

American Sportfishing Association
Center for Coastal Conservation
Coastal Conservation Association
Congressional Sportsmen's Foundation
International Game Fish Association
National Marine Manufacturers Association
The Billfish Foundation

April 29, 2011

The Honorable Nancy Sutley
Chair, Council on Environmental Quality
Co-Chair, National Ocean Council
Executive Office of the President
Washington, DC 20500

Dr. John P. Holdren, Director
Office of Science and Technology Policy
Co-Chair, National Ocean Council
Executive Office of the President
725 17th Street Room 5228
Washington, DC 20502

Re: Notice of Intent to Prepare Strategic Action Plans for the Nine Priority Objectives for Implementation of the National Policy for the Stewardship of the Ocean, Our Coasts, and the Great Lakes. Request for Comments.

Dear Ms. Sutley and Dr. Holdren,

The above listed organizations are pleased to submit the following formal written comments on the Priority Objectives of particular interest to the recreational fishing and boating community for implementation of the National Policy for the Stewardship of the Ocean, Our Coasts, and the Great Lakes. Our organizations represent the overwhelming majority of recreational boating and angling interests in the United States, collectively a \$200+ billion industry in the United States that supports over 1.5 million jobs. The recreational fishing and boating community is anxious to engage in the National Ocean Policy development to insure our community is adequately represented in this significant policymaking process. We come to this engagement trying to answer an ever-increasing number of questions from our members, businesses and partners as to what exactly will be the impacts of this process on the interests of recreational anglers and boaters.

An overarching concern of our community with the National Ocean Policy, particularly as it pertains to coastal marine spatial planning, is the treatment of recreational uses as one of numerous ocean “sectors,” along with oil, gas, mining, commercial fishing, transportation, defense, security. We firmly believe that there is a distinct and inherent difference between recreational and industrial ocean uses, and their respective impact on the ocean environment. Members of the public who choose to spend leisure time on the water fishing with family and friends are fundamentally different than commercial activities in which a public resource is extracted for the purpose of selling that resource. Recreational use of our public waters is not only compatible with, but in fact is essential to sound conservation and natural resource stewardship, as highlighted by contributions made to such successful conservation programs as the Sport Fish Restoration Program. Because recreational angling and boating contribute directly to funding the conservation of our Nation’s aquatic resources and provide other significant social and economic benefits, we know these activities warrant special and elevated consideration as a national priority as National Ocean Policy development moves forward. In addition, saltwater recreational activities are compatible with the America’s Great Outdoors initiative and play an important role in providing outdoor recreation, exercise and life skills.

Objective 1: Ecosystem-based Management

The near-term, mid-term and long-term actions that would most effectively help the Nation achieve this policy objective are to NOT mandate the implementation of ecosystem-based management in a “one-size fits all” application. Ecosystem-based management is not legally defined and is not part of any statutory authority. In fact, the recent 2006 reauthorization of the Magnuson-Stevens Fishery Conservation & Management Act (MSA) specifically avoided mandating Regional Fishery Management Councils implement ecosystem-based management because there is not one consistent definition or application of this management practice. The Secretary of Commerce should review the findings of the study that was mandated by MSA to “complete a study on the state of the science for advancing the concepts and integration of ecosystem considerations in regional fishery management.”¹

The National Ocean Policy final recommendations note that the strategic action plan for implementing ecosystem-based management should establish “a process for working with States, tribal, and local authorities and regional governance structures to apply the most successful approaches.”² Certainly the Regional Fishery Management Councils will be important “regional governance structures” with which to work in attempting to develop effective ecosystem-based management systems. The concern is that under the National Ocean Policy structure, the National Ocean Council (NOC) will simply consider what the Regional Councils are doing in their respective regions and require additional requirements or entirely different approaches to implementing ecosystem-based management. This would ultimately undermine

¹ Magnuson-Stevens Fishery Conservation and Management Reauthorization Act, 16 U.S.C. 1882(f) (P.L. 109-479)

² Final Recommendations of the Interagency Ocean Policy Task Force (July 19, 2010), pg. 32.

the Regional Council process. It is understood that the Regional Council process is not perfect, however, the council process does provide for local, transparent public input on policies and regulations that will directly impact the use of the relevant marine environment.

One of the major obstacles to adopting ecosystem-based management as a foundational principle for the comprehensive management of the ocean is that this type of management approach is neither defined in the National Ocean Policy final recommendations nor anywhere else in law. Ostensibly, part of this request for comments is to get a better understanding of what ecosystem-based management might look like. But, the request for comments does not ask for information on what is ecosystem-based management, rather it simply poses a series of questions on how it might be implemented effectively. In addition, Appendix C – “Public Engagement” – the National Ocean Policy final recommendations explains that “[h]ow ecosystem-based management will be defined and implemented would be further addressed by the NOC as it develops a strategic action plan for this priority objective.”³

Thus, it appears comments are being received on how to implement ecosystem-based management and the NOC will then determine how to define it. This seems like a backward approach. The National Ocean Policy would be better served by having a clear definition of ecosystem-based management and then receiving comments on how to implement such an ocean management construct.

The closest the National Ocean Policy final recommendations comes to defining ecosystem-based management is by explaining that it “integrates ecological, social, economic, commerce, health, and security goals, and which recognizes both that humans are key components of ecosystems and also that healthy ecosystems are essential to human welfare.”⁴ An ocean management approach that attempts to consider everything ultimately considers nothing very well. To be effective, such a comprehensive and far-reaching approach would require a considerably greater understanding of the living and non-living factors in the environment than currently exists. For example, there are numerous recreationally and economically valuable fisheries with which humans have interacted for centuries, yet we have little knowledge of their basic life history traits. We believe it is premature to attempt to embark on this fundamental shift in management given the general lack of scientific data to support this approach.

Implementing ecosystem-based management must not be a top down federal mandate. The states and their fish and wildlife agencies play a significant and successful role in managing coastal resources, commercial uses and recreational uses. We observe that the states’ authority and role in the process has been diminished. In our view this slight must be changed and the states must have a role commensurate with their authorities, expertise and interest in this planning process.

³ Id., pg. C-III

⁴ Id., pg. 2

Objective 2: Coastal and Marine Spatial Planning.

Pursuant to Executive Order 13547, President Obama defines coastal marine spatial planning (CMSP) as “a comprehensive, adaptive, integrated, ecosystem-based, and transparent spatial planning process, based on sound science, for analyzing current and anticipated uses of ocean, coastal, and Great Lakes areas.”⁵ The Co-Chairs of the NOC are responsible for then approving the coastal marine spatial plans that are consistent with national objectives and “guidance the NOC has articulated, and any other relevant national priorities.”⁶

The near-term, mid-term and long-term actions that will help achieve this policy objective are maintaining constant input from the public and local users of the marine environment. This will help eliminate perceptions that this will be a planning process that will only be driven by the NOC and input from local users will not be fully considered.

The primary concern from the recreational fishing and boating community with the implementation of CMSP is that it could lead to large areas of the ocean environment being restricted to access. There are numerous competing interests in our oceans, be it shipping, commercial fishing, energy production, and defense. Recreational interests, however, are too often afterthoughts in marine policy, but this must not be the situation with the implementation of CMSP.

It is encouraging to see that the National goals of CMSP include the requirement to “provide for and maintain public access to the ocean, coasts, and Great Lakes.”⁷ In addition, the National Ocean Policy includes the need to “preserve our Nation’s maritime heritage, including our social, cultural, recreational, and historical values” as a core policy objective.⁸ These are important changes made to the Interim Report and ones that provide some comfort to recreational fishermen, who want to have access to the ocean and sustainable fishery resources.

Ultimately CMSP must be a policy/process that seeks to better inform decision-making in the ocean environment and address gaps in science and data to improve conservation, management and environmental objectives. It is imperative, however, that CMSP not be a means to catalogue, map and designate vast marine areas as marine protected areas (MPAs). While MPAs may serve as potential tools amongst many in a given marine fishery management toolbox, in recent years there has been an alarming drive toward adopting MPAs without adequate regard for science, data, economic impacts, or public access.

⁵ Exec. Order No. 13547 pg. 3 (July 19, 2010)

⁶ Final Recommendations of the Interagency Ocean Policy Task Force (July 19, 2010), pg. 63.

⁷ *Id.*, pg. 7.

⁸ *Id.*, pg. 15.

The National Ocean Policy final recommendations still maintain numerous references to ambiguous terms such as “healthy,” “pristine,” and “resilient” and articulate broad management concepts that call for the protection of biological diversity – all of these terms are undefined and can be interpreted broadly. The report then couples these hard-to-define terms and concepts with a precautionary approach when there is scientific uncertainty.⁹ It is our concern that under this approach CMSP could lead to the preservation of the ocean based entirely on precautionary principles and arbitrarily exclude users – primarily recreational users, we fear – from the marine environment and its resources.

To avoid this potential and mitigate concern that this will be the result of the CMSP, the National Ocean Policy should simply follow the law under the MSA for how and when restricted areas are created in the marine environment. The legal requirements in MSA for establishing any marine restricted area are: 1) be based on sound science; 2) be the smallest marine area possible to achieve an articulated conservation goal, and 3) be continuously reviewed to determine whether the marine restricted area is necessary to achieve these conservation goals.¹⁰

It should not be the goal or result of CMSP to determine or catalogue marine areas that should be simply set-aside as marine reserves or no-go zones. Any policy to set-aside large areas of the marine environment from access to recreational fishing or the private boating public is not acceptable and will be inconsistent with goals and policy articulated in the National Ocean Policy final recommendations. CMSP should not be a means to lock-up the ocean to public access and recreation.

It is worth noting that within this Administration’s other major resource conservation initiative – America’s Great Outdoors (AGO) – increasing and improving recreational access is one of the primary goals.¹¹ Because of its elevated support for outdoor recreation access and opportunities on public lands and waters, our community has strongly embraced and promoted the AGO initiative, whereas the National Ocean Policy, particularly as it pertains to CMSP, has created considerable concern. To provide consistency between these two initiatives, recreational access should be cited as a priority in CMSP. When this administration promotes getting more Americans outside in our public spaces and getting more Americans physically active, please remember that America’s great outdoors do not end at the shoreline.

We are deeply concerned that the process thus far is not adequately acknowledging the difficult position states in general and their natural resource management agencies in particular are now facing. CMSP will clearly rely heavily on state agencies and if this is carried out in a “top-down” manner that is insensitive to the harsh economic burdens state agencies are carrying, the endeavor will be crippled before it has truly started at the regional level. This

⁹ *Id.*, pg. 16.

¹⁰ MSA, 16 U.S.C. 1853(b)(2)(C) (P.L. 109-479).

¹¹ America’s Great Outdoors: A Promise to Future Generations (February 2011), pg. 17.

problem is compounded by the inadequate outreach thus far in approaching states as partners in this effort. If CMSP is to succeed at any level, it must be carried out in a collaborative manner with the states, which have done a much better job historically of managing marine resources than has the Federal government.

Finally, to ensure that CMSP is developed through a fair and balanced approach, it is essential that the federal government not seek or collect private funding to aid in the development of the regional plans. Much of our community's concerns over CMSP are attributable to the perception that it will follow a similar course as the Marine Life Protection Act initiative in California, through which large areas of the state's coastal waters are now permanently closed to recreational fishing with no scientific justification. This once seemingly beneficial program for recreational anglers had remained idle for years due to lack of state funding, but became clearly biased towards excessive and unnecessary closures once development began in 2006 as a result of the funding partnership between the state and private organizations that support closures. Given the potential, real or perceived, for CMSP to follow a similar path, it is critical to avoid engaging in a public-private funding partnership.

Objective 3: Inform Decisions and Improve Understanding

The action that can best achieve the priority objective to increase knowledge to continually inform and improve management and policy decisions for the oceans is to make it a national priority to fund stock assessments for all federally managed fisheries. The basis for properly managing and conserving fishery stocks is to understand the abundance of the resource, and this can only be achieved with reliable and up-to-date stock assessments.

A major obstacle to implementing the priority objective for improving understanding in the ocean environment is the use of questionable science and making ocean policy decisions based on poor or out-of-date information. Unfortunately, this is the exact problem we have today with some fishery management decisions that shut down recreational fisheries based entirely on old stock assessments and incomplete information.

The National Ocean Policy must endeavor to increase our understanding of the oceans and this begins with maintaining sustainable fishery resources through sound science and up-to-date stock assessments.

Objective 4: Coordinate and support Federal, State, Tribal, local and regional management of the ocean, our coasts and the Great Lakes.

The National Ocean Policy final recommendations place a substantial focus on coordinating the numerous agencies and laws that ultimately intersect with the stewardship of our oceans. The report recommends a policy coordination framework that would provide a structure to

strengthen ocean governance and coordination by “providing clear and visible leadership and sustained high-level engagement within the Federal Government.”¹² Within this policy coordination framework, the report does recommend greater participation by local and regional governance structures. However, the policy provides absolutely no options for the public or recreational organizations to have a formal position or presence within policy coordination framework or regional planning bodies.

This is a failure of the policy and a significant long-term obstacle to the success and ultimate value of the National Ocean Policy. Maintaining regional input and expertise is absolutely critical for establishing a balanced and uniquely responsive national ocean policy.

A national ocean policy should not be a mechanism to establish an overarching bureaucracy that consists entirely of governmental officials implementing federal-down mandates. But over and over again in the National Ocean Policy it references “Federal, State, Tribal, and local authorities,” as the people who will either fill out the positions within the Policy Coordination Framework and also the nine Regional Planning Areas.¹³

Thus, the organizing structures for the National Ocean Policy will consist entirely of governmental officials, and will therefore lack the necessary perspectives of actual interested groups in the ocean environment. By establishing that only governmental officials can serve on the various committees and regional planning bodies, it will likely be the case that the public will become highly skeptical of the mandates coming from these new bureaucratic structures.

The national ocean policy must encourage better coordination between agencies and promote policies that focus the stewardship of our oceans, but not at the expense of regional ingenuity. To improve and succeed with this priority objective, provide a formal position within the coordination framework and the regional planning bodies for ocean users – recreational fishermen – to participate and have a formal role in making decisions regarding the National Ocean Policy.

Objective 6: Regional Ecosystem Protection and Restoration

The sportfishing and boating community’s approach to conservation and management of our natural resources is focused on the resources on which the public depends for high quality, easily accessible recreational fishing opportunities. Over the last 30 years, significant strides have been taken to improve the health of America’s aquatic resources, including water quality and fish habitat. We are faced with many fisheries resource challenges but by and large, state and federal agencies, backed by important pieces of legislation including the Clean Water Act, the Sport Fish Restoration and Boating Trust Fund and the Magnuson-Stevens Fisheries

¹² Interagency Ocean Policy Task Force (July 19, 2010), pg. 19.

¹³ *Id.*, pg. 52.

Conservation Act, have succeeded in reversing a declining trend in many of our nation's rivers, streams, lakes and coastal areas. Much of this success can be attributed to the tremendous infusion of funding for federal and state water and fisheries management in the form of excise taxes on fishing and boating related purchases and fishing license sales. American sportsmen have undoubtedly played an important role in the stewardship of our natural resources for over 100 years.

We support the National Ocean Policy's objective to "(e)stablish and implement an integrated ecosystem protection and restoration strategy that is science-based and aligns conservation and restoration goals at the Federal, State, tribal, local, and regional levels."¹⁴ Acknowledging the importance of natural resource conservation, it is also vital that protection and restoration strategies included in the National Ocean Policy also balance, maintain and enhance recreational access. Rather than locking up areas for protection and prohibiting access, these strategies should engage the public with the environment in a collaborative manner that educates them on the importance of resource conservation and promoting environmental stewardship. Public use promotes care and stewardship.

There are several efforts underway that promote ecosystem restoration and allow individuals and communities to actively participate in the conservation of our nation's coastal habitats that are vital to recreational fisheries, such as the National Fish Habitat Action Plan, NOAA's Community-based Restoration Program, and the Great Lakes Restoration Initiative. Combining the collective energy of state and federal agencies with local partners offers the best chance of success. The National Ocean Policy should embrace and promote these programs which operate from a "bottom-up" approach, assuring that priority areas, species, and systems are identified by partners with a working knowledge of what habitats most need to be addressed.

Conclusion

The recreational fishing and boating community will continue to try to impress upon those shaping the National Ocean Policy that it is critical to cite public access for recreation as a specific top priority and criteria when contemplating CMSP and other relevant objectives. In the nine National Priority Objectives of the policy, "recreation" and "access" are not mentioned. We strongly recommend that the National Ocean Policy follow examples within the Department of the Interior (DOI) and its public lands management. For example, the National Wildlife Refuge System explicitly lists recreation and access as a top management priority.

We have appreciated the outreach from CEQ and others throughout the development of this policy. We are grateful for the progress made to date to in elevating the importance of providing and maintaining public access to the ocean, coasts and Great Lakes. However, many in our community remain hesitant to support this policy given the treatment of recreational activities as one of numerous ocean uses with which it may have to compete for continued

¹⁴ Id., pg. 37.

access to marine recreation areas and the use of publicly managed resources. Much of this concern could be alleviated by elevating recreational activities as a priority ocean use given their conservation, cultural and economic values.

We look forward to a continued positive dialogue with the National Ocean Council, its staff and the Administration on effective ways to enhance oceans policy coordination and governance. Thank you for your consideration.

Sincerely,

Mike Nussman, President
American Sportfishing Association

Jeff Angers, President
Center for Coastal Conservation

Pat Murray, President
Coastal Conservation Association

Jeff Crane, President
Congressional Sportsmen's Foundation

Rob Kramer, President
International Game Fish Association

Thom Dammrich, President
National Marine Manufacturers Association

Ellen Peel, President
The Billfish Foundation