on-going basis, the work plan should identify milestones that incorporate formal public comment periods. At a minimum, regional planning bodies should provide such comment periods to address regional goals and objectives, options for achieving goals and objectives, and the draft and final marine plan.

When a work plan has been completed, the National Ocean Council will assess the work plan with the regional planning body. A key element of this assessment will be to ensure that the work plan clearly describes how the regional planning body will substantively engage stakeholders and the public throughout the process.

Analysis of Data, Uses, Services, and Impacts

Regional planning bodies should seek to analyze relevant information about natural resources and human uses in the region.

As appropriate to the scale, scope, and subject matter of each regional objective, regional planning bodies should investigate, assess, forecast, and analyze regional conditions. These may include:

- Physical and ecological patterns and processes;
- Ecological conditions and relative ecological importance or values of areas within the planning area;
- Economic and environmental benefits and impacts of uses in the region;
- Relationships and linkages within and among regional ecosystems;
- Distribution and relationship among current and emerging ocean uses;
- Important ecosystem services and their vulnerability or resilience to the effects of human uses, natural hazards, and global climate change;
- Contributions of existing management measures and authorities; and
- The future needs of existing, emerging, or proposed uses.

There are many tools and data and information sources that regional planning bodies can use to address these issues. The use of these tools—and of science and information generally—to inform planning will be grounded by analyses that include rigorous and transparent review of both the opportunities and limitations of available data, information, and knowledge. Stakeholder, expert, and public participation in these analyses are particularly important. A listing of many of these resources is available on the Tools page of the National Ocean Council’s marine planning data portal (ocean.data.gov), available at www.data.gov/ocean/page/ocean-tools.

Planning Options

Based on analysis of regional conditions, regional planning bodies should develop and evaluate options that address the goals and objectives they want to achieve. The evaluation of options and supporting analyses provide the basis for a draft regional plan. Stakeholder, expert, and public participation in these analyses are particularly important.

Draft Marine Plan

Regional planning bodies should develop and provide a draft version of a marine plan for public review and comment. The draft marine plan should include the common elements described in the marine planning section, above. The material should be of sufficient detail and clarity to ensure that all interested parties can clearly understand the intent, process, materials, and outcomes of the marine plan.

Concurrence

When a region has completed the public review process and developed a final marine plan, the National Ocean Council will review and concur that the marine plan is consistent with the substantive and procedural standards described in the regional participation and marine planning sections above.

By their concurrence, Federal agencies agree that they will use the marine plan to inform and guide their actions in the region consistent with their existing missions and authorities.

Marine plans are not regulatory, and concurrence does not create new authorities, regulations, or missions. All activities will continue to be managed under existing authorities. For example, commercial and recreational fishing will continue to be managed exclusively by the relevant State and Federal fisheries managers and regional fishery management councils, commissions, or organizations.

Appendix: Model Charter for Regional Planning Bodies

I. MEMBERS

- A. List the Federal, State, tribal, and local government members (Members) for the regional planning body for which this charter applies.
- B. Identify the Federal, State, and tribal co-leads for the regional planning body for which this charter applies.
- C. [Recognizing the (insert name of region) Region may extend non-voting ex officio membership to adjacent States, (insert name(s) of State(s)) (has)(have) accepted the Members' extension of membership.
- D. [Recognizing the (insert name of region) Region shares (a maritime boundary)(maritime boundaries) with (insert name(s) of nation(s)), (insert name of nation(s)) (has)(have) accepted the Members' extension of non-voting ex-officio membership or observer status.]

II. **PURPOSE.** Describe the Members' commitment to participate in the marine planning process leading to the eventual development of a regional marine plan for the [insert name of region] Region. While the objective is development of a regional marine plan, this Member commitment does not obligate any non-Federal Member to approval of any regional Plan.

III. GOALS

A. **Marine Planning Defined.** Marine planning is a science-based tool that regions can use to address specific ocean management challenges and advance their economic development and conservation objectives. Marine planning will support regional actions and decision-making and address regionally determined priorities, based on the needs, interests, and capacity of a given region. Just as Federal agencies work with States, tribes, local governments, and users of forests and grasslands, among other areas, marine planning will provide a more coordinated and responsive Federal presence and the opportunity for all coastal and ocean interests in a region to share information and coordinate activities. This will promote more efficient and effective decision making and enhance regional economic, environmental, social, and cultural well-being. In turn, regional actions will support national objectives to grow the ocean economy, increase regulatory efficiency and consistency, and reduce adverse impacts to environmentally sensitive areas.

B. **Marine Planning Goals.** The scope, scale, and content of marine planning will be defined by the regions themselves, to solve problems that regions care about in ways that reflect their unique interests, capacity to participate, and ways of doing business. Marine planning should build on and complement existing programs, partnerships, and initiatives. The intent is to ensure that a region can develop an approach that it determines works best. Marine planning in the United States will be developed and implemented to achieve regional goals, objectives, and priorities while furthering the following national goals:

1. Support sustainable, safe, secure, efficient, and productive uses of [the ocean and our coasts][the Great Lakes], including those that contribute to the economy, commerce, recreation, conservation, homeland and national security, human health, safety, and welfare;
2. Protect, maintain, and restore the Nation's [ocean and coastal][Great Lakes] resources and ensure resilient ecosystems and their ability to provide sustained delivery of ecosystem services;

3. Provide for and maintain public access to the [ocean and our coasts][Great Lakes];
4. Promote compatibility among uses and reduce user conflicts and environmental impacts;
5. Improve the rigor, coherence, efficiency, and consistency of decision-making and regulatory processes;
6. Increase certainty and predictability in planning for and implementing new investments for [ocean and coastal][Great Lakes] uses; and
7. Enhance interagency, intergovernmental, and international communication and collaboration.

C. **The Importance of Governmental Participation.** Strong partnerships among Federal, State, tribal, local authorities, and regional ocean partnerships is essential to a truly forward-looking, comprehensive marine planning effort. One of the significant benefits of marine planning is to improve the ability of these authorities to seamlessly coordinate their objectives with broader planning efforts by participating in the marine planning process for areas within and beyond their jurisdictional waters. Many States and regional ocean partnerships have already engaged in some form of comprehensive marine planning and regionally-based marine planning will build upon and incorporate these efforts. Also, the U.S. Government has a unique legal relationship with federally recognized American Indian and Alaska Native tribal governments as provided by the Constitution of the United States, treaties, court decisions, and Federal statutes. Those tribal governments, some of which hold treaty-protected rights to use marine resources, and the indigenous populations in Hawaii and the U.S. Commonwealths and Territories that are integrally linked to the maritime realm must play an important role in marine planning.

IV. MEMBER COMMITMENTS

- A. The Members agree, to the extent practicable and consistent with their underlying authorities, to participate in the process for marine planning as described in Executive Order 13547. This charter reflects an agreement for planning and coordination purposes and is not binding on the Members.
- B. The Members agree that the commitments contained in this charter are not enforceable and do not create legal obligations or affect existing rights beyond those created by statute or regulation.
- C. Implementation of the framework for marine planning as described in Executive Order 13547 provides for significant flexibility between the regions, enabling each regional planning body to develop regional objectives that address those matters of greatest importance to its region. The framework also provides for phased implementation, and does not require the regional planning bodies to proceed at the same pace, either as to planning and coordination or the eventual development of a marine plan.

V. OPERATIONS AND PROCEDURES

A. **Membership.** The membership of the regional planning body for the [insert name of region] Region consists of Federal, State, tribal, and local government authorities relevant to marine planning for the Region (e.g., resource conservation and management, including coastal zone management and fisheries management; science; homeland and national security; transportation; and public health). Members will be of an appropriate level of responsibility within their respective governing body to be able to make decisions and commitments throughout the process, and shall meet the membership criteria relevant to their respective political subdivisions consistent with the National Ocean Policy's framework for effective marine planning. In addition to their official representative, Federal, State and tribal

Members may permit officials from their relevant sub-bodies (e.g., bureau or service) to attend and contribute to regional planning body meetings, as appropriate. These contributing officials may sign this charter as a reflection their agencies' commitment to the marine planning process.

B. **Regional Planning Body Leadership.** The regional planning body for the [insert name of region] Region has one Federal co-lead, State co-lead, and, one tribal co-lead. The role of the co-leads is to facilitate and guide the marine planning process. It is important to note that the co-leads will not have decision-making authority over the marine planning process. Federal members will select the Federal co-lead, State Members will select the State co-lead, and tribal members will select the tribal co-lead.

C. **Steering Committee.** A regional planning body may wish to establish a steering committee. The steering committee facilitates the operations of the regional planning body. The steering committee serves as a streamlined forum for ensuring integration and coordination on priority areas within the regional planning body, including coordination of management and science issues, and alignment of activities of its sub-bodies to fully support the regional priorities as agreed upon by the Members. The steering committee can also identify key issues and assist the co-leads in developing the agenda for the regional planning body. While the regional planning body would determine the membership and term lengths for the steering committee, the National Ocean Council Office suggests that membership include the regional planning body co-leads and one representative from each political subdivision represented on the regional planning body [e.g., Federal, State, tribal, and local government].

D. **Technical Committee.** Each regional planning body can choose to establish a standing technical committee comprising scientific and technical experts from the geographically associated regional fishery management council for this purpose. The regional planning body can choose to broaden the representation and scope of the technical committee by including additional scientific and technical experts from the region. The purpose of the technical committee is to ensure that facts and information developed by the regional fishery management council and other experts relevant to fishery management and the region's work informs the planning process.

E. **Quorum.** A quorum for each meeting is a majority of the official representatives from each political subdivision (i.e., Federal, State, and tribal) participating on the regional planning body.

F. **Collaborative Decision-Making**

1. Decision making is based upon a consensus of the Members. The Federal co-lead, in coordination with the non-Federal co-lead[s], will facilitate efforts to reach consensus. For purposes of this Agreement, general concurrence is consensus, but unanimous concurrence is not required. General concurrence is the absence of express disagreement by a Member on a particular issue. A Member may register concern about a proposed course of action either verbally or in writing without preventing consensus from being reached. This may occur if an Agency has concerns about a proposed course of action, but those concerns do not rise to the level of express disagreement. If an issue between Federal agencies prevents the regional planning body from achieving general consensus, and discussion at the regional planning body level cannot resolve the issue, the issue can be raised to the National Ocean Council for resolution.

2. The Members may develop additional rules and procedures, consistent with Executive Order 13547, to facilitate development of a regional plan.

3. The Members will seek to resolve disputes regarding the development of the marine plan. For purposes of this Agreement, a dispute is defined as the inability of the Members to reach consensus as

defined above. Specifically, express disagreement by a single Member on a particular issue which prevents general concurrence is sufficient to constitute a dispute.

4. In the event that consensus cannot be reached on a particular issue, the co-leads shall work to achieve consensus. This may entail providing more information, modifying a proposed action, or developing an entirely new approach to address the issue. In such instances where State, tribal, or local government interests are affected, there shall be State, tribal, or local government representation on the special working group. If established, the special working group has the responsibility to develop a consensus recommendation for resolution of the disputed matter(s), and the dissenting Member(s) will undertake a good faith effort to develop alternate recommendations that help the special working group come to consensus. If the special working group reaches consensus, its recommendation will then be presented to the full regional planning body for consideration and decision by consensus of the Members.

5. If an issue between Federal members cannot be resolved by consensus of the Federal members, the Federal co-lead shall coordinate with the non-Federal co-leads to frame the issue or issues, accounting for the objective representation of all views on the matter, for action by the Council's Deputy-level Committee as outlined in Executive Order 13547, including coordination with the Council's Governance Coordinating Committee on matters involving State, tribal, or local government interests.

6. In framing the issue or issues, the co-leads will summarize the relative positions of the Members and the efforts of the regional planning body to achieve consensus on the matter; identify, if appropriate, any relevant legal authorities associated with a specific position; and, if possible, provide a recommendation as to how the Deputy-level Committee might act on the matter.

7. Nothing in this process constitutes a delegation of State, tribal, or local government decision-making authority to the regional planning body, its co-leads, the Council or its sub-bodies, the Council's Governance Coordinating Committee, or any other entity. The marine planning dispute resolution process in no way alters, undermines, or supersedes non-Federal legal authority, including jurisdiction or decision-making over a matter. If a disputed matter arising during the regional marine planning process is elevated to the Council, the Council will fully respect and act consistently with any relevant non-Federal jurisdictional or decision-making authority over the disputed matter. Any action or decision by the Council does not alter, undermine, or supersede any non-Federal legal authority, including jurisdiction or decision-making authority over a matter.

8. Nothing in this charter shall be construed to impair or otherwise affect authority granted to the States or the tribes under the Constitution and laws of the United States or by law to an executive department or agency or head thereof; or 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.

9. The Members may develop additional rules and procedures, consistent with Executive Order 13547 as it adopts the Final Recommendations of the Interagency Ocean Policy Task Force to facilitate the eventual development of the marine plan.

VI. ADDITIONAL TERMS

A. Administrative Provisions

1. This charter shall take effect on the date of the last approving signature specified in Section VII below.

2. The Members may modify this charter by developing and agreeing to a written amendment.
3. A change in membership does not require execution of a new charter. A Federal agency, State, tribe, or any other entity based upon the guidance of the Council which joining the regional planning body as member after execution of this charter will be asked to sign the charter per section VII below.
4. A non-Federal Member may withdraw from this charter by providing reasonable written notice to the regional planning body co-leads. Withdrawal from this charter by a Federal Member requires notice to the Federal co-lead, and subsequent concurrence by the Council's Deputy-level Committee.

B. Relationship to Existing Authorities

1. Nothing in this charter removes or otherwise affects the rights of a federally recognized tribe, including its treaty rights, co-management authority, and the right to government-to-government consultation with the U.S. Governments.
2. Nothing in this charter removes or otherwise affects the rights of a State, Territory, or Commonwealth.
3. This charter in no way restricts the Members from participating in any activity with other public or private agencies, organizations, or individuals.
4. This charter is neither a fiscal nor a funds-obligation document. Nothing in this charter authorizes or is intended to obligate the Members to expend, exchange, or reimburse funds, services, or supplies, or transfer or receive anything of value.
5. This charter is subject to, and will be carried out in compliance with, all applicable laws, regulations and other legal requirements.
6. Members do not have to delay decision making under current statutory authorities, including regulatory permitting and approval processes, while the marine planning process is underway.

VII. SIGNATORIES

[Signatures of the members or their duly authorized representatives -- each member will sign the charter.]