



October 28, 2009

Ms. Nancy Sutley, Task Force Chair
White House Council on Environmental Quality

Dear Chair Sutley,

There is a sense of urgency in New England to help meet the region's and the nation's goals for renewable energy natural resources through sound siting of ocean energy facilities in state waters and on the OCS. Superior wind and tidal resources in this region are drawing interest from private industry and states are challenged to plan for appropriate sites while protecting the full range of public trust resources.

The Northeast Regional Ocean Council (NROC) recognizes ocean energy planning as a driving issue for New England, enabling important lessons learned to be applied to comprehensive ocean management. The region's resume for ocean energy planning is extensive, including ocean plans in two states, an ocean energy task force, a tidal energy task force, and technology demonstration sites.

NROC recently convened a two-day working session to promote regional thinking about ocean energy development and build community support around marine spatial planning as a tool for energy planning and other uses. The results of this workshop yielded candid discussions on the construct of plans, regulatory efficiencies, and opportunities for interstate and interagency collaboration to advance ocean planning efforts in New England.

NROC has prepared a set of recommendations based on input from state, federal and other regional organizations to assist in your deliberation of a Coastal Marine Spatial Planning Framework. Our recommendations are organized into five categories:

- Governance process;
- Regulatory efficiencies and coordination;
- Data needs, collection, and standards;
- Decision product needs; and
- Role of NROC and other regional ocean councils.

Thank you for considering this region's input on the Framework. NROC members are available to provide additional information based on our state and regional experiences at your request.

Respectfully,

Kathleen Leyden, Maine Coastal Program
2009 NROC State Chair

Northeast Regional Ocean Council
Recommendations for Coastal Marine Spatial Planning Framework
October 28, 2009

I. Governance process

- Organic planning preferred over top down requirements for a regional plan: Despite progressive ocean planning efforts in the Northeast (e.g., MA, RI) that have placed the region “out in front” nationally, major data, information, product and capacity gaps remain. States wish to continue their collaborative state/federal ocean planning without being hindered by a top-down, mandated regional CMS Plan that could prescribe conflicting methods and slow down the good work that is underway. States are developing ocean plans in the context of, and with the driving force of, additional policy initiatives; as an example, RI, MA, and ME are focused on wind energy development. Progressive federal policy would recognize that the manner in which these plans are being developed is a concrete step toward ecosystem-based management of ocean resources and leverage this investment of state staff, resources and political will to achieve a broader benefit. The MA plan and, in particular, the RI SAMP are examples of this approach in action. By tackling ocean energy planning first, States are learning valuable lessons that will enable them to move forward using a practical and informed approach to planning for other ocean uses. States believe in an ecosystem approach to CMSP informed by robust ecosystem science, but wish to pursue that goal in a more iterative, issue-by-issue manner. Therefore, regional CMSP should focus on collaborative planning between States and federal agencies rather than starting with a prescriptive and overarching comprehensive planning requirement.

At the same time, States recognize the need for and benefits of a planning framework grounded by consistent, standardized objectives that define and advance national policy interests. We propose for consideration the following basic framework that we believe assimilates state and national interests, leverages strengths of existing law, enables real, outcome- and decision-oriented planning to occur on a timeline responsive to state development interests, and is politically feasible at both the individual state and regional level. The efforts in RI, MA, and ME are already along this trajectory, and any CMSP planning framework should recognize and build upon those efforts.

- Regional Planning Framework:
 - 1) Federal policy establishes framework principles and both mandatory and discretionary targets. Principles would be broad articulation of national interests. Targets would include key elements of a plan such as: establishment of resource and human use baselines, definition/characterization of ecosystem services; identification and analysis of fundamental/preeminent conflicts/management interests. Federal policy should make explicit allowance for regions to define the driver(s) around which regions want to coalesce, whether comprehensive MSP or focused application (wind development) with minimum, formalized derivative EBM benefits defined by federal principles.

- 2) Regional ocean governance efforts (ROCs) obligated to facilitate regional planning, that explicitly recognizes/incorporates/builds off state planning initiatives, to a minimum level of detail/applicability with flexibility to do more – minimum includes baseline characterization of resources and uses; definition of practicable regional goals and objectives; associated tradeoffs/compatibility analyses; and maps that identify areas more and less suitable for conservation and development.
 - 3) If regions have the interest and the ability to go further (could be an incentive function here – federal funds available to go further, if region commits), then the level of planning should be developed to sufficient depth so that it can be presented formally as a programmatic EIS, building off the structural/substantive similarities of MSP/NEPA (e.g. analysis of alternative tradeoff scenarios in MSP equivalent to analysis of discrete alternatives in NEPA). NEPA review then allows the federal agencies to legalize, and act upon, in subsequent permitting actions, the determinations they have been developed through the planning process.
 - 4) Individual projects then tier into the PEIS, which increases predictability and reduces agency and applicant cost. Note that individual project review and programmatic requirements for NEPA, as with MMS renewable energy rules, can operate in parallel, unless or until a region completes the PEIS process.
- Geographic scope needs to be manageable and may require investment in existing programs: The prospect of creating a comprehensive CMSP at a large geographic scale (bays/estuaries out to 200 miles) is overwhelming and requires capacity that does not exist. If the Framework is to address land-side issues concerning the ocean ecosystem, a more appropriate response would be to adequately fund existing federal programs that already require states to manage these systems (e.g., State CZMA programs, 6217 and Clean Water Act Non-point pollution programs, improve regulation through Clean Water Act 404 program). To include coastal land-based activities in CMSP would serve as a disincentive to States to spend precious resources tackling a process too large with existing resources. Federal agencies have a responsibility to invest in existing programs while placing an emphasis on better coordination of those efforts with ocean planning initiatives.
 - Coordination framework needed: States feel strongly that the first step towards collaborative ocean planning is to develop an agreed upon coordination framework among federal and state agencies on how to get there. This framework could build on the strong federal-state partnership that already exists around the NROC table, and should include additional agencies not yet present, such as DoD, FERC, and DOE.

II. Regulatory efficiencies and coordination

- Federal mandate to engage in CMSP would enable enhanced efficiency and better consistency in the regulatory process: To ultimately enable a regional ocean planning effort to succeed, a federal agreement to engage in CMSP should ensure that all the right players are present and willing to work as a federal community to

improve consistency and efficiency in their regulatory processes. As has been extensively described in the reports of the US Commission on Ocean Policy and Pew Oceans Commission, among other sources, inter-agency coordination, extending to the various applicable regulatory processes, is a paramount need. The development of a regional ocean plan provides an opportunity to address this issue. To the extent that an ocean plan developed in a marine spatial planning framework mirrors and addresses existing regulatory requirements (such as elements of the alternatives analysis requirements of NEPA, as described above), this is a clear opportunity to achieve regulatory efficiencies (i.e., through enabling specific projects to tier to a programmatic-level NEPA document with a demonstration of consistency with the plan) within the existing regulatory framework. On a practical note, reducing the regulatory burden for applicants that demonstrate consistency with a plan will result in an incentive for projects to be developed in a manner consistent with the plan, thus assisting in achieving a plan's goals of appropriately siting projects while protecting environmental resources and areas important to other human uses.

Additionally, federal agency involvement in the development of a plan would enable decision-making to occur in a coordinated fashion—since all of the appropriate agencies would have a seat at the table. This enhanced coordination would enable federal and state regulators and resource managers to present their policy, data, and regulatory issues up front, allowing for additional coordination, consistency, and efficiencies to be achieved. The development of the Massachusetts Ocean Plan is an example of this benefit, since regulators, resource managers, and development proponents alike now have a single place to start—that reflects agency consensus—with regard to state regulatory review.

- Incorporate State ocean planning efforts into federal requirements: Use CMSP planning coordination to streamline processes and have federal agencies buy into State plans, policies and information to facilitate the later permitting phases to the maximum extent possible. Federal “buy-in” may vary agency to agency and by legal authority. For example, States and Federal agencies can agree to eliminate or streamline some CZMA federal consistency reviews, but under NEPA, ESA or MMPA, while there might be some level of buy in for a particular area for wind power based on the level of State information, there will always be later site-specific information and review needed for a proposed project.
- Communicate common list of requirements for NEPA: To enable efficiencies in the NEPA process, Federal agencies should produce a common and comprehensive list of requirements that States can use to allow them to be proactively and efficient in gathering the information necessary to get through the regulatory process.
- Data requirements should be standardized and impacts of major uses understood: Federal and states agencies would benefit from a better understanding of what type and extent of data is required for approval of different projects. As federal

agencies continue to work through different uses with states like RI and MA, these data requirements should be standardized and communicated so all following states can benefit, at both the planning level of detail and relative to specific projects.

III. Data needs, collection, and standards

- Data and information plan is first step in considering CMSP at regional scale: A baseline of information is needed to pursue ocean planning at a state or regional scale. Since decisions often need to be made with existing data, these decisions should match the sophistication of that data and not overestimate its possible deficiencies. Efforts in the New England states have indicated that even with a reliance on existing data, improvements to decision-making in the ocean environment can be made. That said, there remain basic data and information needs to enhance the future effectiveness of CMSP that will require a significant undertaking by federal agencies and partners to obtain, classify and standardize these data in a way that will allow for edge matching of existing data sets at different scales and resolution. There needs to be significant investment in data collection, the sharing and management of data sets, and the products and tools one needs to use this information. A key benefit of an ocean planning exercise is to assist in identifying and prioritizing those data, products, and tools.
- Improve data accessibility: In addition to needed data collection, there remain issues of data access. Federal agencies play an important role as data provider, yet many are not equipped to release that data in a timely manner and appropriate format for ocean planning. For example, Vessel Monitoring System (VMS) data collected by NOAA reveals critical information on the location of fishing activity, yet this data required significant “scrubbing” of proprietary data for use in ocean planning efforts. Data sets critical to CMSP should be identified and measures taken by federal agencies to develop solutions to reformatting and releasing this data in a more timely and usable format. Federal agencies should also communicate the utility of data sets in an ocean planning context as not all data currently being used in ocean planning reaches credible standards for such purposes (e.g., vessel trip report data). Barriers also exist with proprietary data sets collected by project applicants. Federal agencies should build requirements into permit conditions for applicants to make such data available to inform CMSP.

IV. Decision product needs

- Decision support tools need to be developed at a regional scale: The arena of decision support and data analysis tools is ripe and appropriate for development at a regional scale. Tools that enable cumulative impact analysis, human use atlases, trade off analyses, habitat classification, and adaptive management, among others, are ongoing in New England and elsewhere. Development and application of these tools provides an opportunity for collaboration among federal and state

agencies and non-government partners towards more effective CMSP. There are economies of scale and critical standardization that would be enabled by this type of regional endeavor. Regional data viewers, such as the Multipurpose Marine Cadastre, should also be produced at this scale and edge matched with existing GIS data products already produced by several states.

V. **Role of Regional Ocean Councils (e.g., NROC)**

In addition to the potential role for ROCs described above, these entities can also serve important functions through the following:

- One-stop shopping for consistent guidance on information and regulatory requirement needs: Regional Ocean Councils can serve as a liaison between states and federal agencies to communicate information requirements, promote consistency for regulatory processes, and sharing of decision support tools that enable more effective CMSP. NROC may consider establishing an additional committee to address CMSP technical concerns around data tools and regulatory requirements. By developing this information and problem solving mechanism, States can also ensure that tools being developed are meeting their management needs in state and federal waters.
- Share solutions to benefit all stages of CMSP: ROCs should be a place where successes in CMSP processes are shared and transferred from one part of the region to another. In the Northeast where different states have pursued different objectives, methods and tools, these plans and processes can be analyzed for compatibility and edge matched to create a more comprehensive picture of regional CMSP. By honoring individual state methods, a regional approach will emerge.
- Opportunity for capacity building to benefit region: Concentrating future investment in ROCs to pursue those aspects of CMSP that require a regional approach will improve needed capacity in areas of staff support, technological capacity for data analysis, long-term economic social and environmental impact analysis, and robust stakeholder involvement.
- Competition for regional funds: NROC recognizes the strength of its federal-state partnership and the high level of talent among its partners -- NGOs, universities, and regional research and observation consortia. Funds available to pursue coastal and marine spatial planning would leverage the multi-million dollar investment partners have already made in CMSP data collection, decision tool development and ocean planning processes. Strong financial support would enable regions to build on their successes at the state level and coordinate with the projects underway to ensure they will meet management needs at a state and regional level to pursue larger scale CMSP. Groups like NROC could serve as the convener to enable this happen.