

# West Coast Regional Planning Body

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## CHARTER

### Introduction

Presidential Executive Order 13547, signed in July 2010, established the first *National Policy for Stewardship of the Ocean, our Coasts, and the Great Lakes*. The National Ocean Policy (NOP) encourages a comprehensive, adaptive, integrated, ecosystem-based, and transparent planning process based on sound science for analyzing current and anticipated uses of ocean and coastal areas. The approach is driven by the formation of Regional Planning Bodies in nine regions of the United States. West Coast Regional Planning Body (RPB) members will develop planning products driven by the specific needs of their geography along the West Coast by building on existing efforts and identifying specific planning needs at the regional and sub-regional scale.

The West Coast has a number of unique characteristics that will be need be addressed by the approach of the RPB, including the large geographical scale of the region and varied governance structures including many sovereign tribal nations. Multiple, overlapping management jurisdictions, and recent state, regional and federal ocean policy and planning initiatives necessitate better coordination between federal, state, and tribal decision-makers around marine planning.

It is important to note that the West Coast RPB is not a regulatory body and has no independent legal authority to regulate or otherwise direct federal, state, tribal, or local entities; nor does membership constitute a delegation of decision making or legal authority to West Coast RPB members. Further, participation on the West Coast RPB does not commit any non-federal member, or non-federal government represented by the member, to adopt resulting products or plans.

### Purpose & Objectives

The West Coast Regional Planning Body (RPB) provides a voluntary forum for dialog, information-sharing and coordination of marine and coastal planning activities at various scales along the Pacific Coast of the U.S. between federally-recognized tribal, state and federal government partners, with engagement from the Pacific Fishery Management Council (PFMC) and other appropriate entities. The efforts of the RPB will focus on enhancing existing marine planning activities occurring within the region through effective coordination and communication, while also identifying regional management gaps appropriate for a marine planning approach through clearly defined criteria. The efforts of the RPB are entirely non-regulatory, and its activities cannot alter existing laws, regulations or agreements between any of its governmental members.

The RPB will focus on using marine planning as a tool for appropriate natural resource issues, with the goal of more effective government coordination and enhanced management of ocean and coasts in the region. The RPB may be included as an element of a broader partnership focused on enhancing solutions to ocean health issues facing the West Coast, which could include tools and approaches other than marine planning. The membership of a regional ocean partnership may be different than that of the RPB, but all efforts undertaken by the RPB will include the goal of enhanced coordination with other regional ocean activities between tribal, state and federal partners. Nothing in this charter document is binding to anything other than RPB-specific activities, and any foundational documents of

other West Coast ocean partnerships will not explicitly impact this charter without consensus and adoption from RPB membership.

## Marine Planning Goals

### Marine Planning Defined

Marine planning is a science-based tool regions can use to address specific ocean management challenges and advance economic development, conservation and/or other objectives. Marine planning will support regional and sub-regional actions and decision making, as well as address relevant management priorities based on the needs, interests, and capacity of a given region or sub-region. Marine planning is intended to provide more coordinated and responsive federal engagement with state and tribal government partners, and the opportunity for all coastal and ocean interests in the region and sub-regions to share information and coordinate activities. A more coordinated approach will promote more efficient and effective decision making and enhance regional and sub-regional economic, environmental, social, and cultural well-being.

The goals listed here serve as foundational elements of the West Coast RPB, but will be subject to change and additions over time as new goals arise or the RPB undertakes strategic planning in the future. Action items and planning products to achieve these broad goals, including building on existing marine planning efforts within the region, will be developed and agreed to by the RPB and included in a more detailed work plan that builds on this charter.

- Support sustainable, safe, secure, efficient, and productive uses of the ocean and our coasts, including those that contribute to the economy, commerce, culture, recreation, conservation, homeland and national security, human health, safety, and welfare;
- Protect, maintain, and restore regional ocean and coastal resources and ensure resilient ecosystems and their ability to provide sustained delivery of ecosystem services;
- Protect and enhance cultural resources throughout the West Coast Region, and use this partnership to enhance awareness and dialog around important cultural aspects of marine resources in the region;
- Provide for and maintain public access to the ocean and coasts;
- Promote compatibility among uses and reduce user conflicts and environmental impacts;
- Improve the rigor, coherence, efficiency, and consistency of decision making and regulatory processes;
- Increase certainty and predictability in planning for and implementing new investments for ocean and coastal uses; and
- Enhance interagency, intergovernmental, and international communication and collaboration.

### Relationship to Existing Authorities

The RPB is not a regulatory body and has no independent legal authority to regulate or otherwise direct federal, tribal or state governments or entities. Federal agencies involved in this effort administer a range of statutes and authorized programs that provide a basis to implement regional and sub-regional marine planning. The process and decision making that the National Ocean Policy envisions for regional ocean planning will be carried under the authority of existing statutes. Regional

marine planning cannot supersede existing laws and agency authorities; rather, it is intended to provide a better mechanism for application of existing laws and authorities. Neither a regional nor a sub-regional marine plan would be regulatory nor, by itself, constitute final agency decision making or final agency action. Any regional or sub-regional marine plan developed through the activities of the RPB will be intended to guide and inform agency decision making and Federal agencies would adhere to the regional or sub-regional plan to the extent possible consistent with their existing authorities.

## West Coast Regional Approach

The geographic scope of the RPB efforts includes the exclusive economic zone (EEZ) off the continental U.S West Coast between Mexico and Canada and extends landward to the mean high-water line. Additional inland marine areas not located on the outer West Coast of the U.S. may be included as deemed appropriate by the RPB. This area is herein referred to as the West Coast Region.

The large geographic scale, multiple governance structures and range of planning issues make the West Coast a unique region when compared to other areas of the U.S. where RPBs have been established. As a result, an approach that effectively addresses the scale of the West Coast while ensuring meaningful engagement between governments and stakeholders is required.

Rather than attempting to create a single region-wide marine plan, the West Coast regional approach will be focused on coordinating and harmonizing marine planning activities taking place at sub-regional scales. Marine plans developed within defined sub-regions will be presented to the full RPB membership for discussion, feedback and adoption. The RPB will develop a process to ensure sub-regional planning products are consistent with the National Ocean Policy to the maximum extent practicable. Likewise, the RPB will work to ensure that sub-regional marine plans reflect the regional Goals and Objectives set forth in this Charter. Over time, it is intended that sub-regional marine plans will cover the entire West Coast region, and this multi-part approach will serve as the region-wide planning product for the West Coast RPB.

## West Coast Sub-Regional Approach

As discussed above, marine planning activities for the West Coast region will largely be carried out at a sub-regional scale. Sub-regional planning teams will work to bring together tribal, federal and state governments, along with local government and stakeholders to determine appropriate approaches for each sub-region. The RPB will serve to ensure harmony between sub-regional approaches and subsequent sub-regional planning products.

While the regional marine planning for the West Coast will follow broad goals, sub-regional marine planning goals will be determined and approved by each sub-regional marine planning team. Sub-regional goals will be unique to each part of the coast based on ecological, physical, social and economic attributes. Planning activities within each sub-region will build around existing tribal, federal, state and local efforts, where applicable, and fully account for current and future proposed ocean uses to the maximum extent practicable.

The timing for development and initiation of sub-regional marine planning teams throughout the West Coast region will be flexible, and based on ongoing dialog among full RPB membership. Sub-regional planning team formation will be based on explicit needs for marine planning approaches as identified by state and tribal members, but also be responsive to capacity of state and tribal governments and their staff. Engagement and participation in sub-regional marine planning activities may vary among partners based on timing and planning products.

Once sub-regions are defined, this charter will be updated with an addendum for each sub-region that includes geographic boundaries, membership and sub-regional charter (or similar document) for each sub-regional area and planning team. While sub-regional plans will serve as the foundational products for the West Coast regional marine planning product, the full RPB may address those issues that cross one or more sub-regional boundaries as appropriate. These issues, such as maritime transportation, may be identified as region-wide and brought to the full RPB membership for review and possible planning action(s).

## Member Commitments

West Coast RPB members agree, to the extent practicable and consistent with their underlying authorities, to participate in the process for regional and sub-regional marine planning as described in this charter. This charter reflects an agreement for planning and coordination purposes and is not binding on RPB members at regional or sub-regional levels. 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 treaty, statute or regulation. The activities of the RPB are not a substitute for formal government-to-government consultation requirements between the federal government and each federally-recognized tribal government.

The marine planning framework to be undertaken by the West Coast RPB will allow for phased implementation of planning activities at the sub-regional level, based on the capacity and interest of its membership within various parts of the coast. The full RPB will provide guidance for sub-regional membership and review operational plans developed by sub-regions to guide marine planning activities and local government and stakeholder engagement. Sub-regional criteria will be modeled after criteria used for region-wide membership, but tailored to the needs and engagement approaches most appropriate for each sub-regional area identified. Each sub-region will determine the appropriate commitment requirements for its respective membership and planning partners.

## Operations & Procedures

### Consensus Building

The activities of the RPB will be focused on building consensus for effective regional and sub-regional marine planning in the West Coast region, including identification of marine planning needs and planning products that will enhance the activities of RPB members.

To reach consensus, the RPB decision making process will be as follows:

- With input from full RPB membership, the Executive Secretariat (described below) and RPB staff will organize and facilitate a balanced discussion of the marine planning issue at hand.
- After discussion of the issue, the Executive Secretariat will check with RPB membership to see what areas of consensus have emerged, if any. RPB members may state what, if any, areas of consensus they believe exist.
- The Executive Secretariat will then ask RPB members to indicate verbally (in person or remotely) whether they are in consensus on a given decision:
  - in full agreement;
  - not in full agreement but can respect the decision of the rest of RPB members;

- cannot agree.
- Full consensus of the RPB is reached when every RPB member agrees with each of the following:
  - I believe other RPB members understand my point of view;
  - I believe I understand other RPB members points of view;
  - Whether or not I prefer this decision, I support it because it was arrived at openly and fairly and is the best solution for the RPB at this time.
- When consensus is reached, it will be reported as the decision of the RPB and recorded by the Executive Secretariat and RPB staff.

### Government Membership

The membership of the West Coast RPB consists of federally-recognized tribes, federal and state government representatives relevant to marine planning for the region. Ideally, members will be of an appropriate level of responsibility within their respective governing body to be able to review materials and either make or deliver decisions and commitments throughout the process, or consult with leadership and constituents on such issues within each entities' respective approval processes. Member representatives shall meet the membership criteria relevant to their respective political subdivisions consistent with the regional framework for effective marine planning. In addition to their official representative, federal, state and tribal government members may include officials from their relevant entities to attend and contribute to RPB meetings, as appropriate. Each government entity will determine its own approach to signing this charter as a reflection of their commitment to the marine planning process for the West Coast region.

For sub-regional marine planning on the West Coast as outlined in this charter, members of each sub-region will formally develop and sign their own sub-regional charters to define and commit to membership. The full RPB will support the organization and coordination of sub-regional activities through designated RPB staff in order to harmonize the development of a region-wide marine planning approach. Additional support and coordination needs will be assessed in each sub-region and appropriate solutions will be pursued to the maximum extent practicable by RPB members and staff.

Marine planning approaches occurring at sub-regional scales may fall within state or other appropriate boundaries, and/or include federal and tribal treaty and traditional use areas. Local government representatives will be engaged at the sub-regional level, with state and tribal government members reaching consensus on appropriate mechanisms to formally or informally involve local government representatives and other stakeholders, as applicable and agreed to by sub-regional team members.

Under the parameters outlined in the National Ocean Policy, non-federally recognized tribal governments and tribal organizations will not be formally included as members of the RPB or sub-regional planning teams. Federally-recognized tribal governments and/or state governments may choose to engage with non-federally recognized tribal governments or organizations in their respective sub-region, and bring input on marine planning activities at the regional or sub-regional levels on their behalf.

### Federal Government Members

Each participating federal agency will identify a designee and alternate to serve as member on the RPB and represent their respective agency's mandates and goals in marine planning discussions. Federal members are to be policy and program subject-matter experts with sufficient seniority and expertise to

enable them to represent their agencies on the RPB and have the authority to make decisions or commitments on their respective agency’s behalf.

They may provide data, resources, and tools that may be applicable to regional planning challenges and help identify legal authorities relevant to their participation. Federal members will work to ensure coordination of federal agency actions and programs in support of West Coast marine planning goals and objectives. It is recognized and agreed by all parties signatory to this charter that federal agencies cannot direct actions by tribal or state decision makers.

Federal member agencies include:

{FULL LIST}

### Tribal Government Members

The RPB acknowledges the sovereign status of all federally-recognized tribal governments within the West Coast Region and how rights to land, water, and natural resources are determined varies among tribes and across states. The federal government has a unique legal relationship with federally-recognized tribes as provided by the U.S. Constitution, as well as through existing treaties, executive orders, federal court decisions, and federal policy and statutes.

Tribal governments, some of which hold treaty rights to ownership and use of marine resources, are co-managers and trustees of marine resources and an integral part of resource management and marine planning. Each federally-recognized tribe may voluntarily have its own membership seat on the RPB to represent its respective tribal interests, mandates, and goals in effective marine planning processes and outcomes. The tribal representatives and their alternates may be elected officials, duly-appointed tribal officials, designated staff or other representatives authorized to act on the tribe’s behalf on RPB matters.

The National Ocean Policy explicitly recognizes the importance of enhanced coordination with federally-recognized tribal governments, specifically as it pertains to preservation of the Nation’s heritage, including historical and cultural values. As partners in the regional marine planning process, tribes will have every opportunity to share their expertise in marine natural resource management, harvest practices, and law and policy, along with unique traditional knowledge as relevant to regional and sub-regional marine planning. Tribal representatives may also provide data, resources and other tools applicable to regional or sub-regional marine planning. However, tribal representatives are not required to share culturally sensitive or confidential information.

Through this partnership, tribal representatives can help all participants better understand treaty rights and tribal authorities, traditional knowledge of marine ecosystems, and tribal scientific efforts. The participation of any tribal government in the RPB in no way supplants the obligation of the federal government to additionally or separately conduct government-to-government consultation with potentially or directly affected federally-recognized tribes; nor does participation infringe upon their positions as natural stewards of the resources.

Tribal government members include:

{FULL LIST}

### State Government Members

State government members will represent their respective state interests, mandates, and goals in the work of the RPB at the regional and sub-regional levels. State members are typically elected officials, or the elected official’s designated employee authorized to act on his or her behalf on RPB and marine

planning-related matters. Each State government may designate up to two members to serve as official representatives on the RPB from his or her respective state.

State members may provide data, resources, and tools that may be applicable to regional planning challenges and help identify state legal authorities relevant to their participation. State members will work to the maximum extent practicable to pursue effective coordination of state actions and programs in support of West Coast marine planning goals and objectives.

State government members include:

State of Washington

State of Oregon

State of California

### Pacific Fishery Management Council Member

The Pacific Fishery Management Council (PFMC) shall have a member seat in the RPB to provide a formal mechanism to incorporate fishery-related issues into the RPB and regional marine planning dialog. Including fishery considerations into marine planning is appropriate in light of the PFMC's unique statutory responsibilities under the Magnuson-Stevens Fishery Conservation and Management Act. The PFMC member will have specific knowledge of fishery marine resources and management in West Coast ocean and coastal areas. The PFMC RPB member shall serve solely as a representative of the PFMC and not have concurrent RPB membership representing another government entity.

### Ex-Officio Members

Recognizing the West Coast Region shares maritime boundaries with Canada and Mexico, invitations for non-voting ex-officio membership or observer status may be sent to appropriate representatives in Canada and Mexico as determined appropriate by RPB membership. Other ex-officio members representing additional relevant interests in West Coast marine planning may be determined as necessary by RPB membership, for example, including non-federally recognized tribal governments or entities, if applicable.

The role of ex-officio members is to participate in discussions, share perspectives, and offer expertise, on their own behalf. They will formally be observers when the RPB seeks consensus on an issue or issues pertaining to regional ocean planning on the West Coast.

## RPB Coordination & Leadership

### Executive Secretariat

The RPB will use an Executive Secretariat to facilitate region-wide coordination and communication around regional and sub-regional marine planning activities on the West Coast. The Executive Secretariat will consist of a federal co-lead, state co-lead, and tribal co-lead. The role of the co-leads is to facilitate the regional dialog around marine planning, and help coordinate and harmonize marine planning taking place at a sub-regional level.

It is important to note that the co-leads will not have any decision making authority over actual marine planning processes at the regional or sub-regional level, nor will any single co-lead provide formal marine planning input on behalf of the larger group of government entities they represent. Federal members will select the federal co-lead, state members will select the state co-lead, and tribal government members will select the tribal co-lead. If any one group cannot reach consensus on selecting a co-lead, they can choose to not include a single co-lead on the Executive Secretariat. Co-

leadership will be rotational and based on a two-year term (with no limits on consecutive terms), at which point co-leads may be re-elected or replaced through an approach determined appropriate by each governmental group. Co-leads have no financial obligation to support the operations of the RPB, nor will they receive financial compensation for their activities acting in this capacity from the RPB itself.

In consultation with full RPB membership, the Executive Secretariat may consider and decide how to fulfill the following roles and responsibilities:

- Guide and facilitate dialog and coordination of marine planning processes at the regional level.
- In coordination with RPB staff, oversee Executive Secretariat functions including preparing and reviewing meeting materials, leading meetings, communicating with the National Ocean Council (NOC), and contributing to other administrative duties, as appropriate and necessary.
- Coordinate review of existing regional ocean governance structures and regulatory and planning authorities as they relate to marine planning to the maximum extent practicable.
- Provide initial review of RPB products and ensure effective input and feedback.
- Coordinate with RPB members to establish working groups as needed, comprised of members or their designated representatives, and other experts as necessary.
- Promote collaboration among all RPB members.
- Seek to resolve disputes that arise during dialog around marine planning processes within the region.

### Technical Committee

The RPB may choose to establish a standing technical committee comprising scientific and technical experts from the PFMC, West Coast Ocean Data Portal, or other appropriate scientific and technical experts from the region, which may include those within RPB membership. The purpose of the technical committee is to prioritize best available science that informs the RPB activities related to marine planning at the regional and sub-regional levels.

### Data Coordination

The compilation, coordination and sharing of technical data related to marine planning at the regional and sub-regional level(s) will provide the foundation for effective planning products of the RPB. To the maximum extent practicable the RPB will seek out existing mechanisms for coordinating and providing regional and sub-regional data and information to the planning process. Data coordination and sharing undertaken to support RPB processes and products will focus on increasing accessibility and connectivity of ocean data and people to help inform regional resource management, policy development and planning.

### Sub-Regional Planning Teams

Based on input from the full RPB membership, sub-regions within the West Coast region will be defined geographically and sub-regional planning teams for each will be established. Sub-regional planning team formation will be entirely voluntary for any sub-region on the West Coast, and the structure and function of each sub-regional planning team will mirror that of the full West Coast RPB to the maximum extent practicable.

Requests for formation of a sub-regional planning team may come from state or tribal government

members of the full RPB. All sub-regional planning teams must allow for participation from any representatives from federally-recognized tribal, state or federal government in the sub-region that choose to participate. Participation in a sub-regional planning team is voluntary, and no state or tribal government within a sub-region is required to participate in sub-regional planning activities. Under the National Ocean Policy, federal government agency representatives are encouraged to engage with state and tribal government partners on marine planning activities to the maximum extent practicable or as may also be required by law.

Once a request for formation of a sub-regional planning team has been submitted to the full RPB, the sub-regional planning team will work with partners in the sub-region to identify priority marine planning issues and appropriate team membership. The sub-regional planning team will develop and adopt its own sub-regional charter document, which may be based on the full West Coast RPB charter, as applicable. Sub-regional planning teams must reach consensus on any sub-regional charter documents proposed, and present the sub-regional charter to full RPB membership for review and concurrence that the charter meets criteria set out by the National Ocean Policy.

## Regional and Sub-regional Boundaries

*Sub-regional Addendums will be added when formed, following the signature of full RPB membership to this charter.*

## Additional Terms

### Procedural Elements

#### Quorum

A quorum for each meeting is a majority of the official representatives or their alternates from each political subdivision (i.e., Federal, State, and tribal) participating in this partnership. Actions or decisions cannot be passed without a quorum present.

If a member is not able to attend or participate in several meetings pertaining to a specific issue in person or remotely, they may not be able to participate in the decision making process regarding that issue. Reasonable efforts will be made to ensure participation, but absence of RPB member(s) will not prevent consensus of the group, if a quorum is present.

#### Decision making

Decision making is based upon a consensus of the full RPB membership, with input allowable in person and/or remotely throughout the region. The Federal co-lead, in coordination with the Executive Secretariat, will facilitate efforts to reach consensus. For purposes of this Agreement, general concurrence is consensus reached through the process defined on page 4 of this charter.

#### Dispute Resolution

The dialog, decisions and planning products of the RPB at the regional or sub-regional level(s) will have no legal or regulatory authority over its members. All decisions and consensus reached by RPB members will be carried out through existing legal and regulatory frameworks already in place. Disputes arising during RPB activities will seek to be resolved in order to achieve more effective marine planning in the region, but have no other legal or regulatory impact.

The RPB members will seek to resolve disputes regarding the development of regional and sub-

regional marine planning products. For purposes of this charter, a dispute is defined as the inability of the members to reach consensus.

If disputes cannot be resolved by dialog among members within the structure of the RPB itself, other alternatives will be sought out to facilitate effective resolution. Outside of the RPB, the U.S. Institute for Environmental Conflict Resolution (ECR) within the Udall Foundation will be the first party contacted to potentially provide assistance for RPB disputes. If ECR is not agreed to as facilitator for any disputes among RPB members, other bodies may be approached as determined appropriate for federal, tribal or state governments. Nothing herein prevents a member entity from seeking legal recourse for a cause of action recognized by the courts.

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 and consistent with Executive Order 13175 on enhanced government-to-government consultation with tribes.

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 National Ocean Council (NOC) or its sub-bodies, the NOC 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.

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 and treaties of the United States or by law to a federal 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.

### Administrative Provisions

This charter shall take effect on the date of the last approving signature. However, additional signatories may be added over time.

The members of this partnership may decide by consensus to dissolve this body if it is no longer in operation.

The members may modify this charter by developing and agreeing to a written amendment. If changes occur within the National Ocean Policy or other regionally-relevant policies or efforts that would impact this charter, the regulatory authority of this partnership pertaining to mandated roles of a regional planning body, or otherwise, a new charter may be drafted and members could revoke their participation in this partnership.

A change in membership does not require execution of a new charter. A federal agency, state, tribe, or any other entity joining the RPB as member after execution of this charter will be asked to sign the charter.

A non-federal member may withdraw from this charter by providing reasonable written notice to this partnership co-leads. Withdrawal from this charter by a federal member requires notice to the Federal co-lead, and subsequent concurrence by the NOC's Deputy-level Committee.

### Impact on Existing Authorities

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.

Nothing in this charter removes or otherwise affects the rights of a state, territory, or commonwealth.

This charter in no way restricts the members from participating in any activity with other public or private agencies, organizations, or individuals.

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.

This charter is subject to, and will be carried out in compliance with, all applicable laws, regulations and other legal requirements.

Members do not have to delay decision making under current statutory authorities, including but not limited to regulatory permitting and approval processes, while the marine planning process is underway.

## Signatories

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